

Volume 22  
Number 2  
October 1, 2004  
Pages 47 - 72

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules



**Brad Henry, Governor**  
**M. Susan Savage,**  
**Secretary of State**  
**Peggy Coe, Managing Editor**

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ISSN 0030-1728

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# Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

*For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.*

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

*[OAR Docket #04-1296]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Subchapter 3. Animal Health Reportable Diseases

35:15-3-2. [AMENDED]

35:15-3-3. [AMENDED]

### **SUMMARY:**

The proposed rule change provides cleanup to the animal health reportable disease lists and includes changes that refer to certain animal health diseases by a more appropriate and correct name to alleviate any confusion that may exist by using incorrect names.

### **AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2), 2-4(7), 2-4(17), 2-4(29), 6-2, and 6-124; 59 O.S. 2001 § 698.15

### **COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298 during the period from October 1, 2004, through November 1, 2004.

### **PUBLIC HEARING:**

A public hearing will be held at 10:00 a.m., November 1, 2004 in the Plant Industry and Consumer Services conference room, located on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298, 405-522-4576, or at [tgunter@oda.state.ok.us](mailto:tgunter@oda.state.ok.us)

### **RULE IMPACT STATEMENT:**

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

### **CONTACT PERSON:**

Dr. Burke Healey, (405) 522-6134; e-mail address: [bhealey@oda.state.ok.us](mailto:bhealey@oda.state.ok.us)

*[OAR Docket #04-1296; filed 9-9-04]*

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

*[OAR Docket #04-1297]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Subchapter 12. Pet Overpopulation Fund [NEW]

### **SUMMARY:**

Pursuant to House Bill 2557, the Oklahoma Legislature created an Animal Friendly License Plates program, with the revenue generated from this program to be deposited in the Oklahoma Pet Overpopulation Fund. The purpose of the fund is to implement and maintain pet sterilization efforts in the state. These rules are for the purpose of implementing that program in compliance with House Bill 2557.

### **AUTHORITY:**

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. 2001 §§ 2-4(2), 2-4(7), 2-4(29); 68 O.S. 2368.11; Article 6, Section 31, Constitution of the State of Oklahoma.

### **COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from October 1, 2004 through November 1, 2004.

### **PUBLIC HEARING:**

A public hearing will be held at 11:00 a.m., November 1, 2004, in the Plant Industry and Consumer Services Conference Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804, 405-522-4576, [tgunter@oda.state.ok.us](mailto:tgunter@oda.state.ok.us)

## Notices of Rulemaking Intent

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### **RULE IMPACT STATEMENT:**

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

### **CONTACT PERSON:**

Teena Gunter, (405) 522-64576, e-mail address: tgunter@oda.state.ok.us

*[OAR Docket #04-1297; filed 9-9-04]*

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

*[OAR Docket #04-1298]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Subchapter 15. Equine Infectious Anemia (EIA)  
Part 3. Procedures  
35:15-15-34. [AMENDED]

### **SUMMARY:**

The proposed rule change allows the Oklahoma Department of Agriculture, Food, and Forestry to continue participation in an EIA-ELISA pilot testing program in association with the United States Department of Agriculture-Animal and Plant Health Inspection Service. The rule changes provide necessary changes to the Oklahoma testing program that will ensure quality assurance at laboratories performing EIA testing. Current rules are deficient in this area and retesting for EIA is frequently performed due to the lack of appropriate quality assurance in the original test. The retesting creates additional costs to both owners of horses and to the State of Oklahoma.

### **AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (7) and 2 O.S. 2001 § 6-286

### **COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298 during the period from October 1, 2004, through November 1, 2004.

### **PUBLIC HEARING:**

A public hearing will be held at 9:00 a.m., November 1, 2004 in the Plant Industry and Consumer Services conference room, located on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed

rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from October 1, 2004 through November 1, 2004.

### **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298, 405-522-4576, or at tgunter@oda.state.ok.us

### **RULE IMPACT STATEMENT:**

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

### **CONTACT PERSON:**

Dr. Burke Healey, (405) 522-6134; e-mail address: bhealey@oda.state.ok.us

*[OAR Docket #04-1298; filed 9-9-04]*

### **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 20. FORESTRY**

*[OAR Docket #04-1299]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Subchapter 9. Urban Forestry and Beautification Fund  
[NEW]

### **SUMMARY:**

The proposed rules implement the provisions of House Bill 1994 which created an Urban Forestry and Beautification license plate. Fees for the special plate are deposited in the Urban Forestry and Beautification Revolving Fund. The proposed will define the types of projects for which the funding may be used, eligibility requirements, and procedures for administration of the fund.

### **AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2), and 2-4(29); 47 O.S. § 1104.5

### **COMMENT PERIOD:**

Persons may submit written comments to Teena Gunter at 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298 during the period from October 1, 2004, through November 1, 2004.

### **PUBLIC HEARING:**

A public hearing will be held at 1:00 p.m., November 1, 2004 in the Plant Industry and Consumer Services conference room, located on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298, 405-522-4576, or at [tgunter@oda.state.ok.us](mailto:tgunter@oda.state.ok.us)

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

Teena Gunter, (405) 522-4576; e-mail address: [tgunter@oda.state.ok.us](mailto:tgunter@oda.state.ok.us)

*[OAR Docket #04-1299; filed 9-9-04]*

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

*[OAR Docket #04-1295]*

**RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking **PROPOSED RULES:**

Subchapter 30. Soil Amendments [NEW]

**SUMMARY:**

The proposed rules establish guidelines for the registration of soil amendments. The rules establish registration requirements, fees for registration, identity of products and ingredients, standardizing label requirements, sampling requirements, unlawful acts, and appropriate exemptions.

**AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (29), 8-85.10 ; Article 6, Section 31, Constitution of the State of Oklahoma

**COMMENT PERIOD:**

Persons may submit written and oral comments to Teena Gunter at 2800 North Lincoln Boulevard, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from October 1, 2004 through November 1, 2004.

**PUBLIC HEARING:**

A public hearing will be held at 2:00 p.m., November 1, 2004, in the Plant Industry and Consumer Services Conference Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing

to Teena Gunter at the above address during the period from October 1, 2004 through November 1, 2004.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804, 405-522-4576, [tgunter@oda.state.ok.us](mailto:tgunter@oda.state.ok.us)

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

Teena Gunter, (405) 522-4576, e-mail address: [tgunter@oda.state.ok.us](mailto:tgunter@oda.state.ok.us)

*[OAR Docket #04-1295; filed 9-9-04]*

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH  
CHAPTER 410. WIC REGULATIONS**

*[OAR Docket #04-1291]*

**RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking **PROPOSED RULES:**

Subchapter 3. Vendor Management

Part 1. General Provisions

310:410-3-2. [AMENDED]

Part 3. WIC Vendor Application and Authorization Process

310:410-3-10. [AMENDED]

310:410-3-14. [AMENDED]

Part 5. WIC Vendor Education

310:410-3-20. [AMENDED]

310:410-3-22. [AMENDED]

310:410-3-23. [AMENDED]

Part 7. WIC Vendor Authorization and Responsibilities

310:410-3-30. [AMENDED]

310:410-3-31. [AMENDED]

310:410-3-32. [AMENDED]

310:410-3-34. [AMENDED]

310:410-3-35. [AMENDED]

310:410-3-39. [AMENDED]

310:410-3-40. [AMENDED]

310:410-3-42. [AMENDED]

310:410-3-43. [AMENDED]

Part 9. WIC Vendor Compliance and Sanctions

310:410-3-51. [AMENDED]

310:410-3-52. [AMENDED]

310:410-3-53. [AMENDED]

310:410-3-55. [AMENDED]

**SUMMARY:**

The proposal continues to clarify and simplify the existing rules as they pertain to retail vendors in the WIC program. The Proposal also updates the existing rules pertaining to

## Notices of Rulemaking Intent

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participant distribution and number of vendors, and State vendor violation/sanctions.

**AUTHORITY:**

Oklahoma State Board of Health; 62 O.S. 2001, Section 41.16A

**COMMENT PERIOD:**

October 1, 2004 through November 4, 2004. Interested persons may discuss informally the proposed rule with WIC Services staff; or may before November 4, 2004, submit written comments to Tom Freeman, Chief, WIC Service, 2401 NW 23<sup>rd</sup> Street, Suite 70, Oklahoma City, OK 73107; or may at the hearing ask to present written or oral views.

**PUBLIC HEARING:**

Part of the regular meeting of the State Board of Health, November 4, 2004, which begins at 1:00 p.m. in Room 307 of the State Health Department Building, 1000 NE 10<sup>th</sup> Street, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before November 4, 2004 to Tom Freeman, Chief, WIC Service, 2401 NW 23<sup>rd</sup> Street, Suite 70, Oklahoma City, OK 73107, or by e-mail to TomF@health.state.ok.us.

**COPIES OF PROPOSED RULES:**

The proposed rules may be obtained for review from WIC Services, 2401 NW 23<sup>rd</sup> Street, Suite 70, Oklahoma City, OK 73107.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available at the same location listed above for reviewing and obtaining copies of the proposed rules.

**CONTACT PERSON:**

Tom Freeman, Chief, WIC Service, (405) 271-4676

*[OAR Docket #04-1291; filed 9-9-04]*

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**TITLE 310. OKLAHOMA STATE  
DEPARTMENT OF HEALTH  
CHAPTER 550. NEWBORN SCREENING  
PROGRAM**

*[OAR Docket #04-1292]*

**RULEMAKING ACTION:**

Notice of proposed EMERGENCY and PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Specimen Collection  
310:550-5-1. [AMENDED]

Subchapter 7. Hospital Recording

310:550-7-1. [AMENDED]

Subchapter 21. Information

310:550-21-1. [AMENDED]

Subchapter 23. Standards, Procedures, and Follow-Up for Certified Laboratories

310:550-23-1. [AMENDED]

Appendix A. Instructions for Filter Paper Sample Collection  
[REVOKED AND REENACTED]

**SUMMARY:**

This proposal amends the existing rule. This proposal updates time of screening requirements and addresses transportation of specimens.

**AUTHORITY:**

Oklahoma State Board of Health; 63 O.S. Supp. 2002, Section 1-533 and 63 O.S. 2001, Section 1-534

**COMMENT PERIOD:**

October 1, 2004 through November 4, 2004. Interested persons may discuss informally the proposed rules with Pamela King, State Genetics Coordinator, Screening, Special Services and SoonerStart; or may before November 4, 2004, submit written comment to Pamela King, MPA, RN, State Genetics Coordinator, Screening, Special Services and SoonerStart, Oklahoma State Department of Health, 1000 N.E. 10<sup>th</sup> Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

**PUBLIC HEARING:**

Part of the regular meeting of the State Board of Health, November 4, 2004, which begins at 1:00 p.m. in Room 307 of the State Health Department Building, 1000 N.E. 10<sup>th</sup> Street, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before November 4, 2004 to Pamela King, MPA, RN, State Genetics Coordinator, Screening, Special Services and SoonerStart, Oklahoma State Department of Health, 1000 N.E. 10<sup>th</sup> Street, Oklahoma City, OK 73117-1299, or by e-mail to pamk@health.state.ok.us.

**COPIES OF PROPOSED RULES:**

The proposed rules may be obtained for review from staff of Screening, Special Services and SoonerStart, Family Health Services, Oklahoma State Department of Health, 1000 N.E. 10<sup>th</sup> Street, Oklahoma City, OK 73117-1299.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning October 1, 2004 at the same location listed above for reviewing and obtaining copies of the proposed rules.

**CONTACT PERSON:**

Pamela King, MPA, RN, State Genetics Coordinator, Screening, Special Services and SoonerStart, (405) 271-6617

[OAR Docket #04-1292; filed 9-9-04]

**TITLE 345. COMMITTEE FOR INCENTIVE AWARDS FOR STATE EMPLOYEES  
CHAPTER 10. PRODUCTIVITY ENHANCEMENT PROGRAM**

[OAR Docket #04-1301]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 1. General Provisions
- 345:10-1-2. Definitions [NEW]
- Subchapter 3. Organization
- 345:10-3-1. Incentive Awards for State Employees Committee [AMENDED]
- Subchapter 5. Types of Awards
- 345:10-5-2. Individual incentive compensation [AMENDED]

**SUMMARY:**

The purpose of these proposed amendments are to make the rules consistent with statutory changes made by Enrolled House Bill 1334 (2000) and Enrolled House Bill 1768 (2001), and add a definition section to the rules.

**AUTHORITY:**

Committee for Incentive Awards for State Employees; 74 O.S., § 4113.

**COMMENT PERIOD:**

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Chanda Graham, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to [chanda.graham@opm.state.ok.us](mailto:chanda.graham@opm.state.ok.us). The comment period will begin on September 20, 2004. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Friday, November 5, 2004.

**PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at 2:00P.M., Thursday, November 4, 2004, Concourse Theater, Sequoyah/Will Rogers Concourse, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 522-1736.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning September 13, 2004. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

**CONTACT PERSON:**

Chanda R. Graham, Chief Policy Attorney, (405) 522-1736.

[OAR Docket #04-1301; filed 9-9-04]

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION  
CHAPTER 30. OCCUPATIONAL THERAPISTS AND ASSISTANTS**

[OAR Docket #04-1290]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- 435:30-1-3. Licensure by examination [AMENDED]
- 435:30-1-10. Grounds for disciplinary action [AMENDED]

**SUMMARY:**

The licensure by examination rule is being amended to add a time limitation a temporary status may be in effect. The rule listing grounds for disciplinary action is being amended to update and add to the list of violations upon which an occupational therapist or assistance may be disciplined by the Board.

**AUTHORITY:**

TITLE 59 O.S., Section 888.14, State Board of Medical Licensure and Supervision

**COMMENT PERIOD:**

The comment period will run from October 1, 2004 to November 2, 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 November 4, 2004, 9:00 a.m. at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than November 2, 2004.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

# Notices of Rulemaking Intent

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## COPIES OF PROPOSED RULES:

Copies of the proposed rules 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 October 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 #04-1290; filed 9-8-04]*

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

*[OAR Docket #04-1300]*

## RULEMAKING ACTION:

Notice of proposed EMERGENCY rulemaking

## PROPOSED RULES:

- Subchapter 1. General Provisions
- 530:10-1-2. [AMENDED]
- Subchapter 3. Affirmative Action and Equal Employment Opportunity
- Part 5. Noncompliance, Investigations, Hearings and Remedies
- 530:10-3-54. [AMENDED]
- Subchapter 7. Salary and Payroll
- Part 1. Salary and Rates of Pay
- 530:10-7-1. [AMENDED]
- 530:10-7-6. [AMENDED]
- 530:10-7-7. [AMENDED]
- 530:10-7-11. [AMENDED]
- 530:10-7-14. [AMENDED]
- 530:10-7-17. [AMENDED]
- Subchapter 9. Recruitment and Selection
- Part 9. Classified Appointments
- 530:10-9-99. [AMENDED]
- Part 13. Veterans Preference
- 530:10-9-130. [AMENDED]
- Subchapter 11. Employee Actions
- Part 1. General Provisions
- 530:10-11-1. [AMENDED]
- Part 3. Probationary Employees
- 530:10-11-31. [AMENDED]
- 530:10-11-32. [AMENDED]
- 530:10-11-39. [AMENDED]
- 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]
- Part 3. Reduction-in-Force Plan Requirements

- 530:10-13-32. [AMENDED]
- Subchapter 15. Time and Leave
- Part 1. General Provisions
- 530:10-15-1. [AMENDED]
- Part 3. Annual and Sick Leave Policies
- 530:10-15-10. [AMENDED]
- 530:10-15-12. [AMENDED]
- Part 5. Miscellaneous Types of Leave
- 530:10-15-45. [AMENDED]
- 530:10-15-49. [AMENDED]
- Subchapter 17. Employee Performance Management System and Career Enhancement Programs
- Part 3. Performance Evaluation System
- 530:10-17-31. [AMENDED]
- Part 7. Carl Albert Public Internship Program
- 530:10-17-74. [AMENDED]
- 530:10-17-75. [AMENDED]
- 530:10-17-77. [AMENDED]
- 530:10-17-80. [AMENDED]
- Part 11. Certified Public Manager Program
- 530:10-17-110. [AMENDED]
- 530:10-17-111. [AMENDED]

## SUMMARY:

The proposed amendment to Section 530:10-7-17 is provided to correct a rule reference. The reference to Section 530:10-5-110 should actually be to 530:10-11-110. The proposed amendment to Section 530:10-9-130 is to reflect a statutory change from the 2004 legislative session. The proposed amendment to 530:10-11-39 is to provide a specific reference and clarify that there is other statutory authorization for transfer of probationary employees. The proposed amendment to Section 530:10-13-32 is to reflect a statutory change from the 2004 legislative session. The proposed amendment to 530:10-15-45 is to reflect a statutory change from the 2004 legislative session. The proposed amendment to 530:10-15-49 is to reflect the proper disposition of a workers compensation claim. The proposed amendment to 530:10-17-31 is to reflect a statutory change from the 2004 legislative session.

All other amendments not specifically mentioned above are to reflect correct citations to the Oklahoma Personnel Act.

## AUTHORITY:

The Administrator of the Office of Personnel Management; 74 O.S., §§ 840-1.6A, 840-2.1, 840-2.17, 840-5.16 and 4121.

## COMMENT PERIOD:

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Chanda Graham, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to [chanda.graham@opm.state.ok.us](mailto:chanda.graham@opm.state.ok.us). The comment period will begin on September 20, 2004. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Friday, November 5, 2004.

**PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at 3:00P.M., Thursday, November 4, 2004, Concourse Theater, Sequoyah/Will Rogers Concourse, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained beginning Monday, September 13, 2004, between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 521-2177.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning Monday, September 13, 2004. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

**CONTACT PERSON:**

Chanda R. Graham, Chief Policy Attorney, (405) 522-1736.

*[OAR Docket #04-1300; filed 9-9-04]*

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

*[OAR Docket #04-1302]*

**RULEMAKING ACTION:**

Notice of proposed EMERGENCY rulemaking

**PROPOSED RULES:**

- Subchapter 1. General Provisions
- 530:15-1-2. [AMENDED]
- Subchapter 3. Administrative Provisions
- 530:15-3-15. [AMENDED]
- 530:15-3-16. [AMENDED]

**SUMMARY:**

The purpose of these proposed rule amendments is to harmonize the rules with legislation promulgated during the 2004 legislative session.

**AUTHORITY:**

The Administrator of the Office of Personnel Management; Title 62 O.S., § 7.10, Title 74 O.S., §§ 842 and 843 and Title 75 O.S., §§ 302, 305 and 307.

**COMMENT PERIOD:**

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Chanda Graham, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to [chanda.graham@opm.state.ok.us](mailto:chanda.graham@opm.state.ok.us).

The comment period will begin on September 20, 2004. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Friday, November 5, 2004.

**PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at 2:30P.M., Thursday, November 4, 2004, Concourse Theater, Sequoyah/Will Rogers Concourse, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chanda R. Graham at the above address during the period from September 20, 2004 to November 5, 2004.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 522-1736.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning September 13, 2004. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

**CONTACT PERSON:**

Chanda R. Graham, Chief Policy Attorney, (405) 522-1736.

*[OAR Docket #04-1302; filed 9-9-04]*

**TITLE 695. STATE AGENCY REVIEW  
COMMITTEE  
CHAPTER 10. OKLAHOMA STATE  
EMPLOYEE CHARITABLE CONTRIBUTION  
CAMPAIGN RULES**

*[OAR Docket #04-1303]*

**RULEMAKING ACTION:**

Notice of proposed EMERGENCY rulemaking

**PROPOSED RULES:**

- Subchapter 1. General Provisions
- 695:10-1-2. [AMENDED]
- 695:10-1-5. [AMENDED]
- 695:10-1-6. [AMENDED]
- 695:10-1-8. [AMENDED]
- 695:10-1-9. [AMENDED]
- 695:10-1-10. [AMENDED]
- 695:10-1-11. [AMENDED]
- Subchapter 3. Principal Combined Fund Raising Organizations

## Notices of Rulemaking Intent

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### Part 1. State Principal Combined Fund Raising Organization (State PCFRO)

695:10-3-2. [AMENDED]

695:10-3-3. [AMENDED]

695:10-3-4. [AMENDED]

### Subchapter 5. Conduct of the Charitable Contribution Campaign

695:10-5-3. [AMENDED]

695:10-5-4. [AMENDED]

695:10-5-6. [AMENDED]

### Subchapter 7. Pledge Cards, Payroll Authorizations and Mailing Lists

695:10-7-2. [AMENDED]

695:10-7-3. [AMENDED]

### Subchapter 9. Remittance, Allocation and Distribution of Funds

695:10-9-2. [AMENDED]

### Subchapter 11. State and Local PCFRO Proceeds and Costs

695:10-11-2. [AMENDED]

### Subchapter 13. Notices, Complaints, Appeals and Hearings

695:10-13-3. [AMENDED]

#### **SUMMARY:**

Generally, the rules are being amended throughout to reflect the statutory name change passed by the legislature during the 2004 legislative session from Oklahoma State Employee Charitable Contribution Campaign, to Oklahoma State Charitable Campaign. The proposed amendments to 695:10-1-5 are to specify the type of support that the Office of Personnel Management will supply to the State Agency Review Committee. The proposed amendments to 695:10-1-6 are to clarify the roles of the state and local PCFROs as to Local Advisory Review Committees. The proposed amendment to 695:10-1-8 is to provide a point of e-mail contact for the State Agency Review Committee. The proposed amendments to 695:10-1-9 are to clarify the State Agency Review Committee's policies as to inspection and release of records. The proposed amendments to 695:10-1-10 are to make language within the rule consistent. The proposed amendment to 695:10-1-11 is to clarify when a request to initiate rulemaking procedures will be deemed to have been denied. The proposed amendment to 695:10-3-2 is to extend the deadline to apply to become the state PCFRO, to clarify that the federation must make a separate certification, and require that the application to be state PCFRO include a proposed budget. The amendment to 695:10-3-3 changes the period of state PCFRO service from February to January 31 of the following year to March 1 to January 31 of the following year. The amendments to 695:10-3-4 are to clean up grammatical errors, define participating agencies, and delete support services provided by the Office of Personnel Management. The amendments to 695:10-5-3 are to clarify what the State Agency Review Committee must publish by April 15 and to correct a statutory reference. The proposed amendment to 695:10-5-4 is to provide an exception to the campaign period for early bird campaigns. The proposed amendment to 695:10-5-6 is to re-work language for better clarity and ease of reading. The

proposed amendments to 695:10-7-2 are to provide for the use of an employee identification number on pledge cards and to provide that the pledge cards may be returned to the Local Advisory Review Committee as well as the local PCFRO. The proposed amendment to 695:10-7-3 is to clarify that an employee's revocation of a payroll deduction authorization must be in writing. The proposed amendment to 695:10-9-2 is to provide for the use of an employee identification number. The proposed amendment to 695:10-11-2 is to clarify that costs of the campaign includes costs incurred by the state PCFRO. The proposed amendments to 695:10-13-3 are to clarify when rejected federations and member agencies may appeal decisions to the State Agency Review Committee and to provide for special meetings to review said appeals.

#### **AUTHORITY:**

State Agency Review Committee; 74 O.S., § 7005.

#### **COMMENT PERIOD:**

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Chanda Graham, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to [chanda.graham@opm.state.ok.us](mailto:chanda.graham@opm.state.ok.us). The comment period will begin on September 20, 2004. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Friday, November 12, 2004.

#### **PUBLIC HEARING:**

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at the regularly scheduled State Agency Review Committee Meeting scheduled for 2:30P.M., Wednesday, November 10, 2004, at the State Office of Personnel Management, 2101 N. Lincoln, G-80, Oklahoma City, OK 73105.

#### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chanda R. Graham at the above address during the period from September 20, 2004 to November 12, 2004.

#### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained beginning September 13, 2004, between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 521-2177.

#### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning Tuesday,

September 13, 2004. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

**CONTACT PERSON:**

Chanda R. Graham, Chief Policy Attorney, (405) 522-1736.

*[OAR Docket #04-1303; filed 9-9-04]*

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

*[OAR Docket #04-1294]*

**RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking.

**PROPOSED RULES:**

Chapter 45. Gross Production, Petroleum Excise, and Conservation Excise [AMENDED]

**SUMMARY:**

Senate Bill 1081 of the 49th Legislature, 2nd Regular Session enacted statutory changes which require additions, revocations, and amendments to the existing rules to reflect statutory intent in the following areas:

Sections 710:45-3-1 and 710:45-5-3 have been amended to reflect the new delinquency date for payment of gross production taxes and for filing Gross Production Tax Reports, to the twenty-fifth day of the second calendar month following the month of production.

Section 710:45-15-6, prescribing reporting and remitting procedures for operators of reclaiming plants, has been modified similarly, to reflect the new reporting and payment dates.

Section 710:45-1-3 has been amended to conform to a new provision of law, 68 O.S. § 1001a, requires a one-time payment due on or before November 25, 2004, estimated on a formula set by statute, and an offsetting credit against the required security bond for certain qualifying remitters.

Additionally, other amendments are proposed to reconcile the rules with controlling statutes, to improve readability, to correct scrivener' errors, and to update citation and internal cross-references.

**AUTHORITY:**

68 O.S. §203; Oklahoma Tax Commission

**COMMENT PERIOD:**

Persons wishing to make written submissions may do so by 4:30 p.m., November 8, 2004, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, at the numbers provided below.

**PUBLIC HEARING:**

A public hearing will be held to provide an additional means by which suggestions may be offered on the content

of the proposed rules, **2:00 p.m., November 9, 2004**, at the main offices of the Oklahoma Tax Commission, M. C. Connors Building, Room 1-24, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed Rules.

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

A Rule Impact Statement will be prepared and will be available for review no later than October 16, 2004 from the same source listed above for obtaining copies of proposed rules.

**CONTACT PERSON:**

Carolyn Swifthurst, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: cswifthurst@oktax.state.ok.us

*[OAR Docket #04-1294; filed 9-9-04]*

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

*[OAR Docket #04-1293]*

**RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking.

**PROPOSED RULES:**

Chapter 65. Sales and Use Tax [AMENDED]

**SUMMARY:**

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing Sales Tax rules have been made to implement recent legislation. All legislative references are to the 49th Legislature, 2nd Regular Session (2004).

Sections 710:65-1-7, 710:65-7-13, and 710:65-19-56, dealing with contractors, has been amended to reflect a new exemption for purchases of items necessary to carry

## Notices of Rulemaking Intent

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out a public contract with the Oklahoma Ordinance Works Authority, the Durant Industrial Authority, and the Ardmore Development Authority, enacted House Bill 2213 of the 49th Legislature, 2nd Regular Session. **68:1356(10)**

Section 710:65-7-15, dealing with vendor liability, has been amended for clarification and to reflect the exempt status of purchases made by volunteer fire departments, parent-teacher organizations and associations, and the organization which operates the Oklahoma City National Memorial and Museum. [SB 1121(7) and SB 1383(1)] **[68:1356.1 and 68:1356(46)]**

Section 710:65-9-8, dealing with special event permits, has been modified to reflect legislative changes enacted by HB 2421(2) **[68:1364.2]**

New Section 710:65-13-32 has been adopted to reflect the provisions of HB 1889(3), which created an exemption for sales of charity game equipment made to a veterans' organization. This Section also reflects an exemption for items of charity game equipment purchased by an organization licensed to conduct charity games if the charity games tax has been paid. [HB1889(3)] **[68:1355]**

Part 7 of Subchapter 13 has been amended so as to limit its scope to "Church Organizations and Activities and a New Part 43, dealing with "Social, Charitable, and Civic Organizations" has been added. All exemption Sections not directly church-related have been moved (revoked and renumbered) to the New Part 43. Thus, Sections 710:65-13-34, 710:65-13-35, 710:65-13-36, 710:65-13-37, 710:65-13-38, 710:65-13-39, 710:65-13-41, and 710:65-13-42 have become 710:65-13-334, 710:65-13-335, 710:65-13-336, 710:65-13-337, 710:65-13-338, 710:65-13-339, 710:65-13-341, and 710:65-13-342. In addition, the language of Section 710:65-13-335 was amended to reflect that qualifying organizations must be *established for the purpose of sponsoring the events*. **[68:1356(24)]** Finally, several New Sections have been added to Part 43 to reflect new statutory exemptions: Section 710:65-13-330, dealing with sales to, or by, the organization operating the Oklahoma City National Memorial and Museum, [SB 1383(1)] **[68:1356(46)]**; Section 710:65-13-331, dealing with sales of personal property or services to be used for constructing a memorial or museum by a 501(c)(3) veterans' organization, consisting solely of honorably discharged veterans, [SB1121(6)] **[68:1356(47)]**; Section 710:65-13-332, dealing with sales of tickets to certain championship collegiate athletic events, [SB1383(6)] **[68:1356(45)]**; Section 710:65-13-333, dealing with sales made in conjunction with public library construction, [SB1121(6)] **[68:1356(48)]**; Section 710:65-13-340, dealing with both sales made to certain volunteer fire departments, as well as certain fund-raising sales made by such departments, up to an annual limit of \$15,000.00. Existing Section 710:65-19-351, which advised that such fire departments were not exempt, has been revoked.

Existing Sections 710:65-13-120 and 710:65-19-341, dealing with the taxation of gas and electricity for residential use, have been amended to reflect the provisions of SB 1121(4),

which removed associated delivery or transmission charges from the scope of the levy. **[68:1354]**

Section 710:65-13-130, dealing with the exemption for sales to, and sales by, governmental entities, has been amended to reflect certain "reciprocity" provisions of HB2421(1). **[68:1356(47)]**

Section 710:65-13-169, setting out definitions for Part 31, dealing with medical exemptions, has been clarified and amended to conform to the provisions of SB1121(9). **[68:1357(20), 1357.6]**

Section 710:65-13-171, dealing with sales of prosthetic devices to individuals, has been clarified and amended to conform to the provisions of SB1121(8). **[68:1357(20)]**

Section 710:65-13-173, dealing with medical appliances, medical devices, and other medical equipment furnished to Medicare or Medicaid recipients, has been clarified and amended to conform to the provisions of SB1121(8). **[68:1357(20)]**

Section 710:65-13-210, dealing with public schools, private schools, and institutions of higher education, has been amended to reflect new exemptions for sales used for public school construction, [SB1121(6)] **[68:1356(41)]**; and for sales to career technology student organizations under the Oklahoma Department of Career and Technology Education. HB2421(1) **[68:1356(48)]**

Section 710:65-19-329, dealing with services related to telecommunications, has been amended to reflect a specific exemption for labor charges associated with constructing, installing, moving, servicing, repair, or maintenance of cellular transmission towers used to transmit messages or images. [HB2335] **[68:1354(A)(4)(a)(4)]**

Sections 710:65-3-4, 710:65-19-11, 710:65-19-59, 710:65-19-261, and 710:65-19-331, have been amended to cure scrivener's errors, improve readability, remove obsolete language, update citation, and correct cross-references. Other amendments have been made throughout to remedy ambiguous language, to update or correct citations, or to give additional applications or examples.

### **AUTHORITY:**

68 O.S. §203; Oklahoma Tax Commission

### **COMMENT PERIOD:**

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

### **PUBLIC HEARING:**

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

**November 5, 2004, 2:00 p.m.** in Room 1-24 of the Oklahoma Tax Commission, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194.

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

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

Although it has been determined that the promulgation of these rules is not expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed Rules.

**COPIES OF PROPOSED RULES:**

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th

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

**RULE IMPACT STATEMENT:**

A Rule Impact Statement will be prepared and will be available for review from and after October 16, 2004, from the same source listed above for obtaining copies of proposed rules.

**CONTACT PERSON:**

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

*[OAR Docket #04-1293; filed 9-9-04]*

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# 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.*

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## **TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL**

*[OAR Docket #04-1286]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

Subchapter 3. Air Quality Standards and Increments  
252:100-3-4. [AMENDED]

### **SUBMITTED TO GOVERNOR:**

August 30, 2004

### **SUBMITTED TO HOUSE:**

August 30, 2004

### **SUBMITTED TO SENATE:**

August 30, 2004

*[OAR Docket #04-1286; filed 9-2-04]*

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## **TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL**

*[OAR Docket #04-1287]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

Subchapter 7. Permits for Minor Facilities  
Part 1. General Provisions  
252:100-7-2. [AMENDED]

### **SUBMITTED TO GOVERNOR:**

August 30, 2004

### **SUBMITTED TO HOUSE:**

August 30, 2004

### **SUBMITTED TO SENATE:**

August 30, 2004

*[OAR Docket #04-1287; filed 9-2-04]*

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## **TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 110. LEAD-BASED PAINT MANAGEMENT**

*[OAR Docket #04-1288]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

Subchapter 1. General Provisions  
252:110-1-7. [AMENDED]  
Subchapter 3. Definitions  
252:110-3-1. [AMENDED]  
Subchapter 5. Incorporation By Reference  
252:110-5-1. [AMENDED]  
Subchapter 9. Additional Accreditation Requirements  
252:110-9-1.1. [NEW]  
252:110-9-3. [AMENDED]  
252:110-9-4. [AMENDED]  
252:110-9-6. [AMENDED]  
Subchapter 11. Additional LBP Certification Requirements  
252:110-11-1. [AMENDED]  
252:110-11-4. [AMENDED]  
252:110-11-6. [AMENDED]  
Subchapter 13. Additional Work Practice Standards  
252:110-13-3. [REVOKED]  
252:110-13-5. [AMENDED]

### **SUBMITTED TO GOVERNOR:**

August 30, 2004

### **SUBMITTED TO HOUSE:**

August 30, 2004

### **SUBMITTED TO SENATE:**

August 30, 2004

*[OAR Docket #04-1288; filed 9-2-04]*

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# 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 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 40. CHILD CARE SERVICES

*[OAR Docket #04-1285]*

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 7. Eligibility

340:40-7-1. [AMENDED]

340:40-7-6. [AMENDED]

340:40-7-11. through 340:40-7-12. [AMENDED]

(Reference APA WF 04-14)

### AUTHORITY:

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

### DATES:

#### Adoption:

July 27, 2004

#### Approved by Governor:

August 9, 2004

#### Effective:

Immediately upon Governor's approval or September 1, 2004 whichever is later.

#### Expiration:

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

### SUPERSEDED EMERGENCY ACTIONS:

#### Superseded rules:

Subchapter 7. Eligibility

340:40-7-11. [AMENDED]

(Reference APA WF # 04-09)

#### Gubernatorial approval:

July 22, 2004

#### Register publication:

21 Ok Reg 3159

#### Docket number:

04-1212

### INCORPORATIONS BY REFERENCE:

n/a

### FINDING OF EMERGENCY:

Emergency approval is requested as the Oklahoma Department of Human Services (OKDHS) finds an imminent peril to the preservation of the public health, safety, and welfare of families with children exists for those who receive or expect to receive child care benefits. Without approval of the proposed rules, some families eligible for child care benefits will have child care benefits closed, denied, or reduced.

### ANALYSIS:

The purpose of the proposed rules is to restore the category of pre-determined eligibility for child care assistance to a zero co-payment for persons receiving public assistance or Supplemental Security Income (SSI).

340:40-7-1 is revised to restore categories of eligibility that include predetermined eligible, income eligible, transitional child care, and Temporary Assistance for Needy Families (TANF) families in the Work Supplementation Program.

340:40-7-6 is revised to remove the requirement that all members of a TANF household included in a TANF benefit be included in the child care household income computation.

340:40-7-11 is revised to remove policy citations regarding changes to other sections that are revoked.

340:40-7-12 is revised to remove language regarding the earnings of an 18 year old child receiving TANF benefits.

#### CONTACT PERSON:

Dena Thayer at (405)521-4326

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D) AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR SEPTEMBER 1, 2004, WHICHEVER IS LATER:**

## SUBCHAPTER 7. ELIGIBILITY

### 340:40-7-1. Priority for child care services Categories of eligibility

(a) ~~Priority for child care services.~~ In the event that the Oklahoma Department of Human Services (OKDHS) does not have sufficient funding to subsidize all families applying for and meeting eligibility guidelines outlined in this Subchapter for child care services, priority for services is given to families with very low family income and children with special needs. Families specified in Part 98 of Title 45 of the Code of Federal Regulations, federal guidelines for the Child Care and Development Fund, who must be given priority in approval for child care services are included in paragraph (1) through (4) of this subsection. A person may be predetermined eligible for child care services, determined income eligible based on the gross income of the household, or have dual eligibility with his or her tribe.

(1) ~~Families receiving Temporary Assistance for Needy Families (TANF).~~ The United States Department of Health and Human Services (HHS), Administration for Children and Families (ACF) requires that OKDHS give priority for child care services to families receiving TANF

## Emergency Adoptions

benefits who have dependent children under 13 years of age when that care is needed to help a TANF eligible family member accept employment, remain employed, or participate in an approved education or training activity. TANF eligible families must complete Form FSS 1, Comprehensive Application and Review, or Form K 2, Application for Child Care Services, and follow the same application procedures shown at OAC 340:40-3-1 as all other families who request OKDHS assistance with child care. **Predetermined eligible.** A person is predetermined eligible for child care services with a zero co-payment when he or she is a recipient of public assistance or Supplemental Security Income (SSI). Public assistance is defined as a State Supplemental Payment, Temporary Assistance for Needy Families (TANF), or Refugee Cash Assistance. This definition also includes non-cash vouchers a child receives from the TANF program per OAC 340:10-3-56(3)(k).

(A) Children who receive non-cash vouchers from the TANF program are considered TANF recipients for child care. The Administration for Children and Families requires that the Oklahoma Department of Human Services (OKDHS) guarantee child care for dependent children younger than 13 years of age when that care is needed for a TANF eligible family member to accept employment, remain employed, or participate in an approved education or training activity.

(B) TANF families must meet the income guidelines shown on OKDHS Appendix C 4, Child Care Eligibility Rates Schedule, for their household size to receive help with child care costs and may be assessed a family share co-payment.

(C) All TANF recipients with countable earned income have the option to receive child care services from OKDHS or choose to pay their own child care expenses and receive the dependent care exemption as described at OAC 340:10-3-33(3) while continuing to receive cash benefits. All TANF recipients who currently receive child care services for reasons of employment are eligible for child care under the Child Care and Development Fund or for the cost of child care to be considered as an earned income exemption while continuing to receive cash benefits.

(2) **Families transitioning off of TANF.** Families whose TANF benefits have stopped within the last 24 months because of employment receive priority for child care services using the income guidelines shown on OKDHS Appendix C 4, per federal guidelines, and per Section 230.61 of Title 56 of the Oklahoma Statutes unless: **Income eligible.** Households who are not predetermined eligible for child care services must meet income eligibility guidelines shown on OKDHS Appendix C-4, Child Care Eligibility/Rates Schedule, for their household size, to receive assistance with child care costs.

(A) the employer provides child care benefits; or  
(B) the monthly salary received from the employer exceeds the monthly TANF program benefit plus the

cost of child care and medical insurance to which the recipient would be entitled.

(3) **Families at risk of becoming dependent on TANF benefits.** Families at risk of becoming dependent on TANF benefits receive priority for child care services. These are families who fall within income guidelines on OKDHS Appendix C 4, meet all other eligibility conditions discussed in this Subchapter, are not receiving TANF, need child care in order to work, and would otherwise be at risk of becoming dependent on TANF. Examples include: **Transitional child care.** Per Section 230.61 of Title 56 of the Oklahoma Statutes, a TANF recipient who becomes employed is eligible for transitional child care services for 24 months following the date of employment as long as he or she meets income eligibility guidelines on Appendix C-4 for his or her household size unless:

(A) families who are eligible for TANF benefits but choose not to apply; the employer provides child care benefits; or

(B) teenage parent(s); the monthly salary received from the employer exceeds the monthly allowance of assistance pursuant to the TANF program plus the cost of child care and medical insurance to which the recipient would be entitled.

(C) families who have previously received TANF benefits and the last payment occurred over 24 months ago;

(D) children not included in a TANF benefit at the point TANF benefits stopped; or

(E) families whose TANF benefit stops for a reason other than employment.

(4) **Children with special needs.** OKDHS uses the term "children with disabilities" to describe children with special needs. OKDHS defines children with disabilities at OAC 340:40-7-8(h). These children receive priority for child care services as long as the family meets all other eligibility conditions included in this Subchapter and household income is within income guidelines shown on OKDHS Appendix C 4. **TANF families in the Work Supplementation Program.** TANF families in the Work Supplementation Program are considered income eligible families and must meet income eligibility guidelines shown on OKDHS Appendix C-4 for their household size, to receive assistance with child care costs.

(5) **Dual eligibility.** An individual may have dual eligibility for both the child care subsidy program through OKDHS and through his or her tribe. The child care provider cannot may not receive payment from both programs simultaneously. However, the The client can may be approved for the child care subsidy program and the tribe may pay the client's family share co-payment.

(b) **Income eligible families.** Households who meet the eligibility conditions shown in this Subchapter but who do not meet a priority reason to receive subsidized child care are approved for child care services as funds are available. These families must meet income eligibility guidelines shown on

~~OKDHS Appendix C 4 for their household size to receive help with child care costs.~~

**340:40-7-6. Household composition and income consideration**

(a) **Household composition and income consideration.** To establish a child's eligibility for subsidized child care, it is necessary to define who must be considered part of household composition for income consideration. Individuals who must be included are:

- (1) the natural, adoptive, or stepparent of the child(ren) who lives in the home and for whom child care is needed;
- (2) the caretaker(s) of the minor child(ren) who needs child care if that caretaker is legally and financially responsible for the child(ren) ~~or the caretaker(s) is included in the same Temporary Assistance for Needy Families (TANF) benefit as the child(ren) who needs child care. If the caretaker is acting in loco parentis and is not included in the child(ren)'s TANF benefit, his or her income is not considered available to the child. In loco parentis is defined in subsection (c)(7) of this Section;~~
- (3) all minor children and their siblings who live in the home for whom child care is requested;
- (4) any non-relative adult of the opposite sex who is living in the home with the natural or adoptive parent; and
- (5) any child(ren) of the non-relative adult of the opposite sex who is living in the home with the natural or adoptive parent; and,
- ~~(6) all members of a TANF household included in the TANF benefit when child care is requested for one or more of the household members.~~

(b) **Periods of absence.** When a household member is out of the home due to a temporary absence, he or she is still considered a household member as long as he or she plans to return to the home. Examples of temporary absence include:

- (1) a hospitalization for physical or mental health reasons;
- (2) incarceration;
- (3) attending school;
- (4) military service;
- (5) vacation time for a child; and
- (6) working or looking for a job away from home.

(c) **Definition of household composition terms.** The worker determines household composition for income considerations using the definition of terms listed in (1) through ~~(6)~~ of this subsection.

- (1) An adult is an emancipated minor or person 18 years of age or older. A child who is also a parent is considered an adult.
- (2) A child is any unmarried, unemancipated, non-parental person under 18 years of age.
- (3) A child who has married or voluntarily left the parental home for any reason and established independent living arrangements, other than being away from home for school or health reasons, is considered emancipated and treated as an adult. Once a child is emancipated, the emancipation is permanent.

(4) Spouses are persons married by ceremony or common-law and who are living together, or living separately on a temporary basis with no intentions of severing the marital relationship, or who are involuntarily separated.

(5) A non-relative adult is defined as any person over 18 years of age or an emancipated minor who is not related to the parent or caretaker by blood, adoption, or marriage.

(6) The term legally and financially responsible adult is defined as a parent or stepparent of the child(ren) for whom child care is needed. The term also includes other caretaker adults who are court-ordered to be legally and financially responsible for the child.

(7) The term in loco parentis is defined as a person acting in place of a parent without going through legal proceedings. He or she is expected to pursue child support from the natural or adoptive parent(s) of the child(ren) if it is not currently being received. See OAC 340:40-7-9 for more information regarding pursuit of child support.

(d) **Joint or shared custody.** When parents separate or divorce and share custody of their child(ren), either voluntarily or through a court order, the worker considers each parent's eligibility separately as well as his or her income. If only one parent qualifies for subsidized child care, only the days and hours of care needed while that parent has physical custody of the child(ren) is approved.

**340:40-7-11. Sources of income considered**

(a) **Sources of income considered.** Income may be received periodically or at irregular intervals. All income unless specifically excluded in OAC 340:40-7-12 is considered in determining monthly gross income. Income is classified as earned or unearned income. Gross income is treated the same for both types of income.

(b) **Earned income.** ~~The term earned~~ Earned income ~~refers to~~ means total money earned by an individual through the receipt of wages, salary, commission, or profit from activities in which the individual is engaged as self-employed or as an employee.

(1) **Wages.** Wages include total money received for work performed as an employee including armed forces pay, commissions, tips, piece-rate payments, longevity payments, and cash bonuses before any deductions are made such as taxes, bonds, pensions, union dues, credit union payments, and cafeteria plans.

(A) Only the portion of the cafeteria plan the client controls is counted as income.

(B) Reimbursements for expenses such as a uniform allowance or transportation costs, other than daily commuting, are subtracted from gross income.

(C) Payments made for annual leave, sick leave, or severance pay are considered as earned income during the month such income is received whether paid during employment or at termination of employment.

(D) Wages that are garnisheed or diverted and paid to a third party are also counted as income.

(2) **Self-employment.** Earnings derived from a business enterprise owned by the individual are considered as self-employment income. Gross income is determined by

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calculating total gross receipts or sales and subtracting the costs of producing the income listed in this Section.

(A) **Costs of producing self-employment income.**

Allowable costs of producing self-employment income include, but are not limited to, the identifiable cost of labor, stock, raw material, seed and fertilizer, and payments on the principal of the purchase price of income producing real estate and capital resources, equipment, machinery, and other durable goods, interest paid to purchase income producing property, insurance premiums, and taxes paid on income producing property. Items not considered as a cost of producing self-employment income are:

- (i) net losses from previous periods;
- (ii) federal, state, and local income taxes, money set aside for retirement purposes, and other work related personal expenses, such as meals and necessary transportation;
- (iii) depreciation;
- (iv) penalties and fines; and
- (v) charitable contributions.

(B) **Monthly self-employment income.** Self-employment income received on a monthly basis is normally averaged over a 12-month period. If the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has experienced a substantial increase or decrease in business, the worker calculates the self-employment income based on anticipated earnings.

(C) **Seasonal self-employment.** Self-employment income intended to meet the household's needs for only part of the year is averaged over the period of time it is intended to cover.

(D) **Annualized self-employment income.** Self-employment income ~~which~~ that represents a household's annual support is averaged over a 12-month period, even if the income is received in a short period of time. If the averaged amount does not accurately reflect the individual's actual monthly circumstances because the individual has experienced a substantial increase or decrease in business, self-employment income is based on anticipated earnings.

(E) **Income from rental property.** Income from rental property is considered income from self-employment.

(F) **Income from room and board.** Payments from roomers or boarders are considered self-employment if the roomer or boarder is paying a reasonable amount. If the roomer or boarder is a non-relative adult of the opposite sex, OAC 340:40-7-6(a)(5) applies.

(G) **Self-employed farm income.** Self-employed farm income is determined like other self-employment income except when the business expenses exceed the self-employment income. When the cost of producing self-employment income exceeds the income derived from self-employment as a farmer, such

losses are offset against any other countable income in the household. When the annual net loss has been established, the worker prorates the loss ~~is prorated~~ by dividing by 12 for the monthly amount to be subtracted from the total countable income. For purposes of this exception, to be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of \$1000 or more from the farming enterprise. Farming is defined as cultivating or operating a farm for profit either as owner or tenant. A farm includes stock, dairy, poultry, fish, fruit, and truck farms, and also plantations, ranches, ranges, and orchards. A fish farm is an area where fish are grown or raised and where they are artificially fed and protected and does not include an area where they are merely caught or harvested. A plant nursery is a farm for purposes of this definition.

(3) **On-the-job training.** Earned income from regular employment for on-the-job training is considered as any other earned income.

(4) **Workforce Investment Act (WIA).** Income earned in on-the-job training positions is considered earned income. This is on-the-job training provided under Section 134 of WIA for individuals 19 years of age or older. On-the-job training provided must be full-time positions, and there must be a contract between WIA and the employer for each individual position. This does not include classroom training and institutional training or intern assignments sponsored by WIA, even when an hourly amount is paid for such training.

(5) **Title I payments of Domestic Volunteer Services Act.** Payments under Title I of the Domestic Volunteer Services Act of 1973 as amended [P.L. 93-113] are considered income unless they are excluded under OAC 340:40-7-12. This includes income to Volunteers in Service to America, University Year for Action, and similar volunteer payments.

(6) **Earnings of children.** Earned income of a minor parent is treated as adult earned income. Earnings of other children 17 years of age and younger who are under the parental control of an adult household member are excluded as long as the child is attending school regularly. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment resumes following the break. ~~See OAC 340:40-7-6(a)(6) and 340:40-7-11(e)(1) for information about 18-year-olds receiving Temporary Assistance for Needy Families (TANF) as children.~~

(c) **Unearned income.** ~~The term unearned~~ Unearned income ~~refers to~~ means income an individual receives for which he or she does not put forth any daily, physical labor. Types of income listed in paragraphs (1) through ~~(4011)~~ of this subsection are considered unearned income.

(1) **Assistance payments.** Assistance payments include state means tested programs such as TANF and State Supplemental Payment (SSP) to the aged, blind, or disabled, and Refugee Cash Assistance.

(2) **Pensions, disability, and Social Security benefits.** Annuities, pensions, retirement benefits, disability benefits from either government or private sources, or Social Security survivor benefits are considered unearned income.

(3) **Supplemental Security Income (SSI).** SSI is considered unearned income.

(4) **Unemployment and workers' compensation.** Income from unemployment insurance benefits or workers' compensation is counted as unearned income.

(5) **Child support, court-ordered child care, and alimony.** Child support, child care payments, and alimony payments, whether court-ordered or voluntary, which are made directly to the household from non-household members are counted as unearned income. If a child care payment is paid directly to the child care provider, it is not considered income for the client. When the absent parent reports he or she is paying a portion of the client's family share co-payment to the child care provider, the only action taken by the worker is to record this in the case record. If the absent parent or another third party is making a payment to the provider in addition to the client's co-payment, it is considered as an additional co-payment which must be met before OKDHS makes a subsidy payment to the provider. Any other payment made to a third party for a household expense must be considered as income when a court order directs that the payment be made to the household. Payments for medical support are excluded.

(6) **Veterans compensation, pensions, or military allotments.** Annuities, pensions, disability compensation, military allotments, servicemen dependent allowances, and similar payments are considered unearned income.

(7) **Contributions.** Appreciable contributions recurrently received in cash are considered unearned income except in instances where the contribution is not made directly to the recipient. To be appreciable, a contribution must exceed \$30 per calendar quarter per individual.

(8) **Dividends, interest, minerals, and royalties.** Dividends, interest income, income from minerals, royalties, and similar sources are considered unearned income. When income from these sources is received irregularly or in varied amounts, it is averaged over 12 months. Income from royalties is treated as unearned, self-employment income.

(9) **Lump sum payments.** Non-recurring lump sum payments which are from a countable income source are considered as income the month they are received. Money not expended within the month of receipt is considered as a resource. Recurring lump sum payments, including income from earnings, are averaged over the period they are intended to cover.

(10) **Title IV-E or State Adoption Subsidy.** Federally or state funded adoption subsidy payments are made to adoptive parents of children with special needs are considered as unearned income.

(11) **Irregular income.** Income received irregularly but in excess of \$30 per quarter is considered as income unless it is from an excluded income source specifically mentioned at OAC 340:40-7-12. Countable irregular income is averaged over 12 months.

### 340:40-7-12. Sources of excluded income

Only the income listed in this Section is excluded in determining a household's eligibility for child care services. No other income is excluded.

(1) **Lump sum payments.** Both one-time and recurring lump sum payments are excluded as income unless they are specifically mentioned in OAC 340:40-7-11.

(2) **In-kind income.** In-kind income is defined as any gain or benefit which is not in the form of money payable directly to the household, including non-monetary or in-kind benefits such as meals, clothing, public housing, or produce from a garden, and is excluded.

(3) **Money received from the sale of property.** Money received from the sale of property such as stocks, bonds, a house, or a car is excluded. This exclusion does not apply if the person is engaged in the business of selling such property.

(4) **Bank or trust account withdrawals.** Money withdrawn from a bank or trust account is excluded as income even if used to meet current living expenses.

(5) **Capital gains.** The proceeds from the sale of capital goods or equipment is excluded.

(6) **Earnings of children.** Earnings of an individual 17 years of age and younger who is considered a child in the case is excluded as long as the child is attending school regularly. This exclusion continues to apply during temporary interruptions in school attendance due to semester or vacation breaks, provided the child's enrollment resumes following the break. ~~Earnings of an 18 year old considered a child in a Temporary Assistance for Needy Families (TANF) benefit are also excluded if he or she is attending school regularly. See OAC 340:40-7-6(a)(6) and 340:40-7-11(e)(1).~~ Earned income of a child who is head of his or her own household, such as is the case for a minor parent, is treated as adult income.

(7) **Irregular income.** Any income received too infrequently or irregularly to be reasonably anticipated is not counted unless it is in excess of \$30 per calendar quarter.

(8) **Reimbursements.** Reimbursements for past or future expenses to the extent they do not exceed actual expenses are excluded.

(9) **Tax refunds.** Federal or state income tax refunds, including the state and federal Earned Income Tax Credit (EITC), and advance payments of federal EITC are excluded.

(10) **Money received for third parties.** Money received and used for the care and maintenance of a third party who is not a household member is excluded.

(11) **Loans.** All loans, including loans from private as well as commercial institutions, are excluded. Verification that the income is a loan is required.

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(12) **Grants.** Grants obtained and used under conditions that preclude their use for current living costs is excluded.

(13) **Educational assistance.** All education grants, work-study, scholarships, and student loans are exempt if receipt is contingent upon the student regularly attending school.

(14) **Stipends.** Stipends paid to students participating in the Indian Vocational Education Program through the Carl D. Perkins Vocational and Applied Technology Education Act is excluded.

(15) **Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE).** Payment for supportive services or reimbursement of out-of-pocket expenses made to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in SCORE and ACE is excluded.

(16) **Government rent or housing subsidies.** Government rent or housing subsidies by government agencies which is received in-kind or in cash for rent, mortgage payments, or utilities is excluded.

(17) **Foster care payments.** Foster care payments received for a foster child in state or tribal custody are excluded as income.

(18) **Victims of Crime Act of 1984.** Payments made from the crime victims compensation program as amended in Section 1402 of the Victims of Crime Act of 1984 are excluded. [42 USC 10602]

(19) **Family Support Assistance Payment Program.** Family Support Assistance Payment Program payments paid to individuals by the Developmental Disabilities Services Division of the Oklahoma Department of Human Services (OKDHS) are excluded as income.

(20) **Vendor payments.** Vendor payments are payments in money on behalf of a household when a person or organization outside the household uses its own funds to make a direct payment to either a household's creditors or a person or organization providing a service to the household are excluded. Payments specified by a court order or other legally binding agreement to be paid directly to the client but that are instead diverted to pay a third party for a household expense are counted as income.

(21) **Income excluded by federal law.** Income excluded by federal law is defined as:

(A) payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) payments received:

(i) under the Alaska Native Claims Settlement Act [Public Law (P. L.) 92-203, § 21(a)];

(ii) under the Sac and Fox Indian Claims Agreement [P.L. 94-189];

(iii) from the disposition of funds to the Grand River Band of Ottawa Indians [P.L. 94-540];

(iv) by members of the Confederated Tribes of the Mescalero Reservation [P.L. 95-433]; or

(v) under the Maine Indian Claims Settlement Act of 1980 to members of the Passamaquoddy and the Penobscot Nation [P.L. 96-420];

(C) any payment to volunteers under Title II, Retired and Senior Volunteer Program, Foster Grandparents and others, of the Domestic Volunteer Services Act of 1973 [P.L. 93-113] as amended. Payments under Title I of that Act, Volunteers in Service To America, University Year for Action, and Urban Crime Prevention Program, to volunteers are excluded only if the monthly amount, when converted to an hourly rate, is less than the Oklahoma minimum wage;

(D) income derived from submarginal land of the United States which is held in trust for certain Indian tribes [P.L. 94-114, Sec. 6];

(E) Indian payments, which include judgment funds or funds held in trust, distributed per capita by the Secretary of the Interior of the Bureau of Indian Affairs or distributed by the tribe subject to approval by the Secretary of the Interior. Also, any interest or investment income accrued on such funds while held in trust or any purchases made with judgment funds, trust funds, interest, or investment income accrued on such funds. Any income from mineral leases, from tribal businesses investments, and the like, as long as the payments are paid per capita. For purposes of this paragraph, per capita is defined as each tribal member receiving an equal amount. However, any interest or income derived from the principal or produced by purchases made with the funds after distribution is considered as any other income;

(F) income up to \$2,000 per year received by individual Indians, which is derived from leases or other uses of individually-owned trust or restricted lands is not counted as income. The income exclusion applies to calendar years beginning January 1, 1994. Any remaining disbursements from the trust or restricted lands are considered as income;

(G) allowances, earnings, and payments received by a child(ren) in the household from a program funded by participation in the Workforce Investment Act (WIA), including Job Corps income are not counted as income;

(H) payments, allowances, or earnings to individuals participating in programs under Title I of the National and Community Service Trust Act of 1993. Title I includes three Acts: Serve-America, The Community Service, Schools and Service-Learning Act of 1990, the American Conservation and Youth Service Corps Act of 1990, and the National and Community Service Act. Most of the payments are made as a weekly stipend or for educational assistance. The Higher Education Service-Learning Program and the AmeriCorps Umbrella Program come under this Title. This includes AmeriCorps income;

(I) payments or allowances made under any federal law for the purpose of energy assistance, Low Income Home Energy Assistance Program (LIHEAP), and also utility payments and reimbursements made

by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA);

(J) the amount of the mandatory salary reduction of military service personnel used to fund the G.I. Bill;

(K) all funds paid to individuals under the Community Service Employment Program under Title V. [P.L. 100-175] This program is authorized by the Older Americans Act. Each State and various organizations receive some Title V funds. These organizations include:

- (i) Green Thumb;
- (ii) National Council on Aging;
- (iii) National Council of Senior Citizens;
- (iv) American Association of Retired Persons;
- (v) U.S. Forest Service;
- (vi) National Association for Spanish Speaking;
- (vii) National Urban League;
- (viii) National Council on Black Aging; and
- (ix) National Council on Indian Aging;

(L) payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement In Re Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);

(M) payments received under the Civil Liberties Act of 1988. These payments are made to individuals of Japanese ancestry who were detained in interment camps during World War II;

(N) payments made from the Radiation Exposure Compensation Trust Fund as compensation for injuries or deaths resulting from exposure to radiation from nuclear testing and uranium mining;

(O) payments for the fulfillment of a Plan for Achieving Self-Support under Title XVI of the Social Security Act;

(P) payments made to individuals because of their status as victims of Nazi persecution;

(Q) payments made for the Experimental Housing Allowance Program under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937 as amended;

(R) monetary allowances provided to certain children of Vietnam War veterans as described in Chapter 18 of Title 38 of the United States Code (USC);

(S) federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, and comparable disaster assistance provided by states, local governments, and disaster assistance organizations. For payments to be excluded, the disaster or emergency must be declared by the President of the United States;

(T) the value of the food stamp allotment under the Food Stamp Act of 1977; and

(U) the value of supplemental food assistance under the Child Nutrition Act of 1966 and the special

food services program for children under the National School Lunch Act of 1970, both as amended by the Omnibus Budget Reconciliation Act of 1981.

*[OAR Docket #04-1285; filed 9-1-04]*

**TITLE 365. INSURANCE DEPARTMENT  
CHAPTER 25. LICENSURE OF AGENTS,  
ADJUSTERS, BAIL BONDSMEN,  
COMPANIES, PREPAID FUNERAL  
BENEFITS, AND VIATICAL AND LIFE  
SETTLEMENTS PROVIDERS AND  
BROKERS**

*[OAR Docket #04-1283]*

**RULEMAKING ACTION:**  
EMERGENCY adoption

**RULES:**  
Subchapter 11. Viatical Settlements Regulation  
365:25-11-3. License requirements for viatical settlement brokers  
Subchapter 13. Life Settlements Regulation  
365:25-13-3. License requirements for life settlement brokers

**AUTHORITY:**  
Insurance Commissioner, 36 O.S. §§ 307.1, 4050 and 4094

**DATES:**  
**Adoption:**  
July 8, 2004

**Approved by Governor:**  
August 23, 2004

**Effective:**  
Immediately upon approval by the Governor

**Expiration:**  
Effective through July 14, 2005, unless superseded by another rule or disapproved by the Legislature

**SUPERSEDED EMERGENCY RULES:**  
n/a

**INCORPORATION BY REFERENCE:**  
n/a

**FINDING OF EMERGENCY:**  
An imminent peril exists to the preservation of the public health, safety, and welfare, and a compelling public interest requires an emergency rule due to the necessity of providing for licensure of life insurance producers as viatical settlement and life settlement brokers in conformance with amendments to the National Association of Insurance Commissioner's model regulations.

**ANALYSIS:**  
The proposed amendments set out changes to the requirements for licensure of viatical and life settlement brokers by permitting persons licensed as a resident or nonresident insurance producer with a life insurance line of authority for one year to qualify for a license to conduct the business of a viatical and life settlement broker.

**CONTACT PERSON:**  
Karl Kramer, Oklahoma Insurance Department, (405) 521-2746

**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 11. VIATICAL SETTLEMENTS  
REGULATION**

## Emergency Adoptions

### 365:25-11-3. License requirements for viatical settlement brokers

A viatical settlement broker shall not solicit a viatical settlement contract without first obtaining a license from the Commissioner.

- (1) A viatical settlement broker shall make application on a form required by the Commissioner.
- (2) The application shall be accompanied by a fee of \$500.00. The license may be renewed yearly by payment of a fee of \$500.00. Failure to pay the renewal fee within the time prescribed shall result in automatic revocation of the license.
- (3) The Commissioner shall have the right to suspend, revoke or refuse to renew the license of any viatical settlement broker if the Commissioner finds that:
  - (A) There was any misrepresentation in the application for a license;
  - (B) The broker has been found guilty of fraudulent or dishonest practices, has been found guilty of a felony or any misdemeanor of which criminal fraud is an element, or is otherwise shown to be untrustworthy or incompetent;
  - (C) The licensee has placed or attempted to place a viatical settlement with a viatical settlement provider not licensed in this state; or
  - (D) The licensee has violated any of the provisions of the Viatical Settlement Act, 36 O.S. § 4041, et seq., or this regulation.

(4) A person shall be deemed to meet the licensing requirements of this section and of the Viatical Settlement Act, 36 O.S. § 4041, et seq., and shall be permitted to operate as a viatical settlement broker, as defined in Section 4042(2) of the Viatical Settlement Act, if that person is licensed as a resident or nonresident insurance producer with a life insurance line of authority pursuant to the Oklahoma Producer Licensing Act, 36 O.S. § 1435.1, et seq., for at least one year. Not later than thirty (30) days from the first day of operating as a viatical settlement broker, the producer shall notify the Insurance Department that he or she is acting as a viatical settlement broker on a form or in a manner that may be prescribed by the Insurance Department, and shall pay the fee as set out in this section. The notification shall include an acknowledgment by the producer that he or she will operate as a viatical settlement broker in accordance with the Viatical Settlement Act and this regulation.

### SUBCHAPTER 13. LIFE SETTLEMENTS REGULATION

### 365:25-13-3. License requirements for life settlement brokers

A life settlement broker shall not solicit a life settlement contract without first obtaining a license from the Commissioner.

- (1) A life settlement broker shall make application on a form required by the Commissioner.

(2) The application shall be accompanied by a fee of \$500.00. The license may be renewed yearly by payment of a fee of \$500.00. Failure to pay the renewal fee within the time prescribed shall result in automatic revocation of the license.

(3) The Commissioner shall have the right to suspend, revoke or refuse to renew the license of any life settlement broker if the Commissioner finds that:

- (A) There was any misrepresentation in the application for a license;
- (B) The broker has been found guilty of fraudulent or dishonest practices, has been found guilty of a felony or any misdemeanor of which criminal fraud is an element, or is otherwise shown to be untrustworthy or incompetent;
- (C) The licensee has placed or attempted to place a life settlement with a life settlement provider not licensed in this state; or
- (D) The licensee has violated any of the provisions of the Life Settlement Act, 36 O.S. § 4085, et seq., or this regulation.

(4) A person shall be deemed to meet the licensing requirements of this section and of the Life Settlement Act, 36 O.S. § 4085, et seq., and shall be permitted to operate as a life settlement broker, as defined in Section 4086(3) of the Life Settlement Act, if that person is licensed as a resident or nonresident insurance producer with a life insurance line of authority pursuant to the Oklahoma Producer Licensing Act, 36 O.S. § 1435.1, et seq., for at least one year. Not later than thirty (30) days from the first day of operating as a life settlement broker, the producer shall notify the Insurance Department that he or she is acting as a life settlement broker on a form or in a manner that may be prescribed by the Insurance Department, and shall pay the fee as set out in this section. The notification shall include an acknowledgment by the producer that he or she will operate as a life settlement broker in accordance with the Life Settlement Act and this regulation.

[OAR Docket #04-1283; filed 8-27-04]

## TITLE 565. OKLAHOMA BOARD OF PRIVATE VOCATIONAL SCHOOLS CHAPTER 10. LICENSURE AND REGULATION OF PRIVATE VOCATIONAL SCHOOLS AND REPRESENTATIVES

[OAR Docket #04-1284]

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 5. Fees  
565:10-5-1. [AMENDED]  
Subchapter 27. Financial Statements and Financial Stability  
565:10-27-1. [AMENDED]

### AUTHORITY:

Oklahoma Board of Private Vocational Schools, 70 O.S. 2001, § 21-107.

**DATES:**

**Adoption:**

July 29, 2004

**Approved by Governor:**

August 11, 2004

**Effective:**

Immediately upon approval by the Governor.

**Expiration:**

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

**SUPERSEDED EMERGENCY ACTIONS:**

NONE

**INCORPORATIONS BY REFERENCE:**

NONE

**FINDING OF EMERGENCY:**

Emergency rules are requested to implement the statutory amendments to the Oklahoma Board of Private Vocational Schools' licensing law, House Bill 2400, signed into law on May 23, 2002, with provisions effective July 1, 2004, and to amend the financial statement requirements to require the income statement to include the total tuition collected by the school.

**ANALYSIS:**

The purpose of these emergency rules is to reflect fee increases in House Bill 2400, and to amend the requirements for the income statement section of the school's financial statement to ensure inclusion of total tuition collected by the school for the year covered by the financial statement. This information is required since the fee increases in HB 2400 are based on total tuition collected by the school.

**CONTACT PERSON:**

Dennis Rea (405) 521-2225

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

**SUBCHAPTER 5. FEES**

**565:10-5-1. School fees**

(a) **Main school fee.** Private schools shall pay the following base fee per license issued by the Board: A fee of ~~One Thousand Dollars (\$1,000.00)~~ One Thousand Two Hundred Dollars (\$1,200.00) shall be paid to the Board for the issuance of a new license under 70 O.S. § 21-103, ~~and a fee of Five Hundred Twenty Five Dollars (\$525.00) shall be paid to the Board for each renewal of a license.~~ For each renewal of a license, a fee based on the total tuition collected by the school as shown in the current financial statement of the school shall be paid to the Board. as follows: \$50,000.00 or less the fee will be \$700.00; 50,001.00 to \$250,000.00 the fee will be \$800.00; \$250,001.00 to \$500,000.00 the fee will be \$950.00; \$500,001.00 to \$1,000,000.00 the fee will be \$1,100.00; \$1,000,001.00 to \$3,000,000.00 the fee will be \$1,300.00; \$3,000,001\* and above the fee will be \$1,500.00. [70:21-106 (C)(1)]

(b) **Branch school fee.** In addition to the fees required for the main school location, each private school shall pay an additional fee of Three Hundred Dollars (\$300.00) for each in state branch and a fee of Three Hundred Dollars (\$300.00) for each out of state branch as defined by 70 O.S. § 21-101. Each branch which is not located in the same state as its main school or which does not offer substantially the same curriculum as is

offered at the main school shall be considered to be a separate private school. Upon application for a license or renewal of license, each private school shall designate a main school location. [70:21-106 (C)(2)]

**SUBCHAPTER 27. FINANCIAL STATEMENTS AND FINANCIAL STABILITY**

**565:10-27-1. Financial statements**

(a) **Format.** Each school shall submit a financial statement which has been prepared by a licensed Certified Public Accountant or licensed Public Accountant in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The statement will be a "Compilation", "Reviewed", or "Audited" statement or report. A compilation will be required for schools that collected less than Two Hundred and Fifty Thousand Dollars (\$250,000) in gross tuition for the year reported, schools licensed as Seminars, Workshops, and Short Courses as stated in 565:10-23, and new schools not participating in "Title IV Programs" through the U.S. Department of Education. The compilation report must be certified by the school owner or proper executive officer as true and correct in content. All other schools must submit a reviewed statement. If a school is required by another licensing, accrediting, or approving body to submit an audited statement, than that statement shall be submitted to this Board in lieu of other financial reporting required by this section. A school required to submit a compilation may submit a reviewed or audited statement instead.

(1) Financial statements, for other than a new school, must include:

- (A) A cover letter from the preparer.
- (B) A Balance sheet.
- (C) An income statement that includes a separate line item showing the total tuition collected by the school.

(2) In addition, Audited and Reviewed statements must include:

- (A) A statement of changes in shareholders'/owners' equity.
- (B) A statement of cash flows.
- (C) Notes to financial statements.

(b) **Balance sheet.** All Compilation statements must carry as separate line items on the balance sheet or on a notarized statement signed by the school owner or corporate officer and attached as part of the financial statement the following:

- (1) Unearned tuition.
- (2) Unpaid, past due taxes.
- (3) Unpaid, past due tuition refunds.
- (4) Unpaid fines and assessments.
- (5) Unpaid judgments against the institution.

(c) **Period of coverage.** The school shall submit a report covering their most recent fiscal year. The report shall cover a twelve (12) month period unless the school has not been in business for a full year. Schools which submit a statement for a fiscal year ending more than six (6) months prior to filing shall

## **Emergency Adoptions**

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submit a quarterly report for their most recent quarter. A new school shall submit a statement which reflects their financial position at the time of application.

*[OAR Docket #04-1284; filed 8-30-04]*

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# 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

**1:2004-29.**

### EXECUTIVE ORDER 2004-29

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution hereby declare the following:

1. Joint State and local damage assessments have been made in the City of Guthrie in Logan County, which received damages as a result of severe straight line winds that occurred August 11, 2004.

2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. There is hereby declared a disaster emergency caused by severe straight line winds in the City of Guthrie in Logan County that threatened the lives and property of the people of this State and the peace, health and safety of the public.

4. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

5. This declaration of emergency shall terminate as provided in 63 O.S. §683.9.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 27th day of August, 2004.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage  
Secretary of State

[OAR Docket #04-1289; filed 9-2-04]

**1:2004-30.**

### EXECUTIVE ORDER 2004-30

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution and 63 O.S. §§ 683.1 et seq., hereby declare that because there exists a state of emergency in the State of Florida due to Hurricanes Charley and Frances, it is necessary to expedite restoration of services and relief in that State. In order to accommodate this need and to provide assistance to the citizens of Florida in this extraordinary situation, I hereby order that:

1. The requirements for special permits for use of overweight/oversized vehicles are temporarily suspended as they apply to vehicles used in these restoration efforts.

2. The requirements for licensing/operating authority/registration as required by the Oklahoma Corporation Commission are temporarily suspended as they apply to vehicles used for restoration efforts.

3. This temporary order shall terminate as provided in 63 O.S. §683.3(3).

This Executive Order shall be forwarded to the Oklahoma Corporation Commission and the Commissioner of Public Safety, who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

## Executive Orders

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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 9th day of September, 2004.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:  
Kathy Jekel  
Acting Assistant Secretary of State

*[OAR Docket #04-1304; filed 9-9-04]*

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**1:2004-31.**

### EXECUTIVE ORDER 2004-31

I, Brad Henry, Governor of the State of Oklahoma, in recognition of Patriot Day, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Saturday, September 11, 2004, to honor the many innocent people who perished on September 11, 2001.

On that day, more than 3,000 people lost their lives in New York City, Washington, D.C. and Pennsylvania. The flying of flags at half-staff reflects that Oklahomans remember those killed and demonstrates our sympathy for their families.

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 9th day of September, 2004.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:  
M. Susan Savage  
Secretary of State

*[OAR Docket #04-1305; filed 9-10-04]*

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