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Commission on CHILDREN and Youth	135	Oklahoma State Department of HEALTH	310
Board of CHIROPRACTIC Examiners	140	Oklahoma Basic HEALTH Benefits Board (<i>abolished 11-1-97</i>)	315
Oklahoma Department of EMERGENCY Management (<i>Formerly: Department of CIVIL Emergency Management</i>)	145	Oklahoma HEALTH Care Authority	317
Oklahoma Department of COMMERCE	150	HIGHWAY Construction Materials Technician Certification Board	318
COMMUNITY Hospitals Authority	152	Oklahoma HISTORICAL Society	320
COMPSOURCE Oklahoma (<i>Formerly: State INSURANCE Fund</i>) - See Title 370		Oklahoma HORSE Racing Commission	325
Oklahoma CONSERVATION Commission	155	Oklahoma HOUSING Finance Agency	330
CONSTRUCTION Industries Board	158	Oklahoma HUMAN Rights Commission	335
Department of CONSUMER Credit	160	Department of HUMAN Services	340
CORPORATION Commission	165	Committee for INCENTIVE Awards for State Employees	345
Department of CORRECTIONS	170	Oklahoma INDIAN Affairs Commission	350
State Board of COSMETOLOGY	175	Oklahoma INDIGENT Defense System	352
Oklahoma State CREDIT Union Board	180	Oklahoma INDUSTRIAL Finance Authority	355
CRIME Victims Compensation Board	185	Oklahoma State and Education Employees Group INSURANCE Board	360
Joint CRIMINAL Justice System Task Force Committee	190	INSURANCE Department	365
Board of DENTISTRY	195	COMPSOURCE Oklahoma (<i>Formerly:</i> State INSURANCE Fund	370
Oklahoma DEVELOPMENT Finance Authority	200		
Board of Regents of EASTERN Oklahoma State College	205		

Agency	Title	Agency	Title
Oklahoma State Bureau of INVESTIGATION	375	Department of PUBLIC Safety	595
Council on JUDICIAL Complaints	376	REAL Estate Appraiser Board	600
Office of JUVENILE Affairs	377	Oklahoma REAL Estate Commission	605
Department of LABOR	380	Board of Regents of REDLANDS Community College	607
Department of the Commissioners of the LAND Office	385	State REGENTS for Higher Education	610
Council on LAW Enforcement Education and Training	390	State Department of REHABILITATION Services	612
Oklahoma LAW Enforcement Retirement System	395	Board of Regents of ROGERS State College	615
Board on LEGISLATIVE Compensation	400	Board of Regents of ROSE State College	620
Oklahoma Department of LIBRARIES	405	Oklahoma SAVINGS and Loan Board (<i>abolished</i> <i>7-1-93</i>)	625
LIEUTENANT Governor	410	SCENIC Rivers Commission	630
Oklahoma LINKED Deposit Review Board	415	Oklahoma Commission on SCHOOL and County Funds Management	635
Oklahoma LIQUEFIED Petroleum Gas Board	420	Advisory Task Force on the Sale of SCHOOL Lands (<i>functions concluded 2-92</i>)	640
Oklahoma LIQUEFIED Petroleum Gas Research, Marketing and Safety Commission	422	The Oklahoma School of SCIENCE and Mathematics	645
LITERACY Initiatives Commission	425	Oklahoma Center for the Advancement of SCIENCE and Technology	650
LONG-RANGE Capital Planning Commission	428	SECRETARY of State	655
Board of Trustees for the MCCURTAIN County Higher Education Program	430	Department of SECURITIES	660
Commission on MARGINALLY Producing Oil and Gas Wells	432	Board of Regents of SEMINOLE State College	665
State Board of MEDICAL Licensure and Supervision	435	SHEEP and Wool Commission	670
MEDICAL Technology and Research Authority of Oklahoma	440	State Board of Licensed SOCIAL Workers	675
Board of MEDICOLEGAL Investigations	445	SOUTHERN Growth Policies Board	680
Department of MENTAL Health and Substance Abuse Services	450	Oklahoma SOYBEAN Commission (<i>abolished 7-1-97</i>)	685
MERIT Protection Commission	455	Board of Examiners for SPEECH-LANGUAGE Pathology and Audiology	690
MILITARY Planning Commission, Oklahoma Strategic	457	STATE Agency Review Committee	695
Department of MINES	460	STATE Use Committee (<i>Formerly</i> : Committee on Purchases of Products and Services of the Severely HANDICAPPED) – <i>See</i> Title 304	
Oklahoma MOTOR Vehicle Commission	465	Oklahoma STUDENT Loan Authority	700
Board of Regents of MURRAY State College	470	TASK Force 2000	705
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs Control	475	Oklahoma TAX Commission	710
Board of Regents of NORTHERN Oklahoma College	480	Oklahoma Commission for TEACHER Preparation	712
Oklahoma Board of NURSING	485	TEACHERS' Retirement System	715
Oklahoma State Board of Examiners for NURSING Home Administrators	490	State TEXTBOOK Committee	720
Board of Regents of OKLAHOMA City Community College	495	Oklahoma TOURISM and Recreation Department	725
Board of Regents of OKLAHOMA Colleges	500	Department of TRANSPORTATION	730
Board of Examiners in OPTOMETRY	505	Oklahoma TRANSPORTATION Authority	731
State Board of OSTEOPATHIC Examiners	510	State TREASURER	735
PARDON and Parole Board	515	Board of Regents of TULSA Community College	740
Oklahoma PEANUT Commission	520	Oklahoma TURNPIKE Authority (<i>name changed - see Title</i> <i>731</i>)	745
Oklahoma State PENSION Commission	525	Board of Trustees for the UNIVERSITY Center at Tulsa	750
State Board of Examiners of PERFUSIONISTS	527	UNIVERSITY Hospitals Authority	752
Office of PERSONNEL Management	530	Board of Regents of the UNIVERSITY of Oklahoma	755
Oklahoma State Board of PHARMACY	535	Board of Regents of the UNIVERSITY of Science and Arts of Oklahoma	760
PHYSICIAN Manpower Training Commission	540	Oklahoma USED Motor Vehicle and Parts Commission	765
Board of PODIATRIC Medical Examiners	545	Oklahoma Department of VETERANS Affairs	770
Oklahoma POLICE Pension and Retirement System	550	Board of VETERINARY Medical Examiners	775
State Department of POLLUTION Control (<i>abolished</i> <i>1-1-93</i>)	555	Oklahoma Department of CAREER and Technology Education (<i>Formerly</i> : Oklahoma Department of VOCATIONAL and Technical Education)	780
POLYGRAPH Examiners Board	560	Oklahoma WATER Resources Board	785
Oklahoma Board of PRIVATE Vocational Schools	565	Board of Regents of WESTERN Oklahoma State College	790
State Board for PROPERTY and Casualty Rates	570	Oklahoma WHEAT Commission	795
State Board of Examiners of PSYCHOLOGISTS	575	Department of WILDLIFE Conservation	800
Department of CENTRAL Services (<i>Formerly</i> : Office of PUBLIC Affairs)	580	WILL Rogers and J.M. Davis Memorials Commission	805
PUBLIC Employees Relations Board	585		
Oklahoma PUBLIC Employees Retirement System	590		

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 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 20. SPECIMENS

[OAR Docket #04-194]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULE:

40:20-1-3. Collection, transfers, and retention of specimens of blood [AMENDED]

SUMMARY:

Currently Emergency Rules

Removing twelve hour storage requirement, since Forensic Science has published several papers, which have passed peer review stating that this storage is not required.

AUTHORITY:

Board of Tests for Alcohol and Drug Influence 47 O.S., Suppl 2001 Chapter 67, Section 759 and OAC 40:1-1-4.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on Wednesday March 31, 2004 at the following address: Administrative Offices of the Board, 3600 N Martin Luther King Blvd., Building No. 9, Department of Public Safety Complex, Oklahoma City, Oklahoma 73111.

PUBLIC HEARING:

A Public Hearing will be held at 10:00 A.M. on Wednesday March 31, 2004 at The Administrative Offices of the Board located in Building No. 9, 3600 N Martin Luther King Blvd., Department of Public Safety Complex, Oklahoma City, Oklahoma. Anyone wishing to speak must sign in at the door by 10:00 A.M..

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

This will not effect business entities

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Administrative Offices of the Board located in Building No. 9, 3600 N Martin Luther King Blvd., Department of Public Safety Complex, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be available beginning March 1, 2004 and may be obtained from the Board of Tests at the above address.

CONTACT PERSON:

McBeth Sample, Jr., State Director of Tests for Alcohol and Drug Influence, 405-425-2460.

[OAR Docket #04-194; filed 2-4-04]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 25. APPARATUS, DEVICES, EQUIPMENT, AND MATERIALS

[OAR Docket #04-195]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULE:

40:25-1-1. Purpose [AMENDED]

40:25-1-2. Approval evidential breath-alcohol analyzers [AMENDED]

40:25-1-3. Alcoholic breath simulators [AMENDED]

SUMMARY:

Currently Emergency Rules

Removing one device and clarifying another currently in use, adding new simulators in use and taking out old ones no longer in use

AUTHORITY:

Board of Tests for Alcohol and Drug Influence 47 O.S., Suppl 2001 Chapter 67, Section 759 and OAC 40:1-1-4.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on Wednesday March 31, 2004 at the following address: Administrative Offices of the Board, 3600 N Martin Luther King Blvd., Building No. 9, Department of Public Safety Complex, Oklahoma City, Oklahoma 73111.

PUBLIC HEARING:

A Public Hearing will be held at 10:00 A.M. on Wednesday March 31, 2004 at The Administrative Offices of the Board located in Building No. 9, 3600 N Martin Luther King Blvd., Department of Public Safety Complex, Oklahoma City, Oklahoma. Anyone wishing to speak must sign in at the door by 10:00 A.M..

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

This will not effect business entities

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Administrative Offices of the Board located in Building No.

Notices of Rulemaking Intent

9, 3600 N Martin Luther King Blvd., Department of Public Safety Complex, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be available beginning March 1, 2004 and may be obtained from the Board of Tests at the above address.

CONTACT PERSON:

McBeth Sample, Jr., State Director of Tests for Alcohol and Drug Influence, 405-425-2460.

[OAR Docket #04-195; filed 2-4-04]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 35. ANALYSIS OF ALCOHOL IN BLOOD

[OAR Docket #04-196]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULE:

40:35-1-2. Approved Methods of Blood Alcohol Analysis [NEW]

SUMMARY:

Currently Emergency Rules

Replacing old procedures revoked with current procedures

40:35-1-2. Approved Methods of Blood Alcohol Analysis.

AUTHORITY:

Board of Tests for Alcohol and Drug Influence 47 O.S., Suppl 2001 Chapter 67, Section 759 and OAC 40:1-1-4.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on Wednesday March 31, 2004 at the following address: Administrative Offices of the Board, 3600 N Martin Luther King Blvd., Building No. 9, Department of Public Safety Complex, Oklahoma City, Oklahoma 73111.

PUBLIC HEARING:

A Public Hearing will be held at 10:00 A.M. on Wednesday March 31, 2004 at The Administrative Offices of the Board located in Building No. 9, 3600 N Martin Luther King Blvd., Department of Public Safety Complex, Oklahoma City, Oklahoma. Anyone wishing to speak must sign in at the door by 10:00 A.M..

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

This will not effect business entities

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Administrative Offices of the Board located in Building No. 9, 3600 N Martin Luther King Blvd., Department of Public Safety Complex, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be available beginning March 1, 2004 and may be obtained from the Board of Tests at the above address.

CONTACT PERSON:

McBeth Sample, Jr., State Director of Tests for Alcohol and Drug Influence, 405-425-2460.

[OAR Docket #04-196; filed 2-4-04]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 50. IGNITION INTERLOCK DEVICE RULES

[OAR Docket #04-199]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULE:

Chapter 50. Ignition Interlock Device Rules [NEW]

SUMMARY:

Rewriting the Ignition Interlock Device Rules and moving them under the Board of Tests for Alcohol and Drug Influence, making these rules the same as Texas Rules, so we have at least two states with the same rules.

AUTHORITY:

Board of Tests for Alcohol and Drug Influence 47 O.S., Suppl 2001 Chapter 67, Section 759 and OAC 40:1-1-4.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on Wednesday March 31, 2004 at the following address: Administrative Offices of the Board, 3600 N Martin Luther King Blvd., Building No. 9, Department of Public Safety Complex, Oklahoma City, Oklahoma 73111.

PUBLIC HEARING:

A Public Hearing will be held at 10:00 A.M. on Wednesday March 31, 2004 at The Administrative Offices of the Board located in Building No. 9, 3600 N Martin Luther King Blvd., Department of Public Safety Complex, Oklahoma City, Oklahoma. Anyone wishing to speak must sign in at the door by 10:00 A.M..

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

This will affect the Business Entities since the private sector is operating these install sites. Sandra Arnold will be contacted and sufficient copies provided.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Administrative Offices of the Board located in Building No. 9, 3600 N Martin Luther King Blvd., Department of Public Safety Complex, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be available beginning March 1, 2004 and may be obtained from the Board of Tests at the above address.

CONTACT PERSON:

McBeth Sample, Jr., State Director of Tests for Alcohol and Drug Influence, 405-425-2460.

[OAR Docket #04-199; filed 2-5-04]

**TITLE 80. STATE AUDITOR AND INSPECTOR
CHAPTER 10. ADMINISTRATION OF ABSTRACTORS LAW**

[OAR Docket #04-205]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Regulation of Licensees and Certificate/Permit Holders
80:10-5-4.2. [NEW]

SUMMARY:

The proposed new rule (80:10-5-4.2) would require that any penalties assessed and collected due to non-compliance with Rule 80:10-5-4.1 (Abstracts Furnished Without Delay) shall be based upon a schedule that is posted in the office of the Abstractor Registrar, and require that any changes to the penalty schedule cannot be made without thirty days prior notice.

AUTHORITY:

Oklahoma Abstractors Law; 74 O.S. §227.10 et seq.; State Auditor and Inspector

COMMENT PERIOD:

Written and oral comments will be accepted on weekdays between the hours of 8:30 a.m. and 4:00 p.m. from March 1, 2004 to March 31, 2004, at the following address: State Auditor and Inspector; Office of the Abstractor Registrar; Room B-15, State Capitol Building; Oklahoma City, OK 73105.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak on this proposed rule, and must sign in at the door. The hearing will be held at 10 a.m. on Wednesday, March 31, 2004 in the Conference Room of the Abstractor Registrar, Room B-16, State Capitol Building; Oklahoma City, OK.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide this agency, within the comment period, in dollar amounts if possible, information regarding increases in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor,

professional services, revenue loss, or any other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to the Abstractor Registrar at the above address, before the close of the comment period on March 31, 2004.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained in person or by mailing a written request to: State Auditor and Inspector; Office of the Abstractor Registrar; Room B-15, State Capitol Building; Oklahoma City, OK; 73105

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available on and after March 16, 2004 at the location listed above for obtaining a copy of the proposed rules.

CONTACT PERSON:

J. Tim Arbaugh, Abstractor Registrar (405) 521-4290

[OAR Docket #04-205; filed 2-6-04]

**TITLE 80. STATE AUDITOR AND INSPECTOR
CHAPTER 10. ADMINISTRATION OF ABSTRACTORS LAW**

[OAR Docket #04-206]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Abstractor Licenses, Certificates of Authority, and Permits [AMENDED]

SUMMARY:

The proposed amendments would increase the fees charged by the State Auditor and Inspector for Abstractor license, license renewal, Certificate of Authority, and renewal of Certificate of Authority.

AUTHORITY:

Oklahoma Abstractors Law; 74 O.S. §227.10 et seq.; State Auditor and Inspector

COMMENT PERIOD:

Written and oral comments will be accepted on weekdays between the hours of 8:30 a.m. and 4:00 p.m. from March 1, 2004 to March 31, 2004, at the following address: State Auditor and Inspector; Office of the Abstractor Registrar; Room B-15, State Capitol Building; Oklahoma City, OK 73105.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak on this proposed rule, and must sign in at the door. The hearing will be held at 10 a.m. on Wednesday, March 31, 2004 in the Conference Room of the Abstractor Registrar, Room B-16, State Capitol Building; Oklahoma City, OK.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide this agency, within the comment period, in dollar amounts if possible, information regarding increases in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or any other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to the Abstractor Registrar at the above address, before the close of the comment period on March 31, 2004.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained in person or by mailing a written request to: State Auditor and Inspector; Office of the Abstractor Registrar; Room B-15, State Capitol Building; Oklahoma City, OK; 73105

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available on and after March 16, 2004 at the location listed above for obtaining a copy of the proposed rules.

CONTACT PERSON:

J. Tim Arbaugh, Abstractor Registrar (405) 521-4290

[OAR Docket #04-206; filed 2-6-04]

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

[OAR Docket #04-157]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Quality Jobs Program

150:65-1-2. [AMENDED]

150:65-1-12. [AMENDED]

SUMMARY:

These Rules amend the text of Chapter 65. Oklahoma Quality Jobs Program. Verbiage from one sentence will be deleted to authorize the Department of Commerce more flexibility in establishing baseline employment numbers. A provision is also amended in the rules on subunits of establishments to clarify administration after the date of determination, as defined in the rules.

AUTHORITY:

Director of the Oklahoma Department of Commerce; 68 O.S. §§ 3601 et seq.; 74 O.S. §§ 5001 et seq.

COMMENT PERIOD:

Written and oral comments will be accepted from March 1, 2004 through March 31, 2004 during regular business

hours by contacting Donald R. Hackler, Jr., Attorney, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Wednesday, March 31, 2004, at Gallery 1-1, 900 North Stiles Avenue, Oklahoma City, Oklahoma. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Donald R. Hackler, Jr., Attorney, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained without charge from the Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 by contacting Donald R. Hackler, Jr. at (405) 815-5359.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared prior to March 15, 2004, and may be obtained from the same source listed above for obtaining copies of the proposed rules.

CONTACT PERSON:

Donald R. Hackler, Jr., Attorney, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

[OAR Docket #04-157; filed 1-29-04]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES CHAPTER 1. ADMINISTRATION

[OAR Docket #04-212]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 1. Administration [AMENDED]

SUMMARY:

The proposed rule amendments clarify, revise and update information and provisions related to the administration of the Department of Central Services.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 31, 2004, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Wednesday, March 31, 2004 at 2:00 p.m. Anyone who wishes to speak must sign in by 1:55 p.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 15, 2004 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison, (405) 521-2758

[OAR Docket #04-212; filed 2-6-04]

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

[OAR Docket #04-210]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Facilities Management [AMENDED]

SUMMARY:

Amendments to rules add a definition for the Capitol Complex and establish information for access to the State Capitol which include defining access entrances during operating hours, procedures related to security screening, and required compliance with official signs in the Capitol and on the Capitol Complex. New rules establish requirements and procedures for access to the J. Howard Edmondson and Robert S. Kerr Office Buildings, which include operating hours and access requirements. Proposed amendments will also clarify the procedures for reservations of the public areas of the State Capitol and Plazas.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 31, 2004, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Friday, March 31, 2004 at 10:30 a.m. Anyone who wishes to speak must sign in by 10:25 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 15, 2004 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison, (405) 521-2758

[OAR Docket #04-210; filed 2-6-04]

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

[OAR Docket #04-209]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 2. General Provisions [AMENDED]

Subchapter 4. Supplier Provisions [AMENDED]

Subchapter 6. State Agency Provisions [AMENDED]

SUMMARY:

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

Notices of Rulemaking Intent

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 31, 2004, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Wednesday, March 31, 2004 at 11:30 a.m. Anyone who wishes to speak must sign in by 11:25 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Department with information, including, if possible, direct and indirect costs by type with dollar amounts, that a business entity may incur for rule compliance. Business entities may submit the information in writing by the conclusion of the public comment period and public hearing on March 31, 2004, at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 15, 2004 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison, (405) 521-2758

[OAR Docket #04-209; filed 2-6-04]

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

[OAR Docket #04-211]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 20. Construction and Properties [AMENDED]

SUMMARY:

The proposed amended rules clarify, revise and update information, procedures and definitions pertaining to the bidding of projects for construction or renovation of state facilities. Proposed new rules establish procedures for the prequalification of insurance carriers, bonding companies and surety companies and provide a schedule of fees for services rendered by the Construction and Properties Division of the Department of Central Services as authorized by Senate Bill 246, effective July 1, 2003. Additional rule revisions update building code information in Subchapter 5.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 5:00 p.m. on March 31, 2004, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Wednesday, March 31, 2003 at 10:00 a.m. Anyone who wishes to speak must sign in by 9:25 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Department with information, including, if possible, direct and indirect costs by type with dollar amounts, that a business entity may incur for rule compliance. Business entities may submit the information in writing by the conclusion of the public comment period and public hearing on March 31, 2004, at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 15, 2004 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison (405) 521-2758

[OAR Docket #04-211; filed 2-6-04]

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 25. RISK MANAGEMENT PROGRAM**

[OAR Docket #04-208]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 25. Risk Management Program [AMENDED]

SUMMARY:

The proposed rule amendments clarify, revise and update references pertaining to insurance coverage authorized entities acquire through the Risk Management Division of the Department of Central Services.

AUTHORITY:

Director of the Department of Central Services; 74 O.S., Section 85.58A

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 31, 2004, at the following address: Gerry Smedley, Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Building, Room 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Wednesday, March 31, 2004 at 1:00 p.m. Anyone who wishes to speak must sign in by 12:55 p.m. on that day.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will available for review after March 15, 2004 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison, (405) 521-2758

[OAR Docket #04-208; filed 2-6-04]

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 45. PLAN OF OPERATION FOR OKLAHOMA STATE AGENCY FOR SURPLUS PROPERTY**

[OAR Docket #04-213]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 580:45-1-1. Purpose [REVOKED]
- 580:45-1-2. Definitions [REVOKED]
- 580:45-1-3. Authority [REVOKED]
- 580:45-1-4. Designation of state agency [REVOKED]
- 580:45-1-5. Inventory control and accounting systems [REVOKED]
- 580:45-1-6. Return of donated property [REVOKED]
- 580:45-1-7. Financing and service charges [REVOKED]
- 580:45-1-8. Terms and conditions on donated property [REVOKED]
- 580:45-1-9. Non-utilized donable property [REVOKED]
- 580:45-1-10. Fair and equitable distribution [REVOKED]
- 580:45-1-11. Eligibility [REVOKED]
- 580:45-1-12. Compliance and utilization [REVOKED]
- 580:45-1-13. Consultation with advisory groups-public and private [REVOKED]
- 580:45-1-14. Audits [REVOKED]
- 580:45-1-15. Cooperative agreements [REVOKED]
- 580:45-1-16. Liquidation [REVOKED]
- 580:45-1-17. Forms [REVOKED]
- 580:45-1-18. Records [REVOKED]
- 580:45-1-21. Purpose [NEW]
- 580:45-1-23. Definitions [NEW]
- 580:45-1-25. Citations [NEW]
- 580:45-1-27. Authority [NEW]
- 580:45-1-29. Designation of state agency [NEW]
- 580:45-1-31. Inventory control and accounting systems [NEW]
- 580:45-1-33. Return of donated property [NEW]
- 580:45-1-33. Return of donated property [NEW]
- 580:45-1-37. Property restrictions and use requirements. [NEW]
- 580:45-1-39. Disposition of undistributed property [NEW]
- 580:45-1-41. Fair and equitable distribution [NEW]
- 580:45-1-43. Eligibility [NEW]
- 580:45-1-45. Compliance and utilization [NEW]
- 580:45-1-47. Consultation with advisory groups-public and private [NEW]
- 580:45-1-49. Audits [NEW]
- 580:45-1-51. Cooperative agreements [NEW]
- 580:45-1-53. Liquidation [NEW]
- 580:45-1-55. Forms [NEW]
- 580:45-1-57. Records [NEW]
- Appendix A. Organization Chart for the State Agency for Surplus Property [NEW]

Notices of Rulemaking Intent

SUMMARY:

The proposed rule revocations and new rules adhere to provisions of Title 40, United States Code - Public Buildings, Property and Works, Subtitle 1, Chapter 5, Federal Management Regulations 102-37 and 80 O. S., Sections 34.1 et seq., pertaining to transfer of excess and surplus federal property to eligible entities. The proposed rules establish procedures the Department shall follow to satisfy federal regulations that require a state plan of operation for the program, implement inventory control and accounting processes, ensure fair and equitable distribution of property, determine eligibility of an entity to participate in the program, determine service charges an entity shall pay to acquire property, set forth property use restrictions and requirements, establish procedures for the program to follow to ensure proper property utilization and satisfy other federal regulation requirements.

AUTHORITY:

Director of the Department of Central Services; 80 O.S., Section 34.2.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 31, 2004, at the following address: Tom Hall, Department of Central Services, Property Distribution, 3100 N. Creston Dr., Oklahoma City, OK 73111. A person may submit e-mail comments to tom_hall@dcs.state.ok.us.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Building, Room 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Wednesday, March 31, 2004 at 1:30 p.m. Anyone who wishes to speak must sign in by 1:25 p.m. on that day.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will available for review after March 15, 2004 at the Department of Central Services, Administration Division, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Tom Hall, Director of Special Projects and Acting Administrator of Property Distribution, (405) 425-2700.

[OAR Docket #04-213; filed 2-6-04]

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

[OAR Docket #04-207]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 65. State Surplus Property [AMENDED]

SUMMARY:

Proposed amendments will clarify the definition of vehicle or equipment as used in the rules; add a requirement for a state agency to obtain a receipt upon approved transfer of surplus property to another state agency; clarify procedure for disposal of surplus scrap metal. Applicable rules will be modified to include senior citizens centers as required by Senate Bill 589, effective June 4, 2003.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on March 31, 2004, at the following address: Gerry Smedley, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, P.O. Box 53218, Oklahoma City, OK 73152-3218.

PUBLIC HEARING:

A public hearing will be held at the Department of Central Services, Will Rogers Office Building, Suite 214, 2401 N. Lincoln Boulevard, Oklahoma City, OK, on Wednesday, March 31, 2004 at 9:00 a.m. Anyone who wishes to speak must sign in by 8:55 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available for review on and after March 15, 2004 at the Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison, (405) 521-2758

[OAR Docket #04-207; filed 2-6-04]

**TITLE 650. OKLAHOMA CENTER FOR THE ADVANCEMENT OF SCIENCE AND TECHNOLOGY
CHAPTER 45. ADMINISTRATIVE OPERATIONS**

[OAR Docket #04-204]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

- Subchapter 1. General Provisions [NEW]
 - 650:45-1-1. Purpose [NEW]
 - 650:45-1-2. Definitions [NEW]
- Subchapter 3. Administration [NEW]
 - 650:45-3-1. Operation [NEW]
 - 650:45-3-2. OIT Trust Fund Administration [NEW]
 - 650:45-3-3. OIT Advisory Committee [NEW]
- Subchapter 5. Program Description [NEW]
 - 650:45-5-1. Eligibility [NEW]
 - 650:45-5-2. Funding Terms [NEW]
 - 650:45-5-3. Application Process [NEW]
 - 650:45-5-4. Review Process [NEW]
 - 650:45-5-5. Award Provisions [NEW]
 - 650:45-5-6. Contract Provisions [NEW]
 - 650:45-5-7. Confidentiality [NEW]
 - 650:45-5-8. Notification Process [NEW]

SUMMARY:

This chapter is to establish rules for the Oklahoma Institute of Technology ("OIT"), which was established by the Legislature as an institute within the Oklahoma Center for the Advancement of Science and Technology ("OCAST"). [74 O.S. Supp. 2002, § 5060.2(C).] These rules have been adopted for the purpose of implementing and administering the duties of the OIT as provided in 74 O.S. Supp. 2002, § 5060.1 et seq.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 P.M. on March 31, 2004 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

PUBLIC HEARING:

A Public Hearing will be held at 2:00 P.M. on Wednesday, April 1, 2004 at the Oklahoma Center for the Advancement of Science and Technology (OCAST) office, 4545 N. Lincoln Boulevard, Suite 116, Oklahoma City, OK 73105-3413.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Center for the Advancement of Science and

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement is being prepared and will be available for review after March 1, 2004 at the above address for the Oklahoma Center for the Advancement of Science and Technology (OCAST).

CONTACT PERSON:

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

[OAR Docket #04-204; filed 2-6-04]

**TITLE 730. DEPARTMENT OF TRANSPORTATION
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #04-203]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Department of Transportation
 - 730:1-5-1. [AMENDED]

SUMMARY:

The proposed amendment will permit the Department of Transportation to collect for damage to Department facilities based on an estimated cost not to exceed \$2,500.00.

AUTHORITY:

Oklahoma Department of Transportation; 69 O.S., §§ 303 and 304.

COMMENT PERIOD:

Persons may submit written or oral comments to Mike Mayberry at the Oklahoma Department of Transportation, 200 N.E. 21st Street, Room 3A2, Oklahoma City, OK 73105 during the period from March 1, 2004 to March 31, 2004.

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 Michael E. Mayberry, Assistant Director of Administration, at (405) 522-6000, no later than 4:00 p.m. on March 31, 2004.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the Oklahoma Department of Transportation, 200 N.E. 21st Street, Room 3A2, Oklahoma City, OK 73105. Electronic copies may also be obtained by sending a request to: mbrewington@odot.org

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared prior to March 16, 2004 at the same location listed above for obtaining copies.

CONTACT PERSON:

Michael E. Mayberry, Assistant Director - Administration,
(405) 522-6002.

[OAR Docket #04-203; filed 2-6-04]

TITLE 735. STATE TREASURER CHAPTER 80. UNCLAIMED PROPERTY ADMINISTRATION

[OAR Docket #04-190]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Chapter 80. Unclaimed Property Administration
[AMENDED]

SUMMARY:

These Permanent Rules amend the text of Chapter 80. Unclaimed Property Administration. A sentence will be added clarifying the aggregate reporting requirements to conform with statute. City treasurers will no longer be required to report, in conformity with statute. Removal of the annual report date on mineral interest proceeds and the amount of interest due to the owner under 52 O.S. 570.10, in conformity with statute. Adding language to general reporting requirements clarifying reporting form is found on website and deleting the automatic mailing of report forms to the holder during the month of August. Deleting language making certain holders ineligible for amnesty program. Changing the reporting procedure for certified checks, travelers checks, cashier checks, drafts, certificates of deposit and expense and vendor checks to comply with statute. Removing indemnity bond requirements. Changing the interest/penalties assessment procedure from mandatory to discretionary assessment.

AUTHORITY:

State Treasurer, "Uniform Unclaimed Property Act", 60 O.S. §§ 651 et seq.

COMMENT PERIOD:

Monday, March 1, 2004 to Wednesday, March 31, 2004. Written and oral comments will be accepted by contacting the person below, Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m., Central Time. Persons wishing to submit written comments must do so no later than March 31, 2004 at 5:00 p.m.

PUBLIC HEARING:

A public hearing will be held on Wednesday, March 31, 2004 at 2:00 p.m. The hearing will be held at the State Treasurer's Unclaimed Property office conference room located at 4545 North Lincoln Blvd., Suite 106, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The State Treasurer's Office requests that business entities affected by these proposed rules provide the State Treasurer's Office, 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 Susan Bateman, at the address below, before the close of the comment period on March 31, 2004.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the contact person below, Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m., Central Time.

RULE IMPACT STATEMENT:

A copy of the rule impact statement may be obtained from the contact person listed below, Monday through Friday between the hours of 8:30 a.m. and 5:00 p.m., Central Time, beginning Wednesday, March 4, 2004.

CONTACT PERSON:

Susan Bateman, Office of the State Treasurer, 2300 North Lincoln Boulevard, Room 217, Oklahoma City, Oklahoma 73105-4895, telephone number (405) 521-3191.

[OAR Docket #04-190; filed 2-4-04]

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 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-149]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Appendix A. Fine Matrix [REVOKED]

SUBMITTED TO GOVERNOR:

January 22, 2004

SUBMITTED TO HOUSE:

January 22, 2004

SUBMITTED TO SENATE:

January 22, 2004

[OAR Docket #04-149; filed 1-28-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 3. FINE MATRICES

[OAR Docket #04-150]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 3. Fine Matrices [NEW]

SUBMITTED TO GOVERNOR:

January 22, 2004

SUBMITTED TO HOUSE:

January 22, 2004

SUBMITTED TO SENATE:

January 22, 2004

[OAR Docket #04-150; filed 1-28-04]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS

[OAR Docket #04-151]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Eggs [REVOKED]

35:10-3-1. through 35:10-3-10. [REVOKED]

SUBMITTED TO GOVERNOR:

January 22, 2004

SUBMITTED TO HOUSE:

January 22, 2004

SUBMITTED TO SENATE:

January 22, 2004

[OAR Docket #04-151; filed 1-28-04]

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

[OAR Docket #04-152]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 15. Equine Infectious Anemia (EIA)

Part 1. General Provisions [AMENDED]

Part 11. Requirements for Equidae Entering Oklahoma [AMENDED]

SUBMITTED TO GOVERNOR:

January 22, 2004

SUBMITTED TO HOUSE:

January 22, 2004

SUBMITTED TO SENATE:

January 22, 2004

[OAR Docket #04-152; filed 1-28-04]

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

[OAR Docket #04-153]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 25. Meat Inspection [REVOKED]

35:15-25-1. through 35:15-25-380. [REVOKED]

Subchapter 27. Poultry Products Inspection [REVOKED]

35:15-27-1. through 35:15-27-401. [REVOKED]

Subchapter 29. Construction Standards for Meat Packing Plants [REVOKED]

35:15-29-1. through 35:15-29-144. [REVOKED]

Submissions for Review

Subchapter 31. Oklahoma Rabbit and Rabbit Products
Inspection Regulations [REVOKED]

35:15-31-1. through 35:15-31-80. [REVOKED]

Subchapter 41. Exotic Livestock and Exotic Livestock
Products [REVOKED]

35:15-41-1. through 35:15-41-256. [REVOKED]

SUBMITTED TO GOVERNOR:

January 22, 2004

SUBMITTED TO HOUSE:

January 22, 2004

SUBMITTED TO SENATE:

January 22, 2004

[OAR Docket #04-153; filed 1-28-04]

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

[OAR Docket #04-154]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 14. Oklahoma Boll Weevil Quarantine
[AMENDED]

SUBMITTED TO GOVERNOR:

January 22, 2004

SUBMITTED TO HOUSE:

January 22, 2004

SUBMITTED TO SENATE:

January 22, 2004

[OAR Docket #04-154; filed 1-28-04]

**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 35. MILK AND MILK PRODUCTS
[REVOKED]**

[OAR Docket #04-155]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

35:35-1-1. through 35:35-1-5. [REVOKED]

Subchapter 3. Chemical, Bacteriological and Temperature
Standards for Milk and Milk Products

35:35-3-1. [REVOKED]

Appendix A. Chemical, Bacteriological and Temperature
Standards for Milk and Milk Products [REVOKED]

SUBMITTED TO GOVERNOR:

January 22, 2004

SUBMITTED TO HOUSE:

January 22, 2004

SUBMITTED TO SENATE:

January 22, 2004

[OAR Docket #04-155; filed 1-28-04]

**TITLE 87. OKLAHOMA STATE
EMPLOYEES BENEFITS COUNCIL
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #04-177]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 5. Formal and Informal Procedures

87:1-5-10 [AMENDED]

SUBMITTED TO GOVERNOR:

January 30, 2004

SUBMITTED TO HOUSE:

January 30, 2004

SUBMITTED TO SENATE:

January 30, 2004

[OAR Docket #04-177; filed 1-30-04]

**TITLE 87. OKLAHOMA STATE
EMPLOYEES BENEFITS COUNCIL
CHAPTER 10. FLEXIBLE BENEFITS PLAN**

[OAR Docket #04-178]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 3. Flexible Benefits Plan Provisions

87:10-3-2. [AMENDED]

Subchapter 17. Benefit Plan Election

87:10-17-3. [AMENDED]

87:10-17-4. [AMENDED]

87:10-17-5. [NEW]

Subchapter 19. Benefit Allowance

87:10-19-1. [AMENDED]

SUBMITTED TO GOVERNOR:

January 30, 2004

SUBMITTED TO HOUSE:

January 30, 2004

SUBMITTED TO SENATE:

January 30, 2004

[OAR Docket #04-178; filed 1-30-04]

**TITLE 87. OKLAHOMA STATE
EMPLOYEES BENEFITS COUNCIL
CHAPTER 15. COMPETITIVE BIDDING
CRITERIA AND PROCEDURES FOR
CONTRACTS AWARDED FOR FLEXIBLE
BENEFITS PLANS**

[OAR Docket #04-179]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

87:15-1-2. [AMENDED]

87:15-1-4. [AMENDED]

87:15-1-14. [NEW]

SUBMITTED TO GOVERNOR:

January 30, 2004

SUBMITTED TO HOUSE:

January 30, 2004

SUBMITTED TO SENATE:

January 30, 2004

[OAR Docket #04-179; filed 1-30-04]

**TITLE 240. OKLAHOMA EMPLOYMENT
SECURITY COMMISSION
CHAPTER 1. GENERAL PROVISIONS**

[OAR Docket #04-197]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Records and Inspections

240:1-3-3. Confidential records [AMENDED]

240:1-3-4. Copies [AMENDED]

240:1-3-7. Receipt of requests [AMENDED]

SUBMITTED TO GOVERNOR:

February 4, 2004

SUBMITTED TO HOUSE:

February 4, 2004

SUBMITTED TO SENATE:

February 4, 2004

[OAR Docket #04-197; filed 2-4-04]

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

[OAR Docket #04-170]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 8. Health Insurance Portability and
Accountability Act (HIPAA) Privacy Rule [NEW]

340:2-8-1. through 340:2-8-14. [NEW]

(Reference APA WF # 03-17)

SUBMITTED TO GOVERNOR:

January 27, 2004

SUBMITTED TO HOUSE:

January 27, 2004

SUBMITTED TO SENATE:

January 27, 2004

[OAR Docket #04-170; filed 1-30-04]

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

[OAR Docket #04-173]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 17. Staff Development Unit

340:2-17-4. [REVOKED]

Appendix A. Application for Employment [REVOKED]

Appendix C. Employment Eligibility Handout
[REVOKED]

Appendix D. Applicant Availability Letter [REVOKED]

Appendix N. Application for Occupational
Therapy/Physical Therapy Scholarship [REVOKED]

(Reference APA WF # 03-25)

SUBMITTED TO GOVERNOR:

January 27, 2004

SUBMITTED TO HOUSE:

January 27, 2004

SUBMITTED TO SENATE:

January 27, 2004

[OAR Docket #04-173; filed 1-30-04]

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

[OAR Docket #04-174]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Appendix E. Statement of Grievance and Resolution
[REVOKED]

Appendix F. Student Grievance [REVOKED]

Submissions for Review

Appendix J. Claim Form [REVOKED]
Appendix R. Release of Information Regarding Juveniles
[REVOKED]

(Reference APA WF # 03-27)

SUBMITTED TO GOVERNOR:

January 24, 2004

SUBMITTED TO HOUSE:

January 24, 2004

SUBMITTED TO SENATE:

January 24, 2004

[OAR Docket #04-174; filed 1-30-04]

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

[OAR Docket #04-175]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

340:10-1-3. [AMENDED]

Subchapter 2. Temporary Assistance for Needy Families
(TANF) Work Program

340:10-2-3. through 340:10-2-4. [AMENDED]

340:10-2-7. through 340:10-2-8. [AMENDED]

340:10-2-9. [REVOKED]

Subchapter 3. Conditions of Eligibility - Need

Part 1. Resources

340:10-3-2. through 340:10-3-3. [AMENDED]

340:10-3-5. [AMENDED]

340:10-3-10. [AMENDED]

Part 3. Income

340:10-3-32. [AMENDED]

340:10-3-39. [AMENDED]

340:10-3-40. [AMENDED]

Part 5. Assistance Payments

340:10-3-56. [AMENDED]

Subchapter 12. Conditions of Eligibility - Social Security
Numbers

340:10-12-1. [AMENDED]

Subchapter 15. Conditions of Eligibility - Citizenship and
Alienage

340:10-15-1. [AMENDED]

340:10-15-3. [AMENDED]

340:10-15-5. [REVOKED]

340:10-15-9. [REVOKED]

Subchapter 20. Diversion Assistance

340:10-20-1. [AMENDED]

Subchapter 22. Temporary Assistance For Needy Families
(TANF) Supported Permanency Program

340:10-22-1. [AMENDED]

(Reference APA WF # 03-11, 03-23, and 03-32)

SUBMITTED TO GOVERNOR:

January 27, 2004

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January 27, 2004

[OAR Docket #04-175; filed 1-30-04]

**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 20. LOW INCOME HOME
ENERGY ASSISTANCE PROGRAM
(LIHEAP)**

[OAR Docket #04-169]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. Low Income Home Energy Assistance
Program

340:20-1-10. through 340:20-1-11. [AMENDED]

340:20-1-17. [AMENDED]

(Reference APA WF # 03-18)

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**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 50. FOOD STAMP PROGRAM**

[OAR Docket #04-171]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Non-Financial Eligibility Criteria

Part 1. Household Definition

340:50-5-8.1. [AMENDED]

Part 5. Students, Strikers, Resident Farm Laborers, Migrant
Households, Sponsored Aliens, and School Employees

340:50-5-49. [AMENDED]

Subchapter 7. Financial Eligibility Criteria

Part 1. Resources

340:50-7-2. [AMENDED]

340:50-7-4. [AMENDED]

Part 3. Income

340:50-7-20. through 340:50-7-21. [REVOKED]

340:50-7-22. [AMENDED]
340:50-7-23. through 340:50-7-24. [REVOKED]
340:50-7-26. through 340:50-7-28. [REVOKED]
340:50-7-29. [AMENDED]
340:50-7-31. [AMENDED]
Part 5. Determination of Income and Deductions
340:50-7-45. through 340:50-7-46. [AMENDED]
340:50-7-47. through 340:50-7-48. [REVOKED]
Subchapter 9. Eligibility and Benefit Determination
Procedures
340:50-9-1. [AMENDED]
340:50-9-5. [AMENDED]
Subchapter 10. Electronic Benefit Transfer (EBT)
340:50-10-11. [AMENDED]
Subchapter 13. Fair Hearings
340:50-13-2. [AMENDED]
Subchapter 15. Overpayments and Fraud
Part 1. Overpayments
340:50-15-1. [AMENDED]
340:50-15-6. [AMENDED]
(Reference APA WF # 03-16, 03-22, and 03-31)

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[OAR Docket #04-171; filed 1-30-04]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 70. SOCIAL SERVICES**

[OAR Docket #04-172]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 8. Supplemental Security Income-Disabled
Children's Program (SSI-DCP)

340:70-8-1. [AMENDED]

(Reference APA WF # 03-30)

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[OAR Docket #04-172; filed 1-30-04]

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

[OAR Docket #04-158]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

340:75-1-28. [AMENDED]

Subchapter 6. Permanency Planning

Part 5. Permanency Planning Services

340:75-6-31.3. [AMENDED]

Part 8. Role of the Child Welfare Worker

340:75-6-48. [AMENDED]

Subchapter 16. Mental Health Treatment Services

Part 1. Inpatient Mental Health Treatment

340:75-16-27. [REVOKED]

340:75-16-28. through 340:75-16-33. [AMENDED]

340:75-16-36. through 340:75-16-37. [AMENDED]

(Reference APA WF 03-12, 03-14, and 03-21)

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[OAR Docket #04-158; filed 1-29-04]

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

[OAR Docket #04-159]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

Part 1. Scope and Applicability

340:75-1-12.1. [REVOKED]

340:75-1-12.2. [AMENDED]

Subchapter 4. Family-Centered and Community Services

Part 1. Voluntary Family-Centered Services

340:75-4-13. [AMENDED]

Subchapter 16. Mental Health Treatment Services

Part 1. Inpatient Mental Health Treatment

340:75-16-39. [AMENDED]

(Reference APA WF 03-33)

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Submissions for Review

SUBMITTED TO SENATE:

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[OAR Docket #04-159; filed 1-29-04]

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

[OAR Docket #04-160]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Part 1. Scope and Applicability

Subchapter 1. General Provisions

340:75-1-18.1. [AMENDED]

340:75-1-22. [AMENDED]

Subchapter 6. Permanency Planning

Part 5. Permanency Planning Services

340:75-6-30. through 340:75-6-31. [AMENDED]

340:75-6-31.4. [AMENDED]

Part 7. Case Plans

340:75-6-40. through 340:75-6-40.1. [AMENDED]

340:75-6-40.4. through 340:75-6-40.5. [AMENDED]

(Reference APA WF 03-34)

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[OAR Docket #04-160; filed 1-29-04]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION**

[OAR Docket #04-176]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Administration

Part 1. General Administration

340:100-3-5.2. [AMENDED]

Part 3. Operations

340:100-3-27. [AMENDED]

340:100-3-29. [AMENDED]

340:100-3-38.12. [NEW]

Subchapter 5. Client Services

Part 3. Service Provisions

340:100-5-22.5. [AMENDED]

340:100-5-26. [AMENDED]

340:100-5-26.2. [NEW]

(Reference APA WF # 03-09 and 03-28)

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[OAR Docket #04-176; filed 1-30-04]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 105. AGING SERVICES DIVISION**

[OAR Docket #04-161]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 10. Policies and Procedures Manual for Title III of the Older Americans Act of 1965, as Amended

Part 5. Area Agencies on Aging

340:105-10-41. [AMENDED]

Part 7. Program Standards for Services Funded Under Title III

340:105-10-51. [AMENDED]

340:105-10-72. [AMENDED]

340:105-10-75. [AMENDED]

340:105-10-79. [AMENDED]

340:105-10-86. [AMENDED]

340:105-10-89. [AMENDED]

340:105-10-90.1. [AMENDED]

Part 9. Fiscal and Administrative Policies for Area Agencies on Aging and Title III Projects

340:105-10-101. through 340:105-10-102. [AMENDED]

340:105-10-104. [AMENDED]

340:105-10-117. through 340:105-10-119. [AMENDED]

340:105-10-121. through 340:105-10-122. [AMENDED]

(Reference APA WF 03-35)

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[OAR Docket #04-161; filed 1-29-04]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 110. LICENSING SERVICES**

[OAR Docket #04-162]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 3. Licensing Standards for Child Care Facilities
 - Part 1. Requirements for Child Care Centers
 - 340:110-3-1. through 340:110-3-3. [AMENDED]
 - 340:110-3-4. [REVOKED]
 - 340:110-3-5. through 340:110-3-6. [AMENDED]
 - 340:110-3-7.1. [AMENDED]
 - 340:110-3-9.1. through 340:110-3-11. [AMENDED]
 - 340:110-3-14. [AMENDED]
 - 340:110-3-22. [AMENDED]
 - 340:110-3-25. through 340:110-3-29. [AMENDED]
 - 340:110-3-31. [AMENDED]
 - 340:110-3-33. through 340:110-3-33.1. [AMENDED]
 - Part 14. Requirements for School-Age Programs
 - 340:110-3-220. through 340:110-3-242. [NEW]
- (Reference APA WF 03-10)**

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[OAR Docket #04-162; filed 1-29-04]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 110. LICENSING SERVICES**

[OAR Docket #04-163]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- Part 1. Licensing Services - Child Care
- 340:110-1-4.1. through 340:110-1-6. [AMENDED]
- 340:110-1-8. [AMENDED]
- 340:110-1-8.3. [AMENDED]
- 340:110-1-9. through 340:110-1-9.3. [AMENDED]
- 340:110-1-9.5. [AMENDED]
- 340:110-1-10. through 340:110-1-11. [AMENDED]
- 340:110-1-14. [AMENDED]
- 340:110-1-20. [AMENDED]
- Appendix P. Juvenile Detention Center Compliance Review [REVOKED]
- Appendix Q. Juvenile Detention Center Visit Sheet [REVOKED]

- Appendix R. Juvenile Detention Center Resident Record Check [REVOKED]
 - Appendix BB. Child Care Center Staff-Child Ratio [REVOKED]
 - Appendix CC. Child Care Center Minimum Equipment Requirements [REVOKED]
 - Appendix DD. Child Care Center Exclusion Criteria for Children Who Are Ill [REVOKED]
- (Reference APA WF 03-29)**

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[OAR Docket #04-163; filed 1-29-04]

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 3. INDIVIDUAL PROCEEDINGS**

[OAR Docket #04-191]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- Subchapter 3. Investigations and Hearings
- 435:3-12. ~~Board advisor Rulings upon evidence and objections-~~[AMENDED]

SUBMITTED TO GOVERNOR:

February 3, 2004

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[OAR Docket #04-191; filed 2-4-04]

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 10. PHYSICIANS AND SURGEONS**

[OAR Docket #04-192]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- Subchapter 5. Approval of Hospitals and Programs for Post-Graduate Training
- 435:10-5-1. Determination of hospitals and programs approved for post-graduate training [AMENDED]

SUBMITTED TO GOVERNOR:

February 3, 2004

Submissions for Review

SUBMITTED TO HOUSE:

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SUBMITTED TO SENATE:

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[OAR Docket #04-192; filed 2-4-04]

**TITLE 435. STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
CHAPTER 10. PHYSICIANS AND
SURGEONS**

[OAR Docket #04-193]

RULEMAKING ACTION:

Submission for Gubernatorial and Legislative review.

RULES:

Subchapter 19. Special Volunteer Medical License [NEW]

435:10-19-1. Purpose [NEW]

435:10-19-2. Procedure for volunteer license [NEW]

435:10-19-3. Annual renewal [NEW]

SUBMITTED TO GOVERNOR:

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[OAR Docket #04-193; filed 2-4-04]

**TITLE 485. OKLAHOMA BOARD OF
NURSING
CHAPTER 10. LICENSURE OF PRACTICAL
AND REGISTERED NURSES**

[OAR Docket #04-187]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 11. Disciplinary Action

485:10-11-2. [AMENDED]

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[OAR Docket #04-187; filed 2-2-04]

**TITLE 485. OKLAHOMA BOARD OF
NURSING
CHAPTER 10. LICENSURE OF PRACTICAL
AND REGISTERED NURSES**

[OAR Docket #04-188]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 7. Requirements for Registration and Licensure
as a Registered Nurse

485:10-7-2. [AMENDED]

485:10-7-4. [AMENDED]

485:10-7-5. [AMENDED]

Subchapter 9. Requirements for Registration and Licensure
as a Licensed Practical Nurse

485:10-9-1. [AMENDED]

485:10-9-2. [AMENDED]

485:10-9-4. [AMENDED]

485:10-9-5. [AMENDED]

Subchapter 13. Requirements for Employment

485:10-13-2. [AMENDED]

Subchapter 15. Requirements for Practice as an Advanced
Practice Nurse

485:10-15-5. [AMENDED]

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[OAR Docket #04-188; filed 2-2-04]

**TITLE 490. OKLAHOMA STATE BOARD
OF EXAMINERS FOR NURSING HOME
ADMINSTRATORS
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #04-147]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

490:1-1-2. [AMENDED]

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[OAR Docket #04-147; filed 1-28-04]

**TITLE 490. OKLAHOMA STATE BOARD
OF EXAMINERS FOR NURSING HOME
ADMINISTRATORS
CHAPTER 10. RULES AND REGULATIONS
FOR NURSING HOME ADMINISTRATORS**

[OAR Docket #04-148]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. Licensing of Nursing Home Administrators

490:10-1-2. [AMENDED]

490:10-1-6. [AMENDED]

490:10-1-7. [NEW]

Subchapter 5. Licensure Expiration, Renewal, Denial,

Revocation and Suspension

490:10-5-2. [AMENDED]

490:10-5-3. [AMENDED]

490:10-5-4. [NEW]

Subchapter 10. Fee Schedule

490:10-10-1. [AMENDED]

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[OAR Docket #04-148; filed 1-28-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 20. ALCOHOL, MIXED
BEVERAGES, AND LOW-POINT BEER**

[OAR Docket #04-164]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 2. Low-Point Beer

Part 1. General Provisions

710:20-2-4. Payment of taxes; persons liable [AMENDED]

710:20-2-6. Annual state permits and license taxes
[AMENDED]

710:20-2-16. [RESERVED]

710:20-2-17. [RESERVED]

710:20-2-18. [RESERVED]

710:20-2-19. [RESERVED]

710:20-2-20. Keg identification [NEW]

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[OAR Docket #04-164; filed 1-29-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 45. GROSS PRODUCTION,
PETROLEUM EXCISE, AND
CONSERVATION EXCISE**

[OAR Docket #04-165]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 9. Exemptions and Exclusions

Part 5. Horizontally Drilled Production Wells

710:45-9-21. [AMENDED]

710:45-9-24. [AMENDED]

710:45-9-28. [AMENDED]

Part 7. Incremental Production from Enhanced Recovery
Projects

710:45-9-31. [AMENDED]

710:45-9-32.1. [AMENDED]

710:45-9-34. [AMENDED]

710:45-9-35. [AMENDED]

Part 9. Production Enhancement Projects

710:45-9-40. [AMENDED]

710:45-9-41. [AMENDED]

710:45-9-43. [AMENDED]

Part 11. Reestablishment of Production from an Inactive
Well

710:45-9-51. [AMENDED]

710:45-9-53. [AMENDED]

Part 13. Deep Wells

710:45-9-60. [AMENDED]

710:45-9-62.1. [AMENDED]

Part 15. New Discovery Wells

710:45-9-70. [AMENDED]

710:45-9-71. [AMENDED]

710:45-9-73. [AMENDED]

Part 19. Production Using Three Dimensional Seismic
Shoots

710:45-9-90. [AMENDED]

710:45-9-92. [AMENDED]

710:45-9-93. [AMENDED]

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Submissions for Review

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January 29, 2004

[OAR Docket #04-165; filed 1-29-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 70. TOBACCO, AND TOBACCO
PRODUCTS, AND CIGARETTES**

[OAR Docket #04-166]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 2. Cigarette Stamp Tax [NEW]

710:70-2-1. Purpose [NEW]

710:70-2-2. Definitions [NEW]

710:70-2-3. When stamps must be applied [NEW]

710:70-2-4. Conditions under which a cigarette license may be granted, maintained, or renewed [NEW]

710:70-2-5. Filing requirements for persons making "delivery sales of cigarettes" [NEW]

710:70-2-6. Requirements placed on vendors making delivery sales of cigarettes [NEW]

710:70-2-7. Payment of taxes due on delivery sales of cigarettes [NEW]

710:70-2-8. Penalties for failure to comply with statutory provisions [NEW]

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January 29, 2004

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January 29, 2004

[OAR Docket #04-166; filed 1-29-04]

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 710. OKLAHOMA TAX COMMISSION CHAPTER 15. AIRCRAFT

[OAR Docket #04-200]

RULEMAKING ACTION:

Gubernatorial approval

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]

GUBERNATORIAL APPROVAL:

February 2, 2004

[OAR Docket #04-200; filed 2-6-04]

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

[OAR Docket #04-201]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 5. Procedures for Registration

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

GUBERNATORIAL APPROVAL:

February 2, 2004

[OAR Docket #04-201; filed 2-6-04]

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

[OAR Docket #04-202]

RULEMAKING ACTION:

Gubernatorial approval

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]

GUBERNATORIAL APPROVAL:

February 2, 2004

[OAR Docket #04-202; filed 2-6-04]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

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

[OAR Docket #04-156]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. Quality Jobs Program
150:65-1-2. Definitions [AMENDED]
150:65-1-12. Subunit [AMENDED]

AUTHORITY:

Director of the Oklahoma Department of Commerce; 68 O.S. §§ 3601 et seq.; 74 O.S. §§ 5001 et seq.

DATES:

Adoption:

August 5, 2003

Approved by Governor:

August 7, 2003

Effective:

Immediately upon Governor's approval on August 7, 2003

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

A compelling public interest requires the adoption of these emergency rules in order to sustain and grow employment in the State of Oklahoma and to avoid job loss.

ANALYSIS:

These Emergency Rules amend the text of Chapter 65. Oklahoma Quality Jobs Program. Verbiage from one sentence will be deleted to authorize the Department of Commerce more flexibility in establishing baseline employment numbers. A provision is also amended in the rules on subunits of establishments to clarify administration after the date of determination, as defined in the rules.

CONTACT PERSONS:

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

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

SUBCHAPTER 1. QUALITY JOBS PROGRAM

150:65-1-2. Definitions

For purposes of this chapter, the following words and terms shall have the following meaning unless the context clearly indicates otherwise.

"Baseline employment" means an establishment's total number of jobs which existed in this state prior to approval of the establishment's application by the Oklahoma Department of Commerce. A job shall be deemed to exist in this state prior to approval of an establishment's application if the activities and functions for which the particular job exists have been ongoing at anytime within six months prior to approval of the establishment. Upon approval of an application or upon the start date of a project if it is more than sixty days later than the approval date, the Department shall determine an establishment's baseline employment to be its current employment or its average employment over the last four quarters—~~whichever is greater.~~

"Combination" means an establishment, provided it meets the requirements of 68 O.S. Supp. 1994, Section 3601 et seq. and the requirements set out in 150:65-1-13 of this chapter.

"Cost-benefit analysis" means the analysis the Oklahoma Department of Commerce is required to perform to determine the estimated direct state benefits and estimated direct state costs.

"Date of determination" means the date assigned by the Department on the Incentive Offer on which a subunit and the entity of which the subunit is a part, must demonstrate a net increase in total employment in accordance with 150:65-1-12 (b) and (c) of this chapter.

"Employment of the remainder of the entity of which the subunit is a part" means total number of jobs of an entity of which the subunit is a part which existed in this state prior to approval of the subunit as an establishment by the Oklahoma Department of Commerce. Such jobs shall be deemed to exist in this state prior to approval of a subunit as an establishment if the activities and functions for which the particular job exists have been ongoing at any time within six months prior to approval of the subunit as an establishment. Upon approval of an application or upon the start date of a project of a subunit as an establishment, if it is more than sixty days later than the approval date, the Department shall determine the employment of the remainder of the entity of which the subunit is a part to be its current employment or its average employment over the last four quarters, whichever is greater.

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"Entity of which the subunit is a part" means the business or governmental entity of which a subunit is a separate part as described in 68 O.S. Supp. 1994, Section 3603(8)(a) and 150:65-1-12 of this chapter.

"Estimated direct state benefits" means the tax revenues projected...to accrue to the state as a result of new direct jobs. [68:3603(A)(4)] Such revenues shall include:

(A) State income tax receipts from employees holding new direct jobs. The Oklahoma Department of Commerce will determine the estimated direct state benefit from personal income tax receipts by reviewing:

- (i) historical data on similar or existing projects;
- (ii) information provided by the establishment;
- (iii) data from federal agencies such as United States Bureau of the Census and the United States Department of Labor;
- (iv) the most recent historical data from the Oklahoma Tax Commission on average personal tax rates by income class; and,
- (v) private sector financial reports; and

(B) State sales and use tax receipts, excise tax receipts, gasoline tax receipts and other anticipated tax receipts resulting from purchases by employees holding new direct jobs. The Department will determine the estimated direct state benefit from such taxes by reviewing:

- (i) information supplied by the establishment;
- (ii) data from federal agencies such as the United States Department of Labor;
- (iii) Oklahoma Tax Commission sales and use tax reports; and,
- (iv) private sector financial reports.

"Estimated direct state costs" means the costs projected to accrue to the state as a result of new direct jobs employing new state residents and/or new state service beneficiaries. Such costs shall include:

(A) The costs of educating new state resident children. The Oklahoma Department of Commerce will determine the estimated direct state costs of such educations by using:

- (i) information supplied by the establishment;
- (ii) the most recent average student allocation per pupil formula provided by the Oklahoma Department of Education; and,
- (iii) United States Department of Labor statistics;

(B) The costs of government services such as public health, public safety and transportation provided to new residents and/or state service beneficiaries. The Department will determine the estimated direct state costs for such government costs by examining the state's per capita cost of providing non-common education services and estimating the amount of the state's excess capacity; and

(C) The costs of any industrial access road paid for with state funds and provided by the Oklahoma

Department of Transportation; provided, the road is clearly from the facility to the thoroughfare and is clearly and primarily utilized by the establishment.

"Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs. [68:3603(A)(5)]

"Full-time equivalent employment" means employment which has a minimum six-month duration during any twelve-month time period, regardless whether the same employee holds the employment for said time.

"Line of business" means the SIC code that is reflected by the end product or services of a given project resulting in new direct jobs.

"Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll... [T]he net benefit rate may be variable and shall not exceed five percent (5%). [68:3603(A)(6)]

"New direct jobs" means full-time equivalent employment by a qualified establishment but does not include jobs which constitute an establishment's baseline employment as determined by the Oklahoma Department of Commerce pursuant to the definitions of this section. An establishment must maintain a total number of jobs equal to its baseline employment number before any job of the establishment shall be considered a new direct job.

"Quality jobs representative" means an Oklahoma Department of Commerce professional or economic development professional, trained in the Oklahoma Quality Jobs Program, who is so designated by the Executive Director, and whose responsibilities in the program include direct contact with applicants and clients, analysis of data, initiation of project proposals, preparation of project profiles and preparation of incentive offers.

"Subunit" means an establishment, provided it meets all requirements of 68 O.S. Supp. 1994, Section 3601 et seq. and the requirements set out in 150:65-1-12 of this chapter.

150:65-1-12. Subunit

(a) In order to determine the presence or to project the likelihood in a timely manner, of all the conditions that the Oklahoma Department of Commerce must require a subunit to meet in order to be determined to be an establishment under the terms of the Quality Jobs Program Act as set forth in 68 O.S. Supp. 1994, Section 3603(8)(a), the Department may consider the following:

- (1) All information and conditions to determine if an entity is qualified to be an establishment pursuant to 68 O.S. Supp. 1994, Sections 3601 et seq. and 150:65-1-3 through 150:65-1-9 of this chapter;
- (2) Unique or new product line within the state;
- (3) New business ventures;
- (4) Technologies involved and state of the art;
- (5) Distribution channels;
- (6) Licenses held;
- (7) Financing and tax structure;
- (8) Local control of operations decisions;
- (9) Autonomous administrative control over capital, expenditures and hiring;

- (10) Other data of management practices or of a background or financial nature requested by the Department.
- (b) *The Department shall establish criteria for determining the period of time within which [job] gain must be demonstrated.* [68:3603(8)(b)].
 - (1) The Department shall assign the date of determination on which an individual subunit and the entity of which it is a part must demonstrate net gain in total employment.
 - (2) In order for the subunit to continue to receive incentive payments beyond the date of determination, net gain in total employment must be realized at the date of determination. If no net gain exists, the subunit is disqualified as an establishment and incentive payments cease and shall not be resumed.
 - (3) If net gain exists at the date of determination, incentive payments shall be paid upon claim presentment as long as conditions for payments are met ~~and as long as a net gain in total employment is documented at the time of claim. If net gain is not documented, incentive payments shall not be made and shall not be resumed until such time as the documentation submitted with a claim reflects a net gain in total employment.~~ In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits.
 - (4) The Department shall set out the date of determination on the approval transmitted to the Oklahoma Tax Commission.
 - (5) Additionally, the Department shall identify the entity of which the subunit is a part by name and nature of establishment, whatever legal form and include any necessary description of the structure of the entity of which the subunit is a part.
 - (6) In determining the date of determination to be assigned to an individual subunit, the Department ~~shall~~ may require a plan to be submitted by the subunit and by the remainder of the entity of which the subunit is a part which includes information consisting of:
 - (A) employment forecasts for the ten years it is anticipated the subunit will receive incentive payments, for both the subunit and the remainder of the entity of which it is a part;
 - (B) baseline of subunit;
 - (C) employment of the remainder of the entity of which the subunit is a part;
 - (D) business decisions of the entity of which the subunit is a part such as merger, downsizing, relocation of working units, etc., and explanations or analyses of trends or strategies of the entity reflected by the decisions;
 - (E) effect on Oklahoma operations of such trends and strategies and discussion of less than positive net gain in employment, if applicable;
 - (F) recommendation of a date of determination;
 - (G) and, such other similar information as the Department determines is necessary to set a date of determination.

- (7) Provided, the date of determination shall not extend beyond five years from the date of approval or date of project start-up, whichever is later;
- (8) The plan submitted and all information considered by the Department in determining whether a subunit is an establishment shall be the criteria to set the date of determination.
- (c) *The Department of Commerce shall promulgate rules to determine whether a subunit of an entity [and the remainder of the entity of which it is a part] achieve a net gain in total employment...and a method for determining net gain in total employment.* [68:3303(8)(b)]. The method to determine whether or not a subunit, and the remainder of the entity of which the subunit is a part, achieve net gain in total employment follows:
 - (1) Add the baseline of the subunit and the employment of the remainder of the entity of which the subunit is a part.
 - (2) Add the employment numbers as reflected by the quarterly or monthly report to the Oklahoma Tax Commission for the period immediately preceding the date of determination of the subunit and the remainder of the entity of which it is a part.
 - (3) The sum of the latter, (paragraph (2) of this subsection) must exceed the sum of the former, (paragraph (1) of this subsection, by at least one, for a net gain in total employment to exist.
- (d) Signatories for the incentive offer shall be officers of the entity of which the subunit is a part and the local chief operating officer or employee of the subunit.

[OAR Docket #04-156; filed 1-29-04]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 10. THE COUNTY ELECTION BOARD**

[OAR Docket #04-180]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 3. Election Personnel
 - Part 1. The County Election Board
 - 230:10-3-8. Salary of the Secretary [AMENDED]
 - 230:10-3-9.2. Employment and supervision of County Election Board personnel when office of Secretary is vacant [NEW]
 - 230:10-3-16.1. Compensation for temporary personnel must be funded [NEW]
 - Part 3. The Precinct Election Board
 - 230:10-3-28.1. Special-purpose precinct workers [NEW]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

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December 17, 2003

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Emergency Adoptions

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interests exist requiring the adoption of emergency rules.

Senate Bill 175, which became effective on April 30, 2003, revoked changes in the statutory salary schedule for County Election Board Secretaries enacted in 2002 and that would have gone in to effect on May, 2003, when new County Election Board Secretary terms begin.

Senate Bill 358 included provisions giving the Secretary of the State Election Board authority to hire and/or supervise County Election Board personnel in the event of a vacancy in the office of Secretary; requires funding of compensation for appropriate temporary personnel in the absence of essential County Election Board staff members due to personal or family illness or family emergency; and permits the Secretary of the State Election Board to authorize the County Election Board Secretary to employ special purpose precinct workers for certain specific tasks. Senate Bill 358 became effective on August 29, 2003.

Although County Election Board personnel have been informed of these changes and have been provided with appropriate temporary instructions, the Secretary of the State Election Board finds that these amendments and new rules are necessary to conform the administrative rules to the amended laws and that this need meets the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

These amendments implement SB 175 and certain sections of SB 358. The amendments concern compensation of the County Election Board Secretary, employment and supervision of County Election Board staff in the event the office of Secretary is vacant, employment of temporary personnel in the absence of essential County Election Board staff members, and the employment of special purpose precinct workers.

We do not anticipate any new forms or revisions of any existing forms as a result of these amendments.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF FEBRUARY 3, 2004:

SUBCHAPTER 3. ELECTION PERSONNEL

PART 1. THE COUNTY ELECTION BOARD

230:10-3-8. Salary of the Secretary

(a) The Secretary is paid on a monthly basis from county funds. Each month the State Election Board shall reimburse the county for the salary and fringe benefits paid to the Secretary, not to exceed 135 percent of the salaries specified. [26:2-118] The Secretary's salary is set by law and is based on the number of active registered voters in the county on January 1 of each odd-numbered year. [26:2-118]

(b) The Secretary of the State Election Board shall determine the appropriate salary level for each County Election Board Secretary, and shall notify the County Clerk in each county in January of each odd-numbered year. Any salary change shall take effect at the beginning of the County Election

Board Secretary's term on May 1 of each odd-numbered year and shall remain in effect throughout the two-year term.

(c) In the event that a County Election Board is under administrative supervision of the State Election Board, as outlined in 230:10-3-9.1, at the time a salary increase becomes effective, the Secretary of that County Election Board shall not receive the salary increase. [26:2-118] The Secretary shall be entitled to receive the salary increase at the time that the administrative supervision ends. The salary increase shall not be retroactive to the time the salary increase generally became effective.

(d) The salary of a County Election Board Secretary shall not fall below the level of the salary paid in the county on ~~May 1, 2002, April 30, 2003~~, regardless of the number of active registered voters in the county. [26:2-118] The salary of a County Election Board Secretary who is reappointed to a new two-year term as Secretary shall not fall below the salary received in the immediately preceding term. [26:2-118]

230:10-3-9.2. Employment and supervision of County Election Board personnel when office of Secretary is vacant

In the event of a vacancy in the office of Secretary of the County Election Board, the Secretary of the State Election Board is authorized by law to stand in the place of the County Election Board Secretary to employ and to supervise the personnel necessary to perform the duties of the County Election Board until a new Secretary is appointed. [26:2-107 and 26:2-117]

230:10-3-16.1. Compensation for temporary personnel must be funded

In the event that the secretary, assistant secretary, chief clerk, or any other essential county election board employee must be away from work for a period of time due to personal illness, family illness, or family emergency, the county election board shall be required to fund compensation of appropriate temporary personnel during the employee's absence. [26:2-117]

PART 3. THE PRECINCT ELECTION BOARD

230:10-3-28.1. Special-purpose precinct workers

(a) The County Election Board Secretary may employ special-purpose precinct workers for any election upon approval by the Secretary of the State Election Board. [26:2-128.2] The County Election Board Secretary may employ special-purpose precinct workers to assist the Inspector, Judge, and Clerk with specific tasks, but they are not members of the Precinct Election Board and shall not perform any other duties assigned to the Inspector, Judge or Clerk. Employment of special-purpose precinct workers usually shall be reserved for elections at which a large turnout is anticipated or at which an unusually large number of voters may need to update their voter registrations or vote provisionally. Only one special-purpose precinct worker may be assigned to a precinct, but that person may serve

as both a registration official and as a provisional voting officer. Special-purpose precinct workers may be employed for the following purposes only.

(1) **Registration Officials.** A registration official is a special-purpose precinct worker employed to help voters fill out new Oklahoma Voter Registration Application forms needed to correct certain deficiencies in their voter registration records. The specific duties of a Registration Official are outlined in 230:35-5-60. When a Registration Official is not employed, the duties are performed by the Judge as part of the regular election duties without additional compensation.

(2) **Provisional Voting Officers.** A Provisional Voting Officer is a special-purpose precinct worker employed to help voters cast provisional ballots in federal elections only. The specific duties of the Provisional Voting Officer are outlined in 230:55-3-13. When a Provisional Voting Officer is not employed, the duties are performed by the Inspector as part of the regular election duties without additional compensation.

(b) Special-purpose precinct workers shall be compensated at the same rate as the Judge and Clerk. [26:2-128.2] Compensation for special-purpose precinct workers shall be included on the Record of Expense for the election. The State Election Board shall pay for the compensation of special-purpose precinct workers only when such payment is authorized by the Secretary of the State Election Board in advance of the election. The Secretary of the State Election Board may establish a maximum number of special-purpose precinct workers in each county for which the State Election Board shall pay. The maximum number of state-funded special-purpose precinct workers per county shall be based on a percentage of the number of precincts in each county. The percentage used may change from election to election depending upon the availability of state funds for this purpose. The Secretary of the State Election Board shall notify the County Election Board Secretary of the maximum number of state-funded special-purpose precinct workers authorized for the county prior to the election. The County Election Board Secretary may employ other special-purpose precinct workers in addition to those funded by the State Election Board if sufficient funds are available to cover the expense.

[OAR Docket #04-180; filed 1-30-04]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 15. VOTER REGISTRATION**

[OAR Docket #04-181]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 5. Application for Voter Registration
- Part 7. Time for Registration
- 230:15-5-30. Change of political affiliation [AMENDED]
- Subchapter 9. Receiving and Processing Voter Registration Applications
- Part 5. Processing Voter Registration Applications

230:15-9-22. Processing applications for change of political affiliation [AMENDED]

230:15-9-22.1. Processing application for change of political affiliation during prohibited period [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

December 17, 2003

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Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interests exist requiring the adoption of emergency rules.

Senate Bill 260 changed the dates of the filing period and of the Primary Election and Runoff Primary Election for state and county offices. Senate Bill 260 became effective on August 29, 2003.

Senate Bill 358 included a section changing the beginning and ending dates of the period in even-numbered years when changes of political affiliation are prohibited. Senate Bill 358 became effective on August 29, 2003.

The Secretary finds that these emergency amendments are necessary to conform the administrative rules to the amended laws and that this need meets the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

These emergency amendments implement SB 260 and a section of SB 358 that concern the new beginning and ending dates of the period in even-numbered years when changes of political affiliation are prohibited. As a result of the new filing and election dates established by SB 260, the beginning date of the prohibited period changed to June 1 and the ending date changed to September 1. These emergency amendments reflect the new dates and make no substantive changes to the procedures described in these sections.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF FEBRUARY 3, 2004:

SUBCHAPTER 5. APPLICATION FOR VOTER REGISTRATION

PART 7. TIME FOR REGISTRATION

230:15-5-30. Change of political affiliation

A registered voter may apply to change his or her political affiliation at any time during an odd-numbered year. A registered voter may apply to change his or her political affiliation at any time during an even-numbered year, except during the period ~~beginning at 5:00 p.m. on July 1 and ending at 5:00 p.m. on September 30~~ from June 1 through August 31, inclusive. Applications to change political affiliation received during this period shall be held by the County Election Board and activated

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on ~~October-September~~ 1 as outlined in 230:15-9-22.1. However, if such an application for political affiliation change also includes change of address or of name, the change of address or of name shall be approved and activated if the application is otherwise valid.

SUBCHAPTER 9. RECEIVING AND PROCESSING VOTER REGISTRATION APPLICATIONS

PART 5. PROCESSING VOTER REGISTRATION APPLICATIONS

230:15-9-22. Processing applications for change of political affiliation

(a) A registered voter in the county may apply to change his or her political affiliation by completing and submitting a voter registration application form. An applicant for change of political affiliation is instructed to indicate his or her former political affiliation in the appropriate space in Section 9 of the Oklahoma Voter Registration Application form. Applications for change of political affiliation shall be processed according to the following procedure.

(1) Enter the applicant's name, former political affiliation, date of birth, the last four digits of the social security number and, if provided, driver's license number to bring the applicant's current voter registration information to the screen.

(2) Change the applicant's political affiliation as indicated on the application form. Carefully examine the information displayed on screen with the information provided on the application form for any other information that may be changed. Enter into OEMS any other changes that are indicated on the application form.

(3) Follow the procedure contained in steps (3) through (11) of 230:15-9-18 to complete the remaining application information in OEMS.

(4) After the voter identification card has been printed, remove the voter's old registration form from the Central File and retain as outlined in 230:10-7-43.

(5) File the voter's new voter registration application form in alphabetical order in the Central File.

(b) Voters are prohibited by law from changing political affiliation during the period ~~beginning at 5 p.m. on July 1 and ending at 5 p.m. on September 30~~ from June 1 through August 31, inclusive, in even-numbered years. See 230:15-5-30. Applications for change of political affiliation received during this period shall be held and activated on or after ~~October~~ September 1. See 230:15-9-22.1.

(c) Voters who were designated Independent by County Election Board personnel as provided in 230:15-5-84 may declare a political affiliation at any time, including the period described in (b) of this Section. Such voters may submit a new voter registration application form or they may write a letter stating their preferred political affiliation. These declarations

shall be subject to the deadline for voter registration applications prior to an election. These declarations of political affiliation shall be processed according to the following procedure.

(1) Locate the voter's voter registration information in OEMS.

(2) Enter the political affiliation provided by the voter.

(3) If the voter wrote a letter to declare his or her political affiliation, retain it permanently in the Additional Information Correspondence file.

(d) The political affiliations of voters who are registered as members of a political party that loses recognition under Oklahoma law and becomes a political organization as described in 230:15-5-79 shall be changed to Independent in OEMS by the State Election Board. [26:1-110] Such voters subsequently shall be entitled to apply to change their political affiliation to that of the political organization. Such applications shall be processed as outlined in (a) of this Section and shall be subject to the deadline for voter registration applications prior to an election and to the political affiliation change prohibition period in even-numbered years. See (b) of this Section and 230:15-5-86.

230:15-9-22.1. Processing application for change of political affiliation during prohibited period

(a) Registered voters are prohibited by law from changing political affiliations ~~during a period that begins at 5 p.m. July 1 and ends at 5 p.m. on September 30~~ from June 1 through August 31, inclusive, in even-numbered years. The County Election Board Secretary is required by law to hold voter registration applications for change of political affiliation received during this period and to activate the changes on ~~October-September~~ 1.

(b) Voter registration applications for change of political affiliation received during the prohibited period that include no other voter registration changes shall be processed as follows.

(1) Follow steps 1 through 3 in 230:15-9-22(a). Enter in OEMS all the information the voter provided on the application. When the new political affiliation is entered, OEMS warns that the political affiliation change is invalid and flags the application to hold for activation on ~~October~~ September 1.

(2) ~~Between July~~ From June 1 and September 30 through August 31, request and print Held Change of Affiliation Notices each time voter identification cards and rejection notices are requested and printed. Held Change of Affiliation Notices are letters to voters explaining that their change of political affiliation will be held and activated on ~~October-September~~ 1.

(3) ~~Between July~~ From June 1 and September 30 through August 31, request and print the Held Change of Affiliation List each time voter identification cards are requested. The Held Change of Affiliation List contains the names of all voters whose political affiliation changes have been held since the last time this report was requested. Retain the Held Change of Affiliation List as needed.

- (4) Mail the Held Change of Affiliation Notice to the applicant.
- (5) File the voter registration application in a special file for Pending Affiliation Change Applications. This file may be in a separate section of the regular Pending Applications file.
- (6) ~~After October~~ On September 1, follow these steps.
 - (A) Request and print voter identification cards.
 - (B) When voter identification cards are requested, an Affiliation Change Notice letter also is generated to each voter whose political affiliation change has been held. Use of these letters is optional.
 - (C) Mail voter identification cards and Affiliation Change Notice letter, if used, to voter.
 - (D) Request and print the Change of Affiliation List and retain it for 24 months.
 - (E) Move the voter registration application form from the Pending Affiliation Change Applications file to the Central File.
 - (F) Remove the voter's old voter registration form from the Central File and retain it in the Cancellation File as outlined in 230:10-7-43.
- (c) Voter registration applications for change of political affiliation received during the prohibited period that also include other valid voter registration changes shall be processed as follows.
 - (1) Follow steps 1 through 3 outlined in subsection (a) of 230:15-9-22. Enter in OEMS all the information the voter provided on the application. When the new political affiliation is entered, OEMS warns that the political affiliation change is invalid and flags the application to hold this change until ~~October~~ September 1. Other valid changes, such as changes of name or address, are accepted.
 - (2) Request and print voter identification cards, rejection notices, and Held Change of Affiliation Notices.
 - (3) Match the voter's new voter identification card with the Held Change of Affiliation Notice and mail them together to the voter.
 - (4) Request and print the Held Change of Affiliation List and retain it for 24 months.
 - (5) Indicate on the new voter registration application form that the political affiliation becomes effective on ~~October~~ September 1.
 - (6) Remove the voter's old voter registration form from the Central File and file it in the Cancellation File unless other information on the old form requires that it remain in the Additional Information Correspondence File.
 - (7) File the voter's new registration form in the Central File.
 - (8) ~~After October~~ On September 1, follow these steps.
 - (A) Request and print voter identification cards.
 - (B) When voter identification cards are requested, an Affiliation Change Notice letter also is generated for each voter whose political affiliation change has been held. Use of these letters is optional.
 - (C) Mail voter identification cards and Affiliation Change Notice letters, if used, to voters.

- (D) Print Change of Affiliation List and retain it for 24 months.
- (d) Request and print a copy of the Pending Affiliation Change List before the Primary Election and again before the Runoff Primary Election to use to help answer questions from voters about their political affiliation on election day. Print a final copy of this report on ~~October~~ September 1 and retain it for 24 months.

[OAR Docket #04-181; filed 1-30-04]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 20. CANDIDATE FILING**

[OAR Docket #04-182]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 3. Filing for State and County Office
Part 1. When and Where to File
230:20-3-1. Filing period [AMENDED]
Part 9. Withdrawals of Candidates
230:20-3-47. Withdrawal after filing period [AMENDED]
230:20-3-50. Withdrawals from Runoff Primary [AMENDED]

AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board

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SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATION BY REFERENCE:
n/a

FINDING OF EMERGENCY:
The Secretary of the State Election Board finds that the following compelling public interests exist requiring the adoption of emergency rules. Senate Bill 260 changed the dates of the candidate filing period for state and county offices. The bill became effective on August 29, 2003.

House Bill 1001 amends the statutes concerning the withdrawal of a candidate from the Primary or Runoff Primary Election.

The Secretary finds that these emergency amendments are necessary to conform the administrative rules to the amended laws and that this need meets the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:
These emergency amendments implement certain sections of SB 260 and SB 358 concerning the candidate filing period and the candidate withdrawal period for the Primary and Runoff Primary Election. The dates of the filing period have changed. New provisions have been added to allow the withdrawal of a candidate who dies after filing a Declaration of Candidacy or qualifying for the Runoff but before the withdrawal period expires at 5 p.m. Friday following the filing period or the Primary. The amendments reflect these statutory changes but make no other substantive changes in the procedures. No new forms are required but several informational publications must be revised to reflect the new date and new information on withdrawal.

CONTACT PERSON:
Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING EMERGENCY RULES ARE**

Emergency Adoptions

CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF FEBRUARY 3, 2004:

SUBCHAPTER 3. FILING FOR STATE AND COUNTY OFFICES

PART 1. WHEN AND WHERE TO FILE

230:20-3-1. Filing period

The filing period for state and county offices will begin at 8 a.m. on the ~~first third Monday after Independence Day in June~~ of an even-numbered year. [26:5-110] The filing period will close at 5 p.m. on the next succeeding Wednesday. [26:5-110]

PART 9. WITHDRAWALS OF CANDIDATES

230:20-3-47. Withdrawal after filing period

(a) **Time for withdrawal.** Any candidate may withdraw his candidacy only by filing a written notice of withdrawal with the Secretary of the County Election Board no later than 5 p.m. on Friday following the close of the filing period. [26:5-115]

(b) **Form of withdrawal.** The written notice shall state, "I (Name), hereby withdraw as a candidate for (Office)." The notice shall be signed, dated and notarized by a Notary Public. [26:5-115]

(c) **Withdrawal of deceased candidate.** In the event a candidate dies after filing a Declaration of Candidacy, but prior to 5 p.m. on Friday following the filing period, a lawfully appointed special administrator may withdraw the deceased candidate's candidacy by filing a written notice as described in subsections (a) and (b) of this Section.

230:20-3-50. Withdrawals from Runoff Primary

(a) A candidate in the Runoff Primary Election may withdraw his candidacy upon filing a written notice of withdrawal with the Secretary of the County Election Board no later than 5 p.m. on the Friday following the date of the Primary Election. [26:5-116] The notice shall be in the same form as outlined in 230:20-3-47(b).

(b) In the event a candidate in the Runoff Primary Election dies, the deceased candidate's candidacy may be withdrawn by a lawfully appointed personal representative or special administrator for the deceased candidate. The withdrawal of the deceased candidate's candidacy must be filed in the same manner outlined in (a) of this Section.

[OAR Docket #04-182; filed 1-30-04]

TITLE 230. STATE ELECTION BOARD CHAPTER 30. ABSENTEE VOTING

[OAR Docket #04-183]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions

230:30-1-2. Definitions [AMENDED]

Subchapter 3. Authorization for Absentee Voting

230:30-3-3. Voters eligible for absentee ballots [AMENDED]

Subchapter 5. Applications for Absentee Ballots

230:30-5-1.1. Applications for absentee ballots [AMENDED]

230:30-5-8.1. Time for absentee ballot applications [AMENDED]

230:30-5-8.2. Validity of applications for absentee ballots for all elections [AMENDED]

Subchapter 7. Absentee Voting Boards

230:30-7-6. Scheduling Absentee Voting Boards for an election [AMENDED]

230:30-7-13. In-person absentee voting procedure for ~~military discharge or military leave-uniformed services voter or overseas voter~~ [AMENDED]

Subchapter 9. Processing Applications

230:30-9-2. Forms needed for processing [AMENDED]

230:30-9-3. Processing applications for absentee ballots [AMENDED]

230:30-9-5. Processing applications from ~~military-uniformed services voters and overseas voters~~ [AMENDED]

230:30-9-5.1. Faxing absentee ballots to uniformed services and overseas voters [NEW]

Subchapter 11. Receiving and Processing Absentee Ballots

230:30-11-2. Opening outer envelopes and examining affidavits [AMENDED]

230:30-11-6. Transmitting absentee ballots [AMENDED]

230:30-11-6.1. Receiving voted ballots by fax from uniformed services and overseas voters [NEW]

230:30-11-7. Undeliverable absentee ballots returned by postal service to County Election Board [AMENDED]

Subchapter 13. Federal Write-In Absentee Ballot

230:30-13-1. Voters permitted to use federal write-in absentee ballots [AMENDED]

Subchapter 15. State Write-In Absentee Ballots

230:30-15-1. Voters eligible to use state write-in absentee ballot [AMENDED]

230:30-15-2. Applications for state write-in absentee ballot [AMENDED]

230:30-15-3. Time for state write-in absentee ballot applications [AMENDED]

230:30-15-5. Processing applications for state write-in absentee ballot [AMENDED]

230:30-15-7. Voters who request both regular and state write-in absentee ballots [AMENDED]

230:30-15-8. Time for return of state write-in absentee ballots [AMENDED]

230:30-15-9. Rules for counting state write-in absentee ballots [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

December 17, 2003

Approved by Governor:

January 28, 2004

Effective:

February 3, 2004

Expiration:

Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interests exist requiring the adoption of emergency rules.

Senate Bill 358 included several sections that either amend or create new absentee voting laws. Senate Bill 358 became effective on August 29, 2003.

The Secretary finds that these emergency rules are necessary to conform the administrative rules to the amended law as well as to include appropriate procedures to implement the new laws and that these needs meet the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

These emergency amendments implement those sections of SB358 that concern absentee voting. The absentee voting sections of SB358 generally concern the in-person absentee voting period preceding elections; the witnessing requirements for absentee ballots; updating references to absentee voters covered by the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); and authority to fax ballots to UOCAVA voters and to received voted ballots by fax from these voters under certain specific circumstances.

One section of the federal Help America Vote Act also amended the UOCAVA and requires a "standard affidavit" to be used by all states on materials for UOCAVA voters. Another HAVA provision requires that absentee ballot applications from UOCAVA voters be honored through the next two regular federal General Elections.

Several of the amendments in SB358 were recommended by the Federal Voting Assistance Program in the Department of Defense, especially the provision for faxing ballots and the emergency authority for the Secretary.

Sections in SB358 and in HB 1412 prohibit a candidate and the chairman or treasurer of a candidate's campaign from notarizing or witnessing the affidavits of absentee voters.

Nursing home absentee voting boards now may work on Thursday preceding an election, as well as on Friday, Saturday or Monday. The County Election Board Secretary and one member of the in-person Absentee Voting Board now may witness the signature of the other in-person Absentee Voting Board member on an application for in-person absentee ballot.

These emergency amendments reflect these newly amended statutes.

Numerous informational materials produced by the State Election Board must be revised to reflect these statutory changes. The absentee ballot affidavit envelope used by UOCAVA voters must be reprinted with the new, standard oath. The standard oath is essentially the same as the one in use in Oklahoma, but the specific language in HAVA must be used. Also, several items relating to the procedure for faxing ballots are new, including a form for the voter to sign waiving his or her right to a secret ballot and a cover sheet and instructions for faxing ballots.

Most if not all of the new and revised materials required by these amendments will be provided to County Election Boards by the State Election Board and will, in turn, be provided by the County Election Board Secretary to affected voters.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF FEBRUARY 3, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

230:30-1-2. Definitions

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

"Convalescent hospital" means a nursing facility as defined in Title 62 O.S. 2001, Section 1-1902.

"Federal election" means an election held on the last Tuesday in July; the fourth Tuesday in August; and the first Tuesday after the first Monday in November in even-numbered years; the first Tuesday in February of an even-numbered year in which the President and Vice President of the United States are to be elected; and the date of a special election called at any other time to fill a vacancy in the office of United States Senator or United States Representative.

"Member of the merchant marine" means a person employed as an officer or crew member of a vessel as identified in 42 U.S.C. 1973ff-6.

"Nursing home" means a nursing facility as defined in Title 62 O.S. 2001, Section 1-1902.

"Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard, the merchant marine, the commissioned corps of the Public Health Service, the commissioned corps of the National Oceanic and Atmospheric Administration, and the National Guard.

SUBCHAPTER 3. AUTHORIZATION FOR ABSENTEE VOTING

230:30-3-3. Voters eligible for absentee ballots

(a) A registered voter may request absentee ballots for any election in which the voter is eligible to vote. An absentee voter shall not be required to state any reason for the request. [26:14-105]

(b) Registered voters may apply for absentee ballots by stating one of the following reasons.

(1) **Nursing home voters.** Nursing home voters are registered voters who swear or affirm that they are physically incapacitated and confined to a nursing home or convalescent hospital within the county in which they are registered to vote. [26:14-115] They may vote by absentee ballot.

(2) **Physically incapacitated voters.** Physically incapacitated voters are registered voters who swear or affirm that they are physically unable to vote in person at their precinct polling places on the day of an election because they are physically incapacitated but are not confined to a nursing home or convalescent hospital within the county in which they are registered to vote. [26:14-110.1(1)] They may vote by absentee ballot.

(3) **Voters charged with the care of physically incapacitated persons.** Voters charged with the care of physically incapacitated persons are registered voters who swear or affirm that they are physically unable to vote in person at their precincts on the day of the election because they are charged with the care of a physically incapacitated person who cannot be left unattended. [26:14-110.1] They may vote by absentee ballot.

(4) **Emergency incapacitated voters.** Emergency incapacitated voters are registered voters who become incapacitated after 5 p.m. on Tuesday preceding an election and are unable to vote at their precinct polling places on election day. [26:14-115.1] They may vote by absentee ballot.

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- (5) **Military—Uniformed services voters.** ~~Military Uniformed services voters~~ are residents of Oklahoma who are members of one of the Armed Forces or Merchant Marine uniformed services of the United States or of the merchant marine, and their spouses and dependents, who are 18 years of age or older. They may vote by absentee ballot. These persons need not be registered to vote, but must be qualified to be registered. [26:14-116]
- (6) **Overseas voters.** Overseas voters are residents of Oklahoma who are ~~citizens of the United States residing~~ living outside the territorial limits of the United States, and their spouses and dependents, who are 18 years of age or older, and uniformed services voters and their spouses and dependents who, by reason of active duty, are absent from the United States on election day. They may vote by absentee ballot. These persons need not be registered to vote, but must be qualified to be registered. [26:14-116]
- (c) Any registered voter may apply for an in-person absentee ballot at the in-person absentee polling place on Friday, ~~Saturday~~ or Monday preceding ~~an election~~ all elections, and also on Saturday preceding state and federal elections. [26:14-115.4(A)] An in-person absentee voter shall not be required to state a reason for the request but shall be required to swear or affirm that he has not voted a regular absentee ballot and that he will not vote at the polling place on election day. [26:14-115.4(A)]

SUBCHAPTER 5. APPLICATION FOR ABSENTEE BALLOTS

230:30-5-1.1. Applications for absentee ballots

- (a) **Application forms.** Applications for absentee ballots may be made by using the following forms.
- (1) **Yellow Application for Absentee Ballots form.** Voters may apply for absentee ballots by completing a yellow Application for Absentee Ballots form and mailing or faxing it to the County Election Board office. Voters also may appear personally at the County Election Board office to complete the form. [26:14-105]
- (2) **Pink Application for Absentee Ballots form.** Nursing home voters, physically incapacitated voters and voters charged with the care of physically incapacitated persons who cannot be left unattended may apply for absentee ballots by completing the pink Application for Absentee Ballots form and mailing or faxing it to the County Election Board office. [26:14-110.1, 14-114]
- (3) **Federal Post Card Application.** ~~Military—Uniformed services voters~~ and overseas voters may apply for absentee ballots by completing a Federal Post Card Application, also known as a Department of Defense Form 76, and mailing or faxing it to the County Election Board office. [26:14-117] Federal Post Card Applications may be obtained from the voting service officer in a military unit and from United States Embassies and Consulates. All completed Federal Post Card Applications must be transmitted to the County Election Board by mail or by fax. [26:14-117]

- (4) **Green Application for In-Person Absentee Ballot.** Voters may apply for an in-person absentee ballot by completing a green Application for In-Person Absentee Ballots form at the in-person absentee polling place. [26:14-115.4(A)]
- (5) **Application from emergency incapacitated voter.** Emergency incapacitated voters may apply for absentee ballots by making a written request. [26:14-115.1] The written request must be signed by the voter or, if the voter is unable to sign, by a witness. [26:14-115.1] The request must be accompanied by a sworn statement from a duly licensed physician. [26:14-115.1] The request must be transmitted to the County Election Board office by an agent designated by the voter. [26:14-115.1] The white Request for Emergency Incapacitated Absentee Ballot and Sworn Statement by Physician form may be used but is not required.

- (b) **Letter suffices.** In all cases, with the exception of the in-person absentee voter, a letter from a voter requesting absentee ballots shall be considered a sufficient application if it contains the information needed to determine the voter's eligibility to vote in the election and to determine where to send the ballots. [26:14-105, 14-110.1, 14-117]
- (c) **Telegram suffices in some cases.** In the case of absentee voters, nursing home voters, physically incapacitated voters and voters charged with the care of physically incapacitated persons, a telegram shall be considered a sufficient application if it contains the information needed to determine the voter's eligibility to vote in the election and to determine where to send the ballots. [26:14-105, 14-110.1]
- (d) **Facsimile applications accepted.** Absentee voters, nursing home voters, physically incapacitated voters, voters charged with the care of physically incapacitated persons, military voters and overseas voters may submit applications for absentee ballots to the County Election Board by electronic facsimile device (a "fax" machine). Voters may transmit one of the absentee ballot application forms described in (a) of this Section or they may transmit a letter as described in (b) of this Section.

230:30-5-8.1. Time for absentee ballot applications

- (a) All absentee voters, except in-person absentee voters and emergency incapacitated voters, may apply any time prior to 5 p.m. on the Wednesday preceding the election. [26:14-103] The application must be in the hands of County Election Board personnel by that time. An application received after 5 p.m. on Wednesday preceding the election - even if postmarked prior to that time - must be rejected.
- (b) Applications for in-person absentee ballots may ~~only~~ be made only at the in-person absentee polling place from 8 a.m. to 6 p.m. on Friday and Monday preceding all elections or and also from 8 a.m. to 1 p.m. on Saturday immediately preceding an election at the in-person absentee polling place ~~state and federal elections.~~ [26:14-115.4]
- (c) Applications for emergency incapacitated absentee ballots may be made any time after 5 p.m. on Tuesday preceding an election through 7 p.m. on election day. [26:14-115.1]

(d) The County Election Board office shall remain open until 5 p.m. on Wednesday preceding an election so that applications may be made in person until that time.

230:30-5-8.2. Validity of applications for absentee ballots for all elections

(a) Absent voters, nursing home voters, physically incapacitated voters, and voters charged with the care of physically incapacitated persons may apply for absentee ballots for all elections in which they are eligible to vote. Such applications for all elections shall be considered valid through December 31 of the calendar year in which they are received. Absentee voters who apply for all elections shall be required to submit a new application for absentee ballots for each calendar year.

(b) Applications for absentee ballots received from military uniformed services voters and overseas voters shall be considered applications for all elections in which the voter is eligible to vote. Applications for absentee ballots received from military uniformed services voters and overseas voters shall be considered valid through December 31 of the calendar year subsequent to the year in which the application is received the next two regularly scheduled federal General Elections. For example, an application for absentee ballots from a military uniformed services or overseas voter ~~that is~~ received in February, 1996, 2004, shall be considered valid through December 31, 1997 the federal General Election in November, 2006. An application received in December, 2004, shall be considered valid through the federal General Election in November, 2008.

(c) If absentee ballots mailed to the address provided by the voter on an application for absentee ballots that requests ballots for all elections are returned undelivered to the County Election Board by the postal service, the Secretary of the County Election Board shall be authorized to cancel the application. The application information may be deleted from OEMS. The Secretary shall indicate on the outside of the returned absentee ballot mailing envelope that the application is cancelled as a result of the returned, undelivered ballots. The returned envelope shall be retained for 24 months.

SUBCHAPTER 7. ABSENTEE VOTING BOARDS

230:30-7-6. Scheduling Absentee Voting Boards for an election

(a) **Notification of Absentee Voting Board members.** At least ten days before the election, the Secretary of the County Election Board shall notify the members of one or more Absentee Voting Boards of the day or days the services of the Absentee Voting Board will be required. The Secretary also shall request the members of the Absentee Voting Board to meet on ~~Wednesday~~ Tuesday before the election to make plans for their work.

(b) **Scheduling the nursing home Absentee Voting Board.** On ~~Wednesday~~ Tuesday before the election, the Secretary shall work with the Absentee Voting Board to schedule visits to each affected nursing home or convalescent hospital. Visits

must be scheduled on Thursday, Friday, Saturday or Monday immediately preceding the election. [26:14-115(1)] Visits shall be planned to all nursing homes in as few days as possible, preferably in a single day, ~~and preferably on Friday~~. The Secretary shall consult the administrator of each affected nursing home to schedule a time that will be convenient for the Absentee Voting Board to visit.

(c) **Scheduling the in-person Absentee Voting Board.** An Absentee Voting Board is required to be on duty at the in-person absentee polling place from 8 a.m. to 6 p.m. on Friday and Monday immediately preceding all elections and also from 8 a.m. to 1 p.m. on Saturday immediately preceding ~~an~~ election state and federal elections. [26:14-115.4]

(d) **Notifying Sheriff of in-person absentee voting.** The Secretary shall notify the County Sheriff of the dates for in-person absentee voting for an election and shall arrange for the Sheriff to provide security for the memory pack and the voted ballots as outlined in 230:30-7-11.3.

230:30-7-13. In-person absentee voting procedure for military discharge or military leave uniformed services voter or overseas voter

If voter registration information for an in-person absentee ballot applicant cannot be found in the Central File or in OEMS and that applicant informs the Absentee Voting Board members that he or she is on leave or has recently been honorably discharged from the ~~United States Armed Forces~~ uniformed services of the United States or has recently been terminated in service or employment overseas, the applicant may be entitled to vote without being registered. [26:14-121] The spouse or dependent of such a person also is entitled to vote without being registered. [26:14-121] Refer to the "Military Discharge or Military Leave" section of the 2002 PRECINCT PROBLEM SOLVER (230:35-5-114) and follow those instructions to assist this applicant and to use the Military/Overseas Affidavit, if necessary. Ask a County Election Board employee for help to determine the correct absentee ballot to issue to the voter.

SUBCHAPTER 9. PROCESSING APPLICATIONS

230:30-9-2. Forms needed for processing

The following materials are necessary for processing absentee ballot applications and shall be maintained in packets:

- (1) Absentee voter packet
 - (A) Mailing envelope
 - (B) Outer envelope
 - (C) Yellow affidavit envelope
 - (D) White ballots envelope
 - (E) Yellow Instructions for Voting by Absentee Ballot (Absentee Voter)
- (2) Incapacitated voter packet
 - (A) Mailing envelope
 - (B) Outer envelope
 - (C) Pink affidavit envelope
 - (D) White ballots envelope

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- (E) Pink Instructions for Voting by Absentee Ballot (Incapacitated Voter)
- (3) ~~Military~~ Uniformed services/overseas voter packet
 - (A) Red and white mailing envelope
 - (B) Red and white outer envelope
 - (C) Red and white affidavit envelope
 - (D) White ballots envelope
 - (E) Red and white Instructions for Voting by Absentee Ballot (~~Military~~ Uniformed Services or Overseas)
- (4) Uniformed services/overseas voter packet for fax ballots
 - (A) Fax cover sheet and letter to voter
 - (B) Instructions for Voting by Write-In Absentee Ballot
 - (C) Instructions for Faxing Voted Ballot to State Election Board
 - (D) Return fax cover sheet

230:30-9-3. Processing applications for absentee ballots

Applications from all absentee voters, except ~~military~~ uniformed services voters and overseas voters, shall be processed according to the following procedures:

- (1) Indicate on the application form the date on which the application is received at the County Election Board office.
- (2) Enter the application information into OEMS. When applications from absentee voters, nursing home voters, physically incapacitated voters, voters charged with the care of physically incapacitated persons and emergency incapacitated voters are entered into OEMS, the system automatically verifies the applicant's registration. If an applicant is not registered, see 230:30-9-4.
- (3) If a voter requests absentee ballots for a school district other than the one to which he or she is assigned, mark the appropriate field on the OEMS screen. OEMS will generate a notice that tells the voter that he or she is assigned to a different school district than the one for which ballots were requested and that ballots for the assigned district will be issued. If a voter is not assigned to a school district, the school district field will be empty. Enter the appropriate code for the school district indicated by the voter on the absentee ballot application in the school district field.
- (4) If the application must be rejected for any reason, enter the reason for the rejection in the appropriate place on the screen. OEMS will produce a Notice of Rejection of Absentee Ballot Application letter for the voter. However, in the event that an Application for In-Person Absentee Ballot has been rejected, it shall not be entered into OEMS.
- (5) Designate the election or elections for which the voter is requesting ballots in the appropriate place on the screen.
- (6) Write the applicant's voter identification number and registration status (active or inactive) on the application form. Fill in the information required in the shaded

"For Election Board Use Only" box in the lower right corner of the form.

- (7) File the application form in the appropriate absentee voting materials file. If the applicant is a restricted records status voter, file the application in the restricted records status file.
- (8) If the application is from an in-person absentee voter and ballots were issued by the Absentee Voting Board, enter the date the application was processed by the Absentee Voting Board in the appropriate space on the screen to give the voter credit for voting. See 230:30-7-12. If the application was rejected, no entry shall be made in OEMS. A rejected Application for In-Person Absentee Ballot shall be retained with other rejected applications.
- (9) If ballots are available, immediately prepare the appropriate absentee voter packet with the correct ballots for the voter and mail it. See 230:30-9-1 and 230:30-9-2. If the letter "I" appears in the upper-right corner of the absentee mailing label, the voter is either an inactive voter or a voter unassigned to a school district due to insufficient address information. Enclose an Oklahoma Voter Registration Application form and an Instructions for Updating Voter Registration Information sheet with the absentee voter packet and ballots.

230:30-9-5. Processing applications from ~~military~~ uniformed services voters and overseas voters

(a) Applications for absentee ballots received from ~~military~~ uniformed services voters and overseas voters are processed differently than applications from other absentee voters. ~~Military~~ Uniformed services voters and overseas voters are not required to be registered to vote in the county in order to vote by absentee ballot. Applications received from ~~military~~ uniformed services voters and overseas voters are considered to be applications for all elections in which the voter is eligible to vote. Applications from these voters shall be processed according to the following procedures:

- (1) Indicate on the application the date on which it was received at the County Election Board office.
 - (2) Enter the application information into OEMS using the special option for uniformed services (military) and overseas applications.
 - (3) Designate the elections for which the voter will receive ballots.
 - (4) Write the voter identification number assigned by OEMS to the application on the form.
 - (5) If ballots are available, immediately prepare a ~~military~~ uniformed services/overseas voter packet with the correct ballots for the voter and mail it.
 - (6) After processing of the application is completed, file the application form in the appropriate absentee voting materials file.
- (b) Applications for absentee ballots from ~~military~~ uniformed services voters and overseas voters shall be considered valid ~~for two years as through~~ the next two federal General Elections as outlined in 230:30-5-8.2. However, if ballots mailed to a ~~military~~ uniformed services or overseas voter's

address are returned undelivered to the County Election Board, the County Election Board Secretary shall be authorized to consider the application invalid and shall be authorized to delete the application from OEMS. The Secretary shall indicate on the outside of the returned absentee ballot mailing envelope that the voter's absentee ballot application has been cancelled as a result of the returned, undelivered ballots. The returned envelope shall be retained for 24 months.

230:30-9-5.1. Faxing absentee ballots to uniformed services and overseas voters

(a) The Secretary of the County Election Board is authorized to fax an absentee ballot for federal offices to a uniformed services voter or an overseas voter only under the following circumstances.

- (1) The voter submits an application for absentee ballots less than 30 days before a federal election and requests that the Secretary fax the ballot to the voter.
- (2) The application is received by the County Election Board Secretary in the county of the voter's residence no later than 5 p.m. Wednesday preceding the election.
- (3) The voter provides a fax number for receiving the ballot and related materials.

(b) The Secretary shall process the application for absentee ballots according to the procedure outlined in 230:30-9-5 and shall prepare and mail regular absentee ballots to the voter. The Secretary then shall prepare the following materials and immediately shall fax them to the voter.

- (1) Fax cover sheet and letter to voter
- (2) Instructions for Voting by Write-in Absentee Ballot
- (3) A state write-in absentee ballot for the election
 - (A) Determine the appropriate state write-in absentee ballot for the voter.
 - (B) Verify that the county name is stamped on both the stub and the ballot and that the stub is correctly numbered.
 - (C) Detach the ballot. Leave the numbered stub in the book of ballots.
 - (D) Enter the appropriate Congressional District number in the space provided on the ballot.
- (4) A list of the candidates for federal offices in the election.
- (5) Instructions for Faxing Voted Ballots to State Election Board
- (6) A return fax cover sheet

(c) After faxing the materials described in (b) of this Section, the Secretary shall attach the original cover sheet to the application form, and then shall file the application in the appropriate absentee voting materials file. Ballots for any future elections for which the voter is eligible shall be mailed to the voter at the appropriate time according to the procedure outlined in 230:30-9-5(a).

SUBCHAPTER 11. RECEIVING AND PROCESSING ABSENTEE BALLOTS

230:30-11-2. Opening outer envelopes and examining affidavits

The County Election Board may meet any time after 10 a.m. on the ~~Saturday~~Thursday preceding the election to remove outer envelopes. [26:14-123] Unless the number of absentee ballots is extremely high, this meeting shall be scheduled on the day of the election. Upon meeting, the Board shall unlock each ballot box containing absentee ballots. Each envelope shall be removed from the ballot box. The outer envelopes shall be opened and removed and the affidavit envelopes examined. If an inactive voter has enclosed the Oklahoma Voter Registration Application form inside the outer envelope, set the application aside to be processed later. The examination shall determine whether or not the affidavit is properly executed. The following requirements shall be observed:

(1) The signature on a pink affidavit submitted by a physically incapacitated voter, a voter charged with the care of a physically incapacitated person or an emergency incapacitated voter must be witnessed by two other persons. [26:14-113.2]

(A) No one may witness signatures on more than five of these pink affidavits per election. [26:14-113.2(B)]

(B) If someone witnesses signatures on more than five of these pink affidavits, the absentee ballots shall be counted but the witness shall be reported to the District Attorney. See 230:30-23-1.

(C) No one who is a candidate for an office on the ballot may witness a pink absentee ballot affidavit. [26:14-113.2]

(D) No one who is related within the third degree by consanguinity or affinity to a candidate for an office on the ballot may witness a pink absentee ballot affidavit. [26:14-113.2]

(2) The signature on a yellow affidavit submitted by an absentee voter must be witnessed by a Notary Public. [26:14-108] Affidavits from states other than Oklahoma may be notarized by a person other than a Notary Public who is authorized to administer oaths.

(A) The Notary Public must sign and impress the notarial seal on the affidavit for the attestation to be valid.

(B) The number and expiration date of a Notary Public in Oklahoma should be included in the attestation. However, the attestation shall be considered valid even if this information is missing.

(C) No one who is a candidate for an office on the ballot may notarize a yellow absentee ballot affidavit. [26:14-108]

(D) No one who is the chairman or treasurer of the campaign of a candidate for an office on the ballot may notarize a yellow absentee ballot affidavit. [26:14-108]

(E) No one who is related to a candidate within the third degree of consanguinity or affinity may notarize a yellow absentee ballot affidavit. [26:14-108]

(3) The signature on a pink affidavit submitted by a nursing home voter must be witnessed by two members of

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the nursing home Absentee Voting Board, who shall not be required to show their addresses. [26:14-115]

(4) Voters using the red and white affidavit need not have their signatures witnessed.

(5) The outer (mailing) envelope of a federal write-in absentee ballot shall not be opened at this time. The voter's declaration/affirmation on the mailing envelope shall be examined. The voter's signature need not be witnessed.

(6) The cover sheet used by uniformed services and overseas voters to return voted ballots by fax must include the voter's signature on the affidavit and waiver of right to secret ballot statement. The voter's signature need not be witnessed.

230:30-11-6. Transmitting absentee ballots

(a) **Transmitting absentee ballots to voter.** The County Election Board shall transmit absentee ballots to all absentee voters --- except nursing home absentee voters, in-person absentee voters, and emergency incapacitated absentee voters --- by United States mail. [26:14-106; 26:14-111.1; 26:14-118] Absentee ballots for nursing home absentee voters shall be delivered to the voters in person by the nursing home Absentee Voting Board as outlined in 230:30-7-9. [26:14-115] Absentee ballots for in-person absentee voters shall be issued to the voter by the in-person Absentee Voting Board at the in-person absentee polling place as outlined in 230:30-7-11. [26:14-115] Absentee ballots for emergency incapacitated absentee voters shall be delivered to the voter by the voter's agent as outlined in 230:30-9-6. [26:15-115.1]

(b) **Transmitting voted absentee ballots from voter to the County Election Board.** All absentee voters --- except nursing home absentee voters, in-person absentee voters, and emergency incapacitated absentee voters --- shall transmit their voted absentee ballots back to the County Election Board by United States mail. [26:14-108; 26:14-113.2; 26:14-120] Express delivery service provided by the United States Postal Service (Express Mail™) is considered United States mail. Voted absentee ballots from nursing home absentee voters shall be delivered to the County Election Board office by the nursing home Absentee Voting Board as outlined in 230:30-7-9. [26:14-115] Voted absentee ballots from in-person absentee voters shall be deposited by the voter directly into the appropriate voting device as outlined in 230:30-7-11. [26:14-115.4] Voted absentee ballots from emergency incapacitated absentee voters are delivered to the County Election Board by the voter's agent as outlined in 230:30-9-6. [26:14-115.1]

(c) Absentee ballots may be returned by a private mail service (such as Federal Express™) that provides delivery documentation. The decision to use such a private mail service to return voted absentee ballots, as well as the expense of such service, shall be the voter's.

(d) Absentee ballots for federal offices only may be faxed to uniformed services and overseas voters only as outlined in 230:30-11-5.1. Uniformed services voters and overseas voters may return voted absentee ballots by fax only as outlined in 230:30-11-6.1.

230:30-11-6.1. Receiving voted absentee ballots by fax from uniformed services and overseas voters

(a) Uniformed services and overseas voters are entitled to fax their voted ballots to the State Election Board if they receive their regular mail absentee ballot 30 days or less before the date of a federal election. Voters who choose to fax their regular mail absentee ballot to the State Election Board must sign and transmit a Waiver of Right to Secret Ballot form. Uniformed services and overseas voters who receive an absentee ballot by fax as outlined in 230:30-11-6.1 must return the ballot to the State Election Board by fax.

(b) The Secretary of the State Election Board shall assign one or more employees to receive and process voted ballots faxed by uniformed services and overseas voters. Upon receipt by fax of a voted ballot, the assigned employees shall take the following steps to transmit the ballot and related information to the appropriate County Election Board Secretary.

(1) Verify that each voted ballot is accompanied by a fax cover sheet that includes the following information:

(A) the voter's name

(B) the voter's county of residence in Oklahoma

(C) the voter's signature on the Waiver of Right to Secret Ballot

(2) Stamp the fax cover sheet with the date and time it was received and immediately transmit both the cover sheet and the ballot to the appropriate County Election Board Secretary. If the Secretary does not have a fax machine in the office, notify the Secretary that a voted absentee ballot is being transmitted.

(3) In the event that a voted ballot is received without an appropriate identifying cover sheet and/or without the voter's signature on the Waiver of Right to Secret Ballot, the ballot shall be set aside in a secure place. If possible, immediately send a notice that the transmission was incomplete and that the ballot cannot be counted. Instruct the voter to send both the cover sheet and the ballot again. Document the receipt of the unidentified ballot and then destroy it.

(4) In the event that an identifying cover sheet is received without the voted ballot, set the cover sheet aside in a secure place. If possible, immediately send notice that the transmission was incomplete and the ballot was not received. Instruct the voter to send both the cover sheet and the ballot again. If the voter does not send the cover sheet and ballot again by 7 p.m. in the United States' Central time zone on election day, document the receipt of the cover sheet without the ballot, and notify the County Election Board Secretary that the voter attempted to return the ballot but the ballot was not received.

(5) Ballots received by fax after 7 p.m. on election day, except for the Runoff Primary Election, shall be not be transmitted to the County Election Board.

(6) Ballots for the Runoff Primary Election received between 7 p.m. on election day and 5 p.m. on the fourteenth day after the election shall be transmitted to the County Election Board as outlined in this subsection.

(c) Upon receipt by fax of a voted ballot from the State Election Board, the Secretary of the County Election Board shall take the following steps.

(1) Attach the fax cover sheet to the ballot with a paper clip, fold the sheets in half and place in the locked absentee ballot box. If the ballot is received from the State Election Board on election day after the absentee ballot box has been opened, place the faxed ballot in a secure place until the County Election Board members are ready to count the ballot.

(2) Enter the date received in the voter's absentee application information in OEMS.

(3) After 7 p.m. on election day, the members of the County Election Board shall count by hand any voted ballots returned by fax.

(4) The results of the hand count shall be recorded in the minutes of the County Election Board meeting and entered manually in OEMS according to the appropriate software instructions.

230:30-11-7. Undeliverable absentee ballots returned by postal service to County Election Board

(a) In the event that absentee ballots mailed to a voter are returned to the County Election Board by the postal service because they are undeliverable as addressed, County Election Board personnel shall note on the envelope the date the undeliverable ballots were received and shall set them aside in a secure place. Such returned undeliverable absentee ballots shall be retained for 24 months with other absentee voting materials for the election. No entry concerning the undelivered ballots shall be made in the voter's absentee application in OEMS. Do not mail the ballots to another address unless it is provided in writing by the voter in the form of a new application for absentee ballots. If the voter's application includes additional upcoming elections, the application shall be considered cancelled and shall be deleted from OEMS. See 230:30-5-8.2.

(b) When the postal service returns undeliverable absentee ballots to the County Election Board, the Secretary is not required to try to contact the voter to obtain a new or a corrected mailing address. The Secretary may choose to do so, however, if there is sufficient time for such communication before the election, or if the voter has applied for absentee ballots for additional upcoming elections. If the Secretary chooses to contact the voter, the following guidelines should be observed. See (c) of this Section for the suggested contents of a letter to the voter.

(1) If the postal service has provided a forwarding address on the returned mailing envelope, mail a letter to the voter at that address.

(2) If the ballots were not mailed to the voter's residence address, mail a letter to the voter at the residence address or to the mailing address provided on the voter's voter registration application.

(3) If the ballots were mailed to a ~~military~~uniformed services voter or an overseas voter and were returned with a forwarding address, mail a letter to the voter at that address.

(c) Prepare a letter to the voter explaining that the absentee ballots could not be delivered to the voter by the postal service at the address provided on the absentee ballot application form and that ballots cannot be mailed again to that address. Enclose a new application form and ask the voter to fill it out with a new or a corrected mailing address and to return it. Include the deadline for absentee ballot applications for the affected election, or for the next election covered by the original application.

(d) If a voter whose absentee ballots were returned undelivered by the postal service contacts the County Election Board to inquire about the ballots, follow the procedures outlined in 230:30-17-1 through 230:30-17-4 to replace the ballots.

SUBCHAPTER 13. FEDERAL WRITE-IN ABSENTEE BALLOT

230:30-13-1. Voters permitted to use federal write-in absentee ballots

~~Residents of Oklahoma who are members of the Armed Forces or Merchant Marine and who are stationed outside the territorial limits of the United States, their spouses and dependents and residents of Oklahoma who are living outside the territorial limits of the United States and their spouses and dependents~~Uniformed services voters who are stationed outside the territorial limits of the United States and overseas voters who are living outside the territorial limits of the United States shall be permitted to use the federal write-in absentee ballot in Primary, Runoff Primary, Presidential Preferential Primary, and General Elections for federal offices. ~~Military~~These uniformed services voters and overseas voters may use the federal write-in absentee ballot whether or not they have applied for regular absentee ballots.

SUBCHAPTER 15. STATE WRITE-IN ABSENTEE BALLOTS

230:30-15-1. Voters eligible to use state write-in absentee ballot

~~Military~~Uniformed services voters and overseas voters who cannot vote by regular mail absentee ballot because of the time required for ballot transit may request the state write-in absentee ballot. The state write-in absentee ballot may be used to vote only for federal candidates in the Primary, Runoff Primary and General Elections. It also may be used in the Presidential Preferential Primary Election.

230:30-15-2. Applications for state write-in absentee ballot

~~Military~~Uniformed services voters and overseas voters may apply for the state write-in absentee ballot with the Department of Defense Form 76 Federal Post Card Application (FPCA) or by writing a letter setting forth substantially the same facts as included on the FPCA. The FPCA or letter

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may either be mailed or be submitted by electronic facsimile device (a "fax" machine). The voter must specifically request the state write-in absentee ballot. The voter must state that due to military contingencies or due to living in an isolated or extremely remote area of the world, the regular absentee ballot application procedure cannot be followed. The remarks section (Section 5) on the FPCA may be used by the voter to request the state write-in absentee ballot. The voter also may request regular absentee ballots. See 230:30-5-5.

230:30-15-3. Time for state write-in absentee ballot applications

~~Military~~ Uniformed services voters and overseas voters eligible to use the state write-in absentee ballot may apply for it within 90 days before an election that involves federal candidates.

230:30-15-5. Processing applications for state write-in absentee ballots

When an application for a state write-in absentee ballot is received from a ~~military-uniformed services voter~~ or an overseas voter, the following procedure shall be observed:

- (1) If the application is for a Primary or Runoff Primary Election, determine the voter's political affiliation. See item 7 on the FPCA. If the voter does not indicate a political affiliation in the application for a Primary or Runoff Primary Election, contact the State Election Board for additional instructions.
- (2) Determine the appropriate state write-in absentee ballot for the voter.
- (3) Detach the state write-in absentee ballot. Leave the numbered stub in the book of ballots.
- (4) Enter the appropriate Congressional district number in the blank space on the ballot.
- (5) Assemble the following materials and mail them to the voter:
 - (A) the appropriate ballot.
 - (B) a copy of the letter to the voter.
 - (C) a copy of Instructions for Voting by Write-In Absentee Ballot.
 - (D) a ~~military~~ uniformed services/overseas absentee voter packet. Use the outer envelopes with "Special Write-in Ballot" written or stamped on the front.
 - (E) a list of candidates for the offices, if available. See 230:30-15-6.

230:30-15-7. Voters who request both regular and state write-in absentee ballots

~~Military~~ Uniformed services voters and overseas voters are entitled to apply for both the state write-in absentee ballots and regular absentee ballots for the same election. The two requests may be made in the same application or may be made separately. If a ~~military-uniformed services voter~~ or an overseas voter requests both regular and state write-in absentee ballots, the state write-in absentee ballot shall be mailed in one set of absentee envelopes as outlined in 230:30-15-5, and

the regular absentee ballots shall be mailed in a separate set of absentee envelopes as outlined in 230:30-9-2. The request for regular ballots shall be processed as outlined in 230:30-9-5.

230:30-15-8. Time for return of state write-in absentee ballots

Voted state write-in absentee ballots must be received by the County Election Board no later than 7 p.m. election day in order to be counted, except in the Runoff Primary Election. State write-in absentee ballots cast by uniformed services and overseas voters in the Runoff Primary Election may be accepted and counted through the fourteenth day following the election. See 230:30-19-15.

230:30-15-9. Rules for counting state write-in absentee ballots

A state write-in absentee ballot shall be opened and counted only if regular absentee ballots from the voter are not received prior to 7 p.m. election day, except for the Runoff Primary Election. See 230:30-19-15. If regular absentee ballots are received from the voter prior to 7 p.m. election day, those regular absentee ballots shall be counted and the state write-in absentee ballots shall be rejected without being opened. If only the state write-in absentee ballot is received by the County Election Board prior to 7 p.m. election day, it shall be opened and shall be counted, provided that the affidavit is properly executed. When counting state write-in absentee ballots, the following provisions shall be observed:

- (1) The requirements for the affidavit are the same as those for a regular absentee ballot from a ~~military-uniformed services voter~~ or an overseas voter. See 230:30-9-5.
- (2) The voter may write in the names of specific candidates or the names of persons whom the voter prefers.
- (3) In the General Election, the voter may write in a party preference for each office.
- (4) State write-in absentee ballots shall be counted by hand by the County Election Board Chairman and Vice Chairman.

[OAR Docket #04-183; filed 1-30-04]

TITLE 230. STATE ELECTION BOARD CHAPTER 35. ELECTION CONDUCT

[OAR Docket #04-184]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 3. County Election Board Responsibilities
- Part 7. Final Preparations
- 230:35-3-57. Requesting and printing Precinct Registries [AMENDED]
- Part 9. Distributing Supplies and Ballots
- 230:35-3-65. Notifying Inspectors [AMENDED]
- 230:35-3-66. Issuing supplies and ballots [AMENDED]
- Part 17. Disposition of Materials
- 230:35-3-101.1. Processing transfers of address on election day [AMENDED]

230:35-3-101.2. Processing other voter registration applications received at polling place on election day [NEW]
Subchapter 5. Instructions for Precinct Election Officials
Part 11. Processing the Voter
230:35-5-60. Registration officials [NEW]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interests exist requiring the adoption of emergency rules.

Due to the increase in activity in the County Election Board office preceding elections, especially state and federal elections for which in-person absentee voting is required on Saturday mornings, County Election Board Secretaries have asked that the rules be changed to allow them to issue precinct supplies to Inspectors beginning on Thursday before an election.

As more and more voters are either asked or required to fill out voter registration application forms on election day to meet a variety of requirements, it is no longer possible for County Election Board personnel to process all applications received at the polling place as "transfers on election day," an option which automatically gives credit for voting. Some voters who fill out voter registration application forms may not be entitled to credit for voting.

Because many voters are asked to fill out voter registration applications at the polling place in order to provide more accurate and/or complete residence address information, County Election Board Secretaries have asked for authority to employ special purpose precinct workers to help such voters provide sufficient information. Such special precinct workers are authorized by a section of SB 358.

The first election affected by all three of the preceding circumstances is the Presidential Preferential Primary Election on February 3, 2004.

The Secretary finds that these emergency rules are necessary for County Election Board Secretaries to implement these procedures at the Presidential Preferential Primary Election and at subsequent elections and that this need meets the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

Three sections are amended to permit County Election Board Secretaries to begin issuing precinct supplies to Inspectors on Thursday preceding an election. The amendments also contain cautions about not printing Precinct Registries until all timely absentee ballot applications are processed. The deadline for absentee ballot applications is 5 pm. on Wednesday. One section concerning processing of voter registration applications received at the polling place on election day is amended and one new section on the same subject is added. A new section describing the duties of a special purpose precinct worker called a registration official is added. None of these amendments requires a new form or revision of any existing form.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF FEBRUARY 3, 2004:

SUBCHAPTER 3. COUNTY ELECTION BOARD RESPONSIBILITIES

PART 7. FINAL PREPARATIONS

230:35-3-57. Requesting and printing Precinct Registries

As soon as all registration transactions and applications for absentee ballots have been entered into OEMS, the Secretary shall cause Precinct Registries for the election to be printed. All Precinct Registries needed for an election shall be printed no earlier than 5 p.m. on Wednesday preceding the election and no later than the day before materials are issued to Inspectors.

PART 9. DISTRIBUTING SUPPLIES AND BALLOTS

230:35-3-65. Notifying Inspectors

At least ten days prior to an election, the Secretary shall notify each Inspector of the time and place that supplies and ballots will be issued to that Inspector. The time shall be either on Friday, Saturday or Monday preceding the election. The Secretary also may schedule Inspectors to pick up supplies on Thursday preceding the election if Precinct Registries are printed by that time.

230:35-3-66. Issuing supplies and ballots

On Thursday, Friday, Saturday or Monday preceding the election, the Secretary shall issue supplies and ballots for the election to each Inspector.

PART 17. DISPOSITION OF MATERIALS

230:35-3-101.1. Processing transfers of address on election day

All voter registration applications received at the in-person absentee polling place or at the precinct polling place on election day, except those applications received from persons who sign the Challenged Voter Affidavit ~~and persons who sign or the Military Discharge/Overseas Affidavit~~ and those received from provisional voters, shall be processed as transfers on election day. See 230:15-9-24. All transfers must be entered in OEMS before credit for voting can be given to voters as required in 230:35-3-93. Voter identification cards and rejection notices for the applications processed as transfers shall be printed and mailed as soon as possible after all such applications have been processed. See 230:15-9-29 and 230:15-9-33.

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230:35-3-101.2. Processing other voter registration applications received at polling place on election day

Voter registration applications received at the polling place on a federal election day from voters who signed the Challenged Voter Affidavit or the Military/Overseas Affidavit and from provisional voters shall be entered in OEMS after those received as transfers on election day. In most cases, voter registration applications from voters who signed these affidavits are entered as new applications.

SUBCHAPTER 5. INSTRUCTIONS FOR PRECINCT ELECTION OFFICIALS

PART 11. PROCESSING THE VOTER

230:35-5-60. Registration officials

A registration official may be assigned to a precinct on election day to help voters fill out voter registration application forms correctly. Voters who sign the Challenged Voter Affidavit, voters for whom the "Confirm Address" or "Insufficient Address" message appears in the Precinct Registry, and some provisional voters in federal elections are asked to complete voter registration application forms at the precinct. If a registration official is assigned to the precinct, the Judge may refer such voters to the registration official to complete the application form. Registration officials use the Voter Registration Application Checklist to review each voter's completed form to make certain it is complete and legible. If a voter does not have a street address, the registration official may need to use the precinct map to help a voter write adequate directions to the residence or to determine the legal description (section-township-range) of the residence. The registration official also must be certain that the voter has signed and dated the voter registration application form. A registration official may also serve simultaneously as a provisional voting officer for a federal election as outlined in 230:55-3-15. A registration official is not a member of the Precinct Election Board and is not authorized perform any other duty ordinarily assigned to the Judge, Clerk or Inspector.

[OAR Docket #04-184; filed 1-30-04]

TITLE 230. STATE ELECTION BOARD CHAPTER 40. TYPES OF ELECTIONS

[OAR Docket #04-185]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Special Elections
Part 1. Calling Special Elections
230:40-3-1.1. Times for special elections [AMENDED]
Subchapter 7. School Elections
Part 1. Dates for Annual School Election
230:40-7-1. Annual School Election [AMENDED]

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interests exist requiring the adoption of emergency rules.

Senate Bill 3 changed the date of the Presidential Preferential Primary Election from the second Tuesday in March to the first Tuesday in February.

Senate Bill 260 changes the dates of the candidate filing period and changes the dates of the Primary Election to the last Tuesday in July and the Runoff Primary Election to the fourth Tuesday in August.

Senate Bill 358 adjusts the statutory special election dates to match the new dates for the Primary Election and the Runoff Primary Election and eliminates special election dates in June and September in even-numbered years. It also moves the date of the Annual School Election in 2004 only to the fourth Tuesday in February. (The election date is changed in 2004 only because the second Tuesday in February is the regular date for Annual School Elections and for special elections. However, in 2004, this scheduling would have required County Election Boards to conduct statewide elections in two successive weeks — an impossible task.)

The Secretary finds that these emergency rules are necessary to conform the administrative rules to the amended law and that this need meet the compelling public interest standard for the adoption of emergency rules.

ANALYSIS:

These emergency amendments change references to the special elections dates in even-numbered years and also note the one-time change in the date of the 2004 Annual School Election and of the February, 2004, special election date from the second to the fourth Tuesday.

Several informational publications have already been revised to reflect these changes. Neither change requires revision of any existing form or the creation of any new form.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF FEBRUARY 3, 2004:

SUBCHAPTER 3. SPECIAL ELECTIONS

PART 1. CALLING SPECIAL ELECTIONS

230:40-3-1.1. Times for special elections

(a) Special elections may be held by a county, school district, vocational-technical school district, municipality or other entity authorized to call elections only on the following days unless otherwise provided by law. [26: 3-101(B)]

(1) **Odd-numbered years.** In odd-numbered years, special elections may be held on the second Tuesday in

January, February, May, June, July, August, September, October, November and December; and on the first Tuesday in March and April. [26:3-101(B)]

(2) **Even-numbered years.** In even-numbered years, special elections may be held on the second Tuesday in January, February (except in February, 2004), March, May, ~~June~~, and December; on the first Tuesday in April; on the last Tuesday in July; on the fourth Tuesday in August; on the third Tuesday in September; and on the first Tuesday after the first Monday in November. [26:3-101(B)] In February, 2004, the date for special elections shall be the fourth Tuesday.

(b) *In the event that a regular or special election date occurs on an official state holiday, the election shall be scheduled for the next following Tuesday.* [26:3-101(C)]

SUBCHAPTER 7. SCHOOL ELECTIONS

PART 1. DATES FOR ANNUAL SCHOOL ELECTION

230:40-7-1. Annual School Elections

Annual School District and Technology Center School District Elections shall be held *on the second Tuesday in February of each year.* [26:13A-103(A)] Except, however, in the year 2004, when the Annual School Elections shall be held on the fourth Tuesday in February.

[OAR Docket #04-185; filed 1-30-04]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 55. HELP AMERICA VOTE ACT
PROCEDURES**

[OAR Docket #04-186]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Chapter 55. Help America Vote Act Procedures [NEW]

AUTHORITY:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interests exist requiring the adoption of emergency rules.

Several provisions of the federal law commonly known as the Help America Vote Act of 2002 (HAVA) become effective on January 1, 2004, and

will apply to all federal elections conducted by Oklahoma election officials after that date.

The first election at which HAVA provisions will be in effect is the Presidential Preferential Primary Election on February 3, 2004. These provisions also will be in effect for the 2004 Primary Election on July 27, the Runoff Primary on August 24, and the General Election on November 2, 2004.

The Oklahoma Legislature has not yet considered amendments to state election law to conform it to the requirements of HAVA or to extend HAVA's provisions to state, county, school and municipal elections not held in conjunction with a federal election.

In granting administrative rulemaking authority to the Secretary of the State Election Board in 26 O.S. § 2-107, the Legislature expressed its intention that the "application, operation and interpretation of the state and federal election laws" be uniform and consistent for all elections in all counties in Oklahoma.

These emergency rules establishing procedures needed to implement the provisional voting, voter identification, voter information, and complaint procedures mandated by HAVA in the four federal elections scheduled in 2004 are necessary and meet the standard of a compelling public interest.

ANALYSIS:

These emergency rules are required to implement the portions of the federal Help America Vote Act of 2002 (HAVA) that become effective on January 1, 2004. The Oklahoma Legislature has not yet considered compliance legislation to extend the provisions of HAVA to all elections conducted by the County Election Boards in Oklahoma.

The new Chapter created for these emergency rules is necessary to isolate the provisional voting, voter identification, voter information and complaint procedures from other State Election Board rules because the emergency rules will apply only to the four federal elections scheduled in 2004 — the Presidential Preferential Primary Election on February 3, the Primary Election on July 27, the Runoff Primary Election on August 24 and the General Election on November 5.

The emergency rules in the new Chapter's Subchapter 1, General Provisions, establish the purpose of the rules, as stated above, and define the term "federal election" as it is used in these rules.

The emergency rules in Subchapter 3, Provisional Voting, establish procedures for the administration of the provisional voting mandate of HAVA. The emergency rules identify the elections at which provisional voting shall be available and the voters who may cast provisional ballots; create the position of "provisional voting officer" to administer the procedures in the precinct polling place on election day; provide alternatives to certain existing precinct procedures that incorporate or refer to provisional voting; and create step-by-step instructions for the provisional voting officer and the Precinct Officials. The rules also establish procedures for the Secretary of the County Election Board to receive, verify and count provisional ballots after the election; delays the certification of election results by the County Election Boards to the State Election Board from election night until 5 p.m. on Friday following the election, and delays certification of final election results by the State Election Board until 5 p.m. on Tuesday next succeeding the election. These delays are absolutely required to provide County Election Boards time to verify the eligibility of voters who cast provisional ballots. The rules establish criteria for the verification of provisional ballots based upon the reason the ballot was cast. The procedure for counting provisional ballots is similar to the procedure for counting absentee ballots and involves both the Chairman and Vice Chairman of the County Election Board, or their alternates, as well as the Secretary and designated County Election Board employees.

The emergency rules in Subchapter 5 concern the voter identification requirements of HAVA. Voters who apply by mail for voter registration after January 1, 2003, are required by HAVA to show identification when they vote for the first time in a federal election. These voters will be identified in the Precinct Registry by a message in the signature line. The Precinct Judge will ask such voters for identification. Acceptable forms of identification include currently valid photo identification, the voter identification card issued to the voter by the County Election Board; or a copy of a current utility bill, bank statement, paycheck, government check, or any other government document that shows the voter's name and address. These are the general forms of identification specified by HAVA. A voter who cannot produce one of these forms of identification at the polling place must cast a provisional ballot. A provisional ballot cast under these circumstances will be verified and counted if the information on the voter's provisional ballot affidavit matches the information recorded for the voter in OEMS.

The emergency rules in Subchapter 7 concern the requirement in HAVA that certain information of interest to voters be posted at each polling place on election day. Most of the required information has routinely been posted

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in Oklahoma polling places on a sign called the Important Voter Information sign. The text of the sign has been revised to include the information required by HAVA that was not on the sign. In redesigning the sign itself, however, we determined that all the information could not appear on a single sign. Therefore, the State Election Board is printing two new signs to replace the old Important Voter Information sign. The new signs are the Oklahoma Election Procedures sign and the Election Law Violations sign. Both these signs are designed to display the required information in both English and Spanish and will be distributed to all County Election Boards for use in all precincts.

Finally, the emergency rules in Subchapter 9 concern the procedure for receiving, investigating, and resolving complaints concerning alleged violations of the requirements of Title III of HAVA.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Telephone: (405) 521-2391.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF FEBRUARY 3, 2004:

SUBCHAPTER 1. GENERAL PROVISIONS

230:55-1-1. Purpose

The purpose of the rules in this Chapter is the implementation of those provisions of the federal Help America Vote Act of 2002 (42 USC 15301 et seq) which shall become effective prior to the enactment of compliance legislation in Oklahoma. The rules in this Chapter shall be applicable only to federal elections. The rules in this Chapter concern four major requirements of the Help America Vote Act directly affecting voters on election day and requiring new procedures for Precinct Election Officials: provisional voting; voter identification requirements for voters who apply for voter registration by mail on or after January 1, 2003, when they vote for the first time in a federal election; public posting of certain voting information, specified in the Act, on election day; and establishment of a procedure for receiving and resolving complaints concerning violation of any provision of Title III of the Help America Vote Act.

230:55-1-2. Definitions

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

"Federal election" means an election held on the last Tuesday in July; the fourth Tuesday in August; and the first Tuesday after the first Monday in November in even-numbered years; the first Tuesday in February of an even-numbered year in which the President and Vice President of the United States are to be elected; and the date of a special election called at any other time to fill a vacancy in the office of United States Senator or United States Representative.

SUBCHAPTER 3. PROVISIONAL VOTING

PART 1. PROVISIONAL VOTING AUTHORIZED

230:55-3-1. Provisional voting in federal elections only

Provisional voting shall be made available on the dates of federal elections only. Provisional voting shall be made available for all offices and questions appearing on all ballots on a federal election date.

230:55-3-2. Voters who may cast a provisional ballot

Voters who are not listed in the Precinct Registry and who cannot be allowed to vote by one of the procedures outlined in 230:35-5-111, 230:35-111.1 or 230:35-5-114, but who insist that they believe themselves to be registered in the precinct and eligible to vote in the election may cast a provisional ballot. In addition, voters for whom the Precinct Registry indicates voter identification is required and who cannot produce one of the forms of identification described in 230:55-5-1 must cast a provisional ballot, and voters who dispute their political affiliation as indicated in the Precinct Registry may receive a provisional ballot for their preferred party.

230:55-3-3. Provisional Voting Officer authorized

(a) A Provisional Voting Officer is an extra Precinct Official assigned to help voters cast provisional ballots. The Secretary of the County Election Board shall be authorized to employ Provisional Voting Officers upon approval by the Secretary of the State Election Board. In the event a Provisional Voting Officer is not employed in a precinct, the Inspector shall perform the duties of the Provisional Voting Officer as a part of the Inspector's regular election duties without additional compensation. A Provisional Voting Officer also may perform the duties assigned to a Registration Official in 230:35-5-60.

(b) The Provisional Voting Officer shall be compensated at the same rate as the Judge and Clerk in the precinct. Compensation for Provisional Voting Officers shall be included in the Record of Expense.

(1) The compensation of Provisional Voting Officers shall be paid by the State Election Board only when such payment is authorized prior to an election by the Secretary of the State Election Board.

(2) The compensation of Provisional Voting Officers may be paid by the county when such payment is not authorized by the Secretary of the State Election Board.

230:55-3-4. Supplies for provisional voting

The Secretary shall assemble provisional voting supplies for each precinct in advance of any election in which provisional voting is authorized. The provisional voting supplies may be included in the same supply container as the regular precinct supplies, or they may be placed in a separate container. The following provisional voting supplies shall be assembled as instructed in 230:35-3-3, and shall be issued to Inspectors with the regular precinct election supplies as instructed in 230:35-5-17.

- (1) Special Instructions for Judge for 2004 Federal Elections
- (2) Provisional Voting Forms booklet
 - (A) Instructions for Provisional Voting Officer for 2004 Federal Elections
 - (B) Voter Assistance Form
 - (C) Absentee Voter Affidavit
 - (D) Spoiled Ballot Affidavit
- (3) Provisional Voting Information handouts
- (4) Identification Required sign
- (5) Provisional Ballot Vouchers
- (6) Provisional Ballot Affidavit Envelopes
- (7) Oklahoma Voter Registration Application forms
- (8) Voter Eligibility signs (school or municipal), as needed
- (9) Provisional Ballot Rosters
- (10) ballot secrecy envelopes
- (11) ink pens
- (12) ballot markers
- (13) paper clips
- (14) orange provisional ballot bag
- (15) blue plastic seal for provisional ballot bag

**PART 3. PROVISIONAL VOTING PROCEDURES
AT THE POLLING PLACE**

230:55-3-9. Routine for Judge

- (a) The Judge follows these routine steps to process voters.
 - (1) Greet the voter and ask the voter's name. If this is a Primary or a Runoff Primary Election, also ask the voter's political party.
 - (2) Find the voter's name in the Precinct Registry.
 - (3) If there is a message printed in the "Signature of Voter" column, follow the instructions for that message. See 230:35-5-113 or 230:35-5-113.1 or 230:55-5-2.
 - (4) Tell the voter to sign the Precinct Registry. [26:7-114; 26:7-117]
 - (5) If more than one election is being held today, determine the voter's eligibility for each election. See 230:35-5-52.1.
 - (6) Write the code for each ballot the voter will receive in the "Ballots Issued" column of the Precinct Registry.
 - (7) Tell the Clerk the voter's political affiliation, as it appears in the Precinct Registry, and the elections in which the voter is voting.
- (b) If the voter's name is not in the Precinct Registry, refer to the following sections of the Precinct Problem Solver.
 - (1) Turn to the "Voter Whose Name Is Not In Precinct Registry" section of the Precinct Problem Solver and follow the procedures.
 - (2) Turn to the "Military Discharge or Military Leave" section, if necessary.
 - (3) If none of these procedures will permit the person to vote, fill out a Provisional Ballot Voucher and tell the person to take it to the Provisional Voting Officer to cast a provisional ballot.

230:55-3-10. Voter whose name is not in Precinct Registry --- Challenged Voter Procedure

(a) A person whose name is not listed in the Precinct Registry may vote if he or she has a voter identification card for an address located within the current boundaries of the precinct. When a person's name is not in the Precinct Registry, the Judge follows this procedure.

- (1) Ask to see the person's voter identification card.
- (2) Show the voter the precinct map and tell the voter to locate the residence address printed on the voter identification card on the map.

(A) If the residence address on the voter identification card is located within the current geographical boundaries of this precinct, the person may vote after completing the actions outlined in steps (3) through (7).

(B) If the residence address on the voter identification card is not located within the current geographical boundaries of this precinct, the person may not vote a regular ballot in this precinct. Contact the County Election Board office for assistance if the maps indicate that the voter should be referred to another polling place.

(3) Give the voter an Oklahoma Voter Registration Application form.

(4) Ask the voter to fill out and sign the application.

(5) Print the voter's name, address, telephone number, political affiliation and the ballots to be issued on the Challenged Voter Affidavit and sign it in the space for the Judge's signature.

(6) Tell the voter to read the oath printed on the Challenged Voter Affidavit and to sign the affidavit.

(7) Attach the voter's old voter identification card to the Oklahoma Voter Registration Application form with a paper clip and return to the routine procedure.

(b) If a person not listed in the Precinct Registry has a voter identification card with an address located within the current boundaries of this precinct but refuses to fill out an Oklahoma Voter Registration Application form, refuses to surrender the voter identification card, and/or refuses to sign the Challenged Voter Affidavit form, the person may not vote a regular ballot. If the person has a voter identification card but the address on the card is not located within the current boundaries of this precinct, the person may not vote a regular ballot in this precinct. Such persons may cast provisional ballots, however.

230:55-3-11. Person who applied for voter registration but has not received voter identification card --- Valid Application Affidavit procedure

(a) A person whose name is not in the Precinct Registry and who does not have a voter identification card may still be entitled to receive a regular ballot under the following circumstances.

(1) The person submitted a valid voter registration application 25 days or more before the election.

(2) County Election Board personnel find evidence that the person's valid application was appropriately received

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but not processed in time for the voter's name to appear in the Precinct Registry and tell the Inspector to allow the person to vote.

(b) Upon determining that a person whose name is not in the precinct Registry may be entitled to vote under the circumstances described in (a), the Judge refers the person to the Inspector. The Inspector follows these steps to establish the person's eligibility to vote.

(1) Call the County Election Board office and relay the person's name and the location where and date when the voter registration application was submitted.

(2) If County Election Board personnel find evidence of the person's timely and valid application, use the Valid Application Affidavit and allow the person to vote.

(A) Print the person's name, address, telephone number, political affiliation, and ballots to be issued on the form.

(B) Print the name of the County Election Board employee who told the Inspector to use this form. Indicate the time this message is received.

(C) Tell the person to read the oath printed on the Valid Application Affidavit and to sign it.

(D) Sign the Valid Application Affidavit.

(E) Tells the Clerk the voter's political affiliation and the elections in which the voter is voting. Return to the routine procedure.

(3) If County Election Board personnel are unable to find evidence of a timely and valid application or if the Inspector is unable to reach the County Election Board office by telephone, the person is entitled to cast a provisional ballot.

230:55-3-12. Military/Overseas Affidavit procedure

(a) A person whose name is not in the Precinct Registry may be entitled to vote without being registered if they are eligible to become registered voters, if they are residents of the precinct, and if they also meet one of the following requirements.

(1) The person was honorably discharged from the uniformed services of the United States and has returned home 24 days or less before the election.

(2) The person is on officially authorized leave from the uniformed services of the United States and has returned home 24 days or less before the election.

(3) The person was terminated in his or her service or employment overseas and returned home 24 days or less before the election.

(4) The person is the spouse or dependent of a person described in (1), (2) or (3) of this subsection.

(b) The Inspector follows this procedure.

(1) Ask the voter to fill out and sign the Oklahoma Voter Registration Application form.

(2) Print the voter's name, address, political affiliation and the ballots to be issued to the voter in the appropriate spaces on the Military/Overseas Affidavit.

(3) Tell the person to read the oath printed on the Military/Overseas Affidavit.

(4) Tell the voter to sign the Military/Overseas Affidavit.

(5) Tell the Clerk the voter's political affiliation.

(6) Return to the routine procedure.

(c) Voters who sign the Military/Overseas Affidavit swear this oath. "Do you swear or affirm that you have been honorably discharged, or that you are on leave from the uniformed services of the United States, or that you have been terminated in your service or employment overseas and returned home 24 days or less before the election being conducted today, or that you are the spouse or dependent of such a person? [25:14-121] Do you swear or affirm that you are eligible to vote in this precinct? [26:14-121] Do you swear or affirm that you have filled out and signed an Oklahoma Voter Registration Application form? [26:14-121] Do you swear or affirm that you have not voted by absentee ballot in the election being conducted today?"

230:55-3-13. Voter who disputes the political affiliation indicated in Precinct Registry

In a partisan primary election, a voter who disputes the political affiliation indicated in the Precinct Registry may receive only the ballot for the political party indicated in the Precinct Registry. Even if the voter has a voter identification card showing a different political affiliation, the voter may only receive the ballot indicated by the Precinct Registry. However, the voter may receive a provisional ballot for a different political party. If a voter who disputes his or her political affiliation chooses to vote a provisional ballot for a different party, fill out a provisional ballot voucher and tell the voter to take it to the Provisional Voting Officer. Be sure to indicate the voter's preferred political affiliation on the voucher.

230:55-3-14. Filling out a Provisional Ballot Voucher

The Judge shall fill out a Provisional Ballot Voucher for every voter who will cast a provisional ballot. Do not send a voter to the Provisional Voting Officer without a voucher. Write the following information on the voucher in the spaces provided: the voter's name; the appropriate state ballot code; the school district code, if the voter is eligible to receive a school district ballot; the municipality code, if the voter is eligible to receive a municipal election ballot. If the Precinct Registry indicates that the voter has requested absentee ballots, mark the "Absentee Ballot Requested" box. If the voter disputes the political affiliation as indicated in the Precinct Registry, write the voter's preferred political affiliation on the voucher.

230:55-3-15. Procedure for Provisional Voting Officer

(a) The Provisional Voting Officer, or the Inspector if a Provisional Voting Officer is not employed, greets the voter and follows these steps to help the voter cast a provisional ballot.

(1) Take the provisional ballot voucher from the voter. If the voter did not receive a provisional ballot voucher from the Judge, make sure the voter has seen the Judge.

(2) Give the voter a copy of the Provisional Voting Information handout.

- (3) Tell the voter that if County Election Board personnel cannot verify the voter's registration in this precinct, the provisional ballot will not be counted.
 - (4) Give the voter an Oklahoma Voter Registration Application form and ask the voter to fill it out and sign it. A voter is not required to complete the registration application to receive a provisional ballot but should be encouraged to do so. If the voter completes the application, set it aside in a secure place.
 - (5) Fill out a Provisional Ballot Affidavit Envelope for the voter.
 - (A) Write the election date, county name, and precinct number in the spaces provided at the top of the affidavit.
 - (B) Ask the voter for the following information and write it on the affidavit in the appropriate spaces.
 - (i) name
 - (ii) residence address
 - (iii) date of birth
 - (iv) Oklahoma driver's license number, if available
 - (v) last four digits of social security number
 - (vi) political affiliation
 - (C) Place a checkmark beside the appropriate statement of the reason the voter is casting a provisional ballot.
 - (i) **Voter Not in Precinct Registry.** If the voter offers any information about where and when he/she may have registered, last voted, or another name under which he/she may be registered, record the information in the spaces provided.
 - (ii) **Identification Required.** Ask the voter to read and sign the Affidavit of Identity statement on the affidavit envelope.
 - (iii) **Other.** Record any explanation the voter offers concerning the reason he/she may be eligible to vote.
 - (D) Record the ballot style or styles indicated on the voter's Provisional Ballot Voucher in the spaces provided on the Affidavit.
 - (6) Ask the voter to review the information on the affidavit. Tell the voter to read the oath and to sign it. Also ask the voter to write his/her daytime telephone number in the space provided.
 - (7) Sign the affidavit in the space provided for the Provisional Voting Officer.
 - (8) Print the voter's name on the Provisional Ballot Roster and record the codes for the ballots issued to the voter in the space provided. Tell the voter to sign the roster.
 - (9) If the voter's provisional ballot voucher indicates that the voter has requested absentee ballots, have the voter sign the Absentee Voter Affidavit.
 - (10) Issue the appropriate state ballot and any other ballots indicated on the voucher. Fold each ballot in half before giving it to the voter. Put the voucher inside the affidavit envelope. Give the voter the affidavit envelope, a secrecy envelope, and the ballot.
 - (11) Tell the voter to go to the provisional ballot voting booth to mark the ballot. Tell the voter to follow these steps to secure the ballot.
 - (A) Fold the ballot in half.
 - (B) Put the folded ballot inside the secrecy envelope and seal the envelope.
 - (C) Put the sealed secrecy envelope inside the affidavit envelope and seal the affidavit envelope.
 - (D) Return to the table with the sealed affidavit envelope.
 - (12) If necessary, follow the procedures for spoiled ballots (230:35-5-127) or voter assistance (230:35-5-120.1), using the Precinct Problem Solver.
 - (13) When the voter returns the sealed affidavit envelope, put it in the orange provisional ballot bag immediately.
 - (14) Tell the voter that information concerning disposition of the provisional ballot may be obtained from the County Election Board after 5 p.m. on Friday. Make sure the voter takes a copy of the Provisional Voting Information handout.
- (b) After 7 p.m., and after the last voter has voted and left the polling place, the provisional ballot officer shall complete the following steps.
- (1) Complete and sign the provisional ballot section of the Ballot Accounting Form.
 - (2) Put the Provisional Ballot Roster and the Provisional Voting Forms booklet in the large, clear plastic pocket on the provisional ballot bag.
 - (3) Zip the orange bag and seal it with the blue plastic seal.
 - (4) Pack any unused provisional ballots and materials as instructed by the County Election Board Secretary.
 - (5) Give the sealed provisional ballot bag, the packed supplies, and completed Oklahoma Voter Registration Application forms to the Inspector.
- 230:55-3-16. Inspector returns to the County Election Board office**
- (a) **Inspector's items.** After all the work is completed, the Inspector returns to the County Election Board office with the following items.
- (1) Voting device (only if instructed by Secretary).
 - (2) Envelope for Totals Printout.
 - (3) Election supplies.
 - (4) American flag.
 - (5) Precinct Registry or Registries.
 - (6) Precinct Expense Claim Envelope and any unclaimed vouchers.
 - (7) Sealed ballot transfer cases.
 - (8) Sealed orange provisional ballot bag.
 - (9) Green Envelope with Totals Printouts (statewide elections only).

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(b) **Green Envelope.** If this is a statewide election, the Inspector mails the green envelope to the State Election Board on the way to the County Election Board office.

(c) **At the County Election Board office.** At the County Election Board office, the Inspector turns over all the election supplies and materials to County Election Board personnel. [26:7-133]

PART 5. RECEIVING, VERIFYING, AND COUNTING PROVISIONAL BALLOTS

230:55-3-21. Assembly line required for receiving returns and materials from Inspectors

Before the first Inspector arrives, an assembly line shall be established for receiving the returns. The Chairman and Vice Chairman of the County Election Board, the Secretary or clerical employees of the Board may be involved in reception. When receiving returns, the following procedure shall be observed:

(1) Representatives of the news media shall be assigned to a separate office or area. If the County Election Board has more than one OEMS terminal, one terminal may be placed in a public area to display precinct results as they are accumulated.

(2) Appropriate receptacles shall be prepared and arranged for receiving items from Inspectors.

(3) Inspectors shall form a line as they arrive, and shall be processed one at a time.

(4) The Envelope for Totals Printout shall be received first. The envelope shall be opened and its contents examined in the following order.

(A) The Totals Printout shall be examined. If it appears to be in order, it shall be set aside in a secure place. If, however, the Totals Printout appears to be incorrect in any way, the Secretary and the County Election Board members shall confer to determine whether an election night recount of the ballots cast in the precinct, as outlined in 230:35-3-85.1, is warranted.

(B) The Ballot Accounting Form shall be examined.

(C) The memory pack shall be given to the person responsible for reading it into the computer.

(D) The voting device key envelope shall be examined to be certain that the precinct number is written on it. The key envelope shall be set aside in a secure place.

(5) The voting device, if returned by the Inspector, shall be received and immediately transferred to secure storage.

(6) The sealed ballot transfer boxes shall be received and immediately transferred to secure storage. See 230:35-3-86.

(7) The sealed orange provisional ballot bag shall be received.

(A) Remove the Provisional Ballot Roster from the clear plastic pocket on the bag. Make certain that the

precinct number is indicated on the Provisional Ballot Roster before separating it from the bag.

(B) Place the provisional ballot bag in a secure receptacle. Access to the provisional ballot bags shall be restricted to authorized County Election Board personnel.

(C) Paperclip or staple the Provisional Ballot Roster pages together and set aside in a secure location. Access to these forms shall be restricted to authorized County Election Board personnel.

(D) Set the Provisional Voting Forms booklet aside in a secure location. Make certain that the precinct number is on the booklet.

(8) The Precinct Registries shall be received and examined.

(9) The Precinct Expense Claim Envelope and any unclaimed vouchers shall be received and examined.

(10) The Inspector shall sign the Precinct Expense Claim Envelope and receive his voucher for compensation and mileage if all other vouchers for the precinct are accounted for.

(11) The election supply container shall be received and placed in an appropriate receptacle.

(12) The American flag shall be received and stored.

230:55-3-22. Determining number of signatures on Provisional Ballot Rosters

The number of signatures on the Provisional Ballot Rosters from each precinct in the county shall be determined by the Secretary of the County Election Board on election night. The total number of signatures on Provisional Ballot Rosters may be made public, but no additional information concerning provisional ballots or the identity of provisional voters shall be released prior to 5 p.m. on Friday following the election.

(1) Count the signatures on each page of the Provisional Ballot Roster for a precinct and record the total number of signatures for the precinct on the Provisional Ballot Precinct Log.

(2) When all precinct returns have been received, determine the total number of provisional ballots cast in the county by adding the precinct totals together. Enter the total in the space provided on the Provisional Ballot Precinct Log.

(3) Fax a copy of the Provisional Ballot Precinct Log to the State Election Board.

(4) Make a copy of the Provisional Ballot Precinct Log available for public inspection in the County Election Board office. Copies may be distributed to any interested party.

230:55-3-23. Handling provisional ballot affidavit envelopes

Beginning on the day after the election, the County Election Board Secretary shall cause the provisional ballot affidavits to be examined and verified. Open the provisional ballot bag or bags from only one precinct at a time. The affidavit envelopes from a single precinct shall be divided among the

County Election Board staff available to work on verification. Access to the provisional ballot affidavit envelopes shall be restricted only to authorized County Election Board personnel. No information concerning the identity of provisional voters or the disposition of any provisional ballot shall be disclosed prior to 5 p.m. on Friday next following the election.

230:55-3-24. Criteria for verification of provisional ballot affidavit information

(a) Voter not in Precinct Registry. A provisional ballot cast by a voter whose name is not in the Precinct Registry shall be considered verified and approved for counting if evidence of the voter's valid and timely voter registration is found and if:

- (1) the provisional ballot was cast in the precinct of the voter's residence as indicated in the voter registration record or other evidence found; and
- (2) in the case of a partisan primary election, the voter cast a provisional ballot for the same party as that of the voter's political affiliation in the voter registration record or other evidence found.

(b) Identification Required Voter. A provisional ballot cast by a first-time voter in a federal election who is unable to provide one of the forms of identification listed in 230:55-5-1 shall be considered verified and approved for counting if the last name, date of birth, Oklahoma driver's license number, if known, and the last four digits of the social security number match the information in OEMS.

(c) Political affiliation dispute. In the event a voter in the Primary or Runoff Primary Election casts a provisional ballot after disputing the political affiliation indicated in the Precinct Registry, the provisional ballot shall be counted only if evidence of a timely and valid change of political affiliation is found.

230:55-3-25. Provisional ballot verification procedure for voter not in Precinct Registry

The following steps shall be taken to verify the eligibility of a provisional voter whose name is not listed in the Precinct Registry.

- (1) Verify that the voter's residence address as indicated on the provisional ballot affidavit is located within the current geographical boundaries of the precinct in which the provisional ballot was cast. If the address provided by the voter is not in the precinct, the ballot shall not be counted.
- (2) Look for the voter's registration information in OEMS.

(A) If the voter's registration information is found in OEMS, determine whether the voter's residence address shown in OEMS is located in the precinct where the provisional ballot was cast. If the voter registration address in OEMS is located in the precinct where the provisional ballot was cast, write the voter identification number in the space provided on the affidavit envelope. Try to determine why the voter's name was not found in the Precinct Registry.

(B) If the voter's registration information is not in OEMS, the voter is not registered and the ballot shall not be counted.

(3) If the voter provided any additional information on the affidavit that might be used to establish eligibility, investigate it to the extent possible.

(4) Indicate the disposition of each provisional ballot issued to the voter in the "For CEB Office Use Only" space on the affidavit envelope by placing a checkmark beside "Count" or "Reject" as appropriate. If a ballot is rejected, indicate the reason for the rejection in the space provided.

(5) If a provisional ballot is verified and approved for counting, place the affidavit envelope, unopened, in a locked ballot box or other locked container until the County Election Board meets to open the affidavit envelopes. Place all rejected provisional ballot affidavits aside in a secure location completely separate from affidavits not yet verified and from those that are verified and approved for counting.

230:55-3-26. Provisional ballot verification procedure for voter without required identification

The following steps shall be observed to verify the eligibility of a provisional voter who was unable to provide required identification at the polls.

(1) Look for the voter's registration information in OEMS and verify that the name, date of birth, Oklahoma driver's license number, if provided, and last four digits of the social security number are the same.

(2) Indicate the disposition of the provisional ballot in the "For CEB Office Use Only" space on the affidavit envelope by placing a checkmark beside "Count" or "Reject" as appropriate. If the ballot is rejected, indicate the reason for the rejection in the space provided.

(3) If a provisional ballot is verified and approved for counting, place the affidavit envelope, unopened, in a locked ballot box or other locked container until the County Election Board meets to open the affidavit envelopes. Place all rejected provisional ballot affidavits aside in a secure location completely separate from affidavits not yet verified and from those that are verified and approved for counting.

230:55-3-27. Provisional ballot verification procedure for voter who disputes political affiliation

The following steps shall be observed to verify the eligibility of a provisional voter who disputes the political affiliation indicated in the Precinct Registry.

(1) Look at the original registration form in the Central File to determine whether the voter's choice of political affiliation was entered incorrectly in OEMS.

(2) Look for the voter's name on the Pending Political Affiliation Changes report. If a change of political affiliation to the party for which the voter cast a provisional ballot is pending but not yet activated, the voter's provisional ballot must be rejected.

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(3) Check the rejected applications being held in the Additional Information Requested file and the Rejection Registry file to determine if a voter registration application for change of political affiliation to the party for which the voter cast a provisional ballot was rejected.

(4) Investigate to the extent possible any information provided by the voter on the provisional ballot affidavit that may prove that the voter submitted a valid and timely application for change of political affiliation to the party for which the voter cast a provisional ballot.

(5) Indicate the disposition of the provisional ballot in the "For CEB Office Use Only" space on the affidavit envelope by placing a checkmark beside "Count" or "Reject" as appropriate. If the ballot is rejected, indicate the reason for the rejection in the space provided.

(6) If a provisional ballot is verified and approved for counting, place the affidavit envelope, unopened, in a locked ballot box or other locked container until the County Election Board meets to open the affidavit envelopes. Place all rejected provisional ballot affidavits aside in a secure location completely separate from affidavits not yet verified and from those that are verified and approved for counting.

230:55-3-28. Extension of provisional ballot verification period

The Secretary of the State Election Board shall be authorized to extend the provisional ballot verification period beyond 5 p.m. on Friday in the event that any County Election Board Secretary is unable to complete the verification of all provisional ballots by that time. In the event that the Secretary of the State Election Board extends the verification period beyond 5 p.m. on Friday, the period shall be extended statewide and no County Election Board shall release any information concerning provisional ballots until authorized to do so by the Secretary of the State Election Board. The time for contests of election and the time to certify the results of the election also shall be extended by the same number of hours or days, excluding Saturday and Sunday, as the verification period. For example, if the verification period is extended until 5 p.m. on Monday next following the election, the deadline for filing a contest of election shall be extended until 5 p.m. on the second Wednesday after the election. In this example, the final election results would be certified no earlier than 5 p.m. on the second Wednesday following the election.

230:55-3-29. Opening provisional ballot affidavit envelopes and counting provisional ballots

(a) The County Election Board members shall meet on Friday next following the election at such time as the Secretary may prescribe to open the verified provisional ballot affidavit envelopes and to count the provisional ballots. The Board members shall follow these steps to remove the provisional ballots from the envelopes.

(1) The Board members shall receive the verified provisional ballot affidavit envelopes, sorted by precinct,

from the Secretary or a designated County Election Board employee.

(2) The Board members shall open the affidavit envelopes and remove the ballot secrecy envelope.

(A) Set the affidavit envelope aside.

(B) Place the ballot secrecy envelope in an appropriate container.

(3) When all the affidavit envelopes from a single provisional ballot precinct have been opened, the secrecy envelopes shall be mixed together.

(4) The Board members shall open the ballot secrecy envelopes and remove the ballots.

(A) Set the secrecy envelope aside.

(B) Unfold the ballot and place it in the designated container for the precinct.

(b) When all the verified provisional ballot envelopes for a precinct have been opened, the ballots shall be counted. The following procedure shall be observed.

(1) The Secretary shall assign a County Election Board employee to count the provisional ballots. The members of the County Election Board shall observe the counting process.

(2) The employee assigned to count the ballots shall take the following steps.

(A) The memory pack for the precinct shall be inserted in the voting device.

(B) The polls shall be reopened so that the memory pack can read additional ballots.

(C) Insert the ballots, one at a time, into the device. If the device returns a ballot, do not remove the ballot. Use the override key to accept the ballot, then continue inserting ballots.

(D) After all the ballots have been counted but under no circumstance prior to 5 p.m., generate at least 3 Totals Printouts.

(3) The employee who counted the ballots and the members of the County Election Board each shall sign all the copies of the Totals Printout.

(4) The employee shall remove the counted provisional ballots and place them in a ballot transfer case. One signed copy of the Totals Printout shall also be placed in the ballot transfer case. The ballot transfer case shall be sealed with a long white State Election Board seal signed by the County Election Board members and the employee who counted the ballots. The seal shall be clearly marked to indicate the box contains counted provisional ballots.

(5) The sealed ballot transfer case shall be given to the Sheriff, who shall provide security for the counted ballots until 5 p.m. on Tuesday next succeeding the election or until the ballots are delivered to the district courtroom for a recount.

(6) One copy of the provisional ballots Totals Printout shall be made available for inspection in the County Election Board office after 5 p.m.

230:55-3-30. Obtaining provisional ballot results

After all the provisional ballots have been counted and the required number of Totals Printouts obtained, County Election

Board personnel shall follow the appropriate software instructions to enter the provisional ballot results in OEMS. Under no circumstances shall the results of the provisional ballot count be made public prior to 5 p.m. on Friday following the election.

230:55-3-31. Certifying county results of federal elections

(a) Election night activities. On election night of a federal election, the County Election Board shall canvass the results of all candidate races and of all questions on the ballot but shall not certify any election results prior to 5 p.m. on Friday. The Secretary of the County Election Board shall complete the following activities on election night.

(1) If the county is an affected county in a special election for a multi-county school district or municipality, the Secretary shall report the unofficial precinct and absentee results of such special elections to the parent County Election Board.

(2) Determine the number of signatures on the Provisional Ballot Roster using the Provisional Ballot Precinct Log. Fax the Provisional Ballot Precinct Log to the State Election Board and post a copy of the Log on the office door.

(3) On the night of the Runoff Primary Election only, follow the specific instructions received from the State Election Board to determine the number of outstanding uniformed services and overseas absentee ballots and to report that number to the State Election Board.

(b) 5 p.m. Friday following election. For the Primary Election, General Election, and Presidential Preferential Primary Election, the final election results, which shall include precinct results, absentee ballot results, and provisional ballot results, shall be certified no earlier than 5 p.m. on Friday following the election. The County Election Board Chairman, Vice Chairman, and Secretary each shall sign two copies of the Certification Report in the spaces provided following the certification message. The Secretary shall affix the County Election Board seal to both signed copies in the area of the signatures. One of the signed and sealed copies of the Certification Report shall be mailed to the State Election Board.

(c) 5 p.m. Tuesday next following election. The County Election Board shall meet no earlier than 5 p.m. on the Tuesday next following the election to certify the final election results for all county offices and county questions and of any special multi-county school district or municipal elections for which it is the parent County Election Board.

(d) Runoff Primary Election. Absentee ballots from uniformed services and overseas absentee voters who made timely applications for ballots for the Runoff Primary Election received by the Secretary of the County Election Board by 5 p.m. on the fourteenth day following the Runoff Primary Election shall be accepted, counted and included in the final election results for federal offices only. [26:14-104.1] If no absentee ballots from uniformed services or overseas voters remain outstanding at 5 p.m. on Friday following the Runoff Primary Election, the County Election Board members may certify the final results for federal offices to the State Election Board as

outlined in (a) of this Section. However, if any uniformed services and overseas absentee ballots remain outstanding at 5 p.m. on Friday following the Runoff Primary Election, the County Election Board shall canvass the county's precinct, absentee, and provisional ballot totals for federal offices and shall follow the specific instructions received from the State Election Board to report the results of the provisional ballot count. The County Election Board shall certify the final results for federal offices after 5 p.m. on the fourteenth day following the Runoff Primary Election.

230:55-3-32. Voter may learn of disposition of own provisional ballot

(a) An individual voter who casts a provisional ballot in a federal election shall be able to learn whether or not the provisional ballot was counted, and if it was not counted, the reason it was not counted by contacting the County Election Board office during regular business hours after 5 p.m. on Friday following the election.

(b) In the event that a voter's provisional ballot is rejected because no information is found in OEMS, following are some steps that may be taken to provide the voter with information concerning the cancellation of a former voter registration or the rejection of an application for voter registration.

(1) Check the Central File for the voter's original voter registration form.

(2) Check both the Cancellation File and the most recent Voter List Maintenance Purge Report for the voter's name. If any information is found concerning the voter's cancelled voter registration, indicate the date of and the reason for the cancellation in the appropriate space on the affidavit.

(3) Check the pending and rejected applications received after the registration deadline for the election. If the voter's application is located in either of these files, the voter is not registered.

230:55-3-33. Retention of provisional ballot materials

All materials used in connection with provisional voting shall be retained for 24 months after the election.

SUBCHAPTER 5. VOTER IDENTIFICATION REQUIREMENTS

230:55-5-1. Some voters required to present identification when voting for first time in election for federal office

(a) Voters who applied by mail for new voter registration in the county on or after January 1, 2003, are required by law to present identification when they vote for the first time in person, either at a precinct polling place or an in-person absentee polling place, in a federal election. A voter who does not present one of the forms of identification described in (b) of this Section shall be required to cast a provisional ballot. See 230:55-3-13. A provisional ballot cast by such a voter shall be

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verified and approved for counting by 5 p.m. on Friday following the election.

(b) A registered voter required to present identification as outlined in (a) of this section may present any one of the following forms of identification.

- (1) a currently valid photo identification
- (2) a voter identification card issued by the County Election Board in this county
- (3) a copy of a current utility bill, bank statement, paycheck, government check or any other government document that shows the voter's name and address

(c) A person who applies by mail for new voter registration in the county may avoid the requirement for presenting identification when voting for the first time in a federal election by submitting a copy of a currently valid photo identification or a copy of a current utility bill, bank statement, paycheck, government check, or any other government document that shows the voter's name and address along with the voter registration application. A person who applies for voter registration is not required to present identification in order to become a registered voter.

(d) A person who applies by mail for new voter registration in the county who votes for the first time in a federal election by regular mail absentee ballot is deemed to have provided adequate identification for the purposes of this Section by having signed the absentee ballot affidavit in the presence of a Notary Public or other person authorized by law to administer oaths.

230:55-5-2. Identification Required

Voters who applied for voter registration by mail on or after January 1, 2003, are required by federal law to present identification the first time they vote in a federal election. The words "Identification Required" will appear in the Precinct Registry in the space for a voter's signature beside the names of voters who must present identification. The Judge shall follow these steps.

(1) Tell the voter:

(A) You are required by federal law to present identification the first time you vote in a federal election because you applied by mail for voter registration in this county on or after January 1, 2003. However, you may be asked for identification in more than one federal election this year.

(B) The form of identification you present must show your name and address.

(C) You may present any one of the following items as identification:

- (i) a current and valid photo identification;
- (ii) the voter identification card that you received by mail from the County Election Board when your application for voter registration was approved; or
- (iii) a copy of a current utility bill, bank statement, government check, paycheck, or any other government document that shows your name and address.

(D) If you do not have identification with you, you may vote a provisional ballot.

(2) Ask to see the voter's identification.

(3) Tell the voter to sign the Precinct Registry, and continue processing the voter routinely.

(4) If the voter does not have identification, fill out a provisional ballot voucher and tell the voter to take it to the Provisional Voting Officer. If the voter requested an absentee ballot, mark the box labeled "Absentee Ballot Requested" on the voucher.

SUBCHAPTER 7. POSTING VOTER INFORMATION

230:55-7-1. Public posting of voting information on election day

(a) As required by Section 302 of the Help America Vote Act of 2002 [42 USC 15482], the County Election Board Secretary shall cause the following voting information to be posted publicly at each polling place on the day of a federal election:

- (1) a sample version of the ballot being used in the election;
- (2) the election date and the hours during which polling places are open;
- (3) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;
- (4) instructions for mail-in registrants and first-time voters under 303(b) of the Help America Vote Act [42 USC 15483(b)] concerning voter identification requirements;
- (5) general information on voting rights under applicable federal and state law, including information on an individual's right to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
- (6) general information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

(b) The County Election Board shall meet the requirements of (a) of this section by requiring Precinct Officials to post the following signs provided by the State Election Board as outlined in 230:35-5-28.

- (1) Oklahoma Election Procedures
- (2) Election Law Violations
- (3) Attention Voter poster
- (4) Sample ballots

SUBCHAPTER 9. COMPLAINTS

230:55-9-1. Purpose

The purpose of the rules in this subchapter is to establish a procedure to receive, investigate and resolve complaints of alleged violations of the provisions and requirements of title III of the Help America Vote Act of 2002 (HAVA). This procedure is required by title IV of HAVA.

230:55-9-2. Complaints

(a) Any person who believes that a violation of title III of HAVA has occurred, is occurring, or is about to occur, may file a complaint with the Secretary of the State Election Board. Any such complaint shall be in writing, shall be notarized, and shall be signed and sworn by the complainant. A complaint shall include at least the following information.

- (1) Complainant's name and mailing address
- (2) The nature of the complaint
- (3) The nature of the solution sought.
- (4) A request for a hearing on the record, if desired. (A hearing shall be required only if requested in the complaint.)
- (5) Any additional information pertinent to the complaint.

(b) The Secretary of the State Election Board shall provide, upon request, a form to be used to make a written complaint. Use of the form is not required. Any written complaint containing the information outlined in (a) of this Section shall be accepted.

230:55-9-3. Receiving complaints

Upon receipt of a written complaint alleging a violation of Title III of HAVA, the Secretary of the State Election Board shall cause the following steps to be performed.

- (1) The original complaint shall be marked with a "received" stamp that includes the date.
- (2) A State Election Board staff member shall assign a unique case number to the complaint.
- (3) If the complaint includes a request for a hearing on the record, the Secretary shall set a date and time for the hearing and shall issue an Order for Hearing.

230:55-9-4. Investigation of complaint

The Secretary of the State Election Board shall review the complaint and shall assign one or more members of the State Election Board staff to investigate the allegations contained in the complaint. Specific investigatory procedures shall be determined in consultation with the office of the Attorney General.

230:55-9-5. Hearing

In the event that the complainant requests a hearing on the record, the Secretary of the State Election Board shall serve as the hearing officer. In the absence of the Secretary the Assistant Secretary of the State Election Board shall serve as hearing officer. The Secretary shall hear any testimony and shall review any evidence offered by the complainant.

230:55-9-6. Resolution of complaint

Not more than 90 days following the receipt of a complaint, the Secretary of the State Election Board shall make a final determination with respect to the complaint. If the Secretary finds that there has been no violation of Title III of HAVA, the Secretary shall dismiss the complaint. In the event the Secretary finds that a violation of title III of HAVA has occurred,

the Secretary shall provide a remedy. The Secretary shall publish the results of the investigation and the final determination.

230:55-9-7. Alternative dispute resolution for complaint

If the Secretary of the State Election Board fails to meet the deadline for making a final determination as provided in 230:55-9-6, the complaint shall be resolved within 60 days under the following procedure.

- (1) The Secretary of the State Election Board shall be represented by the office of the Attorney General.
- (2) The complainant may be represented by his or her own chosen legal counsel or by a certified arbitrator.
- (3) The parties shall negotiate to reach a satisfactory resolution of the complaint.

[OAR Docket #04-186; filed 1-30-04]

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

[OAR Docket #04-167]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 3. Ambulance Services
Part 27. Transfer Protocols
310:641-3-130. [AMENDED]

AUTHORITY:
Oklahoma State Board of Health; 63 O.S. Section 1-104 et seq.; and Title 63 O.S. Section 1-2501 through 2521.

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SUPERSEDED EMERGENCY ACTIONS:
"n/a"

INCORPORATIONS BY REFERENCE:
"n/a"

FINDING OF EMERGENCY:
The State Board of Health finds that public interest requires seeking of emergency certification of the rules in Chapter 641. Unless an emergency is declared and certified, this rule cannot go into effect until approximately July 14, 2004, which would mean that the citizens of the State of Oklahoma would no longer have access to a hospital offering emergency services classified at Level I for Trauma and Emergency Operative Services. Without the assurances provided by this emergency rule, the only hospital currently providing Level I services for Trauma and Emergency Operative Services in the State has pledged to downgrade their services to Level III which would lead to delays in the provision of definitive care for the most seriously injured patients and the correspondingly increased morbidity and mortality for these patients.

ANALYSIS:
The amendments to Subchapter 3 clarify the intent of rules for destination protocols for ambulances services. The amendments require all licensed ambulance services to draft and submit for approval protocols for the prompt

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and appropriate disposition of trauma patients. The proposed rule requires all such protocols to be approved by the Department. The amendments further define the appropriate type destination for trauma patients, based on the severity of injury. The amendments also require injury related transports be directed and coordinated by a regional trauma transfer and referral center in counties with over 300,000 in population and their contiguous communities.

CONTACT PERSON:

Gary Glover, Chief, Medical Facilities, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-6576; electronic mail: gary@health.state.ok.us

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

SUBCHAPTER 3. AMBULANCE SERVICES

PART 27. TRANSFER PROTOCOLS

310:641-3-130. Transfer protocols

(a) Trauma triage, transport, and transfer guidelines shall adhere to the principle of delivering time-sensitive severely injured patients to hospitals with a level I or II trauma and emergency operative service classification without overloading those hospitals with stable at-risk patients, or patients with minor-to-moderate injuries.

~~(a)~~ Specific triage, transport, and transfer guidelines and facility utilization protocols shall be developed by medical control for the region, area, and/or local service vicinity as specified by 310:641-3-130~~(b)~~(c) and ~~(e)~~(d), and submitted to the Department for approval. Each service shall comply with protocols approved by their medical control. Compliance with approved protocols shall be monitored and enforced by the Department.

~~(b)~~ Medical control shall consider the following when establishing triage, transport, and transfer guidelines. Protocols approved by the Department shall include the following requirements:

(1) Non-emergency transports shall be transported to the facility of the patient's choice, if within reasonable service range.

(2) Emergency, non-injury related, non-life threatening transports shall be transported to the facility of the patient's choice, if within reasonable service range.

(3) Emergency, injury-related transports shall adhere to the Oklahoma Triage, Transport, and Transfer Guidelines approved by the Oklahoma State Trauma Advisory Council and the Oklahoma Emergency-Medical Services Response Systems Development Advisory Council and the following:

~~(A)~~ Medical control shall consider time and distance for each region and regional guidelines shall ensure that patients are delivered to the most appropriate classified-trauma-center hospital, either within their region or contiguous regions.

~~(4B)~~ Severely injured patients as described in the Oklahoma Triage, Transport, and Transfer Guidelines shall be transported to a hospital classified at Level I or II for trauma-center and emergency operative services unless time and distance factors are detrimental to patient care. These patients shall be transported to the next highest level trauma and emergency operative service classified hospital-center according to the, unless a Department-approved regional plan has been developed, in which case the regional plan shall be followed. The regional plan shall provide for immediate stabilization and transfer to a higher level trauma center, if a level I or II center is not the initial receiving facility.

~~(C5)~~ Stable patients at risk for severe injury or with minor-to-moderate injury as described in the Oklahoma Triage, Transport, and Transfer Guidelines shall be transported to a level I, II, or III trauma center according to the regional plan. The regional plan shall provide for immediate stabilization and transfer to a higher level trauma center if clinically indicated. the closest appropriate facility.

~~(D)~~ Patients with minor-to-moderate injury. These patients may be transported to the-center hospital of the patient's or patient's legal representative's choice consistent with regional guidelines.

~~(E)~~ Injury related transports shall be those patients with ICD codes 800 to 959.9.

~~(4G)~~ Emergency, life-threatening, non-injury transports shall be to the-highest level and-nearest facility that can provide evaluation and stabilization appropriate to the patient's condition-and according to the regional plan.

~~(d)~~ In counties with populations of 300,000 or more and their contiguous communities injury related transports shall be directed and coordinated by the trauma transfer and referral center for the region.

(1) All ambulance services providing pre-hospital emergency services in these regions shall contact the trauma transfer and referral center before transporting an injured patient to a hospital. The trauma transfer and referral center shall direct the ambulance to the appropriate hospital based on the regional plan, the severity of the injury, and the capacity status of the hospitals in the region.

(2) All ambulance services transporting injured patients on a pre-hospital basis from areas outside the region to hospitals in the region shall contact the trauma transfer and referral center before entering the region. The trauma transfer and referral center shall direct the ambulance to the appropriate hospital based on the regional plan, the severity of the injury, and the capacity status of the hospitals in the region.

(3) All ambulance services transferring injured patients from hospitals outside the region to hospitals in the region shall contact the trauma transfer and referral center before entering the region to advise the center of the patient transfer. The center shall maintain a record of the transfer for regional continuous quality improvement activities.

(ee) The patient has a right to refuse transport.

[OAR Docket #04-167; filed 1-30-04]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 667. HOSPITAL STANDARDS

[OAR Docket #04-168]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions 310:667-1-3. [AMENDED] Subchapter 59. Classification of Hospital Emergency Services 310:667-59-3. [AMENDED] 310:667-59-9. [AMENDED]

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. Section 1-104 et seq.; and Title 63 O.S. Section 1-705.

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SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

FINDING OF EMERGENCY:

The State Board of Health finds that public interest requires seeking of emergency certification of the rules in Chapter 667. Unless an emergency is declared and certified, this rule cannot go into effect until approximately July 14, 2004, which would mean that the citizens of the State of Oklahoma would no longer have access to a hospital offering emergency services classified at Level I for Trauma and Emergency Operative Services. Without the assurances provided by this emergency rule, the only hospital currently providing Level I services for Trauma and Emergency Operative Services in the State has pledged to downgrade their services to Level III which would lead to delays in the provision of definite care for the most seriously injured patients and the correspondingly increased morbidity and mortality for these patients.

ANALYSIS:

The amendments to Subchapter 1 require all licensed hospitals to participate in a regional system to provide twenty four hour emergency services as a means to help ensure that minor-to-moderate trauma patients are transported to a hospital where they can receive appropriate care and that the resources of facilities classified at Level I and II for Trauma and Emergency Operative Services are preserved for the most seriously injured patients. The proposed rule requires all such regional systems to be approved by the Commissioner in consultation with the Oklahoma Emergency Response Systems Development Advisory Council. The amendments permit a facility's participation in a regional system to be met by providing emergency services directly or through their medical staffs at another facility, or by paying into a fund to be distributed to the hospitals that do provide these services. The amendments further require the Commissioner to develop such a system of providing emergency care for any region that is unable to develop a functioning system on its own and requires all hospitals in the area to then participate. Additionally, these regional systems must monitor patient transfers and compliance with these rules through continuous quality improvement activities. The changes to Subchapter 59 remove the requirement that facilities classified at Level II for Trauma and Emergency Operative Services must have their classification verified by the American College of Surgeons Committee

on Trauma (ASC COT). The amendments also require reciprocal transfer agreements between facilities classified at Level III or IV for Trauma and Emergency Operative Services and a hospital capable of providing definitive care for the severely injured patients and prohibits these agreements from incorporating any financial provisions for such transfers.

CONTACT PERSON:

Gary Glover, Chief, Medical Facilities, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-6576; electronic mail: gary@health.state.ok.us

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

SUBCHAPTER 1. GENERAL PROVISIONS

310:667-1-3. Licensure

(a) Application for licensure.

- (1) No person or entity shall operate a hospital without first obtaining a license from the Department. The license is not transferable or assignable. (2) The applicant shall file a licensure application in a timely manner. The application shall be on forms provided by the Department, with a check of \$10.00 for each census bed, crib and bassinet, payable to the Oklahoma State Department of Health. (3) The entity responsible for operation of the hospital and appointment of the medical staff shall be considered the applicant for the license. This entity may be a lessee if the hospital is leased and the lessee is the operating entity. For the purposes of licensure, a company providing administrative management of a hospital, which functions by contract with the governing body of the hospital, shall not be considered the entity responsible for operation. (4) An application is not considered to be filed unless it is accompanied by the application fee.

(b) Application filing. An initial license application or renewal application shall be filed as follows:

- (1) The application for an initial license for a new hospital shall be filed prior to or at the time final drawings for construction are submitted to the Department for review which shall be at least thirty (30) days before a hospital begins operation. (2) The application for an initial license for a change of ownership or operation, shall be filed at least thirty (30) days before the transfer. The sale of stock of a corporate licensee, where a majority of the governing body does not change, is not considered a change of ownership or operation. The sale or merger of a corporation that owns an operating corporation that is the licensed entity shall not be considered a change of ownership unless a majority of the governing body is replaced. (3) The application for renewal of a license of an existing hospital shall be filed at least thirty (30) days before the expiration date of the current license.

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(c) **Where to file.** The application and the license fee shall be delivered or sent to the Department. The effective date shall be the date the application and fee are received.

(d) **Forms.** The applicant for a license shall file application forms as follows:

(1) For an initial license of a new hospital, or for an existing hospital following a change in ownership or operation, the applicant shall file these forms: Application for License to Operate a Hospital or Related Institution; Board of Directors Information Sheet; and Designation of Licensed Beds Form.

(2) For renewal of a current license, the applicant shall file the Application for License to Operate a Hospital or Related Institution; Board of Directors Information Sheet; Designation of Licensed Beds Form; and a Fire Inspection Report For Hospitals.

(e) **Description of forms.** The forms used to apply for a hospital license are the following:

(1) The Application For License to Operate Hospital or Related Institution (Form 920) requests: identification of the type of license requested; the name and address of the hospital; the name and address of the operating entity; the number of beds and bassinets; the ownership of the building and grounds; the applicant's name; the chief executive officer/administrator's name; attachment for credentialed staff; and an affidavit attesting the signature of the applicant.

(2) The Board of Directors Information Form (Form AGH-2) requests: The names and addresses of the Board of Directors for the hospital.

(3) The Designation of Licensed Beds Form (Form 920-A) requests: A listing of the types of beds operated by the hospital and a total of the beds.

(4) The Fire Inspection Report for Hospitals (Form 928) requests: a check list of the annual inspection conducted by the local fire marshal.

(f) **Eligibility for license.**

(1) Hospitals making appropriate application that have been determined to be compliant with these standards are eligible for a license.

(2) A hospital may operate inpatient and outpatient facilities under one (1) license as a hospital campus as long as the following requirements are met:

(A) The facilities shall be separated by no more than fifty (50) miles. This requirement may be waived if the services of the facilities are totally integrated through telecommunication or by other means.

(B) The facilities are operated by the same governing body with one administrator.

(C) The medical staff for all facilities is totally integrated so that any practitioner's privileges extend to all facilities operated under the common license.

(3) An outpatient facility located at a different address from a hospital is eligible to be licensed as part of the hospital but is not required to be licensed.

(4) Each hospital shall participate in a functioning regional system of providing twenty-four (24) hour

emergency hospital care approved by the Commissioner of Health in consultation with the Oklahoma Emergency Response Systems Development Advisory Council. Participation in a regional system may include active participation of the hospital in the provision of emergency services based on the system plan, participation of the hospital's medical staff in the provision of emergency services at other hospitals in the system based on the system plan, or payment into a fund to reimburse hospitals providing emergency services in the system.

(5) If an area of the state fails to develop a functioning regional system of providing twenty-four (24) hour emergency hospital care necessary to meet the state's needs for trauma and emergency care as established by the state-wide trauma and emergency services plan, the Commissioner of Health, in consultation with the Oklahoma Emergency Response Systems Development Advisory Council, shall develop a system for the area. Each hospital located in the area shall participate as specified by the system plan for that region.

(g) **Regional system of emergency hospital care.**

(1) In counties and their contiguous communities with populations of 300,000 or more, a functioning regional system of providing twenty-four (24) hour emergency hospital care shall include definitive emergency care for all clinical categories specified in OAC 310:667-59-7. In these regions, a functioning system shall only transfer emergent patients out of the system when treatment or diagnostic services are at capacity unless the patient has a special treatment need not normally provided by the system. Transfers out of the system may occur based on the patient or the patient's legal representative's request or based on a special circumstance for the transfer.

(2) In counties and communities with populations of less than 300,000, a functioning regional system of providing twenty-four (24) hour emergency hospital care shall include definitive care based on the classification of hospital's emergency services in the region as specified in OAC 310:667-59-7. Transfers out of the regional system may be based on lack of diagnostic or treatment capability or capacity. A functioning system shall not permit emergent patient transfers out of the system if the system has the capability and capacity to provide care unless the patient or patient's legal representative requests the transfer.

(3) A functioning regional system of providing twenty-four (24) hour emergency hospital care shall demonstrate compliance with OAC 310:667-1-3(g)(1) or (2) through system continuous quality improvement activities. Activities shall include monitoring of patient transfers and corrective actions when inappropriate transfers are identified. Special circumstance patient transfers shall be identified and reviewed through continuous quality improvement activities.

SUBCHAPTER 59. CLASSIFICATION OF HOSPITAL EMERGENCY SERVICES

310:667-59-3. Inspections and deemed status

- (a) All hospitals required to have a license are subject to inspection by Department staff in accordance with OAC 310:667-1-4.
- (b) The Commissioner shall designate ~~Department~~ representatives to verify a hospital's emergency services are accurately classified for trauma and emergency operative services Levels II, III and IV, and all other classified emergency services. Survey teams for facilities providing trauma and emergency operative services at ~~Level~~ Levels II and III shall include a physician. If it is determined a hospital does not meet the requirements for a service to be classified at the Level reported on the Emergency Medical Services Classification Report (ODH Form 911), the Department shall classify that service at the next lowest Level where all requirements are met.
- (c) ~~Only hospitals~~ Hospitals holding ~~a current verification certificate~~ as a Level I or Level II trauma center issued after an on-site review of their trauma services by a verification team from the American College of Surgeons Committee on Trauma (ACS COT) shall be deemed to meet the classification requirements for Trauma and Emergency Operative Services listed in OAC 310:667-59-9(c) or OAC 310:667-59-9(d). Such hospitals shall be classified by the Department as providing definitive trauma and emergency operative services at either classification Level I or Level II as reported by the ACS based on the provisions of this Subchapter.
- (d) The services provided by hospitals classified at Level II for Trauma and Emergency Operative Services may be verified by either ACS COT surveyors or other representatives deemed qualified by the Commissioner.
- (e) Only hospitals holding current verification as a Level I trauma center after an on-site review of their trauma services by a verification team from the ACS COT according to the standards at OAC 310:667-59-9(d) shall be classified at Level I for trauma and emergency operative services.

310:667-59-9. Classification of trauma and emergency operative services

- (a) **Level IV.** A Level IV facility shall provide emergency medical services with at least a licensed independent practitioner, registered nurse, licensed practical nurse, or intermediate or paramedic level emergency medical technician on site twenty-four (24) hours a day. A hospital shall be classified at Level IV for trauma and emergency operative services if it meets the following requirements:
 - (1) **Clinical services and resources.** No diagnostic, surgical, or medical specialty services are required.
 - (2) **Personnel.** A physician, licensed independent practitioner, registered nurse, licensed practical nurse, or intermediate or paramedic level emergency medical technician shall be on site twenty-four (24) hours a day. In the absence of a physician, licensed independent practitioner, registered nurse, or paramedic level emergency medical technician, at least one of the practitioners on duty shall have received training in advanced life support techniques and be deemed competent to initiate treatment of the emergency patient.

- (A) If the facility is licensed as a General-Medical Surgical Hospital, it shall also meet the personnel and staffing requirements at OAC 310:667-29-1 and any other applicable parts of this Chapter.
 - (B) If the facility provides emergency medical services and is licensed as a Specialized Hospital: Psychiatric, it shall also meet the personnel and staffing requirements at OAC 310:667-33-2 and any other applicable parts of this Chapter.
 - (C) If the facility provides emergency medical services and is licensed as a Specialized Hospital: Rehabilitation, it shall also meet the personnel and staffing requirements at OAC 310:667-35-3 and any other applicable parts of this Chapter.
 - (D) If the facility provides emergency medical services and is licensed as a Critical Access Hospital, it shall also meet the personnel and staffing requirements at OAC 310:667-39-14 and any other applicable parts of this Chapter.
- (3) **Supplies and equipment.** The hospital shall have equipment for use in the resuscitation of patients of all ages on site, functional, and immediately available, including at least the following:
- (A) Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of all sizes, bag-mask resuscitator, pocket masks, and oxygen;
 - (B) Suction devices;
 - (C) Electrocardiograph-oscilloscope-defibrillator-pacer;
 - (D) Standard intravenous fluids and administration devices, including large-bore intravenous catheters;
 - (E) Sterile surgical sets for:
 - (i) Airway control/cricothyrotomy;
 - (ii) Vascular access; and
 - (iii) Chest decompression.
 - (F) Equipment for gastric decompression;
 - (G) Drugs necessary for emergency care;
 - (H) Two-way communication with vehicles of emergency transport system as required at OAC 310:667-29-1(c)(4); and
 - (I) Thermal control equipment for patients.
- (4) **Agreements and policies on transfers.**
- (A) The hospital shall have written policies defining the medical conditions and circumstances for those emergency patients which may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another facility.
 - (B) The facility shall have a transfer agreement with a hospital capable of providing trauma care for severely injured patients. This agreement shall include reciprocal provisions requiring the facility to accept return transfers of patients at such time as the facility has the capability and capacity to provide needed care. Reciprocal agreements shall not incorporate financial provisions for transfers.
 - ~~(B)(C)~~ The facility shall have transfer agreements with a hospital capable of providing burn care in a

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physician-directed, organized burn care center with a staff of nursing personnel trained in burn care and equipped properly for care of the extensively burned patient.

(~~D~~) The facility shall have transfer agreements with a hospital capable of providing acute spinal cord and head injury management and rehabilitation.

(~~E~~) The facility shall have transfer agreements with a hospital capable of providing rehabilitation services in a rehabilitation center with a staff of personnel trained in rehabilitation care and equipped properly for acute care of the critically injured patient.

(5) **Quality Improvement.**

(A) For a hospital licensed as a general medical surgical hospital, in addition to the requirements of OAC 310:667-11-1 through OAC 310:667-11-5, the quality improvement programs shall include:

- (i) Trauma registry;
- (ii) Audit for all trauma deaths to include pre-hospital care and care received at a transferring facility;
- (iii) Morbidity and mortality review;
- (iv) Medical nursing audit, utilization review, tissue review; and
- (v) The availability and response times of on call staff specialists shall be defined in writing, documented, and continuously monitored.

(B) For a hospital licensed as a critical access hospital, in addition to the requirements of OAC 310:667-39-7, the quality improvement programs shall include:

- (i) A trauma registry;
- (ii) Audit for all trauma deaths to include pre-hospital care and care received at a transferring facility;
- (iii) Morbidity and mortality review;
- (iv) Medical nursing audit, utilization review, tissue review; and
- (v) The availability and response times of on call staff specialists shall be continuously monitored and documented.

(C) For a facility licensed as a birthing center, in addition to the requirements of OAC 310:667-616-5-2, the quality improvement programs shall include:

- (i) Trauma registry;
- (ii) Audit for all trauma deaths to include pre-hospital care and care received at a transferring facility;
- (iii) Morbidity and mortality review;
- (iv) Medical nursing audit, utilization review, tissue review; and
- (v) The availability and response times of on call staff specialists shall be continuously monitored and documented.

(b) **Level III.** A Level III facility shall provide emergency medical services with an organized trauma service and emergency department. A physician and nursing staff with special capability in trauma care shall be on site twenty-four (24) hours

a day. General surgery and anesthesiology services shall be available either on duty or on call. A hospital shall be classified at Level III for trauma and emergency operative services if it meets the following requirements:

(1) **Clinical services and resources.**

(A) **Trauma service.** A trauma service shall be established by the medical staff and shall be responsible for coordinating the care of injured patients, the training of personnel, and trauma quality improvement. Privileges for physicians participating in the trauma service shall be determined by the medical staff credentialing process. All patients with multiple-system or major injury shall be evaluated by the trauma service. The surgeon responsible for the overall care of the admitted patient shall be identified.

(B) **Emergency services.** A physician deemed competent in the care of the critically injured and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in trauma care shall be on site twenty-four (24) hours a day. The emergency service may also serve as the trauma service.

(i) For a hospital licensed as a general medical surgical hospital or specialty hospital, emergency services shall also comply with the requirements of OAC 310:667-29-1 through OAC 310:667-29-2.

(ii) For a hospital licensed as a critical access hospital, emergency services shall also comply with OAC 310:667-39-14.

(C) **General surgery.** A board certified, board eligible, or residency trained general surgeon shall be on call twenty-four (24) hours a day and promptly available in the emergency department. For a hospital licensed as a general medical surgical hospital, surgical services shall also comply with the requirements of OAC 310:667-25-1 through OAC 310:667-25-2.

(D) **Anesthesia.** Anesthesia services shall be on call twenty-four (24) hours a day, promptly available, and administered as required in OAC 310:667-25-2.

(E) **Internal medicine.** A physician board certified, board eligible, or residency trained in internal medicine shall be on call twenty-four (24) hours a day and promptly available in the emergency department.

(F) **Orthopedic Surgery.** A physician board certified, board eligible, or residency trained in orthopedics and deemed competent in the care of orthopedic emergencies shall be on site or on call twenty-four (24) hours a day and promptly available in the emergency department. In the absence of the orthopedic surgeon, a physician designated by the trauma director and credentialed to provide stabilizing emergency orthopedic treatment may provide care prior to transfer.

(G) **Operating suite.** An operating suite with thermal control equipment for patients and infusion of blood and fluids shall be available twenty-four (24) hours a day.

(H) **Post-anesthesia recovery unit.** The hospital shall have a post-anesthesia recovery room or intensive care unit in compliance with OAC 310:667-15-7 with nursing personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care.

(I) **Intensive care unit.** The hospital shall have an intensive care unit in compliance with OAC 310:667-15-7 with a registered nurse on duty in the intensive care unit whenever the unit has a patient(s). A registered nurse shall be on call and immediately available when no patients are in the unit. The hospital shall define and document in writing the minimum staffing requirements for the intensive care unit and shall monitor compliance with these requirements through the quality improvement program.

(J) **Diagnostic imaging.** The hospital shall have diagnostic x-ray services available twenty-four (24) hours a day. A radiology technologist shall be on duty or on call and immediately available twenty-four (24) hours a day.

(i) For hospitals licensed as general medical surgical hospitals or specialty hospitals, diagnostic imaging services shall also comply with the applicable requirements in Subchapter 23 of this Chapter.

(ii) For hospitals licensed as critical access hospitals, diagnostic imaging services shall also comply with the applicable requirements in Subchapter 39 of this Chapter.

(K) **Clinical laboratory service.** The hospital shall have clinical laboratory services available twenty-four (24) hours a day. All or part of these services may be provided by arrangements with certified reference laboratories provided these services are available on an emergency basis twenty-four (24) hours a day. At least the following shall be available:

(i) Comprehensive immunohematology services including blood typing and compatibility testing. A supply of blood and blood products shall be on hand and adequate to meet expected patient needs. All blood and blood products shall be properly stored. The hospital shall have access to services provided by a community central blood bank;

(ii) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;

(iii) Coagulation studies;

(iv) Blood gas/pH analysis;

(v) Comprehensive microbiology services or appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures; and

(vi) Drug and alcohol screening.

(vii) For hospitals licensed as general medical surgical hospitals or specialty hospitals, clinical

laboratory services shall also comply with the applicable requirements in Subchapter 23 of this Chapter.

(viii) For hospitals licensed as critical access hospitals, clinical laboratory services shall also comply with the applicable requirements in Subchapter 39 of this Chapter.

(L) **Social services.** Social services shall be available and provided as required in Subchapter 31 of this Chapter.

(M) **Burn Care.** If the hospital does not meet the requirements at OAC 310:667-59-9(d)(1)(O)(i) it shall have a transfer agreement with a hospital capable of providing burn care in a physician-directed, organized burn care center with a staff of nursing personnel trained in burn care and equipped properly for care of the extensively burned patient.

(N) **Spinal cord and head injury management.** If the hospital does not meet the requirements at OAC 310:667-59-9(d)(1)(P)(i) it shall have a transfer agreement with a hospital capable of providing acute spinal cord and head injury management and rehabilitation.

(O) **Rehabilitation services.** If the hospital does not meet the requirements at OAC 310:667-59-9(d)(1)(Q)(i) it shall have a transfer agreement with a hospital which meets the requirements of Subchapter 35 of this Chapter and is capable of providing rehabilitation services in a rehabilitation center with a staff of personnel trained in rehabilitation care and equipped properly for acute care of the critically injured patient.

(2) **Personnel.**

(A) **Trauma service director.** The medical staff shall designate a surgeon as trauma service director. Through the quality improvement process, the director shall have responsibility for all trauma patients and administrative authority for the hospital's trauma program. The director shall be responsible for recommending appointment to and removal from the trauma service.

(B) **Emergency services director.** The medical staff shall designate a physician credentialed to provide emergency medical care as emergency services director. The emergency services director may serve as the trauma service director.

(C) **Surgical director.** The medical staff shall designate a surgeon credentialed by the hospital to be the director of care for surgical and critical care for trauma patients.

(3) **Supplies and equipment.**

(A) **Emergency department.** The emergency department shall have equipment for use in the resuscitation of patients of all ages on site, functional, and available in the emergency department, including at least the following:

(i) Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of

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all sizes, bag-mask resuscitator, pocket masks, and oxygen;

- (ii) Pulse oximetry;
- (iii) Suction devices;
- (iv) Electrocardiograph-oscilloscope-defibrillator-pacer;
- (v) Apparatus to establish central venous pressure monitoring;
- (vi) Standard intravenous fluids and administration devices, including large-bore intravenous catheters;
- (vii) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.
- (viii) Equipment for gastric decompression;
- (ix) Drugs necessary for emergency care;
- (x) Two-way communication with vehicles of emergency transport system as required at OAC 310:667-29-1(c)(4);
- (xi) Skeletal traction devices including cervical immobilization device; and
- (xii) Thermal control equipment for patients and infusion of blood, blood products, and other fluids.

(B) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit shall have the following supplies and equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
- (ii) Pulse oximetry;
- (iii) End-tidal CO₂ determination; and
- (iv) Thermal control equipment for patients and infusion of blood, blood products, and other fluids.

(C) **Intensive care unit.** The intensive care unit shall have the following supplies and equipment on site, functional, and available for use:

- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
- (ii) Cardiopulmonary resuscitation cart;
- (iii) Electrocardiograph-oscilloscope-defibrillator-pacer;
- (iv) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.

(4) **Policies on transfers.**

(A) The hospital shall have written policies defining the medical conditions and circumstances for those emergency patients which may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another facility.

(B) The facility shall have a transfer agreement with a hospital capable of providing trauma care for severely injured patients. This agreement shall include reciprocal provisions requiring the facility

to accept return transfers of patients at such time as the facility has the capability and capacity to provide needed care. Reciprocal agreements shall not incorporate financial provisions for transfers.

(5) **Quality Improvement.** In addition to any other requirements of this Chapter, the hospital quality improvement program shall include:

- (A) Trauma registry;
- (B) Audit for all trauma deaths to include prehospital care and care received at a transferring facility;
- (C) Morbidity and mortality review;
- (D) Medical nursing audit, utilization review, tissue review;
- (E) Multidisciplinary peer review of trauma and emergency services;
- (F) Published on call schedules for surgeons, neurosurgeons, and orthopedic surgeons;
- (G) Review of the times and reasons for trauma-related bypass; and
- (H) The availability and response times of on call staff specialists shall be defined in writing, documented, and continuously monitored.

(6) **Continuing education.** The hospital shall provide and document formal continuing education programs for physicians, nurses, and allied health personnel.

(7) **Organ Procurement.** The hospital, in association with an organ procurement organization certified by the CMS, shall develop policies and procedures to identify and refer potential organ donors.

(c) **Level II.** A Level II facility shall provide emergency medical services with an organized trauma service and emergency department. A physician and nursing staff with special capability in trauma care shall be on site twenty-four (24) hours a day. General surgery, anesthesiology, and neurosurgery services shall be available on site or on call twenty-four (24) hours a day. Services from an extensive group of clinical specialties including cardiology, internal medicine, orthopedics, and obstetrics/gynecology shall be promptly available on call. A hospital shall be classified at Level II for trauma and emergency operative services if it meets the following requirements:

(1) **Clinical services and resources.**

(A) **Trauma service.** A trauma service shall be established by the medical staff and shall be responsible for coordinating the care of injured patients, the training of personnel, and trauma quality improvement. Privileges for physicians participating in the trauma service will be determined by the medical staff credentialing process. All patients with multiple-system or major injury shall be evaluated by the trauma service. The surgeon responsible for the overall care of the admitted patient shall be identified.

(B) **Emergency services.** A physician deemed competent in the care of the critically injured and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in trauma care shall be on site twenty-four (24) hours a day. For a hospital licensed as a general medical surgical hospital or specialty hospital,

emergency services shall also comply with the requirements of OAC 310:667-29-1 through OAC 310:667-29-2.

(C) **General surgery.** A general surgeon or senior surgical resident deemed competent and appropriately credentialed by the hospital shall be on site or on call twenty-four (24) hours a day and promptly available in the emergency department. A stated goal of the general surgery service shall be to have the attending trauma surgeon authorized and designated by the trauma service director present in the emergency room at the time of the severely injured patient's arrival. For a hospital licensed as a general medical surgical hospital, surgical services shall also comply with the requirements of OAC 310:667-25-1 through OAC 310:667-25-2.

(D) **Anesthesia.** A board certified, board eligible, or residency trained anesthesiologist shall be on site or on call twenty-four (24) hours a day and promptly available in the emergency department. If the anesthesiologist is not present in the facility, prior to the physician's arrival, anesthesia services may be provided by a certified registered nurse anesthetist (CRNA). The CRNA shall be deemed competent in the assessment of emergent situations in trauma patients and of initiating and providing any indicated treatment. All anesthesia shall be administered as required in OAC 310:667-25-2.

(E) **Neurologic surgery.** A board certified, board eligible, or residency trained neurosurgeon or other physician deemed competent in the care of patients with neurotrauma and appropriately credentialed shall be on site or on call twenty-four (24) hours a day and promptly available in the emergency department. If care is initiated by a physician other than a neurosurgeon, the neurosurgeon on call shall respond as required by the hospital's policy.

(F) **Other specialties.** The hospital shall also have services from the following specialties on call and promptly available:

- (i) Cardiac surgery;
- (ii) Cardiology;
- (iii) Internal medicine;
- (iv) Obstetric/gynecologic surgery;
- (v) Ophthalmic surgery;
- (vi) Oral/maxillofacial surgery;
- (vii) Orthopedic surgery;
- (viii) Otolaryngology;
- (ix) Pediatrics;
- (x) Plastic surgery;
- (xi) Clinical licensed psychologist or psychiatrist;
- (xii) Pulmonary medicine;
- (xiii) Radiology;
- (xiv) Thoracic surgery; and
- (xv) Urology and urologic surgery.

(G) **Operating suite.** An operating suite with adequate staff and equipment shall be immediately

available twenty-four (24) hours a day. The hospital shall define and document in writing the minimum staffing requirements for the operating suite. An on call schedule for emergency replacement staff shall be maintained.

(H) **Post-anesthesia recovery unit.** The hospital shall have a post-anesthesia recovery room or intensive care unit in compliance with OAC 310:667-15-7 with nursing personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care.

(I) **Intensive care unit.** The hospital shall have an intensive care unit in compliance with OAC 310:667-15-7 with a registered nurse on duty in the intensive care unit whenever the unit has a patient(s). The hospital shall define and document in writing the minimum staffing requirements for the intensive care unit and shall continuously monitor compliance with these requirements through the quality improvement program. A registered nurse shall be on call and immediately available when no patients are in the unit. A physician with privileges in critical care shall be on duty in the unit or immediately available in the hospital twenty-four (24) hours a day.

(J) **Diagnostic Imaging.** The hospital shall have diagnostic x-ray services available twenty-four (24) hours a day. A radiologic technologist and computerized tomography technologist shall be on duty or on call and immediately available twenty-four (24) hours a day. A single technologist designated as qualified in both diagnostic x-ray and computerized tomography procedures by the radiologist may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging service shall provide at least the following services:

- (i) Angiography;
- (ii) Ultrasonography;
- (iii) Computed tomography;
- (iv) Magnetic resonance imaging;
- (v) Neuroradiology; and
- (vi) Nuclear medicine imaging.
- (vii) For a hospital licensed as a general medical surgical hospital or specialty hospital, diagnostic imaging services shall also comply with the applicable requirements in Subchapter 23 of this Chapter.

(K) **Clinical laboratory service.** The hospital shall have clinical laboratory services available twenty-four (24) hours a day. All or part of these services may be provided by arrangements with certified reference laboratories provided these services are available on an emergency basis twenty-four (24) hours a day. At least the following shall be available:

- (i) Comprehensive immunohematology services including blood typing and compatibility testing. A supply of blood and blood products shall be on hand and adequate to meet expected

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patient needs. All blood and blood products shall be properly stored. The hospital shall have access to services provided by a community central blood bank;

(ii) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;

(iii) Coagulation studies;

(iv) Blood gas/pH analysis;

(v) Comprehensive microbiology services or appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures; and

(vi) Drug and alcohol screening.

(vii) For a hospital licensed as general medical surgical hospital or specialty hospital, clinical laboratory services shall also comply with the applicable requirements in Subchapter 23 of this Chapter.

(L) **Respiratory therapy.** Routine respiratory therapy procedures and mechanical ventilators shall be available twenty-four (24) hours a day. Respiratory therapy services shall comply with OAC 310:667-23-6.

(M) **Social services.** Social services shall be available and provided as required in Subchapter 31 of this Chapter.

(N) **Burn Care.** If the hospital does not meet the requirements at OAC 310:667-59-9(d)(1)(O)(i) it shall have a transfer agreement with a hospital capable of providing burn care in a physician-directed, organized burn care center with a staff of nursing personnel trained in burn care and equipped properly for care of the extensively burned patient.

(O) **Spinal cord and head injury management.** The hospital shall provide acute spinal cord and head injury management including at least the ability to initiate rehabilitative care prior to transfer and shall have a transfer agreement with a hospital that meets the requirements at OAC 310:667-59-9(d)(1)(P)(i) if comprehensive rehabilitation services are not available within the facility.

(P) **Rehabilitation services.** If the hospital does not meet the requirements at OAC 310:667-59-9(d)(1)(Q)(i) it shall have a transfer agreement with a hospital which meets the requirements of Subchapter 35 of this Chapter and is capable of providing rehabilitation services in a rehabilitation center with a staff of personnel trained in rehabilitation care and equipped properly for acute care of the critically injured patient.

(2) **Personnel.**

(A) **Trauma service director.** The medical staff shall designate a surgeon as trauma service director. Through the quality improvement process, the director shall have responsibility for all trauma patients and administrative authority for the hospital's trauma

program. The trauma service director shall be responsible for recommending appointment to and removal from the trauma service.

(B) **Trauma coordinator.** The hospital shall have a designated trauma coordinator who may also serve as the prevention coordinator. Under the supervision of the trauma service director, the trauma coordinator is responsible for organizing the services and systems of the trauma service to ensure there is a multidisciplinary approach throughout the continuum of trauma care. The trauma coordinator shall have an active role in the following:

(i) Clinical activities such as design of clinical protocols, monitoring care, and assisting the staff in problem solving;

(ii) Educational activities such as professional staff development, case reviews, continuing education, and community trauma education and prevention programs;

(iii) Quality improvement activities such as development of quality monitors, audits, and case reviews in all phases of trauma care;

(iv) Administrative tasks for the trauma service such as those related to services' organization, personnel, budget preparation, and accountability;

(v) Trauma registry data collection, coding, scoring, and validation; and

(vi) Consultation and liaison to the medical staff, prehospital emergency medical service agencies, patient families, and the community at large.

(C) **Prevention coordinator.** The hospital shall have a designated prevention coordinator who may also serve as the trauma coordinator. Under the supervision of the trauma director, the prevention coordinator is responsible for the organization and management of the hospital's outreach, prevention, and public education activities.

(D) **Emergency services director.** The medical staff shall designate a physician credentialed to provide emergency medical care as emergency services director.

(E) **Surgical director.** The medical staff shall designate a surgeon credentialed by the hospital to be the director of care for surgical and critical care for trauma patients.

(3) **Supplies and equipment.**

(A) **Emergency department.** The emergency department shall have equipment for use in the resuscitation of patients of all ages on site, functional, and available in the emergency department, including at least the following:

(i) Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of all sizes, bag-mask resuscitator, pocket masks, and oxygen;

(ii) Pulse oximetry;

(iii) End-tidal CO₂ determination;

(iv) Suction devices;

- (v) Electrocardiograph-oscilloscope-defibrillator-pacer;
 - (vi) Apparatus to establish central venous pressure monitoring;
 - (vii) Standard intravenous fluids and administration devices, including large-bore intravenous catheters;
 - (viii) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.
 - (ix) Equipment for gastric decompression;
 - (x) Drugs necessary for emergency care;
 - (xi) Two-way communication with vehicles of emergency transport system as required at OAC 310:667-29-1(c)(4);
 - (xii) Skeletal traction devices including cervical immobilization device;
 - (xiii) Arterial catheters; and
 - (xiv) Thermal control equipment for patients and infusion of blood, blood products, and other fluids.
- (B) **Operating suite.** The operating suite shall have the following supplies and equipment on site, functional and available for use:
- (i) Thermal control equipment for patients and infusion of blood, blood products, and other fluids;
 - (ii) X-ray capability including c-arm intensifier;
 - (iii) Endoscopes;
 - (iv) Craniotomy instruments; and
 - (v) Equipment appropriate for fixation of long-bone and pelvic fractures.
- (C) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit shall have the following supplies and equipment on site, functional, and available for use:
- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
 - (ii) Equipment for the continuous monitoring of intracranial pressure;
 - (iii) Pulse oximetry;
 - (iv) End-tidal CO₂ determination; and
 - (v) Thermal control equipment for patients and infusion of blood, blood products, and other fluids.
- (D) **Intensive care unit.** The intensive care unit shall have the following supplies and equipment on site, functional, and available for use:
- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
 - (ii) Cardiopulmonary resuscitation cart;
 - (iii) Electrocardiograph-oscilloscope-defibrillator-pacer;
 - (iv) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.

- (4) **Policies on transfers.** The hospital shall have written policies defining the medical conditions and circumstances for those emergency patients which may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another facility.
- (5) **Quality Improvement.** The hospital shall establish a multidisciplinary trauma committee composed of the trauma service director, emergency services director, trauma coordinator, and other members of the medical and nursing staff that treat trauma and emergency operative patients. The trauma committee shall meet regularly to review and evaluate patient outcomes and the quality of care provided by the trauma service. In addition to any other requirements of this Chapter, the hospital quality improvement program shall include:
 - (A) Trauma registry;
 - (B) Audit for all trauma deaths to include prehospital care and care received at a transferring facility;
 - (C) Morbidity and mortality review;
 - (D) Medical nursing audit, utilization review, tissue review;
 - (E) Regularly scheduled multidisciplinary trauma and emergency operative services review conferences;
 - (F) Published on call schedules for surgeons, neurosurgeons, and orthopedic surgeons;
 - (G) Review of the times and reasons for trauma-related bypass;
 - (H) The availability and response times of on call staff specialists shall be defined in writing, documented, and continuously monitored; and
 - (I) Quality improvement staff with time dedicated to and specific for trauma and emergency operative services.
- (6) **Continuing education.** The hospital shall provide and document formal continuing education programs for physicians, nurses, allied health personnel, and community physicians. Continuing education programs shall be available to all state physicians, nurses, allied health personnel, and emergency medical service providers.
- (7) **Organ Procurement.** The hospital, in association with an organ procurement organization certified by CMS, shall develop policies and procedures to identify and refer potential organ donors.
- (8) **Outreach programs.** The hospital shall have organized outreach programs under the direction of a designated prevention coordinator.
 - (A) **Consultation.** The hospital shall provide on-site and/or electronic consultations with community health care providers and those in outlying areas as requested and appropriate.
 - (B) **Prevention and public education programs.** The hospital shall serve as a public information resource and collaborate with other institutions and national, regional, and state programs in research and data collection projects in epidemiology, surveillance, and injury prevention, and other areas.

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(d) **Level I.** A Level one facility shall provide emergency medical services with an organized trauma service and emergency department. A physician and nursing staff with special capability in trauma care shall be on site twenty-four (24) hours a day. General surgery, anesthesiology, and neurosurgery services shall be available on site or on call twenty-four (24) hours a day. Additional clinical services and specialties such as nuclear diagnostic imaging, cardiac surgery, hand surgery, and infectious disease specialists shall also be promptly available. A Level I facility shall also have an organized trauma research program with a designated director.

(1) **Clinical services and resources.**

(A) **Trauma service.** A trauma service shall be established by the medical staff and shall be responsible for coordinating the care of injured patients, the training of personnel, and trauma quality improvement. Privileges for physicians participating in the trauma service will be determined by the medical staff credentialing process. All patients with multiple-system or major injury shall be evaluated by the trauma service. The surgeon responsible for the overall care of the admitted patient shall be identified.

(B) **Emergency services.** A physician deemed competent in the care of the critically injured and credentialed by the hospital to provide emergency medical services and nursing personnel with special capability in trauma care shall be on site twenty-four (24) hours a day. For a hospital licensed as a general medical surgical hospital or a specialty hospital, emergency services shall also comply with the requirements of OAC 310:667-29-1 through OAC 310:667-29-2.

(C) **General surgery.** A general surgeon or senior surgical resident deemed competent and appropriately credentialed by the hospital shall be on site or on call twenty-four (24) hours a day and promptly available in the emergency department. A stated goal of the general surgery service shall be to have the attending trauma surgeon authorized and designated by the trauma service director present in the emergency room at the time of the severely injured patient's arrival. For a hospital licensed as a general medical surgical hospital, surgical services shall also comply with the requirements of OAC 310:667-25-1 through OAC 310:667-25-2.

(D) **Anesthesia.** A board certified, board eligible, or residency trained anesthesiologist shall be on site or on call twenty-four (24) hours a day and promptly available. All anesthesia shall be administered as required in OAC 310:667-25-2.

(E) **Neurologic surgery.** A board certified, board eligible, or residency trained neurosurgeon or other physician deemed competent in the care of patients with neurotrauma and appropriately credentialed shall be on site twenty-four (24) hours a day and promptly available in the emergency department. If

care is initiated by a physician other than a neurosurgeon, the neurosurgeon on call shall respond as required by the hospital's policy.

(F) **Other specialties.** The hospital shall also have services from the following specialties on call and promptly available:

- (i) Cardiac surgery;
- (ii) Cardiology;
- (iii) Hand surgery;
- (iv) Infectious disease;
- (v) Internal medicine;
- (vi) Microvascular surgery;
- (vii) Obstetric/gynecologic surgery;
- (viii) Ophthalmic surgery;
- (ix) Oral/maxillofacial surgery;
- (x) Orthopedic surgery;
- (xi) Otolaryngology;
- (xii) Pediatric surgery;
- (xiii) Pediatrics;
- (xiv) Plastic surgery;
- (xv) Clinical licensed psychologist or psychiatrist;
- (xvi) Pulmonary medicine;
- (xvii) Radiology;
- (xviii) Thoracic surgery; and
- (xvix) Urology and urologic surgery.

(G) **Operating suite.** An operating suite with adequate staff and equipment shall be immediately available twenty-four (24) hours a day. The hospital shall define and document in writing the minimum staffing requirements for the operating suite. An on call schedule for emergency replacement staff shall be maintained.

(H) **Post-anesthesia recovery unit.** The hospital shall have a post-anesthesia recovery room or intensive care unit in compliance with OAC 310:667-15-7 with nursing personnel and anesthesia services remaining in the unit until the patient is discharged from post-anesthesia care.

(I) **Intensive care unit.** The hospital shall have an intensive care unit in compliance with OAC 310:667-15-7 with a registered nurse on duty in the intensive care unit whenever the unit has a patient(s). The hospital shall define and document in writing the minimum staffing requirements for the intensive care unit and shall continuously monitor compliance with these requirements through the quality improvement program. A registered nurse shall be on call and immediately available when no patients are in the unit. A physician with privileges in critical care shall be on duty in the unit or immediately available in the hospital twenty-four (24) hours a day.

(J) **Diagnostic imaging.** The hospital shall have diagnostic x-ray services available twenty-four (24) hours a day. A radiologic technologist and computerized tomography technologist shall be on duty or on call and immediately available twenty-four (24) hours a day. A single technologist designated as qualified in

both diagnostic x-ray and computerized tomography procedures by the radiologist may be used to meet this requirement if an on call schedule of additional diagnostic imaging personnel is maintained. The diagnostic imaging service shall provide at least the following services:

- (i) Angiography;
- (ii) Ultrasonography;
- (iii) Computed tomography;
- (iv) Magnetic resonance imaging;
- (v) Neuroradiology; and
- (vi) Nuclear medicine imaging.
- (vii) For a hospital licensed as a general medical surgical hospital or specialty hospital, diagnostic imaging services shall also comply with the applicable requirements in Subchapter 23 of this Chapter.

(K) **Clinical laboratory service.** The hospital shall have clinical laboratory services available twenty-four (24) hours a day. All or part of these services may be provided by arrangements with certified reference laboratories provided these services are available on an emergency basis twenty-four (24) hours a day. At least the following shall be available:

- (i) Comprehensive immunohematology services including blood typing and compatibility testing. A supply of blood and blood products shall be on hand and adequate to meet expected patient needs. All blood and blood products shall be properly stored. The hospital shall have access to services provided by a community central blood bank;
- (ii) Standard analysis of blood, urine, and other body fluids to include routine chemistry and hematology testing;
- (iii) Coagulation studies;
- (iv) Blood gas/pH analysis;
- (v) Comprehensive microbiology services or appropriate supplies for the collection, preservation, and transport of clinical specimens for aerobic and anaerobic bacterial, mycobacterial, and fungus cultures; and
- (vi) Drug and alcohol screening.
- (vii) For a hospital licensed as a general medical surgical hospital or specialty hospital, clinical laboratory services shall also comply with the applicable requirements in Subchapter 23 of this Chapter.

(L) **Respiratory therapy.** Routine respiratory therapy procedures and mechanical ventilators shall be available twenty-four (24) hours a day. Respiratory therapy services shall comply with OAC 310:667-23-6.

(M) **Acute hemodialysis.** The hospital shall have the capability to provide acute hemodialysis services twenty-four (24) hours a day. All staff providing hemodialysis patient care shall have documented hemodialysis training and experience.

(N) **Social services.** Social services shall be available and provided as required in Subchapter 31 of this Chapter.

(O) **Burn Care.**

- (i) The hospital shall provide burn care in a physician-directed, organized burn care center with a staff of nursing personnel trained in burn care and equipped properly for care of the extensively burned patient; or
- (ii) If the hospital does not meet the requirements at OAC 310:667-59-9(d)(1)(O)(i), it shall have a transfer agreement with a hospital capable of providing burn care in a physician-directed, organized burn care center with a staff of nursing personnel trained in burn care and equipped properly for care of the extensively burned patient.

(P) **Spinal cord and head injury management.** The hospital shall provide acute spinal cord and head injury management including at least the ability to initiate rehabilitative care prior to transfer and shall have a transfer agreement with a hospital that meets the requirements at OAC 310:667-59-9(d)(1)(P)(i) if comprehensive rehabilitation services are not available within the facility.

(Q) **Rehabilitation services.**

- (i) The hospital shall provide rehabilitation services in a rehabilitation center with a staff of personnel trained in rehabilitation care and equipped properly for acute care of the critically injured patient; or
- (ii) If the hospital does not meet the requirements at OAC 310:667-59-9(d)(1)(Q)(i) it shall have a transfer agreement with a hospital which meets the requirements of Subchapter 35 of this Chapter and is capable of providing rehabilitation services in a rehabilitation center with a staff of personnel trained in rehabilitation care and equipped properly for acute care of the critically injured patient.

(2) **Personnel.**

(A) **Trauma service director.** The medical staff shall designate a surgeon as trauma service director. Through the quality improvement process, the director shall have responsibility for all trauma patients and administrative authority for the hospital's trauma program. The trauma service director shall be responsible for recommending appointment to and removal from the trauma service.

(B) **Trauma coordinator.** The hospital shall have a designated trauma coordinator who may also serve as the prevention coordinator. Under the supervision of the trauma service director, the trauma coordinator is responsible for organizing the services and systems of the trauma service to ensure there is a multidisciplinary approach throughout the continuum of trauma care. The trauma coordinator shall have an active role in the following:

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- (i) Clinical activities such as design of clinical protocols, monitoring care, and assisting the staff in problem solving;
 - (ii) Educational activities such as professional staff development, case reviews, continuing education, and community trauma education and prevention programs;
 - (iii) Quality improvement activities such as development of quality monitors, audits, and case reviews in all phases of trauma care;
 - (iv) Administrative tasks for the trauma service such as those related to services' organization, personnel, budget preparation, and accountability;
 - (v) Trauma registry data collection, coding, scoring, and validation; and
 - (vi) Consultation and liaison to the medical staff, prehospital emergency medical service agencies, patient families, and the community at large.
- (C) **Prevention coordinator.** The hospital shall have a designated prevention coordinator who may also serve as the trauma coordinator. Under the supervision of the trauma director, the prevention coordinator is responsible for the organization and management of the hospital's outreach, prevention, and public education activities.
- (D) **Emergency services director.** The medical staff shall designate a physician credentialed to provide emergency medical care as emergency services director.
- (E) **Surgical director.** The medical staff shall designate a surgeon credentialed by the hospital to be the director of care for surgical and critical care for trauma patients.
- (F) **Research director.** The medical staff shall designate a physician as research director who may also serve as the trauma service director. The research director is responsible for the organization and management of the hospital's trauma and emergency operative research activities.
- (3) **Supplies and equipment.**
- (A) **Emergency department.** The emergency department shall have equipment for use in the resuscitation of patients of all ages on site, functional, and available in the emergency department, including at least the following:
- (i) Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of all sizes, bag-mask resuscitator, pocket masks, and oxygen;
 - (ii) Pulse oximetry;
 - (iii) End-tidal CO₂ determination;
 - (iv) Suction devices;
 - (v) Electrocardiograph-oscilloscope-defibrillator-pacer;
 - (vi) Apparatus to establish central venous pressure monitoring;
 - (vii) Standard intravenous fluids and administration devices, including large-bore intravenous catheters;
 - (viii) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.
 - (ix) Equipment for gastric decompression;
 - (x) Drugs necessary for emergency care;
 - (xi) Two-way communication with vehicles of emergency transport system as required at OAC 310:667-29-1(c)(4);
 - (xii) Skeletal traction devices including cervical immobilization device;
 - (xiii) Arterial catheters; and
 - (xiv) Thermal control equipment for patients and infusion of blood, blood products, and other fluids.
- (B) **Operating suite.** The operating suite shall have the following supplies and equipment on site, functional and available for use:
- (i) Cardiopulmonary bypass capability;
 - (ii) Operating microscope;
 - (iii) Thermal control equipment for patients and infusion of blood, blood products, and other fluids;
 - (iv) X-ray capability including c-arm intensifier;
 - (v) Endoscopes;
 - (vi) Craniotomy instruments; and
 - (vii) Equipment appropriate for fixation of long-bone and pelvic fractures.
- (C) **Post-anesthesia recovery unit.** The post-anesthesia recovery unit shall have the following supplies and equipment on site, functional, and available for use:
- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
 - (ii) Equipment for the continuous monitoring of intracranial pressure;
 - (iii) Pulse oximetry;
 - (iv) End-tidal CO₂ determination; and
 - (v) Thermal control equipment for patients and infusion of blood, blood products, and other fluids.
- (D) **Intensive care unit.** The intensive care unit shall have the following supplies and equipment on site, functional, and available for use:
- (i) Equipment for the continuous monitoring of temperature, hemodynamics, and gas exchange;
 - (ii) Cardiopulmonary resuscitation cart;
 - (iii) Electrocardiograph-oscilloscope-defibrillator-pacer;
 - (iv) Sterile surgical sets for:
 - (I) Airway control/cricothyrotomy;
 - (II) Thoracotomy;
 - (III) Vascular access; and
 - (IV) Chest decompression.

(4) **Policies on transfers.** The hospital shall have written policies defining the medical conditions and circumstances for those emergency patients which may be retained for treatment in-house, and for those who require stabilizing treatment and transfer to another facility.

(5) **Quality Improvement.** The hospital shall establish a multidisciplinary trauma committee composed of the trauma service director, emergency services director, trauma coordinator, and other members of the medical and nursing staff that treat trauma and emergency operative patients. The trauma committee shall meet regularly to review and evaluate patient outcomes and the quality of care provided by the trauma service. In addition to any other requirements of this Chapter, the hospital quality improvement program shall include:

- (A) Trauma registry;
- (B) Audit for all trauma deaths to include prehospital care and care received at a transferring facility;
- (C) Morbidity and mortality review;
- (D) Medical nursing audit, utilization review, tissue review;
- (E) Regularly scheduled multidisciplinary trauma and emergency operative services review conference;
- (F) Published on call schedules for surgeons, neurosurgeons, and orthopedic surgeons;
- (G) Review of the times and reasons for trauma-related bypass; and
- (H) The availability and response times of on call staff specialists shall be defined in writing, documented, and continuously monitored.
- (I) Quality improvement staff with time dedicated to and specific for trauma and emergency operative services.

(6) **Continuing education.** The hospital shall provide and document formal continuing education programs for

physicians, nurses, allied health personnel, and community physicians. Continuing education programs shall be available to all state physicians, nurses, allied health personnel, and emergency medical service providers.

(7) **Organ Procurement.** The hospital, in association with an organ procurement organization certified by CMS, shall develop policies and procedures to identify and refer potential organ donors.

(8) **Outreach programs.** The hospital shall have organized outreach programs under the direction of a designated prevention coordinator.

(A) **Consultation.** The hospital shall provide on-site and/or electronic consultations with community health care providers and those in outlying areas as requested and appropriate.

(B) **Prevention and public education programs.** The hospital shall serve as a public information resource and collaborate with other institutions and national, regional, and state programs in research and data collection projects in epidemiology, surveillance, and injury prevention, and other areas.

(9) **Research programs.** The hospital shall have an organized trauma and emergency operative services research program under the direction of a designated research director. Research groups shall meet regularly and all research proposals shall be approved by an Institutional Review Board (IRB) prior to launch. The research director shall maintain evidence of the productivity of the research program through documentation of presentations and copies of published articles.

[OAR Docket #04-168; filed 1-30-04]

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

1:2004-5.

EXECUTIVE ORDER 2004-5

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags at the United States Armed Forces Reserve and National Guard Center in Tulsa, Oklahoma, on Friday, February 6, 2004, from 8:00 a.m. until 5:00 p.m. These flags shall be lowered to honor the memory of two Oklahoma soldiers, who lost their lives in Afghanistan on January 29, 2004.

The two soldiers who perished in Afghanistan are SFC Curtis Mancini and SGT Kyle Seitsinger.

This executive order shall be forwarded to the United States Armed Forces Reserve and National Guard Center who shall cause the provisions of this order to be implemented.

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 3rd day of February, 2004.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #04-198; filed 2-4-04]
