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Table of Contents

Agency/Action/Subject Index	iii
Rules Affected Index	iv
Agency Index (Title numbers assigned)	vii
Notices of Rulemaking Intent	
Medical Licensure and Supervision, State Board of (Title 435)	617
Submissions for Review	
Architects and Landscape Architects of Oklahoma, Board of Governors of the Licensed (Title 55)	619
Arts Council, Oklahoma (Title 70)	619
Banking Department, State (Title 85)	620
Health Care Authority, Oklahoma (Title 317)	620, 621, 622
Insurance Board, Oklahoma State and Education Employees Group (Title 360)	622
Juvenile Affairs, Office of (Title 377)	622, 623
Law Enforcement Retirement System, Oklahoma (Title 395)	624
Public Employees Retirement System, Oklahoma (Title 590)	624, 625
Regents for Higher Education, State (Title 610)	625, 626
Rehabilitation Services, State Department of (Title 612)	626, 627
Secretary of State (Title 655)	627
Tax Commission, Oklahoma (Title 710)	628
Textbook Committee, State (Title 720)	628
Veterinary Medical Examiners, Board of (Title 775)	628
Gubernatorial Approvals	
Employment Security Commission, Oklahoma (Title 240)	631
Emergency Adoptions	
Land Office, Department of the Commissioners of the (Title 385)	633
Personnel Management, Office of (Title 530)	636, 644, 650
Executive Orders (Title 1)	655

Agency/Action/Subject Index

ARCHITECTS and Landscape Architects of Oklahoma, Board of Governors of the Licensed (Title 55)
Submissions for Review
 Licensure and Practice of Architects and Landscape Architects (Chapter 10) 619

ARTS Council, Oklahoma (Title 70)
Submissions for Review
 Administrative Operations (Chapter 1) 619
 Oklahoma Arts Council Programs (Chapter 10) 619

BANKING Department, State (Title 85)
Submissions for Review
 Supervision, Regulation and Administration of Banks and the Oklahoma Banking Code (Chapter 10) 620

EMPLOYMENT Security Commission, Oklahoma (Title 240)
Gubernatorial Approvals
 Employment Service (Chapter 5) 631
 Unemployment Insurance Program (Chapter 10) 631
 Trade Act Programs (Chapter 12) 631
 Board of Review Procedures (Chapter 15) 631

GOVERNOR
Executive Orders
 Granting stay of execution for Hung Thanh Le (04-8) 655
 Creating Governor's Task Force on Medicaid (04-9) 655

HEALTH Care Authority, Oklahoma (Title 317)
Submissions for Review
 Grievance Procedures and Process (Chapter 2) 620
 Employees Benefits Council (Chapter 20) 621
 Medical Providers-Fee for Service (Chapter 30) 621
 Medical Assistance for Adults and Children-Eligibility (Chapter 35) 621
 Developmental Disabilities Services (Chapter 40) ... 621, 622

INSURANCE Board, Oklahoma State and Education Employees Group (Title 360)
Submissions for Review
 State and Education Employees Health, Life, and Dental Plans (Chapter 10) 622

JUVENILE Affairs, Office of (Title 377)
Submissions for Review
 Function and Structure of the Office of Juvenile Affairs (Chapter 1) 622
 Administrative Services (Chapter 3) 623
 Department of Juvenile Justice (Chapter 10) 623
 Juvenile Services Unit (Chapter 25) 623
 Institutional Services (Chapter 35) 623

LAND Office, Department of the Commissioners of the (Title 385)
Emergency Adoptions
 Sale and Operation of Oil and Gas Leases (Chapter 15) ... 633

LAW Enforcement Retirement System, Oklahoma (Title 395)
Submissions for Review
 Retirement and Pension Benefits Program (Chapter 10) 624

MEDICAL Licensure and Supervision, State Board of (Title 435)
Notices of Rulemaking Intent
 Registered Electrologists (Chapter 40) 617

PERSONNEL Management, Office of (Title 530)
Emergency Adoptions
 Merit System of Personnel Administration Rules (Chapter 10) 636, 644
 Voluntary Payroll Deduction Rules (Chapter 15) 650

PUBLIC Employees Retirement System, Oklahoma (Title 590)
Submissions for Review
 Public Employees Retirement System (Chapter 10) 624
 Uniform Retirement System for Justices and Judges (Chapter 15) 624
 Deferred Compensation (Chapter 25) 625
 Deferred Savings Incentive Plan (Chapter 35) 625

REGENTS for Higher Education, State (Title 610)
Submissions for Review
 Administrative Operations (Chapter 1) 625
 Student Financial Aid and Scholarships (Chapter 25) 625, 626

REHABILITATION Services, State Department of (Title 612)
Submissions for Review
 Administrative Operations (Chapter 1) 626
 Management Services Division (Chapter 3) 626
~~Vocational-Rehabilitative~~ Rehabilitation and Visual Services (Chapter 10) 627
 Special Schools (Chapter 20) 627

SECRETARY of State (Title 655)
Submissions for Review
 Administrative Rules on Rulemaking (Chapter 10) 627
 Address Confidentiality Program (Chapter 30) 627

TAX Commission, Oklahoma (Title 710)
Submissions for Review
 Ad Valorem (Chapter 10) 628
 Withholding (Chapter 90) 628

TEXTBOOK Committee, State (Title 720)
Submissions for Review
 Textbook Selection (Chapter 10) 628

VETERINARY Medical Examiners, Board of (Title 775)
Submissions for Review
 Licensure of Veterinarians, Veterinary Technicians and Animal Euthanasia Tehnicians (Chapter 10) 628

Rules Affected Index

[(E) = Emergency action]

Rule	Register Page	Rule	Register Page
35:30-21-1.	[REVOKED] (E) 347	210:25-3-4.	[AMENDED] (E) 350
35:30-21-1.1.	[NEW] (E) 348	210:25-5-4.	[AMENDED] (E) 235
35:30-21-2.	[REVOKED] (E) 348	210:35-9-31.	[AMENDED] (E) 236
35:30-21-3.	[REVOKED] (E) 349	230:10-3-8.	[AMENDED] (E) 546
35:30-21-4.	[REVOKED] (E) 349	230:10-3-9.2.	[NEW] (E) 546
40:35-1-2.	[NEW] (E) 37	230:10-3-16.1.	[NEW] (E) 546
115:1-1-1.	[AMENDED] (E) 487	230:10-3-28.1.	[NEW] (E) 546
115:1-1-2.	[AMENDED] (E) 487	230:15-5-30.	[AMENDED] (E) 547
115:1-1-3.	[AMENDED] (E) 488	230:15-9-22.	[AMENDED] (E) 548
115:1-1-4.	[AMENDED] (E) 488	230:15-9-22.1.	[AMENDED] (E) 548
115:1-1-5.	[AMENDED] (E) 489	230:20-3-1.	[AMENDED] (E) 550
115:1-1-6.	[NEW] (E) 489	230:20-3-47.	[AMENDED] (E) 550
115:10-1-1.	[AMENDED] (E) 489	230:20-3-50.	[AMENDED] (E) 550
115:10-1-2.	[AMENDED] (E) 490	230:30-1-2.	[AMENDED] (E) 551
115:10-1-2.1.	[NEW] (E) 491	230:30-3-3.	[AMENDED] (E) 551
150:65-1-2.	[AMENDED] (E) 543	230:30-5-1.1.	[AMENDED] (E) 552
150:65-1-12.	[AMENDED] (E) 544	230:30-5-8.1.	[AMENDED] (E) 552
150:65-9-1.	[NEW] (E) 15	230:30-5-8.2.	[AMENDED] (E) 553
150:65-9-2.	[NEW] (E) 15	230:30-7-6.	[AMENDED] (E) 553
150:65-9-3.	[NEW] (E) 16	230:30-7-13.	[AMENDED] (E) 553
150:65-9-4.	[NEW] (E) 17	230:30-9-2.	[AMENDED] (E) 553
150:65-9-5.	[NEW] (E) 17	230:30-9-3.	[AMENDED] (E) 554
150:95-1-1.	[NEW] (E) 181	230:30-9-5.	[AMENDED] (E) 554
150:95-1-2.	[NEW] (E) 181	230:30-9-5.1.	[NEW] (E) 555
150:95-1-3.	[NEW] (E) 182	230:30-11-2.	[AMENDED] (E) 555
150:95-1-4.	[NEW] (E) 183	230:30-11-6.	[AMENDED] (E) 556
150:95-1-5.	[NEW] (E) 183	230:30-11-6.1.	[NEW] (E) 556
158:30-1-4.	[AMENDED] (E) 492	230:30-11-7.	[AMENDED] (E) 557
158:30-5-2.	[AMENDED] (E) 492	230:30-13-1.	[AMENDED] (E) 557
158:30-5-4.	[NEW] (E) 492	230:30-15-1.	[AMENDED] (E) 557
158:30-9-2.	[AMENDED] (E) 493	230:30-15-2.	[AMENDED] (E) 557
158:30-9-3.	[AMENDED] (E) 494	230:30-15-3.	[AMENDED] (E) 558
158:30-11-2.	[AMENDED] (E) 494	230:30-15-5.	[AMENDED] (E) 558
158:40-7-5.	[NEW] (E) 495	230:30-15-7.	[AMENDED] (E) 558
158:40-9-3.	[AMENDED] (E) 496	230:30-15-8.	[AMENDED] (E) 558
158:40-11-2.	[AMENDED] (E) 496	230:30-15-9.	[AMENDED] (E) 558
158:50-1-4.	[AMENDED] (E) 498	230:35-3-57.	[AMENDED] (E) 559
158:50-9-2.	[AMENDED] (E) 498	230:35-3-65.	[AMENDED] (E) 559
158:50-9-3.	[AMENDED] (E) 498	230:35-3-66.	[AMENDED] (E) 559
158:50-9-6.	[NEW] (E) 498	230:35-3-101.1.	[AMENDED] (E) 559
158:50-11-2.	[AMENDED] (E) 499	230:35-3-101.2.	[NEW] (E) 560
158:60-5-4.	[AMENDED] (E) 501	230:35-5-60.	[NEW] (E) 560
210:1-5-6.	[AMENDED] (E) 395	230:40-3-1.1.	[AMENDED] (E) 560
210:1-5-8.	[AMENDED] (E) 184	230:40-7-1.	[AMENDED] (E) 561
210:10-13-2.	[AMENDED] (E) 185	230:55-1-1.	[NEW] (E) 562
210:10-13-4.	[AMENDED] (E) 186	230:55-1-2.	[NEW] (E) 562
210:10-13-11.	[AMENDED] (E) 189	230:55-3-1.	[NEW] (E) 562
210:10-13-13.	[REVOKED] (E) 189	230:55-3-2.	[NEW] (E) 562
210:10-13-14.	[REVOKED] (E) 190	230:55-3-3.	[NEW] (E) 562
210:10-13-18.	[NEW] (E) 190	230:55-3-4.	[NEW] (E) 562
210:15-3-45.	[AMENDED] (E) 192	230:55-3-9.	[NEW] (E) 563
210:15-3-47.	[AMENDED] (E) 193	230:55-3-10.	[NEW] (E) 563
210:15-3-48.	[AMENDED] (E) 194	230:55-3-11.	[NEW] (E) 563
210:15-3-49.	[AMENDED] (E) 195	230:55-3-12.	[NEW] (E) 564
210:15-3-51.	[AMENDED] (E) 196	230:55-3-13.	[NEW] (E) 564
210:15-3-95.	[AMENDED] (E) 196	230:55-3-14.	[NEW] (E) 564
210:15-29-1.	[NEW] (E) 198	230:55-3-15.	[NEW] (E) 564
210:15-29-2.	[NEW] (E) 198	230:55-3-16.	[NEW] (E) 565
210:20-9-172.	[AMENDED] (E) 199	230:55-3-21.	[NEW] (E) 566
210:20-21-1.	[AMENDED] (E) 611	230:55-3-22.	[NEW] (E) 566
210:20-23-3.	[NEW] (E) 612	230:55-3-23.	[NEW] (E) 566

230:55-3-24.	[NEW] (E)	567	380:30-3-6.	[AMENDED] (E)	38
230:55-3-25.	[NEW] (E)	567	385:15-1-5.	[AMENDED] (E)	633
230:55-3-26.	[NEW] (E)	567	385:15-1-6.	[AMENDED] (E)	633
230:55-3-27.	[NEW] (E)	567	385:15-1-9.	[AMENDED] (E)	634
230:55-3-28.	[NEW] (E)	568	385:15-1-14.	[AMENDED] (E)	634
230:55-3-29.	[NEW] (E)	568	385:15-1-18.	[AMENDED] (E)	635
230:55-3-30.	[NEW] (E)	568	385:15-1-20.	[AMENDED] (E)	635
230:55-3-31.	[NEW] (E)	569	385:15-1-22.	[AMENDED] (E)	635
230:55-3-32.	[NEW] (E)	569	530:10-1-31.	[AMENDED] (E)	637
230:55-3-33.	[NEW] (E)	569	530:10-1-61.	[AMENDED] (E)	637
230:55-5-1.	[NEW] (E)	569	530:10-3-39.	[AMENDED] (E)	637
230:55-5-2.	[NEW] (E)	570	530:10-7-7.	[AMENDED] (E)	637
230:55-7-1.	[NEW] (E)	570	530:10-7-16.	[AMENDED] (E)	638
230:55-9-1.	[NEW] (E)	570	530:10-7-24.	[AMENDED] (E)	638
230:55-9-2.	[NEW] (E)	571	530:10-7-31.	[AMENDED] (E)	638
230:55-9-3.	[NEW] (E)	571	530:10-11-51.	[AMENDED] (E)	639
230:55-9-4.	[NEW] (E)	571	530:10-13-1.	[AMENDED] (E)	644
230:55-9-5.	[NEW] (E)	571	530:10-13-2.	[AMENDED] (E)	644
230:55-9-6.	[NEW] (E)	571	530:10-13-3.	[AMENDED] (E)	645
230:55-9-7.	[NEW] (E)	571	530:10-13-5.	[REVOKED] (E)	646
310:234-3-3.1.	[NEW] (E)	238	530:10-13-8.	[AMENDED] (E)	646
310:234-3-4.	[AMENDED] (E)	238	530:10-13-11.	[AMENDED] (E)	646
310:234-9-1.1.	[NEW] (E)	239	530:10-13-12.	[AMENDED] (E)	646
310:555-1-2.	[AMENDED] (E)	240	530:10-13-13.	[AMENDED] (E)	647
310:555-1-4.	[AMENDED] (E)	240	530:10-13-31.	[AMENDED] (E)	647
310:641-3-130.	[AMENDED] (E)	572	530:10-13-32.	[AMENDED] (E)	647
310:667-1-3.	[AMENDED] (E)	573	530:10-13-33.	[AMENDED] (E)	647
310:667-59-3.	[AMENDED] (E)	575	530:10-13-34.	[AMENDED] (E)	647
310:667-59-9.	[AMENDED] (E)	575	530:10-13-35.	[AMENDED] (E)	648
317:30-3-46.	[AMENDED] (E)	398	530:10-13-36.	[AMENDED] (E)	649
317:30-3-57.	[AMENDED] (E)	399	530:10-13-37.	[AMENDED] (E)	649
317:30-3-57.	[AMENDED] (E)	502	530:10-13-50.	[AMENDED] (E)	649
317:30-3-59.	[AMENDED] (E)	504	530:10-13-51.	[AMENDED] (E)	650
317:30-5-2.	[AMENDED] (E)	401	530:10-13-70.	[AMENDED] (E)	650
317:30-5-2.	[AMENDED] (E)	505	530:10-13-72.	[AMENDED] (E)	650
317:30-5-9.	[AMENDED] (E)	510	530:10-15-11.	[AMENDED] (E)	639
317:30-5-11.	[AMENDED] (E)	511	530:10-15-12.	[AMENDED] (E)	640
317:30-5-15.	[AMENDED] (E)	511	530:10-17-31.	[AMENDED] (E)	640
317:30-5-72.	[AMENDED] (E)	407	530:10-17-156.	[AMENDED] (E)	641
317:30-5-72.1.	[AMENDED] (E)	420	530:10-21-5.	[AMENDED] (E)	642
317:30-5-77.2.	[AMENDED] (E)	421	530:10, App. B.	[REVOKED] (E)	643
317:30-5-241.	[AMENDED] (E)	408	530:10, App. B.	[NEW] (E)	643
317:30-5-356.	[AMENDED] (E)	512	530:15-1-1.	[AMENDED] (E)	651
317:30-5-1043.	[AMENDED] (E)	416	530:15-1-2.	[AMENDED] (E)	651
317:30-5-1046.	[AMENDED] (E)	419	530:15-3-7.2.	[NEW] (E)	652
317:40-1-1.	[AMENDED] (E)	513	530:15-3-11.	[NEW] (E)	652
317:40-5-111.	[NEW] (E)	423	530:15-3-14.	[NEW] (E)	652
317:40-5-112.	[NEW] (E)	516	530:15-3-15.	[RESERVED] (E)	652
317:40-5-153.	[NEW] (E)	423	530:15-3-16.	[NEW] (E)	652
317:40-5-154.	[NEW] (E)	424	590:15-1-15.	[REVOKED] (E)	39
325:15-3-2.	[AMENDED] (E)	352	605:10-15-4.	[AMENDED] (E)	40
340:10-20-1.	[AMENDED] (E)	242	605:10, App. A.	[REVOKED] (E)	41
340:25-5-168.	[RESERVED] (E)	243	605:10, App. A.	[NEW] (E)	41
340:25-5-169.	[RESERVED] (E)	243	675:1-1-1.1.	[NEW] (E)	250
340:25-5-170.	[RESERVED] (E)	243	675:1-1-3.	[AMENDED] (E)	250
340:25-5-171.	[NEW] (E)	243	675:1-1-4.	[AMENDED] (E)	250
340:25-5-211.1.	[NEW] (E)	353	675:1-1-5.	[REVOKED] (E)	250
340:50-9-5.	[AMENDED] (E)	244	675:1-1-8.	[AMENDED] (E)	251
340:75-16-27.	[REVOKED] (E)	246	675:3-1-1.	[NEW] (E)	251
340:75-16-28.	[AMENDED] (E)	247	675:3-1-2.	[NEW] (E)	251
340:75-16-29.	[AMENDED] (E)	247	675:3-1-3.	[NEW] (E)	251
340:75-16-30.	[AMENDED] (E)	248	675:3-1-4.	[NEW] (E)	253
340:75-16-31.	[AMENDED] (E)	249	675:10-1-1.	[AMENDED] (E)	253
340:75-16-32.	[AMENDED] (E)	249	675:10-1-1.1.	[NEW] (E)	253
340:75-16-33.	[AMENDED] (E)	249	675:10-1-1.2.	[NEW] (E)	254
340:75-16-36.	[AMENDED] (E)	249	675:10-1-1.3.	[NEW] (E)	254
340:75-16-37.	[AMENDED] (E)	250	675:10-1-2.	[AMENDED] (E)	254

Rules Affected Index – *continued*

675:10-1-2.1. [NEW] (E)	254	675:10-1-17. [REVOKED] (E)	261
675:10-1-3. [AMENDED] (E)	254	675:12-1-3.1. [NEW] (E)	265
675:10-1-3.1. [NEW] (E)	255	675:12-1-3.2. [NEW] (E)	265
675:10-1-4. [AMENDED] (E)	255	675:12-1-3.3. [NEW] (E)	265
675:10-1-5. [AMENDED] (E)	255	675:12-1-4. [AMENDED] (E)	265
675:10-1-6. [AMENDED] (E)	257	675:12-1-5. [REVOKED] (E)	265
675:10-1-7. [REVOKED] (E)	257	675:12-1-6. [AMENDED] (E)	266
675:10-1-8. [AMENDED] (E)	258	675:12-1-7. [AMENDED] (E)	266
675:10-1-9. [AMENDED] (E)	258	675:15-1-2. [AMENDED] (E)	267
675:10-1-10. [AMENDED] (E)	258	675:15-1-2.1. [NEW] (E)	267
675:10-1-11. [AMENDED] (E)	258	675:15-1-3. [AMENDED] (E)	267
675:10-1-12. [AMENDED] (E)	258	675:15-1-4. [AMENDED] (E)	268
675:10-1-12.1. [NEW] (E)	258	675:15-1-5. [AMENDED] (E)	269
675:10-1-13. [AMENDED] (E)	259	675:15-1-6. [REVOKED] (E)	270
675:10-1-13.1. [REVOKED] (E)	259	710:50-15-93. [NEW] (E)	354
675:10-1-14. [REVOKED] (E)	259	710:65-9-8. [NEW] (E)	44
675:10-1-15. [AMENDED] (E)	260	710:90-3-11. [NEW] (E)	311
675:10-1-16. [AMENDED] (E)	260	725:20-7-10. [NEW] (E)	271
675:10-1-16.1. [REVOKED] (E)	260		

Agency/Title Index

[Assigned as of 4-1-04]

Agency	Title	Agency	Title
Oklahoma ACCOUNTANCY Board	10	State Department of EDUCATION	210
State ACCREDITING Agency	15	EDUCATION Oversight Board	215
AD Valorem Task Force (<i>abolished 7-1-93</i>)	20	Oklahoma EDUCATIONAL Television Authority	220
Oklahoma AERONAUTICS Commission	25	[RESERVED]	225
Board of Regents for the Oklahoma AGRICULTURAL and Mechanical Colleges	30	State ELECTION Board	230
Oklahoma Department of AGRICULTURE , Food, and Forestry	35	Oklahoma FUNERAL Board (<i>Formerly</i> : Oklahoma State Board of EMBALMERS and Funeral Directors)	235
Board of Tests for ALCOHOL and Drug Influence	40	Oklahoma Department of EMERGENCY Management (<i>Formerly</i> : Department of CIVIL Emergency Management) - <i>See</i> Title 145	
ALCOHOLIC Beverage Laws Enforcement Commission	45	Oklahoma EMPLOYMENT Security Commission	240
ANATOMICAL Board of the State of Oklahoma	50	Oklahoma ENERGY Resources Board	243
Board of Governors of the Licensed ARCHITECTS and Landscape Architects of Oklahoma	55	State Board of Registration for Professional ENGINEERS and Land Surveyors	245
ARCHIVES and Records Commission	60	Board of Trustees for the ENID Higher Education Program	250
Board of Trustees for the ARDMORE Higher Education Program	65	Department of ENVIRONMENTAL Quality	252
Oklahoma ARTS Council	70	State Board of EQUALIZATION	255
ATTORNEY General	75	ETHICS Commission (<i>Title revoked</i>)	257
State AUDITOR and Inspector	80	ETHICS Commission	258
State BANKING Department	85	Office of State FINANCE	260
Oklahoma State Employees BENEFITS Council	87	State FIRE Marshal Commission	265
Council of BOND Oversight	90	Oklahoma FIREFIGHTERS Pension and Retirement System	270
Oklahoma Professional BOXING Commission	92	[RESERVED]	275
State BURIAL Board (<i>abolished 7-1-92</i>)	95	State Board of Registration for FORESTERS	280
[RESERVED]	100	FOSTER Care Review Advisory Board	285
Oklahoma CAPITOL Investment Board	105	Oklahoma FUNERAL Board (<i>Formerly</i> : Oklahoma State Board of Embalmers and Funeral Directors) - <i>See</i> Title 235	
Oklahoma CAPITOL Improvement Authority	110	Oklahoma FUTURES	290
State CAPITOL Preservation Commission	115	GOVERNOR	295
CAPITOL-MEDICAL Center Improvement and Zoning Commission	120	GRAND River Dam Authority	300
Oklahoma Department of CAREER and Technology Education (<i>Formerly</i> : Oklahoma Department of VOCATIONAL and Technical Education) - <i>See</i> Title 780		Group Self-Insurance Association GUARANTY Fund Board	302
Board of Regents of CARL Albert State College	125	Individual Self-Insured GUARANTY Fund Board	303
Department of CENTRAL Services (<i>Formerly</i> : Office of PUBLIC Affairs) - <i>See</i> Title 580		STATE Use Committee (<i>Formerly</i> : Committee on Purchases of Products and Services of the Severely HANDICAPPED)	304
CEREBRAL Palsy Commission	130	Office of HANDICAPPED Concerns	305
Commission on CHILDREN and Youth	135	Oklahoma State Department of HEALTH	310
Board of CHIROPRACTIC Examiners	140	Oklahoma Basic HEALTH Benefits Board (<i>abolished</i> <i>11-1-97</i>)	315
Oklahoma Department of EMERGENCY Management (<i>Formerly</i> : Department of CIVIL Emergency Management)	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</i> : State INSURANCE Fund) - <i>See</i> 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 Index – continued

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>	
LIEUTENANT Governor	410	<i>7-1-93</i>)	625
Oklahoma LINKED Deposit Review Board	415	SCENIC Rivers Commission	630
Oklahoma LIQUEFIED Petroleum Gas Board	420	Oklahoma Commission on SCHOOL and County Funds	
Oklahoma LIQUEFIED Petroleum Gas Research, Marketing		Management	635
and Safety Commission	422	Advisory Task Force on the Sale of SCHOOL Lands	
LITERACY Initiatives Commission	425	(<i>functions concluded 2-92</i>)	640
LONG-RANGE Capital Planning Commission	428	The Oklahoma School of SCIENCE and Mathematics	645
Board of Trustees for the MCCURTAIN County Higher		Oklahoma Center for the Advancement of SCIENCE and	
Education Program	430	Technology	650
Commission on MARGINALLY Producing Oil and Gas		SECRETARY of State	655
Wells	432	Department of SECURITIES	660
State Board of MEDICAL Licensure and Supervision	435	Board of Regents of SEMINOLE State College	665
MEDICAL Technology and Research Authority of		SHEEP and Wool Commission	670
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		Oklahoma SOYBEAN Commission (<i>abolished 7-1-97</i>)	685
Services	450	Board of Examiners for SPEECH-LANGUAGE Pathology	
MERIT Protection Commission	455	and Audiology	690
MILITARY Planning Commission, Oklahoma		STATE Agency Review Committee	695
Strategic	457	STATE Use Committee (<i>Formerly</i> : Committee on	
Department of MINES	460	Purchases of Products and Services of the Severely	
Oklahoma MOTOR Vehicle Commission	465	HANDICAPPED) – <i>See</i> Title 304	
Board of Regents of MURRAY State College	470	Oklahoma STUDENT Loan Authority	700
Oklahoma State Bureau of NARCOTICS and Dangerous		TASK Force 2000	705
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		State TEXTBOOK Committee	720
Administrators	490	Oklahoma TOURISM and Recreation Department	725
Board of Regents of OKLAHOMA City Community		Department of TRANSPORTATION	730
College	495	Oklahoma TRANSPORTATION Authority	731
Board of Regents of OKLAHOMA Colleges	500	State TREASURER	735
Board of Examiners in OPTOMETRY	505	Board of Regents of TULSA Community College	740
State Board of OSTEOPATHIC Examiners	510	Oklahoma TURNPIKE Authority (<i>name changed - see Title</i>	
PARDON and Parole Board	515	<i>731</i>)	745
Oklahoma PEANUT Commission	520	Board of Trustees for the UNIVERSITY Center	
Oklahoma State PENSION Commission	525	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	
PHYSICIAN Manpower Training Commission	540	Oklahoma	760
Board of PODIATRIC Medical Examiners	545	Oklahoma USED Motor Vehicle and Parts Commission	765
Oklahoma POLICE Pension and Retirement System	550	Oklahoma Department of VETERANS Affairs	770
State Department of POLLUTION Control (<i>abolished</i>		Board of VETERINARY Medical Examiners	775
<i>1-1-93</i>)	555	Oklahoma Department of CAREER and Technology	
POLYGRAPH Examiners Board	560	Education (<i>Formerly</i> : Oklahoma Department of	
Oklahoma Board of PRIVATE Vocational Schools	565	VOCATIONAL and Technical Education)	780
State Board for PROPERTY and Casualty Rates	570	Oklahoma WATER Resources Board	785
State Board of Examiners of PSYCHOLOGISTS	575	Board of Regents of WESTERN Oklahoma State	
Department of CENTRAL Services (<i>Formerly</i> : Office of		College	790
PUBLIC Affairs)	580	Oklahoma WHEAT Commission	795
PUBLIC Employees Relations Board	585	Department of WILDLIFE Conservation	800
Oklahoma PUBLIC Employees Retirement System	590	WILL Rogers and J.M. Davis Memorials Commission	805

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 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 40. REGISTERED ELECTROLOGISTS

[OAR Docket #04-302]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

435:40-1-9. License renewal and replacement
[AMENDED]

SUMMARY:

This rule sets forth the requirements for renewal and replacement of a license to practice electrology. The continuing education section will be amended.

AUTHORITY:

TITLE 59 O.S., Section 536.2, State Board of Medical Licensure and Supervision

COMMENT PERIOD:

The comment period will run from April 1, 2004 to May 3, 2004. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on May 10, 2004, 9:00 a.m. at the Best Western Stroud Motor Lodge, 1200 North 8th Avenue, Stroud, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than May 3, 2004.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available after April 1, 2004 at the office of the Board, 5104 North Francis, Suite C, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Jan Ewing, Deputy Director (405) 848-6841, ext. 104

[OAR Docket #04-302; filed 3-1-04]

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

[OAR Docket #04-290]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

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

SUBMITTED TO GOVERNOR:

February 26, 2004

SUBMITTED TO HOUSE:

February 26, 2004

SUBMITTED TO SENATE:

February 26, 2004

[OAR Docket #04-290; filed 2-26-04]

TITLE 70. OKLAHOMA ARTS COUNCIL CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-318]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. General Course and Method of Operating
70:1-3-1. Agency office [AMENDED]
70:1-3-2. Agency office hours [AMENDED]
70:1-3-3. Communications with the Council [AMENDED]
70:1-3-6. Availability of Council records and policies [AMENDED]
70:1-3-7. Copies of official records [AMENDED]
70:1-3-12. Public petition requesting changes in rules and regulations [AMENDED]
70:1-3-13. Materials submitted to the Agency become property of the State of Oklahoma [NEW] [Agency Note: Renumbered from 70:10-3-24]
Subchapter 5. Advisory ~~Groups~~ Panels
70:1-5-1. Establishment of advisory ~~groups~~ panels [AMENDED]
70:1-5-2. Eligibility [AMENDED]
70:1-5-3. Selection process [AMENDED]
Subchapter 7. ~~Resource Directories~~ Information Resources

70:1-7-1. Establishment of ~~resource directories~~ information resources [AMENDED]
70:1-7-2. Public notice of ~~resource directories~~ information resources [AMENDED]
70:1-7-3. Use of Council forms [REVOKED]
70:1-7-4. Deadlines for resource directories [REVOKED]
Subchapter 9. State Art Collection
70:1-9-1. State Art Collection; Committee [AMENDED]
70:1-9-2. Art Collection Chairman [AMENDED]

SUBMITTED TO GOVERNOR:

March 9, 2004

SUBMITTED TO HOUSE:

March 9, 2004

SUBMITTED TO SENATE:

March 9, 2004

[OAR Docket #04-318; filed 3-9-04]

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

[OAR Docket #04-319]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

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

Submissions for Review

70:10-3-17. Final report deadline [REVOKED]
70:10-3-18. Protest procedure for project assistance [REVOKED]
70:10-3-19. Evaluation of projects, programs, activities and services [REVOKED]
70:10-3-20. Project assistance categories [REVOKED]
70:10-3-21. Counter proposals and counter offers of Council [REVOKED]
70:10-3-22. Council funding decision [REVOKED]
70:10-3-23. Audit and financial statement requirements [REVOKED]
70:10-3-24. Materials submitted to the Agency become property of the State of Oklahoma [REVOKED] [Agency Note: Renumbered to 70:1-3-13]
70:10-3-25. Qualifications of grant applicants [NEW]
70:10-3-26. Grantmaking power of the Oklahoma Arts Council [NEW]
70:10-3-27. Council funding decisions [NEW]
70:10-3-28. Disbursement of funds [NEW]
70:10-3-29. Limitations on changes of contracts [NEW]
70:10-3-30. Appeal procedure [NEW]
70:10-3-31. Audit and financial records [NEW]
Subchapter 5. Oklahoma Touring Program [REVOKED]
70:10-5-1. Sponsors and presenters [REVOKED]
70:10-5-2. Producers and touring groups [REVOKED]
Subchapter 7. Artists-in-Residence Program - School and Community Categories [REVOKED]
70:10-7-1. Program purpose and scope [REVOKED]
70:10-7-2. Deadlines for program [REVOKED]
70:10-7-3. Use of Council forms [REVOKED]
70:10-7-4. Council action on funding of program [REVOKED]
70:10-7-7. Sponsor and artists responsibilities [REVOKED]
70:10-7-8. Residency schedule requirements [REVOKED]
70:10-7-9. Self-employed artists [REVOKED]
70:10-7-10. Annual assessment of program [REVOKED]
70:10-7-11. Council responsibility for program [REVOKED]
70:10-7-12. Solicitation of new artists [REVOKED]
70:10-7-13. Contracting and payment procedure [REVOKED]
70:10-7-14. Payment contract return requirement [REVOKED]
70:10-7-15. Grievance procedure [REVOKED]
Subchapter 9. Artist Rosters
70:10-9-1. Purpose [NEW]
70:10-9-2. Rosters [NEW]
70:10-9-3. Assessment of rosters [NEW]
70:10-9-4. Self-employed artists [NEW]
70:10-9-5. Roster appeal procedure [NEW]

SUBMITTED TO GOVERNOR:

March 9, 2004

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March 9, 2004

[OAR Docket #04-319; filed 3-9-04]

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

[OAR Docket #04-291]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Departmental Requirements

85:10-3-21. Fees [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #04-291; filed 2-26-04]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 2. GRIEVANCE PROCEDURES AND PROCESS

[OAR Docket #04-282]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

317:2-1-2.2. [AMENDED]

317:2-1-2.3. [AMENDED]

317:2-1-4. [AMENDED]

(Reference APA WF # 03-03A)

SUBMITTED TO GOVERNOR:

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[OAR Docket #04-282; filed 2-26-04]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 20. EMPLOYEES BENEFITS
COUNCIL**

[OAR Docket #04-283]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

317:20-1-1. through 317:20-1-3. [REVOKED]
(Reference APA WF # 03-31)

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[OAR Docket #04-283; filed 2-26-04]

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

[OAR Docket #04-284]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-14. [AMENDED]
(Reference APA WF # 03-03B)

SUBMITTED TO GOVERNOR:

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February 13, 2004

[OAR Docket #04-284; filed 2-26-04]

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

[OAR Docket #04-285]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Individual Providers and Specialties

Part 3. Hospitals
317:30-5-47.1. [NEW]

(Reference APA WF # 03-06)

SUBMITTED TO GOVERNOR:

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[OAR Docket #04-285; filed 2-26-04]

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

[OAR Docket #04-286]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 13. Client Rights and Responsibilities
317:35-13-6. [AMENDED]
317:35-13-7. [NEW]
(Reference APA WF # 03-03C)

SUBMITTED TO GOVERNOR:

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February 13, 2004

[OAR Docket #04-286; filed 2-26-04]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 40. DEVELOPMENTAL
DISABILITIES SERVICES**

[OAR Docket #04-287]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Client Services
Part 5. Specialized Foster Care
317:40-5-53. [AMENDED]
Subchapter 7. Waiver Vocational Services
317:40-7-1. through 40-7-3. [AMENDED]
317:40-7-5. [AMENDED]
317:40-7-8. [AMENDED]
317:40-7-11. through 40-7-13. [AMENDED]
317:40-7-21. [AMENDED]
(Reference APA WF # 03-38)

Submissions for Review

SUBMITTED TO GOVERNOR:

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SUBMITTED TO HOUSE:

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SUBMITTED TO SENATE:

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[OAR Docket #04-287; filed 2-26-04]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 40. DEVELOPMENTAL
DISABILITIES SERVICES**

[OAR Docket #04-288]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Client Services

Part 9. Service Provisions

317:40-5-111. [NEW]

Part 11. Other Community Residential Supports

317:40-5-153. [NEW]

317:40-5-154. [NEW]

(Reference APA WF # 03-30)

SUBMITTED TO GOVERNOR:

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SUBMITTED TO HOUSE:

February 13, 2004

SUBMITTED TO SENATE:

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[OAR Docket #04-288; filed 2-26-04]

**TITLE 317. OKLAHOMA HEALTH CARE
AUTHORITY
CHAPTER 40. DEVELOPMENTAL
DISABILITIES SERVICES**

[OAR Docket #04-289]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 5. Client Services

Part 11. Other Community Residential Supports

317:40-5-152. [NEW]

(Reference APA WF # 03-04)

SUBMITTED TO GOVERNOR:

February 13, 2004

SUBMITTED TO HOUSE:

February 13, 2004

SUBMITTED TO SENATE:

February 13, 2004

[OAR Docket #04-289; filed 2-26-04]

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

[OAR Docket #04-313]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

360:10-1-2 [AMENDED]

Subchapter 3. Administration of Plans

360:10-3-3.5 [AMENDED]

360:10-3-20 [AMENDED]

360:10-3-24 [AMENDED]

360:10-3-25 [AMENDED]

360:10-3-26 [AMENDED]

Subchapter 5. Coverage and Limitations

Part 3. Health Benefit Plans

360:10-5-16 [AMENDED]

Part 5. Life Benefits

360:10-5-34 [AMENDED]

Part 9. Dental Benefits, Limitations, and Exclusions

360:10-5-55 [AMENDED]

360:10-5-56 [AMENDED]

360:10-5-61 [AMENDED]

Subchapter 7. Termination of Benefits

360:10-7-1 [AMENDED]

SUBMITTED TO GOVERNOR:

March 5, 2004

SUBMITTED TO HOUSE:

March 5, 2004

SUBMITTED TO SENATE:

March 5, 2004

[OAR Docket #04-313; filed 3-8-04]

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

[OAR Docket #04-292]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

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

377:1-1-3. [AMENDED]

377:1-1-11. [AMENDED]

377:1-1-12. [AMENDED]

SUBMITTED TO THE GOVERNOR:

February 27, 2004

SUBMITTED TO THE HOUSE:

February 27, 2004

SUBMITTED TO THE SENATE:

February 27, 2004

[OAR Docket #04-292; filed 2-27-04]

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

[OAR Docket #04-293]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. Office of the Executive Director

Part 3. Office of the Advocate General

377:3-1-21. [AMENDED]

377:3-1-23. [AMENDED]

377:3-1-25. [AMENDED]

377:3-1-26. [AMENDED]

377:3-1-28. [AMENDED]

Subchapter 7. Finance Division

377:3-7-4. [AMENDED]

Subchapter 19. Contract, Procurement, and Support Services

377:3-19-2. [AMENDED]

377:3-19-3. [AMENDED]

SUBMITTED TO THE GOVERNOR:

February 27, 2004

SUBMITTED TO THE HOUSE:

February 27, 2004

SUBMITTED TO THE SENATE:

February 27, 2004

[OAR Docket #04-293; filed 2-27-04]

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

[OAR Docket #04-294]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 11. Child in need of Mental Health Treatment

377:10-11-1. [AMENDED]

377:10-11-2. [REVOKED]

377:10-11-3. [REVOKED]

377:10-11-4. [REVOKED]

SUBMITTED TO THE GOVERNOR:

February 27, 2004

SUBMITTED TO THE HOUSE:

February 27, 2004

SUBMITTED TO THE SENATE:

February 27, 2004

[OAR Docket #04-294; filed 2-27-04]

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

[OAR Docket #04-295]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Pre-Court

Part 3. Intake/Preliminary Inquiry

377:25-3-15. [AMENDED]

377:25-3-16. [REVOKED]

377:25-3-18. [REVOKED]

377:25-3-19. [REVOKED]

377:25-3-20. [REVOKED]

377:25-3-21. [REVOKED]

377:25-3-23. [REVOKED]

377:25-3-24. [REVOKED]

377:25-3-25. [REVOKED]

377:25-3-26. [REVOKED]

Subchapter 9. Casework Services

Part 1. Services Provided by the JSU Worker

377:25-9-2. [AMENDED]

377:25-9-2.1. [REVOKED]

Subchapter 11. Case Records and Reports

377:25-11-2. [REVOKED]

SUBMITTED TO THE GOVERNOR:

February 27, 2004

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February 27, 2004

[OAR Docket #04-295; filed 2-27-04]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 35. INSTITUTIONAL SERVICES**

[OAR Docket #04-296]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

Submissions for Review

RULES:

Subchapter 3. Security and Control
377:35-3-8. [AMENDED]

SUBMITTED TO THE GOVERNOR:

February 27, 2004

SUBMITTED TO THE HOUSE:

February 27, 2004

SUBMITTED TO THE SENATE:

February 27, 2004

[OAR Docket #04-296; filed 2-27-04]

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

[OAR Docket #04-301]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

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

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

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

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

SUBMITTED TO GOVERNOR:

February 27, 2004

SUBMITTED TO HOUSE:

February 27, 2004

SUBMITTED TO SENATE:

February 27, 2004

[OAR Docket #04-301; filed 2-27-04]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 10. PUBLIC EMPLOYEES
RETIREMENT SYSTEM**

[OAR Docket #04-278]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

590:10-1-3. [AMENDED]

590:10-1-4. [AMENDED]

590:10-1-5. [AMENDED]

590:10-1-16. [NEW]

Subchapter 3. Credited Service

590:10-3-10. [AMENDED]

590:10-3-12. [NEW]

Subchapter 5. ~~Maximum Annual Contributions and~~
Compensation [AMENDED]

590:10-5-8. [NEW]

Subchapter 7. Retirement Benefits

590:10-7-6. [AMENDED]

590:10-7-15. [AMENDED]

590:10-7-17. [NEW]

Subchapter 17. Step-Up Election and Benefits [NEW]

590:10-17-1. [NEW]

590:10-17-2. [NEW]

590:10-17-3. [NEW]

590:10-17-4. [NEW]

590:10-17-5. [NEW]

590:10-17-6. [NEW]

590:10-17-7. [NEW]

590:10-17-8. [NEW]

590:10-17-9. [NEW]

SUBMITTED TO GOVERNOR:

February 25, 2004

SUBMITTED TO HOUSE:

February 25, 2004

SUBMITTED TO SENATE:

February 25, 2004

[OAR Docket #04-278; filed 2-25-04]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 15. UNIFORM RETIREMENT
SYSTEM FOR JUSTICES AND JUDGES**

[OAR Docket #04-279]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

590:15-1-16. [REVOKED]

590:15-1-17. [NEW]

SUBMITTED TO GOVERNOR:

February 25, 2004

SUBMITTED TO HOUSE:

February 25, 2004

SUBMITTED TO SENATE:

February 25, 2004

[OAR Docket #04-279; filed 2-25-04]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 25. DEFERRED
COMPENSATION**

[OAR Docket #04-280]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Election to Defer Compensation

590:25-3-2. [AMENDED]

590:25-3-3. [AMENDED]

Subchapter 9. Benefits

590:25-9-12. [AMENDED]

SUBMITTED TO GOVERNOR:

February 25, 2004

SUBMITTED TO HOUSE:

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SUBMITTED TO SENATE:

February 25, 2004

[OAR Docket #04-280; filed 2-25-04]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 35. DEFERRED SAVINGS
INCENTIVE PLAN**

[OAR Docket #04-281]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 13. Benefits and Distributions

590:35-13-9. [AMENDED]

SUBMITTED TO GOVERNOR:

February 25, 2004

SUBMITTED TO HOUSE:

February 25, 2004

SUBMITTED TO SENATE:

February 25, 2004

[OAR Docket #04-281; filed 2-25-04]

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

[OAR Docket #04-297]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Regents Education Program [REVOKED]

610:1-9-1. Purpose [REVOKED]

610:1-9-2. Definitions [REVOKED]

610:1-9-3. Administration of program [REVOKED]

610:1-9-4. Participants in program [REVOKED]

610:1-9-5. Delivery of courses [REVOKED]

610:1-9-6. Program curriculum [REVOKED]

610:1-9-7. Class schedule [REVOKED]

610:1-9-8. Notification; certification [REVOKED]

610:1-9-9. Cost of program [REVOKED]

610:1-9-10. Contracting for assistance [REVOKED]

610:1-9-11. Effective date [REVOKED]

SUBMITTED TO GOVERNOR:

February 19, 2004

SUBMITTED TO HOUSE:

February 19, 2004

SUBMITTED TO SENATE:

February 19, 2004

[OAR Docket #04-297; filed 2-26-04]

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

[OAR Docket #04-298]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 23. Oklahoma Higher Learning Access Program (OHLAP)

610:25-23-2. Eligibility of participants [AMENDED]

610:25-23-3. Applications [AMENDED]

610:25-23-4. Program requirements [AMENDED]

610:25-23-5. Securing OHLAP benefits [AMENDED]

610:25-23-7. Payment of awards; policies and limitations [AMENDED]

SUBMITTED TO THE GOVERNOR:

February 19, 2004

SUBMITTED TO THE HOUSE:

February 19, 2004

SUBMITTED TO THE SENATE:

February 19, 2004

[OAR Docket #04-298; filed 2-26-04]

Submissions for Review

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

[OAR Docket #04-299]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 31. Oklahoma Tuition Equalization Grant
[NEW]

610:25-31-1. Purpose [NEW]

610:25-31-2. Definitions [NEW]

610:25-31-3. Eligibility Requirements [NEW]

610:25-31-4. Fiscal Policies [NEW]

SUBMITTED TO THE GOVERNOR:

February 19, 2004

SUBMITTED TO THE HOUSE:

February 19, 2004

SUBMITTED TO THE SENATE:

February 19, 2004

[OAR Docket #04-299; filed 2-26-04]

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

[OAR Docket #04-300]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 33. Regional University Baccalaureate
Scholarship Program [NEW]

610:25-33-1. Purpose [NEW]

610:25-33-2. Definitions [NEW]

610:25-33-3. General Provision [NEW]

610:25-33-4. Eligibility Requirements [NEW]

610:25-33-5. Criteria for Continued Eligibility [NEW]

610:25-33-6. Fiscal Policies [NEW]

SUBMITTED TO THE GOVERNOR:

February 19, 2004

SUBMITTED TO THE HOUSE:

February 19, 2004

SUBMITTED TO THE SENATE:

February 19, 2004

[OAR Docket #04-300; filed 2-26-04]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #04-321]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Program Divisions within the Department
612:1-5-2. Division of Vocational Rehabilitation (DVR)
[AMENDED]

612:1-5-4.1. Management Services Division (MSD)
[AMENDED]

Subchapter 9. Compliance with Section 504 of the
Rehabilitation Act of 1973

612: 1-9-3. Required statement on DRS printed documents
[AMENDED]

SUBMITTED TO GOVERNOR:

March 9, 2004

SUBMITTED TO HOUSE:

March 9, 2004

SUBMITTED TO SENATE:

March 9, 2004

[OAR Docket #04-321; filed 3-9-04]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 3. MANAGEMENT SERVICES DIVISION

[OAR Docket #04-322]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

612:3-1-3. Functions of the division [AMENDED]

Subchapter 5. Policy Development and Program Standards
Part 3. Policy Development

612:3-5-13. Drafting of new or revised policy
[AMENDED]

SUBMITTED TO GOVERNOR:

March 9, 2004

SUBMITTED TO HOUSE:

March 9, 2004

SUBMITTED TO SENATE:

March 9, 2004

[OAR Docket #04-322; filed 3-9-04]

**TITLE 612. STATE DEPARTMENT OF
REHABILITATION SERVICES
CHAPTER 10. VOCATIONAL
~~REHABILITATIVE REHABILITATION~~
AND VISUAL SERVICES**

[OAR Docket #04-323]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 10. ~~Vocational-Rehabilitative Rehabilitation~~ and
Visual Services [AMENDED]

SUBMITTED TO GOVERNOR:

March 9, 2004

SUBMITTED TO HOUSE:

March 9, 2004

SUBMITTED TO SENATE:

March 9, 2004

[OAR Docket #04-323; filed 3-9-04]

**TITLE 612. STATE DEPARTMENT OF
REHABILITATION SERVICES
CHAPTER 20. SPECIAL SCHOOLS**

[OAR Docket #04-324]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 2. Contracted Instructional Personnel
612:20-2-1. Purpose [AMENDED]
612:20-2-13. Dismissal/Nonreemployment Hearing
[AMENDED]
612:20-2-17. Full-time administrators; Appeal of dismissal
or nonreemployment [AMENDED]
612:20-2-31. Reduction in Force for Contracted
Instructional Personnel [NEW]

SUBMITTED TO GOVERNOR:

March 9, 2004

SUBMITTED TO HOUSE:

March 9, 2004

SUBMITTED TO SENATE:

March 9, 2004

[OAR Docket #04-324; filed 3-9-04]

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

[OAR Docket #04-314]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
655:10-1-1. [AMENDED]
655:10-1-2. [AMENDED]
Subchapter 7. Preparation of Documents
Part 1. General Provisions
655:10-7-1. [AMENDED]
655:10-7-2. [AMENDED]
655:10-7-6. [AMENDED]
Part 7. Miscellaneous Documents
655:10-7-45. [REVOKED]
Part 9. Document Scope
655:10-7-50. [AMENDED]
655:10-7-53. [REVOKED]
Subchapter 9. Submission of Documents
655:10-9-1. [AMENDED]
655:10-9-3. [AMENDED]
Subchapter 11. Review of Documents
655:10-11-1. [AMENDED]
Subchapter 13. Correction of Errors
655:10-13-2. [AMENDED]
655:10-13-3. [AMENDED]
Subchapter 15. The Oklahoma Register
655:10-15-1. [AMENDED]
655:10-15-2. [AMENDED]
655:10-15-5. [AMENDED]
Subchapter 19. Public Inspection and Copies of Documents
655:10-19-1. [AMENDED]

SUBMITTED TO GOVERNOR:

March 8, 2004

SUBMITTED TO HOUSE:

March 8, 2004

SUBMITTED TO SENATE:

March 8, 2004

[OAR Docket #04-314; filed 3-8-04]

**TITLE 655. SECRETARY OF STATE
CHAPTER 30. ADDRESS
CONFIDENTIALITY PROGRAM**

[OAR Docket #04-315]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 30. Address Confidentiality Program [NEW]

Submissions for Review

SUBMITTED TO GOVERNOR:

March 8, 2004

SUBMITTED TO HOUSE:

March 8, 2004

SUBMITTED TO SENATE:

March 8, 2004

[OAR Docket #04-315; filed 3-8-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 10. AD VALOREM**

[OAR Docket #04-316]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 7. Manufacturing Facilities

710:10-7-2 [AMENDED]

710:10-7-2.1 [AMENDED]

710:10-7-6 [AMENDED]

710:10-7-15 [AMENDED]

710:10-7-16 [AMENDED]

710:10-7-22 [AMENDED]

Subchapter 9. Manufactured Homes

710:10-9-3 through 710:10-9-5 [AMENDED]

710:10-9-8 [AMENDED]

710:10-9-9 [AMENDED]

710:10-9-12 [AMENDED]

710:10-9-13 [AMENDED]

Subchapter 13. Valuation Exclusion for Desulphurization
Equipment [NEW]

710:10-13-1 through 710:10-13-13 [NEW]

SUBMITTED TO GOVERNOR:

March 9, 2004

SUBMITTED TO HOUSE:

March 9, 2004

SUBMITTED TO SENATE:

March 9, 2004

[OAR Docket #04-316; filed 3-9-04]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 90. WITHHOLDING**

[OAR Docket #04-317]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Returns and Payments

710:90-3-11. Income tax withholding for pass-through
entities [NEW]

Subchapter 7. Audit

710:90-7-3. Out of state audits [REVOKED]

SUBMITTED TO GOVERNOR:

March 9, 2004

SUBMITTED TO HOUSE:

March 9, 2004

SUBMITTED TO SENATE:

March 9, 2004

[OAR Docket #04-317; filed 3-9-04]

**TITLE 720. STATE TEXTBOOK
COMMITTEE
CHAPTER 10. TEXTBOOK SELECTION**

[OAR Docket #04-320]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

720:10-1-2. Definitions [AMENDED]

Subchapter 3. Bidding Procedures

720:10-3-1. Letters of Intent to bid [AMENDED]

720:10-3-3. Information necessary to complete bid
[AMENDED]

720:10-3-5. Materials to be considered for adoption
[AMENDED]

720:10-3-6. Ancillary and supplementary items
[AMENDED]

720:10-3-7. Free Materials [AMENDED]

SUBMITTED TO GOVERNOR:

February 23, 2004

SUBMITTED TO HOUSE:

February 23, 2004

SUBMITTED TO SENATE:

February 23, 2004

[OAR Docket #04-320; filed 3-9-04]

**TITLE 775. BOARD OF VETERINARY
MEDICAL EXAMINERS
CHAPTER 10. LICENSURE OF
VETERINARIANS, VETERINARY
TECHNICIANS AND ANIMAL EUTHANASIA
TEHNICIANS**

[OAR Docket #04-312]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Licensure of Veterinarians

775:10-3-12. [AMENDED]

SUBMITTED TO GOVERNOR:

March 8, 2004

SUBMITTED TO HOUSE:

March 8, 2004

SUBMITTED TO SENATE:

March 8, 2004

[OAR Docket #04-312; filed 3-8-04]

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 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 5. EMPLOYMENT SERVICE

[OAR Docket #04-308]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 3. Internet Use
240:5-3-4. Penalties for violations [AMENDED]

GUBERNATORIAL APPROVAL:

February 25, 2004

[OAR Docket #04-308; filed 3-5-04]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #04-309]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 3. Benefits
Part 9. Disqualification
240:10-3-41. Application of retirement proceeds and severance pay [AMENDED]
240:10-3-44. Domestic Violence or abuse [NEW]
240:10-3-45. Cases involving positive drug or alcohol tests [NEW]

Subchapter 13. Appeal Tribunal Procedure

Part 3. Appeals to Appeal Tribunal
240:10-13-20. Filing an appeal [AMENDED]

Part 5. Hearings
240:10-13-45. Legal feess [REVOKED]

GUBERNATORIAL APPROVAL:

February 25, 2004

[OAR Docket #04-309; filed 3-5-04]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 12. TRADE ACT PROGRAMS

[OAR Docket #04-310]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 5. Reemployment Services
240:12-5-4. Maximum cost of training [REVOKED]

GUBERNATORIAL APPROVAL:

February 25, 2004

[OAR Docket #04-310; filed 3-5-04]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 15. BOARD OF REVIEW PROCEDURES

[OAR Docket #04-311]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions
240:15-1-5. ~~Attorneys or representatives; fees~~ Attorneys and representatives [AMENDED]
240:15-1-7. Attorney fees - approval [NEW]

GUBERNATORIAL APPROVAL:

February 25, 2004

[OAR Docket #04-311; filed 3-5-04]

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 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE CHAPTER 15. SALE AND OPERATION OF OIL AND GAS LEASES

[OAR Docket #04-307]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- 385:15-1-5. Newspaper advertising requirement [AMENDED]
- 385:15-1-6. Public bid process [AMENDED]
- 385:15-1-9. Performance fee, bond and bonus deadline [AMENDED]
- 385:15-1-14. Seismograph permits [AMENDED]
- 385:15-1-18. Forms available on request [AMENDED]
- 385:15-1-20. Bond requirements [AMENDED]
- 385:15-1-22. Well installation and maintenance requirements [AMENDED]

AUTHORITY:

64 O.S. Sections 92 and 281; Commissioners of the Land Office

DATES:

Adoption:

November 24, 2003

Approved by Governor:

December 19, 2003

Effective:

Immediately upon Governor's approval

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

There should be a finding of emergency because the rules serve a compelling public interest in that there will be a substantial economic benefit to any person, business or political subdivision dealing with this agency. The emergency rules would allow current and potential mineral lessees and the CLO to save substantial amounts of money by this reduction of extraneous advertising costs.

ANALYSIS:

The amended rules govern the advertising requirements of the sale and operation of oil and gas leases. The amendments including proposed rule and revocations, reflect the statutory change and amends the advertising for the public bid process for leasing oil and gas from Trust lands held by the Commissioners of the Land Office.

CONTACT PERSON:

Pary Shofner, Director of Minerals Management Division, 405.604.8160, at the Commissioners of the Land Office, 5801 North Broadway, Suite 200, Oklahoma City, OK 73118.

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):

385:15-1-5. Newspaper advertising requirement

Title 64 O.S. Section 281 requires that School Land oil and gas leases shall be made by public competition after not less than fifteen (15) days' notice by publication in two (2) newspapers authorized by law to publish legal notices, one (1) of which newspapers shall be published at the State Capitol, and the other in the county where the land is situated. School lands or other lands owned by the state shall be offered by public competition after notice of the lease auction is published one time no less than thirty (30) days prior to the lease auction date in two newspapers authorized by law to publish legal notices. One of the newspapers shall be published in the county where the land is located or other newspaper by section 106 of Title 25 of the Oklahoma Statutes. The other shall be a newspaper of general circulation in this state.

385:15-1-6. Public bid process

The public bid process for school land oil and gas lease sales shall be as follows:

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

(2) **Sealed bid requirement.** Bids must be written and enclosed in one sealed envelope, and placed in another envelope bearing notation on the outside front face of the envelope "Bids for Oil and Gas Leases" and the date of sale. Such bids must be delivered to the office of the Secretary to the Commissioners of the Land Office, and if sent by mail shall be addressed to the Commissioners of the Land Office, 5801 N. Broadway, 200 Paragon Building, P. O. Box 26910, Oklahoma City, Oklahoma, 73126. (No bid will be considered that is not delivered prior to date and time of sale.)

(3) **Time of sale.** Bids will be received until 11:00 A.M. on date of sale, subject to the right of the Commissioners of the Land Office to reject any and all bids. (All bidders are invited to attend opening of bids which is held

Emergency Adoptions

in the office of the Secretary to the Commissioners of the Land Office.)

(4) **Minimum bid accepted.** No bid of less than \$5.00 per acre will be considered, except in a special lease sale.

(5) **Deposit required.** Each bid must be accompanied by a remittance in the sum of 25% of the amount bid, payable to the Commissioners of the Land Office. Upon acceptance of any bid and the awarding of the lease to the bidder, the successful bidder shall be liable for the full amount of the bid. The unsuccessful bidders will have their remittance check returned.

(6) **Bid forms by request.** Bid forms will be furnished on request.

(7) **Assignment of bids.** Oil and Gas Lease bids may not be assigned.

(8) **Special oil and gas lease sales.** The Commission will have a special oil and gas lease sale; if they desire to consider bids other than ~~the highest cash bonus standard lease terms~~. This notice of sale will be marked "Special Oil and Gas Lease Sale," and the terms and conditions of this sale will be as provided in the notice of said sale.

(9) **Bids become final.** All bids on mineral leases shall become final at the date and hour for opening bids and no bid may be withdrawn or rejected to correct an error by any bidder. (Adopted April 6, 1982, effective April 26, 1982).

385:15-1-9. Performance fee, bond and bonus deadline

(a) All successful bidders of oil and gas leases subsequent to May 11, 1998 shall be required to pay a Performance Fee in an amount equal to .007 of the lease bonus but not to exceed an amount equal to \$2.00 per net mineral acre. Said fee shall be placed in the CLO revolving fund under an oil and gas indemnity account with interest accrued.

(1) The lessee shall have thirty (30) days from the date of award of the lease to do the following:

- (A) Pay the Performance fee;
- (B) Execute the oil and gas lease and return it to the CLO;
- (C) Pay the balance of the bonus and delay rental due;
- (D) Pay any actual advertising costs that are in excess of the advertising deposit.

(2) The Lessee may have a longer period of time to complete ~~item No. (a) 1~~ above if an extension is granted in writing by the Director of the Minerals Management Division of the CLO or his or her designee.

(b) All Lessees holding an interest in oil and gas leases executed prior to May 11, 1998, may terminate their bonding requirement pursuant to 385:15-1-20 upon the payment of a one-time Performance Fee in accordance with the following schedule:

- (1) 1 to 5 leases owned: \$300.00
- (2) 6 to 10 leases owned: \$325.00
- (3) 11 to 15 leases owned: \$350.00
- (4) 15 to 20 leases owned: \$400.00
- (5) 21 to 60 leases owned: \$450.00

(6) 61 to 180 leases owned: \$500.00

(7) 181 or more leases owned: \$550.00

(c) Said fee shall be placed in the CLO revolving fund under an oil and gas indemnity account with interest accrued. The payment of the Performance Fee shall cover all leases that were formerly covered under the Lessee bond, including the interest(s) of Lessee(s) added by virtue of an Appointment of Lease Operator form or the current Bond Appointment form. Bonded lessees electing not to pay said Performance Fee will be required to maintain their bond pursuant to 385:15-1-20 herein.

(~~d~~e) The oil and gas indemnity account shall be used to insure that the lessee faithfully operates the lease premises and complies with all lease terms and provisions and CLO oil and gas rules and regulations. This may include but is not limited to the payment of uncollectible royalty payments, plugging wells, cleaning up well sites, tank battery sites and pipelines, and the reclamation of soil and vegetation, ponds and water ways. Said fee shall not minimize or relieve the lessee of any liability or obligation that exists or may arise from the operations of the lease, nor limit in any manner the CLOs remedies at law.

(~~e~~f) Said Performance Fee shall be maintained until such time that the oil and gas indemnity account exceeds \$250,000.00, at which time the performance fee will be discontinued until such time that it falls below \$200,000.00, at which time the Performance Fee will be reinstated. The Secretary of the CLO will provide notice of any such discontinuance or reinstatement of said Performance Fee through the Notice of Oil and Gas Lease Sale that is published.

(~~f~~e) Claims against the revolving fund will be paid only upon the recommendation of the Director of the Mineral Management Division and the approval of the Secretary of the CLO. Said Director will insure that all other sources of payment of any claim, have been considered and/or exhausted before recommending payment from the fund. Said Director will also consider the primary purpose of creating said fund which is to preserve and protect the assets of the School Land Trust when no other source is available. The payment of any one claim shall not exceed 10% of the then existing revolving fund.

(~~g~~f) The appointment of Lease Operator (for bonding purposes) form, created pursuant to 385:15-1-12 has been terminated. Therefore, all Lessees holding an interest in oil and gas leases executed prior to May 11, 1998, whose bond requirement is not satisfied will be required to comply with one of the following:

- (1) Pay the one-time Performance Fee based upon number of leases owned;
- (2) Pay \$1.00 per net acre owned with a minimum of \$25.00 per lease owned;
- (3) Post a Surety Performance Bond in an amount prescribed by the Commissioners pursuant to 385:15-1-20.

385:15-1-14. Seismograph permits

Any person or entity desiring to do seismograph exploration for oil and gas purposes may obtain a non-exclusive seismic permit upon the filing of an application together with a remittance of \$200.00 as an application fee. Said permit will cover both the surface and mineral interest of the CLO,

whatever that interest may be. The Minerals Management Division will appraise the acreage for a non-exclusive seismic permit. Said appraisal shall be made in a timely manner and the seismic permit fee shall not exceed 10 percent of the appraised value of an oil and gas lease covering the acreage to be explored plus the damages to the CLO's surface interest, if any. If the mineral interest is under oil and gas lease, applicant must obtain the written permission of the lessee and only pay CLO for damages to its surface interest, if any. The CLO retains the right to put any tract of land up for bid when it is deemed to be in the best interest of the trust. Said permit shall be for a period of ninety days with limited extension available upon written request. The seismic exploration permit will terminate upon issuance of an oil and gas lease covering the permitted acreage. In addition to the above mentioned fees and damages, the permittee shall pay any and all damages caused to CLO surface lessee's interest in the land and shall be responsible for any liability arising out of the seismic operations. ~~Ten percent of the seismic permit fee and the surface damages shall be placed in the CLO revolving fund to insure faithful performance of seismic operations and to preserve and protect CLO land. The payment of claims from said revolving fund will be administered pursuant to CLO rule 385:15-1-9. The remainder of the seismic permit fee and the surface damages shall be applied to the permanent fund.~~

385:15-1-18. Forms available on request

The following Commission Reports and other forms will be furnished on request:

- (1) CLO FORM-7-1 Oil and Gas Lease
- (2) CLO FORM-102 Assignment of Oil and Gas Lease
- (3) CLO FORM-~~104~~ 7-4 Blanket Performance Bond
- (4) CLO FORM-7-3 Division Order
- (5) CLO FORM-107 Bid Form
- (6) CLO FORM-108 Lessee's Monthly Report of Oil Produced and Sold
- (7) CLO FORM-109 Lessee's Monthly Report of Gas and Casinghead Gas Produced and Sold
- (8) CLO FORM-112 Uranium and Rare Earth Prospecting Permit
- (9) CLO FORM-113 Salt Water Disposal Lease
- (10) CLO FORM-114 Common Tank Battery Agreement
- (11) CLO FORM-115 Seismograph Exploration Permit
- (12) CLO FORM-116 Subordination of Mortgage
- (13) CLO FORM-117 Assignment of Rentals and Royalties (Certificate of Purchase)

385:15-1-20. Bond requirements

(a) **Amount of bond; forms.** Each mineral lessee whose interest(s) is not covered by a performance fee must post a Performance Bond to cover the following agreements with this Department:

- (1) Bond posted must be in the total sum required to cover any or all agreements in accordance with the following:

- (A) Oil & Gas Lease Bond (one or more leases) - \$10,000.00
- (B) Salt Water Disposal Agreement - \$10,000.00
- (C) Mineral Lease on coal, copper, uranium or other mining leases (except oil & gas) - \$12,500.00

(2) All bonds must be prepared on Commission forms. Bond forms will be supplied upon request. Maximum bond required for Oil and Gas Leases and related operations (on current Department form).

~~(b) Advertising agreement upon posting of bond. An agreement to pay cost of advertising tracts for oil and gas lease may be executed in lieu of posting \$200.00 cash deposit required. Performance bond must be posted to cover this agreement.~~

(eb) **Release of bond.** Bonds will be released upon written request of the lessee or bonding company when all contracts covered thereby are satisfactorily terminated as determined by the CLO.

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

(ed) **Cash deposit for loan of abstracts.** Firms desiring to borrow abstracts may post a cash deposit in the amount of \$500.00 which is required, to insure the return of the abstracts borrowed. Upon return of said abstracts the deposit will be refunded.

(fe) **Cash Bond as Performance Bond.** A mineral lessee as defined in (a) above may post a bond by submitting cash in the amount of \$10,000.00 as a Performance Bond with the Commissioners of the Land Office, from which the Commissioners of the Land Office may debit, or draw the entire sum, to pay for loss or damage resulting from the lessee's operations, or violations of the duties and obligations imposed by the lease. The bonds are not substitute liability, or liability limits but merely serve as minimal security for the debts and obligations. The lessee shall not be entitled to interest while this bond is held by the Commissioners of the Land Office.

385:15-1-22. Well installation and maintenance requirements

(a) **Earthen tank restrictions.** All earthen tanks used for storage of B.S. and ~~slat~~ salt water shall be constructed in accordance with Oklahoma Corporation Commission rules and shall be so located and constructed as to prevent damage to the surrounding surface area, or creeks and ravines, and shall not be located in any draw or ravine. Upon demand by the Commissioners of the Land Office, the oil and gas lessee shall, within fifteen days from receipt of such notice, be required to enclosed all earthen tanks or reservoirs for salt water, or B.S. and other installations, with substantial three-wire fence, and shall maintain same during the time such pits, reservoirs or installations exist.

(b) **Pipeline depth.** All pipelines must be buried and maintained below plow depth.

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

Emergency Adoptions

(d) **Surface casing.** All wells drilled for oil, gas or salt water disposal, shall set surface casing below all fresh water strata, and be cemented from bottom to top.

(e) **Enclosures of well property.** Upon demand by Commission all salt water tanks, oil tanks and other lease installations shall be enclosed with earthen dikes sufficient to protect the lease from damage by leakage and overflowing. The oil and gas lessee shall erect and maintain substantial gates or cattle guards on all entrances to the lease or any subdivision thereof.

(f) **Saltwater disposal well applications.** Salt water, other than that produced from the leased lands, may not be disposed of in wells on State land unless pursuant to written agreement with the Commission. Applications for salt water disposal agreements should be accompanied by a plat showing the location of all wells from which the salt water is produced, and the amount of salt water and oil produced by each well. (For fees and agreements, contact the Real Estate Management Division.)

(g) **Plugging requirements.** The lessee shall securely plug all dry, or abandoned, wells in the manner required by the rules and regulations of the Oklahoma Corporation Commission and the Laws of the State of Oklahoma.

(h) **Care of surface.** The lessee shall maintain all installations in a neat and workmanlike manner. All equipment or supplies not needed in day to day operation of the lease shall be removed from the lease. All dry or exhausted wells shall be plugged immediately upon abandonment. The lessee shall repair immediately any damages caused by his operation to terraces, waterways, or any other soil conservation practice.

(i) **Removal of equipment and restoration of surface after lease termination.** Upon termination of a lease, the lessee shall have ninety (90) days thereafter to restore surface area, remove any casing, production facilities or equipment and plug any well or wells on said lease unless an extension of time is granted in writing by the Commissioners of the Land Office, any material not removed in said time shall be forfeited to the State. An inspection will be made ninety (90) days after termination and a fee of One Hundred Dollars (\$100.00) will be charged if the requirements of this paragraph have not been met. Likewise, additional inspections will be made at thirty (30) day intervals until restoration of the surface and removal of material is completed. The fee will apply to each inspection.

[OAR Docket #04-307; filed 3-3-04]

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

[OAR Docket #04-305]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions
Part 3. Delegation of Human Resource Functions
530:10-1-31. [AMENDED]

Part 5. Model Projects
530:10-1-61. [AMENDED]
Subchapter 3. Affirmative Action and Equal Employment Opportunity
Part 3. Affirmative Action
530:10-3-39. [AMENDED]
Subchapter 7. Salary and Payroll
Part 1. Salary and Rates of Pay
530:10-7-7. [AMENDED]
530:10-7-16. [AMENDED]
530:10-7-24. [AMENDED]
Part 3. Payroll
530:10-7-31. [AMENDED]
Subchapter 11. Employee Actions
Part 5. Promotions
530:10-11-51. [AMENDED]
Subchapter 15. Time and Leave
Part 3. Annual and Sick Leave Policies
530:10-15-11. [AMENDED]
530:10-15-12. [AMENDED]
Subchapter 17. Employee Performance Management System and Career Enhancement Programs
Part 3. ~~Employee Performance Evaluation~~ Management System
530:10-17-31. [AMENDED]
Part 15. State Mentor Program
530:10-17-156. [AMENDED]
Subchapter 21. Employee Assistance Programs
Part 1. General Provisions
530:10-21-5. [AMENDED]
Appendix B. Schedule of Annual and Sick Leave Accrual Rates and Accumulation Limits [REVOKED]
Appendix B. Schedule of Annual and Sick Leave Accumulation Limits and Yearly Accruals [NEW]

AUTHORITY:

Administrator of the Office of Personnel Management; Sections 840-1.6A, 840-1.15, 840-2.1, 840-2.10, 840-2.17, 840-2.20, 840-4.15, 840-4.17, and 840-3.11.

DATES:

Comment period:

November 17, 2003

Public hearing:

November 24, 2003

Adoption:

December 24, 2003

Approved by Governor:

February 12, 2004

Effective:

Immediately upon Governor's approval.

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 7. Salary and Payroll
Part 1. Salary and Rates of Pay
530:10-7-24. [AMENDED]
Subchapter 17. Employee Performance Management System and Career Enhancement Programs
Part 15. State Mentor Program
530:10-17-156. [AMENDED]
Appendix B. Schedule of Annual and Sick Leave Accrual Rates and Accumulation Limits [REVOKED]
Appendix B. Schedule of Annual and Sick Leave Accumulation Limits and Yearly Accruals [NEW]

Gubernatorial approval:

July 1, 2003

Register publication:

20 Ok Reg 2941

Docket number:

03-3069

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Whereas Enrolled House Bill 1039 and Enrolled Senate Bills 194, 647 and 703 (all enacted during the 2003 Legislative Session) made

numerous amendments to the Oklahoma Personnel Act; and whereas these statutory changes made certain sections of the Merit System of Personnel Administration Rules inaccurate; and whereas language in Merit Rule 530:10-7-7 (regarding data processing mission critical pay) was added due to a shortage of data processing professionals caused by Y2K issue; and whereas state agencies had little flexibility regarding pay in the classified service at that time; and whereas the market for data processing has changed in the last 5 years; and whereas the Classification and Compensation Reform Act of 1999 gave state agencies increased flexibility regarding pay in the classified service through the use of pay movement mechanisms; now therefore, the Administrator of the Office of Personnel Management finds these compelling extraordinary circumstances make it necessary to promulgate emergency rules to implement the provisions of Enrolled House Bill 1039 and Enrolled Senate Bills 194, 647 and 703 and to make the Merit System of Personnel Administration Rules consistent with current law.

ANALYSIS:

These amendments to the Merit System of Personnel Administration Rules are needed to make the rules consistent with statutory changes made during the 2003 Legislative Session and to respond to changes in market conditions for data processing professionals. An amendment was also made to 530:10-7-24(b) to clarify that agencies choosing to establish skill-based pay incentives for employees who receive certain certifications relevant to their position, may (but are not required to) make a lump sum payment on both the initial certification as well as subsequent recertifications.

COMMENT PERIOD:

Although a comment period and rules hearing are not required by the Oklahoma Administrative Procedures Act for emergency rulemaking, a memorandum and proposed rule amendments were distributed electronically to all state agencies on November 17, 2003. The rule amendments and information about the comment period and public rules hearing were also posted on the OPM website. A rules hearing was held on November 24, 2003, which was attended by 7 people. Written comments were also accepted from November 17, 2003 through November 24, 2003 at 5:00 p.m. Comments made at the rules hearing and the one written comment received are summarized in an attached document. All comments received were considered in adopting the final version of the rules.

CONTACT PERSON:

Kimberlee Williams, (405) 522-1736

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

PART 3. DELEGATION OF HUMAN RESOURCE FUNCTIONS

530:10-1-31. ~~Delegation functions~~ Functions which may be delegated

~~The delegated~~ Upon the request of a state agency, and at the discretion of the Administrator, the Administrator may delegate any human resources functions shall not include discipline or compensation normally conducted by the Office of Personnel Management. [74:840-1.15(E)] Human resources functions that are under the jurisdiction of the Oklahoma Merit Protection Commission as described in 74:840-1.9 and Title 455 of the Oklahoma Administrative Code may not be delegated pursuant to the rules in this Part.

PART 5. MODEL PROJECTS

530:10-1-61. Authorization of model projects

The Administrator may approve applications for model projects ~~after review and approval of the project by the Human Resources Management Advisory Committee.~~ Approval of an application for a model project by the Administrator shall constitute authority for the agency to implement the approved model project for a length of time to be specified by the Administrator. [74:840-1.15]

SUBCHAPTER 3. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY

PART 3. AFFIRMATIVE ACTION

530:10-3-39. Preparation of the annual status report on equal employment opportunity and affirmative action in state government

- (a) On or before ~~January 1~~ March 1 of each year, the Administrator shall submit a report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor. The report shall state the efforts and progress made by state agencies, except institutions within The Oklahoma State System of Higher Education, in the area of affirmative action, including the status of recruitment, hiring, and promotion of women, men, and minorities within job categories [74:840-2.1(C)].
- (b) The Council shall assist the Administrator in preparing the annual status report on equal employment opportunity and affirmative action in state government [74:840-2.1(H)(1)].

SUBCHAPTER 7. SALARY AND PAYROLL

PART 1. SALARY AND RATES OF PAY

530:10-7-7. Pay differential

- (a) The Administrator may authorize a pay differential for a position within a job family because of special duty requirements related to the position. This may include shift pay, on-call pay, ~~data processing mission critical pay,~~ skill-based pay adjustments, and other types of differentials based on special work requirements, as approved by the Administrator. These payments shall be over and above the employee's base pay and shall be paid only as long as the employee occupies the particular position under the circumstances which have necessitated the differential. The request for the differential shall be submitted in writing by the requesting agency and shall adequately identify the need.
- (b) An Appointing Authority shall determine whether pay differentials will be paid while employees are in paid leave status or provided only for hours actually worked. Appointing Authorities shall apply such practices uniformly. Pay differentials shall not be provided for hours that an employee is not in pay status.

Emergency Adoptions

530:10-7-16. On-call pay

~~A~~An Appointing Authority shall compensate a classified employee ~~shall receive~~ for a minimum of two (2) hours work if the employee is required to report to work while on-call. Employees are guaranteed compensation for each occasion in which a call-back is made after having left the regular work station. The compensation may be in the form of compensatory time in lieu of cash payment. [74:840-2.29]

530:10-7-24. Skill-based pay adjustments

(a) An Appointing Authority may develop skill-based pay programs upon the approval of the Administrator. Such programs shall be related to the acquisition or possession of additional skills and abilities which can be applied to the work to be performed and which will increase the value of the employee to the agency. The skills or abilities must be verifiable through certification, licensure, diploma, or some other method and must be beyond the qualifications required ~~in the job family descriptor for all employees in that job family level to perform the primary or essential functions and responsibilities of the employee's position.~~ Requests to establish skill-based pay programs shall include a complete description of the training or education required, how it will benefit the agency, the proposed salary adjustment, and any other information that will assist in evaluating the request.

(b) Skill-based pay adjustments may be provided as a differential over and above an employee's base pay or as ~~a one-time~~ lump-sum payment. Lump sum skill-based pay adjustments may be awarded upon initial certification and any subsequent recertification as may be required by the certifying organization and identified in the agency's skill-based pay plan. Lump sum payments shall be limited to 10% of an employee's annual salary, and differentials shall be limited to 10% of an employee's monthly salary for employees paid on a monthly basis, and 10% of an employee's biweekly salary for employees paid on a biweekly basis. Employees whose base pay is at or exceeds the maximum of the pay band shall not be eligible for a differential, but may receive a lump-sum payment. ~~Skill-based~~ Except as provided in Subsection (c), skill-based pay adjustments shall be paid only as long as the employee occupies a position to which the skill is applicable in accordance with the agency's salary administration plan. An employee may receive multiple skill-based pay differentials so long as the combined total of all skill-based pay differentials does not exceed 15%. ~~© Skill-based pay differentials paid to an employee shall become permanent after 24 continuous months and shall be included as a part of the employee's base pay, except as provided in 530:10-7-10.~~ [74:840-2.17]

PART 3. PAYROLL

530:10-7-31. Certification of payrolls

(a) ~~Certification by the Office of Personnel Management.~~ No state disbursing or auditing officer shall make, approve or take part in making or approving any payment

for personal service to any person holding a position in the classified service, unless the payroll voucher or account of such pay bears the certification of the ~~Office of Personnel Management~~Appointing Authority that the persons named therein have been appointed and employed in accordance with the provisions of the Oklahoma Personnel Act ~~and~~ the Merit Rules [74:840-1.18(D)].

(b) ~~Withholding of certification by the Office of Personnel Management.~~ The ~~Office of Personnel Management~~Appointing Authority may for proper cause withhold certification from an entire payroll or from any specific item or items [74:840-1.18(D)]. Whenever the Office of Personnel Management finds that any person is employed or is proposed to be paid as an employee in the classified service in any amount not provided for under the provisions of the Oklahoma Personnel Act and the Merit Rules, the Office of Personnel Management shall notify the concerned state disbursing or auditing officer. After such notice, the concerned state disbursing or auditing officer shall not approve any payment to such person except in accordance with the provisions of the Act or the Merit Rules.

(c) **Suit to restrain disbursement.** Any citizen may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of the Oklahoma Personnel Act or the Merit Rules [74:840-1.18(D)].

(d) **Recovery of erroneous payments.** Any sum paid contrary to any provision of the Oklahoma Personnel Act or the Merit Rules may be recovered in an action maintained by any citizen, from any officer who made, approved or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer [74:840-1.18(D)]. *All monies recovered in any such action shall be paid into the State Treasury* [74:840-1.18(D)].

(e) **Right of action by employees employed in contravention to the Merit Rules.** Any person appointed or employed in contravention of any provision of the Oklahoma Personnel Act or the Merit Rules and who performs service for which unpaid, may maintain an action against the officer or officers who purported to appoint or employ the person in order to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. [74:840-1.18(D)] *No officer shall be reimbursed by the state at any time for any sum paid to such person on account of such services* [74:840-1.18(D)].

(f) **Action to compel payroll certification.** If the ~~Office of Personnel Management~~Appointing Authority wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain an action or proceeding in the courts to compel the ~~Office of Personnel Management~~Appointing Authority to certify such payroll voucher or account [74:840-1.18(D)].

SUBCHAPTER 11. EMPLOYEE ACTIONS

PART 5. PROMOTIONS

530:10-11-51. Promotional posting

(a) *The appointing authority shall post announcements of a vacancy or vacancies in accordance with a promotional plan filed by the agency with the Office of Personnel Management. [A copy of this plan shall be posted throughout the agency.] ~~In order to give qualified employees an opportunity to apply for and be considered for possible promotions, the vacancy notices shall be posted conspicuously in transparent, secured enclosures situated in prominent locations throughout the agency, at least five (5) working days prior to the closing date for the receipt of applications by the appointing authority. Promotional posting shall be required for initial entry into a job family at any level. Promotional posting shall also be required for entry into any supervisory position or level. Each agency's promotional posting plan shall describe where promotional notices will be posted and require that all vacancy or promotional notices be posted conspicuously in transparent, secured enclosures. Notices must be posted throughout the agency. However, an agency's plan may limit the posting of notices for a vacancy in a work unit, local office or administrative area to within that location, if the vacancy is to be filled by an employee from the same location the method by which all agency employees will be notified of vacancy announcements.~~ [74:840-4.15] The Appointing Authority shall post all promotional opportunities to vacant positions and to all supervisory levels. Promotional posting is not required for career progression or for reallocation of occupied, non-supervisory positions.*

(b) *The posting shall include:*

- ~~(1) A copy of the job family descriptor;~~
- ~~(2) Identification of the job family level of the vacancy or vacancies;~~
- (2) A listing of job title, major work duties and minimum qualifications;
- (3) *The pay band and range;*
- (4) *The anticipated number of vacancies;*
- (5) *The specific location of work;*
- (6) *The time limits and procedure for filing an application with the appointing authority; and*
- (7) *Any additional factors which the appointing authority will consider in filling the vacancy.* [74:840-4.15]

SUBCHAPTER 15. TIME AND LEAVE

PART 3. ANNUAL AND SICK LEAVE POLICIES

530:10-15-11. Annual leave

(a) Annual leave is intended to be used for vacations, personal business, and other time off work not covered by other paid leave or holiday provisions. An employee may charge family and medical leave, taken in accordance with 530:10-15-45, against annual leave accumulations.

(b) Eligible employees shall accrue annual leave on a calendar month basis based upon hours worked (excluding overtime), paid leave, and holidays [74:840-2.20] in accordance with 530:10-15-10 and the provisions in this subsection,

not to exceed the total possible work hours for the month. The hourly rate is equal to the annual accrual divided by the number of work hours in the current year. Annual leave earned during one pay period shall be available for use at the beginning of the next pay period.

(1) Annual leave shall be applied for by the employee and shall be used only when approved by the Appointing Authority.

(2) Part-time employees shall accrue annual leave in an amount proportionate to that which would be accrued under full-time employment [74:840-2.20].

(3) Annual leave earned during a pay period shall be prorated ~~in accordance with the days based upon the number of hours (excluding overtime hours)~~ an employee is on the payroll [74:840-2.20].

(4) An Appointing Authority may require an employee to take annual leave whenever in the administrative judgment of the Appointing Authority such action would be in the best interests of the agency; except that the employee shall not be required to reduce accrued annual leave below 5 days. An Appointing Authority shall not apply this rule in lieu of 530:10-11-120. Leaves of absence for internal investigatory purposes shall be administered according to 530:10-11-120.

(5) Unused accrued annual leave shall be accumulated for no more than the maximum leave accumulation limits specified in 530:10-15-10, except as provided in this paragraph. At the discretion of the Appointing Authority, employees may accumulate more than the maximum annual leave accumulation limits shown in the schedule, provided that such excess is used during the same year in which it accrues. Employees shall not be paid for excess leave above the accumulation limit; such excess accumulations shall be used for leave purposes in the agency where it was accrued or, if an employee was transferred to an agency by statute or executive order, in the agency to which the employee was transferred regardless of where the leave was accrued, only while the employee is continuously employed.

(6) Annual leave shall not be taken in advance.

(7) An employee who transfers to another agency may have accrued annual leave transferred at the option of the Appointing Authority to which transferred, or such Appointing Authority may require that all or a portion of the annual leave be paid by the agency from which the employee is transferred before the transfer. The amount of annual leave paid by the agency from which the employee is transferred and the amount of annual leave transferred with the employee shall not exceed the accumulation limits established in Section 840-2.20 of Title 74 of the **Oklahoma Statutes.**

(8) Any employee who is separated from the state service shall be paid or shall have payment made to the employee's estate for any annual leave accumulated up to and including the accumulation limit except as otherwise provided in the Merit Rules. Employees who resign from a classified position to accept an unclassified position within the same agency, and employees who resign an

Emergency Adoptions

unclassified position to accept a classified position within the same agency, are ineligible for payment of accrued annual leave.

(9) Annual leave shall be charged against an employee's annual leave balance based on the amount of time an employee is absent from work during the employee's assigned work schedule. Holidays falling within a period of annual leave shall not be charged to annual leave.

(10) Any probationary or permanent employee who leaves the employ of an agency shall receive payment for the accrued number of hours of annual leave in accordance with the hourly rate. Payment may only be withheld pending settlement of a legal debt to the agency. If a person is reemployed within a period of 30 calendar days from the date of separation, any portion of the accumulated annual leave which has not yet been paid may be reinstated.

530:10-15-12. Sick leave

Eligible employees shall accrue sick leave ~~on a calendar month basis based upon hours worked (excluding overtime), paid leave, and holidays~~ [74:840-2.20(1)] according to 530:10-15-10 and this Section, not to exceed the total possible work hours for the month. The hourly rate is equal to the annual accrual divided by the number of work hours in the current year. Sick leave earned during one pay period shall be available for use at the beginning of the next pay period.

(1) Sick leave means a period when the employee cannot work because of sickness, injury, pregnancy, or medical, surgical, dental or optical examination, or treatment, or where the employee's presence at work would jeopardize the health of the employee or others. An employee may charge family and medical leave, taken in accordance with 530:10-15-45, against sick leave accumulations.

(2) An employee shall not use sick leave for annual leave.

(3) An employee shall not use sick leave before it is accrued.

(4) Immediately on return to work, an employee who has been absent on sick leave shall give the Appointing Authority a signed statement that the absence was due to reasons listed in (1) of this Section. If an absence exceeds 3 working days, the employee shall give the Appointing Authority a physician's statement unless the Appointing Authority waives it. For shorter absences, the Appointing Authority may require the employee to supply proof the absence was consistent with (1) of this Section. Sick leave shall not be granted until approved by the Appointing Authority. An Appointing Authority shall approve sick leave unless there are facts to show that an employee abused sick leave privileges or the employee failed to supply requested evidence of illness.

(5) Sick leave shall be charged against an employee's sick leave balance based on the amount of time an employee is absent from work during the employee's assigned work schedule. Holidays, or the scheduled days off for holidays, occurring within a period of sick leave shall not be charged to sick leave.

(6) Sick leave earned during a pay period shall be prorated according to the days number of hours (excluding overtime) an employee is on the payroll [74:840-2.20(1)].

(7) Part-time employees shall accrue sick leave in an amount proportionate to that which would have accrued under full-time employment [74:840-2.20(1)].

(8) When an employee transfers from one agency to another, the Appointing Authority of the receiving agency shall give the employee credit for all unused sick leave accumulations.

(9) Employees shall not be compensated for accumulated sick leave when they separate from state service.

(10) If an absence because of illness or injury extends beyond the sick leave an employee has accumulated, the Appointing Authority may charge additional absence to the employee's annual leave accumulations.

(11) Unless it is against the law, an Appointing Authority shall approve sick leave when an employee is absent due to illness or injury and receiving Oklahoma State Workers Compensation benefits.

(12) If an employee leaves the state service on or after October 1, 1992, and is reemployed within a period of 2 years from the date of separation, the Appointing Authority may reinstate all or a part of the unused sick leave accumulated during the previous period of continuous employment with the state [74:840-2.20(6)].

(13) There is no limit on sick leave accumulations.

SUBCHAPTER 17. EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM AND CAREER ENHANCEMENT PROGRAMS

PART 3. EMPLOYEE PERFORMANCE EVALUATION MANAGEMENT SYSTEM

530:10-17-31. Employee performance management system

(a) *The Office of Personnel Management shall make available one standard performance management system to be used by all agencies for completing employee service ratings. Agencies shall implement this new system on or before January 1, 2000. Until January 1, 2000, agencies may continue to use employee service rating systems which were approved or provided by the Administrator prior to November 1, 1999. The purpose of this employee performance management system is to evaluate the performance of each classified, unclassified and exempt employee in the executive branch of state government except those in the exempt unclassified service as specified in paragraphs 1 and 2 of subsection A of Section 840-5.5 and those employees employed by the institutions under the administrative authority of The Oklahoma State System of Higher Education [74:840-4.17].*

(b) *The employee performance management system shall provide for the following:*

- (1) *An objective evaluation of the employee, by the immediate supervisor, of the performance of the employee within the assigned duties of the job;*
 - (2) *The identification of the strengths and deficiencies of the employee;*
 - (3) *Corrective actions, if necessary, to correct deficiencies;*
 - (4) *An interview with the employee by the immediate supervisor who shall provide the employee with a copy of the service ratings; and*
 - (5) *The opportunity for the employee to submit written comments regarding the service rating [74:840-4.17].*
- (c) *Each employee shall be rated thirty (30) days prior to the end of the probationary period. Thereafter, each employee shall be rated no less than once each year [74:840-4.17].*
- (d) The immediate supervisor shall hold a meeting in person with the employee at least three times during a 12-month evaluation period.
- (1) One meeting shall take place at the beginning of the evaluation period in order to communicate the accountabilities and behaviors upon which the employee will be evaluated. A copy shall be provided to the employee.
 - (2) One meeting shall take place during the rating period for the purpose of discussing the progress of the employee in meeting the accountabilities upon which the employee will be evaluated.
 - (3) One meeting shall take place at the end of the review period to provide the final evaluation. A copy of the evaluation shall be provided to the employee, and the employee shall have the opportunity to provide written comments.
- (e) *The agency shall use the available service ratings of current or former state employees in decisions regarding promotions, appointments, demotions, performance pay increases, and discharges. Reductions-in-force shall not be considered discharges [74:840-4.17].*
- (f) *The agency shall retain a copy of the service rating for each employee of the agency. A copy of the service rating shall be retained in the employee's personnel file [74:840-4.17].*
- (g) The basic document to be used in conducting performance evaluations is the Performance Management Process form (OPM-111), a form prescribed by the Administrator. The form contains spaces for the supervisor to describe a list of accountabilities on which the employee will be evaluated. The form also lists behaviors on which state employees will be evaluated. The form provides spaces for the supervisor to enter an overall accountability rating, an overall performance rating, and a summary/development plan. The form requires signature by the employee, the supervisor, and the reviewer.
- (h) On or before each January 1st, Appointing Authorities shall confirm to the Administrator that their agency is in compliance with the requirements of 74:840-4.17. The confirmation shall be conveyed on a form prescribed by the Administrator.

PART 15. STATE MENTOR PROGRAM

530:10-17-156. Agency rotations

- (a) **State Personnel Interchange Program.** Rotation assignments shall be accomplished through the State Personnel Interchange Program, Section 840-3.9, et seq. of Title 74 of the Oklahoma Statutes.
- (b) **Length of rotations.** Each Mentor Executive shall ~~complete a two-year~~ be assigned to a management rotation assignment which consists of six months in any or all of the following entities: in any state agency accepting the Mentor Executive, and the Mentor Executive's sending agency, provided that each agency rotation shall not exceed six months. Rotational assignments may be consecutive or intermittent and shall not exceed a total of 24 months for all rotations combined.
- (1) ~~the sending agency;~~
 - (2) ~~one or both houses of the Legislature;~~
 - (3) ~~the Office of State Finance;~~
 - (4) ~~the Governor's Office;~~
 - (5) ~~the Office of Personnel Management; and~~
 - (6) ~~any other agency accepting the Mentor Executive.~~
- (c) **Work assigned during rotations.** Each agency participating in the State Mentor Program shall assign the Mentor Executive to a policy-level manager during the period he or she is completing a management rotation in that agency.
- (d) **Compensation during rotations.**
- (1) The Administrator shall establish minimum compensation for Mentor Executives. The sending agency and each agency in which the Mentor Executive is completing his or her management rotation may share the compensation of the Mentor Executive or either agency may pay the total amount.
 - (2) If a state employee's salary is below the minimum salary for the Mentor Executive job family, the employee's salary shall be increased to that minimum. A state employee's salary shall not be reduced because of his or participation in the State Mentor Program.
- (e) **FTE limitations.** Employees participating in the State Mentor Program shall be exempt from any full-time-equivalent limitations established by law.
- (f) **Intervention by the Office of Personnel Management.** The Administrator of the Office of Personnel Management may intercede in mentor executive rotational assignments if the Administrator determines that the assignments are not functioning in accordance with guidelines established for the state mentor program. The result of the intercession may include, but is not limited to, reassignment or removal from the program. [74:840-3.8]
- (g) **Completion of rotation assignment.** At the end of a two-year management rotation assignment or sooner, if a Mentor Executive is unable to complete the entire two-year management rotation assignment, a Mentor Executive shall be entitled to return to the previous job family or its successor job family, if one exists in the sending agency. Otherwise, the reduction-in-force provisions of Section 840-2.27C of Title 74 of the Oklahoma Statutes shall apply.

SUBCHAPTER 21. EMPLOYEE ASSISTANCE PROGRAMS

Emergency Adoptions

PART 1. GENERAL PROVISIONS

530:10-21-5. EAP records

(a) Records and information that relate to participation by an employee or family member in the EAP *shall be confidential* except as provided in Subsection (b) of this Section [74:840-2.10(D)]. ~~Such records shall not be subject to subpoena [74:840-2.10(D)], and no subpoena or subpoena duces tecum (subpoena for the production of documents) purporting to compel disclosure of such information or record shall be valid. [N]either the records nor the testimony of an Employee Assistance Program professional shall be subject to subpoena unless a participant poses a threat to deliberately harm the participant or others. [74:840-2.10(D)]~~

(b) EAP staff and EAP professionals may have access to EAP records within their agency as necessary to perform the duties and responsibilities of their job. EAP staff and EAP professionals may disclose confidential information relating to a participant under the following circumstances:

- (1) The participant consents in writing to the release of information;
- (2) The participant's employing agency requests verification of an employee's appointment with an EAP professional for the purpose of granting authorized absence according to 530:10-21-7. The disclosure shall be

limited to the date and time of the employee's appointment with the EAP professional;

(3) The EAP professional determines that the participant poses a threat to deliberately harm the participant or others [74:840-2.10(D)];

(4) There is *reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon the child by other than accidental means where the injury appears to have been caused as a result of physical abuse, sexual abuse, or neglect* [21:846(A)];

(5) There is *reason to believe that an elderly person or incapacitated adult is suffering from abuse, neglect, or financial exploitation* [43A:10-104(A)];

(6) A court of competent jurisdiction orders the inspection, release, or disclosure of confidential information.

(c) Records and information relating to participation by an employee in the EAP *shall be maintained separate and apart from regular personnel records and shall not become part of the employee's personnel file* [74:840-2.10(D)].

(d) Participants in the EAP shall have a right of access to their own EAP records [74:840-2.10(D)].

(e) The provisions of this Section shall remain effective regardless of whether the participant has ceased participation in the EAP or has terminated employment with the state.

APPENDIX B. SCHEDULE OF ANNUAL AND SICK LEAVE ACCRUAL RATES AND ACCUMULATION LIMITS [REVOKED]

APPENDIX B. SCHEDULE OF ANNUAL AND SICK LEAVE ACCUMULATION LIMITS AND YEARLY ACCRUALS [NEW]

ANNUAL AND SICK LEAVE ACCUMULATION LIMITS AND YEARLY ACCRUALS [74:840-2.20(2)]				
Note: "Days" refers to 8-hour working days.				
Years of Cumulative Service	Annual Leave		Sick Leave	
	Yearly Accrual	Accumulation Limit	Yearly Accrual	Accumulation Limit
Less than 5 years	15 days/year	30 days*	15 days/year	No limit.
5 but less than 10 years	18 days/year	60 days*	15 days/year	No limit.
10 to 20 years	20 days/year	60 days*	15 days/year	No limit.
Over 20 years	25 days/year	60 days*	15 days/year	No limit.
*Except as provided in 530:10-15-11(b)(5)				
Note: Accrual rate is an hourly rate equal to the annual accrual divided by the number of work hours in the current year.				

[OAR Docket #04-305; filed 3-1-04]

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

[OAR Docket #04-304]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 13. Reduction-in-Force

Part 1. General Provisions for Reduction-in-Force

530:10-13-1. [AMENDED]

530:10-13-2. [AMENDED]

530:10-13-3. [AMENDED]

530:10-13-5. [REVOKED]

530:10-13-8. [AMENDED]

530:10-13-11. [AMENDED]

530:10-13-12. [AMENDED]

530:10-13-13. [AMENDED]

Part 3. Reduction-in-Force Plan Requirements

530:10-13-31. [AMENDED]

530:10-13-32. [AMENDED]

530:10-13-33. [AMENDED]

530:10-13-34. [AMENDED]

530:10-13-35. [AMENDED]

530:10-13-36. [AMENDED]

530:10-13-37. [AMENDED]

Part 5. Recall Rights

530:10-13-50. [AMENDED]

530:10-13-51. [AMENDED]

Part 7. Priority Consideration for Reemployment

530:10-13-70. [AMENDED]

530:10-13-72. [AMENDED]

AUTHORITY:

Administrator of the Office of Personnel Management; Sections 840-1.6A and 840-2.27C of Title 74 of the Oklahoma Statutes.

DATES:

Adoption:

September 8, 2003

Approved by Governor:

October 22, 2003

Effective:

Immediately upon Governor's approval.

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Whereas Enrolled House Bills 1086 and 1101 and Enrolled Senate Bill 703 (all enacted during the 2003 Legislative Session) made numerous amendments to the State Government Reduction-in-Force and Severance Benefits Act (74 O.S. Section 840-2.27A et seq.); and whereas these statutory changes made many of the Merit Rules regarding Reduction-in-Force (RIF) inaccurate; and whereas agencies conducting Reductions-in-Force have provided input to the Office of Personnel Management as to how the Reduction-in-Force rules could be improved; and whereas it is possible that state agencies may need to use the statutory and rule provisions on Reduction-in-Force to accommodate budget cuts before the time that permanent amendments to the Merit Rules could be made, now therefore, the Administrator of the Office of Personnel Management finds these compelling extraordinary circumstances make it necessary to promulgate emergency rules to implement the provisions of Enrolled House Bills 1086 and 1101 and Enrolled Senate Bill 703 and to make the Merit Rules consistent with the statutory amendments made by these laws.

ANALYSIS:

These amendments to Subchapter 13 of the Merit Rules are needed to make the rules consistent with statutory changes made during the 2003 Legislative Session, as well as to incorporate suggested improvements in the rules made by state agencies who have conducted RIF's in the past several months.

COMMENT PERIOD:

Although a comment period and rules hearing are not required by the Oklahoma Administrative Procedures Act for emergency rulemaking, a memorandum and proposed rule amendments were distributed electronically to all state agencies on August 18, 2003. The rule amendments were also posted on the OPM website. A rules hearing was held on August 25, 2003, which was attended by 21 people. In addition, the memorandum distributed with the proposed rule amendments indicated that written comments would be accepted until 5 p.m. on August 26, 2003. No written comments were received. Comments made at the rules hearing are summarized in an attached document. All comments received were considered in adopting the final version of the rules.

CONTACT PERSON:

Kimberlee Williams, (405) 522-1736

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 13. REDUCTION-IN-FORCE

PART 1. GENERAL PROVISIONS FOR REDUCTION-IN-FORCE

530:10-13-1. Purpose

The purpose of the rules in this Subchapter is to implement the provisions of Sections 840-2.27A through 840-2.27C of the Oklahoma Personnel Act which pertain to reductions-in-force. The rules in this Subchapter establish general provisions for reductions-in-force and policies and procedures for recall and priority consideration for reemployment. The rules in ~~Parts 1, 5, and 7~~ of this Subchapter governing reductions-in-force apply to ~~agencies in all branches of state government, except institutions within The Oklahoma State System of Higher Education. The rules in Part 3 of this Subchapter apply to~~ classified employees within the executive branch agencies only. This Subchapter is not a comprehensive listing of state and federal statutory provisions related to reductions-in-force and regulations promulgated thereunder, and is not intended to conflict with either state or federal law and regulations.

530:10-13-2. Definitions

In addition to terms defined in 530:10-1-2 and 455:10-1-2, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"**Affected job family levels**" means those containing affected positions.

"**Affected employees**" means classified ~~and unclassified~~ employees in affected positions.

"**Affected positions**" means positions being abolished or positions which are subject to displacement action.

"**Agency**" means any office, department, board, commission, or institution of all branches of state government, except institutions within The Oklahoma State System of Higher Education.

"Displacement limit" means any area within an agency in which displacement may not occur. These areas may include, but are not limited to, job families, units, and geographic areas within an agency.

"Displacement opportunity" means the circumstances under which an occupied or funded vacant position is subject to displacement by an affected employee.

"Displacement privilege" means the privilege an affected employee has to utilize a displacement opportunity.

"Educational institution" means an institution within The Oklahoma State System of Higher Education, a facility under the management or control of the Oklahoma State Department of Vocational and Technical Education, or a licensed private educational institution in the State of Oklahoma.

"Eligible classified employee" means a permanent classified employee or a classified employee on probationary status after reinstatement from permanent classified status without a break in service in an affected position who is eligible for displacement opportunities or severance benefits.

"Eligible regular unclassified employee" means a regular unclassified service employee with one (1) year or more continuous service in an affected position who is eligible for severance benefits.

"Limited term unclassified employee" means an unclassified affected employee whose employment status is temporary or time limited and whose employment status does not make the employee eligible for participation in a state retirement system.

"Personnel transaction" means the record of the separation as a result of a reduction-in-force of a classified affected employee from an agency, or the record of the transfer or demotion of a classified affected employee. [74:840-2.27B]

"Reduction-in-force" means abolition of positions in an agency or part of an agency and the corresponding nondisciplinary removal of affected employees from such positions through separation from employment or through displacement to other positions.

"Severance benefits" means employee benefits provided by the State Government Reduction-in-Force and Severance Benefits Act to affected employees separated through a reduction-in-force.

"Years of service" means current and prior service which is creditable for the Longevity Pay Plan. An affected employee shall not be required to have been continuously employed for two (2) years to be given credit for either current or prior service pursuant to the State Government Reduction-in-Force and Severance Benefits Act.

530:10-13-3. Reduction-in-force plans Notice of reduction-in-force and time requirements

(a) **Cabinet Secretary approval.** Prior to the posting of any reduction-in-force notice, the notice shall be approved by the cabinet secretary for the agency conducting the reduction-in-force. [74:840-2.27C] If there is no incumbent cabinet secretary for the agency, the approval requirement shall not apply.

(b) **Notice.** Whenever a reduction in force occurs, the Appointing Authority shall provide a plan for such reduction in force to the Administrator of the Office of Personnel

Management and the Director of the Office of State Finance at At least 60 days before the scheduled beginning of reduction-in-force separations or as otherwise provided by law, the Appointing Authority shall post a notice in each office affected by the proposed reduction-in-force that a reduction-in-force will be conducted in accordance with the Oklahoma Personnel Act and Merit Rules. Such notice shall be posted for 5 days. The Appointing Authority shall provide a copy of the notice to the Administrator. A reduction-in-force shall not be used as a disciplinary action. [74:840-2.27C(A)] The reduction in force plan of an agency in the executive branch of state government, except for the fiscal components of the plan, is subject to the approval of the Administrator of the Office of Personnel Management. [74:840 2.27C(A)] The Administrator shall reject any plan that is not in substantial compliance with Section 840 2.27C of Title 74 of the Oklahoma Statutes and the rules in this Subchapter. [74:840 2.27C(A)]

(b) The Appointing Authority of executive branch agencies shall either:

(1) adopt the rules in Parts 3, 5, and 7 of this Subchapter as the reduction in force plan for the agency and shall post notice of that intent with a copy of the rules (Sections 530:10 13 30 through 530:10 13 73), or

(2) provide a plan that is in substantial compliance with the Act and the rules in this Subchapter.

(c) **Implementation plan.** Section 840 2.27C(A) of Title 74 of the **Oklahoma Statutes** requires the Director of the Office of State Finance to review the fiscal components of reduction in force plans of executive branch agencies and reject any plan that does not contain specified information. The reduction-in-force implementation plan and subsequent personnel transactions directly related to the reduction-in-force shall be in compliance with rules adopted by the Administrator. The reduction-in-force implementation plan, including the description of and reasons for displacement limits and protections from displacement actions, and severance benefits that will be offered shall be posted in each office affected by the plan within 5 business days after posting of the reduction-in-force notice. At the discretion of the Appointing Authority, the reduction-in-force implementation plan may be posted concurrently with the reduction-in-force notice. The reduction-in-force implementation plan shall:

(1) Specify the position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof, as determined by the Appointing Authority;

(2) Provide for retention of affected employees based on type of appointment;

(3) Require separation of probationary classified affected employees in affected job family levels, except those affected employees in probationary status after reinstatement from permanent classified status without a break in service, prior to the separation of any permanent classified affected employee in an affected job family level;

(4) Provide for the retention of permanent classified affected employees in affected job family levels and those

Emergency Adoptions

affected employees in probationary status after reinstatement, based on years of service;

(5) Provide for exercise of displacement opportunities by permanent classified affected employees and those affected employees in probationary status after reinstatement if any displacement opportunities exist; and

(6) Provide for outplacement assistance and employment counseling from the Oklahoma Employment Security Commission and any other outplacement assistance and employment counseling that may be available. [74:840-2.27C(B)]

(d) **Review of fiscal components.** *If the reduction in force is conducted pursuant to a reorganization, the fiscal components of the reduction in force plan shall contain reasons for the reorganization, which may include, but not be limited to, increased efficiency, improved service delivery, or enhanced quality of service.* [74:840-2.27C(A)] The Director of the Office of State Finance shall, within 5 business days of receipt, review the fiscal components of the reduction-in-force implementation plan and reject any plan that does not meet the requirements of Section 840-2.27C(C) of Title 74 of the Oklahoma Statutes.

(e) The Appointing Authority shall post a copy of the plan in each office of executive branch agencies affected by the proposed reduction in force plan 5 days prior to the submission of the proposed plan to the Administrator and the Director of State Finance. [74:840-2.27C(B)]

(f) Within 2 business days after approval of a reduction in force plan by the Administrator for executive branch agencies or appointing authorities in the legislative and judicial departments, Appointing Authorities shall post the following documents in each office affected by the reduction in force plan [74:840-2.27C(B)]:

- (1) an approved reduction in force plan;
- (2) a description of and reasons for any displacement limits established by the Appointing Authority in accordance with Section 840-2.27C(C) of Title 74 of the Oklahoma Statutes;
- (3) a description of and reasons for any protections from displacement action established by the Appointing Authority in accordance with Section 840-2.27C(C) of Title 74 of the Oklahoma Statutes;
- (4) a description of severance benefits that will be offered to affected employees pursuant to Section 840-2.27D of Title 74 of the Oklahoma Statutes, and
- (5) the implementation schedule. [74:840-2.27C(B)]

530:10-13-5. Displacement limits [REVOKED]

(a) Section 840-2.27C of Title 74 of the Oklahoma Statutes establishes standards and procedures for the limitation of displacement and eligibility criteria for the exercise of displacement opportunities.

(b) An eligible classified employee who exercises a displacement privilege shall be required to sign an agreement, in a form prescribed by the Administrator, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. The form provides information

to the affected employee concerning his or her rights and responsibilities under Section 840-2.27C of Title 74 of the Oklahoma Statutes. [74:840-2.27C(C)]

530:10-13-8. Required freeze on personnel actions

(a) At least **14** calendar days before the reduction-in-force implementation schedule plan is posted in accordance with Section 840-2.27C of Title 74 of the **Oklahoma Statutes** and 530:10-13-35, all personnel actions within affected job families shall be frozen, except:

- (1) separations unrelated to the reduction-in-force,
- (2) leave,
- (3) disciplinary actions,
- (4) other transactions specifically required by law,
- (5) transactions specifically due to the reduction-in-force, and
- (6) transactions the Appointing Authority certifies will not limit displacement opportunities for affected employees.

(b) This freeze shall remain in effect until the reduction-in-force implementation schedule plan is posted.

530:10-13-11. Options Option in lieu of reduction-in-force

Agencies may provide voluntary out benefits to eligible ~~classified employees and eligible regular unclassified employees~~ in accordance with the provisions of Section 840-2.28 of Title 74 of the **Oklahoma Statutes**.

530:10-13-12. Severance benefits

(a) Agencies shall provide mandatory severance benefits and may provide optional severance benefits in accordance with the provisions of Section 840-2.27D of Title 74 of the **Oklahoma Statutes** to eligible classified employees, eligible classified employees on probationary status after reinstatement from permanent classified status without a break in service, and eligible regular unclassified employees, and eligible employees of the University Hospitals Authority who have been continuously employed in the state service since on or before January 1, 1995 who are separated as a result of the same reasons that a reduction-in-force is conducted for classified employees. Employees who are eligible for Priority Reemployment Consideration in accordance with Section 840-2.27C of Title 74 of the **Oklahoma Statutes** and Part 7 of this Subchapter who are employed by any agency:

- (1) before the scheduled date of reduction-in-force separations, are not eligible for severance benefits; Employees who are reemployed by the agency from which separated by a reduction-in-force
- (2) less than 1 year after receiving severance benefits are required to repay such benefits in accordance with Section 840-2.27E of Title 74 of the Oklahoma Statutes.

(b) An agency which is separating only unclassified employees with 1 year or more continuous service for budgetary reasons may provide severance benefits pursuant to Sections 840-2.27D and 840-5.1A of Title 74 of the Oklahoma Statutes.

(c) An eligible employee who accepts severance benefits shall be required to sign an agreement, in a form prescribed by the Administrator, acknowledging that the employee accepts the severance benefits provided by the Appointing Authority pursuant to the provisions of Section 840-2.27D of Title 74 of the **Oklahoma Statutes**. The form provides information to the affected employee concerning his or her rights and responsibilities under Section 840-2.27E of Title 74 of the **Oklahoma Statutes**. [74:840-2.27E]

530:10-13-13. Reduction-in-Force Educational Voucher Fund

There is hereby created in the State Treasury a revolving fund for the Office of Personnel Management to be designated the "Reduction-in-Force Education Voucher Action Fund." The fund is to be used to provide education vouchers to eligible ~~classified and unclassified~~ employees exercising rights to severance benefits or voluntary out benefits in accordance with Sections 840-2.27D and 840-2.28 of Title 74 of the **Oklahoma Statutes**. The vouchers are to be used to make payment to eligible educational institutions. [74:840-2.27F]

PART 3. REDUCTION-IN-FORCE PLAN REQUIREMENTS

530:10-13-31. Abolishing positions and retaining positions

The Appointing Authority shall *determine the specific position or positions to be abolished within specified units, divisions, facilities, agency-wide or any parts thereof* [74:840-2.27C]. The Appointing Authority shall determine which vacant positions will be retained. ~~*If an agency has both classified and unclassified positions in affected job family levels, the appointing authority shall not reduce a higher percentage of occupied classified positions than occupied unclassified positions*~~ [74:840-2.27C].

530:10-13-32. Order of employee removal

(a) Agency-wide, or within displacement limits, if established, retention of affected employees shall be based on job family level and type of appointment [74:840-2.27C]. Subject to eligible classified employees accepting displacement offers, unclassified employees in a job family level on limited term appointments shall be separated first, followed by employees on project indefinite appointments, followed by employees on probationary appointments with the agency, prior to the separation or voluntary demotion of any permanent classified employee from the same job family level [74:840-2.27C].

(b) Retention of permanent classified employees in affected job family levels and within displacement limits, if any are established, shall be based on years of service [74:840-2.27C].

(c) The Appointing Authority shall calculate retention points for all eligible classified employees, including those on an approved leave of absence, ~~and shall rank affected classified and affected unclassified employees separately~~. Eligible classified employees with more retention points shall be ranked

higher; with the order of removal from a job family level in inverse order of that ranking. If tie scores occur, the ranking of employees who have the same total retention points shall be determined by giving preference for retention according to years of service in the agency. If a tie continues to exist, retention status shall be determined by a method established by the Appointing Authority and described in the reduction-in-force implementation ~~schedule~~ plan.

(d) For purposes of a reduction-in-force, any permanent classified employee on a detail to special duty shall be ranked on the basis of base job family level, not on the basis of the job to which detailed.

530:10-13-33. Calculation of retention points for years of service

(a) Affected employees shall be given credit for all current and prior service which is creditable for the Longevity Pay Plan, Section 840-2.18 of Title 74 of the **Oklahoma Statutes**. An employee shall not be required to have been continuously employed for 2 years to be given credit for either current or prior service.

(b) An employee shall be granted 1 point for each full month of full-time service. Points shall not be granted for any work in excess of full-time. Points will be prorated for each month during which the employee worked less than full-time or less than the full month. In no case shall more than 1 point per month be granted. Appointing Authorities shall make sure that pro rata computations are consistent in application and calculation within the agency.

(c) A break-in-service or leave-without-pay period of more than 30 calendar days shall not be included in the calculation of retention points unless the employee was on military leave or on leave-without-pay in accordance with Section 840-2.21 of Title 74 of the **Oklahoma Statutes**. Periods of leave without pay of 30 calendar days or less shall be counted as full-time service.

(d) The end date for the calculation of years of service shall be uniform within an agency and shall approximate the date the reduction-in-force implementation ~~schedule~~ plan is posted.

530:10-13-34. Displacement opportunities and limits

(a) **Limitations on displacement opportunities.** Except as provided in this Section, Displacement opportunities shall be offered to eligible classified employees—and may be offered to eligible regular unclassified employees. Displacement opportunities shall not be offered if the result would be to cause the displacement of a permanent classified employee with higher retention points. ~~A classified employee may not be displaced by an unclassified employee. Likewise, an unclassified employee may not be displaced by a classified employee.~~—Employees who have no displacement opportunities or who choose not to exercise a displacement opportunity, employees who do not respond to an offer in accordance with 530:10-13-37, and employees who refuse an offer shall be separated in accordance with 530:10-13-38. The appointing authority may protect from displacement action up to twenty percent (20%) of projected post-reduction-in-force employees

Emergency Adoptions

in affected positions within displacement limits; provided that any fractional number resulting from the final mathematical calculation of the number of those positions shall be rounded to the next higher whole number. The appointing authority must explain why affected employees are being protected. Employees must have received an overall rating of "meets standards" on the most recent performance evaluation in order to exercise a displacement opportunity. For the purposes of this Section, employees who have not been rated within the past 12 months shall be deemed to have received an overall rating of "meets standards" on the most recent performance evaluation. [74:840-2.27C]

(b) **Offers of displacement opportunities.** Starting with the employee having the highest retention points, displacement opportunities shall be offered to eligible classified employees and to displaced employees. Such offers shall be confined within any displacement limits established by the Appointing Authority. Options available will normally be offered in the order listed below, but an Appointing Authority may provide an alternative order in a reduction in force plan that has been approved by the Administrator. If an opportunity at one level, e.g. (1)(A), does not exist, an opportunity at the next lower level, e.g. (1)(B), shall be offered, if available. If the affected employee has not held within the last five (5) years a position in the job family level or predecessor class in which the affected employee is otherwise eligible for a displacement opportunity, the appointing authority may determine that the affected employee does not possess the recent relevant experience for the position and deny in writing the displacement opportunity. [74:840-2.27C]

(1) Transfer within the same job family and level into a retained position which is currently:

- (A) vacant and available for displacement in accordance with 530:10-13-31,
- (B) held by a non-permanent employee (in order of appointment type), or
- (C) held by the employee with the lowest retention points, ~~subject to the restriction regarding regular unclassified employees in (a) of this Section.~~

(2) Lateral transfer to a retained position in another job family previously held in the reverse order in which they were held by the employee on a permanent basis which is currently:

- (A) vacant and available for displacement in accordance with 530:10-13-31,
- (B) held by a non-permanent employee (in order of appointment type), or
- (C) held by the employee with the lowest retention points.

(23) Voluntary demotion to a retained position in the next available lower level of the same job family which is currently:

- (A) vacant and available for displacement in accordance with 530:10-13-31,
- (B) held by a non-permanent employee (in order of appointment type), or

(C) held by the employee with the lowest retention points, ~~subject to the restriction regarding regular unclassified employees in (a) of this Section.~~

(34) Voluntary demotion to a retained lower level position in another job family previously held in the reverse order in which they were held by the employee on a permanent basis ~~while either in the employment of the agency or, if transferred to the agency by statute or executive order, the former agency,~~ which is currently:

- (A) vacant and available for displacement in accordance with 530:10-13-31,
- (B) held by a non-permanent employee (in order of appointment type), or
- (C) held by the employee with the lowest retention points, ~~subject to the restriction regarding regular unclassified employees in (a) of this Section.~~

(c) An eligible employee who exercises a displacement privilege shall be required to sign an agreement, in a form prescribed by the Administrator, acknowledging that the employee had an opportunity to receive severance benefits and affirmatively elected to exercise a displacement privilege and to forego such benefits. The form provides information to the affected employee concerning his or her rights and responsibilities under Section 840-2.27C of Title 74 of the Oklahoma Statutes. [74:840-2.27C(C)]

530:10-13-35. Reduction-in-force implementation schedule plan

As provided in Section 840-2.27C of Title 74 of the Oklahoma Statutes and OAC 530:10-13-3, Appointing Authorities of executive branch agencies shall post the reduction-in-force implementation schedule plan in all offices of the agency within 25 business days after approval of the reduction in force plan by the Administrator posting the reduction-in-force notice. Appointing Authorities of executive branch agencies A copy of the implementation plan shall submit the reduction in force implementation schedule, including the lists described in (4) of this Section, be provided to the Office of Personnel Management and the Oklahoma Merit Protection Commission within 2 business days after approval of the reduction in force plan by the Administrator no later than the time it is posted in the agency. The reduction-in-force implementation schedule plan is not subject to the approval of the Administrator or the Commission. The In addition to the information required by 530:10-13-3(b), the reduction-in-force implementation schedule plan shall include:

- (1) a statement of the conditions necessitating the reduction-in-force;
- (2) the estimated time schedule for the reduction-in-force;
- (3) a description of the displacement process, and limits;
- (4) ~~the location in the office where the following lists are available for review,~~ listings of affected positions and employees, to include the following information (or if such lists are not posted, the location of the office where they are available for review):

(A) all occupied and vacant positions in affected job families within any displacement limits, indicating those to be abolished and those available for displacement, showing in each case: geographical and administrative location, job family, level, and pay band for the position; the name, job family, level, and pay band, appointment type, and rate of pay of the incumbent; and, for permanent employees, retention points and other lateral or lower level job families and levels in which the employee previously held permanent status while in the continuous classified service of the agency (and if transferred to the agency by statute or executive order, the former agency), listed in the reverse order in which they were held;

(B) all other positions and employees in affected job families which are subject to displacement, showing the same information;

(C) other occupied and vacant positions and employees in affected job families, showing the same information. The agency may include all other positions in the agency in affected job families or may limit posting to ten percent of positions occupied by employees with the least number of retention points based on longevity dates in affected job families, and (D) all retained funded vacant positions anywhere in the agency;

(D) all affected job families, and unclassified jobs grouped by series;

- (5) the schedule and procedure to be followed if an eligible employee chooses to accept any a displacement offer for transfer or voluntary demotion in lieu of separation;
(6) the agency policy on issues related to partial payment of moving expenses for transferred employees in accordance with Section 500.51 of Title 74 of the Oklahoma Statutes;
(7) such other information as the Appointing Authority deems appropriate; and
(8) the method established by the Appointing Authority to break ties in retention points.

530:10-13-36. Written notice to employees

Appointing Authorities of executive branch agencies shall provide individual written notice to an affected employee employees in abolished positions within 14 5 calendar days after approval of the reduction in force plan by the Administrator posting of the implementation plan. Other employees affected through the exercise of a displacement opportunity shall be notified within 5 calendar days after being identified as being displaced. The written notice to employees shall:

- (1) provide a description of the employee's retention status, including retention points calculation;
(2) offer an opportunity to notify a specified agency official in writing of any possible errors in the retention points calculation, and to request in writing a meeting with supervisors or agency officials;
(3) include the effective date of separation and, if applicable, instructions for electing transfer or voluntary demotion in lieu of separation in response to a specific offer,

exercising a displacement opportunity, if one is available; and

(4) provide notice of appeal rights for classified employees in accordance with 530:10-13-10.

530:10-13-37. Exercise of displacement privileges

To exercise a displacement privilege in lieu of separation, eligible employees shall follow the schedule and procedure included in the reduction-in-force implementation schedule plan. Such procedure shall provide employees no less than 24 hours to respond following their receipt of a specific offer. An Appointing Authority may require employees to submit specific requests for transfer or voluntary demotion in writing, either by mail or in individual or group meetings.

PART 5. RECALL RIGHTS

530:10-13-50. Eligibility for recall

(a) Eligible Consistent with any displacement limits adopted pursuant to Section 840-2.27C of Title 74 of the Oklahoma Statutes, permanent classified employees and employees in probationary status after reinstatement from permanent classified status without a break in service who are removed from a job family level as a result of a reduction-in-force in an agency shall be eligible for recall by that agency to the job family level from which removed for 18 months after the effective date of separation or demotion [74:840-2.27C]. Regular unclassified employees who are removed from a position as a result of a reduction in force in an agency shall normally be eligible for recall by that agency to the position from which removed for 18 months after the effective date of separation or demotion; however, an Appointing Authority may alternatively exclude unclassified employees from recall provisions in a reduction in force plan approved by the Administrator.

(b) If there are persons eligible for recall to a job family level, an Appointing Authority may not appoint or reclassify persons to the job family level from the employment register, by internal action, such as promotion or reinstatement, or from Priority Reemployment Consideration Rosters [840-2.27C]. However, an Appointing Authority may reclassify an employee by involuntary demotion for cause to a job family level for which there is a recall list. The salary of a recalled permanent classified employee shall be set in accordance with 530:10-7-8.

(c) Affected employees who accept severance benefits:
(1) are eligible for recall in accordance with the provisions of Section 840 2.27C of Title 74 of the Oklahoma Statutes,

(2) who are employed reemployed by any the agency from which separated as a result of a reduction-in-force less than 1 year after receiving severance benefits are required to repay such benefits in accordance with Section 840-2.27E of Title 74 of the Oklahoma Statutes.

(d) Employees who accept voluntary out benefits in accordance with Section 840-2.28 of Title 74 of the Oklahoma Statutes shall not be eligible for recall.

Emergency Adoptions

530:10-13-51. Order of recall

Individuals who are eligible for recall shall be ranked in order of their retention points at the time the reduction-in-force implementation ~~schedule plan~~ is posted, from high to low. [74:840-2.27C(E)] Offers of recall as described in 530:10-13-50 for classified positions shall be made first to the eligible individual, ~~who was formerly a permanent classified employee,~~ having the highest retention points, regardless of whether the individual was separated or ~~voluntarily demoted~~ was removed from the job family level by voluntary demotion or lateral transfer to another job family level. ~~If an Appointing Authority grants recall rights to unclassified employees in accordance with Section 840-2.27C(E) of Title 74 of the Oklahoma Statutes and 530:10-13-50, an eligible individual, who was removed as an unclassified employee, shall have recall rights only to unclassified positions. Likewise, an eligible individual, who was removed as a classified employee, shall have recall rights only to classified positions.~~

PART 7. PRIORITY CONSIDERATION FOR REEMPLOYMENT

530:10-13-70. Eligibility for priority reemployment consideration

(a) Permanent classified employees, ~~regular unclassified full time employees with one (1) year or more continuous service,~~ and employees on probationary status after reinstatement from permanent classified status without a break in service, who have been separated as a result of an officially conducted reduction-in-force or the abolition of all or part of a state agency, are eligible for priority reemployment consideration [74:840-2.27C] for jobs in the classified service. In addition, affected employees shall be eligible for Priority Reemployment Consideration beginning with the date the implementation ~~schedule plan~~ is posted, for a period not to exceed 12 months before the scheduled date of separation, if the agency:

- (1) has posted a reduction-in-force ~~plan notice~~ and implementation ~~schedule plan~~ and the employees are in positions covered by the plan and within the displacement limits established by the Appointing Authority; or
- (2) is scheduled to be closed or abolished by law or court order. [74:840-2.27C]

(b) To be placed on the Priority Reemployment Consideration Roster for a job family level, a person shall apply to the Office of Personnel Management and meet all requirements for the job [74:840-2.27C]. The job family level need not be announced for recruitment. The names of the persons on Rosters shall be ranked in order of their individual final earned ratings [74:840-2.27C].

(c) Employees who accept severance benefits:

- (1) are eligible for Priority Reemployment Consideration in accordance with the provisions of Section 840-2.27C of Title 74 of the **Oklahoma Statutes**,
- (2) who are ~~employed~~ reemployed by any agency less than 1 year after receiving severance benefits by the agency from which they separated are required to repay

such benefits in accordance with Section 840-2.27E of Title 74 of the **Oklahoma Statutes**.

(d) Employees who accept voluntary out benefits in accordance with Section 840-2.28 of Title 74 of the Oklahoma Statutes shall not be eligible for Priority Reemployment Consideration.

530:10-13-72. Conditions of employment and entrance salary

Persons who are appointed from a Priority Reemployment Consideration Roster shall be employed in accordance with 530:10-9-102, if they are eligible for reinstatement as provided in that Section. The entrance salary of such persons shall be fixed in accordance with 530:10-7-4. ~~Persons appointed from a Priority Reemployment Consideration Roster, who were in the unclassified or exempt service at the time of separation and ineligible for reinstatement as provided in 530:10-9-102, shall be employed in accordance with 530:10-11, Part 3. The entrance salary of such persons shall be at the hiring rate established by the agency for the job to which appointed.~~

[OAR Docket #04-304; filed 3-1-04]

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT CHAPTER 15. VOLUNTARY PAYROLL DEDUCTION RULES

[OAR Docket #04-303]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions
- 530:15-1-1. [AMENDED]
- 530:15-1-2. [AMENDED]
- Subchapter 3. Administrative Provisions
- 530:15-3-7.2. [NEW]
- 530:15-3-11. [NEW]
- 530:15-3-14. [NEW]
- 530:15-3-15. [RESERVED]
- 530:15-3-16. [NEW]

AUTHORITY:

Administrator of the Office of Personnel Management; Section 7.10 of Title 62 of the Oklahoma Statutes.

DATES:

Adoption:

November 20, 2003

Approved by Governor:

December 19, 2003

Effective:

Immediately upon Governor's approval.

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Whereas Enrolled House Bills 1114 and 1415 and Enrolled Senate Bills 371 and 703 (all enacted during the 2003 Legislative Session) made numerous amendments to the law authorizing voluntary payroll deductions for state employees [Section 7.10 of Title 62 of the Oklahoma Statutes];

and whereas these statutory changes made the Voluntary Payroll Deduction Rules inaccurate; now therefore, the Administrator of the Office of Personnel Management finds these compelling extraordinary circumstances make it necessary to promulgate emergency rules to implement the provisions of Enrolled House Bills 1114 and 1415 and Enrolled Senate Bills 371 and 703 and to make the Voluntary Payroll Deduction Rules consistent with the statutory amendments made by these laws.

ANALYSIS:

These amendments to the Voluntary Payroll Deduction Rules are needed to make the rules consistent with statutory changes made during the 2003 Legislative Session.

COMMENT PERIOD:

Although a comment period and rules hearing are not required by the Oklahoma Administrative Procedures Act for emergency rulemaking, a memorandum and proposed rule amendments were distributed electronically to all state agencies on October 6, 2003. The memorandum and proposed rules were also sent via mail to all entities currently approved for voluntary payroll deduction status, and to everyone who had contacted the Office of Personnel Management expressing interest in these rules. The rule amendments were also posted on the OPM website. A rules hearing was held on October 20, 2003, which was attended by 16 people. In addition, the memorandum distributed with the proposed rule amendments indicated that written comments would be accepted until 5 p.m. on October 22, 2003. No written comments were received. Comments made at the rules hearing are summarized in an attached document. All comments received were considered in adopting the final version of the rules.

CONTACT PERSON:

Kimberlee Williams, (405) 522-1736

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

530:15-1-1. Purpose

The rules in this Chapter provide procedures for implementation of voluntary payroll deductions for employee association dues, employee association foundation contributions, payments to credit unions, payments to supplemental insurance and retirement plans, ~~and~~ payments to a college savings account, and subscriptions to Oklahoma Today magazine, as authorized for state employees by Section 7.10 of Title 62 of the **Oklahoma Statutes**. Other types of voluntary payroll deductions (such as those for salary adjustment agreements under subsection B(3) of Section 7.10, U.S. Savings Bonds or charitable gifts) are not addressed by the rules in this Chapter.

530:15-1-2. Definitions

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

"Administrator" means the chief administrative officer of the Office of Personnel Management, an officer of the State of Oklahoma appointed by the Governor pursuant to Section 840-1.6A of Title 74 of the **Oklahoma Statutes**, and authorized to establish procedures for administration of voluntary payroll deductions by Section 7.10. The term, as used in this

Chapter, includes employees of the Office of Personnel Management to whom the Administrator has lawfully delegated authority to act on his or her behalf.

"Appointing Authority" means the chief administrative officer of an agency.

"Complaint" means a grievance with respect to any matter relevant to the Administrator's duties under Section 7.10.

"Complainant" means a person or an organization that has submitted a complaint.

"Declaratory ruling" means an explanation of a rule or order and its applicability to a particular matter.

"Dues-paying" means, with respect to a member of an employee association, the member is either currently paying dues or has provided a valid ~~and signed~~ authorization to have such dues withheld from pay and remitted to the association. [62:7.10(B)(4)]

"Employee association" means a formal and continuing affiliation of state employees with the principle objective of speaking for and benefiting their interests as employees, in which membership is restricted to state employees but unrestricted as to the geographic location of their duty stations, and which has at least 1,000 dues-paying members.

"Member" means:

- (A) with respect to a credit union, a shareholder; and
- (B) with respect to an employee association, a person who has sought and been granted recognition as one of those within the field of membership as defined by the association's governing instruments.

"Participation" means the total number of state employees reported to the Office of Personnel Management for which amounts withheld from pay for a given month were remitted pursuant to employee authorization to a single billing unit as identified by its Federal Employer (Tax) Identification Number.

"Party" means any person, employee association, credit union or insurance organization that is the subject of, or requests, action by the Administrator in connection with any matter relevant to the Administrator's duties under Section 7.10.

"Product vendor" means any of the following entities approved for state employees' voluntary payroll deduction:

- (A) an entity offering a supplemental retirement plan with a minimum participation of 500 state employees;
- (B) a private insurance organization with a minimum participation of 500 state employees for supplemental life, accident, or health insurance;
- (C) a private insurance organization with a minimum participation of 500 state employees for legal services;
- (D) the Oklahoma Tourism and Recreation Department as publisher of Oklahoma Today magazine.

"Provided for by the State" means:

- (A) for insurance purposes, the basic health, life, dental, or disability plan or any other such insurance a state agency is authorized to provide for its employees

Emergency Adoptions

as evidenced by financial participation in those policies or a group policy(s) the agency has negotiated as a basic employment benefit; and

(B) for retirement purposes, any state retirement system, deferred compensation program (commonly referred to as deferred annuities), or other retirement plan(s) a state agency is authorized to provide for its employees as evidenced by financial participation in those plans.

"Section 7.10" means Section 7.10 of Title 62 of the **Oklahoma Statutes**.

"State agency" means any office, department, board, commission, or institution of the State of Oklahoma."

"State employee" means any employee of a state agency.

"Supplemental" means:

(A) for insurance purposes, life, accident (including income continuation during disability), legal, and health insurance policies not provided for by the State; and

(B) for retirement purposes, plans that provide retirement income benefits and are not provided for by the State.

In recognition of the powers conferred upon state institutions of higher education by Section 3905 of Title 70 of the **Oklahoma Statutes**, the Administrator will follow such institutions' decisions as to whether an insurance policy or retirement plan is a basic or a supplemental employee benefit.

SUBCHAPTER 3. ADMINISTRATIVE PROVISIONS

530:15-3-7.2. **Dues for statewide educational employee organizations**

A statewide educational employee organization or association may request authorized payroll deduction status to allow instructional personnel of the Oklahoma School for the Blind or the Oklahoma School for the Deaf to pay membership dues through voluntary payroll deduction. The request may be made by filing a completed Form VPD-1 with the Administrator.

530:15-3-11. **Subscriptions to Oklahoma Today magazine**

Subscriptions to "Oklahoma Today" magazine published by the Oklahoma Tourism and Recreation Department may be paid by voluntary payroll deduction at the request of any state employee.

530:15-3-14. **Procedure for requesting Voluntary Payroll Deduction**

(a) A request by a state employee for voluntary payroll deduction for the payment of premiums for supplemental life, accident, and health insurance, insurance premiums for legal services, premiums or payments for retirement plans, salary adjustment agreements included in the flexible benefits plan,

contributions to the Oklahoma College Savings Plan, membership dues in any statewide educational organization or association, and subscriptions to the Oklahoma Today magazine, must be made in writing to the employing state agency. The request must include the employee's signature.

(b) A request by a state employee for voluntary payroll deduction for the payment of membership dues in an employee association may be made as described in Subsection (a) or may be made via online or electronically submitted forms. The employee association shall verify that the online or electronically submitted form accurately reflects the request of the state employee via email or another method approved by the Office of Personnel Management, and shall forward a copy of such verification and membership application to the employing agency for processing.

(c) All forms for employee requests for voluntary payroll deduction, whether paper or electronic format, shall include at a minimum the employee's name, Social Security number, the amount of the voluntary payroll deduction, the vendor's name, and if applicable, the approved policy form number.

530:15-3-15. [RESERVED]

530:15-3-16. **Product vendor access to state employees**

(a) State agencies shall allow product vendors reasonable access to their employees at least once each calendar year for the purpose of providing information about their products. For the purposes of this Section, "reasonable access" shall mean the granting of access within 1 year from the date of the request. Such access shall be allowed only during scheduled breaks or during periods immediately before or after normal work hours. For facilities that operate 24 hours a day, product vendors shall be allowed access to all shifts. Such access shall not disrupt or interfere with the business of the agency, and state funds shall not be utilized to accommodate such access. State agencies may allow such access upon request, or may designate specific dates and times for product vendor access and notify product vendors of the designated dates.

(b) Product vendors may provide information only on products approved for voluntary payroll deduction, and may not provide information on any other products or services.

(c) Product vendors shall identify 1 contact through which state agencies can arrange access. Product vendors shall provide the contact name, as well as a telephone number, facsimile (fax) number, mailing address, and email address for the contact to the Office of Personnel Management. State agencies may request this information from the Office of Personnel Management for the purposes of facilitating vendor access. Product vendors shall be solely responsible for keeping such contact information current.

(d) Product vendors shall comply with all applicable laws, rules and policies of the state agencies they visit. Product vendors who fail to comply with laws, rules, or policies of the state agency after oral or written notification, or who cause a disruption to the business of the agency, may be denied access by the Appointing Authority to the employees of that state agency for 1 calendar year. Appointing Authorities shall give a product

vendor notice and an opportunity to respond before making a decision to deny access.

[OAR Docket #04-303; filed 3-1-04]

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

1:2004-8.

EXECUTIVE ORDER 2004-8

I, Brad Henry, Governor of the State of Oklahoma, by virtue of the Oklahoma Constitution and the laws of the State of Oklahoma, hereby grant a stay in the execution of Hung Thanh Le of twenty (20) days from February 26, 2004.

On December 9, 2003, the Oklahoma Pardon and Parole Board voted 4-0 and recommended to the Governor that clemency be granted to Hung Thanh Le and that his sentence of death be commuted to life. On December 17, 2003, I granted a stay of execution of thirty days from January 6, 2004, the scheduled execution date of Mr. Le, to allow time for my administration to more fully review this case. After thoroughly reviewing the arguments and evidence presented in this case, I denied clemency for Mr. Le on January 28, 2004. Mr. Le's execution was scheduled for February 26, 2004.

On February 26, 2004, at 5:44 p.m., the Government of Vietnam requested additional time to review legal and diplomatic alternatives available to them and Mr. Le. Respecting the gravity of the issues, I granted a twenty (20) day stay from February 26, 2004, in order for the Government of Vietnam and attorneys for Mr. Le to conduct a thorough review of potential legal avenues available to them.

In accordance with 22 O.S. Section 1001.1, I hereby direct the sentence of death will be carried out in this case on March 23, 2004.

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 1st day of March, 2004.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #04-306; filed 3-2-04]

1:2004-9.

EXECUTIVE ORDER 2004-9

I, Brad Henry, Governor of the State of Oklahoma, by the authority conferred upon me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, do hereby establish the Governor's Task Force on Medicaid.

The Governor's Task Force on Medicaid will provide a comprehensive assessment and report on the Medicaid program in Oklahoma. The Task Force will review and report on the manner in which Oklahoma funds programs for its poor and elderly. In addition, the Task Force will report on how Oklahoma is providing health care for the growing number of uninsured and under-insured Oklahomans.

The Governor's Task Force on Medicaid is hereby created, and initial members shall conform to the following:

1. Secretary of Health or designee;
2. representative of the Oklahoma Association of Health Care Providers;
3. representative of the State Hospital Association;
4. licensed physician;
5. representative of the pharmaceutical industry;
6. representative of home and community-based services;

Executive Orders

7. member of the Oklahoma Bar Association; and
8. at large members.

Additional members, at the discretion of the Governor, may be appointed, and additional members of the Task Force representing State Government may be designated by the Governor as deemed necessary. All members shall be appointed and serve at the pleasure of the Governor. Members shall serve without compensation, but shall be reimbursed travel expenses as authorized by state law.

The Task Force shall elect a chair and vice chair from its membership. The Task Force shall meet at such times and places as it deems appropriate. Administrative and staffing support for the Task Force shall be provided by the state Health Department. The Health Care Authority, Department of Human Resources and the state Health Department shall provide information and expertise to the Task Force.

The Task Force shall report to the Governor regarding its progress and status every 90 days after the initial meeting of the Task Force until a final report has been prepared and submitted to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate. The final report shall be completed within one year of the date of this Order.

Included among the duties and responsibilities of the Task Force in its comprehensive review of Oklahoma's Medicaid program and the state's uninsured and under-insured issues is to evaluate the way Oklahoma responds to its elderly and

long term care issues. This includes a detailed review and evaluation of nursing homes, assisted living centers, home and community-based services, hospice, prescription medicine costs for the elderly, and an assessment of the various regulatory bodies that oversee long-term care services. Hospitals throughout the state face similar Medicaid issues as those for long-term care services and should also be included in the Medicaid evaluation. The Task Force should evaluate how Oklahoma is addressing its uninsured and under-insured and develop a long-range plan to handle the growing number of uninsured and under-insured.

This Executive Order shall be distributed to all members of the Governor's Cabinet and the executive heads of appropriate state agencies 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 11th day of March, 2004.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #04-338; filed 3-11-04]
