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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 610. STATE REGENTS FOR HIGHER EDUCATION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-2064]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

Subchapter 13. Minority Teacher Recruitment Center
[NEW]

610:1-13-1 Purpose [NEW]

610:1-13-2 Minority Teacher Recruitment Advisory
Committee [NEW]

610:1-13-3 Programs and Services [NEW]

SUMMARY:

The proposed rules describe to interested parties the Minority Teacher Recruitment Center and the programs and services offered by the center. In addition, the rules explain the role and duties of the advisory committee.

AUTHORITY:

State Regents for Higher Education, 70 O.S., § 6-130

COMMENT PERIOD:

Interested persons may submit written and oral comments to Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite

200, Oklahoma City, Oklahoma 73104, by 5:00 p.m., August 14, 2003.

PUBLIC HEARING:

A public hearing has not been scheduled; however, one can be requested by contacting Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, Oklahoma 73104, by 5:00 p.m., August 14, 2003.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Oklahoma City, Oklahoma 73104.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained at the Office of the Chancellor, Oklahoma State Regents for Higher Education, 655 Research Parkway, Suite 200, Oklahoma City, Oklahoma 73104, on and after July 30, 2003.

CONTACT PERSON:

Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9335.

[OAR Docket #03-2064; filed 6-19-03]

Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register*.

For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

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

[OAR Docket #03-2054]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 19. Boiler Operator Licensing

380:25-19-1 [AMENDED]

GUBERNATORIAL APPROVAL:

May 15, 2003

[OAR Docket #03-2054; filed 6-12-03]

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

[OAR Docket #03-2056]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions

380:30-1-7 [AMENDED]

380:30-1-14 [NEW]

Subchapter 3. Wage Claim Procedures

380:30-3-3 [AMENDED]

Subchapter 5. Administrative Hearing Procedures

380:30-5-2 [AMENDED]

GUBERNATORIAL APPROVAL:

May 15, 2003

[OAR Docket #03-2056; filed 6-12-03]

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

[OAR Docket #03-2055]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

380:40-1-9 [AMENDED]

380:40-1-18 [AMENDED]

GUBERNATORIAL APPROVAL:

May 15, 2003

[OAR Docket #03-2055; filed 6-12-03]

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

[OAR Docket #03-2052]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

420:10-1-5 [AMENDED]

420:10-1-14 [AMENDED]

GUBERNATORIAL APPROVAL:

May 8, 2003

[OAR Docket #03-2052; filed 6-12-03]

TITLE 610. STATE REGENTS FOR HIGHER EDUCATION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-2042]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 7. Rules of Operation

610:1-7-23 Petition requesting promulgation, amendment, or repeal of rules; form and procedure [NEW]

610:1-7-24 Petitions for declaratory rulings; form and procedure [NEW]

GUBERNATORIAL APPROVAL:

May 19, 2003

[OAR Docket #03-2042; filed 6-11-03]

Gubernatorial Approvals

TITLE 610. STATE REGENTS FOR HIGHER EDUCATION CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

[OAR Docket #03-2041]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

- Subchapter 7. Oklahoma Tuition Aid Grant Program
- 610:25-7-2. Legislative authority [AMENDED]
- 610:25-7-3. Administration of grants and payments [AMENDED]
- 610:25-7-6. Eligibility; amount of grant; application procedures and deadlines; disbursement of funds [AMENDED]

- 610:25-7-9. Authorized institutional representative [NEW]
- 610:25-7-10. Refunds and institutional liability [NEW]
- Subchapter 9. Future Teachers' Scholarship Program
- 610:25-9-2. Eligibility [AMENDED]
- Subchapter 29. Tulsa Reconciliation Education Scholarship Act [AMENDED]
- 610:25-29-1. Purpose [AMENDED]
- 610:25-29-2. Definitions [AMENDED]
- 610:25-29-3. Eligibility requirements [AMENDED]
- 610:25-29-4. Principles for awards, continuation of awards, disbursements, refunds, and applications [AMENDED]
- 610:25-29-5. Trust funds [AMENDED]

GUBERNATORIAL APPROVAL:

May 19, 2003

[OAR Docket #03-2041; filed 6-11-03]

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 rule[s] [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 158. OKLAHOMA CONSTRUCTION INDUSTRIES BOARD CHAPTER 20. ELEVATOR INJURY REPORTING REGULATIONS

[OAR Docket #03-2046]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions [NEW]

158:20-1-1. Purpose [NEW]

158:20-1-2. Definitions [NEW]

158:20-1-3. Injury reporting requirements [NEW]

Subchapter 3. Procedures of the Construction Industries Board [NEW]

158:20-3-1. Procedures of the Construction Industries Board [NEW]

AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.4

DATES:

Public Hearing:

March 26, 2003

Adoption:

March 26, 2003

Approved by Governor:

May 12, 2003

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 15, 2004, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

FINDING OF EMERGENCY:

The construction Industries Board finds that compelling circumstances exist due to the effective date of implementation of this Act being January 1, 2003.

ANALYSIS:

The purpose of these rules is to set forth the Elevator Injury Reporting regulations, which were placed under the direction of the Construction Industries Board. This is an Act relating to professions and occupations; requiring reporting of injuries resulting from operation or malfunction of elevators; requiring annual report by Construction Industries Board; defining terms and providing exclusions; granting the Board certain authority; providing for codification; and providing and effective date.

CONTACT PERSON:

Jeanne Britt, Executive Assistant, Construction Industries Board, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone:(405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@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 308.1 (A):

SUBCHAPTER 1. GENERAL PROVISIONS

158:20-1-1. Purpose

The rules in this Chapter implement the Elevator Injury Reporting Act.

158:20-1-2. 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 Elevator Injury Reporting Act as found at 59 O.S. Supp.2002, § 3009 et.seq.

"Administrator" means the Administrator of the Construction Industries Board as found at 59 O.S. 2001, § 1000.6.

"Board" means the Oklahoma Construction Industries Board 59 O.S. 2001, § 1000.2.

"Injury report" means a reporting form approved by the Construction Industries Board.

"Owner or lessee" means the owner or lessee of every elevator in service in this state.

"Elevator" means any device for lifting or moving people, cargo, or freight within, or adjacent and connected to, a structure or excavation, and includes any escalator, power-driven stairway or stairway chair lift.

"Elevator does not mean" any amusement ride or device subject to inspection and regulation by the Oklahoma Department of Labor; Mining equipment subject to inspection and regulation by the Department of Mines; or Aircraft, railroad car, boat, barge, ship, truck, or other self-propelled vehicle or component thereof.

"Elevator in service" means an elevator that is running and responding to haul and car call services to move people. Elevator in service also means an elevator undergoing service and repair.

"Injury" means any hurt or harm, including appreciable physical pain.

Emergency Adoptions

158:20-1-3. Injury reporting requirement

Beginning January 1, 2003, the owner or lessee of every elevator in service in this state shall report to the Construction Industries Board any injury which is reported to the owner or lessee in which an individual sought medical treatment or attention due to the operation or malfunction of an elevator. This report is due to the Construction Industries Board within 10 working days of notification to the owner or lessee.

SUBCHAPTER 3. PROCEDURES OF THE CONSTRUCTION INDUSTRIES BOARD

158:20-3-1. Procedures of the construction industries board

- (a) The Construction Industries Board shall have available an accident reporting form for the owner or lessee of any elevator in the state of Oklahoma who reports an elevator injury.
- (b) Beginning January 1, 2004 and annually thereafter, the Construction Industries Board shall collect elevator injury data and submit a report of the data collected pursuant to this section to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

[OAR Docket #03-2046; filed 6-12-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #03-2040]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 15. Conditions of Eligibility - Citizenship and Alienage

340:10-15-1 [AMENDED]

340:10-15-3 [AMENDED]

340:10-15-5 [REVOKED]

340:10-15-9 [REVOKED]

Subchapter 22. Temporary Assistance For Needy Families (TANF)

Supported Permanency Program

340:10-22-1 [AMENDED]

(Reference APA WF # 03-11)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 7003.5.6 of Title 10 of the Oklahoma Statutes; Sections 1631 and 1641 of Chapter 14 of Title 8 of the United States Code; Title IV of the Personal Responsibility and Work Opportunity Act of 1996, amended; Trafficking Victims Protection Act of 2000; and Section 408(f) of Title IV of the Social Security Act.

DATES:

Adoption:

April 22, 2003

Approved by Governor:

June 4, 2003

Effective:

July 1, 2003

Expiration:

Effective through July 14, 2004, 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 compelling public interest to preserve the health, safety, and welfare of TANF applicants and recipients by amending current rules to agree with federal regulations as relates to immigrants and the deeming requirements of sponsors in relationship to victims of domestic violence or extreme cruelty as well as indigent immigrants. Without implementation of these rules, certain immigrants' eligibility and the preservation of their health, safety, and welfare will be in imminent peril.

The Agency finds compelling public interest to preserve the health, safety, and welfare of abused and neglected children. Legislation was enacted in November 2000 that directed OKDHS to implement a program to divert children placed in a paid relative kinship foster care home. The Supported Permanency Program was developed with a specific age limitation that has been determined to be too restrictive. These new rules will provide knowledge and direction necessary to implement changes in the Supported Permanency Program to allow timely permanency for more children currently in the custody of OKDHS. Without the elimination of the age restriction, many children in OKDHS custody will continue to remain without a permanency plan, thereby placing the preservation of the health, safety, and welfare of abused and neglected children in OKDHS custody in imminent peril.

ANALYSIS:

The proposed rule revisions bring Temporary Assistance for Needy Families (TANF) rules regarding citizenship and alien status into compliance with current federal regulations. Proposed rules also revise existing rules to eliminate the age limitation for the Supported Permanency Program. This will make the program more accessible to a larger group of children currently in the Oklahoma Department of Human Services (OKDHS) custody in paid kinship relative foster care.

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), WITH A LATER EFFECTIVE DATE OF JULY 1, 2003:

SUBCHAPTER 15. CONDITIONS OF ELIGIBILITY - CITIZENSHIP AND ALIENAGE

340:10-15-1. Citizenship and alien status

(a) An individual eligible to be included in a Temporary Assistance for Needy Families (TANF) benefit, must be either:

- (1) a citizen or a national of the United States (U.S.), including the 50 states, District of Columbia, commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa and Northern Mariana Islands. ~~Persons from the Marshall Islands are classified as permanent non-immigrants and eligible the same as citizens or nationals.~~ An individual may be a citizen of the United States U.S. by being born in the United States U.S. or by being born in some other country but moving to the United States U.S. and being granted United States U.S. citizenship through the ~~Immigration and Naturalization Services (INS) Bureau of Citizenship and Immigration Services (BCIS), a branch of the United States U.S. Department of Justice; or~~
- (2) a qualified alien described as:

(A) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;

(B) an alien who is paroled into the ~~United States~~ U.S. under Section 212(d)(5) of such Act for a period of at least one year;

(C) an alien who is granted conditional entry pursuant to Section 203(a)(7) of such Act as in effect prior to April 1, 1980;

(D) an alien who is granted asylum under Section 208 of such Act;

(E) a refugee who is admitted to the ~~United States~~ U.S. under Section 207 of such Act;

(F) an alien whose deportation is being withheld under Section 243(h) or Section 241(b)(3) of such Act;

(G) an alien who is a Cuban or Haitian entrant as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

(H) battered aliens and their children or parents as defined in Section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act as amended; or [8 U.S.C. 1641(c)]

(I) an alien who is ~~certified by the Office of Refugee Resettlement (ORR)~~ as a victim of a severe form of trafficking pursuant to Section 107(b) of the Trafficking Victims ~~protection~~ Protection Act of 2000.

(b) A qualified alien who enters the ~~United States~~ U.S. on or after August 22, 1996, is not eligible for TANF benefits for a five year period beginning on the date of the alien's entry into the ~~United States~~ U.S. with a qualified alien status unless the alien is:

- (1) admitted to the ~~United States~~ U.S. as a refugee;
- (2) granted asylum;
- (3) one whose deportation is being withheld;
- (4) a Cuban or Haitian entrant;
- (5) admitted to the ~~United States~~ U.S. as an Amerasian immigrant;
- (6) lawfully residing in the state and is a veteran of the U.S. armed forces, on active duty, or is that person's spouse or unmarried dependent child; or
- (7) ~~granted certification as~~ is a victim of a severe form of trafficking ~~by ORR.~~

(c) A declaration of citizenship and alien status is required for all adults and children in the case. This requirement is met when an adult member in the assistance unit signs ~~the application form~~ Form FSS-1, Comprehensive Application and Review, attesting to the citizenship and alien status for all members of the assistance unit.

(d) Declaration on behalf of a newborn child may be delayed provided the delay does not exceed the date of the assistance unit's next eligibility redetermination.

(e) Persons determined as having satisfactory alien status must have the status verified through Systematic Alien Verification for Entitlements (SAVE). In situations which require a written inquiry to the ~~INS BCIS~~, the ~~county worker~~ must not delay, deny, terminate, or reduce benefits to an alien pending ~~INS BCIS~~ verification of submitted documentation.

(f) All persons born in the ~~United States~~ U.S. are, with rare exceptions, ~~United States~~ U.S. citizens. Documents of citizenship or national status of individuals from certain ~~United States~~ U.S. territories or possessions listed in (a)(1) of this Section may not be in their possession nor available. However, their status can usually be determined by birth certificate, passport, or other official document.

340:10-15-3. Sponsored aliens

Certain aliens, unless specifically exempted or covered by one of two exceptions as identified at Section 1631(e)(f) of Chapter 14 of United States Code (USC) 8, whose entry into the ~~United States~~ U.S. required sponsorship, must have the income and resources of the sponsor considered in determining eligibility and benefit amount for Temporary Assistance for Needy Families (TANF). Aliens who are exempted from this requirement are parolees, political asylees, Cuban or Haitian entrants, and refugees admitted under ~~section~~ Section 207(a)(7) and section Section 207(c) of the Immigration and Nationality Act. The deeming rules do not apply to a sponsored immigrant and his or her child(ren) who are victims of domestic violence or extreme cruelty. If a sponsored immigrant is unable to obtain food and shelter without government assistance, then only the amount of income and resources actually provided by the sponsor or the sponsor's spouse is deemed to the immigrant. A sponsor is defined as an individual(s) or an organization who executed an affidavit of support or similar agreement on behalf of the alien, who is not an individual sponsor's child. Such affidavit or agreement must be verified before application of this rule.

(1) **Organizational sponsor.** ~~Those aliens~~ Aliens who have a support affidavit from an organizational sponsor are ineligible for a period of three years from the date of entry into the U.S. unless the sponsoring agency has ceased to exist or is unable to meet the alien's financial need. The case record must contain documentation of the reason the organization is not meeting the need.

(2) **Individual sponsor.** To determine eligibility and benefit amount, an alien who was sponsored must provide any information and documentation necessary to determine the income and resources of the sponsor and obtain the necessary sponsor's cooperation. The income and resources of a sponsor and his or her spouse, if living with the sponsor, are considered as the unearned income and resources of an alien unless the sponsor is receiving TANF or Supplemental Security Income (SSI).

(A) The amount of the sponsor's income considered is determined as:

- (i) as total monthly gross earned income minus 20%, not to exceed \$175, plus total monthly unearned income;
- (ii) ~~subtract by~~ subtracting the need standard for the sponsor and his or her dependents living in the home shown on DHS Oklahoma Department of Human Services (OKDHS) Appendix C-1, Schedule of Maximum Income, Resource and Payment Standards, Schedule IX.A;

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- (iii) ~~subtract by subtracting~~ amounts actually paid by the sponsor to dependents outside of the home who are claimed by the sponsor as dependents, to determine his or her federal personal income tax liability; and
- (iv) ~~subtract by subtracting~~ actual payments of alimony or child support to individuals not living in the household.
- (B) Resources considered available to the alien from the sponsor are the total amount of the resources of the sponsor determined as if he or she were applying for TANF, less \$1,500.
- (C) ~~In the case where~~ When the person is the sponsor of two or more aliens in the same home, the income and resources of the sponsor and his or her spouse, if living with the sponsor, are divided equally among the aliens.
- (D) Income and resources considered available to a sponsored alien are not considered in determining the need of unsponsored members of the alien's family unless actually available.
- (E) The sponsor and the alien are held jointly liable for any overpayment of benefits due to failure to provide correct information.
- (F) ~~Income and resources of the sponsors of refugees, asylees, veterans, and Cuban or Haitian entrants are not deemed because they are not required to execute an affidavit of support.~~ The income and resources of the sponsors of all other aliens who have Bureau of Citizenship and Immigration Services (BCIS) Form I-864, Affidavit of Support, continues continue to be deemed to the alien until ~~the alien:~~
- (i) ~~the alien~~ achieves United States U.S. citizenship through naturalization pursuant to Chapter 2 of Title III of the Immigration and Nationality Act; ~~or~~
- (ii) ~~the alien~~ has worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with 40 qualifying quarters as provided under Section 435 of this Title; and in the case of any qualifying quarter credited for any period beginning after December 31, 1996, the alien did not receive any federal means-tested public benefit, as provided under Section 403, during such period; or
- (iii) ~~the sponsor dies.~~
- (G) The income and resources of the sponsors of aliens who have affidavits of support other than BCIS Form I-864 continues to be deemed to the alien for a period of three years from the date of entry of the alien into the U.S.

340:10-15-5. Permanent residence under color of law (PRUCOL) [REVOKED]

~~A permanent resident under color of law is an alien who entered the United States before January 1, 1972, has maintained continuous residence since then, and intends to continue living here.~~

(1) ~~PRUCOL is defined by INS to include aliens who are living in the United States with the knowledge and permission of INS. Certain "deportable" aliens are considered PRUCOL if deportation is deferred, unlikely, or the individual has been granted voluntary departure for an indefinite time period based on INS determination.~~

(2) ~~INS forms or documents which support or may indicate PRUCOL status include, but are not limited to: Forms I 94, I 220B, I 210, I 181, orders from an Immigration Judge, INS letters or local INS documents.~~

(3) ~~When an applicant has an INS form or document with an expiration date of less than one year from date of issuance, or there is insufficient evidence to determine PRUCOL eligibility, a memo to Family Support Services Division, State Office, is necessary for a determination of alien status.~~

340:10-15-9. Special provisions relating to Kickapoo Indians [REVOKED]

~~Kickapoo Indians migrating between Mexico and the United States carry Form I 94, Arrival Departure Record, Parole Edition. Their Form I 94 may state that the Kickapoo is "paroled pursuant to Section 212(d)(5) of the Immigration and Nationality Act" or that the "Kickapoo status is pending clarification of status by Congress." Regardless of whether such statements are preprinted or handwritten and regardless of a specific mention of the treaty, they meet the citizenship and alienage requirement because they are in the United States under color of law. All Kickapoo Indians paroled in the United States must renew their paroled status each year at any local Immigration Office. There are other Kickapoos who have entered the United States from Mexico who carry Form I-151 or Form I 551, Alien Registration Receipt Card. These individuals have the same status as other individuals who have been issued Form I-151 or Form I-551 and therefore, meet the citizenship and alienage requirement. Still other Kickapoos are classified as Mexican Nationals by the Immigration and Naturalization Service (INS). They carry Form I-94, Arrival Departure record, which has been issued as a visiting visa and does not make mention of the treaty. Such a form does not meet the "citizenship and alienage" requirement but provides only the non-immigrant status.~~

SUBCHAPTER 22. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) SUPPORTED PERMANENCY PROGRAM

340:10-22-1. Temporary Assistance for Needy Families (TANF) supported permanency program Supported Permanency Program

(a) **Scope.** In an effort to promote permanency for a child(ren) who is in a ~~relative out-of-home placement~~ the custody of the Oklahoma Department of Human Services (OKDHS) and placed with a relative(s) residing in Oklahoma who is a paid kinship relative foster home, the supported permanency program Supported Permanency Program has

been developed. ~~The program targets a child(ren) who has been placed in out of home care with a relative by a child protection action. In this instance, the court has made a finding that reasonable efforts to reunite the child(ren) with his or her parent(s) have failed or are not feasible and adoption is not a permanency option.~~ Supported permanency is considered appropriate when:

- (1) ~~at least one child who resides in the same relative's home is age 12 or older the relative(s) meets the specified degree of relationship as defined in OAC 340:10-9-1;~~
- (2) ~~the court has made a finding that reasonable efforts to reunite the child(ren) with his or her parent(s) are not required or have been made and failed, and the permanency plan of reunification has been ruled out;~~
- (23) ~~the child(ren) currently resides with the relative relative(s) in Oklahoma and has resided with the relative relative(s) four of the last six months;~~
- (3) ~~the child(ren) has a case plan goal for long term out of home care;~~
- (4) ~~the relative relative(s) has completed all requirements to be an approved DHS placement OKDHS foster care home;~~
- (5) ~~the relative relative(s) is willing to assume legal guardianship responsibility; and~~
- (6) ~~the child(ren) and court and, if appropriate, the child(ren), are in agreement with the plan for guardianship the relative(s) to obtain legal responsibility.~~

(b) **Eligibility.** ~~Once the supported permanency program Supported Permanency Program is determined appropriate by the Division of Child and Family Services (DCFS) Child Welfare (CW) worker and guardianship the transfer of legal responsibility has been approved by the court, the child welfare CW worker makes a referral for TANF to the Office of Field Operations Division, Family Support for TANE. When the child(ren) is approved for TANF supported permanency, he or she is eligible for managed health care and child care services, if appropriate. Income of this child(ren) is considered the same as for any other TANF eligible child. Food stamp eligibility is dependent on the eligibility of the household. Benefit reduction as a result of program violation is applicable for school attendance and immunization. If the child(ren) leaves the home to reside elsewhere, the Supported Permanency Program benefit is terminated for the child(ren). If the child(ren) returns to this home, he or she may be eligible for cash assistance but not the Supported Permanency Program benefit.~~

[OAR Docket #03-2040; filed 6-10-03]

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

[OAR Docket #03-2039]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 1. General Provisions
Part 1. Scope and Applicability
340:75-1-28 [AMENDED]
Subchapter 6. Permanency Planning
Part 5. Permanency Planning Services
340:75-6-31.4 [AMENDED]
(Reference APA WF # 03-12)

AUTHORITY:
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 7001-1, 7003-5.6, and 7003.5.6b of Title 10 of the Oklahoma Statutes.

DATES:

Adoption:

April 22, 2003.

Approved by Governor:

June 4, 2003

Effective:

July 1, 2003.

Expiration:

Effective through July 14, 2004, 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 compelling public interest to preserve the health, safety, and welfare of children. The proposed rules expand eligibility for the programs that enable children and families served by the Oklahoma Department of Human Services (OKDHS) to achieve safety and permanency in the timeliest manner possible. Legislation was enacted on November 1, 2000 that directed OKDHS to implement a program to divert children from foster care, which resulted in the issuance of rules for the Supported Permanency program. Those rules are now considered unnecessarily restrictive due to the age requirement. The proposed revisions promote timely permanency for more children in the custody of OKDHS. Without the expansion of the rules to modify eligibility, approximately 203 children will likely remain in the foster care system without permanency. The expansion of the Child Welfare (CW) contingency fund, as proposed, provides a mechanism for support services to families involved with Child Protective Services (CPS). This modification supports the provision of services to families with children who are at risk or have been abused or neglected. Currently, there is no formal procedure to access the contingency fund for CPS cases.

ANALYSIS:

The revisions to Subchapter 1 and 6 of Chapter 75 provide CW staff with the necessary guidance to implement modifications regarding the utilization of the CW contingency fund and the Supported Permanency program. The contingency fund rule is revised to permit the utilization of the fund for an open CPS case. The modification to the Supported Permanency program eliminates the eligibility requirement of a child in the custody of OKDHS, age 12 or older, in kinship placement.

340:75-1-28 is revised to allow the utilization of the CW contingency fund for an open CPS case.

340:75-6-31.4 is revised to eliminate the age requirement for a child considered eligible for the Supported Permanency program.

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), WITH A LATER EFFECTIVE DATE OF JULY 1, 2003:

SUBCHAPTER 1. GENERAL PROVISIONS

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PART 1. SCOPE AND APPLICABILITY

340:75-1-28. Child Welfare (CW) contingency fund

(a) **Scope.** If poverty is identified as a contributing factor when assessing risk of abuse or neglect, immediate assistance is provided for the family. The continuum of CW services available to children and families affected by child abuse and neglect includes a flexible contingency fund ~~which that~~ is available for ~~hard~~ services such as food, clothing, utility bills, rent, home or car repairs, and public transportation tokens. This fund, used in conjunction with safety and service planning, ~~has described in~~ OAC 340:75-3-10.11, is used for a one-time purchase of goods, services, or both, needed to maintain ~~children the child~~ safely in ~~their his or her own homes home~~ or return ~~them the child~~ safely to ~~their homes his or her home~~. In addition, the contingency fund is utilized for purchased services for ~~custody~~ children in the custody of the Oklahoma Department of Human Services (OKDHS). Contingency fund accounts are established for each of the ~~DHS OKDHS~~ Field Operations Division (FOD) areas, and staff from each county office is designated to access the respective area fund.

(b) **Intent.** ~~The intent of the~~ contingency fund accounts ~~is to~~ provide families involved in open Child Protective Services (CPS), Family Centered Service (FCS), Permanency Planning, or Aftercare Permanency Planning cases with the support services necessary for them to provide for and protect their children. The contingency fund is not used for families that are referred to Comprehensive Home-Based Services (CHBS), as CHBS offers another source of discretionary funds for families. Contingency fund determinations are made on a case by case basis. Payment for services through the contingency fund is not an automatic entitlement to the family. ~~Contingency fund determinations are made on a case by case basis.~~

(c) **Authorization.** Payments and services are pre-determined by the CW worker. All services are obtained at the lowest possible cost or best value to the state. Only staff specifically designated by the county director or area director are authorized to issue contingency fund authorizations on the Finance system.

(d) **Outcomes.** ~~The use of the contingency fund is entered into the Service Log on the KIDS case. Service utilization and outcomes are used to determine ongoing funding amounts and the allocation of funds among areas.~~ On a yearly basis, the county's contingency fund tracking log and the Service Utilization Report are reviewed to determine outcomes for families utilizing this service. ~~Service utilization and outcomes are used to determine ongoing funding amounts and the allocation of funds among areas.~~

(e) **Allowable services.** ~~The following listed services are authorized from the area account at the county office level by designated staff.~~ Allowable services are those required to maintain the child in the home, return the child to the home, or to maintain the well-being of ~~child welfare clients~~ CW families. The contingency fund is used to pay vendors for goods and services which have been properly authorized and provided to the client. The contingency fund is not used to reimburse clients, staff, or others for purchases made on behalf

of clients. Ongoing maintenance or installment payments are not allowed. Cost limits for contingency fund object codes are not exceeded except when an override is approved by specifically designated staff in the ~~DCFS State Office or Office of Field Operations~~ six FOD area offices. The issuance of more than one contingency fund authorization to purchase the same goods or services ~~and issuing contingency fund authorizations using inappropriate object codes or exceeding the object code cost limits without approval are~~ is not permitted. ~~Refer to DHS Account limits are listed on OKDHS Appendix C-19, Child Welfare Contingency Fund Accounts, for limitations on each service.~~

(1) **Food.** This covers a one-time purchase of food for the household not available through Women, Infants, and Children (WIC) or another program, including infant formula and baby food, sufficient to supply the family for a period of time until the family receives some type of income or ~~Food Stamps~~ food stamp benefits.

(2) **Clothing.** This includes an emergency supply of clothing, shoes, or both, appropriate for the weather conditions for infants and children in the household and adequate clothing for children to attend school. In addition, this may include work clothing for the person responsible for the child (PRFC) if the PRFC is actively involved in job search or training or has been guaranteed a job and has demonstrated the need for such clothing.

(3) **Rent deposit or monthly payment.** If adequate housing is needed to prevent the removal of the ~~children child~~(ren), documented rental deposits and the first month's rent are paid or a single month's rent is paid to avoid eviction. ~~This also includes non-OCS apartment or dormitory deposits for a youth in the Independent Living Program. The CW specialist verifies the client's address and obtains a copy of the rent, lease, or mortgage agreement prior to requesting a contingency fund authorization.~~

(4) **Utility deposits or monthly payment.** If the lack of utilities in the home may result in the removal of the children, required utility deposits or overdue payments for gas, electricity, and water are covered. This does not include telephone deposits or overdue telephone bills. ~~Prior to requesting a contingency fund authorization the CW specialist verifies that the utility service is for the client's place of residence. The name of the utility service customer, account number and address of the utility service are included in the "Description of Services" on the contingency fund authorization form.~~

(5) **Home repairs.** If the condition of the home may result in the removal of the children, home repairs are covered including plumbing, painting, repair of broken windows and doors, purchase of screens and door locks, repair of steps and stairs, and rodent or insect fumigation.

(6) **Furniture and appliances.** This includes adequate beds and bedding for infants, children, and the PRFC, as well as basic necessities, such as a dining table and chairs.

(7) **Car repairs.** To be eligible for car repairs, the PRFC must need the car for transportation to obtain or maintain employment or to ~~assure~~ ensure adequate medical or behavioral health care for the children so that

removal is not necessary. When available, public transportation is used in lieu of car repair payments.

(8) **Public transportation vouchers or tokens.** If the PRFC requires public transportation to obtain or maintain employment or to ~~assure~~ ensure adequate medical or behavioral health care for the children, a three month supply of public transportation vouchers or tokens is provided.

(9) **Miscellaneous.** This includes goods and services ~~which that~~ are required but not specifically covered by other object codes. ~~For purchases using the "Miscellaneous" object code the CW specialist ensures that the contingency fund authorization includes a specific description of the goods and services authorized.~~

(10) **Purchased services.** This includes specific services designed to meet the identified needs of a ~~custody~~ child in OKDHS custody or PRFC as part of a treatment plan. Examples include tutoring, mentoring, group and family counseling, job placement, therapeutic or recreational services, and educational or vocational advocacy services that are not available through any other sources, including volunteers.

(11) **Automobile.** This includes payments for the purchase of an automobile, down payment for the purchase of an automobile, assistance with making a monthly payment, payment of tag, title, and tax for an automobile, or payment of automobile insurance. The payment of any automobile related costs through the use of the contingency fund must be required to obtain or maintain employment or to ensure adequate medical or behavioral health care for the children. When available, public transportation is used in lieu of payment for automobile related expenses from this object code.

(12) **Attorney fees for TANF Supported Permanency Program program.** This a one-time authorization for the payment of attorney fees for relatives who are being referred to the Temporary Assistance for Needy Families (TANF) Supported Permanency Program program to obtain guardianship of the child(ren) placed in their home-~~s~~, in accordance with OAC 340:75-6-31.4.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 5. PERMANENCY PLANNING SERVICES

340:75-6-31.4. Supported Permanency

(a) **Eligibility for Supported Permanency.** When a child in the custody of the Oklahoma Department of Human Services (OKDHS) is placed in a paid kinship foster home with a ~~relative~~ relative(s) who resides in Oklahoma and meets the specified degree of relationship as defined by the Temporary Assistance for Needy Families (TANF) program, in accordance with OAC 340:10-9-1(a). Supported Permanency ~~can~~ may be explored. ~~This assistance is not considered unless the court has made a finding that reasonable efforts to reunite are not required, or have been made and failed and the permanency plans of reunification and adoption have been ruled out.~~

(1) Supported Permanency is appropriate when ~~the following factors exist:~~

(A) ~~the child is age 12 or older or has a sibling age 12 or older who resides in the same relative foster home the court has made a finding that reasonable efforts to reunite are not required or have been made and failed, and the permanency plans of reunification and adoption have been ruled out;~~

(B) ~~the relative~~ relative(s) has completed all requirements to be an approved ~~DHS~~ OKDHS foster home;

(C) the child is currently residing with the ~~relative~~ relative(s) in Oklahoma and has been for four of the previous six months;

(D) the ~~relative~~ relative(s) is willing to assume legal responsibility; and

~~(E) without this option, the child is likely to remain in long term out of home care; and~~

~~(F) the child and court and, if appropriate, the child~~ are in agreement with the plan for the relative relative(s) to obtain legal responsibility.

(2) Supported Permanency provides the ~~relative~~ relative(s) with:

(A) ~~financial assistance~~ monetary reimbursement to an attorney to assist in for the legal costs incurred in the transfer of legal responsibility of the child;

(B) a monthly ~~stipend~~ cash benefit for the child based on the standard foster care rates;

(C) a medical card for the child; and

(D) an assigned ~~TANF~~ Family Support Services worker to provide referrals for services, ~~and the like,~~ if needed.

[OAR Docket #03-2039; filed 6-9-03]

**TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 30. DIVISION OF STATE PARKS**

[OAR Docket #03-2043]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 23. Mineral Leases and Operations [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:

April 17, 2003

Approved by Governor:

June 4, 2003

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2004, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

NA

INCORPORATIONS BY REFERENCE:

NA

Emergency Adoptions

FINDING OF EMERGENCY:

The compelling extraordinary circumstance necessitating the approval of these rules relates to the need to clarify the statutes authorizing minerals leasing on Oklahoma Tourism and Recreation Commission holdings. The proposed rules establish the means through which mineral exploration and development opportunities are introduced to State Park properties and provide fairly straight forward means for submitting bids for minerals leasing. Regulatory costs are few for this program. Oklahoma Tourism and Recreation Department has identified two tracts of land at a specific state park that could be made available for leasing of the minerals.

Prior leases have expired and no production is in place to hold the lease. The implementation of these rules would produce additional revenue for state parks. The damage fees are essential to initiating operation at the sites and providing compensation to the Department for production related activities. The Minerals Lease program is the vehicle that brings private minerals development business entities into certain State Park properties where mineral leasing is authorized.

Since this program evaluates mineral lease operations in state park facilities, there is potential for positive economic impact to the successful bidder, the respective State Park, the Oklahoma Tourism and Recreation Department and the State of Oklahoma. There are no fees or charges associated with submitting a bid under this program, however, the successful bidder will be subject to paying the costs of advertising and other royalties, bonuses or payments based on the submittal provided as a part of the bidding process.

ANALYSIS:

The law authorizing minerals leasing has been in place for a number of years. These rules clarify the statutory authorities, general requirements and other operational issues to maintain compliance with state law and preserve the integrity of State Park properties with mineral development. All the citizens of Oklahoma will benefit from the program in that minerals exploration will be evaluated in appropriate sites and income may arise from the development of these mineral interests. Income from this program is utilized for the benefit of state park properties. The mineral development operators benefit from the availability of a process to request consideration of minerals development at a particular site and potential bidders benefit from the assurance of a competitive process that is reasonable and efficient.

The costs to the Oklahoma Tourism and Recreation Department are already a part of the existing Lease Concession and Minerals Management Program. No new or expanded costs are anticipated. The primary benefit is additional clarity. Income from this program is strongly related to prevailing market conditions and income is difficult to predict. Last year, the Department realized over \$300,000 from mineral operations within Department properties.

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 253(D):

SUBCHAPTER 23. MINERAL LEASES AND OPERATIONS

725:30-23-1. Purpose and authority

(a) The purpose of this subchapter shall be to define the process in which mineral leases located upon Oklahoma Tourism and Recreation Commission (Commission) property are examined, competitively bid, awarded and ultimately leased. General management of mineral operations is also addressed.

(b) In accordance with state law, the Commission is authorized to offer for sale, sell, and execute oil and gas leases, and other mineral and mining leases [74:1850].

(c) The Commission may authorize the Executive Director to enter into leases, grant easements and execute such instruments as in the judgment of the Commission are necessary or convenient to the exercise of those powers and duties of the Commission pursuant to the Oklahoma Tourism and Recreation Act [74:1847.1A(17)].

725:30-23-2. Examination

(a) Prior to issuing an invitation to bid for a minerals lease, a determination will be made whether the proposed lease would be an acceptable operation at the specific park property. Oklahoma Tourism and Recreation Department (Department) staff shall make this determination after an analysis of the following considerations.

(1) Environmental impact.

(2) Compatibility with the overall property and its nature.

(3) Safety of the park visitor, and

(4) Financial benefit to the Department.

(b) The determination of the Department regarding whether to proceed with issuing an invitation to bid for a minerals lease shall rest solely with the Department and shall not be subject to the Administrative Procedures Act.

725:30-23-3. Bidding process

The Department shall prepare an invitation to bid (ITB) and shall advertise the mineral interest bid as set out in 74 O.S. Section 1850.

(1) All bids must be submitted in accordance with the requirement contained in the ITB.

(2) A separate bid showing the tract number and legal description must be filed on each tract. Each tract will be leased separately to the highest and best bidder. Drilling contracts or production payments will not be considered, except in a special lease sale.

(3) The minimum bid will be specified in the ITB, the notice of sale and lease.

(4) The successful bidder must pay the full cost of advertising.

(5) The successful bidder will be issued a maximum of a three (3) year commence type lease. The royalty and annual delay rental will be specified in the notice of sale.

725:30-23-4. Rules and regulations

The rights and responsibilities of the mineral lessee shall be governed by the lease document and the following rules and regulations.

(1) All pipelines, except those that are used exclusively in lease operations, must be covered by a permit. Applications for pipeline permits must include a plat of pipeline, drawn to scale, in triplicate.

(2) All pipelines, as to location and depth, must be approved by the Department.

(3) Within thirty (30) days of the completion of a producing oil or gas well, a sign shall be posted showing the name and number of the well and the legal description.

(4) On or before the last day of the month following the month of production, the lessee must file a sworn monthly report of oil produced and sold from the leased premises. This report will be filed with the Department.

(5) On or before the last day of the month following the month of production, the lessee must file a sworn monthly report of gas and casinghead gas produced and sold from the leased premises. This report must be filed with the Department and must be completed in detail.

(6) Prior to the commencement of operation, notice shall be given to the Department of intention to drill or re-complete any well, the name and number of the well, the approximate date operations will begin, and the estimated depth.

(7) Notice of intention to plug must be filed with the Department at least five (5) days prior to plugging of any producing oil or gas well. A copy of the plugging record shall be filed with the Department within thirty (30) days of completion of plugging operations.

(8) The lessee shall file an annual summary of lease operations on or before the first day of March. This report shall be filed with the Department and covers operations on producing leases for the previous calendar year.

(9) The Department may require special reports pertaining to production or operation of a state lease. Upon request, the lessee shall promptly submit the required reports.

(10) Within thirty (30) days after completion or re-completion of any well, a completion report shall be filed with the Department. This report shall be on the form prescribed by the Oklahoma Corporation Commission and shall be signed and sworn to by the lessee or his authorized representative. In addition to the above report, the lessee, upon request, shall furnish to the Department a copy of any electric or other log runs on this well.

(11) All lessees shall abide by the environmental regulations that are included in the lease agreement.

(12) All lessees must post a performance bond, in the amount requested by the Department, to cover these agreements with the Department: oil and gas lease, salt water disposal lease, and seismic exploration agreement.

(A) Bonds will be released upon written request of the lessee or bonding company if liability is terminate.

(B) All surety bonds must be made by a company authorized to do business in the State of Oklahoma.

(C) Each assignment must be accompanied by a performance bond in accordance with the Department's bond schedule, with the assignee as principal.

(D) No assignment of a state lease will be valid or vest any interest in the assignee until the same is approved in writing by the Department.

(E) Assignments of state leases may be made on any assignment form in general use in the oil and has industry and may convey a subdivision.

(F) All assignments presented for approval which are subject to other agreements must be accompanied by a copy of such other agreement.

(G) Assignments or grants of overriding royalty do not require approval of the Department.

(13) All lease forms used in the sale of oil and has leases shall be provided by the Department upon request.

(14) Nothing in these rules and regulations shall be construed as excepting lessees from other applicable state and federal laws, and receipt of certification of non-compliance from responsible agencies may result in the suspension of the lease.

(15) The lessee shall be liable for violation of any of the provisions herein set forth and shall make full restitution to the Department for such damages. Such damages shall be determined by the Department with the assistance of other agencies of state government.

(16) The lessee may be required to screen the mineral operation from access or viewing of the public. Such screening may include, but is not limited to fencing, berms, painting of the equipment or other actions as identified by the Department.

725:30-23-5. Damages and fees

(a) At properties where mineral operations are desired, but the Department may or may not be the owner of mineral interests, the Commission shall establish the means for evaluating the damage that occurs as a result of the operation and shall set fees attributable to the mineral operation.

(b) Mineral exploration related fees that shall be established by the Commission shall include the following:

(1) Permit fee \$500.00.

(2) Monitoring fee \$500.00.

(3) Roadway easement \$2,000.00 per acre; Use of existing Department road \$1,000.00 per mile per year.

(4) Well site \$2,000.00 per acre.

(5) Tank and batteries \$2,000.00 per acre if separators and related production facilities are located at other than the well site; if at same location \$500.00 per acre.

(6) Use of water --from lakes or ponds there is a minimum of \$100.00 per day or \$2.00 per 1,000 gallons. Drilling of a water well will be \$1,000.00.

(7) Pipelines shall be assessed based on a fifty (50) feet minimum width at \$2,000.00 per acre of right of way for buried pipeline for gas or freshwater; \$5,000.00 per acre of right of way for buried pipelines for oil or salt water. Above ground pipelines will not be allowed, except temporary fresh water lines during drilling or well servicing at \$500.00 per mile.

(8) Seismograph work shall be assessed based on a twenty-five (25) feet minimum width at \$2,000.00 per acre of land surveyed.

(9) Timber damage fees will be assessed in accordance with the actual type and number of trees damaged or removed. The expertise of state agency professionals in the appropriate field shall be utilized to assess the cost/fee associated with such damage.

(10) Other damages not specifically identified that may occur at a mineral exploration site shall be assessed based on the actual damage to the area. The expertise of state

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agency professionals in the appropriate field shall be utilized to assess the cost/fee associated with such damage.

[OAR Docket #03-2043; filed 6-12-03]

Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption" of the proposed new, amended, or revoked rules. "Final adoption" occurs upon approval by the Governor and the Legislature, or upon enactment of a joint resolution of approval by the Legislature. Before proposed permanent rules can be reviewed and approved/disapproved by the Governor and the Legislature, the agency must provide the public an opportunity for input by publishing a Notice of Rulemaking Intent in the *Register*.

Permanent rules are effective ten days after publication in the *Register*, or on a later date specified by the agency in the preamble of the permanent rule document.

Permanent rules are published in the *Oklahoma Administrative Code*, along with a source note entry that references the *Register* publication of the permanent action.

For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 303.2, 308 and 308.1.

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

[OAR Docket #03-2045]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 7. Oklahoma Small Business Regulatory Flexibility Act [NEW]

158:1-7-1 Purpose [NEW]

158:1-7-2 Definitions [NEW]

158:1-7-3 Waiver or Reduction of Administrative fine or penalty. [NEW]

AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.4

DATES:

Comment period:

February 18, 2003 through March 20, 2003

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May 15, 2003

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May 22, 2003

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July 26, 2003

SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

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.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,

SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JULY 26, 2003:

SUBCHAPTER 7. OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

158:1-7-1. Purpose

Pursuant to 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.

158:1-7-2. Definitions

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

"Board" means the Oklahoma Construction Industries Board.

"Fine or penalty" means a consequence that is a result of violating any statute, ordinance or rule governed by the Board pursuant to the Construction Industries Board Act.

"Small Business" means a for-profit enterprise consisting of fifty or fewer full-time or part-time employees that is subject to regulation by the Board.

158:1-7-3. Waiver or Reduction of Administrative fine or penalty

(a) Pursuant to the Oklahoma Small Business Regulatory Flexibility Act, a small business which is regulated by the Board can request a waiver or reduction in an administrative fine or penalty. An administrative fine or penalty may be waived by the Board against a small business if:

- (1) The small business corrected the violation within 30 days of receiving notice of a violation or a citation; or
- (2) The violation was the result of an excusable misunderstanding of the Board's interpretation of a rule.

(b) The Board may not grant a waiver or reduction if:

- (1) The small business was notified of the violation of a statute, ordinance or rule by the Board, i.e., given a warning prior to the issuance of an administrative fine or penalty;
- (2) The small business did not exercise good faith in complying with a statute, ordinance or rule;
- (3) The violation involved willful or criminal conduct by the small business;

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(4) The violation resulted in a serious health, safety or environmental impact; or

(5) The fine or penalty was assessed pursuant to federal law and for which no waiver was authorized by federal law or regulation.

[OAR Docket #03-2045; filed 6-12-03]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 10. FINE SCHEDULE

[OAR Docket #03-2047]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Oklahoma Small Business Regulatory Flexibility Act.
[NEW]

158:10-5-1. Purpose [NEW]

158:10-5-2. Definitions [NEW]

158:10-5-3. Waiver or Reduction of Administrative fine or penalty.
[NEW]

AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.4

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

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.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S.,

SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JULY 26, 2003:

SUBCHAPTER 5. OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT

158:10-5-1. Purpose

Pursuant to 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.

158:10-5-2. Definitions

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

"Board" means the Oklahoma Construction Industries Board.

"Fine or penalty" means a consequence that is a result of violating any statute, ordinance or rule governed by the Board pursuant to the Construction Industries Board Act.

"Small Business" means a for-profit enterprise consisting of fifty or fewer full-time or part-time employees that is subject to regulation by the Board.

158:10-5-3. Waiver or Reduction of Administrative fine or penalty

(a) Pursuant to the Oklahoma Small Business Regulatory Flexibility Act, a small business which is regulated by the Board can request a waiver or reduction in an administrative fine or penalty. An administrative fine or penalty may be waived by the Board against a small business if:

(1) The small business corrected the violation within 30 days of receiving notice of a violation or a citation; or

(2) The violation was the result of an excusable misunderstanding of the Board's interpretation of a rule.

(b) The Board may not grant a waiver or reduction if:

(1) The small business was notified of the violation of a statute, ordinance or rule by the Board, i.e., given a warning prior to the issuance of an administrative fine or penalty;

(2) The small business did not exercise good faith in complying with a statute, ordinance or rule;

(3) The violation involved willful or criminal conduct by the small business;

(4) The violation resulted in a serious health, safety or environmental impact; or

(5) The fine or penalty was assessed pursuant to federal law and for which no waiver was authorized by federal law or regulation.

[OAR Docket #03-2047; filed 6-12-03]

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

[OAR Docket #03-2048]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions [NEW]
- 158:20-1-1. Purpose [NEW]
- 158:20-1-2. Definitions [NEW]
- 158:20-1-3. Injury reporting requirements [NEW]
- Subchapter 3. Procedures of the Construction Industries Board [NEW]
- 158:20-3-1. Procedures of the Construction Industries Board [NEW]

AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.4

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 1. General Provisions [NEW]
- 158:20-1-1. Purpose [NEW]
- 158:20-1-2. Definitions [NEW]
- 158:20-1-3. Injury reporting requirements [NEW]
- Subchapter 3. Procedures of the Construction Industries Board [NEW]
- 158:20-3-1. Procedures of the Construction Industries Board [NEW]

Gubernatorial approval:

May 12, 2003

Register publication:

In this issue

Docket number:

03-2046

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

The purpose of these rules is to set forth the Elevator Injury Reporting regulations, which were placed under the direction of the Construction Industries Board. This is an Act relating to professions and occupations; requiring reporting of injuries resulting from operation or malfunction of elevators; requiring annual report by Construction Industries Board; defining terms and providing exclusions; granting the Board certain authority; providing for codification; and providing and effective date.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED

FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JULY 26, 2003:

SUBCHAPTER 1. GENERAL PROVISIONS

158:20-1-1. Purpose

The rules in this Chapter implement the Elevator Injury Reporting Act.

158:20-1-2. 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 Elevator Injury Reporting Act as found at 59 O.S. Supp.2002, § 3009 et.seq.

"Administrator" means the Administrator of the Construction Industries Board as found at 59 O.S. 2001, § 1000.6.

"Board" means the Oklahoma Construction Industries Board 59 O.S. 2001, § 1000.2.

"Injury report" means a reporting form approved by the Construction Industries Board.

"Owner or lessee" means the owner or lessee of every elevator in service in this state.

"Elevator" means any device for lifting or moving people, cargo, or freight within, or adjacent and connected to, a structure or excavation, and includes any escalator, power-driven stairway or stairway chair lift.

"Elevator does not mean" any amusement ride or device subject to inspection and regulation by the Oklahoma Department of Labor; Mining equipment subject to inspection and regulation by the Department of Mines; or Aircraft, railroad car, boat, barge, ship, truck, or other self-propelled vehicle or component thereof.

"Elevator in service" means an elevator that is running and responding to haul and car call services to move people. Elevator in service also means an elevator undergoing service and repair.

"Injury" means any hurt or harm, including appreciable physical pain.

158:20-1-3. Injury reporting requirement

Beginning January 1, 2003, the owner or lessee of every elevator in service in this state shall report to the Construction Industries Board any injury which is reported to the owner or lessee in which an individual sought medical treatment or attention due to the operation or malfunction of an elevator. This report is due to the Construction Industries Board within 10 working days of notification to the owner or lessee.

SUBCHAPTER 3. PROCEDURES OF THE CONSTRUCTION INDUSTRIES BOARD

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158:20-3-1. Procedures of the construction industries board

- (a) The Construction Industries Board shall have available an accident reporting form for the owner or lessee of any elevator in the state of Oklahoma who reports an elevator injury.
- (b) Beginning January 1, 2004 and annually thereafter, the Construction Industries Board shall collect elevator injury data and submit a report of the data collected pursuant to this section to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

[OAR Docket #03-2048; filed 6-12-03]

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

[OAR Docket #03-2049]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 158:30-1-2 Definitions [AMENDED]
- Subchapter 5. License Types, Bond Requirements and Display of License Number and Firm Name
- 158:30-5-1 License types [AMENDED]
- 158:30-5-3 Display of license number and firm name
- Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses
- 158:30-9-1 Examination procedures [AMENDED]
- 158:30-9-2 ~~License and registration fees~~ Fee schedule for contractors, journeymen, and apprentices [AMENDED]
- 158:30-9-3 Duration of Licenses [AMENDED]
- Subchapter 11. License Revocation or Suspension and Prohibited Acts
- 158:30-11-1 License revocation or suspension [AMENDED]
- 158:30-11-2 Prohibited acts [AMENDED]

AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.4

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses
- 158:30-9-2 [AMENDED]

Gubernatorial approval:

October 22, 2002

Register publication:

20 Ok Reg 221

Docket number:

02-1487

INCORPORATIONS BY REFERENCE:

"n/a"

ANALYSIS:

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 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.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JULY 26, 2003:

SUBCHAPTER 1. GENERAL PROVISIONS

158:30-1-2. Definitions

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

"**Act**" means the plumbing license law of 1955 as found at 59O.S.§ 1001 et seq.

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

"**Applicant**" means any person applying for an examination, for a license or registration, for review of plans and specifications or for a plumbing code variance from the current, published edition of the code of plumbing regulations endorsed by the International Code Council(ICC) by the Board under the Act.

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

"**Bonds and Insurance Unit**" means the consolidated unit that processes bonds, insurance, and citations under the direction of the Construction Industries Board.

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

"Committee" means the Committee of Plumbing Examiners.

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed plumbing contractor or plumbing journeyman.

"Farm Operations"

(A) For purposes of the Plumbing License Law, "farm" means land devoted primarily to production for sale of livestock or agricultural commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(B) For purposes of the Plumbing License Law, "Farm building" means all homes (i.e., domiciles, residences), or buildings therewith designed and used primarily for and in conjunction with conducting farming operations, provided that said buildings are not connected to a public water and/or sewage system. A "farm building" shall not include other structures such as stores, service stations, schools, motels, or any other building having public access, whether connected to private or public water or sewer systems.

"Maintenance of state owned or operated facilities" means maintenance of state institutions and school districts and will be construed as all repair and/or upkeep of existing plumbing or plumbing fixtures within existing state owned buildings or local school district owned buildings. This term shall not include the installation of plumbing in a new building or new additions to existing structures or replacement of plumbing systems in existing buildings.

"Plumbing" means and includes:

(A) all piping, fixtures, appurtenances and appliances for, and in connection with, a supply of water within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a water main or other source of supply;

(B) all piping, fixtures, appurtenances and appliances for sanitary drainage or storm drainage facilities, including venting systems for such facilities, within or adjacent to any building, structure, or conveyance, on the premises and to the connection with a public disposal system or other acceptable terminal;

(C) the installation, repair, maintenance and renovation of all piping, fixtures, appurtenances and appliances for a supply of water, or for the disposal of waste water, liquid waste, or sewage within or adjacent to any building, structure, or conveyance, on the premises and to the source of supply of water or point of disposal of wastes;

(D) the original installation of a water softener but not the exchanging of the units whereby only unions are disturbed in the replacement;

(E) the installation of water services and building sewers;

(F) sewer cleaning-house sewer maintenance; and,

(G) automatic sprinkler systems which do not comply with Section 1017, paragraph D, of the Oklahoma State Plumbing License Law.

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

"Reciprocity agreement" means an agreement whereby a person holding a plumber's license or registration 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.

"Variance" means the use of an alternative material or method of construction from that prescribed in the current, published edition of the code of plumbing regulations endorsed by the International Plumbing Code/2000 for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Plumbing Installation Code Variance and Appeals Board.

SUBCHAPTER 5. LICENSE TYPES, BOND REQUIREMENTS AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:30-5-1. License types

(a) **Apprentice plumber.**

(1) Apprentice plumbers must be under the direct supervision of a licensed plumber when engaged in plumbing.

(2) A maximum of three (3) apprentice plumbers can work under the supervision of a licensed plumber.

(3) Apprenticeship registration is effective upon the posting of the application and evidence of such posting shall be a copy of the executed application form with proof of tender of the proper fee which may serve as evidence of registration for a period not to exceed thirty (30) days.

(b) **Journeyman plumber.**

(1) To engage in the act of plumbing, a journeyman plumber must be employed by a licensed plumbing contractor.

(2) A journeyman shall not contract or furnish labor and/or labor and materials.

(c) **Plumbing contractor.** Plumbing contractors must notify their surety of any municipalities wherein plumbing work will be performed.

158:30-5-3. Display of license number and firm name

(a) All contractors shall, on all vehicles used to transport materials and tools in the operation of the business, display the plumbing firm name and the contractor's license number bearing the initials "OK" preceding that number issued by the Administrator. Such names and numbers shall be printed in letters and numerals at least two (2) inches in height in a conspicuous location on both sides of each vehicle in contrasting color to the background color.

(b) The pocket license issued by the Administrator shall be on the plumber's person while on the job.

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SUBCHAPTER 9. EXAMINATION PROCEDURES, LICENSE AND REGISTRATION FEES AND DURATION OF LICENSES

158:30-9-1. Examination procedures

- (a) The plumbing standards for the plumbing examination shall be the International Plumbing Code/2000.
- ~~(b) Any previously certified examination may be used to meet an examination requirement.~~
- ~~(bc) Examination for a plumber's license shall include, but not be limited to, written questions and drawings and/or charts.~~
- ~~(ed) The maximum grade value of each part of the plumbing examination shall be 100 points. An examinee must make 70% or more on each part, above, to pass the examination.~~
- ~~(de) Attendance at an approved technical school with specialization in the plumbing skills may be substituted for experience or employment on an equal time basis. Substitution of education for experience shall be limited to a maximum of one half the experience requirement. Applicants must present to the Administrator for approval records of schools attended, grades and/or certificates of completion if education is to be substituted for experience.~~
- ~~(ef) Applicants for the plumbing contractor examination must be capable of reading English without assistance. A person who cannot meet this requirement may request a hearing before the Committee to request reasonable accommodations.~~
- ~~(fg) Except as authorized by the Plumbing Examining Committee, no person, other than examinees, shall be permitted in the examination area.~~
- ~~(gh) An examinee who is caught cheating during the course of an examination shall be deemed to have failed the examination.~~
- ~~(hi) Applicants for the journeyman examination must be eighteen (18) years of age or older and have three (3) years experience in the plumbing trade.~~
- ~~(ij) Applicants for the contractors examination must be eighteen (18) years of age or older and have four (4) years experience in the plumbing trade.~~
- ~~(jk) The fees for both examination and license must be on deposit with the Administrator in advance of the examination.~~
- ~~(kl) If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.~~
- ~~(lm) Applicants failing to appear for their examination on the date scheduled shall forfeit the examination fee unless notification is received by the Administrator at least 24 hours prior to examination date.~~

158:30-9-2. License and registration fees ~~Fee schedule for contractors, journeymen, and apprentices~~

- ~~(a) A person who was licensed without successful completion of the state license examination and whose license is not renewed within one (1) year of its expiration shall be required to take the examination before being re-licensed.~~
- ~~(b) Any previously certified examination may be used to meet an examination requirement.~~

~~(c) The pocket license issued by the Administrator shall be on the plumber's person while on the job.~~

~~(d) Expired licenses may be renewed within 30 days after expiration by paying a renewal fee.~~

~~(a) **Examination Fees for Contractors and Journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by these rules. The cost for each such examination referenced in section 158:30-9-1 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S. § 1000.5 (A)(2). Documentation confirming the contractual fee shall be available upon request.~~

~~(eb) **Fee Schedule for Contractors, Journeyman, Apprentices Licensing, Registration and Application Fee Schedule for Contractors, Journeyman, and Apprentices.** The licensure, ~~examination~~, application, and registration fees shall be annually as follows:~~

- ~~(1) contractors application - \$25.00~~
- ~~(2) contractor examination - \$50.00~~
- ~~(3) initial contractor license - \$200.00~~
- ~~(4) contractor retest - \$50.00~~
- ~~(5) renewal contractor license - \$150.00~~
- ~~(6) renewal contractor late fee - \$300.00~~
- ~~(7) journeyman application - \$25.00~~
- ~~(8) journeyman examination - \$50.00~~
- ~~(9) initial journeyman license - \$50.00~~
- ~~(10) journeyman retest - \$25.00~~
- ~~(11) renewal journeyman license - \$50.00~~
- ~~(12) renewal journeyman late fee - \$100.00~~
- ~~(13) apprentice application - \$10.00~~
- ~~(14) apprentice registration - \$20.00~~

158:30-9-3. Duration of Licenses

~~(a) All licenses shall have a duration of no longer than one year, and shall expire on June 30th of each year.~~

~~(b) Any license issued by examination may be renewed by submitting the license fee for the next year by a check or money order and be mailed on or before the June 30th expiration date.~~

~~(c) An expired license issued by examination may be reinstated if: The license fee is submitted within one (1) year after the license expired, and is accompanied by a late fee.~~

~~(d) A person who was licensed without successful completion of the state license examination and whose license is not renewed within one (1) year of its expiration shall be required to take the examination before being re-licensed.~~

~~(e) A licensee who, during an investigation of the licensee by the Construction Industries Board, surrenders their license, shall be treated as if the license had been revoked for one year from the day of surrender.~~

~~(f) A license cannot be renewed until the licensee has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.~~

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:30-11-1. License revocation or suspension

- (a) The employment and use of unlicensed individuals as journeymen plumbers, ~~and/or~~ the employment and use of individuals as apprentices without registration, or cheating may be considered justification to suspend or revoke said plumbing contractor's license based upon illegal use of license.
- (b) The repeated violation of any of these rules or any provision of the Act, or the violation of a multiple of any of these rules or provision of the Act, may be considered justification to suspend or revoke the licensee's license or registration.

158:30-11-2. Prohibited acts

- (a) No person, entity, or firm may perform plumbing work without first obtaining the appropriate license or registration pursuant to these Rules.
- (b) No person shall offer to engage in work as a plumber during the period his license is suspended or revoked.
- (c) No employing plumbing firm shall employ or use an unlicensed or unregistered plumber to perform plumbing work.
- (d) No person, entity, or firm may transfer a license or registration.
- (e) No plumber, licensed pursuant to these Rules, shall enter into an agreement for the use of his license with any firm or person which 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 Board.
- (f) No person shall make a materially false or fraudulent statement in an application for license.
- (g) No person may alter a license.
- (h) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

[OAR Docket #03-2049; filed 6-12-03]

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

[OAR Docket #03-2050]

RULEMAKING ACTION:
PERMANENT final adoption

- 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
 - 158:40-9-2 Examinations [AMENDED]

- 158:40-9-3 License and registration fees and renewals [AMENDED]
- Subchapter 11. License Revocation or Suspension and Prohibited Acts
- 158:40-11-1 License revocation or suspension [AMENDED]
- 158:40-11-2 Prohibited Acts [AMENDED]

- AUTHORITY:**
Construction Industries Board; 59 O.S. § 1000.4
- DATES:**
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- Legislative approval:**
Failure of the Legislature to disapprove the rules resulted in approval on May 22, 2003
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Superseded rules:
158:40-1-2 Definitions [AMENDED]
158:40-1-4 Standard of installation [AMENDED]
158:40-11-2 Prohibited acts [AMENDED]
- Gubernatorial approval:**
August 13, 2002
- Register publication:**
19 Ok Reg 3039
- Docket number:**
02-1331
- SUPERSEDED EMERGENCY ACTIONS:**
Superseded rules:
Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals
158:40-9-3 License and registration fees and renewals [AMENDED]
- Gubernatorial approval:**
October 22, 2002
- Register publication:**
20 Ok Reg 222
- Docket number:**
02-1488
- INCORPORATIONS BY REFERENCE:**
Incorporating rule:
158:40-1-4. Standard of installation
- Incorporated standards:**
2002 National Electrical Code [National Fire Protection Association Standard 70 02 (NFPA 70 02)]
- Availability:**
The incorporated standards are available for public inspection between the hours of 8:00 a.m. and 5:00 p.m. at the office Of the Board, 2401 N.W. 23rd st., Suite 5, Oklahoma City.
- ANALYSIS:**
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 in 158:40-9-2 adds that any previously certified examination may be used to meet an examination requirement. The

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rule change in 158:40-9-3 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 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 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 and adds language to mirror the Plumbing and Mechanical rules.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JULY 26, 2003:

SUBCHAPTER 1. GENERAL PROVISIONS

158:40-1-2. 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 Electrical Licensing Act as found at 59 O.S. § 1680 et seq.

"Administrator" means the Administrator of the Board created by SB 354.

"Applicant" means any person applying for an examination, for a license or registration, for review of plans and specifications or for an electrical code variance from the National Electrical Code by the Board under the Act.

"Associated with and responsible for" means the relationship between a electrical contractor and electrical firm based on the electrical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the electrical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Electrical Licensing Act and this Chapter.

"Board" means the Oklahoma Construction Industries Board

"Bonds and Insurance Unit" means the consolidated unit that processes bonds, insurance, and citations under the direction of the Construction Industries Board.

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

"Committee" means the Committee of Electrical Examiners

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed electrical contractor or electrical journeyman.

"Electrical facility" means wiring, fixtures, appurtenances and appliances used for and in connection with a supply of electricity, but excludes the connection with a power meter or other supply source.

"Electrical firm" means any firm, corporation, partnership, sole proprietorship, joint venture or any other business entity engaged in the business of planning, contracting, supervising or furnishing labor or labor and materials for the installation, repair, maintenance or renovation of electrical facilities according to the Act.

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

"Electrical maintenance" means electrical work limited to maintaining existing electrical systems, facilities or equipment by an employee of a person, company, corporation or entity owning the electrical systems, facilities or equipment. Maintenance shall not include any alterations or additions to existing systems, facilities or equipment.

"Electrical work" means work on "electrical facilities" as that term is defined in 59 O.S. 2001Supp. 1995, Section 1682.

"Hearing Board" means the Electrical Hearing Board created by the Act.

"Journeyman electrician" or **"journeyman"** means any person, other than a contractor or apprentice, who engages in the installation, repair, maintenance or renovation of electrical facilities according to the Act, in the category in which the person is licensed.

"Limited electrical contractor" means any person who has qualified and become licensed in accordance with 158:40-7-5. Such person is prohibited from engaging in the work of a journeyman electrician.

"National Electrical Code" means the current edition of minimum electrical installation standards, by the National Fire Protection Association, as adopted in 158:40-1-34.

"Reciprocity agreement" means an agreement whereby a person holding an electrical license or registration 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.

"Variance" means the use of an alternative material or method of construction from that prescribed in the National Electrical Code for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Electrical Installation Code Variance and Appeals Board.

158:40-1-4. Standard of installation

The Construction Industries Board hereby incorporates the 1999-2002 National Electrical Code [National Fire Protection Association Standard 70-99 02(NFPA 70-99 02)] as the minimum standard for electrical installations in Oklahoma.

SUBCHAPTER 5. LICENSING REQUIREMENTS, DISPLAY OF LICENSE AND FIRM NAME, AND BOND REQUIREMENTS

158:40-5-1. Apprentice requirements

- (a) Apprentice electricians must be under the direct "on-the-job" supervision of a licensed journeyman or contractor when engaged in the work of an apprentice.
- (b) No more than two (2) apprentice electricians shall work under the supervision of a single journeyman or contractor.
- (c) Apprentice electricians shall work only under a licensed electrician who shall be responsible for the direct supervision of no more than two electrical apprentices.
- (d) Apprenticeship registration is effective upon the posting of the application and evidence of such posting shall be a copy of the executed application form with proof of tender of the proper fee which may serve as evidence of registration for a period not to exceed thirty (30) days.

158:40-5-4. Display of license number and firm name

- (a) All electrical contractors or electrical firms shall, on all vehicles used to transport materials and tools in the operation of the business, display the firm name and the license number bearing the initials "OK" preceding that number issued by the Administrator. Such signs and license numbers shall be printed in letters and numerals at least two (2) inches high in conspicuous places on both sides of each vehicle in contrasting color to background surface.
- (b) The Electrical Contractor State License Number must be displayed on all advertising, contracts, and bids.
- (c) The pocket license issued by the Administrator shall be on the electrician's person while on the job.

SUBCHAPTER 9. EXAMINATION APPLICATIONS, EXAMINATIONS AND LICENSE AND REGISTRATION FEES AND RENEWALS

158:40-9-2. Examinations

- (a) Electrical license examinations may include, without limitation, the following parts:
 - (1) Written questions, consisting of open book, closed book and problems, based on current National Electrical Code and other related questions; and
 - (2) Practical shop, which for contractors shall also include written questions on job estimating and the laws and regulations relating to electricians.
 - (3) The maximum grade value of each part of the examination shall be 100 points. A passing score is 70% or more on each part.
 - (4) Each applicant shall pay all examination and license fees before undertaking any examination. If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited. Reexamination fees shall be the same as the initial examination fees.

- (5) Applicants for a contractor license must be capable of reading without assistance.
- (6) Unless authorized by the Administrator, only examinees shall be permitted in the examination area.
- (7) Any applicant who fails a first examination must wait thirty (30) days before taking any other electrical examination. All subsequent failures will result in a waiting period of at least ninety (90) days.
- (8) Applicants shall present positive identification before undertaking an examination.
- (9) 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 Administrator shall determine when the applicant may retake the exam, which time shall be no fewer than 30 days and no longer than 365 days.
- (b) Any previously certified examination may be used to meet an examination requirement.

158:40-9-3. License and registration fees and renewals

- (a) Examination Fees for Contractors and Journeyman. The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by these rules. The cost for each such examination referenced in section 158:40-9-2 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S. § 1000.5 (A)(2). Documentation confirming the contractual fee shall be available upon request.

- (ab) Licensing, Registration and Application Fee Schedule for Contractors, Journeyman, and Apprentices. The fee schedule for Contractors, Journeyman, and Apprentices is set forth as follows—licensure, application, and registration fees shall be annually as follows:

- (1) contractors application - \$25.00
- ~~(2) contractor examination - \$50.00~~
- ~~(3) initial contractor license - \$200.00~~
- ~~(4) contractor retest - \$50.00~~
- ~~(5) renewal contractor license - \$150.00~~
- ~~(6) renewal contractor late fee - \$300.00~~
- ~~(7) journeyman application - \$25.00~~
- ~~(8) journeyman examination - \$25.00~~
- ~~(9) initial journeyman license - \$50.00~~
- ~~(10) journeyman retest - \$25.00~~
- ~~(11) renewal journeyman license - \$50.00~~
- ~~(12) renewal journeyman late fee - \$100.00~~
- ~~(13) apprentice application - \$10.00~~
- ~~(14) apprentice registration - \$20.00~~

- (bc) **License renewal penalties.** Penalty for late license renewal for contractors and journeyman (30 days after expiration

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date), as provided in the Act is listed above, and upon meeting continuing education requirements listed in 158:40-9-4.

(d) **Outstanding fines.** A license cannot be issued until the applicant has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

(e) **Renewal eligibility.** ~~No license may be renewed after it has been expired for a period of more than one year, except for the military service exemption described in the Act.~~

(e) **Duration of licenses.** A license renewed under the provision is effective when notice of such renewal is issued by the Construction Industries Board.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:40-11-1. License revocation or suspension

(a) The employment and use of unlicensed individuals performing electrical work ~~and/or~~ the employment and use of individuals as apprentices without registration or cheating may be considered justification to suspend or revoke said electrical contractor's license based upon illegal use of license.

(b) The repeated violation of any of these rules or any provision of the Act, or the violation of a multiple of any of these rules or provision of the Act, may be considered justification to suspend or revoke the licensee's license or registration.

158:40-11-2. Prohibited acts

(a) The following prohibited acts apply to all license holders:

- (1) No person, entity, or firm may perform electrical work without first obtaining the appropriate license or registration pursuant to these Rules.
- (2) No licensee shall perform work contrary to any provision of the standard of installation in 158:40-1-3, except as otherwise provided by law or rule. Each violation of the standard of installation in 158:40-1-3 can be treated as a separate violation of this Chapter.
- (3) No person shall offer to engage in electrical work during the period his license is suspended or revoked.
- (4) No employing electrical firm shall employ or use an unlicensed or unregistered individual or entity to perform electrical work.
- (5) No person, entity, or firm may transfer a license or registration.
- (6) No individual or entity, licensed pursuant to these Rules, shall enter into an agreement for the use of his license with any firm or person which 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 Board.
- (7) No person shall make a materially false or fraudulent statement in an application for license.
- (8) No person may alter a license.

(9) No licensee shall perform electrical work without keeping their license on their person or in close proximity while performing electrical work.

(10) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(b) The following prohibited acts apply to persons issued a contractor license:

- (1) No licensee shall allow more than two (2) apprentices per journeyman at a job site.
- (2) No licensee shall fail to maintain a bond as provided for in 158:40-5-5.
- (3) No licensee shall fail to provide proof of financial responsibility to the Administrator as provided for in 158:40-5-5 (b).
- (4) No licensee shall be associated with and responsible for more than one electrical firm.
- (5) No licensee shall fail to provide proof of financial responsibility to the Administrator as provided for in 158:40-5-5.

(c) The following prohibited acts apply to persons issued a journeyman license:

- (1) No licensee shall perform electrical work except under the employment or supervision of an electrical contractor.
- (2) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for electrical work.

[OAR Docket #03-2050; filed 6-12-03]

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

[OAR Docket #03-2051]

RULEMAKING ACTION:

PERMANENT adoption

RULES:

- Subchapter 1. General Provisions
- 158:50-1-2 Definitions [AMENDED]
- Subchapter 5. License Types, Limitations of Licenses, Contractor Special Requirements and Display of License Number 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
- 158:50-9-1 Qualifications for mechanical licensure [AMENDED]
- 158:50-9-2 License and registration fees [AMENDED]
- 158:50-9-3 Duration of licenses [AMENDED]
- 158:50-9-5 Apprentice Registration [AMENDED]
- Subchapter 11. License Revocation or Suspension and Prohibited Acts
- 158:50-11-2 Prohibited acts [AMENDED]
- 158:50-11-3 License revocation or suspension [AMENDED]

AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.4

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Failure of the Legislature to disapprove the rules resulted in approval on May 22, 2003
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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:
Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration
158:50-9-2 [AMENDED]

Gubernatorial approval:
October 22, 2002

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20 Ok Reg 223

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02-1489

INCORPORATIONS BY REFERENCE:
"n/a"

ANALYSIS:

This rule change 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; provides a definition of "Cheating" which allows for sanctions if discovered; provides definition of "Reciprocity" which the legislature approved in statute in the last session; requires licensed persons to have their license upon their person; provides requirement to resolve outstanding fines and obligations with all departments under the Construction Industries Board before a license can be issued; 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 and adds language to mirror the Electrical and Plumbing rules.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A) WITH AN EFFECTIVE DATE OF JULY 26, 2003:

SUBCHAPTER 1. GENERAL PROVISIONS

158:50-1-2. Definitions

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

"Act" means Mechanical Licensing Act as found at 59 O.S. § 1850.1 et seq.

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

"Applicant" means any person applying for an examination, for a license or registration, for review of plans and specifications or for a mechanical code variance from the ICC International Mechanical Code/2000 or the International Fuel Gas Code/2000 and the International Residential Code/2000 (Chapters 12 through 24) by the Construction Industries Board under the Act.

"Associated with and responsible for" means the relationship between a mechanical contractor and mechanical firm based on the mechanical contractor being a permanent employee, owner, partner, or officer in a corporate firm, and whereby the mechanical contractor shall give full time to the supervision and control of operations necessary to secure full compliance with the provisions of the Mechanical Licensing Act and this Chapter.

"Board" means the Oklahoma Construction Industries Board.

"Bonds and Insurance Unit" means the consolidated unit that processes bonds, insurance, and citations under the direction of the Construction Industries Board.

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

"Committee" means the Committee of Mechanical Examiners.

"Direct supervision" means the on-the-job presence by the supervisor who must be a licensed mechanical contractor or mechanical journeyman.

"Gas piping" means and includes all natural gas piping within or adjacent to any building, structure, or conveyance, on the premises up to the connection with a natural gas meter, regulator, or other source of supply.

"Ground source piping" means piping buried below the earth's surface or submerged in a water well, lake or pond and used in conjunction with a heat pump to provide heating, ventilation and/or air conditioning to a structure.

"Humidification" when applied to air conditioning, means and includes an increase or decrease in moisture content of the air being conditioned and supplied to the space for human occupancy by means of that integral part of the entire air conditioning system, equipment, and control devices; when applied to refrigeration, means and includes an increase or decrease in the moisture content of the air or product being conditioned for a food preservation measure or manufacturing process by means of the integral part of the entire refrigeration system, equipment, and control devices.

"HVAC" or "heating, ventilation and air conditioning" means the process of treating air by controlling its temperature, humidity, and cleanliness and of supplying such air to spaces for human occupancy by means of an integrated system of air conditioning and ventilation equipment, accessories and control devices.

"ICC" means the International Code Council.

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"Limited residential journeyman" means a type and category of mechanical license that is restricted to new installations in detached one or two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with a separate means of egress as regulated by this chapter.

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

"Mechanical work" means the installation, maintenance, repair, or renovation, in whole or in part, of any heating system, cooling system, mechanical refrigeration system or ventilation system or any equipment or piping carrying chilled water, air for ventilation purposes, or natural gas, or the installation, maintenance, repair, or renovation of process piping used to carry any liquid, substance, or material, including steam and hot water used for space heating purposes not under the jurisdiction of the Department of Labor, provided that minor maintenance and repairs are excluded.

"Minor repairs and maintenance" means minor repairs or maintenance prescribed in the manufacturer's operating instructions to be performed by the equipment owner or his authorized agent, and shall not include replacement and repairs of any nature on natural gas piping, natural gas controls, the low voltage manufacturer installed controls, the vent system of fuel burning appliances or any repair or maintenance which would violate the safe operation of the equipment.

"Process" means a series of operations performed in the making or treatment of a product.

"Process piping" means lay out, assembly, installation, and maintenance of pipe systems, pipe supports, and related hydraulic and pneumatic equipment for steam, hot water, heating, cooling, lubricating and fire sprinklers, not subject to regulation pursuant to the Alarm Industry Act, and industrial production and processing systems.

"Reciprocity" means an agreement whereby a person holding a mechanical license or registration 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.

"Refrigeration system" means a system employing fluid which normally is vaporized and liquefied in an air conditioning system, food preservation measure or manufacturing process.

"Sheet metal" means the ferrous and non-ferrous ductwork and components which house and ventilates air conditioning systems, both assembled and custom fabricated.

"Variance" means the use of an alternative material or method of construction from that prescribed in the ICC International Mechanical Code/2000 or the International Fuel Gas Code/2000 or the International Residential Code/2000 (Chapters 12 through 24) for use at a particular location or project specified in the variance application; and

"Variance and Appeals Board" means the Oklahoma State Mechanical Installation Code Variance and Appeals.

SUBCHAPTER 5. LICENSE TYPES, LIMITATIONS OF LICENSES, CONTRACTOR SPECIAL REQUIREMENTS AND DISPLAY OF LICENSE NUMBER AND FIRM NAME

158:50-5-4. Display of license number and firm name

(a) Each person issued a contractor license shall display the mechanical firm name and the contractor license number bearing the initials "OK" preceding that license number issued by the Administrator on all vehicles used to transport materials and tools in the operation of the business. Such names and numbers shall be printed in letters and numerals at least two (2) inches in height in a conspicuous location on both sides of each vehicle in contrasting color to the background color.

(b) The pocket license issued by the Administrator shall be on the mechanical person while on the job.

SUBCHAPTER 9. QUALIFICATIONS FOR MECHANICAL LICENSURE, LICENSE AND REGISTRATION FEES, DURATION OF LICENSE, MECHANICAL LICENSE APPLICATION, AND APPRENTICE REGISTRATION

158:50-9-1. Qualifications for mechanical licensure

(a) **Application.** A person desiring to be licensed under this Chapter shall file an application with the application fee, examination fee, and the initial License fee to the Administrator. The fees must be received no less than three (3) working days before the examination date. If the applicant fails to meet the minimum qualifications to take the examination, the application fee will be forfeited.

(b) **Experience.** All persons applying for a license must provide proof of experience in the mechanical trade.

(1) Applicants for a journeyman license must be at least eighteen (18) years of age and have either three (3) years of verifiable experience in the mechanical trade in the category for which he is applying or have an associates degree or Vo Tech diploma from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and one (1) year of verifiable experience in the mechanical trade.

(2) Applicants for a contractor license must meet the same requirements as a journeyman with an additional one (1) year experience.

(b)c) **Examination.** A license cannot be issued until the applicant has passed the appropriate examination for the license type and category. Examinations and the passing score for each examination shall be approved by the Committee. Applicants for the Ground Source Piping category shall provide proof of being certified in the proper installation of ground source piping by an organization approved by the Committee.

(1) If the applicant does not pass the exam, the applicant may reapply for the exam and pay an additional retesting fee. However, no person will be allowed to re-take an exam within 30 days of the first failed exam nor within 90 days of the second or subsequent failed exam.

(2) Any person suspected of cheating during an examination shall be immediately notified of the suspicion and shall not be allowed to finish the examination. He shall be called before the Committee during the next scheduled meeting for discussion of the incident. If the Committee determines that the person did in fact cheat, the examinee's application for licensure shall be denied and the Committee shall determine when the applicant can next apply for an examination.

(3) No person shall be allowed any assistance in reading the contractor's examination, nor shall any persons other than the examinees or the Committee members be allowed in the examination area. However, an applicant may request that the Committee make reasonable accommodations for any disability.

(d) **Outstanding fines.** A license cannot be issued until the applicant has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

158:50-9-2. License and registration fees and renewals

(a) **Examination Fees for Contractors and Journeyman.** The Construction Industries Board, or its designated representative, may collect for the actual cost of any examination provided by these rules. The cost for each such examination referenced in section 158:50-9-1 shall be posted in plain view at the testing site that provides and administers the examination. Every person whose application for examination is approved shall be informed of the specific fee prior to setting for the examination. The unit testing fee shall be the amount negotiated by the administrator in accordance with the provisions of the Oklahoma Central Purchasing Act, but cannot exceed the maximum allowable fee provided in 59 O.S. § 1000.5 (A)(2). Documentation confirming the contractual fee shall be available upon request.

(ab) **Licensing, Registration and Application Fee Schedule for Contractors, Journeyman, and Apprentices.** The licensure, examination, application, and registration fees shall be annually as follows:

- (1) contractors application - \$25.00
- ~~(2) contractor examination - \$50.00~~
- ~~(3) initial contractor license - \$200.00~~
- ~~(4) contractor retest - \$50.00~~
- ~~(5) renewal contractor license - \$150.00~~
- ~~(6) renewal contractor late fee - \$300.00~~
- ~~(7) journeyman application - \$25.00~~
- ~~(8) journeyman examination - \$25.00~~
- ~~(9) initial journeyman license - \$50.00~~
- ~~(10) journeyman retest - \$25.00~~
- ~~(11) renewal journeyman license - \$50.00~~
- ~~(12) renewal journeyman late fee - \$100.00~~
- ~~(13) apprentice application - \$10.00~~
- ~~(14) apprentice registration - \$20.00~~

(e) **Experience.** All persons applying for a license must provide proof of experience in the mechanical trade.

~~(1) Applicants for a journeyman license must be at least eighteen (18) years of age and have either three (3) years~~

~~of verifiable experience in the mechanical trade in the category for which he is applying or have an associates degree or Vo Tech diploma from a school, approved by the Committee, which exhibits knowledge of the trade in the category of license applied for and one (1) year of verifiable experience in the mechanical trade.~~

~~(2) Applicants for a contractor license must meet the same requirements as a journeyman with an additional one (1) year experience.~~

158:50-9-3. Duration of licenses

(a) All licenses shall have a duration of no more than one year, and shall expire on June 30th of each year.

(b) Any license issued by examination may be renewed by submitting the license fee for the next year by a check or money order and be mailed on or before the June 30th expiration date.

(c) A license renewed under the provision of 158:9-3 (b) is effective when notice of such renewal is issued by the Construction Industries Board.

(ed) An expired license issued by examination may be reinstated if: The license fee is submitted within one (1) year after the license expired, and is accompanied by a late fee.

(de) Any person who has not renewed or reinstated a mechanical license cannot obtain another license of the same type without making application and having passed an examination for that license. Any previously passed Construction Industries examination may be used to meet an examination requirement.

(ef) A licensee who, during an investigation of the licensee by the Construction Industries Board, surrenders their license, shall be treated as if the license had been revoked for one year from the day of surrender.

(g) A license cannot be renewed until the licensee has paid any and all outstanding fines due and owing to any department of the Construction Industries Board.

158:50-9-5. Apprentice registration

(a) A person may register as a mechanical apprentice if the person does not meet the qualifications for licensure but wishes to learn or perform mechanical work. An individual licensed in any category shall be permitted to work as an apprentice in any category for which they are not licensed by complying with the requirements of this chapter for ratio and direct supervision.

(b) The apprentice will be registered if a completed application form with the application and registration fee listed in 158:50-9-2(a)(4) for a one (1) year period is submitted to the Mechanical License Unit along with verification of enrollment in an approved school or training course or a statement of employment by the licensed mechanical contractor who arranged for employment of the apprentice.

(c) The apprentice must perform mechanical work in the same category as the licensed mechanical person who is supervising the apprentice.

(d) An apprentice who participates in activities inconsistent with the provisions of the Act and the rules of this Chapter shall be subject to the sanctions described in 158:50-11-13.

(e) Apprenticeship registration is effective upon the posting of the application and evidence of such posting shall be a copy

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of the executed application form with proof of tender of the proper fee which may serve as evidence of registration for a period not to exceed thirty (30) days.

SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS

158:50-11-2. Prohibited acts

(a) The following prohibited acts apply to all license holders:

- (1) No person, entity, or firm may perform mechanical work without first obtaining the appropriate license or registration pursuant to these rules.
- (2) No licensee shall perform mechanical work in a category under which he is not licensed.
- (3) No licensee shall perform work contrary to any provision of the adopted references in 158:50-1-4, except as otherwise provided by law or rule. Each violation of the adopted references in 158:50-1-4 can be treated as a separate violation of this Chapter.
- (4) No person shall offer to engage in mechanical work during the period his license is suspended or revoked.
- (5) No employing mechanical firm shall employ or use and unlicensed or unregistered individual or entity to perform mechanical work.
- (6) No person, entity, or firm may transfer a license or registration.
- (7) No individual or entity, licensed pursuant to these Rules shall enter into an agreement for the use of his license with any firm or person which 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 Board.
- (8) No person shall make a materially false or fraudulent statement in an application for license.
- (9) No person may alter a license.
- (10) No licensee shall fail to notify the Administrator of a change in his address.
- (11) No licensee shall perform mechanical work without keeping their license on their person or in close proximity while performing mechanical work.
- (12) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(b) The following prohibited acts apply to persons issued a contractor license:

- (1) No licensee shall employ or supervise persons performing mechanical work unless those persons are licensed or registered to perform that category of work.
- (2) No licensee shall allow any apprentice to perform mechanical work at the contractor's job site unless the apprentice will have direct supervision by a person licensed to perform in that category of mechanical work.
- (3) No licensee shall allow more than three (3) apprentices per journeyman at a job site.

(4) No licensee shall fail to maintain a bond as provided for in 158:50-5-3.

(5) No licensee shall fail to provide proof of financial responsibility to the Administrator as provided for in 158:50-5-3 (b).

(6) No licensee shall be associated with and responsible for more than one mechanical firm.

(c) The following prohibited acts apply to persons issued a journeyman license:

(1) No licensee shall allow an apprentice under his direct supervision to perform mechanical work for which the journeyman is not licensed to perform.

(2) No licensee shall perform mechanical work except under the employment or supervision of a Mechanical Contractor.

(3) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for mechanical work.

158:50-11-3. License revocation or suspension

(a) The employment and use of unlicensed individuals performing mechanical work ~~and/or~~ the employment and use of individuals as apprentices without registration or cheating may be considered justification to suspend or revoke said mechanical contractor's license based upon illegal use of license.

(b) The repeated violation of any of these rules or any provision of the Act, or the violation of a multiple of any of these rules or provision of the Act, may be considered justification to suspend or revoke the licensee's license or registration.

[OAR Docket #03-2051; filed 6-12-03]

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

[OAR Docket #03-2038]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

270:10-1-8. [AMENDED]

270:10-1-9. [AMENDED]

270:10-1-10. [NEW]

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Board of Trustees of the Oklahoma Firefighters Pension and Retirement System; O.S. Title 11, Section 49-1007 (B)

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n/a

ANALYSIS:

Section 10-1-8 establishes the standard operating procedures for administering the pension and retirement plan and the revisions will more clearly define those procedures, which will bring the procedures in compliance with any recent changes to O.S. 11, Section 49-100.1 through 49-143.3, Attorney General Opinions, court rulings or administrative past practices. Section 10-1-9 establishes the procedure for purchase of transferred credited service and the revisions will provide trustee-to-trustee transfer from a qualified retirement plan. Section 10-1-10 is a new section, which establishes direct rollover paid to an eligible retirement plan.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 25, 2003:

270:10-1-8. Standard operating procedures

(a) Benefits.

- (1) All pension benefits are paid in arrears the last working day of the month.
- (2) In determining a paid member's normal retirement date, fractional round-up of months and days shall not be used even if the member has volunteer credited service.
- (3) If a member serves the majority of the final month of service, the final month will count as a full month of credited service.
- (4) Where longevity pay or other salary which requires contributions is paid in a lump sum to a member, only the amount that would have been paid for a member's last thirty (30) months of credited service will be used for determining final average salary.

(5) Retirement pursuant to 11 O.S. § 49-106 has at times included reemployment of a member by a participating municipality in a position which is not covered by the System. Thus, in-service distributions from the System to such a member are permitted. If a retired member is reemployed by a participating municipality in a paid position which is covered by the System, such member's monthly retirement payments shall cease during such period.

(b) Clerks and fire chiefs.

- (1) The clerk and/or the fire chief of a participating municipality, fire protection district, county fire department or development authority are responsible for the administration of local retirement issues affecting all members of

the System, including but not limited to enrollment of eligible members, assisting members in making application for benefits, and collection and payment of employer and member contributions.

(2) The clerk shall notify the System of any changes regarding active members such as termination, mailing addresses, and deaths. The fire chief will assist the clerk in obtaining necessary information concerning active members.

(c) Volunteer firefighters.

(1) A member of the System changing status from a paid member to a volunteer member is not entitled to combine the paid credited service and the subsequent volunteer credited service towards a paid or a volunteer pension. If a paid member has completed ten (10) years but less than twenty (20) years of credited service, the member would be eligible for a paid vested benefit. The member would need to complete ten (10) or more years as a volunteer member to be eligible to receive a vested volunteer benefit.

(2) Volunteer members are deemed to be employees of a fire department of a participating municipality for the purposes of the administration of the System.

(d) State Board.

(1) Applications for pension benefits will not be considered by the State Board until the applicant terminates employment with the fire department of a participating municipality on or before the date of the meeting of the State Board in which the application is considered.

(2) Applications for pension benefits, entrance into the system, refunds of contributions, etc. will be placed on the State Board agenda when all paper-work has been properly completed and received by the State Office. All necessary paper-work should be filed with State Office no later than the Friday preceding the State Board's regular meeting so as to allow for sufficient time to process the application.

(e) Member deaths and beneficiaries.

(1) Guardian checks will be addressed with the Guardian's name and the statement: "Guardian of _____" on the face of the check.

(2) The Estate of the retiree or beneficiary shall be entitled to the benefit check written for the month a retiree or beneficiary dies.

(3) To continue monthly benefits on a child who has reached eighteen (18) years of age, verification that the child is enrolled full-time in an accredited school of learning must be received by the System. Documentation is required each semester until the child reaches twenty-two (22) years of age or marries at which time the benefits will cease.

(4) Step children and grandchildren of members are not beneficiaries unless they are adopted by the member.

(5) Children adopted prior to January 1, 1981, are considered beneficiaries even though the child(ren) may have been adopted after the member's retirement date.

(6) A valid marriage certificate or other necessary proof of marriage is required before an Application of

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Surviving Spouse for Pension can be considered by the State Board.

(f) **Membership.**

(1) A part-time firefighter shall not belong to the System.

(2) All firefighters must be members of the System if their employer is a participating municipality in the System.

(3) A candidate for a paid firefighter position must first complete a required State Board approved preemployment physical performance/agility test and physical examination in order to participate and receive any benefits from the System. The physical examination will be reviewed by the State Board's physician to determine if the applicant meets the required medical standards. ~~The State Board, will, at the next regularly scheduled meeting, review the findings of the State Board's physician and based upon the physician's recommendation establish pre-existing conditions if appropriate. Any candidate who is placed on the payroll of a participating municipality prior to the required physical examination being approved by the State Board shall not be eligible to participate and qualify to receive any benefits from the System during the time between the date of hire and the State Board's approval of the required physical examination. An application for entrance into the pension system shall also be completed by the applicant. The State Board shall have the final determination on applications for membership in the System. When the System receives all the information necessary for entrance into the System, including the written notice from the System's physician that the candidate has met the minimum medical requirements for entrance, the Executive Director shall have the authority to approve an entrance date for the candidate no earlier than the date all the necessary information for entrance is received or the actual hire date whichever is later, provided that the date between the time of the administration of the physical examination and the approval for membership in the System by the Executive Director and the candidate's actual hire date by the participating municipality is less than six (6) months. The State Board shall have the authority to deny or revoke the membership of a candidate submitting false information in such candidate's membership application and shall have the final authority in determining eligibility for membership in the System.~~

(4) An applicant for a paid firefighter position, who is an active volunteer firefighter with the same fire department, and who has passed the physical performance/agility test approved by the State Board as a condition for entrance as a volunteer firefighter shall only be required to pass the physical examination upon being employed as a paid firefighter if employed by the same fire department.

(5) A terminated paid firefighter who returns to work as a paid firefighter within six (6) months of his or her termination date will not be required to complete another physical examination.

(6) The classification of a paid firefighter shall be a firefighter who is carried on the city payroll as a paid firefighter and who receive a salary which is more than twice the amount of the minimum pension of a volunteer firefighter. Any firefighter making more than this amount will need to complete the required physical performance/agility test and physical exam and his or her employer must remit both the employee and employer contributions to the System.

(g) **Credited Service.**

(1) If a firefighter is off the payroll for a period of time and is not contributing to the System, that period of time will not count towards retirement.

(2) New volunteer cities joining the System may purchase up to five (5) years of credited service for each member of the department at the annual rate in effect as of the date of purchase, provided verifiable evidence of active firefighter service for the purchased years for each individual is provided to the System. Even though a city is exempt from contributions, contributions must be paid for a volunteer firefighter to receive purchased credit.

(3) If a question arises concerning a member's correct amount of service time, the member must submit to the State Board three (3) affidavits, based upon the actual knowledge of the member's correct service time, and all other necessary documentation, as may be required by the State Board. The Chairman of the State Board, may direct a member of the State Board or an employee of the System to visit the member and the city in question for further verification. Service time may be corrected to allow not more than twenty (20) years of service.

(4) Volunteer firefighters changing to paid firefighters.

(A) Pursuant to Subsection B of Section 49-108 of Title 11, any volunteer firefighter who is appointed as a paid firefighter on or after May 15, 1992, and serves ten (10) or more years as a paid firefighter, shall be entitled to credit not more than five (5) years of volunteer time toward twenty (20) years of credited service to qualify to receive a paid service pension. The volunteer firefighter shall be entitled to credit to the amount of credited service any remaining volunteer time, over and above the five (5) years of volunteer time, computed at one-twentieth (1/20) of a volunteer pension of each additional volunteer year, but not to exceed thirty (30) years of credited service

(B) Pursuant to Subsection B of Section 49-108 of Title 11, any volunteer firefighter who is appointed as a paid firefighter before May 15, 1992, and serves ten (10) or more years as a paid firefighter, shall be entitled to credit all of the firefighter volunteer time as paid credited service to receive a paid service pension.

(h) **Disability.**

(1) Applications for disability pensions shall provide medical evidence certifying the disability, proof of injury unless otherwise provided, and that the applicant can no longer perform the duties of a firefighter. The application shall be filed with the Local Board, if the Local Board exists, or the Executive Director of the System. The existing

Local Board or the Executive Director of the System will determine if additional medical evidence is required. If additional medical evidence is required, the State Board shall be responsible for payment of any physical examinations and certifications.

(2) If any additional medical evidence is produced concerning a disability pension application, said medical evidence must be presented to the Local Board, if the Local Board exists, or the Executive Director before the State Board considers the application. If an applicant requests a hearing before the State Board, all evidence concerning the application may be presented providing all parties affected by the hearing agree.

(3) A stroke condition that has been medically certified to be caused by heart disease shall be categorized as heart disease for the purpose of applying line of duty presumptions pursuant to 11 O.S. §49-110.

(4) Any additional medical testing requested by a physician for the purpose of certification of a disability at the request of an existing Local Board shall be approved by the Executive Director of the System prior to the medical testing.

(5) A volunteer member who has completed more than ten (10) years of credited service shall be eligible for consideration of a disability in line of duty pension pursuant to the provisions of 11 O.S. §49-110 provided that competent medical evidence is presented to support the certification of said disability request.

(6) A participating municipality may make an application for a disability pension on behalf of a member provided that medical evidence is presented supporting the existence of a disability. The member may present medical evidence to the contrary.

(7) If there are physician's statements presented which disagree or there is only one physician statement presented, then the Local Board, if one exists, or the Executive Director shall have the medical records examined by a physician of their choosing. If the participating municipality has made the application request and the member presents contrary medical evidence it shall be the responsibility of the existing Local Board or the Executive Director to obtain an authorization of release of medical records from the member prior to the third physician examination.

(i) **Local Boards.**

(1) If an existing Local Board desires to have a member, who is receiving a disability pension, re-examined by a physician for the purposes of certifying if a disability still exists, the request shall be approved by the State Board.

(2) An existing Local Board meets when necessary to review applications for benefits and disability benefits. The Local Board minutes must show action taken by roll call vote. In cities and towns where the city clerk and city treasurer hold both positions the local board becomes a five (5) member board. The board members shall elect a vice-chairman from among all board members who shall assume the duties of the mayor/chairman in that person's absence.

(3) Any action taken by the local board must be documented. The local board must present objective evidence to the State Board regarding its recommendation. The State Board will consider only the evidence actually presented. The State Board will act upon the evidence presented and render a final decision.

(4) If the city charter provides, the city council or similar authority, in the absence of the mayor, city clerk or the treasurer, may designate an authorized official as a replacement member of the local board, such as a vice-mayor if he or she has the responsibilities of the mayor. A firefighter member of the local board cannot send a replacement. Only local board members present at a local board meeting may vote. The chairman shall have a casting vote with the members only when necessary to avoid a tie vote among local board members. All local board meetings are subject to the Open Meeting Act.

(j) **Contributions.**

(1) If a paid firefighter terminates employment and receives a refund of contributions and then subsequently returns to work for a fire department in Oklahoma, all withdrawn contributions must be paid back to the pension system plus ten percent (10%) interest per annum within ninety (90) days of re-employment in order to receive credit for the missed credited service time. Effective January 1, 2002, lump-sum payments with interest may be repaid by a trustee-to-trustee transfer from an 403(b) annuity or a 457 plan.

(2) There shall be a sixty (60) day waiting period of refund of contributions. If the firefighter requesting the refund of contributions was terminated from service, which resulted in litigation or administrative action, the refund of contributions will not be made until there is a final judgement or conclusion to the litigation or administrative action.

(3) Gross salary shall include but not be limited to base salary, longevity pay, fire service training and other education pay, scuba pay, out of class pay, one time bonus pay earned during the current twelve (12) month period of employment, and buy back pay when paid on an annual basis and available to all firefighters. Gross salary shall not include payment for unscheduled overtime, payment for accumulated sick, annual or any other similar leave upon termination from employment, any uniform or clothing allowance, car allowance or any other compensation for reimbursement of out-of-pocket expenses. All other compensation not specifically mentioned must have contributions paid on them. Contributions shall be deducted from gross salary prior to federal and state income tax withholdings deductions.

(4) Volunteer pension contributions are due on July 1 of each year. Cities, towns or fire protection districts subject to the statutory exemption from payment of volunteer contributions shall file for the exemption with the System on an annual basis.

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(5) Workers Compensation benefits shall not be considered a part of gross salary for the purpose of determining pension benefits. The System will not except member contributions related to workers compensation.

(6) If a paid member terminated employment prior to January 1, 1981, and then subsequently returns to work as a paid member after January 1, 1981 and then again terminates, contributions paid in prior to January 1, 1981 would not be refundable.

(7) Salary means a predetermined sum payable at specified and regular times for services rendered, including benefits accumulated and paid as salary; furthermore, any salary received that is to be used in computing a "final average salary" shall be reduced or pro-rated to a monthly amount. It shall be a violation of this section to establish a special pay plan for the purpose of evading the intent of this section.

(k) **Deferred Option Plan (Plan B).**

(1) Upon termination of employment, a member participating in Plan B shall have the following options:

(A) Receive a lump sum payment or installment payments of the member's accumulated Plan B balance including interest.

(B) The State Board retains custody of the member's remaining accumulated Plan B balance until the member receives a complete and final payout. No more than once a quarter of any one year the member may elect with fifteen (15) days advance written notice, to change such payout period or amount.

(C) In addition, a member may elect, with seven (7) working days written notice, a withdrawal, but no more than one such withdrawal may be made per quarter in any one year and each withdrawal must be as of the first day of a month. If such withdrawal is made after payments have commenced under (B) above, appropriate adjustments may be made in the payout period under (B) above to reflect such withdrawal.

(D) If the member dies with a balance in the account, such balance will be paid in a lump sum or will continue to be paid in the same manner as was applicable to the member, as elected by the surviving spouse. If there is no surviving spouse, any remaining beneficiaries shall receive a lump sum payment(s) from the account equal to the ~~payments to the account to balance in~~ balance in the account of the member, or any other approved method of payment. If there ~~is~~ are no surviving ~~beneficiary~~ beneficiaries, a lump sum payment ~~of the account balance from the account equal to the balance in the account~~ shall be paid to the member's estate.

(E) The interest earned annually on the Plan B account balances shall be calculated ~~from~~ based on the return of the investment portfolio of the fund on June 30 of each year. The determined annual interest rate shall be applied on a pro rata account balance in the year the rate is established. If a member withdraws all or a portion of his or her account balance

prior to June 30 of a given plan year, the member shall receive at the time of withdrawal interest earnings on the withdrawn amount equal to the actuarial assumed interest rate as certified by the actuary in the yearly ~~evaluation~~ valuation report of the actuary on a pro rata basis. If the annual interest earnings calculated on June 30 of a given year exceed the actuarial assumed interest rate as certified by the actuary in the yearly ~~evaluation~~ valuation report of the actuary, a member who withdraws all or a portion of his or her account balance prior to June 30 of said plan year shall receive additional interest earnings equal to the difference between the minimum actuarial interest rate and the calculated interest rate on a pro rata basis.

~~(2) Participation in the Oklahoma Firefighters Deferred Option Plan must begin the first day of a month.~~

(F) At the conclusion of a member's participation in Plan B, the member must terminate employment and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may be reemployed by a participating municipality but only in a position not covered under the System, and receive in-service distributions of such member's accrued monthly retirement benefit from the System.

~~(2) Participation in the Oklahoma Firefighters Deferred Option Plan must begin the first day of a month.~~

(l) **Vested Rights.**

(1) A paid firefighter who terminated active service with more than ten (10) years of credited service with the System prior to July 8, 1985, must return to active service in order to establish vested rights.

(2) A volunteer firefighter who terminated active service with ten (10) years of credited service with the System prior to July 20, 1987, must return to active service as a volunteer firefighter in order to establish vested rights.

270:10-1-9. Purchase of transferred credited service

Effective January 15, 1991, all purchases of transferred credited service pursuant to 11 O.S. Section 49-117.2, shall be based upon the actuarial cost of the incremental projected benefits to be purchased.

(1) The actuarial cost and any tables formulated for the purpose of determining such cost during each calendar year, shall be based on the actuarial assumptions utilized in the actuarial valuation report as of the preceding July 1.

(2) The actuarial value shall be based upon the member's age, salary and service at the time of purchase, together with the earliest age for retirement and actuarially projected salary at the time of retirement. For purposes of this actuarial cost, it is assumed that all members are married at the time of retirement. If purchase is not made within thirty (30) days the actuarial cost may increase.

(3) For purpose of this actuarial cost, the member's age shall be rounded up or down to the nearest birthday.

(4) For purpose of this actuarial cost, the mortality tables shall be formulated as unisex table as used in the actuarial valuation report of the proceeding July 1.

(5) In the event a member who chooses to purchase service has been employed less than twelve (12) months, salary shall be annualized based upon the most current completed calendar months of payroll information.

(6) The purchase price for transferred credited service may be paid in installments as provided in 11 O.S. Section 49-117.3. In lieu of installment payments (for a purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase of previous non-participating service, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System by use of direct trustee-to-trustee transfer as authorized by the statutes governing the System.

(7) Effective January 1, 2002, in lieu of installment payments (for purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of the actuarial purchase price, repayment of a previous withdrawal, purchase previous non-participating service, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System b use of a direct trustee-to trustee transfer from a Code Section 403(b) annuity, a governmental Code Section 457 plan, and/or a Code Section 401(a) qualified plan.

(8) Notwithstanding (6) and (7) of this subsection above, purchases made be made by a cash lump sum payment, installment payments (where otherwise allowed by Oklahoma state statutes), and/or by trustee-to-trustee transfer as described in (6) and (7) above.

270:10-1-10. Direct Rollovers

(a) A Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(b) Definitions:

(1) "Eligible Rollover Distribution" is generally a lump sum distribution except that an Eligible Rollover Distribution does not include monthly retirement benefits and minimum distribution payments.

(2) "Eligible Retirement Plan" means an IRA (excluding a Roth IRA), a Section 403(a) annuity plan, and a 401(a) qualified plan that accepts the Distributee's Eligible Rollover Distribution. An Eligible Retirement Plan also means a 403(b) annuity and an eligible 457(b) plan which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. The definition of Eligible Retirement Plan also applies to a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee pursuant to qualified domestic order as defined in Subsection B of Section 49-126 of Title 11.

(3) "Distributee" means an employee or former employee. In addition, effective June 7, 1993, the employee's

or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic order, as defined in Subsection B of Section 49-126 of Title 11, are Distributees with regard to the interest of the spouse or former spouse.

(4) "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee.

(c) At least thirty (30) days and not more than ninety (90) days before the date of distribution, the Distributee must be provided with the IRS Notice regarding rollover options and tax effects. The distribution may be paid less than thirty (30) days after the notice is given, provided that:

(1) The Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

(2) The Distributee, after receiving the notice, affirmatively elects a distribution.

[OAR Docket #03-2038; filed 6-9-03]

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

[OAR Docket #03-2053]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

420:10-1-5 [AMENDED]
420:10-1-14 [AMENDED]

AUTHORITY:

Oklahoma Liquefied Petroleum Gas Board; Pursuant to statute 420.3. Oklahoma Liquefied Petroleum Gas Administration - Rules, regulations and specifications. Subsection (g)(h)(l).

DATES:

Comment Period:

February 18 through March 20, 2003

Public Hearing:

Friday, March 21, 2003

Adoption:

March 21, 2003

Submitted to Governor:

March 25, 2003

Submitted to House:

March 25, 2003

Submitted to Senate:

March 25, 2003

Gubernatorial approval:

May 8, 2003

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 19, 2003.

Final adoption:

May 19, 2003

Effective:

July 25, 2003

SUPERSEDED EMERGENCY ACTIONS:

n/a

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INCORPORATIONS BY REFERENCE:

Incorporated standards:

The standards for the storage and handling of liquefied petroleum gases adopted by the National Fire Protection Association and published in its pamphlets No. 58, and the standards for the installation of gas appliances and gas piping adopted by said National Fire Protection Association published in its pamphlet No. 54 have been adopted by the legislature in 52 O.S. 1991, Section 420.3 (e) and shall be accepted standards for the State of Oklahoma.

Incorporating rules:

420:10-1-14

Availability:

Oklahoma liquefied Petroleum Gas Administration, Jim Thorpe Building, 2102 N. Lincoln Blvd., Suite B-45, Oklahoma City, Oklahoma, 73105-4990. Office hours are from 7:30 a.m., to 4:30 p.m., Monday through Friday.

ANALYSIS:

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.

Specifically, 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 420:10-1-14, 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 is 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.

CONTACT PERSON:

Bill Glass, 405/521-2458.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2003:

420:10-1-5. Permits

(a) **Permits required.** No person, firm, corporation, association or other entity shall engage in the manufacturing, assembling, fabrication, installing or selling of any system, container, or apparatus to be used in this State in or for the transportation, storing, dispensing, or utilization of LPG, nor shall any transporter, distributor, or retailer of LPG store, dispense and/or transport over the highways of this State any LPG for use in this State in any system, container, apparatus or appliance without having first obtained a permit to do so as provided in this section.

(b) **Permit classifications.** The permits required for engaging in business shall be divided into the following classifications:

(1) **Class I - Dealer permit.** The Class I Dealer Permit permits the holder to engage in any phase of the LP Gas business. A Class X Manager's permit must be secured

for the person actually in charge of an LP Gas operation at each separate branch or base of operation of a Class I permit holder. The initial permit fee for a Class I is Five Hundred Dollars (\$500.00). The annual fee for the Class I permit is One Hundred Fifty Dollars (\$150.00).

(A) Class I holder can go on inactive status, but will have to meet all the requirements of the permit, including paying the renewal fee, and having proper insurance requirements filed with the administrator, before going back on active status. If requirements are not met the permit will then be revoked. All Class I holders, active and inactive, are required to pay the annual renewal fee.

(B) Applicant must furnish to the Board, evidence of the following insurance:

(i) A minimum of \$500,000.00 general liability insurance, as per 420:10-1-18;

(ii) Worker's Compensation shall be required as per state requirements;

(iii) Motor vehicle insurance must meet State and Federal requirements.

(C) Brokers/wholesalers selling LP Gas to anyone other than Class I permit holders or refinery/gas processing type facilities shall obtain a Class I permit and meet the requirements thereof, except for minimum storage and metering, when said sales are by transport bulkhead to bulkhead.

(2) **Class II - Truck Transporter permit.** The Class II transporter Permit permits the holder to transport LP Gas as a common carrier or private carrier to another of the following: a person, firm, or corporation engaged in the production or manufacture of LP Gas and/or selling or reselling LP Gas to transporters, industrial consumers, processors, distributors, retailers, and/or to holders of Class I, III, or VI permits. A Class II permit shall not authorize the resale of LP Gas to an end-user. A Class II permit shall not be a substitute where a Class I is needed. A transport must meet all CFR 49 requirements. The initial permit fee for a Class II is Three Hundred Dollars (\$300.00). The annual fee for a Class II permit is One Hundred Fifty Dollars (\$150.00).

(3) **Class III - DOT Cylinder Transporter Permit.** The Class III DOT Cylinder Transporter Permit permits the holder to operate DOT cylinder filling station and cylinder delivery service. The annual fee for a Class III permit is One Hundred Dollars (\$100.00).

(4) **Class IV - Installer permit.**

(A) The Class IV Installer Permit permits the holder to install and service LP Gas systems, appliances, and other LP Gas equipment ~~on homes and mobile homes~~. The applicant is required to have immediate supervision for two (2) weeks with a Class IV, IV-D, Class X, or an Oklahoma licensed plumber, and then shall be required to pass a written examination. Exception from two (2) week training period would be anyone already licensed by Oklahoma as a licensed plumber. If the supervising Class X determines that the new applicant is properly trained,

proper documentation of the training is on file, and a Class IV application has been forwarded to the LP Gas Administration, the applicant at that time may begin performing the duties of a Class IV permit holder until such time as the test is administered and the permit issued. This time shall not exceed thirty (30) days or the applicant shall cease to perform these duties. Current Class IV's, as of September 1, 1994, are not required to take a written exam. The annual fee for a Class IV permit is Thirty-five Dollars (\$35.00).

(B) Class IV permit does not permit the holder to install or service LP-Gas carburetion systems.

(C) Any installer not under the personal and direct supervision of a Class X holder at the immediate time and location of installation shall be required to have a Class IV or IV-D permit.

(5) **Class IV-D - Driver/Installer Permit.**

(A) The Class IV-D Driver/Installer Permit permits the holder to deliver LP Gas by bobtail and install and service LP Gas systems, appliance, and other LP Gas equipment ~~on homes and mobile homes~~. Class IV-D permit can only be issued under a Class I permit. New applicants must be under immediate supervision from a current Class IV-D, or Class X while in a minimum of a two (2) week training period before testing. Permit holder shall be required to pass a written examination. The tests shall be given according to current policies of the administration. If the supervising Class X determines that the new applicant is properly trained, proper documentation of the training is on file, and a Class IV-D application has been forwarded to the LP Gas Administration, the applicant at that time may begin performing the duties of a Class IV-D permit holder until such time as the test is administered and the permit issued. This time shall not exceed thirty (30) days or the applicant shall cease to perform these duties. Current Class IV permit holders, as of September 1, 1994, properly trained in delivery of LP Gas will not be required to take the test and will be issued a IV-D permit. The annual fee for a Class IV-D is Thirty-five Dollars (\$35.00).

(B) Class IV-D permit does not permit the holder to install or service LP Gas carburetion systems.

(C) Any installer not under the personal and direct supervision of a Class X holder at the immediate time and location of installation shall be required to have a Class IV or IV-D permit.

(6) **Class VI - DOT Cylinder &/or LP Gas Motor Fuel Station Operator Permit.** The Class VI DOT Cylinder and/or LP Gas Motor Fuel Station Operator Permit permits the holder to operate DOT cylinder charging station and/or a motor fuel dispenser for resale. Applicant shall be required to pass an approved written examination. Examination shall be administered by an LP Gas Inspector, or by a Class X Manager. In either case, the test fee for the Class VI permit is Ten Dollars (\$10.00). Permit holder is responsible for the safety of the dispensing operation and training and safety of the employees dispensing LP

Gas. Class VI locations may not become operational until a permit has been issued. A permit will not be issued until the proper fee has been paid and certificate of insurance is received by the LP Gas Administration. The annual fee for a Class VI permit is Seventy Dollars (\$70.00).

(7) **Class VI-A - LP Gas Dispensing Permit.** All employees involved in dispensing LP Gas must acquire a Class VI-A permit, except a Class IV, Class IV-D, Class VI, and Class X. Class VI-A applicants must be properly trained by a Class VI or Class X on proper filling of ASME tanks and DOT cylinders, and inspection thereof per NFPA 58. Applicants shall be required to pass an approved written examination. Test shall be administered by an LP Gas inspector, or by Class X manager. In either case, the test fee for the Class VI-A permit is Ten Dollars (\$10.00). Holder must carry permit and attend the annual safety school once every year. This does not prohibit any person, firm or corporation from filling his own equipment from his own supply line, or dispensing motor fuel from an approved limited access self-service dispenser. The annual fee for a Class VI-A permit is Five Dollars (\$5.00).

(8) **Class VII - Cylinder Exchange Program Permit.** The Class VII Cylinder Exchange Program Permit permits the holder to participate in the cylinder exchange program. Applicant shall be required to pass an approved written examination. One person can be tested for multiple locations. Examination shall be administered by an LP Gas Inspector, or by a Class X Manager. In either case, the test fee for the Class VII permit is Ten Dollars (\$10.00). A permit is required for each bottle exchange location. Class VII locations may not become operational until a permit has been issued. Permits will not be issued until the proper fee has been paid and certificate of insurance is received by the LP Gas Administration. The annual fee for a Class VII permit is Thirty-five Dollars (\$35.00).

(9) **Class VIII - Appliance Dealer Permit.** The Class VIII Appliance Dealer Permit permits the holder to sell LP Gas appliances. The annual fee for a Class VIII permit is Thirty-five Dollars (\$35.00).

(10) **Class IX - LP Gas Container Sales Permit.** The Class IX Gas Container Sales Permit permits the holder to manufacture and/or sell LP Gas containers. This permit is required by both wholesalers and retailer. The annual fee for a Class IX permit is Thirty-five Dollars (\$35.00).

(11) **Class IX-A - Mobile Homes and Recreation Sales Permit.**

(A) The Class IX-A Mobile Homes and Recreation Sales Permit permits the holder to manufacture, fabricate and sell all LP Gas facilities or systems used in mobile homes, campers, recreational vehicles and portable buildings whether such LP Gas system is manufacture, fabricated or sold separately or as an integral part of such trailer, camper, recreational vehicle or portable building. The annual fee for a Class IX-A is Thirty-five Dollars (\$35.00).

(B) This shall not be construed to require a permit for a sale by the owner of a mobile home or recreational vehicle who is not engaged in such business on

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a commercial basis and does not make over two such sales in one year.

(12) **Class X - Manager's Permit.** A Class X Manager's permit is required for a person actively in charge of LP Gas operation for holder of Class I permit and at each separate branch or base of operation of a Class I permit. All Class X holders must be a full-time employee of said Class I holder. The annual fee for a Class X permit is One-hundred Dollars (\$100.00).

(13) **Additional permits required for employees of Class I dealers.** Class IV, IV-D, VI-A, and X permits are the only additional permits that may be required for the employees of a Class I dealer, or as may be required by future Board action.

(14) **Truck inspections.** For the purpose of defraying the cost and expenses of administering and enforcing this act, persons, firms and corporations shall also pay at the time of inspection an annual inspection fee of One Hundred-Twenty Dollars (\$120.00) for each LP Gas bulk delivery truck or trailer belonging to a person who holds a permit authorizing the use of such truck or trailer and One Hundred Twenty Dollars (\$120.00) for each such truck or trailer belonging to a person who does not hold a permit. The inspection fee shall increase to Two Hundred Forty Dollars (\$240.00) per vehicle if said inspection is not completed within sixty (60) days of the expiration date, or at the discretion of the Administrator.

(15) **Containers or cylinders.** There is hereby levied the following fee, to be paid to the Administrator, upon the sale, purchase, rental or use in this state of liquefied petroleum gas containers or cylinders; on all Department of Transportation (DOT) cylinders, vehicle fuel containers, a fee of Three Dollars (\$3.00) each, and on all other containers, a fee of Seven Dollars and fifty cents (\$7.50) each.

420:10-1-14. Standards for the storage and handling of liquefied petroleum gas

(a) **NFPA standards.** The standards for the storage and handling of liquefied petroleum gases adopted by the National Fire Protection Association and published in its pamphlets No. 58, and the standards for the installation of gas appliances and gas piping adopted by said National Fire Protection Association published in its pamphlet No. 54 have been adopted by the Legislature in 52 O.S. 1991, Section 402.3 (e) and shall be accepted standards for the State of Oklahoma. All Class I permit holders must have a current copy of NFPA 58 and 54 on file at each separate branch.

(b) **Supplemental standards.** The following standards are supplemental to NFPA pamphlet No. 58 and shall be part of the rules and regulations of the Oklahoma Liquefied Petroleum Gas Board:

(1) Definitions.

(A) The word "approved" as used in this section means acceptable to the State Liquefied Petroleum Gas Administrator. A device or system having materials or forms different from those detailed in this section may be examined and tested according to the

intent of the regulations and if found equivalent, may be approved.

(B) In this section those provisions which are considered essential for adequate protection of life and property from fire are indicated by the words "shall" and "must." The words "should" or "preferably" indicate advisory provisions concerning which the State Liquefied Petroleum Gas Administrator of Oklahoma should be consulted.

(C) In each place mentioned in NFPA No. 54 and NFPA No. 58 where it refers to "the authority having jurisdiction" this would mean the Liquefied Petroleum Gas Administrator.

(D) An "important building" shall be any building, open to the public, inhabited by people, in which any LP Gas system or any type is installed.

(2) Submittal of plans.

(A) Prior to the installation of liquefied petroleum gas systems in school buildings, churches, courthouses, office building and other building to which the public is invited, such as cafes, dance halls, tourist courts and parks, plans and specifications for such installation in duplicate, shall be submitted to, and approved, by the State Liquefied Petroleum Gas Administrator, and before such systems are filled with liquefied petroleum gas, they shall be physically inspected and approved by a licensed installer and a report made by him to the State Liquefied Petroleum Gas Administrator on LPG Form 4-A, or its revision, furnished by the LP Gas Administrator's office.

(B) Plans must be submitted on any dispenser used to fill DOT cylinders and/or ASME containers, and used for public resale of LP Gas. These plans must be submitted to the Administration office along with the proper fee, and an on site inspection must be performed by an LP Gas inspector prior to final approval and before the dispenser can be placed into service. A Ten Dollar (\$10.00) plan review fee must accompany all dispenser plans submitted. If a dispenser is taken out of service, written notice must be given to the Administration office within seven (7) working days. If a dispenser is moved to a new location, new plans must be submitted to the Administrator and on site inspection performed by an LP Gas inspector prior to final approval and dispenser being placed into service. A complete list of dispensers by location shall be submitted to the LP Gas Administration as indicated on Class I permit renewal forms.

(C) Plans must be submitted to the Administrator on any fixed installation with individual water capacity of 2,000 gallons or more, or aggregate water capacity exceeding 4,000 gallons.

(3) **Report of accident.** In case of accident or fire at any location where a liquefied petroleum gas system or equipment is involved, or any accident involving liquefied petroleum gas systems or equipment, the dealer owning, operating or servicing the equipment or installation shall notify the State Liquefied Petroleum Gas Administrator.

This notification shall be forwarded as soon as feasibly possible after the dealer has knowledge of the accident in order that an inspection may be made by the State Liquefied Petroleum Gas Administrator before the site has been disturbed.

(4) **Piping - including pipe, tubing and fittings.**

(A) Piping systems serving appliances in buildings to which the public is invited such as churches, schools, business houses, tourist courts, etc., shall be tested for leaks as provided in NFPA 54 and such test shall be made by a licensed liquefied petroleum gas installer prior to initial introduction of LP Gas into the system by each Class I permit holder and at least ONCE EACH YEAR, and a report of such test forwarded to the State Liquefied Petroleum Gas Administrator on LPG Form 4-A. If Form 4-A is completed by a Class IV or IV-D permit holder under the supervision of a Class I or Class X manager, then the Class I or Class X manager must co-sign the Form 4-A.

(B) Each holder of a Class I permit shall submit a list of all owners, operators or persons in charge of public building which he services with LP Gas, along with their mailing address, to the LP Gas Administrator. This list shall either precede or accompany his annual application for permit renewal.

(C) No person, firm, or corporation shall connect a liquefied petroleum gas tank to any piping without having first determined that such piping complies with the laws of the State of Oklahoma and the rules and regulations of the State Liquefied Petroleum Gas Administrator relative to liquefied petroleum gas piping.

(D) All installations, installed after July 1, 2002, of storage containers, with more than 4,000 gallon water capacity, shall have internal valves installed as per NFPA 58-3.3.3.6 and 2.3.3.2.

(E) On installations of stationary or portable storage, with an aggregate of more than 4,000 gallon water capacity, a bulkhead approved by the LP Gas Administrator shall be required on each liquid line of one and one-half (1-1/2) inch or larger and each vapor line of one and one-quarter (1-1/4) inch or larger.

(5) **Vaporizers and housings.**

(A) The minimum capacity of the storage container feeding the vaporizer shall not be less than ten (10) times the hourly capacity of the vaporizer in gallons.

(B) The minimum capacity of a storage container being heated by a direct fired tank heater shall not be less than ten (10) times the hourly vaporizing capacity of the tank heater in gallons.

(6) **Container charging.** Containers, including DOT cylinders, with water capacity less than 300 pounds shall be charged by weight, except containers covered by Ch. 4-4.3, 1998 Edition of NFPA 58 or later revisions as made by NFPA 58.

(7) **Liquid metering systems.** Each bulk retail delivery of liquid LP Gas shall be measured by a suitable LP

Gas liquid meter system, except those deliveries of liquid LP Gas in cylinders which are filled by weight and deliveries of LP Gas vapor through vapor meters otherwise, are exempt from the requirements of this paragraph.

(A) LP Gas Liquid meters shall indicate deliveries in terms of gallons and to the nearest tenth of a gallon.

(B) The LP Gas liquid meter shall meet, in addition to the other requirements of this paragraph, the following requirements:

(i) The system shall include a device (such as a differential back-pressure regulator) so designed and installed that the product being measured will remain in a liquid state during passage through the meter.

(ii) No means shall be provided by which any measured liquid can be diverted from the measuring chamber, differential valve equipment or the discharge line therefrom.

(iii) Effective January 1, 1994, in accordance with the National Institute of Standards and Technology (NIST) Handbook 44, all LP Gas Liquid meters used for bulk delivery shall be designed with the necessary equipment for mechanically printing gallons on a delivery ticket, and the customer served thereby shall be given a ticket mechanically imprinted by the printing device. Meters used for stationary dispensing of motor fuel will not be required to be equipped with such printing device.

(iv) All bulk metered sales of propane, via bobtail or transport, shall be made by temperature compensated measure. Except, any truck now operating without a temperature compensation meter shall be retrofitted by no later than July 1, 2003.

(C) All meters where product is sold to the public must be proved annually by an approved meter tester/inspector and have written certification on file at permit holders place of business. All meters and temperature compensators must be accurate within the manufacturers tolerance not to exceed + or -1% at any time. The LP Gas liquid meter system shall be designed and constructed to provide for applying lead-and-wire seals in such a manner that no modifications or adjustments which would affect the accuracy of deliveries, can be made without mutilating the seal or seals. If a seal is broken, notification must be made to the Administrator and resealed by the LP Gas Inspector or an approved meter tester. In addition, the Administrator at his discretion may require proving of metering system to determine the accuracy.

(D) No dealer or firm controlled or affiliated with a dealer may calibrate or certify its own meters. All meters must be tested with a volumetric meter prover.

(8) **Qualified personnel.** Each holder of an LP Gas permit shall be responsible for having qualified personnel operating and installing LP Gas equipment.

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- (9) **Filling unsafe or unapproved dispensing or storage tanks prohibited.** No person, firm, or corporation shall introduce liquefied petroleum gas into a dispensing or storage tank in the State with knowledge that such dispensing or storage tank or piping is known to be in an unsafe operating condition.
- (10) **Basement installations.** No appliance shall be installed in any basement or semi-basement unless it is fully automatically controlled and properly vented and must have the approval of the State Liquefied Petroleum Gas Administrator.
- (11) **Standards for containers.**
- (A) In accordance with 52 O.S. Sec. 420.5, all first sales, rentals, purchases or uses of DOT cylinders and ASME tanks in this State, must have Oklahoma Identification tags attached to such cylinders or tanks. However, all DOT cylinders and ASME tanks in Oklahoma, with a manufacturers date prior to September 1, 1993, are not required to have Oklahoma Identification tags. These Oklahoma Identification tags are not transferable from one cylinder or tank to another.
- (B) Any new container sold or installed in Oklahoma for use in this State shall carry a five year warranty covering workmanship and material. This warranty shall provide that any container not in compliance with this regulation must be repaired or replaced by the fabricator at no expense to the dealer or customer. This provision is to take care of "pin-hole" leaks in the weld that were not detected at the time of fabrication and does not apply to fittings.
- (C) Containers shall be filled or used only upon authorization of the fee simple owner. The name of the fee simple owner, if other than the consumer, shall be conspicuously shown on the container.
- (12) **Underground containers.**
- (A) Underground containers before being reinstalled must be inspected by the State Liquefied Petroleum Gas Administrator, and a fee of \$25.00 paid to the State Liquefied Petroleum Gas Administrator's office, and reinstalled by a licensed LP Gas installer.
- (B) Underground containers shall be dug up at the expense of the owner at any time at the discretion of the State Liquefied Petroleum Gas Administrator.
- (C) All underground tank installations shall be on file with the Administration office, as indicated on Class I permit renewal.
- (D) All new underground tank installations must have written approval by the Administrator prior to installation.
- (13) **Minimum storage.** All new Class I permit holders must provide bulk propane storage capacity of not less than an aggregate of 18,000 water gallons. Current active Class I permit holders, as of September 1, 1994, are not required to meet this minimum storage requirement. After a change of ownership the new Class I permit holder must secure the minimum storage requirement within one year.
- (14) **Painting.** All bulk storage containers of a capacity 120 gallons water capacity or greater shall be painted a heat reflection color.
- (15) **Lettering bulk storage and dispensers.**
- (A) All bulk storage 2,000 gallons and above shall be lettered with the name of the contents, such as LP Gas, butane, propane, and a "No Smoking" sign in letters not less than six (6) inches high.
- (B) In addition to subparagraph (A) of this paragraph, all bulk storage used for loading and unloading facilities, and all container filling storages (dispensers) shall include the name of the person, firm, or corporation operating the bulk storage or dispenser and their phone number in letters not less than two (2) inches high. This information shall be placed so as to be readily visible to the public.
- (C) For all size bulk storage containers the name of the fee simple owners, if other than the consumer, shall be conspicuously shown on the container.
- (16) **Extinguishers required.** Extinguishers of the dry chemical type, with a B:C or A:B:C rating, are required. Extinguishers shall have a net content of not less than the current NFPA 58 requirements and shall be inspected at least once each year by an authorized inspector such as Fire Departments or Fire Appliance Company representatives. Current weatherproof inspection tags shall be attached to the extinguisher.
- (17) **Marking cargo vehicles.** Every tank vehicle used for transportation of liquefied petroleum gas shall be marked and placarded according to current DOT requirements. Each tank vehicle must also have the name of the person, firm or corporation on each side of the cargo tank in letters a minimum of two (2) inches in height. This information shall be placed so as to be readily visible to the public. This name shall be the same as permit holder has designated on the Class I or Class II permit.
- (18) **Parking and garaging LP gas tank vehicles.** Any tank vehicle used for transportation of Liquefied petroleum gas shall not be parked beneath or adjacent to any electric transmission line in such position that there is a possibility of a conductor contacting the tank in event of breakage.
- (19) **Filling unapproved truck or trailer tanks prohibited.**
- (A) An inspection form (LPG Form No. 9), when properly completed, and a registration plate (the serial number of which is shown on the inspection form), shall be evidence that the design, construction, assembly and mounting of the liquefied petroleum gas truck or trailer tank described on the inspection form by its serial number has been approved by the Liquefied Petroleum Gas Administrator for use in the transportation of liquefied petroleum gas. Such registration plate and inspection form also shall authorize the person, firm or corporation whose name appears on the inspection form or its bona fide employees to operate the truck or trailer tank described on the inspection form, and further shall authorize the filling

of such truck or trailer tank with liquefied petroleum gas.

(B) The registration plate shall be displayed at all times in an easily visible location on the rear of the truck or trailer tank. A copy of the inspection form shall be retained, until the expiration date, in the office of the person, firm or corporation whose name appears thereon. It will not be necessary to keep or display a copy of the inspection form on the truck or trailer tank.

(C) No person, firm or corporation shall operate a truck or trailer tank in the transportation of liquefied petroleum gas in this State unless such person, firm or corporation has been issued a registration plate and an inspection form certifying that such tank has been registered with and approved by the State Liquefied Petroleum Gas Administrator, or unless its operation has been specifically approved by a communication from the State Liquefied Petroleum Gas Administrator.

(D) The registration plate and the inspection form required in this paragraph are not transferable by the person, firm or corporation to whom they are issued or from one truck to another, and they are not to be used after the expiration date of the fiscal year for which they were issued, or in the event the Class I permit becomes inactive.

(20) **Vaporizers.** Exhaust gases shall not be used as a direct means of heat supply for the vaporization of fuel.

(21) **Stationary engines in building.**

(A) All engine rooms shall be well ventilated at the floor level.

(B) When engines are installed below grade level, suitable floor level mechanical exhaust ventilation shall be provided and operated continuously or adequate means shall be provided to purge the room before the engine is started. In any case the mechanical ventilation shall be in operation when the engine is running. Before and during any repairs to the engine the room shall be ventilated.

(C) Automatic fire doors shall be provided at openings in the engine room that open into other sections of the building.

(D) Exhaust gases shall be discharged outside the building in a manner that will not create a fire or any other hazard.

(E) Regulators and pressure relief valves installed in buildings and engine rooms shall be vented to the outside and discharge at least five feet away from any building opening. Such venting will not be required for combination engine fuel vaporizing - fuel reducing - fuel metering devices providing an acceptable automatic shut-off valve is installed immediately ahead of such devices.

(22) **Storage outside of buildings.** Valves and safety relief devices shall be protected against accumulations of ice and snow. Protective caps shall be deemed adequate.

(23) **Appliances.** Any mobile home, travel trailer, camper or recreational vehicle shall be delivered to the buying public by the permit holder with the system properly installed and free of leaks.

(24) **Maximum vapor pressure and container working pressure.**

(A) The maximum vapor pressure of the product at 100 degree Fahrenheit which may be transferred to a container shall not exceed the design working pressure of the container. Exception: 200 psig ASME working pressure vessels in LP Gas service in Oklahoma prior to January 1, 1994, may be continued in service for commercial propane, provided that they are fitted with relief valves and meet the start-to-leak setting in relation to the design pressure of the container, shall be in accordance with NFPA 58. For the purpose of this exception, "commercial propane" is defined as having a vapor pressure not in excess of 210 psig at 100 degree Fahrenheit. This exception does not apply to LP Gas motor fuel and mobile fuel containers.

(B) Any stationary 200 psig ASME containers brought into Oklahoma from out of state and intended for stationary LP Gas installation in Oklahoma at any facility requiring submission of plans and specification must be tested by at least two (2) of the following nondestructive test methods recognized by ASME to determine if the container or assembly is safe for LP Gas use in Oklahoma. The following test results must be submitted to the Oklahoma LP Gas Administration for approval.

- (i) Hydrostatic Test;
- (ii) Ultrasonic thickness test;
- (iii) Wet particle fluorescent or magnaflux.

(25) **Testing, leakage and visual inspection, and meter calibration.**

(A) Hydrostatic testers operating in Oklahoma that are hydrostatic testing cargo containers for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and shall:

- (i) Hold a Federal C.T. number;
- (ii) Include in their testing the use of a calibrated pressure chart recorder;
- (iii) Hold a Class IV installer permit.

(B) Leakage and visual inspectors operating in Oklahoma and performing this inspection on cargo containers and their systems for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and meet the following requirements:

- (i) Inspectors shall hold a Federal C.T. number;
- (ii) If the inspection includes repairs that require the LP Gas system to be re-plumbed, a Class IV permit is required.

(C) Meter calibrators operating in Oklahoma that are calibrating meters for LP Gas use in Oklahoma must be approved by the Oklahoma LP Gas Board and meet the following requirements:

- (i) Meters shall be tested in accordance to Oklahoma Rules and Regulations, Section 420:10-1-14(7);
 - (ii) Meter calibrators shall furnish the meter owner a copy of the calibration showing the correct gear numbers and temperature compensator settings;
 - (iii) Meter calibration results shall be on a form approved by the LP Gas Administrator and a copy of the completed form shall be furnished to the meter owner;
 - (iv) Meter calibrators shall hold a Class IV permit.
 - (v) Meter calibration testers shall test meters according to National Institute of Standards and Technology (NIST) standards.
- (26) **Cylinder exchange program.**
- (A) Cylinder exchange cabinets shall be constructed of steel and be lockable so that cylinders cannot be removed and valves cannot be tampered with when unattended. The cabinets shall be otherwise configured in compliance with NFPA 58.
 - (B) The cabinet shall have the following signs affixed to it:
 - (i) "Propane" or "Flammable Gas" and "No Smoking" in letters not less than two (2) inches high;
 - (ii) Class VII Permit number;
 - (iii) Name of Class I permit holder who supplies the cylinders;
 - (iv) 24-hour Emergency telephone number.
 - (C) The cabinet shall be located for distance and number of cylinders as per NFPA 58 with a minimum five (5) feet distance away from any source of ignition.
 - (D) Protection against vehicle impact shall be provided in accordance with good engineering practice where vehicle traffic normally is expected at the location as per NFPA 58.
 - (E) An approved serviceable portable fire extinguisher of not less than eighteen (18) lbs. dry chemical, B:C or A:B:C rating, and shall be readily available within a fifty (50) foot radius of the exchange cabinet ~~and shall be re-inspected annually.~~ Extinguishers shall have a net content of not less than the current NFPA 58 requirements and shall be inspected at least once a year by an authorized inspector such as Fire Departments or Fire Appliance Company representatives. Current weatherproof inspection tags shall be attached to the extinguisher.
 - (F) A warning sign shall be posted at or near any entrance doorway stating the "LP GAS EXCHANGE CYLINDERS EMPTY OR FULL SHALL NOT BE TAKEN INDOORS FOR ANY REASON."
 - (G) All employees who exchange cylinders shall be properly trained and know how to check for leaks and what emergency procedures to take if a leak is

discovered. Only properly trained employees can remove or install exchange cylinders from the cylinder exchange cabinets. This training shall be provided by the Class I permit holder who is supplying the exchange cylinders. This documentation will be kept at the Class VII location.

(H) A Class I permit shall be required in order to supply exchange cylinders for the cylinder exchange permit holder.

(I) Cylinders for sale or exchange, in exchange locations, shall each contain a minimum 35% water weight capacity of propane.

(J) A busy sidewalk and thoroughfare, as referenced in the 2001 Edition of NFPA 58-5.4.1.3(3) and Table 5.4.1.3, shall be further defined as not being located on private property. A busy sidewalk is alongside a public road and a thoroughfare is a public road.

(27) **Recreational vehicles.** Installations or repairs on LP Gas systems on recreational vehicles shall be performed as per NFPA 1192, Standard on Recreational Vehicles.

[OAR Docket #03-2053; filed 6-12-03]

TITLE 610. OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-2044]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 7. Rules of Operation

610:1-7-23 Petition requesting promulgation, amendment, or repeal of rules; form and procedure [NEW]

610:1-7-24 Petitions for declaratory rulings; form and procedure [NEW]

AUTHORITY:

State Regents for Higher Education, OKLA. CONST. Art XIII-A; 70 O.S., §3206

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ANALYSIS:

The proposed rules set forth the necessary instructions for persons wishing to petition the OSRHE to request promulgation, amendment, or repeal of a rule, or to request a declaratory ruling as required in Title 75 O.S. §305 and Title 75 O.S. §307.

CONTACT PERSON:

Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9335, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 25, 2003:

SUBCHAPTER 7. RULES OF OPERATION

610:1-7-23. Petition requesting promulgation, amendment, or repeal of rules; form and procedure

(a) Any interested persons may petition the OSRHE to request the promulgation, amendment, or repeal of an OSRHE rule. When filing such petition, the following requirements apply:

(1) All petitions must be filed with OSRHE in typewritten form or in legible printed form and must be presented or delivered to the Chancellor's office of the OSRHE;

(2) All petitions must clearly identify the party(s) submitting such petition and must include a statement reflecting the interest of the party(s) in submitting such petition, i.e., a showing that such petition is being submitted by an "interested person";

(3) All petitions must clearly state that the petition is for the promulgation of a new rule, for the amendment of an existing rule, or separately, any combination of the above. In the instance of a requested promulgation of a new rule, a complete text of the requested rule(s) must be submitted. In the instance of a requested amendment to an existing rule(s), a complete text of the existing rule(s) requested for amendment must be submitted reflecting the existing rule language requested for change or deletion and/or such language as may be requested to be added. In the instance of a requested repeal of any rule(s) the petition must state the complete rule(s) requested for repeal;

(4) All petitions must clearly and separately state the submitted basis, reason, grounds, or justification for each requested rule promulgation, amendment or repeal. Any and all supporting documents, records, statistics, studies, or information must be submitted with the petition, and the legality for such requested action, where deemed necessary or appropriate, shall be submitted by the petitioning party;

(5) All petitions must be duly signed and endorsed by all petitioning parties or their designated representative(s); and the representative(s) must endorse and have notarized said petition representing such signatures;

(6) Petitions will be reviewed within a reasonable time period, by staff assigned by the Chancellor

(A) to determine if they satisfy the requirements as set forth in this chapter;

(B) for substantive review of petitioner's request including consideration of any argument, written and/or oral, and any documentation included in support of the petition;

(C) and such review shall form the basis of a written recommendation to the Board.

(7) Valid petitions, defined as those that satisfy the requirements, shall appear on the agenda for consideration of the recommendation at the next regularly scheduled Board meeting following the conclusion of the staff investigation and review.

(8) The petitioning party shall be given notification of the recommended action and disposition prior to the matter of the petition being presented to the Board for its action and at the Board meeting, the petitioning party may appear and be heard concerning the action and disposition recommended.

(9) Petitions that do not satisfy the requirements shall be duly noted in writing and be returned to the petitioner. Returned petitions must be brought into compliance with the requirements set forth in this chapter and resubmitted.

(b) Should any petition be granted by the OSRHE, in whole, or in part, the petition as granted shall thereafter be treated as in the case of all rule-making and the procedures of the Administrative Procedures Act shall thereupon become applicable in the further adoption of such rule promulgation, amendment, or repeal.

(c) For purposes of 75 O.S. §305, petitioner's "submission of a petition" shall mean submission of the petition to the Board via its appearance on the regularly scheduled meeting agenda. If within 30 calendar days after submission of a petition, the agency has not initiated rulemaking proceedings in accordance with the Administrative Procedures Act, the petition shall be deemed to have been denied.

(d) If the petition is denied, the petitioner retains the right to proper Judicial Review under 75 O.S. §318.

610:1-7-24. Petitions for declaratory rulings; form and procedure

(a) Any interested persons may petition the OSRHE for a declaratory ruling as authorized by 75 O.S., § 307 as to the applicability of any administrative rule of the OSRHE.

(1) All petitions must be filed with OSRHE in typewritten form or in legible printed form and must be presented or delivered to the Chancellor's office of the OSRHE;

(2) All petitions must clearly identify the party(s) submitting such petition and must include a statement reflecting the interest of the party(s) in submitting such petition, i.e., a showing that such petition is being submitted by an "interested person";

(3) All petitions must clearly state that the petition is for a declaratory ruling and cite the rule involved;

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(4) All petitions must contain a brief statement of facts to which the ruling shall apply. Any and all supporting documents, records, statistics, studies, or information must be submitted with the petition, and the legality for such requested action, where deemed necessary or appropriate, shall be submitted by the petitioning party;

(5) All petitions must be duly signed and endorsed by all petitioning parties or their designated representative(s); and the representative(s) must endorse and have notarized said petition representing such signatures;

(6) Petitions will be reviewed, within a reasonable time period, by staff assigned by the Chancellor:

(A) to determine if they satisfy the requirements as set forth in this chapter;

(B) for substantive review of petitioner's request including consideration of any argument, written and/or oral, and any documentation included in support of the petition;

(C) and such review shall form the basis of a written recommendation to the Board.

(7) Valid petitions, defined as those that satisfy the requirements, shall appear on the agenda for consideration of the recommendation at the next regularly scheduled Board meeting following the conclusion of the investigation and review.

(8) The petitioning party shall be given notification of the recommended action and disposition prior to the matter of the petition being presented to the Board for its action and at the Board meeting, the petitioning party may appear and be heard concerning the action and disposition recommended.

(9) Petitions that do not satisfy the requirements shall be duly noted in writing and be returned to the petitioner. Returned petitions must be brought into compliance with the requirements set forth in this chapter and resubmitted.

(b) Declaratory rulings shall be available for review by the public at the OSRHE office.

[OAR Docket #03-2044; filed 6-12-03]

TITLE 610. OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

[OAR Docket #03-2062]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 7. Oklahoma Tuition Aid Grant Program

610:25-7-2. Legislative authority [AMENDED]

610:25-7-3. Administration of grants and payments [AMENDED]

610:25-7-6. Eligibility; amount of grant; application procedures and deadlines; disbursement of funds [AMENDED]

610:25-7-9. Authorized institutional representative [NEW]

610:25-7-10. Refunds and institutional liability [NEW]

AUTHORITY:

State Regents for Higher Education; 70 O.S. §626.1; 70 O.S. §3206(i)

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INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The amendments describe; the criteria for determining part-time vs. full-time enrollment; the maximum number of awards allowed for each student; the process for determining a student's financial need; and requirements for institutions participating in the program.

CONTACT PERSON:

Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9335, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 25, 2003:

SUBCHAPTER 7. OKLAHOMA TUITION AID GRANT PROGRAM

610:25-7-2. Legislative authority

(a) **Federal.** Leveraging Educational Assistance Partnership Program is authorized under Title IV, Part A, Subpart 3 of the Higher Education Act of 1965, as added by P.L. 92-318, and amended by P.L. 94-482, P.L. 95-43, P.L. 95-566, P.L. 95-96, P.L. 96-374, P.L. 97-35, and P.L. 105-244.

(b) **State.** The 1971 Oklahoma Legislature enacted Senate Bill No. 191 authorizing the establishment of a Tuition Aid Grant Program to be administered by the Oklahoma State Regents for Higher Education. Senate Bill No. 400 of the 1982 Legislature amended O.S. 1981, Title 70, Sections 626.1 through 626.10 related to tuition aid grants. Senate Bill No. 770 of the 1990 Legislature amended O.S. 1981, Title 70, Section 626.2 related to tuition aid grants and Section 626.7 related to student eligibility qualifications and amount of grant. House Bill No. 1075 of the 1995 Legislature amended O.S. 1991, Title 70, Section 626.6 related to student eligibility qualifications. Senate Bill No. 196 of the 1999 Legislature

amended O.S. 1991, Title 70, Sections 626.4 and 626.7 related to student eligibility requirements and the awarding of grants.

610:25-7-3. Administration of grants and payments

There are hereby created state tuition aid grants which shall be maintained by the state, awarded and administered pursuant to ~~this act~~ the Oklahoma Higher Education Tuition Aid Act [70 O.S., § 626.1 et seq.], and used by the holders thereof for study in nonprofit, accredited institutions of higher education in Oklahoma. [70 O.S., § 626.2]

610:25-7-6. Eligibility; amount of grant; application procedures and deadlines; disbursement of funds

(a) *A college tuition aid grant shall be awarded annually to each eligible, qualified full-time or part-time undergraduate or graduate student enrolled in a curriculum leading to a degree or certificate in an institution of collegiate grade or postsecondary institution providing a program of training to prepare students for employment in a recognized occupation in Oklahoma approved or accredited by the Oklahoma State Regents for Higher Education or appropriate postsecondary agency in accordance with the following [70 O.S., § 626.7]:*

(1) **Eligibility.**

(A) *~~Each full-time or part-time resident student will be eligible to receive a grant in an amount as provided in the eligibility section.~~ Each full-time or part-time resident student's financial eligibility will be based on their Expected Family Contribution (EFC) calculated for federal Title IV student financial aid eligibility. A resident student is one who meets the current Policy on Residence Status of Enrolled Students in the Oklahoma State System of Higher Education. Full-time and part-time status will be defined in accordance with the current definition for full-time or half-time enrollment status for federal Title IV student financial aid eligibility.*

(B) *The Oklahoma State Regents for Higher Education shall determine by rules and regulations the maximum number of semesters a student may be eligible for grants. [70 O.S., § 626.7] A student can receive a maximum of ten full-time undergraduate disbursements and a maximum of eight full-time graduate disbursements. Two part-time disbursements is equivalent to one full-time disbursement.*

(C) *Tuition aid grants are not approved for summer enrollments.*

(D) *No student shall be eligible for grants unless he maintains such minimum standards of academic performance as are required by the institution in which the student is enrolled. [70 O.S., § 626.7] The minimum standards of academic performance shall be those required by the institution for financial aid recipients.*

(E) *Students who are incarcerated are not eligible to receive tuition aid grants. Incarceration will be*

defined in accordance with the current definition for federal Pell grant eligibility.

(F) *Students must be enrolled in a postsecondary institution eligible to participate in the federal Title IV student financial aid programs.*

(G) *Students must meet all general eligibility requirements for recipients of federal Title IV student financial aid. The school of attendance will report each student's completed application status through a reporting system provided by the Oklahoma State Regents for Higher Education.*

(H) *In the event a student for any reason ceases to continue to be enrolled during the course of an academic year, the student shall cease to be eligible for tuition aid. [70 O.S., § 626.7]*

(2) **Amount of grant.**

(A) *The amount of tuition aid grant to any student under this act [70 O.S., § 626.1 et seq.] for any semester shall represent a percentage not greater than seventy-five percent (75%) of the previous year's tuition and enrollment fees normally charged to residents of the State of Oklahoma by the institution of attendance. [70 O.S., § 626.7] The tuition and enrollment fees used in calculating the award will be based on standards as follows: full-time undergraduate - 30 credit hours per academic year; part-time undergraduate and graduate - 12 credit hours per academic year; full-time graduate - 18 credit hours per academic year; full-time career technology - 900 clock hours; and part-time career technology - 450 clock hours. With regard to eligible educational programs that are less than nine months or 900 clock hours, the award can be pro-rated based on the student's attendance below nine months or 900 clock hours.*

(B) *The percentage of aid awarded shall be based on a need analysis system that is consistent with federal student financial aid regulations. [70 O.S., § 626.7] The percentage of aid awarded shall be based on the student's Expected Family Contribution (EFC) calculated for federal Title IV student financial aid eligibility. The Oklahoma State Regents for Higher Education will issue an annual award payment schedule identifying the maximum eligible EFC and identifying the percentage of aid to be awarded according to EFC ranges. The maximum EFC will be based on a calculation using the Oklahoma low median family income and median household size published annually by the U. S. Department of Housing and Urban Development.*

(C) *The Oklahoma State Regents for Higher Education shall determine by rules the annual maximum award based on an annual assessment of funds availability. The State Regents shall not increase the annual maximum award amount unless funding is sufficient to serve at least the same number of students as the previous academic year. [70 O.S., § 626.7]*

(D) *The minimum amount of grant to be awarded is \$200 per academic year or \$100 per semester.*

(E) The award must be included in the student's financial aid package managed by the institution. If the inclusion of the tuition aid grant award results in the student receiving more financial assistance than is needed to meet their cost of education as determined by the institution, the institution will resolve the over-award in accordance with federal Title IV student financial aid regulations. The institution may reduce or revoke the award if necessary to resolve the over-award.

(3) **Application procedures and deadlines.** *The Oklahoma State Regents for Higher Education may adopt rules and regulations, prescribe and provide appropriate forms for application and employ such persons, contract for such services and make such additional expenditures as may be necessary or appropriate for effectuating the provisions of this act. [70 O.S., § 626.7]*

(A) Students will apply for tuition aid grant award consideration by completing the federal student financial aid application. The Oklahoma State Regents for Higher Education will receive application data from the federal Title IV student financial aid application system for those students who indicate their legal state of residence is Oklahoma. Applications with at least one eligible Oklahoma institution selected by the student will be processed for tuition aid grant award consideration.

(B) The application receipt deadline will be reflected in the application document provided annually by the federal Title IV student financial aid application system.

(4) **Disbursement of funds.**

(A) Funds will be disbursed to students after the institution confirms enrollment status and eligibility in each the fall and spring semesters. One half of the award will be disbursed in the fall semester, and one half of the award will be disbursed in the spring semester.

(B) Funds for eligible students will be delivered to the institution for disbursement to students in accordance with the institution's student financial aid disbursement policies.

(b) *The Oklahoma State Regents for Higher Education are hereby authorized to determine priorities for participation in this tuition aid program by full-time, part-time, undergraduate and graduate students based on available state funding. [70 O.S., § 626.8]*

610:25-7-9. Authorized institutional representative

Each institution's president or chief administrator may designate one or more bonded staff members as authorized officials to make certifications as to the eligibility of tuition aid grant applicants, to verify enrollments and attendance, to receive and disburse funds, and to perform such other duties as may be necessary for the proper administration of tuition aid grant funds. A signed Authorized Institutional Representative form must be on file in the offices of the Oklahoma State Regents for Higher Education for each authorized official.

610:25-7-10. Refunds and institutional liability

An authorized institutional representative will report to the Oklahoma State Regents for Higher Education any awards that the institution is aware are based on inaccurate application data. If funds have been disbursed to a student, and the student reported incorrect data unknown to the institution at the time of eligibility certification, the student is responsible for the return of any funds for which he/she is not eligible to receive. All refunds will be coordinated by the institution for return to the Oklahoma State Regents for Higher Education. The institution will place holds as allowed on other financial aid disbursements, future enrollments, release of transcripts, etc. in an effort to collect refunds if necessary. In the event tuition aid grant funds are disbursed to a student as a result of erroneous action by the institution, the institution is financially liable for the return of the ineligible funds. An institution's failure to submit refunds for which the institution is liable within a reasonable period of time could result in suspension or termination of the institution's eligibility for participation in the tuition aid grant program. Thirty days is considered to be a reasonable period of time. The institution may appeal a finding of institutional liability.

[OAR Docket #03-2062; filed 6-19-03]

TITLE 610. OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS

[OAR Docket #03-2063]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 9. Future Teachers' Scholarship Program
610:25-9-2 Eligibility [AMENDED]

AUTHORITY:

70 O.S., § 698.1, Oklahoma State Regents for Higher Education

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ANALYSIS:

The rule change deletes obsolete language referring to student subpopulation categories of ACT score percentiles. This criterion is not used for scholarship eligibility purposes.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 25, 2003:

SUBCHAPTER 9. FUTURE TEACHERS' SCHOLARSHIP PROGRAM

610:25-9-2. Eligibility

(a) Individuals who are residents of Oklahoma who have demonstrated a commitment to obtain the necessary credentials to teach in a critical shortage area shall be eligible for consideration if they have:

- (1) Graduated from high school with a cumulative grade point average which ranks them in the top fifteen percent (15%) of their high school graduating class; OR
- (2) Scored at or above the eighty-fifth (85th) percentile on the ACT or other similar acceptable battery of tests ~~either in the class as a whole or for a sub-division of the student population as follows: Black, Native American, Hispanic, and Asian;~~ OR
- (3) Been admitted to a professional education program at an accredited Oklahoma institution of higher education; OR
- (4) Achieved an undergraduate record of outstanding success, as defined by the institution.

(b) Scholarship recipients must maintain no less than a 2.5 cumulative grade point average to remain eligible for renewal of the scholarship; it is expected, however, that renewal recipients will attain a 3.0 cumulative grade point average or better.

(c) Each scholarship recipient shall have agreed to teach in a shortage area in the public schools in Oklahoma for a minimum of three (3) consecutive years upon graduation and licensure as a teacher.

(d) Either full- or part-time students may be eligible; however, highest priority will be given to full-time students.

[OAR Docket #03-2063; filed 6-19-03]

**TITLE 610. OKLAHOMA STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS**

[OAR Docket #03-2061]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 29. Tulsa Reconciliation Education and Scholarship Act [AMENDED]
- 610:25-29-1 Purpose [AMENDED]
- 610:25-29-2 Definitions [AMENDED]
- 610:25-29-3 Eligibility requirements [AMENDED]
- 610:25-29-4 Principles for awards, continuation of awards, disbursements, refunds, and applications [AMENDED]
- 610:25-29-5 Trust funds [AMENDED]

AUTHORITY:

Oklahoma State Regents for Higher Education, 70 O.S. § 2620

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ANALYSIS:

During the 2002 legislative session, the Legislature passed HB 2238, which amended the statutes creating the scholarship program. HB 2238 also created a state income tax refund "check-off" for donations to the Tulsa Reconciliation Education Scholarship (TRESP) beginning with the 2003 tax year. Rules that were amended as a result of the legislation include; the geographic residential boundary for persons eligible to participate in the TRESP changed from the Tulsa city limits to the Tulsa School District boundaries, terminology for "vocational-technical" changed to "career technology", and a new TRESP scholarship category limited to two students from each Tulsa high school was created.

CONTACT PERSON:

Regina Switzer, Associate General Counsel, Oklahoma State Regents for Higher Education, (405) 225-9335, 655 Research Parkway, Suite 200, Oklahoma City, OK, 73104.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1 (A), WITH AN EFFECTIVE DATE OF JULY 25, 2003:

Permanent Final Adoptions

SUBCHAPTER 29. TULSA RECONCILIATION EDUCATION AND SCHOLARSHIP ACT

610:25-29-1. Purpose

(a) The Tulsa Reconciliation Education and Scholarship Program was established by HB 1178, the "1921 Tulsa Race Riot Reconciliation Act of 2001", which was signed into law on June 1st 2001. The Act was amended by HB 2238 of the 2002 legislative session.

(b) The purpose of the program is to make available ~~not less than~~ a maximum of 300 scholarships to residents of the City of Tulsa School District, which was greatly impacted both socially and economically by the civil unrest that occurred in the city during 1921. The program is to begin with the 2002-03 school year or as soon thereafter as practicable, subject to the availability of funds.

(c) The further purpose of the program is to establish and maintain a variety of educational support services whereby residents who qualify for the program will be prepared for success in postsecondary endeavors. [70 O.S. §2621]

610:25-29-2. Definitions

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

"Postsecondary ~~vocational-technical~~ career technology education program" means a postsecondary vocational-technical program or course that is eligible for Title IV federal student aid and is offered pursuant to a duly approve cooperative agreement between a technical through a technology center school and an institution of the Oklahoma State System of Higher Education. [70 O.S. §2622]

"Private Institution", means a private institution of higher learning located within this state which is accredited pursuant to Section 4103 of Title 70 of the Oklahoma Statutes. [70 O.S. §2622]

"Resident", means a person of any age who has resided within the ~~corporate city limits of Tulsa School District- Oklahoma,~~ for not less than two (2) years prior to applying for participation in the Tulsa Reconciliation Education and Scholarship Program. [70 O.S. §2622]

610:25-29-3. Eligibility requirements

(a) **General eligibility requirements.** To be eligible to participate in the Program, individuals must be residents of the City of Tulsa School District who are intending to pursue studies at an institution of higher education in the Oklahoma State System of Higher Education, a private institution or in a postsecondary ~~vocational-technical~~ career technology education program.

(b) **Additional eligibility requirements.**

(1) Individuals must have secured admission to, and be enrolled in, an institution which is a member of the Oklahoma State System of Higher Education, a private institution of higher education, or a post-secondary ~~vocational-technical~~ career technology education program,

and must have secured such admission by regular admission standards. Participants may not be admitted by special admission standards.

(2) To retain eligibility, individuals must maintain good academic standing at the institution in which the student is enrolled.

(c) **High school scholarship eligibility requirements.** The State Regents may also annually award scholarships to a maximum of two graduating students from each high school in the Tulsa School District for the purpose of *preserving awareness of the history and meaning of the civil unrest that occurred in Tulsa in 1921.* The State Regents shall involve the administration of the Tulsa School District in the selection process. [70 O.S. §2623] Eligibility requirements for the high school scholarships shall include:

(1) enrollment in the appropriate high school,

(2) family income of the applicant from taxable sources not to exceed Seventy Thousand Dollars (\$70,000.00) per year.

(3) satisfaction of the criteria in paragraph (b) of this section.

610:25-29-4. Principles for awards, continuation of awards, disbursements, refunds, and applications

(a) **Award amounts.** Subject to the availability of funds, the State Regents shall award:

(1) For participants enrolled in an institution in the Oklahoma State System of Higher Education, an amount not to exceed the equivalent of the average dollar amount of undergraduate resident tuition that the eligible Program participant is obligated to pay.

(2) For participants enrolled in a private institution of higher education, an amount not to exceed the equivalent of the average dollar amount of undergraduate resident tuition that the eligible Program participant would receive if enrolled in a ~~comparable~~ school within the Oklahoma State System of Higher Education. ~~The State Regents shall identify the institution(s) within the State System that is most comparable to the private institution and base the award on the amount that the participant would be obligated to pay at that State System institution.~~

(3) For participants enrolled in a postsecondary ~~vocational-technical~~ career technology education program, an amount not to exceed the equivalent of the dollar amount that the eligible program participant is obligated to pay, which amount shall not exceed the amount the participant would have received for comparable enrollment at a two-year institution within the Oklahoma State System of Higher Education. An award to an eligible participant who is enrolled in a postsecondary vocational-technical program may be used to pay for both vocational-technical and college work if both are required by the academic program.

(b) **Award limitations.**

(1) Program benefits will not be awarded for courses or other postsecondary units taken by the participant:

(A) That are in excess of the requirements for completion of a baccalaureate program.

(B) That are taken more than five (5) years after the student's first semester of participation in the program, except in hardship circumstances as determined by the State Regents. Even when such a hardship is found to exist, in no event shall the participant receive benefits after the participant has been enrolled for a five (5) year cumulative time period.

(2) Program benefits shall be awarded to not less more than 300 eligible participants without any limitation on the number of awards in any year other than annually, subject to the amount of funds available for the program and the number of eligible participants. [70 O.S. §2625(E)]

(3) If sufficient funds to provide awards to ~~all the maximum number of eligible participants are not available or if there are more than 300 eligible applicants,~~ the State Regents shall make awards based upon need.

(A) For all academic years, participants who have previously received awards shall be given an absolute priority for continued financial support by the Program, superior to any residents who are applying for such benefits for the first time.

(B) Thereafter, the order of preference of the applicants for awards based upon need shall be determined by the State Regents using the following factors:

(i) *the family income of the applicant from taxable sources is not more than Seventy Thousand Dollars (\$70,000.00 per year),*

(ii) *the applicant attended a Tulsa public school where seventy-five percent (75%) or more of the students enrolled in school qualify for the free and reduced lunch program, and*

(iii) *the applicant resides in a census block area within the City of Tulsa School District where thirty percent (30%) or more of the residents are at or below the poverty level established by the United States Bureau of the Census.* [70 O.S. §2623]

(C) When the factors listed above prove inadequate to narrow the pool of applicants sufficiently, the State Regents may consider, as an additional order of preference factor, whether the applicant is a direct lineal descendant of a person who resided in the Greenwood Area in the City of Tulsa ~~on~~ between April 30, 1921 through and June 1, 1921.

(i) Except for the absolute priority given to eligible participants who have already received an award(s) under the Program, this factor shall be applied to all applicants regardless of race when utilized by the State Regents.

(ii) The Oklahoma Historical Society shall verify all applicant claims of lineal descent.

(D) When making awards, the State Regents shall take other grants and scholarships received by the eligible participant into consideration. In such cases, the Program benefit may be used to cover additional

educational costs not covered by the other grants and scholarships.

(4) The award for the high school scholarships shall be limited to a one-year full-time-equivalent period. Following successful completion of such award, recipients who meet the criteria provided in 610:25-29-4(b)(3)(B) shall be eligible to apply and be considered for continued participation in the full Tulsa Reconciliation Education and Scholarship Program. Any student subsequently awarded such scholarship shall have the duration of the high school scholarship deducted from five-year limit on scholarship eligibility. [70 O.S. 2623]

(c) **Disbursement.** Funds will be disbursed from the Tulsa Reconciliation Education and Scholarship Trust Fund to the institution at which the student is enrolled. The high school scholarship award may only be funded with state funds appropriated to the Tulsa Reconciliation Education and Scholarship Trust Fund and income therefrom, and shall be made subject to the availability of such funds. [70 O.S. 2623]

(d) **Refunds.** Refunds resulting from student withdrawal will be remitted to the State Regents.

(e) **Application.**

(1) Students must fully complete an application form provided by the State Regents.

(2) Applications will be processed by the State Regents according to deadlines established annually accepted throughout the school year.

(3) ~~Applications must be received by the State Regents no later than June 30 preceding the award year.~~

(4) Any falsified or incomplete information on the application form may result in disqualification from the Program.

610:25-29-5. Trust funds

(a) The Oklahoma State Regents for Higher Education will serve as the Board of Trustees for the Tulsa Reconciliation Education and Scholarship Trust Fund. The Board will invest the trust corpus in a reasonable and prudent manner, subject to further limitations and safeguards provided in existing, applicable State Regents' investment policies.

(b) The Trust Fund ~~principal~~ capital shall consist of monies the Legislature appropriates or transfers to the Oklahoma State Regents for Higher Education for the Trust Fund, monies transferred from donations from taxpayers pursuant to Section 2627 of Title 70, and any monies or assets contributed to the Trust Fund from any other source, public or private. [70 O.S. §2626(C)]

(c) Both the trust capital and earnings income for the trust funds will accrue to the fund and may be used only for the scholarship awards.

(d) The State Regents may, at the time an award is made on behalf of a Tulsa Reconciliation Education and Scholarship Program participant, set aside in the Trust Fund funds for the full commitment made to such participant.

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