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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 30. PLANT INDUSTRY

[OAR Docket #03-3405]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 21. Organic Food [REVOKED]
35:30-21-1. through 35:30-21-4. [REVOKED]

SUMMARY:

The Department of Agriculture, Food, and Forestry has established a new division that will supervise and regulate Food Safety. The proposed rules will be moved to a new chapter that will govern food safety regulation. The new chapter will allow these rules to be reorganized and located with other food safety rules greatly increasing readability.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. (2001) §§ 2-4(2), (5), (7), (23), (27), (28) and (29)

COMMENT PERIOD:

Persons may submit written and oral comments to Billy Klein at 2800 North Lincoln Boulevard, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 15, 2004 through February 17, 2004.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., February 17, 2004, in the Animal Industry conference room, located on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Cathy Clinton, 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:

Billy Klein, (405) 522-5898, billy@oda.state.ok.us

[OAR Docket #03-3405; filed 12-19-03]

TITLE 45. ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION CHAPTER 20. PACKAGE STORES, MIXED BEVERAGE, CATERERS, SPECIAL EVENTS AND BOTTLE CLUBS

[OAR Docket #03-3392]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 3. Retailer/Package Stores
45:20-3-15. Beer keg sales records and identification tags
[NEW]

SUMMARY:

The proposed rule establishes new regulations for beer keg sales records information and beer keg identification tags information. The new rules specify certain information that shall be contained in the records and identification tags. The records and identification tag information and the new rules are required by House Bill 1014 of 2003.

AUTHORITY:

Alcoholic Beverage Laws Enforcement Commission; 37 O.S., Section 502 et seq.

COMMENT PERIOD:

Any interested party may present their views by submitting them in writing by 4:30 p.m., February 18, 2004, to the ABLE Commission, 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma.

PUBLIC HEARING:

A public hearing regarding the proposed rule change will be held before the ABLE Commission at 10:00 a.m., on February 20, 2004, at 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma.

COPIES OF PROPOSED RULES:

A copy of the proposed rule may be obtained for review by the public from the ABLE Commission, 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The ABLE Commission will prepare a rule impact statement which will be available on January 30, 2004, from the ABLE Commission, 4545 North Lincoln, Suite 270, Oklahoma City, Oklahoma.

CONTACT PERSON:

Kurt Morgan (405) 521-3484

[OAR Docket #03-3392; filed 12-19-03]

Notices of Rulemaking Intent

TITLE 55. BOARD OF GOVERNORS OF THE LICENSED ARCHITECTS AND LANDSCAPE ARCHITECTS OF OKLAHOMA CHAPTER 10. LICENSURE AND PRACTICE OF ARCHITECTS AND LANDSCAPE ARCHITECTS

[OAR Docket #03-3382]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Administrative Operations
55:10-3-13. Fees and penalties [AMENDED]

SUMMARY:

Amendments to OAC 55:10-3-13 are being proposed to lower out of state licensing fees.

AUTHORITY:

The Board of Governors of Licensed Architects and Landscape Architects of Oklahoma; 59 Oklahoma Statutes, Section 46.1, et seq.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on February 16, 2004 at the following address: 3555 N.W. 58th Street, Suite 640, Oklahoma City, OK 73112 Attention: Jean Williams, Executive Director, Board of Governors of the Licensed Architects and Landscape Architects of Oklahoma.

PUBLIC HEARING

A public hearing will be held at 9:30 a.m. on February 18, 2004 at Stillwater Public Library, 1107 S. Duck, Room 214, Stillwater, OK 74074. Anyone who wishes to speak must sign in at the door by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Board of Governors of the Licensed Architects and Landscape Architects of Oklahoma requests that business entities affected by these proposed amendments provide the Board, within the comment period, in dollar amounts if possible, any increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Jean Williams, at the above address, before the close of the comment period on February 16, 2004.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Board of Governors of the Licensed Architects and Landscape Architects of Oklahoma, 3555 N.W. 58th Street, Suite 640, Oklahoma City, OK 73112.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and may be obtained from the Board of Governors of the Licensed Architects and Landscape

Architects of Oklahoma at the above address beginning January 15, 2004.

CONTACT PERSON:

Jean Williams, Executive Director, (405) 949-2383

[OAR Docket #03-3382; filed 12-17-03]

TITLE 70. OKLAHOMA ARTS COUNCIL CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-3380]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General course and method of operating
70:1-3-1. Agency office [AMENDED]
70:1-3-2. Agency office hours [AMENDED]
70:1-3-3. Communications with the Council [AMENDED]
70:1-3-6. Availability of Council records and policies [AMENDED]
70:1-3-7. Copies of official records [AMENDED]
70:1-3-12. Public petition requesting changes in rules and regulations [AMENDED]
70:1-3-13. Materials submitted to the Agency become property of the State of Oklahoma [NEW]
Subchapter 5. Advisory Groups
70:1-5-1. Establishment of advisory ~~groups~~panels [AMENDED]
70:1-5-2. Eligibility [AMENDED]
70:1-5-3. Selection process [AMENDED]
Subchapter 7. Resource Directories
70:1-7-1. Establishment of ~~resource directories~~information resources [AMENDED]
70:1-7-2. Public notice of ~~resource directories~~information resources [AMENDED]
70:1-7-3. Use of Council forms [REVOKED]
70:1-7-4. Deadlines for resource directories [REVOKED]
Subchapter 9. State Art Collection
70:1-9-1. State Art Collection; Committee [AMENDED]
70:1-9-2. Art Collection Chairman [AMENDED]

SUMMARY:

All changes in this chapter relate to an updating of the Agency name, minor changes to reflect the way the Agency now conducts business, or clarification of wording.

AUTHORITY:

Oklahoma Arts Council; 53 O.S., Sections 161 et seq.

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the public hearing on February 17, 2004 at the Oklahoma Arts Council office. Written comments may be mailed to the Oklahoma Arts Council, P. O. Box 52001-2001, Oklahoma City, OK 73152-2001.

PUBLIC HEARING:

A public hearing will be held at 2:00 p.m. on Tuesday, February 17, 2004 in the conference room of the Oklahoma Arts Council, 2101 N. Lincoln Boulevard, Suite 640, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules are available in the office of the Oklahoma Arts Council, 2101 N. Lincoln Boulevard, Room 640, Oklahoma City, Oklahoma during regular office hours.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and will be available at the Oklahoma Arts Council office at the above address on and after publication of this Notice of Rulemaking Intent on January 15, 2004.

CONTACT PERSON:

Suzanne Tate, Deputy Director - 405.521.2931

[OAR Docket #03-3380; filed 12-17-03]

**TITLE 70. OKLAHOMA ARTS COUNCIL
CHAPTER 10. STATE ARTS COUNCIL
PROGRAMS**

[OAR Docket #03-3381]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 70:10-1-2. Definitions [NEW]
- 70:10-1-3. Oklahoma Arts Council Programs [NEW]
- Subchapter 3. Project Assistance Program
- 70:10-3-1. Disbursement of funds [REVOKED]
- 70:10-3-2. Deadlines for project assistance [REVOKED]
- 70:10-3-3. Proof of nonprofit and tax exempt status [REVOKED]
- 70:10-3-4. Final report requirement [REVOKED]
- 70:10-3-5. Credit line requirement [REVOKED]
- 70:10-3-8. Council share of contracts [REVOKED]
- 70:10-3-9. In-kind contributions [REVOKED]
- 70:10-3-10. Financial records requirements [REVOKED]
- 70:10-3-11. Fiscal year requirement [REVOKED]
- 70:10-3-12. Limitation of Council funding [REVOKED]
- 70:10-3-13. Legal assurances for all contracts [REVOKED]
- 70:10-3-14. Return of contracts deadline [REVOKED]
- 70:10-3-15. Permanent mailing address requirement [AMENDED]
- 70:10-3-16. Limitation on changes of contracts [REVOKED]
- 70:10-3-17. Final report deadline [REVOKED]

- 70:10-3-18. Protest procedure for project assistance [REVOKED]
- 70:10-3-19. Evaluation of projects, programs, activities and services [REVOKED]
- 70:10-3-20. Project assistance categories [REVOKED]
- 70:10-3-21. Counter proposals and counter offers of Council [REVOKED]
- 70:10-3-22. Council funding decision [REVOKED]
- 70:10-3-23. Audit and financial statement requirements [REVOKED]
- 70:10-3-24. Materials submitted to the Agency become property of the State of Oklahoma [REVOKED]
- 70:10-3-25. Qualifications of grant applicants [NEW]
- 70:10-3-26. Grantmaking power of the Oklahoma Arts Council [NEW]
- 70:10-3-27. Council funding decisions [NEW]
- 70:10-3-28. Disbursement of funds [NEW]
- 70:10-3-29. Limitations on changes of contracts [NEW]
- 70:10-3-30. Appeal procedure [NEW]
- 70:10-3-31. Audit and financial records [NEW]
- Subchapter 5. Oklahoma Touring Program
- 70:10-5-1. Sponsors and presenters [REVOKED]
- 70:10-5-2. Producers and touring groups [REVOKED]
- Subchapter 7. Artists-In-Residence Program-School and Community Categories
- 70:10-7-1. Program purpose and scope [REVOKED]
- 70:10-7-2. Deadlines for program [REVOKED]
- 70:10-7-3. Use of Council forms [REVOKED]
- 70:10-7-4. Council action on funding of program [REVOKED]
- 70:10-7-7. Sponsor and artists responsibilities [REVOKED]
- 70:10-7-8. Residency schedule requirements [REVOKED]
- 70:10-7-9. Self-employed artists [REVOKED]
- 70:10-7-10. Annual assessment of program [REVOKED]
- 70:10-7-11. Council responsibility for program [REVOKED]
- 70:10-7-12. Solicitation of new artists [REVOKED]
- 70:10-7-13. Contracting and payment procedure [REVOKED]
- 70:10-7-14. Payment contract return requirement [REVOKED]
- 70:10-7-15. Grievance procedure [REVOKED]
- Subchapter 9. Artist Rosters [NEW]
- 70:10-9-1. Purpose [NEW]
- 70:10-9-2. Rosters [NEW]
- 70:10-9-3. Assessment of rosters [NEW]
- 70:10-9-4. Self-employed artists [NEW]
- 70:10-9-5. Roster appeal procedure [NEW]

SUMMARY:

All changes in this chapter relate to making the rules more succinct and understandable as well as to reflect the way the Agency now conducts business.

AUTHORITY:

Oklahoma Arts Council; 53 O.S., Sections 161 et seq.

Notices of Rulemaking Intent

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the public hearing on February 17, 2004 at the Oklahoma Arts Council office. Written comments may be mailed to the Oklahoma Arts Council, P. O. Box 52001-2001, Oklahoma City, OK 73152-2001.

PUBLIC HEARING:

A public hearing will be held at 2:00 p.m. on Tuesday, February 17, 2004 in the conference room of the Oklahoma Arts Council, 2101 N. Lincoln Boulevard, Suite 640, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules are available in the office of the Oklahoma Arts Council, 2101 N. Lincoln Boulevard, Room 640, Oklahoma City, Oklahoma during regular office hours.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and will be available at the Oklahoma Arts Council office at the above address on and after publication of this Notice of Rulemaking Intent on January 15, 2004.

CONTACT PERSON:

Suzanne Tate, Deputy Director - 405.521.2931

[OAR Docket #03-3381; filed 12-17-03]

TITLE 85. STATE BANKING DEPARTMENT CHAPTER 10. SUPERVISION, REGULATION AND ADMINISTRATION OF BANKS AND THE OKLAHOMA BANKING CODE

[OAR Docket #03-3407]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Departmental Requirements
85:10-3-21. Fees [AMENDED]

SUMMARY:

The proposed amendment to rule 85:10-3-21 will amend subsection (a), paragraph (2) relating to the application fee for holding company bank charters. The amendment will revise the references to statutory sections to correspond to previous amendments made to those statutory sections. The intended effect of the amendment is to correct errors in the current rule.

The amendment to rule 85:10-3-21 will also amend subsection (d) to increase the fee relating to applications for operating subsidiaries and to include within that subsection a reference to "financial subsidiaries." The need and intended

effect of the amendment is to offset the cost to the Banking Department of processing applications for subsidiary corporations.

The amendment to rule 85:10-3-21 will also amend subsection (j) to increase the fee relating to registration statements filed by companies that do not hold a certificate of authority issued by the Oklahoma Banking Department. The need and intended effect of the amendment is to offset the cost to the Banking Department of processing Registration Statements and for responding to questions and complaints regarding the registrants.

AUTHORITY:

State Banking Board; 6 O.S., § 203(3).

COMMENT PERIOD:

Written and oral comments will be accepted during the period from January 15, 2004, through February 17, 2004, at: Oklahoma State Banking Department, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, Oklahoma 73105, Attn: Dudley Gilbert

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Wednesday, February 18, 2004, at the State Banking Department, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, Oklahoma 73105. Anyone who wishes to speak will be allowed a maximum of 5 minutes and must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Banking Department 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 during the period from January 15, 2004, through February 17, 2004, at: Oklahoma State Banking Department, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, Oklahoma 73105, Attn: Dudley Gilbert.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Angela Morris at the State Banking Department, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, Oklahoma 73105, (405) 521-2782.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement will be prepared and available at the State Banking Department office at the above address on and after January 30, 2004.

CONTACT PERSON:

Dudley Gilbert, Legal Counsel, State Banking Department, (405) 521-2782.

[OAR Docket #03-3407; filed 12-22-03]

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

[OAR Docket #03-3414]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 17. Full (Subject Matter) Competencies for Licensure and Certification

210:20-9-172. [AMENDED]

SUMMARY:

Oklahoma statute requires the State Board of Education to develop subject matter competencies for licensure and certification. The competencies are used by Oklahoma institutions of higher education to develop their certification programs, and the Oklahoma Commission for Teacher Preparation accredits teacher preparation programs based on competencies and develops subject tests for teacher testing. The new rule is 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). The amendment will add dance competencies.

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 February 18, 2004, 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 9 a.m. on Thursday, February 19, 2004, 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 will be 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 and after January 30, 2004.

CONTACT PERSON:

Valerie Payne, 405-521-3308

[OAR Docket #03-3414; filed 12-24-03]

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

[OAR Docket #03-3415]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 21. First-Year Superintendents in Oklahoma Program

210:20-21-1. [AMENDED]

SUMMARY:

The proposed rule would require first-year superintendents in the First-Year Superintendents in Oklahoma Program to have one day of specific instruction on the *Individuals with Disabilities Education Act* in the interest of and to ultimately assure the safety of special education students.

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 February 18, 2004, 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 9 a.m. on Thursday, February 19, 2004, 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 is available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Notices of Rulemaking Intent

CONTACT PERSON:

Valerie Payne, 405-521-3308

[OAR Docket #03-3415; filed 12-24-03]

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

[OAR Docket #03-3416]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 23. School Board Members
210:20-23-3. [NEW]

SUMMARY:

The proposed rule would require specific instruction on the *Individuals with Disabilities Education Act* to be presented during the two-day new school board member workshop conducted by the Oklahoman State Department of Education in the interest of and to ultimately assure the safety of special education students.

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 February 18, 2004, 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 9 a.m. on Thursday, February 19, 2004, 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 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 #03-3416; filed 12-24-03]

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

[OAR Docket #03-3412]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

270:10-1-4. [AMENDED]
270:10-1-5. [AMENDED]
270:10-1-7. [AMENDED]
270:10-1-8. [AMENDED]

SUMMARY:

The proposed rule changes would reflect recent changes in the National Fire Protection Association Standards for the medical requirements for entrance into the System and the description of essential functions of all eligible firefighters and identified changes to the System's standard operating procedures.

AUTHORITY:

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

COMMENT PERIOD:

Written or oral comments will be accepted from 08:00 a.m. to 04:30 p.m., from January 15, 2004 to February 13, 2004, at the Oklahoma Firefighters Pension and Retirement System, 4545 N. Lincoln Blvd. Suite 265, Oklahoma City, Oklahoma 73105-3414.

PUBLIC HEARING:

The Oklahoma Firefighters Pension and Retirement System has not scheduled an official hearing. However, if comments arise, the public may demand a hearing at any time from 08:00 a.m. to 04:30 p.m., from January 15, 2004 to February 13, 2004, at the Oklahoma Firefighters Pension and Retirement System, 4545 N. Lincoln Blvd. Suite 265, Oklahoma City, Oklahoma 73105-3414.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303 (D), a rule impact statement will be prepared and will be available at the above address on or after January 29, 2004.

CONTACT PERSON:

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

[OAR Docket #03-3412; filed 12-23-03]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE
FOR SERVICE**

[OAR Docket #03-3393]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 21. Outpatient Behavioral Health Services

317:30-5-241. [AMENDED]

(Reference APA WF # 03-33)

SUMMARY:

Medical Providers-Fee for Service, Outpatient Behavioral Health Services specific, rules are revised to meet a January 1, 2004 Health Insurance Portability and Accountability Act (HIPAA) established deadline by which state Medicaid agencies must comply with national coding provisions. Rule revisions are necessitated in order to have Medicaid compensable service titles, descriptions, and units of service match available Health Care Procedure Coding System (HCPCS) codes. Revisions establish the Mental Health Assessment by a Non-Physician service which is compensable for clients who are seeking services for the first time from a contracted agency if the client is not receiving or previously received services from that agency. The service is divided into two types, low or moderate complexity, based on the amount of face-to-face time spent on the assessment. Previously, the provider was compensated for the services by billing for individual or family counseling. The Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) has requested that Program for Assertive Community Treatment (PACT) services be added as a Medicaid compensable behavioral health service. PACT services provide treatment, rehabilitation, and essential behavioral health supports on a continuous basis to individuals 18 years of age or older with serious mental illness in need of intensive ongoing services. The ODMHSAS will pay the state match for all PACT providers. The ODMHSAS has also requested Medicaid compensation of Community Based Structured Emergency Care services (new title Crisis Intervention Services-Facility Based) for children. These services are emergency psychiatric and substance abuse services to resolve crisis situations which are currently Medicaid compensable for adults only. The service is designed to evaluate individuals on a short term 24 hour basis, up to 72 hours, and then return them home, if possible, or recommend inpatient residential care. Currently, the ODMHSAS pays the state match for these services for adults and will also pay for children's services. Medical Providers-Fee for Service, Outpatient Behavioral Health Services specific, rules are in need of revision to comply with HIPAA coding regulations and add new compensable services.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; the Health Insurance Portability and Accountability Act

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2004 through February 16, 2004 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(1), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2004 at 4:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on February 16, 2004.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #03-3393; filed 12-19-03]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE
FOR SERVICE**

[OAR Docket #03-3394]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. General Provider Policies

Part 3. General Medical Program Information

317:30-3-46. [AMENDED]

317:30-3-57. [AMENDED]

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

Notices of Rulemaking Intent

317:30-5-2. [AMENDED]

Part 5. Pharmacists

317:30-5-72. [AMENDED]

(Reference APA WF 03-36)

SUMMARY:

Medical Providers-Fee for Service rules are revised to increase the number of compensable prescription drugs for adults under the fee for service program. For many years, pharmacy benefit rules have restricted fee for service adults to three monthly prescriptions which does not allow physicians to treat clients with chronic conditions according to best practices as described in current medical literature. Due to a shortfall in agency funding, at the June 12, 2003 Board meeting, rule revisions were approved and subsequently signed by the Governor to reduce compensable prescription medications to a total of five monthly for adults receiving services under the §1915(c) Home and Community Based Services Waivers effective July 1, 2003. These revisions would increase the three prescription limitation to a total of six monthly, with a limit of three brand name drugs per month. In addition, adults receiving services under the §1915(c) Home and Community Based Services Waivers could receive up to seven additional medically necessary generic prescriptions per month. Coverage of medically necessary prescriptions beyond the three brand name or thirteen total prescriptions for this group of adult waiver recipients would be compensable when prior authorized. Proposed revisions will have a positive effect on public health and safety by providing access to medications that potentially will decrease the complications of chronic diseases, treat acute conditions in a cost-effective manner, and decrease utilization of inpatient and emergency hospital visits. Rule revisions are needed in order to enhance the current pharmacy benefit by providing coverage for additional prescriptions for adult clients.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2004 through February 16, 2004 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(1), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2004 at 4:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on February 16, 2004.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #03-3394; filed 12-19-03]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #03-3417]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 75. Federally Qualified Health Centers

317:30-5-660. through 317:30-5-664. [AMENDED]

(Reference APA WF # 03-46)

SUMMARY:

Medical Providers-Fee for Service, Federally Qualified Health Centers specific, rules are revised to bring agency rules in line with current rate methodology.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1905(1)(2) of the Social Security Act

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2004 through February 16, 2004 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(1), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2004 at 4:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on February 16, 2004.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #03-3417; filed 12-24-03]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

[OAR Docket #03-3419]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 5. Pharmacists

317:30-5-77.1. [AMENDED]

(Reference APA WF # 03-47)

SUMMARY:

Medical Providers-Fee for Service, Pharmacists specific, rules are revised to modify the current dispensing limitation for compensable prescriptions. The rule would set the default prescription amount to a 31 day supply, add a list of maintenance drugs which could be filled for more than a 31 day supply, authorize the DUR Board to implement and monitor the maintenance list, and authorize the DUR Board to set quantity limits based on other factors.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 USCS § 13964-8.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2004 through February 16, 2004 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(1), "persons may demand a hearing" by

contacting the above listed person no later than February 16, 2004 at 4:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on February 16, 2004.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #03-3419; filed 12-24-03]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY**

[OAR Docket #03-3418]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

Subchapter 5. Eligibility and Countable Income

Part 5. Countable Income and Resources

317:35-5-41. [AMENDED]

(Reference APA WF # 03-45)

SUMMARY:

Medical Assistance for Adults and Children-Eligibility rules are revised to clarify and correct procedures for establishing Medicaid Income Pension Trusts.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Section 1917(d)(f)(B) of the Social Security Act.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2004 through February 16, 2004 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

Notices of Rulemaking Intent

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(1), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2004 at 4:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on February 16, 2004.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #03-3418; filed 12-24-03]

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

[OAR Docket #03-3411]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 37. Communications
340:2-37-1. through 340:2-37-7. [NEW]

(Reference APA WF#03-41)

SUMMARY:

Purposed rules for Chapter 2, Subchapter 37 are created describing the functions of the Office of Communications.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Open Records Act [51 O.S. § 24A.1 et seq.]; Open Meetings Act [25 O.S. § 301 through 314]; and Section 250 et. seq. of Title 75 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2004 through February 16, 2004 during regular business hours by contacting Douglas Doe, Department of Human Services,

P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-4283.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2004 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #03-3411; filed 12-23-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 25. CHILD SUPPORT ENFORCEMENT DIVISION

[OAR Docket #03-3391]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Scope, Applicability, and General Provisions
340:25-1-1.1. [AMENDED]
340:25-1-2.1. [AMENDED]
340:25-1-3.1. [AMENDED]

Subchapter 5. Operational Policies

Part 9. Disclosure of Information

340:25-5-67. [AMENDED]

Part 15. Case Initiation, Case Management, and Case Closure

340:25-5-110.1. [AMENDED]

340:25-5-117. [AMENDED]

340:25-5-124. [AMENDED]

340:25-5-124.2. [AMENDED]

Part 17. Past Support

340:25-5-140.1. [AMENDED]

Part 20. Medical Support [NEW]

340:25-5-168. through 340:25-5-171. [NEW]

Part 21. Establishment

340:25-5-176. [AMENDED]

340:25-5-178. [AMENDED]

340:25-5-179.1. [AMENDED]

340:25-5-183. through 340:25-5-184. [AMENDED and RENUMBERED to 340:25-5-168. and 340:25-5-169]

Part 22. Review and Modification
 340:25-5-198.1. through 340:25-5-198.2. [AMENDED]
 Part 23. Enforcement
 340:25-5-211.1. [NEW]
 340:25-5-213. [AMENDED]
 Part 37. Recovery
 340:25-5-305. [AMENDED]
 340:25-5-312. [AMENDED]
 Part 39. Accounting and Distribution
 340:25-5-350.3. through 340:25-5-351. [AMENDED]
(Reference APA WF # 03-24, 03-26, and 03-40)

SUMMARY:

The revisions to Subchapters 1 and 5 of Chapter 25: (1) supersede and codify emergency rules issued in December 2003 that establish policy and procedures to provide services regarding driver license revocation and reinstatement; (2) supersede and codify emergency rules issued in November relating to the National Medical Support Notice (NMSN); (3) establish new Part 20. Medical Support, including renumbering existing rules, relating to NMSN; (4) clarify that customers may only have one authorized representative with defined authority; (5) clarify when different applications for child support services may be used, and clarify services provided in medical support enforcement only cases; (6) clarify the policy on assigning and transferring cases to the tribal office; (7) add definitions; (8) update information on customer access to case information; (9) clarify policy on release of Federal Parent Locator Service information by CSED; (10) add information on CSED policy for non-Temporary Assistance for Needy Families (TANF) Medicaid recipients who apply for CSED services; (11) clarify policy on assignment of cases to district offices when there is a deprived or delinquent juvenile court action; (12) add policy relating to allocation of interest collected and when CSED may waive interest; (13) add provisions for establishing paternity of a child of a deceased putative father; (14) clarify what CSED uses for actual child care expenses in the child support guidelines computation; (15) add policy concerning income imputed to a minor custodial person or noncustodial parent; (16) clarify circumstances under which CSED conducts reviews of child support orders; (17) clarify that CSED initiates modification of a child support order to include a health care provision for the child; (18) establish the calculation CSED uses in annual notices to determine the monthly past-due support payment plan amount; (19) clarify the definition of erroneous payment; (20) add overpayment recovery policy for IV-D cases that have converted from non-IV-D cases; (21) clarify TANF customer overpayment recovery policy; (22) add policy for a quarterly written notice of collections, and payments made to the family; (23) implement policy changes recommended during the annual CSED policy review process; and (24) improve readability and clarity of rules by eliminating unnecessary language and conforming with current formatting.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Section 1171.3 of

Title 12, Section 6058A of Title 36, Sections 112, 112A, 118.2, 137, 139, 139.1, 413, and 601 through 604 of Title 43, Sections 1-153, 6-201, 6-201.1, 6-211, and 6-212 of Title 47, and Sections 237, 237.1, 238, and 240.15 through 240.21A of Title 56 of the Oklahoma Statutes; House Rule 3130 which became Public Law 105-200; Sections 453, 454, 454A, and 454B of the Social Security Act; Section 1738B of Title 28 of the United States Code; Sections 302.31, 302.32, 302.38, 303.32, 307.11, and 307.13 of Title 45 of the Code of Federal Regulations; and Part 310 of the National Medical Support Notice Part A & B.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2004 through February 14, 2004 during regular business hours by contacting Elizabeth Wilson, Department of Human Services, P.O. Box 53552, Oklahoma City, OK 73152, 405-522-0021.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on February 14, 2004.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer at 405-521-4326.

[OAR Docket #03-3391; filed 12-19-03]

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

[OAR Docket #03-3410]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 340:40-1-3. [AMENDED]
- Subchapter 3. Initial Application
 340:40-3-1. [AMENDED]
- Subchapter 5. Plan of Service
 340:40-5-1. [AMENDED]
- Subchapter 7. Eligibility
 340:40-7-1. [AMENDED]
 340:40-7-4. through 340:40-7-8. [AMENDED]

Notices of Rulemaking Intent

340:40-7-11. through 340:40-7-13. [AMENDED]
Subchapter 9. Procedures Relating to Case Changes
340:40-9-2. [AMENDED]
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-3. through 340:40-13-5. [AMENDED]
(Reference APA WF # 03-15, 03-19, 03-42, and 03-43)

SUMMARY:

Child Care Services rules are revised to: (1) specify that all members of a Temporary Assistance for Needy Families (TANF) household included in a TANF benefit must be included in the child care household income computation; (2) clarify that family members looking for work or working away from home are still considered child care household members; (3) add adoption subsidy payments as countable income; (4) remove out-dated language about the Comprehensive Employment and Training Act (CETA) program; (5) remove Family Support Assistance Payments from countable income; (6) exclude monetary allowances paid to certain children of Vietnam War veterans as income for child care; (7) replace out-of-date language; (8) clarify staff and client responsibilities and procedures regarding the electronic benefit transfer (EBT) system; (9) add clarifying information regarding in-home child care providers; (10) add language concerning staff responsibility for some preventive child care requests with Child Welfare involvement; (11) specify how the identity of applicants is established; (12) eliminate the requirement that a Social Security number is required for the child care program; (13) reflect the correct references; (14) replace out-of-date language; (15) reflect the correct location of the application form; (16) explain the child care payment process; (17) remove out-of-date language; (18) not allow a client to choose a parent or a stepparent of the child as a child care provider; (19) only approve children receiving care at a child care provider receiving other state or federal funds for a part-time rate; (20) remove the words "income eligible" as this is no longer a child care term; (21) add client EBT responsibility language; (22) reflect who has priority for child care services in the event that the Oklahoma Department of Human Services (OKDHS) does not have sufficient funding to subsidize all families applying for and meeting eligibility guidelines for child care; (23) eliminate any family from being predetermined eligible for a child care subsidy with a zero co-payment; (24) specify that all members of a TANF household included in a TANF benefit must be included in the child care household income computation; (25) remove language that allowed a child receiving Supplemental Security Income (SSI) to be exempt from a co-payment; (26) clarify language regarding protective or preventive child care requests; (27) add language regarding how income is classified as earned and unearned income; (28) remove the earned income deduction as a deduction from gross income for child care services; (29) add other supporting policy cites to the rule regarding the earnings of children; (30) add clarifying language about how to consider in-kind income, earnings of children, and vendor payments; (31) remove the earned income deduction as a deduction from gross income for

child care services; (32) add clarifying language regarding the special needs child care rate; (33) redefine the definition of a part-time rate and full-time; (34) add a rule that care may only be authorized at one provider per day for the same child; (35) add a rule that only part-time care can be approved at providers receiving state or federal funds; (36) add language regarding reduction in the income eligibility level for applicants who are approved for child care on or after September 1, 2004; (37) add a rule about when another Form ADM-123, Certification for Special Needs Child Care Rate, must be completed on the same child; and (38) add information about the two income eligibility levels on the revised OKDHS Appendix C-4.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Public Law 104-193]; the Balanced Budget Act of 1997 [Public Law 105-33]; and 45 Code of Federal Regulations (CFR) Parts 98 and 99.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2004 through February 16, 2004 during regular business hours by contacting Sandy Stewart, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than February 16, 2004 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these rules is requested to provide the Oklahoma Department of Human Services, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with this proposed rule. Business entities may submit this information in writing to Sandy Stewart at the above address no later than February 16, 2004.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #03-3410; filed 12-23-03]

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

[OAR Docket #03-3384]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- Part 15. Training for Child Welfare Workers
- 340:75-1-231. through 340:75-1-232. [AMENDED]
- 340:75-1-240. [AMENDED]
- (Reference APA WF # 03-38)

SUMMARY:

The revisions to Subchapter 1 of Chapter 75 reflect the provision for completion of mandatory training within the first two years of employment with Child Welfare (CW); reduction in the number of job-related training hours from 40 to 20 for experienced CW supervisors; clarification of the CW Professional Enhancement program; and elimination of unnecessary language.

340:75-1-231 is revised to reflect the completion of mandatory training for all workers new to CW within the first two years of employment in CW. Current rules require completion within the first year of employment.

340:75-1-232 is revised to reflect the reduction of job-related training hours from 40 to 20 per evaluation year for experienced CW workers.

340:75-1-240 is revised to clarify information regarding the CW Professional Enhancement program (CWPEP), formerly known as the Master of Social Work (MSW) Scholarship program.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Section 840-3.1 of Title 74 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2004 through February 14, 2004 during regular business hours by contacting Millie Carpenter, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, 405-522-6325.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on February 14, 2004.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer at 405-521-4326.

[OAR Docket #03-3384; filed 12-18-03]

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

[OAR Docket #03-3385]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- Part 10. Oklahoma Children's Services (OCS)
- 340:75-1-150. through 340:75-1-151. [AMENDED]
- 340:75-1-151.2. [AMENDED]
- 340:75-1-152. [AMENDED]
- 340:75-1-152.5. through 340:75-1-152.9. [AMENDED]
- 340:75-1-154. [AMENDED]
- Part 12. Independent Living [REVOKED]
- 340:75-1-185. [REVOKED]
- Subchapter 6. Permanency Planning
- Part 11. Permanency Planning and Placement Services
- 340:75-6-90. [AMENDED]
- Part 13. Independent Living
- 340:75-6-110. [AMENDED]
- 340:75-6-114. [AMENDED]
- Subchapter 8. Therapeutic Foster Care and Developmental Disabilities Services Division Services
- Part 1. Therapeutic Foster Care
- 340:75-8-7. [AMENDED]
- Subchapter 11. Child Welfare Community-Based Residential Care
- Part 25. Non-Funded and Funded Contracted Level B Placements
- 340:75-11-300. [AMENDED]
- 340:75-11-304. [AMENDED]
- Part 27. Residential Maternity Services
- 340:75-11-320. [AMENDED]
- Part 29. Non-Funded and Funded Level C Placements
- 340:75-11-330. [AMENDED]
- 340:75-11-334. [AMENDED]
- Part 33. Contracted Level D Plus Placements
- 340:75-11-360. [AMENDED]
- Part 35. Contracted Level E Placements
- 340:75-11-370. [AMENDED]
- (Reference APA WF # 03-39)

Notices of Rulemaking Intent

SUMMARY:

The revisions to Subchapters 1, 6, 8, and 11 of Chapter 75 reflect the cessation of Independent Living (IL) Services through Oklahoma Children's Services (OCS). IL services, such as basic life skills assessments, life skills training, and supervised practice living (SPL), have been eliminated from the OCS program based on the assessment that youth needed a program with more structure and guidance which could be provided in a more fiscally responsible manner.

340:75-1-150; 75-1-151.2; 75-1-152; 75-1-152.5 through 75-1-152.9; 75-1-154; 75-6-90; and 75-6-110 are revised to reflect service provisions through OCS, which exclude SPL.

340:75-1-151 is revised to clarify the referral procedure for OCS referrals.

340:75-1-185 is revoked.

340:75-6-114 is revised to clarify the determination for a youth who is not capable of receiving IL services.

340:75-8-7; 75-11-300; 75-11-304; 75-11-320; 75-11-330; 75-11-334; 75-11-360; and 75-11-370 are revised to delete references to SPL, clarify services and contract requirements for therapeutic foster care and community-based placements, and eliminate unnecessary language.

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 7004-1.6 and 7004-2.1 of Title of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted January 15, 2004 through February 14, 2004 during regular business hours by contacting Millie Carpenter, Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, 405-522-6325.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on February 14, 2004.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer at 405-521-4326.

[OAR Docket #03-3385; filed 12-18-03]

TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-3402]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

SUMMARY:

The rules and regulations are necessary to promote and enhance effective operation of the State and Education Employees Group Insurance Program. It is proposed that the rules and regulations be amended. The effect of the amended rules is to provide for the continued efficiency and responsiveness of the insurance program, to conform to certain legislation, and to reflect changes in benefit plans.

AUTHORITY:

74 O.S. Section 1304; 74 O.S. Section 1306. State and Education Employees Group Insurance Board

COMMENT PERIOD:

Written comments may be made from this date until February 17, 2004. Comments should be filed in the office of Gary Goff, Attorney, Assistant Administrator, State and Education Employees Group Insurance Board, located at 3545 NW 58th Street, Suite 1000, Oklahoma City, Oklahoma 73112.

PUBLIC HEARING:

8:00 am, February 17, 2004, in the 5th Floor Board Room of the State and Education Employees Group Insurance Board, 3545 NW 58th Street, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Gary Goff, Attorney, Assistant Administrator
State and Education Employees Group Insurance Board
3545 NW 58th Street, Suite 1000
Oklahoma City, OK 73112

RULE IMPACT STATEMENT:

This agency has issued a Rule Impact Statement which may be obtained for review by contacting Gary Goff of the State and Education Employees Group Insurance Board.

CONTACT PERSON:

Gary Goff, Attorney, Assistant Administrator, (405) 717-8744

[OAR Docket #03-3402; filed 12-19-03]

**TITLE 360. OKLAHOMA STATE AND
EDUCATION EMPLOYEES GROUP
INSURANCE BOARD
CHAPTER 10. STATE AND EDUCATION
EMPLOYEES HEALTH, LIFE, AND DENTAL
PLANS**

[OAR Docket #03-3403]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. State and Education Employees Health, Life, and Dental Plans [AMENDED]

SUMMARY:

The rules and regulations are necessary to promote and enhance effective operation of the State and Education Employees Group Insurance Program. It is proposed that the rules and regulations be amended. The effect of the amended rules is to provide for the continued efficiency and responsiveness of the insurance program, to conform to certain legislation, and to reflect changes in benefit plans.

AUTHORITY:

74 O.S. Section 1304; 74 O.S. Section 1306. State and Education Employees Group Insurance Board

COMMENT PERIOD:

Written comments may be made from this date until February 17, 2004. Comments should be filed in the office of Gary Goff, Attorney, Assistant Administrator, State and Education Employees Group Insurance Board, located at 3545 NW 58th Street, Suite 1000, Oklahoma City, Oklahoma 73112.

PUBLIC HEARING:

8:00 am, February 17, 2004, in the 5th Floor Board Room of the State and Education Employees Group Insurance Board, 3545 NW 58th Street, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Gary Goff, Attorney, Assistant Administrator
State and Education Employees Group Insurance Board
3545 NW 58th Street, Suite 1000
Oklahoma City, OK 73112

RULE IMPACT STATEMENT:

This agency has issued a Rule Impact Statement which may be obtained for review by contacting Gary Goff of the State and Education Employees Group Insurance Board.

CONTACT PERSON:

Gary Goff, Attorney, Assistant Administrator, (405) 717-8744

[OAR Docket #03-3403; filed 12-19-03]

**TITLE 360. OKLAHOMA STATE AND
EDUCATION EMPLOYEES GROUP
INSURANCE BOARD
CHAPTER 15. THE DISABILITY PROGRAM**

[OAR Docket #03-3404]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. The Disability Program [AMENDED]

SUMMARY:

The rules and regulations are necessary to promote and enhance effective operation of the State and Education Employees Group Insurance Program. It is proposed that the rules and regulations be amended. The effect of the amended rules is to provide for the continued efficiency and responsiveness of the insurance program, to conform to certain legislation, and to reflect changes in benefit plans.

AUTHORITY:

74 O.S. Section 1304; 74 O.S. Section 1306; 74 O.S. Section 1332 State and Education Employees Group Insurance Board

COMMENT PERIOD:

Written comments may be made from this date until February 17, 2004. Comments should be filed in the office of Gary Goff, Attorney, Assistant Administrator, State and Education Employees Group Insurance Board, located at 3545 NW 58th Street, Suite 1000, Oklahoma City, Oklahoma 73112.

PUBLIC HEARING:

8:00 am, February 17, 2004, in the 5th Floor Board Room of the State and Education Employees Group Insurance Board, 3545 NW 58th Street, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Gary Goff, Attorney, Assistant Administrator
State and Education Employees Group Insurance Board
3545 NW 58th Street, Suite 1000
Oklahoma City, OK 73112

RULE IMPACT STATEMENT:

This agency has issued a Rule Impact Statement which may be obtained for review by contacting Gary Goff of the State and Education Employees Group Insurance Board.

CONTACT PERSON:

Gary Goff, Attorney, Assistant Administrator, (405) 717-8744

[OAR Docket #03-3404; filed 12-19-03]

Notices of Rulemaking Intent

TITLE 395. OKLAHOMA LAW ENFORCEMENT RETIREMENT SYSTEM CHAPTER 10. RETIREMENT AND PENSION BENEFITS PROGRAM

[OAR Docket #03-3367]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

395:10-1-9.1. Purchase price payments/transfer of credited service [AMENDED]

395:10-1-11. Deferred Option Plan [AMENDED]

395:10-1-11.1. Direct Rollovers [AMENDED]

395:10-1-12. Physical and psychological testing requirements [AMENDED]

SUMMARY:

The proposed amendments are intended to clarify procedures and practice requirements of the agency with regard to the Deferred Option Plan, forward DROP, and to add the procedures and practice requirements for the Back Drop Plan. Amendments provide information regarding eligible rollover distribution options.

AUTHORITY:

47 O.S. Section 2-300; Oklahoma Law Enforcement Retirement System Board.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:45 p.m. on February 16, 2004 at 4545 N. Lincoln Blvd., Suite 257, Oklahoma City, Ok.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. February 16, 2004 at 10:00 a.m., at the Oklahoma Law Enforcement Retirement System Conference Room, 4545 N. Lincoln Blvd., Suite 257, Oklahoma City, Ok.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public in the administrative office of the Oklahoma Law Enforcement Retirement System, 4545 N. Lincoln Blvd., Suite 257, Oklahoma City, Ok.

RULE IMPACT STATEMENT:

Copies of the rules impact statement may be obtained for review by the public in the administrative office of the Oklahoma Law Enforcement Retirement System, 4545 N. Lincoln Blvd., Suite 257, Oklahoma City, Ok.

CONTACT PERSON:

Lawrence F. McCulloch, (405) 522-3932

[OAR Docket #03-3367; filed 12-11-03]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 1. ADMINISTRATION

[OAR Docket #03-3371]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Procedure in Individual Administrative Proceedings

450:1-5-14. [AMENDED]

450:1-5-15. [REVOKED]

Subchapter 9. Certification and Designation of Facilities and Services

450:1-9-7. [AMENDED]

450:1-9-12. [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 1 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance service provision and supervision, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-110, 3-306, 3-306.1, 3-314.1, 3-315, 3-317, 3-318, 3-319 and 3-415.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 19, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

The Department will conduct a public hearing on February 19, 2004 at 11:00 a.m. in the Main Conference Room of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, 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 until 5:00 p.m., February 19, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 30, 2004. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer. (405) 522-6765.

[OAR Docket #03-3371; filed 12-15-03]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 15. CONSUMERS RIGHTS**

[OAR Docket #03-3372]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

450:15-1-1. [AMENDED]

450:15-1-2. [AMENDED]

Subchapter 3. Consumer Rights

Part 1. ~~Inpatient~~ Mental Health and Drug or Alcohol Abuse Services Consumer Bill of Rights

450:15-3-1. [AMENDED]

450:15-3-2. [AMENDED]

450:15-3-3. [AMENDED]

450:15-3-4. [REVOKED]

450:15-3-5. [REVOKED]

450:15-3-6. [AMENDED]

450:15-3-8. [AMENDED]

450:15-3-9. [AMENDED]

450:15-3-10. [AMENDED]

450:15-3-11. [AMENDED]

450:15-3-12. [AMENDED]

450:15-3-14. [AMENDED]

450:15-3-15. [REVOKED]

450:15-3-16. [AMENDED]

450:15-3-17. [REVOKED]

450:15-3-18. [AMENDED]

450:15-3-21. [AMENDED]

450:15-3-23.1. [NEW]

450:15-3-25. [AMENDED]

450:15-3-27. [AMENDED]

450:15-3-28. [NEW]

Part 3. ~~Inpatient Mental Health~~ Consumer Grievance Procedure

450:15-3-45. [AMENDED]

Part 7. Consumer Access to Health Information, Facilities Operated by ODMHSAS

Part 9. Client Rights, Domestic Violence, Batterer's Intervention Sexual Assault Programs and Shelters

450:15-3-70. [NEW]

450:15-3-71. [NEW]

450:15-3-72. [NEW]

450:15-3-73. [NEW]

Part 11. Resident Rights, Mental Health Residential Care Facilities

450:15-3-80. [NEW]

450:15-3-81. [NEW]

450:15-3-82. [NEW]

450:15-3-83. [NEW]

450:15-3-84. [NEW]

450:15-3-85. [NEW]

Subchapter 9. Consumer Rights, Non-Inpatient Services [REVOKED]

450:15-9-1. [REVOKED]

450:15-9-2. [REVOKED]

450:15-9-3. [REVOKED]

450:15-9-4. [REVOKED]

450:15-9-5. [REVOKED]

450:15-9-7. [REVOKED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 15 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance advocacy services for individuals receiving serviced by organizations operated or certified by or under contract with ODMHSAS, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 2-108 and 2-109.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 19, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

The Department will conduct a public hearing on February 19, 2004 at 9:00 a.m. in the Main Conference Room of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, 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

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proposed rules. Business entities may submit this information until 5:00 p.m., February 19, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 30, 2004. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer.
(405) 522-6765.

[OAR Docket #03-3372; filed 12-15-03]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 18. STANDARDS AND CRITERIA FOR SUBSTANCE ABUSE SERVICES

[OAR Docket #03-3373]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

450:18-1-1. [AMENDED]

450:18-1-2. [AMENDED]

450:18-1-4. [AMENDED]

450:18-1-7. [REVOKED]

Subchapter 3. Substance Abuse Treatment Services

Part 1. Levels of Care

450:18-3-1. [REVOKED]

450:18-3-2. [AMENDED]

450:18-3-3. [AMENDED]

Part 3. Outpatient Services

450:18-3-21. [AMENDED]

Part 5. Intensive Outpatient Services

450:18-3-41. [AMENDED]

450:18-3-42. [AMENDED]

Part 7. Medically Supervised Detoxification

450:18-3-61. [AMENDED]

Part 9. Non-Medical Detoxification

450:18-3-81. [AMENDED]

Part 11. Residential Treatment

450:18-3-101. [AMENDED]

Part 13. Residential Treatment for Persons with Dependent
Children

450:18-3-121. [AMENDED]

Part 15. Adult Residential Treatment for the Dually
Diagnosed

450:18-3-141. [AMENDED]

Part 17. Residential Treatment for Adolescents

450:18-3-161. [AMENDED]

Part 19. Halfway House Services

450:18-3-181. [AMENDED]

Part 20. Adolescent Halfway House Services

450:18-3-190. [AMENDED]

Part 21. Halfway House Services for Persons with
Dependent Children

450:18-3-201. [AMENDED]

Part 25. Opioid Treatment Programs and Opiate
Antagonists and Opiate Agonists

450:18-3-241. [AMENDED]

Subchapter 5. Ancillary Services and Activities

450:18-5-3. [REVOKED]

450:18-5-3.1. [NEW]

450:18-5-3.2. [NEW]

450:18-5-3.3. [NEW]

450:18-5-4. [AMENDED]

Subchapter 7. Facility Record System

Part 1. Facility Record System

450:18-7-2. [AMENDED]

450:18-7-3. [REVOKED]

450:18-7-3.1. [NEW]

450:18-7-4. [AMENDED]

Part 5. Biopsychosocial Assessment

450:18-7-41. [AMENDED]

Part 7. Case Management

450:18-7-61. [AMENDED]

450:18-7-63. [NEW]

Part 9. Treatment Planning

450:18-7-81. [AMENDED]

450:18-7-82. [REVOKED]

450:18-7-83. [AMENDED]

Part 11. Progress Notes

450:18-7-101. [AMENDED]

Part 13. Discharge

450:18-7-122. [AMENDED]

Part 15. Other Case Record Materials

450:18-7-143. [AMENDED]

Subchapter 9. Services Support and Enhancement

Part 1. Staff Support

450:18-9-2. [AMENDED]

450:18-9-3. [AMENDED]

Part 2. Organizational and Facility Management

450:18-9-20. [REVOKED]

Subchapter 11. Consumer Rights

450:18-11-1. [AMENDED]

450:18-11-2. [AMENDED]

450:18-11-3. [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 18 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance services for consumers of substance abuse treatment

by organizations operated or certified by or under contract with ODMHSAS, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-306, 3-317, 3-403(1), 3-404, 3-406, 3-415 and 3-416.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 18, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

The Department will conduct a public hearing on February 18, 2004 at 9:00 a.m. in the Main Conference Room of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, 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 until 5:00 p.m., February 18, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 30, 2004. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer. (405) 522-6765.

[OAR Docket #03-3373; filed 12-15-03]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 19. STANDARDS AND CRITERIA FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS**

[OAR Docket #03-3374]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 11. Client Rights
- 450:19-11-1. [AMENDED]
- 450:19-11-2. [AMENDED]
- 450:19-11-3. [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 19 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, enhance programs for individuals receiving domestic violence or sexual assault services by organizations certified by or under contract with ODMHSAS, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O. S. §§ 2-101, 2-202, 3-306 and 3-314.1.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 19, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

The Department will conduct a public hearing on February 19, 2004 at 1:00 p.m. in the Main Conference Room of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, 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 until 5:00 p.m., February 19, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 30, 2004. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer.
(405) 522-6765.

[OAR Docket #03-3374; filed 12-15-03]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 21. CERTIFICATION OF
ALCOHOL AND DRUG SUBSTANCE ABUSE
COURSES (ADSAC), ORGANIZATIONS AND
INSTRUCTORS/FACILITATORS**

[OAR Docket #03-3375]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Certification of Alcohol and Drug
Substance Abuse Courses (ADSAC), Organizations
and Instructors/Facilitators

- 450:21-1-1. [AMENDED]
- 450:21-1-2. [AMENDED]
- 450:21-1-3. [AMENDED]
- 450:21-1-5. [AMENDED]
- 450:21-1-6. [AMENDED]
- 450:21-1-7. [AMENDED]
- 450:21-1-7.2. [AMENDED]
- 450:21-1-8. [AMENDED]
- 450:21-1-10. [AMENDED]
- 450:21-1-11. [AMENDED]
- 450:21-1-13. [AMENDED]
- 450:21-1-14. [AMENDED]

Subchapter 3. Certification Denial or Sanctions

- 450:21-3-1. [AMENDED]
- 450:21-3-2. [AMENDED]
- 450:21-3-3. [AMENDED]

Subchapter 5. Course Attendance and Completion

- 450:21-5-1. [AMENDED]
- 450:21-5-2. [AMENDED]

SUMMARY:

In compliance with the Administrative Procedures Act the proposed rule revisions to Chapter 21 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes, amendment or repeal of rules, delete redundant or superfluous language, and correct scrivener's errors.

AUTHORITY:

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-451 through 3-460; 47 O.S. §§ 6-212.2 and 11-902; 22 O.S. § 991c.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 18, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer, at the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, or hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

A public hearing will be held on February 18, 2004, 1:00 p.m. in the Department's Main Conference Room at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rules are asked to provide written information to the Department, 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 until 5:00 p.m., February 18, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 30, 2004. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer.
(405) 522-6765.

[OAR Docket #03-3375; filed 12-15-03]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 22. CERTIFICATION OF
ALCOHOL AND DRUG ASSESSMENT AND
EVALUATION PROGRAMS RELATED TO
DRIVER'S LICENSE REVOCATION**

[OAR Docket #03-3376]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 450:22-1-1.1. [AMENDED]

- 450:22-1-3. [AMENDED]
- 450:22-1-6. [AMENDED]
- 450:22-1-8. [AMENDED]
- 450:22-1-10. [AMENDED]
- 450:22-1-11. [AMENDED]
- 450:22-1-12. [AMENDED]
- 450:22-1-15. [AMENDED]

SUMMARY:

In compliance with the Administrative Procedures Act the proposed rule revisions to Chapter 22 are part of the Department's review of Title 450. These proposed amendments are intended to comply with statutory changes; amendment or repeal of rules; delete redundant or superfluous language; and correct scrivener's errors.

AUTHORITY:

Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-453, and 3-460; 47 O.S. §§ 6-212.2 and 11-902; 22 O.S. §§ 991a and 991c.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., February 18, 2004 to the attention of Linda Winton, Policy Analyst and Agency Liaison Officer, at the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, or hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, or by facsimile, at (405) 522-3867.

PUBLIC HEARING:

A public hearing will be held on February 18, 2004, 2:00 p.m. in the Department's Main Conference Room at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rules are asked to provide written information to the Department, 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 until 5:00 p.m., February 18, 2004 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Linda Winton.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning January 30, 2004. Copies may be obtained from Linda Winton, Policy Analyst and Agency Liaison Officer, at the address above.

CONTACT PERSON:

Linda Winton, Policy Analyst and Agency Liaison Officer. (405) 522-6765.

[OAR Docket #03-3376; filed 12-15-03]

**TITLE 460. DEPARTMENT OF MINES
CHAPTER 3. NON-COAL RULES OF
PRACTICE AND PROCEDURES**

[OAR Docket #03-3383]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 3. Non-coal Rules of Practice and Procedures [AMENDED]

SUMMARY:

Pursuant to statutory law, 45 O.S. 2001, Sections 728(D), 732(b), and 736, the Department of Mines has authority to Order to Show Cause to suspend or to revoke a permit but the Department does not have an administrative rule for procedures on this process. As a result, the Department is adding a new Subchapter 5 to create procedures to be followed. These new procedures establish the initiation of the Show Cause Order proceedings, how to Answer the Order and the needed contents of the Answer, who has the burden of proof, the Determination of the hearing Examiner, Summary disposition, and the Appeals process. Changes are also being proposed to 460:3-1-5, Conducting hearings, to more clearly reflect the distinctions between the procedures for conferences and those for hearings.

AUTHORITY:

45 O.S. Section 1.5, 45 O.S. Section 732, Oklahoma Mining Commission.

COMMENT PERIOD:

From January 15, 2004, until February 16, 2004, the public may present their views orally or in writing to the below listed contact person.

PUBLIC HEARING:

A public hearing will be held on February 24, 2004, at 6:00p.m. at the Department of Mines, 209 E. Wyandotte, Suite 500, McAlester, OK, 74501, and another public hearing will be held on February 26, 2004, at the Oklahoma Department of Mines, 4040 N. Lincoln, Suite 107, Oklahoma City, Ok 73105, beginning at 1:15 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by this proposed change are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, implied costs, or other costs expected to be occurred by the business entity due to compliance with this proposed change. This information may be submitted, in writing, from January 15, 2004, through February 16, 2004, to the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person listed below.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the below listed contact person at the Department's Wagoner Field Office.

CONTACT PERSON:

Cathy Frank, Legal Officer, 29858 E. 690 RD, Wagoner, OK 74467-9154, (918) 485-3999.

[OAR Docket #03-3383; filed 12-18-03]

TITLE 460. DEPARTMENT OF MINES CHAPTER 10. NON-COAL RULES AND REGULATIONS

[OAR Docket #03-3386]

RULEMAKING ACTION:

Notice PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Non-Coal Rules and Regulations
[AMENDED]

SUMMARY:

A proposed change to this chapter is the deletion of Section 5 of Subchapter 29 because it is inconsistent with statutory law, 45 O.S. 2001, Section 728B. A mining bond is statutory and allows the full amount of forfeiture for the violation without the burden of establishing the cost of the statutory violation which was called for in the Section. In 460:10-17-11(b), the Department is proposing to change it's time requirement to act on a permit application, if a conference has been held, from 30 days from the close of the record to a reasonable time after the close of the record to allow tape transcription time when needed. Another change is adding the allowance of permit transfers to Subchapter 19, Permit Revisions, Amendments, And Renewals. Senate Bill 444, passed in 2003, amended O.S. 45, section 724k, to allow permit transfers. The new 460:10-19-6, Permit transfers, contains the application, bonding, public participation, approval criteria requirements and other establishment procedures

AUTHORITY:

45 O.S. Sections 1.5, and 732, Oklahoma Mining Commission.

COMMENT PERIOD:

From January 15, 2004, until February 16, 2004, the public may present their views orally or in writing to the below listed contact person.

PUBLIC HEARING:

A public hearing will be held on February 24, 2004, at 6:15 p.m. at the Department of Mines, 209 E. Wyandotte, Suite 500, McAlester, Ok 74501, and another public hearing will be held at the Department of Mines, 4040 North Lincoln, Suite 107, Oklahoma City, OK 73105, on February 26, 2004 beginning at 1:30 p.m.

REQUEST 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 these proposed rules. Business may submit this information in writing, from January 15, 2004, through February 16, 2004, to the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person listed below.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the below listed contact person at the Department's Wagoner Field Office.

CONTACT PERSON:

Cathy Frank, Legal Officer, 29858 E. 690 RD, Wagoner, OK 74467-9154, (918) 485-3999.

[OAR Docket #03-3386; filed 12-18-03]

TITLE 460. DEPARTMENT OF MINES CHAPTER 20. THE PERMANENT REGULATIONS GOVERNING THE COAL RECLAMATION ACT OF 1979

[OAR Docket #03-3387]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 20. The Permanent Regulations Governing The Coal Reclamation Act Of 1979 [AMENDMENT]

SUMMARY:

The Department is proposing numerous changes found through out this Chapter. Pursuant to the Federal Paperwork Reduction Reauthorization Act of 1986 which was mandated to ensure that unneeded reporting burdens to the permit applicant were eased, the Department is proposing that 460:20-25-11(a)(11) and 20-29-11(a)(11) which pertain to approximate original contours and elevation information be removed. This information is required from the applicant elsewhere within the regulations. There is additional language being proposed to Subchapter 13, Underground Mining Permit Applications: Minimum Requirements For Reclamation at 460:20-31-13(3) which allows operators not using mining technology providing for planned subsidence to be exempted from conducting a survey of buildings or structures. There is also a rebuttable presumption of causation(subsidence) for damage with the angle of draw contained in the underground mining performance standards, Subchapter 45, that has been struck down by the federal courts as not reasonable. This language is found at 460:20-45-47(c)(4) and is proposed to be entirely eliminated. Under 460:20-43-14(a), a new

(14), is being added stating that embankment slopes are not allowed closer than 100 feet to any public road unless certain regulatory procedures are followed and approved. There is also a reference to this requirement or change added as a new 460:43-52(d)(3). In 460:20-43-46 the need for approval by the state's forestry and wildlife agencies for every fish and wildlife habitat revegetation plan is being eliminated. The Department is developing its own minimum success standards for these habitats patterned off the standards used by these agencies, with their approval being obtained by approval of the regulation changes. To 460:20-57-6, the Department is adding regulations that allow citizen complaint issues to be appealed to informal public conferences, with stated procedures, before proceeding to formal review and without an appeal straight to the Director.

AUTHORITY:

45 O.S. Section 1.5; 45 O.S. Section 789; Oklahoma Mining Commission

COMMENT PERIOD:

From January 15, 2004, through February 16, 2004, the public may present their views orally or in writing to the below listed contact person.

PUBLIC HEARING:

Public hearings will be held on February 24, 2004, at 6:30 p.m. at the Department of Mines, 209 E. Wyandotte, Suite 500, McAlester, OK and at the Department of Mines, 4040 N. Lincoln, Suite 107, Oklahoma City, OK on February 26, 2004, to begin at 2:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules, which should mainly be coal mining companies, are requested to provide 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 these proposed rules. Any such cost estimates may be submitted, in writing, to the contact person listed below from January 15, 2004, through February 16, 2004.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person listed below.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person listed below.

CONTACT PERSON:

Cathy Frank, Legal Officer, Oklahoma Department Of Mines Wagoner Field Office, 29858 E. 690 RD, Wagoner, OK 74467-9154, (918) 485-3999.

[OAR Docket #03-3387; filed 12-18-03]

**TITLE 460. DEPARTMENT OF MINES
CHAPTER 25. OKLAHOMA EXPLOSIVES
AND BLASTING REGULATIONS**

[OAR Docket #03-3388]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 25. Oklahoma Explosives And Blasting Regulations [AMENDMENT]

SUMMARY:

This change is being proposed basically for clarification purposes as to who exactly is exempted when blasting is done as an incidental part of government-financed highway construction or contracts.

AUTHORITY:

63 O.S. Section 123.1 et seq., 45 O.S. Section 1.5, Oklahoma Mining Commission

COMMENT PERIOD:

From January 15, 2004, through February 16, 2004, the public may present their views orally or in writing to the below listed contact person.

PUBLIC HEARING:

Public hearings will be held on February 24, 2004, at 6:45 p.m. at the Department of Mines, 209 E. Wyandotte, Suite 500 McAlester, OK 74501, and on February 26, 2004, at the Department of Mines, 4040 N. Lincoln, Suite 107, Oklahoma City, OK 73105, beginning at 2:15 p.m.

REQUEST 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 compliance with the proposed rules. Business entities may submit this information in writing from January 15, 2004, through February 16, 2004, to the below listed contact person.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person listed below.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person listed below.

CONTACT PERSON:

Cathy Frank, Legal Officer, Oklahoma Department of Mines Wagoner Field Office, 29858 E. 690 RD, Wagoner, OK 74467, (918) 485-3999.

[OAR Docket #03-3388; filed 12-18-03]

Notices of Rulemaking Intent

TITLE 460. DEPARTMENT OF MINES CHAPTER 30. COAL COMBUSTION BY- PRODUCT PLACEMENT RULES AND REGULATIONS

[OAR Docket #03-3389]

RULEMAKING ACTION:

Notice PERMANENT rulemaking

PROPOSED RULES:

Chapter 30. Coal Combustion By-Product Placement Rules and Regulations [AMENDED]

SUMMARY:

When this new Chapter was promulgated during the 2003 legislative session it contained a Scribner's error which needs to be corrected. In Subchapter 3, Section 7, the regulations require that each CCB placement application contain a complete analysis of the CCB to be placed on the permitted area and that additional analysis be submitted to the Department biannually. This word should be biennially, which means once every two years, instead of biannually, which means twice a year. This same error is contained through out the section as it relates to certain testing parameters and all need to be changed from biannually to biennially.

AUTHORITY:

45 O.S. Sections 1.5, 732, and 940; Oklahoma Mining Commission.

COMMENT PERIOD:

From January 15, 2004, until February 16, 2004, the public may present their views orally or in writing to the below listed contact person.

PUBLIC HEARING:

A public hearing will be held on February 26, 2004, at 1:45 p.m. at the Department of Mines, 4040 North Lincoln, Suite 107, Oklahoma City, OK 73105.

REQUEST 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 these proposed rules. Business may submit this information in writing, from January 15, 2004 through February 16, 2004, to the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person listed below.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the below listed contact person at the Department's Wagoner Field Office.

CONTACT PERSON:

Cathy Frank, Legal Officer, 29858 E. 690 RD, Wagoner, OK 74467-9154, (918) 485-3999.

[OAR Docket #03-3389; filed 12-18-03]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #03-3399]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Organization of Board

550:1-3-2. [AMENDED]

550:1-3-4. [AMENDED]

Subchapter 5. Petition Procedures

550:1-5-4. [AMENDED]

Subchapter 7. Collections and Disbursements

550:1-7-1. [AMENDED]

550:1-7-4. [AMENDED]

550:1-7-5. [AMENDED]

SUMMARY:

The proposed amendment to OAC 550:1-3-2 is for clarification regarding agendas for regular meetings of the Oklahoma Police Pension and Retirement Board in compliance with the provisions of the Open Meeting Act. The proposed amendments to OAC 550:1-3-4 and OAC 550-1-5-4 are for the purpose of correcting grammar/punctuation. The proposed amendment to OAC 550:1-7-1 clarifies when refunds of contributions will be paid. The proposed amendments to OAC 550:1-7-4 are for the purpose of clarifying the documentation required before a voucher will be issued to an estate, and for clarifying when vouchers payable to an estate will be mailed. The amendments to OAC 550:1-7-5 remove the unnecessary duplication of definitions related to Direct Rollovers that are found in 11 O.S. Section 50-114.2.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., February 17, 2004, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., on Wednesday, February 18, 2004, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on January 29, 2004.

CONTACT PERSON:

Linda Ruckman, Administrative Officer, (405) 840-3555 Ext. 27.

[OAR Docket #03-3399; filed 12-19-03]

**TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM
CHAPTER 10. RETIREMENT AND PENSION BENEFIT PROGRAM**

[OAR Docket #03-3400]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 550:10-1-1. [AMENDED]
- 550:10-1-4. [REVOKED]
- 550:10-1-5. [NEW]

SUMMARY:

The proposed amendments to OAC 550:10-1-1 relate to clarifying/expanding on the purpose of the Chapter. The proposed revocation of OAC 550:10-1-4 pertains to the job description of a police officer. The proposed new rule, OAC 550:10-1-5, is for the purpose of identifying documentation that may be required with regard to an application for a disability benefit based on a permanent in-line disability.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome.

Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., February 17, 2004, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., on Wednesday, February 18, 2004, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on January 29, 2004.

CONTACT PERSON:

Linda Ruckman, Administrative Officer, (405) 840-3555 Ext. 27.

[OAR Docket #03-3400; filed 12-19-03]

**TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM
CHAPTER 15. OKLAHOMA POLICE DEFERRED OPTION PLAN**

[OAR Docket #03-3401]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 550:15-1-1. [AMENDED]
- 550:15-1-2. [AMENDED]
- 550:15-1-3. [NEW]

SUMMARY:

The proposed amendments and new rule are for the purpose of differentiating between participation in the Oklahoma Police Deferred Option Plan under the provisions of 11 O.S. Section 50-113.3A, B,C, D, E and F (forward drop), and participating under the provisions of 11 O.S. Section 50-113.H (back drop). The amendments remove a requirement as to when an application for forward drop must be received by the System and clarify when payment of a member's option account will be made. The new rule establishes procedures for administration of the back drop.

Notices of Rulemaking Intent

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., February 17, 2004, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., on Wednesday, February 18, 2004, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on January 29, 2004.

CONTACT PERSON:

Linda Ruckman, Administrative Officer, (405) 840-3555 Ext. 27.

[OAR Docket #03-3401; filed 12-19-03]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 65. SALES AND USE TAX

[OAR Docket #03-3420]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 65. Sales and Use Tax [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing Sales Tax rules have been made to conform the existing rules to statute, to reflect recent case law, and to implement new legislation:

Much of the proposed new provisions and amendments effectuate and implement newly-enacted legislation as follows:

Amendments to the existing rules have been made to conform to the provisions of L.2003, c. 125, §§ 1-2 (SB 5), which provided that, effective August 29, 2003, the point of sale for purposes of sales taxes will be the point of delivery, for sales made by vendors primarily engaged in selling lumber and building materials.

Amendments to existing rules have been made to conform to certain provisions of L.2003, c. 462, § 1 (SB 440), which exempted service transactions between related entities from sales taxes, for those services which become taxable after July 1, 2003.

Amendments to the existing rules have been made to conform the provisions to L. 2003, c. 291, § 1 (HB 1002), which removed language enacted last year subjecting items of jewelry valued at \$50 or more sold by schools or school groups to the sales tax.

Amendments to the existing rules have been made to conform to the provisions of L.2003, c. 472, §§ 13-18 (HB 1356), which made numerous changes to the sales tax code, including authorizing the Tax Commission to require persons who file reports or returns to file electronically; modification of the definition of manufacturing and manufacturing operation; exemption from sales tax sales for the Broken Bow Economic Development Authority; addition of a new permit requirement for promoters or organizers of special events for a fee of \$50, and definitions pertaining to special events; reduction of the "vendor discount", i.e. that percentage of tax which is retained by sales tax vendors for timely filing, from 2.25 percent to 1.25 percent, for vendors who do not file electronically, except for those vendors who are unable to do so.

Amendments to the existing rules have been made to conform them to the provisions of L.2003, c. 376, §§ 2-3 (HB 1593), added the requirement that persons owing an average of \$2,500 or more per month in sales and/or use taxes remit electronically, twice monthly and providing for a different schedule for the sale of lumber and building materials.

Amendments to the existing rules have been made to conform to the provisions of L.2003, c. 431, § 1 (HB 1712), which enacted an exemption for the Broken Bow Economic Development Authority or its agents.

Finally, the majority of the amendments to the existing rules have been made to adapt them to the provisions of L.2003, c. 413, §§ 1-29 (SB 708), which enacted the "Streamlined Sales and Use Tax Administration Act", and authorized entering into the "Streamlined Sales and Use Tax Agreement" with sister states. Multiple amendments have been made to the existing rules to conform them to the statutory changes which were made in keeping with the Agreement, including adding definitions, clarifying application of tax rates and exemptions, modifying deadlines and procedures, requiring registration of certain vendors, modifying procedures for remittance and apportionment of local sales taxes, modifying procedures for changing state and local tax rates, providing for sourcing of

certain sales, providing amnesty for certain tax remitters, and specifying certain duties of the Tax Commission.

Other amendments have been made to remedy ambiguous language, to update or correct citations, and to give additional applications or examples.

AUTHORITY:

68 O.S. §203; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., February 18, 2004, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, at the numbers provided below.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing is as follows:

February 20, 2004, 2:00 p.m. in Room 1-24 of the Oklahoma Tax Commission, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

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

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although it has been determined that the promulgation of these rules is not expected to adversely impact small business,

the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to compliance with the proposed Rules.**

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after January 30, 2004, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Carolyn Swifthurst, Tax Policy Analyst,
Phone: 405-521-3133, FAX 405-522-0063, Email:
cswifthurst@oktax.state.ok.us

[OAR Docket #03-3420; filed 12-24-03]

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 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #03-3368]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Fee Schedules
35:2-3-3. [AMENDED]

SUBMITTED TO GOVERNOR:

November 24, 2003

SUBMITTED TO HOUSE:

November 24, 2003

SUBMITTED TO SENATE:

November 24, 2003

[OAR Docket #03-3368; filed 12-12-03]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #03-3369]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 11. Poultry and Other Avian Species [NEW]
35:15-11-41. [NEW]

SUBMITTED TO GOVERNOR:

November 24, 2003

SUBMITTED TO HOUSE:

November 24, 2003

SUBMITTED TO SENATE:

November 24, 2003

[OAR Docket #03-3369; filed 12-12-03]

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

[OAR Docket #03-3365]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [NEW]
515:3-1-1. [NEW]
515:3-1-2. [NEW]
Subchapter 3. Initial Parole Consideration [NEW]
515:3-3-1. [NEW]
515:3-3-2. [NEW]
515:3-3-3. [NEW]
515:3-3-4. [NEW]
515:3-3-5. [NEW]
Subchapter 5. Parole Hearing Process [NEW]
515:3-5-1. [NEW]
515:3-5-2. [NEW]
Subchapter 7. Reconsideration [NEW]
515:3-7-1. [NEW]
Subchapter 9. Board Placement [NEW]
515:3-9-1. [NEW]
Subchapter 11. Medical Docket [NEW]
515:3-11-1. [NEW]

SUBMITTED TO THE GOVERNOR:

December 11, 2003

SUBMITTED TO THE HOUSE:

December 11, 2003

SUBMITTED TO THE SENATE:

December 11, 2003

[OAR Docket #03-3365; filed 12-11-03]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 15. AIRCRAFT

[OAR Docket #03-3395]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 2. Aircraft Dealer Licenses
710:15-2-4. Qualification for Aircraft Dealer License [AMENDED]
710:15-2-9. Cancellation, revocation, or forfeiture [AMENDED]
Subchapter 3. Registration
Part 3. Original Applications
710:15-3-10. Procedures for making original application for registration of aircraft [AMENDED]
Part 5. Renewal and Transfer
710:15-3-20. Renewal and transfer of aircraft registration [AMENDED]

Submissions for Review

SUBMITTED TO GOVERNOR:

December 19, 2003

SUBMITTED TO HOUSE:

December 19, 2003

SUBMITTED TO SENATE:

December 19, 2003

[OAR Docket #03-3395; filed 12-19-03]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 22. BOATS AND MOTORS**

[OAR Docket #03-3396]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 5. Procedures for Registration

710:22-5-9. Registration decals [AMENDED]

SUBMITTED TO GOVERNOR:

December 19, 2003

SUBMITTED TO HOUSE:

December 19, 2003

SUBMITTED TO SENATE:

December 19, 2003

[OAR Docket #03-3396; filed 12-19-03]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS
OF REGULATORY AND ADMINISTRATIVE
AUTHORITY**

[OAR Docket #03-3397]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 5. Waste Tire Recycling

710:95-5-8. Transactions to which the fee is inapplicable [AMENDED]

710:95-5-14. Procedure to be used by businesses that manufacture new products or derive energy benefits from processed waste tire material to request compensation [AMENDED]

710:95-5-17. Documentation to be provided to the Commission [AMENDED]

Subchapter 6. Oklahoma Safe Playground Surfaces Program

710:95-6-5. Review and determination of requests for reimbursement or payment [AMENDED]

Subchapter 11. State Employee Licensing Compliance Review [NEW]

710:95-11-1. Purpose [NEW]

710:95-11-2. Definitions [NEW]

710:95-11-3. General Provisions [NEW]

710:95-11-4. Procedure of review and notification of state employee [NEW]

710:95-11-5. Procedure for notification of status to appointing authority [NEW]

SUBMITTED TO GOVERNOR:

December 19, 2003

SUBMITTED TO HOUSE:

December 19, 2003

SUBMITTED TO SENATE:

December 19, 2003

[OAR Docket #03-3397; filed 12-19-03]

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 318. HIGHWAY CONSTRUCTION
MATERIALS TECHNICIAN
CERTIFICATION BOARD
CHAPTER 20. COMPLAINTS AND
INDIVIDUAL PROCEEDINGS**

[OAR Docket #03-3377]

RULEMAKING ACTION:

Gubernatorial Approval

RULES:

- 318:20-1-1. Purpose [NEW]
- 318:20-1-2. Complaint procedures; forms [NEW]
- 318:20-1-3. Investigation of alleged violations [NEW]
- 318:20-1-4. Parties to proceedings [NEW]
- 318:20-1-5. Notice of hearing [NEW]
- 318:20-1-6. Persons to be notified [NEW]
- 318:20-1-7. Method of service [NEW]
- 318:20-1-8. Time for hearing [NEW]
- 318:20-1-9. Hearing [NEW]
- 318:20-1-10. Hearing officer [NEW]
- 318:20-1-11. Failure to appear [NEW]
- 318:20-1-12. Subpoenas [NEW]
- 318:20-1-13. Depositions [NEW]
- 318:20-1-14. Record of hearing [NEW]
- 318:20-1-15. Rehearing [NEW]

318:20-1-16. Appeal [NEW]
GUBERNATORIAL APPROVAL:
December 8, 2003

[OAR Docket #03-3377; filed 12-16-03]

**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 25. CHILD SUPPORT
ENFORCEMENT DIVISION**

[OAR Docket #03-3378]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

- Subchapter 5. Operational Policies
- Part 23. Enforcement
- 340:25-5-211.1. [NEW]
- (Reference APA WF # 03-26)**

GUBERNATORIAL APPROVAL:

December 10, 2003

[OAR Docket #03-3378; filed 12-16-03]

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

[OAR Docket #03-3370]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 21. Organic Food
35:30-21-1. [REVOKED]
35:30-21-1.1. [NEW]
35:30-21-2. through 35:30-21-4. [REVOKED]

AUTHORITY:

2 O.S. 2001 §§ 2-4(2) and 5-301 et seq.; Oklahoma State Board of Agriculture

DATES:

Adoption:

October 23, 2003

Approved by Governor:

December 8, 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:

Incorporated standards:

National Organic Program Standards, as codified at 7 C.F.R. § 205.1 et seq. (2000)

Incorporating rules:

35:30-21-1.1

Availability:

8:00 a.m. to 5:00 p.m. Monday through Friday, Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma

FINDING OF EMERGENCY:

The promulgation of an emergency rule is necessary to bring Oklahoma's Organic Food Program into compliance with the Federal standards within the timeframe allotted by the Federal regulation. Oklahoma's Organic Food Program provides requirements for certification, production, handling, and marketing of organic foods. The continuation of the program is essential to Oklahoma's organic food industry. Therefore, a compelling public interest requires amending Oklahoma's organic food rules to conform to the new Federal standards.

ANALYSIS:

The purpose of the proposed rule is to update Oklahoma's organic food rule in order to meet the new Federal standards on organic foods and organic food certification. This rule is needed to promote the continued growth and economic development of the organic food industry of Oklahoma.

CONTACT PERSON:

Billy Klein, (405) 522-5898, e-mail address: billy@oda.state.ok.us

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 21. ORGANIC FOOD

35:30-21-1. Definitions [REVOKED]

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

~~"Allelochemic" means a naturally occurring substance significant to organisms of a species different from that of its source, for reasons other than food.~~

~~"Farm" means agricultural land leased, owned, or held by and under the management of a certified producer or applicant for certification.~~

~~"Farm unit" means all agricultural land in a contiguous tract leased, owned, or held by and under the management of a certified producer or applicant for certification.~~

~~"Field" means a tract of agricultural land leased, owned, or held by and under the management of a certified producer or applicant for certification.~~

~~"Manuring" means the application to soil of the excreta of agricultural animals, including stable litter and paunch wastes, or the plowing under of uncomposted plants (green manure crops) to increase tilth and fertility.~~

~~"Pheromone" means a substance secreted by an organism to the outside and causes a specific reaction in a receiving organism of the same species.~~

~~"Raw manure" means the excrement of livestock, both solid and liquid, that has not been aged, aerated, composted, fermented, aerobically digested, or humified or processed in a way which improves its value as a biological activator.~~

~~"Semiochemical" means a pheromone, allelochemic, or other naturally occurring substance involved in the chemical interaction between organisms.~~

Emergency Adoptions

35:30-21-1.1. Organic Program Provisions

The State Board of Agriculture adopts the National Organic Program Standards, as codified at 7 C.F.R. § 205.1 *et seq.* (2000).

35:30-21-2. Crop management, fertility practices

[REVOKED]

~~(a) **Conformity to recognized organic practices.** Plant materials, irrigation, and pest controls shall conform to recognized organic practices.~~

~~(b) **Seeds and plant materials.** All propagation materials shall be produced without synthetic pesticides.~~

~~(1) A producer may use the following:~~

~~(A) organically produced or untreated seeds and seedlings;~~

~~(B) nontoxic seed treatments like hot water;~~

~~(C) legume inoculants; or~~

~~(D) fungicide-free pelletization.~~

~~(2) A producer shall not use the following:~~

~~(A) synthetic fungicides, pesticides, or soil fumigants on any seedlings or plant materials grown on farm for organic production; or~~

~~(B) materials or practices that are prohibited elsewhere in this section, on seeds or seedlings~~

~~(c) **Irrigation.**~~

~~(1) If irrigation is utilized, the initial application for certification shall include residue analyses of the water for the presence of prohibited substances.~~

~~(2) As a condition of recertification, a producer with a demonstrated water residue problem shall:~~

~~(A) retest for prohibited substances the following year, and~~

~~(B) submit tissue test results for at least one edible crop each year until no prohibited residue from water is found in the crop, and at least every third year.~~

~~(3) Use of irrigation water known to be contaminated with prohibited substances is not permitted.~~

~~(d) **Weed control.**~~

~~(1) For weed control, a producer may use: timely mechanical or hand cultivation; crop rotations; smother crops; mulching with organic materials or plastic mulches; mowing; cleaning equipment; electrical or flame weeding; biological agents and/or preparations; and grazing.~~

~~(2) For weed control, a producer shall not use: synthetically compounded or petroleum distillate herbicides; or synthetic growth regulators or nutrients at toxic levels to kill weeds.~~

~~(e) **Pest control.**~~

~~(1) For pest control, a producer may use the following:~~

~~(A) mechanical or electrical controls, including traps, repellent crops or apparatus vacuuming, water jets, and physical barriers;~~

~~(B) biological controls, like release of natural predators and parasites and manipulation of the habitat, supplemental feeding, or management of hosts to maintain a viable population of natural predators and parasites;~~

~~(C) soaps, rock powders and diatomaceous earth, herbal preparations, dormant or summer oil sprays, and solutions of pureed arthropods or plants;~~

~~(D) microbial and viral pathogenic agents like *Bacillus thuringiensis*, if petroleum-based synergists are not used in the formulation;~~

~~(E) pheromones used in traps and as mating disruptives;~~

~~(F) semiochemicals and allelochemicals, for the direct or indirect management of pests;~~

~~(G) botanical insecticides like pyrethrum, rotenone, nicotine, sulfate quassia and ryania.~~

~~(2) For pest control, a producer shall not use the following:~~

~~(A) synthetically compounded pesticides;~~

~~(B) natural poisons that have long-term effects and persist in the environment, like arsenic or other lead salts.~~

~~(f) **Disease control.**~~

~~(1) For disease control, a producer may use:~~

~~(A) herbal or plant derived controls and mineral preparations like bordeaux mixture, copper sulfate, elemental and liquid sulfur, and lime sulfur.~~

~~(B) chlorine bleach in dilute solutions as a disinfectant.~~

~~(2) A producer shall not use antibiotics, synthetic fungicides, fumigants, synthetic sterilizing agents, or synthetic bactericidal agents for pest control.~~

~~(g) **Manuring.**~~

~~(1) Raw manure may be applied to crops for human consumption, if the crop is harvested 120 days or more following the most recent application.~~

~~(2) The Board may require that the soil and subsoil of all fields, receiving substantial amounts of manure from off farm sources, be tested for heavy metals, pesticides, or other suspected contaminants.~~

~~(h) **Nitrogen.**~~

~~(1) A producer may use as a source of nitrogen: green manures, nitrogen fixing or cover crops, composted materials, nitrogen fixing microorganisms, vegetable meals, hides, blood meal, or meals made of other animal by products and fish emulsion.~~

~~(2) A producer shall not use as a source of nitrogen: anhydrous ammonia, ammonium nitrate, urea, sewage sludge, contaminated organic materials, or mined or synthetic sources of soluble nitrates.~~

~~(i) **Phosphorus.**~~

~~(1) A producer may use as a source of phosphorus: colloidal, soft rock, and hard rock phosphate; bone meal; guano; food grade orthophosphoric acid in foliar formulations and fishemulsion processing; soap phosphates, or basic slag.~~

~~(2) A producer shall not use as a source of phosphorus ordinary or triple superphosphate or other highly soluble and/or acidifying materials with a high salt content.~~

~~(j) **Potassium.**~~

~~(1) A producer may use as a source of potassium: wood ashes; rock dusts (granite, feldspar, greensand); sulfate of~~

potash magnesia (langbeinite); natural potassium sulfate; kainite; fly ash; and recycled potassium rich organic matter.

(2) A producer shall not use as a source of potassium: muriate of potash (potassium chloride) or other sources with high solubility, high salt or chloride content.

(k) **Calcium.**

(1) A producer may use as a source of calcium: agricultural limestone; agricultural gypsum (hydrated calcium sulfate); kiln dust; calcified seaweed; corn calcium; calcium oxide; calcium chloride based foliar materials; and ground oyster shell.

(2) A producer shall not use as a source of calcium: quicklime; or slaked or hydrated lime.

(l) **Magnesium.** A producer may use as a source of magnesium: dolomitic limestone; kieserite; sulfate of potash magnesia (langbeinite); and Epsom salts (hydrated magnesium sulfate).

(m) **Sulfur.** A producer may use a soil application of elemental sulfur from mined sources.

(n) **Micronutrients.**

(1) A producer may use as a source of micronutrients: liquid or powdered seaweed extract not chemically fortified; kelp meal; rock powders; fritted trace elements or chelated minerals; acid treated (sulfate or oxide) zinc; boron, copper, iron, manganese, or molybdenum; or fish emulsions.

(2) A producer shall not use chemically fortified liquid or powdered seaweed extract as a source of micronutrients.

(o) **Growth regulators, growth promoters, activators, inoculants.** A producer may use the following:

- (1) natural cytokinin formulations like dry or liquid seaweed extract;
- (2) natural enzymes;
- (3) herbal preparations;
- (4) biodynamic preparations;
- (5) rhizobial inoculants;
- (6) free living nitrogen fixing bacteria or other microbial cultures;
- (7) blue green algae;
- (8) cellulolytic bacteria;
- (9) natural rooting hormones;
- (10) humates; or
- (11) adjuvants and wetting agents for foliar applications.

(p) **Prohibited growth regulators, growth promoters, activators, inoculants.** A producer shall not use:

- (1) synthetic growth promoters; or
- (2) synthetic growth regulators.

35:30-21-3. Certification, transitional periods [REVOKED]

(a) The Board shall certify whole farms, farm units, or individual fields as organically productive.

(b) An applicant for certification for organically produced crops shall submit on forms provided by the Board a detailed three year farm plan to the Board for review. This plan shall include:

- (1) a three year rotation and nutrient stabilization plan for each field under organic management;
- (2) a 25 foot buffer zone separating land managed organically from other cultivated agricultural land;
- (3) crop and pesticide application practices for each non-organically managed field located adjacent to an organically managed field.

(c) Any organically grown crop which was produced within 50 feet of a field which had a prohibited pesticide applied, shall be assayed for residues before harvest.

(d) An applicant for certification shall submit water and soil residue assay results to establish a base line for the presence of synthetic pesticides and/or other regulated substances prior to certification. If contamination is suspected, an applicant may also be required to test for the presence of prohibited pesticides in water and plant tissue.

(e) The Board may certify land as organically managed if it can be determined by documentation and affidavit that recognized organic practices have been followed for the previous three years.

(f) Producers of plant crops who have met all requirements for certification except passage of the required three year transitional period may market their produce under an Oklahoma Department of Agriculture transitional license.

(g) If any part of a certified field or farm unit is taken out of organic management, it may be recertified by meeting the qualifications listed for transitional certification.

35:30-21-4. Recordkeeping, separation of produce [REVOKED]

(a) The following records shall be kept for each farm, farm unit, field, or other production unit for which application for certification is made:

- (1) field-by-field fertilization, cropping, and pest management histories; and
- (2) if a crop is produced from more than one field, records shall show the lot, bin, or shipment numbers and dates indicating the field of origin.

(b) A producer of both organic produce and other produce on the same farm shall keep separate records for each of these categories.

(c) A producer of both organic and nonorganic crops on the same farms shall have physical facilities and management procedures adequate to ensure that there is no possibility of crop mixing or commingling. In the absence of this proof, no food of that type from that farm shall be certified or sold as Oklahoma Department of Agriculture Certified Organic.

[OAR Docket #03-3370; filed 12-12-03]

Emergency Adoptions

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 25. FINANCE

[OAR Docket #03-3366]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Funding Criteria
210:25-3-4. [AMENDED]

AUTHORITY:

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

DATES:

Adoption:

October 23, 2003

Approved by Governor:

December 8, 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:

The purpose of the proposed rule changes is to establish due dates for submitting Certified Personnel Reports, establish rules for notifying school districts of underpaid teachers, provide procedures for teachers to claim unpaid portions of salary, and to cleanup language in the previous rules.

ANALYSIS:

The rule changes are of compelling public interest because of Open Records requests for accurate information concerning public school expenditures. The amendments will allow for timely and accurate submission of information from Oklahoma's public schools and will provide for avenues that underpaid teachers can take to be paid properly.

CONTACT PERSON:

Valerie Payne, 405-521-3308

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253 (D):

SUBCHAPTER 3. FUNDING CRITERIA

210:25-3-4. Personnel

(a) Teachers who have not yet received their degrees shall be considered as having a degree if all requirements have been completed except participation in graduation exercises.

(b) A teacher who has taught more than one-half of a day for 120 days or more shall be considered as having had one year of experience. A teacher who has taught the equivalent of 120 days within not more than two contractual years shall be considered as having had one year of experience. Experience shall be counted if the individual was legally employed and paid from funds under the supervision of a school board of education or any school accredited by the State Board of Education. Practice teaching or a practicum in a teacher-training institution shall not be considered as experience. ~~Time served as County Agent or Home Demonstration Agent or Assistant~~

~~Home Demonstration Agent or Assistant County Superintendent of Schools shall be considered as teaching experience, provided during that period the person was eligible to have been issued a teaching certificate.—Veterans Agricultural training instructors or any teacher employed full-time by an accredited college or university shall be considered as having one (1) year of teaching experience for each year of service after July 1, 1945, if such teaching experience is approved by the State Board of Education, provided such teacher held a bachelor's degree at the time these services were performed and was eligible to have been issued a teaching certificate.~~

(c) Any district identified as contracting with a teacher, or administrator without a valid certificate shall be penalized in state aid. The state aid penalty amount shall be the salary amount paid by the district for the number of days the teacher or administrator taught without a valid certificate in excess of allowable substitute days.

(d) All teachers must have an official transcript on file with the Professional Standards Section showing the degree completed.

(e) No later than October 15 of each year, all public school districts must file a ~~"Preliminary (Pre-Print) Certified Personnel Report"~~ an accurate Initial Certified Personnel Report with the State Department of Education. The report shall list all certified personnel in the district and shall list for each person the position code, compensation, degree, certification information, years of qualified experience, number of days employed and other information as deemed necessary. Beginning with the 2004-2005 school year the school district will report to the State Department of Education the salary and benefit information disaggregated as required by law. For each employee not returning ~~this year from the previous year, a reason for leaving~~ or reason for no return code shall be recorded.

(f) No later than February 1 of each year, all public school districts must file ~~an accurate revised "Final Certified Personnel Report"~~ with the State Department of Education. The report shall contain any corrections, ~~deletions, departures,~~ and additions that have occurred since the ~~preliminary~~ October 15 report was filed so that more accurate information is available for state aid calculations, legislative projections and other statistical requirements. State Aid funds shall be withheld from any school district that does not submit the "Final Certified Personnel Report"—by February 1. Only after the accurate report has been received by the State Department of Education shall the withheld State Aid funds be released to the school district.

(g) All public school districts must file a ~~"Supplemental Certified Personnel Report"~~ an accurate End-of-Year Supplemental Certified Personnel Report showing the changes for certified personnel previously listed as well as all information required on any new certified employees not previously listed. This report shall contain any corrections or changes to be made to the ~~"Final Certified Personnel Report."~~ February 1 Personnel Report. All employees that departed the school district prior to completion of the school year shall be given a "Reason-For-Leaving" code and have salary and days employed adjusted. School districts shall also file the Certified Substitute Teachers Report. The "Certified Substitute Teachers

Report" listing the number of days taught in the school year by all certified substitute teachers in the district must also be filed. These two reports shall be filed with the State Department of Education not later than June 15.

(h) If the district pays a teacher less than the minimum salary required by law, the difference shall be deducted from the next payment of state aid, or a claim shall be filed by the Director of Finance to recover any such overpayment to the school district.

(1) The School Personnel Records Section will notify the school superintendent of all potentially underpaid teachers after the Final Certified Personnel Reports are filed with the State Department of Education in February. The school superintendent shall notify the School Personnel Records Section of the district's intent to pay the teacher the underpaid amount or to dispute the amount. If disputed, the school superintendent is responsible for providing documentation to the School Personnel Records Section to show the teacher was not underpaid based on the state minimum salary schedule. The State Aid Section shall withhold from state aid the amount underpaid by October 1 in the school year following the year in which the underpayment occurred.

(2) The method for calculating teacher salaries to ensure state minimums are met shall be determined by the School Personnel Records Section.

(i) If a teacher asserts that the school district he or she is employed by and was employed by the previous year. (or if underpayment occurred prior to July 1, 2002, and the teacher filed an action to recover an underpayment in a court of competent jurisdiction before July 1, 2002), has reduced the salary and/or fringe benefit level without a proportionate reduction in hours or duties, the teacher may file a complaint with the State Department of Education's School Personnel Records Section. The complaint must be accompanied by documentation sufficient to justify the allegations in the complaint. The teacher shall also send a copy of the complaint and supporting documentation to the superintendent of the school district. The documentation shall include, but not be limited to, the teacher's salary and benefit amount for each year in question. The superintendent shall be given an opportunity to submit documentation to refute the teacher's claim within 20 calendar days of receipt of the complaint. The School Personnel Records Section shall review all the documentation presented and present the complaint to the State Board of Education for determination of whether the school district willfully reduced the teacher's salary and benefits in violation of the law. If the school district does not provide a response and supporting documentation to the complaint, the complaint shall be upheld. In the event the review of the documents reveals that the complaint is valid, the State Board of Education shall withhold the amount underpaid from the district's state aid as a penalty. Additionally, the same amount shall be withheld and that amount shall be sent to the teacher.

(j) Any superintendent, principal, or teacher shall not be considered as having received their minimum salary unless such salary is paid by school district warrants issued by the board of education or the school district.

~~(j)~~ Personnel on the staff of the ~~State Department of Vocational and Technical Education~~ Oklahoma Department of Career and Technology Education shall be approved by the State Board of Education for increment purposes.

~~(k)~~ Certified personnel teaching in Manpower Skill Centers and other Manpower Development Training Programs approved by the ~~State Department of Vocational and Technical Education~~ Oklahoma Department of Career and Technology Education shall be considered as teaching in a school approved by the State Board of Education for increment purposes as provided by Oklahoma School Law.

[OAR Docket #03-3366; filed 12-11-03]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 15. LICENSING

[OAR Docket #03-3408]

RULEMAKING ACTION:
EMERGENCY adoption

RULE:
Subchapter 3. Organization Licensing
325:15-3-2. [AMENDED]

AUTHORITY:
75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

DATES:
Adoption:

November 20, 2003

Approved by Governor:
December 1, 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:
Not Applicable

INCORPORATIONS BY REFERENCE:
Not Applicable

FINDING OF EMERGENCY:
Under the authority of 75 O.S. 2001, § 253, the Oklahoma Horse Racing Commission finds that compelling public interests require the adoption of an emergency rule amendment to Rule 325:15-3-2, Application for License and Days to Conduct a Horse Race Meeting, for the following reasons:

1. Under the provisions of the Oklahoma Horse Racing Act, 3A O.S. §§ 201, *et seq.*, and the *Rules of Racing* promulgated by the Oklahoma Horse Racing Commission, racetracks are licensed on an annual basis, and only entities that are properly licensed by the Commission may conduct live pari-mutuel horse racing during any calendar year.

2. Commission Rule 325:15-3-2, which deals with the license application process, requires that every person who intends to conduct a live horse race meeting shall file an organization license application "no later than June 1 of the calendar year proceeding the calendar year for which the requested race meeting is to be conducted." The current Rule contains no provision under which the Commission may allow an out-of-time application.

3. In conformity with the application deadline established in that Rule, a timely application to conduct racing in 2004 at Blue Ribbon Downs in Sallisaw, Oklahoma was filed by Race Horses, Inc., its owner at the time. The Commission voted to grant that entity a license to conduct pari-mutuel horse racing in 2004, conditioned upon, among other things, that entity maintaining possession of the racetrack facility. Because Race Horses, Inc. sold the racetrack in early November of this year, no pari-mutuel horse racing may be conducted at the Sallisaw racetrack in the year 2004 under present Commission Rules.

Emergency Adoptions

4. The new owners of the racing facility seek to conduct pari-mutuel horse racing at the Sallisaw racing facility next year, and wish to make application to do so – but under Commission Rule 325:15-3-2 cannot make an application at this time, as it is after the June 1st deadline.

5. Unless Commission Rule 325:15-3-2 is amended **now, on an emergency basis, no application to conduct pari-mutuel racing at the Sallisaw racetrack in 2004 is possible.**

6. Unless the Commission Rule is amended on an emergency basis to allow for an out-of-time application, a devastating blow will occur to 1) the horse racing industry, 2) the City of Sallisaw, 3) Sequoyah County, and 4) the State as a whole.

7. Failure to amend the Rule to allow late application will have a disastrous effect on the horse racing industry and the State, for unless the Rule is amended:

a) the horsemen and women of Oklahoma in calendar year 2004 will lose the opportunity to race for approximately \$1.8 million in purse monies,

b) the current owners of Blue Ribbon Downs will lose the opportunity to earn approximately \$1.9 million as its share of the pari-mutuel handle,

c) the State of Oklahoma will lose approximately \$475,000 as its share of the pari-mutuel handle,

d) the county and city governments will lose approximately \$20,000 as their share of the pari-mutuel handle, and

e) the Oklahoma Breeding Development Fund Special Account will lose approximately \$240,000.

8. Unless the Rule is amended on an emergency basis, the City of Sallisaw and its surrounding areas will suffer economic devastation, as the Sallisaw Chamber of Commerce informs the Commission that Blue Ribbon Downs racetrack has a \$38 million annual impact on Sequoyah County, provides 700 jobs in Sallisaw in addition to the 105 jobs at the track, and provides \$1.8 million in revenue spent at hotels and restaurants by visitors to the racetrack.

9. Failure to adopt an emergency rule amendment will also harm all of Oklahoma's racetracks, because there is a symbiotic relationship among the racetracks in Oklahoma because of the State's current simulcasting laws. Since the amendments to Title 3A, O.S. 2001, § 205.7, which permitted racetracks to accept wagers on the results of out-of-state full racing programs for simulcast races, the racetracks have supplemented their income and the purses awarded to the horsemen and horsewomen by conducting simulcast wagering. However, because of the provisions of the simulcasting statute, which only permit simulcast wagering during a race meeting, and for an additional number of days, equal to fifty percent (50%) of the days run at those live race meetings, Oklahoma racetracks can only simulcast "year-round" by virtue of agreements with each other to accept each other's signals (under the law, such agreements also permit the acceptance of wagers on simulcast races offered by the other Oklahoma racetracks). For example, Remington Park, which is running eighty-two (82) days in 2003, can only simulcast "year-round" by virtue of agreements with its sister Oklahoma racetracks. Thus, Remington Park would suffer economic hardship, if one of its sister Oklahoma racetracks – such as Blue Ribbon Downs – closed. As such, all racetracks have an interest in seeing that all racetracks in the State continue to operate, because it is only through mutual agreements to share their signals with each other that they can simulcast on a near "year-round basis." Thus, failure to amend the Rule would also harm all Oklahoma racetracks.

10. All of these devastating negative impacts on the horse racing industry, Sequoyah County, and the State can be alleviated by adoption of an emergency rule amendment, which would allow for an application by the Blue Ribbon Downs' new owner.

WHEREFORE, for the reasons stated above, it is the finding of the Oklahoma Horse Racing Commission that compelling public interests require its adoption of an emergency rule amendment to Commission Rule 325:15-3-2 in order to permit racetrack license applications to be submitted to the Commission other than before the June 1 deadline established in the current Rule.

ANALYSIS:

At its November 20, 2003 monthly meeting, the Commission discussed the November 3, 2003 private sale of the assets of Blue Ribbon Downs, the racetrack in Sallisaw, by Race Horses, Inc. to Backstretch, LLC, a private company wholly owned by the Choctaw Nation of Oklahoma. Mr. James Kirk, counsel for Backstretch, LLC, requested in a November 11, 2003 letter that the Commission amend Rule 325:15-3-2, Application for License and Days to Conduct a Horse Race Meeting, to allow the new owner of Blue Ribbon Downs to file an organization license application with the Commission prior to January 31, 2004 in order to provide for racing at Blue Ribbon Downs during CY 2004.

CONTACT PERSON:

Bonnie Morris, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULE AMENDMENT IS CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 3. ORGANIZATION LICENSING

325:15-3-2. Application for License and Days to Conduct a Horse Race Meeting

(a) Pursuant to 3A O.S., § 205.2, every person who intends to conduct a horse race meeting shall file with the Commission an organization license application on a form furnished by the Commission. Said application shall be filed no later than June 1 of the calendar year preceding the calendar year for which the requested race meeting is to be conducted. **Provided, when an existing racing facility licensed by the Commission is sold or transferred to a new owner within sixty days of the June 1 application deadline, or after the June 1 application deadline, the new owner must file its application within ninety (90) days after ownership is transferred to it. Additionally, if ownership of a racetrack licensed by the Commission is transferred during a year in which the new owner wishes to operate for a portion of the remaining year, the new owner may file an application to do so no later than forty-five (45) days after ownership is transferred to it. Further, for good cause shown, the Commission may, in the exercise of its discretion, grant any applicant an extension of time in which to file its application.** Any prospective applicant for license and days to conduct a horse race meeting failing to timely file a complete application for license may be rejected, and the application for license refused summarily by the Commission.

(b) Pari-mutuel organization licensees granted a license to conduct pari-mutuel racing may, with prior Commission approval, conduct official nonpari-mutuel races on otherwise dark days or mornings of allotted pari-mutuel days for the purpose of qualifying horses for races to be run under pari-mutuel conditions.

[OAR Docket #03-3408; filed 12-22-03]

TITLE 340. DEPARTMENT OF HUMAN SERVICES

CHAPTER 25. CHILD SUPPORT ENFORCEMENT DIVISION

[OAR Docket #03-3379]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Operational Policies

Part 23. Enforcement

340:25-5-211.1 [NEW]

(Reference APA WF # 03-26)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 139 and 139.1 of Title 43, Sections 1-153, 6-201, 6-201.1, 6-211, and 6-212 of Title 47, and Sections 237, 237.1, and 240.15 through 240.21A of Title 56 of the Oklahoma Statutes.

DATES:

Adoption:

October 28, 2003

Approved by Governor:

December 10, 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:

Emergency approval is requested as OKDHS finds compelling public interest to preserve the public health, safety, and welfare of children

ANALYSIS:

The revisions to Subchapter 5 of Chapter 25 create Section 211.1 to establish policy and procedures to implement the provisions of Senate Bill 704 (2003), which amended Section 6-201.1 of Title 47 of the Oklahoma Statutes.

340:25-5-211.1 is issued to describe complying with a child support payment schedule and establish Child Support Enforcement Division (CSED) policy and procedures to provide services consistent with the provisions regarding driver license revocation and reinstatement.

CONTACT PERSON:

Dena Thayer, Rules & Policy Management Unit, 405-521-4326.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR, AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 5. OPERATIONAL POLICIES

PART 23. ENFORCEMENT

340:25-5-211.1. Complying with a child support payment schedule after driver license revocation

(a) The Oklahoma Department of Human Services (OKDHS) Child Support Enforcement Division (CSED) follows Sections 139 and 139.1 of Title 43 of the Oklahoma Statutes, Sections 1-153, 6-201, 6-201.1 and 6-211 of Title 47 of the Oklahoma Statutes and Sections 237.1 and 240.15 through 240.21A of Title 56 of the Oklahoma Statutes in processing enforcement actions to order the revocation, suspension, nonissuance, nonrenewal, or probation of an Oklahoma driver license for an obligor who is not in compliance with an order for child support.

(b) After an obligor's driver license has been revoked, suspended, not issued, or not renewed, CSED considers reinstatement requests and conducts an informal desk review under (f) of this Section to determine if an obligor is complying with a child support payment schedule as defined in (h) of this Section.

(c) CSED considers an obligor to be complying with a child support payment schedule when the obligor has:

- (1) paid current monthly child support and arrearage payments for 90 days, or paid an amount equal to three months of the current monthly child support obligation currently due or previously ordered, and an amount equal to three months of the monthly arrearage payment, if any;
- (2) fully disclosed all information regarding health care insurance coverage availability and has obtained such insurance coverage as required by the child support order; and
- (3) fully disclosed all employment and address information.

(d) If an obligor again fails to comply with a child support payment schedule after reinstatement of a driver license, the amounts to be paid under (c)(1) of this Section may be insufficient to show the obligor is complying with the child support payment schedule. Subsequent failures require an obligor to comply with (c) of this Section and may require additional payments in an amount sufficient to satisfy additional monthly arrearage payments. Additional payments for subsequent failures to comply with a child support payment schedule are determined by CSED on a case-by-case basis.

(e) If CSED determines an obligor is complying with a payment schedule, CSED presents to the Office of Administrative Hearings: Child Support (OAH) or district court, as appropriate, an order authorizing reinstatement of driving privileges and placing the obligor on probation regarding child support payments.

(f) A representative of CSED conducts a desk review of the case file within 15 calendar days after a request for reinstatement. If CSED determines an obligor is not complying with a payment schedule, CSED sends a notice to the obligor that the request for reinstatement of driver license is denied. The notice includes instructions for requesting an administrative or district court reinstatement hearing within 15 calendar days after the date on the denial notice.

(g) Upon receipt of a timely request for a hearing, CSED schedules the matter for a hearing before OAH or district court as appropriate.

(h) For purposes of this Section, "payment schedule" means the court-ordered plan for current child support and a monthly amount toward the arrearage in effect at the time the court orders a driver license revoked, suspended, or not renewed.

[OAR Docket #03-3379; filed 12-16-03]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME**

[OAR Docket #03-3398]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 15. Oklahoma Taxable Income

Part 7. Credits Against Tax

710:50-15-93. Credit for Qualified Oklahoma Space Transportation Vehicle Providers [NEW]

Emergency Adoptions

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. §§ 203, 2357.42

DATES:

Adoption:

October 28, 2003 (Commission Order No. 2003-10-28-03)

Approved by Governor:

December 10, 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:

In its Order adopting this rule through emergency rulemaking procedures, the Commission made a finding that the need to implement this credit and provide guidance to the affected entities constituted a compelling public interest.

ANALYSIS:

Definitions for terms used in the enabling statute have been set out, basic eligibility for the credit described, and the procedural steps for preapproval by the Commerce Department and certification by the Tax Commission are explained. Additionally, the rule addresses the various rates for the credit in subsequent years, the maximum credits allowable, transferability of the credit, records requirements, and record retention.

CONTACT PERSON:

Carolyn Swifthurst, Tax Policy Analyst, Tax Policy and Research Division, Oklahoma Tax Commission, 2501 North Lincoln Boulevard, Oklahoma City, OK 73194, 405-521-3133.

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 15. OKLAHOMA TAXABLE INCOME

PART 7. CREDITS AGAINST TAX

710:50-15-93. Credit for qualified Oklahoma space transportation vehicle providers

(a) **General provisions.** There shall be allowed a transferable credit against the tax imposed by 68 O.S. § 2355 or 36 O.S. §§ 624 or 628, for an investment in qualifying Space Transportation Vehicle Providers ("Providers"). In order to qualify for the credit Providers must meet certain eligibility requirements.

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Eligible investment"** means an unencumbered investment in a qualified Space Transportation Vehicle Provider made between January 1, 2001, and December 31, 2003.

(2) **"Equity capitalization"** means assets minus liabilities.

(3) **"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)]

(4) **"Space transportation vehicles"** means *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)]*

(5) **"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. [68 O.S. § 2357.42(C)(4)]*

(c) **Eligibility requirements.** In order to qualify for the credit, application must be made to the Oklahoma Tax Commission, along with supporting documentation outlining certain minimum qualifications. The Tax Commission must certify that the applicant meets the following minimum qualifications:

(1) The applicant must be headquartered in this state or ultimately controlled by an entity headquartered in this state;

(2) The applicant must have been pre-approved by the Oklahoma Department of Commerce to receive incentive payments under the Quality Jobs Program Act or the Former Military Facility Development Act as a basic industry. Determination of eligibility under the Quality Jobs Programs Act or the Former Military Facility Development Act is under the discretion of the Oklahoma Department of Commerce.

(3) The applicant must have at least Ten Million Dollars (\$10,000,000) in equity capitalization.

(4) The applicant must have received a commitment from a local governmental entity in the aggregate amount of Fifteen Million Dollars (\$15,000,000) under the terms outlined in 68 O.S. Section 2357.42(C)(1)(b)(3).

(d) **Certification process.** Upon a written request, the Tax Commission will certify, in writing, to an authorized agent or representative of a qualified provider that the eligibility requirements for the credit set out in Subsection (c) have been met. The Tax Commission, through its General Counsel, will review the documents submitted, which will vary on a case-by-case basis. Determination of the adequacy and sufficiency of all documentation provided to determine eligibility for the credit pursuant to this Section is at the discretion of the Office of the General Counsel.

(e) **Maximum credit.** The maximum amount of investment eligible for the credit is Thirty Million Dollars (\$30,000,000).

If more than one applicant is certified as eligible by the Tax Commission:

(1) Investors in the first approved qualified space transportation vehicle provider will be eligible for a credit based on the lesser of:

- (A) Their eligible investment; or,
- (B) Thirty Million Dollars (\$30,000,000).

(2) Investors in the second and subsequent qualified space transportation vehicle providers approved will be eligible for the credit based on the lesser of:

- (A) Their eligible investment; or,
- (B) The difference between the total investments in previously approved Providers and Thirty Million Dollars (\$30,000,000).

(f) **Amount of credit.** The credit will be available as a percentage of the eligible investment, as follows:

(1) In the first tax year after the eligible investment, ten and six-tenths of one percent (10.6 percent) of the eligible investment may be claimed and is redeemable.

(2) In the second tax year after the eligible investment, eleven and two-hundred-thirty-six one thousandths of one percent (11.236 percent) of the eligible investment may be claimed and is redeemable.

(3) In the third tax year after the eligible investment, eleven and ninety-one hundredths of one percent (11.91 percent) of the eligible investment may be claimed and is redeemable.

(4) In the fourth tax year after the eligible investment, twelve and six-hundred-twenty-four-one-thousandths of one percent (12.624 percent) of the eligible investment may be claimed and is redeemable.

(5) In the fifth tax year after the eligible investment, thirteen and three-hundred-eighty-one-one-thousandths of one percent (13.381 percent) of the eligible investment may be claimed and is redeemable.

(g) **Record retention.** Any qualified space transportation vehicle provider must maintain a record of the investments made in the qualifying space transportation vehicles between January 1, 2001, and December 31, 2003. Qualifying space transportation vehicle providers must submit to the Tax Commission the amount of total investment for this period not later than January 31, 2003. Qualifying space transportation vehicle providers must notify the Tax Commission in writing of any amounts refunded or returned to an investor. Such notification must include the amounts refunded, the recipient and the recipient's tax identification number.

(h) **Transferability.** The credit provided shall be freely transferable and 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.

[OAR Docket #03-3398; filed 12-19-03]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2003-30.

EXECUTIVE ORDER 2003-30

I, Brad Henry, Governor of the State of Oklahoma, pursuant to Article 6, Section 10, of the Oklahoma Constitution, hereby grant a stay of the execution of Hung Thanh Le of thirty (30) days from January 6, 2004, the date of the scheduled execution of Hung Thanh Le. This stay is granted in order for this office to thoroughly evaluate the recommendation of the State Pardon and Parole Board.

On December 9, 2003, the Oklahoma Pardon and Parole Board voted 4-0 to recommend to the Governor that clemency be granted to Hung Thanh Le and that his sentence of death be commuted to life.

In accordance with 22 O.S. Section 1001.1(G), I hereby direct that, in the event clemency is not granted, the sentence of death be carried out in this case not more than 30 days after the dissolution of the stay.

This Executive Order shall be forwarded to the Director of the Oklahoma Department of Corrections and the Oklahoma Attorney General who shall cause the provisions of this Order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 17th day of December, 2003.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #03-3390; filed 12-18-03]

1:2003-31.

EXECUTIVE ORDER 2003-31

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American flags and Oklahoma flags on State property at half-staff on Tuesday, December 23, 2003 from 8:00 a.m. until 5:00 p.m., to honor Representative Don Duke, who died on Sunday, December 21, 2003.

Representative Duke was born in Marshall County on December 7, 1933. He attended Greenville public schools and graduated from Southeastern Oklahoma State University in 1964. He began his distinguished career as a teacher, principal and coach at Woodville and Yukon, Oklahoma. He served as the Carter County attendance counselor, and later worked for more than 11 years with Big Five Community Services as the county coordinator.

Representative Duke served in the House of Representatives for District 48 from 1970 to 1990. His constituents and the State of Oklahoma were truly blessed to have him representing their interests at the State Capitol.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 22nd day of December, 2003.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #03-3413; filed 12-23-03]

Executive Orders

1:2003-32.

EXECUTIVE ORDER 2003-32

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American flags and Oklahoma flags on State property at half-staff until 5:00 p.m., Tuesday, December 30, 2003 to honor law enforcement officer Nikky Green, who died on Friday, December 26, 2003, while in the line of duty.

Law enforcement officers are true heroes, quietly risking their lives every day to protect our public and private safety. Trooper Green died while doing his duty, patrolling the high-ways of Oklahoma.

The loss of any law enforcement officer is a tragedy and we must remember these men and women who make the ultimate sacrifice by giving their lives. We must honor the memory by carrying on their crusade to make our nation a better and safer place.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 26th day of December, 2003.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

Kathy Jekel

Acting Assistant Secretary of State

[OAR Docket #03-3431; filed 12-30-03]

**STATE BOND ADVISOR'S OFFICE
NOTICE OF STATE CEILING AMOUNT FOR
THE CALENDAR YEAR 2004**

In accordance with §695.25, Title 62 O.S., the maximum total volume (also referred to as "Volume Cap" or "State Ceiling Amount") of Private Activity Bonds that may be issued pursuant to federal law by the State of Oklahoma during calendar year 2004 is \$280,922,560. From the first business day of 2004 through September 1, 2004, the Volume Cap is subdivided into the following categories ("Pools") and amounts: (1) Qualified Small Issue Pool, \$31,875,000.00; (2) Exempt Facility Pool, \$10,850,000.00; (3) Beginning Agricultural Producer Pool,

\$2,750,000.00; (4) Student Loan Pool, \$40,625,000.00; (5) Economic Development Pool, \$30,000,000.00; (6) Oklahoma Housing Finance Agency Pool, \$25,075,000.00; (7) State Issuer Pool, \$10,200,000.00; and (8) Local Issuer Single Family Pool, \$129,547,560. From September 2, 2004, to 9:00 a.m., December 20, 2004, any amounts remaining to be allocated from these pools are combined and managed from the Consolidated Pool. On or after 9:00 a.m. on December 20, 2004, certain Private Activity Bond issuing authorities may apply to the State Bond Advisor to carry forward a portion of any remaining State Ceiling Amount.

[OAR Docket #03-3406; filed 12-22-03]

