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Brad Henry, Governor
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Secretary of State
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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 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #03-3128]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 3. Fee Schedules

35:2-3-2.4 [AMENDED]

SUMMARY:

The purpose of the new amendments is to add a fee to the Laboratory fee rules to reflect the capability of new technology and testing instrumentation. The newly proposed fee reflects the analytical process and is established in order to recover the cost of performing the analysis, including but not limited to, reagent cost, preventative maintenance of instrumentation, disposal of generate hazardous waste, labor and administrative expenditures.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. (2001) §§ 2-4 and 14-83(B)

COMMENT PERIOD:

Persons may submit written and oral comments to Dr. Mike Talkington at 2800 North Lincoln Boulevard, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from November 3, 2003 through December 4, 2003.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., December 4, 2003, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Dr. Mike Talkington at the above address during the period from November 3, 2003 through December 4, 2003.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Dr. Mike Talkington, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Dr. Mike Talkington, (405) 522-5432, e-mail address: miket@oda.state.ok.us

[OAR Docket #03-3128; filed 10-9-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #03-3129]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 27. Feed

Part 1. Commercial Feed

35:30-27-11 [AMENDED]

SUMMARY:

The purpose of the rule amendment is for the Department to receive payment that is commensurate with the expense of issuing the feed license to manufacturers. The feed licensing fee has been at \$10.00 since the fee was established in 1995 and the law caps the license fee at \$20.00. Over the last eight years costs to the Department have increased. These increased costs had to be absorbed by other state funds, because the \$10.00 fee was not adequate to cover these costs. This proposed rule increases the fee from \$10.00 to \$20.00 to help offset these costs.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. (2001) § 2-4(2), (20), (23), (29), and 8-41.4

COMMENT PERIOD:

Persons may submit written and oral comments to Kenny Naylor at 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298 during the period from November 3, 2003 through December 4, 2003.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., December 4, 2003, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kenny Naylor at the above address during the period from November 3, 2003 through December 4, 2003.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Kenny Naylor, Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Kenny Naylor, (405) 522-5974, e-mail address: knaylor@oda.state.ok.us

[OAR Docket #03-3129; filed 10-9-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. PLANT INDUSTRY

[OAR Docket #03-3130]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 29. Fertilizer

Part 1. General

35:30-29-23 [NEW]

Part 3. Liquid, Dry, and Anhydrous Ammonia

35:30-29-34 [AMENDED]

Part 5. Licenses and Complaints

35:30-29-51 [AMENDED]

SUMMARY:

The purpose of these proposed rules is to protect consumers and the environment by requiring manufacturers and handlers of fertilizers to adhere to certain standards. First, the "heavy metals" rule requires manufacturers of fertilizers who guarantee phosphate or micronutrient content to limit the heavy metal content to levels at or below those levels set by the Association of American Plant Food Control Officials. The second rule requires all fertilizers to be handled in a manner that is not likely to cause pollution, and also ensures that the party responsible for causing pollution bears the cost of clean up. The final rule clarifies licensing and registration requirements, in addition to detailing penalties for late applications for license renewal.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. (2001) § 2-4(2), (20), (23), (29), and 8-71 et seq.

COMMENT PERIOD:

Persons may submit written and oral comments to Kenny Naylor at 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298 during the period from November 3, 2003 through December 4, 2003.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m., December 4, 2003, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kenny Naylor at the above address during the period from November 3, 2003 through December 4, 2003.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Kenny Naylor, Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Kenny Naylor, (405) 522-5974, e-mail address: knaylor@oda.state.ok.us

[OAR Docket #03-3130; filed 10-9-03]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #03-3117]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Student Assessment

210:10-13-2 [AMENDED]

210:10-13-4 [AMENDED]

210:10-13-11 [AMENDED]

210:10-13-13 [REVOKED]

210:10-13-14 [REVOKED]

210:10-13-18 [NEW]

SUMMARY:

The change is mandated by amendments to 70 O.S. § 1210.58 and 70 O.S. § 1210.541 (State House Bill 1414 of 2003) and the federal No Child left Behind Act of 2001, Public Law 107-110), which requires the Oklahoma State Board of Education to promulgate rules for establishing for all public elementary and secondary schools a single accountability system that is based on Adequate Yearly Progress (AYP).

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m. on December 17, 2003 at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 11 a.m. on Thursday, December 18, 2003 at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 11:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on November 18, 2003.

CONTACT PERSON:

Valerie Payne, 405-521-3308

[OAR Docket #03-3117; filed 10-2-03]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION**

[OAR Docket #03-3118]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 29. Elementary and Secondary Education Act (ESEA) Federal Program [NEW]
210:15-29-1 [NEW]

210:15-29-2 [NEW]

SUMMARY:

The proposed change is to prescribe procedures to be used for appealing a decision by the Oklahoma State Department of Education relating to federal programs administered by the Department and subject to the Education Division General Administrative Regulations (EDGAR) Title 3, Code of Federal Regulations §§ 74 and 76.

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m. on December 17, 2003 at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 11 a.m. on Thursday, December 18, 2003 at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 11:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on November 18, 2003.

CONTACT PERSON:

Valerie Payne, 405-521-3308

[OAR Docket #03-3118; filed 10-2-03]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF**

[OAR Docket #03-3119]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification
210:20-9-172 [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

The changes are necessary so teachers will be prepared and assessed to provide students with instruction according to the updated competencies. The changes will allow time to implement the competencies into university teacher education programs and teacher assessment and they are in accordance with OAC 210:20-9-170, which requires teacher candidates for licensure and certification to demonstrate in depth knowledge of subject matter as reflected in the learned societies recognized by the national Council for the Accreditation of Teacher Education (NCATE).

AUTHORITY:

70 O.S. § 3-104, State Board of Education

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m. on December 17, 2003 at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 11 a.m. on Thursday, December 18, 2003 at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 11:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the amendments has been prepared, as required by law, and is available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

CONTACT PERSON:

Valerie Payne, 405-521-3308

[OAR Docket #03-3119; filed 10-2-03]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 300. LABORATORY ACCREDITATION

[OAR Docket #03-3127]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Laboratory Accreditation Process

252:300-5-5 [AMENDED]

Subchapter 15. Proficiency Testing

252:300-15-5 [AMENDED]

Subchapter 17. Quality Assurance/Quality Control

252:300-17-1 [AMENDED]

252:300-17-4 [AMENDED]

Subchapter 19. Classifications

252:300-19-3 [AMENDED]

Subchapter 21. Categories

252:300-21-3 [AMENDED]

252:300-21-4 [NEW]

Appendix B. Analytes for General Water Quality Laboratory Categories [REVOKED]

Appendix B. Analytes for General Water Quality Laboratory Categories [NEW]

Appendix D. Analytes for Petroleum Hydrocarbon Laboratory Category [NEW]

SUMMARY:

The proposed amendment to Subchapter 5 deals with establishing a separate fee for interim accreditation, which is less than the fee for initial accreditation, thereby lessening the economic burden on laboratories which change accreditation outside the normal renewal process. The proposed change to Subchapter 15 adds requirements for petroleum testing for hydrocarbon laboratories. The proposed amendments to Subchapter 17 update quality assurance/quality control language to be consistent with NELAC. Proposed amendments to Subchapter 19 reflect updates on all methods. The Oklahoma Corporation Commission requested a rule regarding a special category for petroleum hydrocarbons certification, resulting in amendments to Subchapter 21 and a new Appendix. The DEQ's Water Quality Division added MTBE to some permits and requires testing in an accredited laboratory using EPA method 8260 Revision C for volatile organics, resulting in a rule amendment to Appendix B. To amend appendices, the Secretary of State Office of Administrative Rules requires that appendices be totally revoked and re-adopted as new. Therefore, Appendix B is being revoked and re-adopted as new, although the only change is the addition of "EPA method 8260 Revision C -Volatile organics" to Category IX(B).

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. §§ 2-2-101, 2-2-201 and Article IV., Laboratory Services and Certification, § 2-4-101 *et seq.*

COMMENT PERIOD:

Written comments will be accepted prior to and at the hearing on December 4, 2003. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by December 1, 2003. Oral comments may be made at the December 4, 2003 hearing and the February 27, 2004 Environmental Quality Board meeting.

PUBLIC HEARING:

Before the Laboratory Services Advisory Council at 1:30 p.m. on Thursday, December 4, 2003, at the Best Western Motor Lodge, Club Room, Stroud, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on Friday, February 27, 2004, in the MultiPurpose Room on the first floor of the DEQ building at 707 N. Robinson, Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

COPIES OF PROPOSED RULES:

The proposed rules are posted on the DEQ's website at www.DEQ.state.ok.us under DEQ Board and Councils and are also available from the contact person.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or reviewed on the 10th floor of the DEQ Building.

CONTACT PERSON:

Please send written comments to David Caldwell, State Environmental Laboratory, Customer Services Division, Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102. E-mail address: david.caldwell@deq.state.ok.us Mailing address: P.O. Box 1677, Oklahoma City, Oklahoma 73101-1688. Telephone (405) 702-1000. Fax (405) 702-1100.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Customer Services Division three (3) days in advance at (405) 702-1000.

[OAR Docket #03-3127; filed 10-9-03]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 410. RADIATION MANAGEMENT**

[OAR Docket #03-3131]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 3. Radiation Machines - Common Requirements
- Part 3. Radiation Safety Management [AMENDED]
- Subchapter 5. Certification of Industrial Radiographers [AMENDED]
- Subchapter 7. Radiation Management Authorizations; Procedures and Requirements
- Part 3. Reciprocity Recognition [AMENDED]

Subchapter 10. ~~State Agreement~~Radioactive Materials Program [AMENDED]

Part 19. Worker Communications [AMENDED AND RENUMBERED TO SUBCHAPTER 23]

Subchapter 15. Industrial X-Ray Radiography [AMENDED]

Subchapter 19. X-Ray Fluorescence Instruments Used for Lead-Based Paint Detection [AMENDED]

Subchapter 20. Standards for Protection Against Radiation [AMENDED]

Subchapter 23. Notices, Instructions and Reports to Workers: Inspection and Investigations [NEW]

SUMMARY:

The Department of Environmental Quality, Radiation Management Section, proposes substantive changes to Subchapter 10. These changes would include bringing those radiation sources defined as radium sealed sources and accelerator-produced material under the regulatory requirements for licensing and inspection in the same manner that the use of byproduct material is regulated currently under the agreement state program. The title of the Subchapter would be changed to Radioactive Materials Program. These changes would result also in a new fee charged for the issuance of licenses to unlicensed users of radium sealed sources and accelerator-produced material. Also proposed are deadline dates and transitional requirements for the issuance of licenses and meeting all program requirements for facilities using radium sealed sources and accelerator-produced material. Fee increases are proposed for all fee categories. Part 19 of this Subchapter will be deleted as described below.

The Department of Environmental Quality, Radiation Management Section, proposes changes to Subchapter 1 that include clarification of the effective date of the Rules, change the name of the Agreement State Program to Radioactive Materials Program, add and revise definitions, correct scrivener's errors, add to the list of event notifications, and add a provision on administrative enforcement.

The Department of Environmental Quality, Radiation Management Section, proposes changes to Subchapter 3, Part 3. These changes include editorial changes to requirements related to records to be maintained by persons authorized to use radiation machines in the healing arts and veterinary medicine and additional requirements related to records to be maintained in the practice of industrial x-ray radiography.

The Department of Environmental Quality, Radiation Management Section, proposes a new Subchapter 23. Requirements involving notices, instructions and reports to workers previously contained in Subchapter 10, Part 19, will be moved to this new Subchapter. New requirements are added. The requirements of Subchapter 23 will be applied to all persons possessing or using sources of radiation.

The Department of Environmental Quality, Radiation Management Section, proposes an amendment to Subchapter 5 for out-of-state certification and reciprocity recognition. This change would relax a requirement for industrial radiographers holding a certification from another certifying entity for

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work performed in Oklahoma. This change would allow the reciprocity recognition to remain in effect until expiration, revocation, or suspension of the primary authorization from the other certifying authority.

The Department of Environmental Quality, Radiation Management Section, proposes amendments to Subchapter 15, including new requirements for utilization logs, personnel monitoring, and notification to DEQ for incidents involving radiographic equipment. These changes would strengthen the requirements and align those requirements more closely with those in effect in other states and with those in effect for industrial radiography using sealed sources.

The Department of Environmental Quality, Radiation Management Section, proposes changes to Subchapter 19 eliminating the permitting exemption for portable x-ray fluorescence instruments used to detect lead-based paint since these instruments contained radioactive material regulated under the Atomic Energy Act or by the U. S. Nuclear Regulatory Commission.

The Department of Environmental Quality, Radiation Management Section, proposes changes in the language of Part 3 of Subchapter 7. Some of these changes are corrections of scrivener's errors. Other changes strengthen the requirements placed upon persons operating or seeking authorization to operate in Oklahoma under reciprocity recognition.

The Department of Environmental Quality, Radiation Management Section, proposes amendments to Subchapter 20 adding requirements applicable to radiation machine permits. These additional requirements require the reporting of theft or loss of a machine, the notification of incidents, and reporting of human exposure to machine-produced radiation when such exposure exceeds certain limits.

The Department of Environmental Quality, Radiation Management Section, proposes to correct typographical and other errors in the currently-effective Rules. Most of these corrections are for conformity with references used by the U. S. Nuclear Regulatory Commission in its regulations.

AUTHORITY:

Environmental Quality Board; 27A O.S. Sections 2-2-101, 2-2-201, and 2-9-104.

REQUESTS FOR COMMENTS:

The Department requests that business entities affected by these proposed Rules provide the Department, within the comment period and in dollar amounts if possible, the increase in the level of direct costs such as fees and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed Rules.

COMMENT PERIOD:

Deliver or mail written comments on the proposed Rules to the contact person from October 10, 2003, through February 26, 2004.

PUBLIC HEARINGS:

Before the Radiation Management Advisory Council on December 3, 2003 at its meeting in the Multi-Purpose Room

of the Department headquarters located at 707 N. Robinson, Oklahoma City, Oklahoma 73102, and before the Radiation Management Advisory Council at its meeting on January 7, 2004, (if needed to complete its work) at the location stated above. Before the Environmental Quality Board at its meeting on February 27, 2004 in the Multi-Purpose Room of the Department headquarters located at 707 N. Robinson, Oklahoma City, Oklahoma 73102.

COPY OF PROPOSED RULE CHANGES:

A copy of the proposed Rules may be obtained from the contact person or may viewed on the DEQ website at www.deq.state.ok.us or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed Rules will be on file at the Department of Environmental Quality and may be requested from the contact person.

CONTACT PERSON:

The contact person is Mike Broderick and may be reached by calling 405-702-5100, by facsimile at 405-702-5101, or by e-mail at mike.broderick@deq.state.ok.us. The mailing address is Radiation Management Section, Department of Environmental Quality, P. O. Box 1677, Oklahoma City, OK 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Radiation Management Advisory Council and need assistance should notify the contact person three days in advance of the meeting by using TDD relay number 1-800-522-8506.

[OAR Docket #03-3131; filed 10-13-03]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 1. FUNCTION AND STRUCTURE OF THE OFFICE OF JUVENILE AFFAIRS

[OAR Docket #03-3122]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Function and Structure of the Office of Juvenile Affairs

377:1-1-3 through 377:1-1-12 [AMENDED]

SUMMARY:

Rules are amended to reflect the change in organizational structure of the Office of Juvenile Affairs (OJA).

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 3, 2003 through December 3, 2003 at:

Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to robmor@oja.state.ok.us. During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 5, 2003 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review after November 17, 2003 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Robert Morey, Office of Policy, (405)530-2820

[OAR Docket #03-3122; filed 10-7-03]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 3. ADMINISTRATIVE SERVICES**

[OAR Docket #03-3121]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

- Subchapter 5. Office of Human Resources Management
 - Part 1. Overview of the Office of Human Resources Management
 - 377:3-5-1 through 377:3-5-2 [AMENDED]
 - Part 3. Office of Human Resources Management - Personnel Programs
 - 377:3-5-12 [AMENDED]

SUMMARY:

The following rules are being amended to reflect legislative changes. Rules are also being amended to minimize the restating of Oklahoma Statutes and Merit Protection Rules in the Office of Juvenile Affairs Administrative Rules.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 3, 2003 through December 3, 2003 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to robmor@oja.state.ok.us. During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 5, 2003 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review after November 17, 2003 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Robert Morey, Office of Policy, (405)530-2820

[OAR Docket #03-3121; filed 10-7-03]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 10. DEPARTMENT OF JUVENILE JUSTICE**

[OAR Docket #03-3123]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

- Subchapter 7. Contract Programs and Services
 - Part 1. General Provisions and Foster Care
 - 377:10-7-3 through 10-7-7 [AMENDED]
 - Part 3. Contract-Based Residential Care
 - 377:10-7-15 through 377:10-7-21 [AMENDED]

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Subchapter 13. Regimented Juvenile Training Program
Standards
Part 17. Security and Control
377:10-13-79 [AMENDED]

SUMMARY:

Rules are amended to reflect the change in organizational structure of the Office of Juvenile Affairs (OJA).

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 3, 2003 through December 3, 2003 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to robmor@oja.state.ok.us. During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 5, 2003 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review after November 17, 2003 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Robert Morey, Office of Policy, (405)530-2820

[OAR Docket #03-3123; filed 10-7-03]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. DEPARTMENT OF JUVENILE JUSTICE

[OAR Docket #03-3124]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Child in Need of Mental Health Treatment
377:10-11-1 through 10-11-04 [AMENDED]

SUMMARY:

The following rules are being amended to reflect legislative changes to the Gatekeeping process and the Inpatient Authorization Manual that relate to placement of juveniles in mental health facilities.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 3, 2003 through December 3, 2003 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to robmor@oja.state.ok.us. During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 5, 2003 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review after November 17, 2003 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Robert Morey, Office of Policy, (405)530-2820

[OAR Docket #03-3124; filed 10-7-03]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 25. JUVENILE SERVICES UNIT**

[OAR Docket #03-3125]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Contract Programs and Services
Part 7. Independent and Transitional Living
377:25-7-40 [AMENDED]

SUMMARY:

Rules are amended for the Office of Juvenile Affairs to set all reintegration passes for juveniles in institutional placements.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from November 3, 2003 through December 3, 2003 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to robmor@oja.state.ok.us. During the same time period, oral comments may be made to Robert Morey @ (405)530-2820 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on December 5, 2003 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review after November 17, 2003 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Robert Morey, Office of Policy, (405)530-2820

[OAR Docket #03-3125; filed 10-7-03]

**TITLE 515. PARDON AND PAROLE BOARD
CHAPTER 3. PAROLE DOCKETING**

[OAR Docket #03-3136]

RULEMAKING ACTION:

Notice of proposed PERMANENT rule making.

PROPOSED RULES:

Chapter 3. [NEW]

SUMMARY:

The proposed rules explain how the Pardon and Parole Board implements subsections A, B and C of Section 332.7 of Title 57. The rules include but are not limited to procedures followed by the Board for reconsideration of persons denied parole under Section 332.7 of Title 57 as well as the procedure the Board utilizes to determine what sentence a person eligible for parole consideration pursuant to subsection A of Section 332.7 of Title 57 would have received under the applicable matrix. The proposed rules will not change any parole docket dates for any offenders since all offenders have been docketed in accordance with the provisions of subsections A, B and C of Section 332.7 of Title 57.

AUTHORITY:

Pardon and Parole Board, 57 O.S. § 332.7(F)(2001).

COMMENT PERIOD:

Persons may submit written comments to Cary Pirrong, General Counsel, at 4040 N. Lincoln Boulevard, Suite 219, Oklahoma City, Oklahoma 73105-5221, during the period from November 3, 2003 through December 3, 2003. The comment period has been extended from the Notice previously published on October 15, 2003.

PUBLIC HEARING:

Before the Pardon and Parole Board on December 9, 2003, at 3:00 p.m., at the Oklahoma State Penitentiary, McAlester, Oklahoma. This is a modification to the Notice published on October 15, 2003, in which the public hearing was scheduled for December 9, 2003 at 2:00 p.m., at the Joseph Harp Correctional Center, Lexington, Oklahoma. Each person wishing to present their views on the proposed rules will be allowed two minutes and must sign in by 3:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the Pardon and Parole Board's office located at 4400 N. Lincoln

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Boulevard, Suite 219, Oklahoma City, Oklahoma. Copies may also be obtained by written request mailed to the attention of Cary Pirrong, General Counsel, 4040 N. Lincoln Boulevard, Suite 219, Oklahoma City, Oklahoma 73105-5221.

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared and is available for review at the Pardon and Parole Board offices, 4400 N. Lincoln Boulevard, Suite 219, Oklahoma City, Oklahoma, as required by 75 O.S. § 303(D).

CONTACT PERSON:

Contact Cary Pirrong, General Counsel, at (405) 427-8601 extension 228, if you have any questions.

[OAR Docket #03-3136; filed 10-15-03]

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

[OAR Docket #03-3120]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 9. Regents Education Program [REVOKED]
- 610:1-9-1 Purpose [REVOKED]
- 610:1-9-2 Definitions [REVOKED]
- 610:1-9-3 Administration of program [REVOKED]
- 610:1-9-4 Participants in program [REVOKED]
- 610:1-9-5 Delivery of courses [REVOKED]
- 610:1-9-6 Program Curriculum [REVOKED]
- 610:1-9-7 Class schedule [REVOKED]
- 610:1-9-8 Notification; certification [REVOKED]
- 610:1-9-9 Cost of program [REVOKED]
- 610:1-9-10 Contracting for assistance [REVOKED]
- 610:1-9-11 Effective date [REVOKED]

SUMMARY:

A review by OSRHE legal counsel of the current administrative rules relating to the Regents Education Program

concluded that the rules do not meet the APA definition of a rule. The Regents Education Program rule is an internal policy statement; therefore it should remain as a Regent's policy, but be revoked as an administrative rule.

AUTHORITY:

Title 70 O.S., Section 3228; Oklahoma State Regents for Higher Education

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., December 3, 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., December 3, 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, after November 18, 2003.

CONTACT PERSON:

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

[OAR Docket #03-3120; filed 10-3-03]

Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

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

[OAR Docket #03-3115]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

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]

SUBMITTED TO GOVERNOR:

September 19, 2003

SUBMITTED TO HOUSE:

September 19, 2003

SUBMITTED TO SENATE:

September 19, 2003

[OAR Docket #03-3115; filed 9-24-03]

Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to final adoption (approval by Governor/Legislature) by notifying the Governor and the Legislature and by publishing a notice in the *Register* of such a withdrawal.

An agency may withdraw proposed EMERGENCY rules prior to approval/disapproval by the Governor by notifying the Governor, the Legislature, and the Office of Administrative Rules. The withdrawal notice is not published in the *Register*, however, unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the EMERGENCY rules.

For additional information on withdrawal of proposed rules, see 75 O.S., Section 308(F) and 253(K) and OAC 655:10-7-33.

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 234. MEDICAL
MICROPIGMENTATION**

[OAR Docket #03-3126]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

WITHDRAWN RULES:

Subchapter 3. Medical Micropigmentation Certification
310:234-3-1 [AMENDED]

DATES:

Adoption:

September 18, 2003

Submitted to Governor:

September 26, 2003

Submitted to House:

September 26, 2003

Submitted to Senate:

September 26, 2003

Withdrawn:

October 7, 2003

[OAR Docket #03-3126; filed 10-7-03]

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 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 65. OKLAHOMA QUALITY JOBS PROGRAM

[OAR Docket #03-3116]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Qualified Space Transportation Vehicle Provider [NEW]

150:65-9-1. Purpose and Scope [NEW]

150:65-9-2. Definitions [NEW]

150:65-9-3. Applications for Tax Credits [NEW]

150:65-9-4. Approval of Applications [NEW]

150:65-9-5. Transmittal of Notice of Approval: Notice to Applicant [NEW]

AUTHORITY:

Director of the Oklahoma Department of Commerce; 68 O.S. §§ 2357.42., 68 O.S. §§ 3601.42 et seq., 74 O.S. §§ 5001 et seq.

DATES:

Adoption:

August 27, 2003

Approved by Governor:

September 5th, 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:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

A compelling public interest requires the adoption of these emergency rules in order to establish a process to implement the provisions of 68 O.S. §§ 2357.42.

ANALYSIS:

These Emergency Rules implement Chapter 65. Oklahoma Quality Jobs Program Subchapter 9. Qualified Space Transportation Vehicle Provider rules which are necessary in order for the Oklahoma Department of Commerce to exercise its authority to preapprove Qualified Space Transportation Vehicle Providers in order for the Oklahoma Tax Commission to certify the entity as meeting certain minimum requirements as defined in the rules.

CONTACT PERSONS:

Donald R. Hackler, Jr. (405) 815-5359.

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 9. QUALIFIED SPACE TRANSPORTATION VEHICLE PROVIDER

150:65-9-1. Purpose and scope

The purpose of these rules is to implement those provisions of 68 O.S. § 2357.42 which provide procedures for the allocation of tax credits to a Qualified Space Transportation Vehicle Provider.

150:65-9-2. Definitions

In addition to those terms defined elsewhere in this chapter, the following words and terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise.

"Department" means the Oklahoma Department of Commerce established pursuant to 74 O.S. §§ 5001 et seq. and any successor agencies thereto.

"Director" means the duly appointed and acting Director of the Department or during any period of time that the position of Director is vacant; such term shall refer to the person serving as the acting director.

"Eligible investment" means an investment made during a period not earlier than January 1, 2001, and not later than December 31, 2003, in a Qualified Space Transportation Vehicle Provider that:

(A) is headquartered in this state or is ultimately controlled by an entity headquartered in this state

(B) has been certified by the Oklahoma Tax Commission as meeting the following minimum qualifications:

(i) is included within the definition of "basic industry" as set forth in division (1) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this Title 68 has been preapproved by the Oklahoma Department of Commerce to receive incentive payments pursuant to the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act. The Department shall establish a process for preapproval of applicants for the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act for purposes of this division. The Qualified Space Transportation Vehicle Provider shall agree to submit such information as may be required under this

Emergency Adoptions

section and the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act to allow the Oklahoma Tax Commission to determine the amount of the tax credit allowed pursuant to the provisions of this section and the amount of incentive payments allowed pursuant to the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act for purposes of subsection K of this section.

(ii) has equity capitalization of not less than Ten Million Dollars (\$10,000,000.00), and
(iii) has received a commitment by a local governmental entity, whether by contract, letter agreement, terms sheet, resolution, ordinance or indenture, to provide funds, personal property or real property in the aggregate amount of Fifteen Million Dollars (\$15,000,000.00) or more which will be utilized by one or more Qualified Space Transportation Vehicle Providers. If For purposes of this division, such property may include personal or real property owned by a local governmental entity which has been leased to a state authority pursuant to a long-term lease or personal or real property which a local governmental entity has transferred to a state authority. such property has been so transferred, the commitment required by this division may be satisfied if the state authority agrees in writing to make the property so transferred available for use by one or more Qualified Space Transportation Vehicle Providers.[68 O.S. § 2357.42(C)(1)]

"Equity capitalization" means:

(A) cash in exchange for common stock, preferred stock, warrants or other rights to subscribe to stock or its equivalent, or an interest in a partnership, or debt that is convertible into or entitles the holder to receive upon its exercise, common stock, preferred stock, or an interest in a partnership or

(B) cash in exchange for subordinated debt, which means indebtedness that is subordinated to other indebtedness of the issuer that has been issued or is to be issued by a financial lending institution; or

(C) the receipt of cash proceeds of revenue bonds, financial obligations or other evidences of indebtedness issued by a local governmental entity.

"Headquartered in this state" means the principal place of business of the Qualified Space Transportation Vehicle Provider is within the State of Oklahoma, and that at least 67% of its employment, business activity and assets are located within the State of Oklahoma.

"NAICS Manual" means any manual, book or other publication containing the North American Industry Classification System, United States, 1997, promulgated by the Office of Management and Budget of the United States of America, or the latest revised edition.

"Principal" means anyone owning at least 20% of the voting stock of a Qualified Space Transportation Vehicle Provider.

"Qualified Space Transportation Vehicle Provider" means any commercial provider organized under the laws of this state as a corporation or a limited liability company and engaged in designing, developing, producing, or operating commercial space transportation vehicles in this state[68 O.S. § 2357.42(C)(2)];

"Sample Agreement" means a sample agreement that will be used as the basis of memorializing the agreement between the Department and a successful applicant for tax credits pursuant to 68 O.S. § 2357.42. A copy of the sample agreement can be obtained from the Director or the Director's designee, at the usual place of business of the Department.

"Space transportation vehicle" includes all types of vehicles or orbital or suborbital spacecraft, whether now in existence, developed in the future, or currently under design, development, construction, reconstruction, or reconditioning, constructed in this state and owned by a Qualified Space Transportation Vehicle Provider, for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle or spacecraft not specifically designed or adapted for a payload [68 O.S. 2357.42(C)(3)]; and

"Subsequently refunded or returned" when used in reference to an eligible investment, means an actual redemption by the Qualified Space Transportation Vehicle Provider of the securities or other indicia of ownership in the Qualified Space Transportation Vehicle Provider received by the investor from the investor's investment. The failure to allow the tax credits or the recapture of the tax credits shall not affect the validity of the tax credits in the hands of a transferee of the initial investor or subsequent transferees. Provided, an investor to whom an eligible investment, or portion thereof, is subsequently refunded or returned shall reimburse the Oklahoma Tax Commission the amount of any credits claimed by a transferee with respect to any such amount [68 O.S. § 2357.42(C)(4)].

150:65-9-3. Applications for tax credits

(a) The Department will require Qualified Space Transportation Vehicle Providers to provide all of the following information in order to determine eligibility under the provisions of 68 O.S. § 2357.42. Only businesses that are or will be Headquartered in Oklahoma and with sufficient resources to make the Eligible Investment can make an application for tax credits. The following information, at a minimum, will be required from all applicants for tax credits in a format to be designated by the Director. All information must be certified by the President of the Qualified Space Vehicle Transportation Provider as being complete and correct.

(1) NAICS code number;

(2) Business plans covering, at a minimum, the next three (3) fiscal years from date of application, and all assumptions used in creation of the business plans;

(3) The location of all of the Qualified Space Transportation Vehicle Provider's operations, and a certification signed by an officer of the company that the requirement of Headquartered in this State has been met by the Qualified Space Transportation Vehicle Provider.;

- (4) Listing of current jobs and projected new job creation in Oklahoma, including projected wages and benefits to be paid to the Oklahoma workers, for the same period as the business plans including titles or types of workers, number(s) of positions in each category and average pay for each position anticipated for each of the three years after application approval date;
- (5) Detailed explanation of the business operations of the Qualified Space Transportation Vehicle Provider to be conducted in the State of Oklahoma;
- (6) Detailed explanation of the Qualified Space Transportation Vehicle Provider's plans for selling the tax credits including potential buyers and anticipated discount;
- (7) Feasibility studies certified as true and correct by an industry professional;
- (8) Financing proposals;
- (9) Last four OESC-3 reports or all that are available;
- (10) Oklahoma Tax Commission Registration;
- (11) Financial statements of Principals;
- (12) Sale contracts;
- (13) Marketing plans;
- (14) Industry trends;
- (15) Historical data on management in place;
- (16) Organizational structure of the Qualified Space Transportation Vehicle Provider and any related business or governmental entities and the nature of the relationships; particularly, the Department may inquire whether any Qualified Space Transportation Vehicle Provider files a consolidated tax return with any of its related entities along with copies of the Articles of Incorporation, Bylaws, and certification outlining the stock ownership of the Qualified Space Transportation Vehicle Provider and any related business;
- (17) A full and complete description of the Eligible Investment to be made by the Qualified Space Transportation Vehicle Provider including the nature of the Eligible Investment; its location; and any contractual conditions, liens, or pledges that impact the liquidity of the eligible investment; and
- (18) To determine a Qualified Space Transportation Vehicle Provider's qualification, the Department may request and consider other information in addition to that listed in the application, concerning the applicant, the applicant's industry, or other information needed by the Department, in the Department's sole discretion.
- (b) All materials received from the Qualified Space Transportation Vehicle Provider may be kept confidential by the Department, if permitted by the Oklahoma Open Records Act, Open Records Act 51 O.S. §§24A.1 - 24A.26, and the Department's exemption to said Act as set forth in 51 O.S. §24A.10(C).
- (c) The Director, in the Director's sole discretion, may share the information in the application for tax credits from the Qualified Space Transportation Vehicle Provider, with analysts outside the Department for the purpose of making a full and complete review of the application for tax credits.
- 150:65-9-4. Approval of application**
- (a) The Director shall determine which projects, if any, qualify for recommendation of allocation of issuance of authority from 68 O.S. § 2357.42 based upon the following factors:
- (1) Financial analysis along with analysis of the marketing, management, and operations of the applicant;
 - (2) The applicant supports or compliments existing economic or manufacturing activity in the State;
 - (3) New Oklahoma job creation projected by the applicant;
 - (4) The new Oklahoma projected payroll from the new job creation;
 - (5) Employee benefits provided by the applicant;
 - (6) Employee training provided by the applicant;
 - (7) Environmental issues that would result from recommendation of the applicant's project;
 - (8) The timeline from the beginning of operations to finished project and creation of all projected jobs;
 - (9) The other funds committed for the project;
 - (10) The impact on the local area; and
 - (11) Amount of Tax Credits requested by the applicant.
- (b) If the Director determines that, based upon the criteria set forth above, the applicant and the applicant's project qualifies for an allocation under 68 O.S. § 2357.42, the Director will recommend the application for tax credits. The amount of tax credits to be awarded is in the sole discretion of the Director.
- 150:65-9-5. Transmittal of Notice of approval: Notice to applicant**
- (a) Within ten (10) days following the Director's decision to recommend an application for approval, the Director shall notify the Qualified Space Transportation Vehicle Provider of such decision. Such decision shall also contain any special terms or conditions the applicant will have to meet to receive the tax credits.
- (b) If the Director determines that the project for which tax credits are being sought does not qualify, then the Director shall notify the applicant in writing within ten (10) days following such determination.

[OAR Docket #03-3116; filed 10-1-03]

