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# The Oklahoma Register

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

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Oklahoma <b>LAW</b> Enforcement Retirement System .....	395	Board of Regents of <b>ROGERS</b> State College .....	615
Board on <b>LEGISLATIVE</b> Compensation .....	400	Board of Regents of <b>ROSE</b> State College .....	620
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<b>MERIT</b> Protection Commission .....	455	and Audiology .....	690
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<b>PUBLIC</b> Affairs) .....	580	Oklahoma <b>WHEAT</b> Commission .....	795
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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 17. WATER QUALITY**

*[OAR Docket #04-1423]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Subchapter 4. Animal Waste Impoundments [NEW]

### **SUMMARY:**

The proposed rules will allow the Department to ensure that impoundments used for truck washes and egg laying operations in limited circumstances are constructed properly in order to protect waters of the state of Oklahoma. The rules will provide for fees to obtain a license to operate these types of facilities if they are not on the site of another regulated facility.

### **AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (29); 27A O.S. Supp. 2004 § 1-3-101(D)(1)(a); 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 December 15, 2004 through January 18, 2005.

### **PUBLIC HEARING:**

A public hearing will be held at 9:00 a.m., January 18, 2005, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

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

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from December 15, 2004 through January 18, 2005.

### **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.

### **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

*[OAR Docket #04-1423; filed 11-22-04]*

## **TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 17. WATER QUALITY**

*[OAR Docket #04-1424]*

### **RULEMAKING ACTION:**

Notice of proposed **PERMANENT** rulemaking

### **PROPOSED RULES:**

Subchapter 9. Agricultural Compost Facilities [NEW]

### **SUMMARY:**

The proposed rules provide guidelines for constructing and managing compost facilities that use agricultural wastes. The rules will provide for Best Management Practices, construction requirements, as well as fees for licensing of the facilities.

### **AUTHORITY:**

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (29); 27A O.S. Supp. 2004 § 1-3-101(D)(1)(a); 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 December 15, 2004 through January 18, 2005.

### **PUBLIC HEARING:**

A public hearing will be held at 10:00 a.m., January 18, 2005, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

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

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from December 15, 2004 through January 18, 2005.

## Notices of Rulemaking Intent

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### 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.

### 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

*[OAR Docket #04-1424; filed 11-22-04]*

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

*[OAR Docket #04-1425]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 29. Fertilizer

Part 3. Liquid, Dry, and Anhydrous Ammonia

35:30-29-37.1. [NEW]

### SUMMARY:

The proposed rule will help protect against the criminal misuse of ammonium nitrate fertilizer and provide for homeland security. The rule will establish that stored ammonium nitrate fertilizer must be secured, as well as incorporating the guidelines suggested by The Fertilizer Institute, Bureau of Alcohol, Tobacco and Firearms, and Department of Homeland Security for sales of ammonium nitrate fertilizer. The rule requires all sales information to be recorded, customers show ID, and records be kept for two years.

### AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2) and (29), 8-77.1 et seq.; 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 December 15, 2004 through January 18, 2005.

### PUBLIC HEARING:

A public hearing will be held at 11:00 a.m., January 18, 2005, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar

amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from December 15, 2004 through January 18, 2005.

### 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.

### 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

*[OAR Docket #04-1425; filed 11-22-04]*

## TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS

*[OAR Docket #04-1452]*

### RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

### PROPOSED RULES:

Chapter 1. Administrative Organization and Operations  
[AMENDED]

### SUMMARY:

The proposed revisions to chapter 1 include changes necessary to define new statutory changes approved by the legislature and Governor that became effective May 6, 2004 with an emergency clause.

### AUTHORITY:

59 O.S. Supp. 2002, SEC. 161.2 et seq., 59 O.S. Supp 2004, SEC.; Board of Chiropractic Examiners

### COMMENT PERIOD:

Written comments will be accepted December 16, 2004 through January 16, 2005 at: Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Kelly

### PUBLIC HEARING:

Public hearing is scheduled on January 21, 2005, 5:00 p.m. at the Office of the Board of Veterinary Medical Examiners and the Oklahoma Board of Dentistry conference room, 201 N.E. 38<sup>th</sup> Terrace, Suite 1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained from the Oklahoma Board Of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

**RULE IMPACT STATEMENT:**

The rule impact statement may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

**CONTACT PERSON:**

Beth Kelly (405) 524-6223

*[OAR Docket #04-1452; filed 11-23-04]*

**TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS  
CHAPTER 3. DISCIPLINARY PROCEDURES**

*[OAR Docket #04-1453]*

**RULEMAKING ACTION:**

Notice of proposed Permanent rulemaking

**PROPOSED RULES:**

Chapter 3. Disciplinary Procedures [AMENDED]

**SUMMARY:**

The proposed revisions to chapter 3 include changes necessary to define new statutory changes approved by the legislature and Governor that became effective May 6, 2004 with an emergency clause.

**AUTHORITY:**

59 O.S. Supp 2004, SEC.; Board of Chiropractic Examiners

**COMMENT PERIOD:**

Written comments will be accepted December 16, 2004 through January 16, 2005 at: Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Kelly

**PUBLIC HEARING:**

Public hearing is scheduled on January 21, 2005, 5:00 p.m. at the Office of the Board of Veterinary Medical Examiners and the Oklahoma Board of Dentistry conference room, 201 N.E. 38<sup>th</sup> Terrace, Suite 1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained from the Oklahoma Board Of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

**RULE IMPACT STATEMENT:**

The rule impact statement may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup>

Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

**CONTACT PERSON:**

Beth Kelly (405) 524-6223

*[OAR Docket #04-1453; filed 11-23-04]*

**TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS  
CHAPTER 10. LICENSURE OF CHIROPRACTIC PHYSICIANS**

*[OAR Docket #04-1454]*

**RULEMAKING ACTION:**

Notice of proposed Permanent rulemaking

**PROPOSED RULES:**

Chapter 10. Licensure of Chiropractic Physicians [AMENDED]

**SUMMARY:**

The proposed revisions to chapter 10 include changes necessary to define new statutory changes approved by the legislature and Governor that became effective May 6, 2004 with an emergency clause.

**AUTHORITY:**

59 O.S. Supp 2004, SEC.; Board of Chiropractic Examiners

**COMMENT PERIOD:**

Written comments will be accepted December 16, 2004 through January 16, 2005 at: Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Kelly

**PUBLIC HEARING:**

Public hearing is scheduled on January 21, 2005, 5:00 p.m. at the Office of the Board of Veterinary Medical Examiners and the Oklahoma Board of Dentistry conference room, 201 N.E. 38<sup>th</sup> Terrace, Suite 1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained from the Oklahoma Board Of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

**RULE IMPACT STATEMENT:**

The rule impact statement may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

**CONTACT PERSON:**

Beth Kelly (405) 524-6223

*[OAR Docket #04-1454; filed 11-23-04]*

## Notices of Rulemaking Intent

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### TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 15. SPECIAL CERTIFICATES AND MISCELLANEOUS PROVISIONS

[OAR Docket #04-1455]

#### **RULEMAKING ACTION:**

Notice of proposed Permanent rulemaking

#### **PROPOSED RULES:**

Chapter 15. Special Certificates and Miscellaneous Provisions [AMENDED]

#### **SUMMARY:**

The proposed revisions to chapter 15 include changes necessary to amend current rules that the Board sees necessary to strengthen language in these rules to ensure public safety, health, and welfare.

#### **AUTHORITY:**

59 O.S. Supp 2004, SEC.; Board of Chiropractic Examiners

#### **COMMENT PERIOD:**

Written comments will be accepted December 16, 2004 through January 16, 2005 at: Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105, Attn: Beth Kelly

#### **PUBLIC HEARING:**

Public hearing is scheduled on January 21, 2005, 5:00 p.m. at the Office of the Board of Veterinary Medical Examiners and the Oklahoma Board of Dentistry conference room, 201 N.E. 38<sup>th</sup> Terrace, Suite 1 and 2, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

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

N/A

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

Copies of proposed rules may be obtained from the Oklahoma Board Of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

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

The rule impact statement may be obtained from the Oklahoma Board of Chiropractic Examiners, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105. Telephone 405-524-6223.

#### **CONTACT PERSON:**

Beth Kelly (405) 524-6223

[OAR Docket #04-1455; filed 11-23-04]

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

[OAR Docket #04-1429]

#### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

#### **PROPOSED RULES:**

Subchapter 1. Quality Jobs Program  
150:65-1-2. Definitions [AMENDED]  
150:65-1-3. Eligible entities [AMENDED]  
150:65-1-4. ~~Project profile~~Application [AMENDED]  
150:65-1-5. Detailed cost-benefit analysis; review of information [AMENDED]  
150:65-1-6. Incentive offer contract [AMENDED]  
150:65-1-7. Transmittal of information [AMENDED]  
150:65-1-8. Origination fees [AMENDED]  
150:65-1-9. Required information [AMENDED]  
150:65-1-10. Incentive payments; Expansions [AMENDED]  
150:65-1-11. Additional incentive payments [AMENDED]  
150:65-1-12. Subunit [AMENDED]  
150:65-1-13. Combination [AMENDED]

#### **SUMMARY:**

This action is to clarify the existing Oklahoma Quality Jobs Program rules and to incorporate recent legislative changes in the Oklahoma Quality Jobs Program.

#### **AUTHORITY:**

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Quality Jobs Program 68 O.S. §§ 3601 et seq.

#### **COMMENT PERIOD:**

Written and oral comments will be accepted from December 15, 2004 through January 14, 2005 during regular business hours by contacting Donald R. Hackler, Jr., Attorney, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

#### **PUBLIC HEARING:**

A public hearing will be held at 9:00 a.m. on Tuesday, January 18, 2005, at Gallery 1-1, 900 North Stiles Avenue, Oklahoma City, Oklahoma. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

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

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

**COPIES OF THE PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available at the offices of the Oklahoma Department of Commerce (address below).

**CONTACT PERSON:**

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

*[OAR Docket #04-1429; filed 11-22-04]*

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

*[OAR Docket #04-1464]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 9. Professional Standards: Teacher Education and Certification

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

210:20-9-172. [AMENDED]

**SUMMARY:**

The purpose of the proposed rule change would be to add English as a second language (ESL) as a licensure/certification area and would establish the teacher competencies for the licensure/certification. The proposed rule change would give teachers the opportunity to become licensed/certified in ESL a licensure/certification area that is currently not available. Further, the number of limited-English-proficient (LEP) students has increased 8.99 percent in one year.

**AUTHORITY:**

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

**COMMENT PERIOD:**

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 19, 2005, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

**PUBLIC HEARING:**

A public hearing will be held at 9:00 a.m. on Thursday, January 20, 2005, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:05 a.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 2, 2004.

**CONTACT PERSON:**

Connie Holland, 405-521-3308

*[OAR Docket #04-1464; filed 11-24-04]*

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 4. RULES OF PRACTICE AND PROCEDURE**

*[OAR Docket #04-1430]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

252:4-1-5. Availability of a record [AMENDED]

252:4-1-6. Administrative fees [AMENDED]

**SUMMARY:**

The Department proposes to amend language to OAC 252:4-1-5 and 4-1-6 in order to provide greater security and file integrity for agency records and to cover some of the costs of materials when the Department responds to open records requests. Specifically, the amendments relate to restrictions on removal of files from the DEQ offices and to recovery of DEQ costs for faxing, mailing, delivery service, and copying of CDs.

**AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Executive Director powers and duties, 27A O.S. § 2-3-201(C)(3); Copying and/or mechanical reproduction of records, Schedule of Fees 27A O.S. § 2-3-402(B) and 51 O.S. § 24A.5(3)

**COMMENT PERIOD:**

Written comments will be accepted prior to and at the Environmental Quality Board meeting on March 4, 2005. Oral comments may be presented at the Environmental Quality Board meeting on March 4, 2005.

**PUBLIC HEARINGS:**

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005 at the Department of Environmental Quality, Multipurpose Room, 707 N. Robinson, Oklahoma City, OK 73102

## Notices of Rulemaking Intent

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### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by the proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with the proposed rules. Other persons may provide comments regarding a specific rule. Comments should not be of a general nature.

### COPIES OF PROPOSED RULES:

The proposed rules may be obtained from the contact person or from the DEQ webpage at <http://www.deq.state.ok.us>.

### RULE IMPACT STATEMENT:

The rule impact statement for the proposed rules may be obtained from the contact person or from the DEQ webpage at <http://www.deq.state.ok.us/>.

### CONTACT PERSON:

Contact Martha Penisten at [martha.penisten@deq.state.ok.us](mailto:martha.penisten@deq.state.ok.us) or (405) 702-7189 (phone) or 702-7199 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, OK 73101-1677.

### ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

*[OAR Docket #04-1430; filed 11-22-04]*

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 4. RULES OF PRACTICE AND PROCEDURE

*[OAR Docket #04-1431]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 7. Environmental Permit Process  
Part 7. Water Quality Division Tiers and Time Lines  
252:4-7-73. [AMENDED]  
252:4-7-74. [AMENDED]

### SUMMARY:

The Department proposes to update its rules concerning certain water quality permits. The changes clarify certain ambiguous language and add certain permit categories inadvertently omitted, such as pretreatment permits, and all 401 certifications.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; Water Quality, 27A O.S. § 2-6-101 *et seq.*; and Oklahoma Uniform Environmental Permitting Act, 27A O.S. § 2-14-101 *et seq.*

### COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the Water Quality Management Advisory Council hearing on January 18, 2005. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 14, 2005. Oral comments may be made at the January 18, 2005 hearing and the March 4, 2005 Environmental Quality Board meeting.

### PUBLIC HEARINGS:

Before the Water Quality Management Advisory Council at 1:00 p.m. on Tuesday, January 18, 2005 at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005, at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

### COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Water Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Water Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-8100.

### RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

### CONTACT PERSON:

Please send written comments to Shellie Chard-McClary (e-mail: [shellie.chard-mcclary@deq.state.ok.us](mailto:shellie.chard-mcclary@deq.state.ok.us)) at the Oklahoma Department of Environmental Quality, Water Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-8100, fax (405) 702-8101.

**PERSONS WITH DISABILITIES:**

Should you desire to attend but have a disability and need an accommodation, please notify the Water Quality Division three (3) days in advance at (405) 702-8100.

[OAR Docket #04-1431; filed 11-22-04]

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

[OAR Docket #04-1432]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1. [AMENDED]

252:100-5-2.2. [AMENDED]

Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants

Part 1. General Provisions

252:100-41-1.1. [NEW]

Part 3. Hazardous Air Contaminants

252:100-41-3. [NEW]

252:100-41-4. [NEW]

Subchapter 42. Control of Toxic Air Contaminants [NEW]

Appendix O. Toxic Air Contaminants (TAC) Maximum Acceptable Ambient Concentrations(MAAC) [NEW]

**SUMMARY:**

The Department is proposing amendments to Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, that would increase the annual operating fees for stationary sources that emit hazardous air pollutants (HAP) regulated under Section 112 of the Federal Clean Air Act, toxic air contaminants (TAC) as listed in proposed Appendix O, and volatile organic compounds (VOC) as defined in OAC 252:100-1-3, 252:100-37-2 and 252:100-39-2. The proposed rule will establish groups for classifying regulated air pollutants for fee purposes only. The proposed fee increase should generate approximately \$835,000 and will be used to fund the toxics program proposed in 252:100-42. Should adequate funding be obtained from other sources, such as general appropriations, the Department will not pursue an additional toxics fee.

The Department is proposing to redefine the state air toxics program. Amendments are proposed to Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants, to partition existing Subchapter 41 into two subchapters. The proposed amendments will clarify and modify the state-only requirements for emissions from stationary sources, and relocate these requirements into the new Subchapter 42. Subchapter 41 will contain the federal requirements for hazardous air pollutants (HAP) and asbestos.

The remaining Sections 15 and 16 of Subchapter 41, that incorporate by reference National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 CFR Parts 61 and 63 and specific asbestos requirements, would be retained in Subchapter 41. Also, two new sections would be added as 252:100-41-3 and -4 and a single change will be made to the purpose section in Part 3.

The program proposed in Subchapter 42 intends to provide a more effective approach to the control of toxic air contaminants (TAC), while continuing to protect the public and environment from the potentially harmful effects of TAC. When ambient air monitoring indicates that a TAC Maximum Acceptable Ambient Concentration (MAAC) is exceeded in such a way as to endanger the public health, the proposed rule requires the Department to designate an Area of Concern (AOC) and to develop a strategy for bringing the ambient air concentration of the toxic air contaminant (TAC) in the Area of Concern (AOC) under the TAC MAAC.

Additional funding will be required in order for the proposed air toxics program set forth in Subchapter 42 to be implemented. If Subchapter 42 is not approved, or if new funding is not provided, the Department will maintain the toxics program as it currently exists in Subchapter 41. The proposed Subchapter 42 has an effective date of October 1, 2005. If Subchapter 42 is not funded, the Department will ask the Council and the Board to take action to revoke the Subchapter before the October 1, 2005 effective date. Language is included in Subchapter 42 stating that when effective, Subchapter 42 supersedes all of Subchapter 41 except for Part 3. Language is included in Subchapter 41 stating that the Subchapter will only remain effective if Subchapter 42 does not supersede it. Language is also included in Subchapter 41 stating that Part 3 will not be superseded.

**AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101, 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

**COMMENT PERIOD:**

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 19, 2005. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 12, 2005. Oral comments may be made at the January 19, 2005 hearing and the March 4, 2005 Environmental Quality Board meeting.

**PUBLIC HEARINGS:**

Before the Air Quality Council at 9:00 a.m. on Wednesday, January 19, 2005 at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005 at the Department of Environmental Quality.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible,

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the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

### COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Air Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Air Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-4100.

### RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

### CONTACT PERSON:

Please send written comments to Morris Moffett (e-mail: [morris.moffett@deq.state.ok.us](mailto:morris.moffett@deq.state.ok.us)) or Lisa Donovan (e-mail: [lisa.donovan@deq.state.ok.us](mailto:lisa.donovan@deq.state.ok.us)) for Subchapter 5, Lisa Donovan for Subchapter 41, and Brad Cook (e-mail: [brad.cook@deq.state.ok.us](mailto:brad.cook@deq.state.ok.us)) for Subchapter 42 and Appendix O, at the Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-4100, fax (405) 702-4101.

### PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

*[OAR Docket #04-1432; filed 11-22-04]*

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## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 606. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM (OPDES) STANDARDS

*[OAR Docket #04-1433]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. Introduction  
252:606-1-4. [AMENDED]

### SUMMARY:

The Department proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules to July 1, 2004.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

### COMMENT PERIOD:

Written comments on the proposed rulemaking will be accepted prior to and at the Water Quality Management Advisory Council hearing on January 18, 2005. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 14, 2005. Oral comments may be made at the January 18, 2005 hearing and the March 4, 2005 Environmental Quality Board meeting.

### PUBLIC HEARINGS:

Before the Water Quality Management Advisory Council at 1:00 p.m. on Tuesday, January 18, 2005 at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005, at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

### COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Water Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Water Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-8100.

### RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

### CONTACT PERSON:

Please send written comments to Shellie Chard-McClary (e-mail: [shellie.chard-mcclary@deq.state.ok.us](mailto:shellie.chard-mcclary@deq.state.ok.us)) at the Oklahoma Department of Environmental Quality, Water Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-8100, fax (405) 702-8101.

### PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Water Quality Division three (3) days in advance at (405) 702-8100.

*[OAR Docket #04-1433; filed 11-22-04]*

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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 611. GENERAL WATER QUALITY**

[OAR Docket #04-1434]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions  
252:611-1-3. [AMENDED]

**SUMMARY:**

The Department proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules to July 1, 2004.

**AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S., § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

**COMMENT PERIOD:**

Written comments on the proposed rulemaking will be accepted prior to and at the Water Quality Management Advisory Council hearing on January 18, 2005. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 14, 2005. Oral comments may be made at the January 18, 2005 hearing and the March 4, 2005 Environmental Quality Board meeting.

**PUBLIC HEARINGS:**

Before the Water Quality Management Advisory Council at 1:00 p.m. on Tuesday, January 18, 2005 at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005, at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

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

**COPIES OF PROPOSED RULES:**

The proposed rules are available for review at the Water Quality Division of DEQ and on the DEQ website (www.deq.state.ok.us), Water Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-8100.

**RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained from the contact person.

**CONTACT PERSON:**

Please send written comments to Shellie Chard-McClary (e-mail: shellie.chard-mcclary@deq.state.ok.us) at the Oklahoma Department of Environmental Quality, Water Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-8100, fax (405) 702-8101.

**PERSONS WITH DISABILITIES:**

Should you desire to attend but have a disability and need an accommodation, please notify the Water Quality Division three (3) days in advance at (405) 702-8100.

[OAR Docket #04-1434; filed 11-22-04]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 616. INDUSTRIAL WASTEWATER SYSTEMS**

[OAR Docket #04-1435]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT Rulemaking

**PROPOSED RULES:**

- Subchapter 1. Introduction [AMENDED]
- 252:616-1-3. Engineer Required [NEW]
- Subchapter 7. Surface Impoundment Standards [AMENDED]
- 252:616-7-1. Construction and maintenance [AMENDED]
- Subchapter 9. Tank System Standards [AMENDED]
- 252:616-9-1. ~~Tank system materials~~ Authorized use of tank systems [AMENDED]
- 252:616-9-2. ~~Tank system requirements~~ Tank system materials [AMENDED]
- 252:616-9-3. Tank system requirements [NEW]
- Subchapter 11. Land Application Standards [AMENDED]
- 252:616-11-1. Restrictions [AMENDED]
- 252:616-11-5. Recordkeeping [AMENDED]
- 252:616-11-6. Dust Suppression [NEW]

**SUMMARY:**

The proposed amendments to Chapter 616 are the result of a workgroup comprised of facility representatives, consulting companies, associations, DEQ staff and three state agencies. The changes include the addition of language to make clear that design and closure under this chapter are considered the practice of engineering by State Statute, eliminating duplicative language relating to storm water requirements, clarifying wastewater classifications that can be treated in tank systems, making language consistent with other rules, prohibiting the land application of industrial sludge in scenic

## Notices of Rulemaking Intent

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river basins, and setting specific requirements for the use of Class III wastewater for dust suppression.

### **AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S., § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

### **COMMENT PERIOD:**

Written comments on the proposed rulemaking will be accepted prior to and at the Water Quality Management Advisory Council hearing on January 18, 2005. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 14, 2005. Oral comments may be made at the January 18, 2005 hearing and the March 4, 2005 Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

Before the Water Quality Management Advisory Council at 1:00 p.m. on Tuesday, January 18, 2005 at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005, at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

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

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

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

The proposed rules are available for review at the Water Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Water Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-8100.

### **RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained from the contact person.

### **CONTACT PERSON:**

Please send written comments to Shellie Chard-McClary (e-mail: [shellie.chard-mcclary@deq.state.ok.us](mailto:shellie.chard-mcclary@deq.state.ok.us)) at the Oklahoma Department of Environmental Quality, Water Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-8100, fax (405) 702-8101.

### **PERSONS WITH DISABILITIES:**

Should you desire to attend but have a disability and need an accommodation, please notify the Water Quality Division three (3) days in advance at (405) 702-8100.

*[OAR Docket #04-1435; filed 11-22-04]*

## **TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 619. OPERATION AND MAINTENANCE OF NON-INDUSTRIAL TOTAL RETENTION LAGOON SYSTEMS AND LAND APPLICATION**

*[OAR Docket #04-1441]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. General Provisions [NEW]

252:619-1-1. [NEW]

252:619-1-2. [NEW]

252:619-1-3. [NEW]

252:619-1-4. [NEW]

252:619-1-5. [NEW]

Subchapter 3. Operation and Maintenance [NEW]

252:619-3-1. [NEW]

252:619-3-2. [NEW]

252:619-3-3. [NEW]

Subchapter 5. Closure Requirements [NEW]

252:619-5-1. [NEW]

252:619-5-2. [NEW]

### **SUMMARY:**

The main reason for this proposed rulemaking is to clarify and consolidate all maintenance and operation rules applying to non-industrial total retention lagoon systems, with or without land application sites, into one set of rules separate from the more complex rules that apply to discharging wastewater treatment facilities. Currently, the rules dealing with the operation and maintenance of these facilities are located in three separate Chapters of Title 252 of the Oklahoma Administrative Code.

### **AUTHORITY:**

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, and 2-6-402.

### **COMMENT PERIOD:**

Deliver or mail written comments to the contact person from December 15, 2004, through January 15, 2005. Oral comments may be made at the January 18, 2005, Water Quality Management Advisory Council meeting and at the March 4, 2005, Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

Before the Water Quality Management Advisory Council at 1:00 p.m. on January 18, 2005, in the Multi-Purpose Room (1st floor), DEQ Building, 707 N. Robinson, Oklahoma City, Oklahoma 73101.

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005, in the Multi-Purpose Room (1st floor), DEQ Building, 707 N. Robinson, Oklahoma City, Oklahoma 73101. **REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

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

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the contact person at the Department of Environmental Quality or downloaded off the web at <http://www.deq.state.ok.us>, Water Quality Division, What's New.

**RULE IMPACT STATEMENT:**

The rule impact statement for the proposed rules will be on file at the Department of Environmental Quality and may be requested from the contact person.

**CONTACT PERSON:**

Contact David Freede at [david.freede@deq.state.ok.us](mailto:david.freede@deq.state.ok.us) (e-mail) or (405) 702-6100 (phone). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

**ADDITIONAL INFORMATION:**

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing, TDD Relay Number 1-800-522-8506.

[OAR Docket #04-1441; filed 11-22-04]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 621. NON-INDUSTRIAL FLOW-THROUGH AND PUBLIC WATER SUPPLY IMPOUNDMENTS AND INCLUDING LAND APPLICATION**

[OAR Docket #04-1436]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions  
252:621-1-1. [AMENDED]

**SUMMARY:**

The Department proposes to amend the title and purpose of this chapter to reflect the proposed adoption of a new chapter of rules, OAC 252:622. OAC 252:622, if adopted, will apply to all total retention, non-industrial surface impoundments. Provided OAC 252:622 is adopted, OAC 252:621 will now

apply to other impoundments, specifically, non-industrial flow-through impoundments and public water supply impoundments as well as the land application of wastewater from said impoundments.

**AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S., § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

**COMMENT PERIOD:**

Written comments on the proposed rulemakings will be accepted prior to and at the Water Quality Management Advisory Council hearing on January 18, 2005. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 14, 2005. Oral comments may be made at the January 18, 2005 hearing and the March 4, 2005 Environmental Quality Board meeting.

**PUBLIC HEARINGS:**

Before the Water Quality Management Advisory Council at 1:00 p.m. on Tuesday, January 18, 2005 at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005, at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

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

**COPIES OF PROPOSED RULES:**

The proposed rules are available for review at the Water Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Water Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-8100.

**RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained from the contact person.

**CONTACT PERSON:**

Please send written comments to Shellie Chard-McClary (e-mail: [shellie.chard-mcclary@deq.state.ok.us](mailto:shellie.chard-mcclary@deq.state.ok.us)) at the Oklahoma Department of Environmental Quality, Water Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-8100, fax (405) 702-8101.

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### PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Water Quality Division three (3) days in advance at (405) 702-8100.

*[OAR Docket #04-1436; filed 11-22-04]*

### TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 631. PUBLIC WATER SUPPLY OPERATION

*[OAR Docket #04-1437]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. Introduction  
252:631-1-3. [AMENDED]

### SUMMARY:

The Department proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules to July 1, 2004.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

### COMMENT PERIOD:

Written comments on the proposed rulemaking will be accepted prior to and at the Water Quality Management Advisory Council hearing on January 18, 2005. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 14, 2005. Oral comments may be made at the January 18, 2005 hearing and the March 4, 2005 Environmental Quality Board meeting.

### PUBLIC HEARINGS:

Before the Water Quality Management Advisory Council at 1:00 p.m. on Tuesday, January 18, 2005 at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005, at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities or any other members of the public affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or

other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

### COPIES OF PROPOSED RULES:

The proposed rules are available for review at the Water Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Water Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-8100.

### RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

### CONTACT PERSON:

Please send written comments to Shellie Chard-McClary (e-mail: [shellie.chard-mcclary@deq.state.ok.us](mailto:shellie.chard-mcclary@deq.state.ok.us)) at the Oklahoma Department of Environmental Quality, Water Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-8100, fax (405) 702-8101.

### PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Water Quality Division three (3) days in advance at (405) 702-8100.

*[OAR Docket #04-1437; filed 11-22-04]*

### TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 656. WATER POLLUTION CONTROL FACILITY CONSTRUCTION STANDARDS

*[OAR Docket #04-1438]*

### RULEMAKING ACTION:

Notice of PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. Introduction [AMENDED]  
Subchapter 3. Permit Procedures [AMENDED]  
Subchapter 5. Sanitary Sewer Standards [AMENDED]  
Subchapter 7. Pump Station Standards [AMENDED]  
Subchapter 9. General Standards [AMENDED]  
Subchapter 11. Lagoon Standards [AMENDED]  
Subchapter 13. Preliminary Treatment Standards [AMENDED]  
Subchapter 15. Biological Treatment Standards [REVOKED]  
Subchapter 16. Biological Treatment Standards [NEW]  
Subchapter 17. Clarifier Standards [AMENDED]  
Subchapter 19. Sludge Facility Standards [AMENDED]  
Subchapter 21. Disinfection Standards [AMENDED]  
Subchapter 23. Supplemental Treatment Standards [AMENDED]  
Subchapter 25. Wastewater Land Application Systems [AMENDED]  
Appendix B. Settling Tank Minimum Criteria [REVOKED]

Appendix B. Settling Tank Minimum Design Criteria  
[NEW]

**SUMMARY:**

This rulemaking is to revise and clarify the water pollution control facility construction rules. These rules amend existing procedures and requirements for the construction of wastewater treatment and collection systems. New provisions include clarification of requirements for submittal of engineering reports, plans and specifications, and construction standards for sanitary sewers, pump stations, and wastewater treatment facilities.

**AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

**COMMENT PERIOD:**

Written comments on the proposed rulemakings will be accepted prior to and at the Water Quality Management Advisory Council hearing on January 18, 2005. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 14, 2005. Oral comments may be made at the January 18, 2005 hearing and the March 4, 2005 Environmental Quality Board meeting.

**PUBLIC HEARINGS:**

Before the Water Quality Management Advisory Council at 1:00 p.m. on Tuesday, January 18, 2005 at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005, at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

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

**COPIES OF PROPOSED RULES:**

The proposed rules are available for review at the Water Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Water Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-8100.

**RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained from the contact person.

**CONTACT PERSON:**

Please send written comments to Shellie Chard-McClary (e-mail: [shellie.chard-mcclary@deq.state.ok.us](mailto:shellie.chard-mcclary@deq.state.ok.us)) at the

Oklahoma Department of Environmental Quality, Water Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-8100, fax (405) 702-8101.

**PERSONS WITH DISABILITIES:**

Should you desire to attend but have a disability and need an accommodation, please notify the Water Quality Division three (3) days in advance at (405) 702-8100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.

[OAR Docket #04-1438; filed 11-22-04]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 690. WATER QUALITY STANDARDS IMPLEMENTATION**

[OAR Docket #04-1439]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. Introduction

252:690-1-4. [AMENDED]

Subchapter 3. Point Source Discharges

252:690-3-11. [AMENDED]

252:690-3-14. [AMENDED]

252:690-3-26. [AMENDED]

252:690-3-29. [AMENDED]

252:690-3-34. [AMENDED]

252:690-3-41. [AMENDED]

252:690-3-42. [AMENDED]

Appendix B. Priority and Nonpriority Pollutants with Numerical Criteria Requiring Reasonable Potential Screening [REVOKED]

Appendix B. Priority and Nonpriority Pollutants with Numerical Criteria Requiring Reasonable Potential Screening [NEW]

**SUMMARY:**

The Department proposes to update its rules concerning the following: amending the date of the incorporation by reference of certain federal regulations, the change updates the publication date of the federal rules to July 1, 2004; amending the "incorporation by reference" rules; amending the procedure for calculating a 7Q2 to allow for alternative methods to calculate; amending background monitoring requirements; amending ammonia monitoring requirements; amending the date of publication of certain Whole Effluent Toxicity (WET) guidance documents previously incorporated by reference; amending test duration for WET tests; removing the diazinon alternative for WET testing; amending how and when WET testing frequency may be reduced; and correcting a typographical error in an appendix.

## Notices of Rulemaking Intent

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### **AUTHORITY:**

Water Quality Standards Implementation Plan, 27A O.S. § 1-1-202; Environmental Quality Board powers and duties, 27A O.S., § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

### **COMMENT PERIOD:**

Written comments on the proposed rulemaking will be accepted prior to and at the Water Quality Management Advisory Council hearing on January 18, 2005. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 14, 2005. Oral comments may be made at the January 18, 2005 hearing and the March 4, 2005 Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

Before the Water Quality Management Advisory Council at 1:00 p.m. on Tuesday, January 18, 2005 at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on March 4, 2005, at the offices of the Oklahoma Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

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

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

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

The proposed rules are available for review at the Water Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Water Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-8100.

### **RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained from the contact person.

### **CONTACT PERSON:**

Please send written comments to Shellie Chard-McClary (e-mail: [shellie.chard-mcclary@deq.state.ok.us](mailto:shellie.chard-mcclary@deq.state.ok.us)) at the Oklahoma Department of Environmental Quality, Water Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-8100, fax (405) 702-8101.

### **PERSONS WITH DISABILITIES:**

Should you desire to attend but have a disability and need an accommodation, please notify the Water Quality Division three (3) days in advance at (405) 702-8100.

*[OAR Docket #04-1439; filed 11-22-04]*

## **TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 710. WATERWORKS AND WASTEWATER WORKS OPERATOR CERTIFICATION**

*[OAR Docket #04-1440]*

### **RULEMAKING ACTION:**

Notice of PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. General Provisions [AMENDED]

252:710-1-12. [AMENDED]

Subchapter 3. Certification [AMENDED]

252:710-3-31. [AMENDED]

252:710-3-32. [AMENDED]

252:710-3-33. [AMENDED]

252:710-3-37. [AMENDED]

Subchapter 5. Duties and Responsibilities [AMENDED]

252:710-5-53. [AMENDED]

252:710-5-57. [AMENDED]

252:710-5-58. [AMENDED]

252:710-5-59. [AMENDED]

Appendix A. Classification of Community and Nontransient Noncommunity Water Systems, Wastewater Systems and Laboratories [REVOKED]

Appendix A. Classification of Community and Nontransient Noncommunity Water Systems, Wastewater Systems and Laboratories [NEW]

Appendix B. Certificate Requirements (252:710-3-35) [REVOKED]

Appendix B. Certificate Requirements (252:710-3-35) [NEW]

### **SUMMARY:**

This rulemaking is to revise and clarify the current operator certification rules. New provisions include a late payment for application fees, certification exception for certain laboratory operators, and adding a provision of classification due to the complexity of certain systems. Exemptions for certain operators of nontransient noncommunity water systems and retired operators are being revoked do to the expiration date of such exemption dates.

### **AUTHORITY:**

Environmental Quality Board and Waterworks and Wastewater Works Advisory Council; 27A O.S. §§ 2-2-101 and 2-2-201; 59 O.S. §§ 1103, 1104 and 1105.

### **REQUEST FOR COMMENTS:**

The DEQ requests that business entities or other members of the public affected by these rules provide the DEQ, within the

comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

**COMMENT PERIOD:**

Written comments may be delivered or mailed to the contact person from December 15, 2004 through January 21, 2005.

Oral comments may be made at the meeting of the Waterworks and Wastewater Works Advisory Council, January 21, 2005 and at the Environmental Quality Board meeting on March 4, 2005.

**PUBLIC HEARINGS:**

Before the Waterworks and Wastewater Works Advisory Council Meeting on January 21, 2005, at 10:00 a.m. at the Oklahoma City Office of the Department of Environmental Quality, Multi-Purpose Room, 707 N. Robinson, Oklahoma City, Oklahoma 73101.

Before the Environmental Quality Board on March 4, 2005, at 9:30 a.m. at the Oklahoma City Office of the Department of Environmental Quality, Multi-Purpose Room, 707 N. Robinson, Oklahoma City, Oklahoma 73101.

**COPY OF PROPOSED RULE:**

The proposed rules are available for review at the Water Quality Division of DEQ and on the DEQ website (www.deq.state.ok.us), Water Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-8100.

**RULE IMPACT STATEMENT:**

The rule impact statement for the proposed rule will be on file at the Department of Environmental Quality and may be requested from the contact person.

**CONTACT PERSON:**

Contact Chris Wisniewski at chris.wisniewski@deq.state.ok.us or (405) 702-8100 (phone) or 702-8101 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

**ADDITIONAL INFORMATION:**

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.

[OAR Docket #04-1440; filed 11-22-04]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES  
CHAPTER 1. FUNCTION AND STRUCTURE OF THE DEPARTMENT**

[OAR Docket #04-1444]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions  
340:1-1-4. [AMENDED]  
340:1-1-20. through 340:1-1-21. [NEW]  
(Reference APA WF # 04-22)

**SUMMARY:**

Chapter 1, Function and Structure of the Department, proposed new rules address client confidentiality and copyrighted software and documents. Rules are revised to reflect current names of divisions and offices within the Oklahoma Department of Human Services (OKDHS).

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Sections 7005-1.2 through 7005-1.4, 7107 of Title 10 of the Oklahoma Statutes; Sections 301 et seq. of Title 25 of the Oklahoma Statutes; Section 10-110 of Title 43A of the Oklahoma Statutes; Section 183 of Title 56 of the Oklahoma Statutes; Sections 250 et. seq. of Title 75 of the Oklahoma Statutes; and Part 1340 of Title 45 of the Code of Federal Regulations.

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Dena Thayer, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4326.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2005 at 5:00 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

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

[OAR Docket #04-1444; filed 11-23-04]

## Notices of Rulemaking Intent

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

[OAR Docket #04-1445]

#### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

#### PROPOSED RULES:

Subchapter 19. Correspondence [REVOKED]  
340:2-19-1. through 340:2-19-3. [REVOKED]  
(Reference APA WF # 04-25)

#### SUMMARY:

Subchapter 19 rules are revoked as they are no longer applicable.

#### AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; and Sections 250 et. seq. of Title 75 of the Oklahoma Statutes.

#### COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Dena Thayer, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4326.

#### PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2005 at 5:00 p.m.

#### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

#### COPIES OF PROPOSED RULES:

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

#### RULE IMPACT STATEMENT:

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

#### CONTACT PERSON:

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

[OAR Docket #04-1445; filed 11-23-04]

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

[OAR Docket #04-1446]

#### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

#### PROPOSED RULES:

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

340:10-2-8. [AMENDED]

Subchapter 3. Conditions of Eligibility - Need

Part 1. Resources

340:10-3-3. [AMENDED]

340:10-3-10. [AMENDED]

Part 3. Income

340:10-3-33. [AMENDED]

340:10-3-39. [AMENDED]

Part 5. Assistance Payments

340:10-3-57. [AMENDED]

Part 7. Transitional Benefits

340:10-3-81. [AMENDED]

Subchapter 9. Conditions of Eligibility - Relationship of Payee to Child

340:10-9-1. [AMENDED]

Subchapter 10. Conditions of Eligibility - Deprivation

340:10-10-5. [AMENDED]

340:10-10-7. [AMENDED]

Subchapter 15. Conditions of Eligibility - Citizenship and Alienage

340:10-15-1. [AMENDED]

340:10-15-3. [AMENDED]

Subchapter 17. Foster Care in Aid to Families with Dependent Children [REVOKED]

340:10-17-1. through 340:10-17-5. [REVOKED]

Subchapter 18. Conditions of Eligibility for Support Service Funds for Child Only Cases

340:10-18-1. [AMENDED]

Subchapter 19. Eligibility requirements for Emergency Assistance to Needy Families with Children

340:10-19-5. [AMENDED]

Subchapter 20. Diversion Assistance

340:10-20-1. [AMENDED]

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

340:10-22-1. [AMENDED]

Appendix S. Request for Services [REVOKED]

Appendix II. Application for Emergency Assistance [REVOKED]

(Reference APA WF # 04-20 and 04-29)

#### SUMMARY:

The purpose of the proposed rules is to: (1) revise TANF rules which are out of date or duplicated elsewhere in OAC 340:10; (2) change language to reflect current usage; (3) improve readability, eliminate unnecessary language, and clarify existing rules; (4) revoke rules that have been incorporated elsewhere or are no longer applicable to the foster care program; and (5) revoke appendices that are no longer needed.

#### AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 7204 of Title 10 of the Oklahoma Statutes (O.S.); Sections 230.50, 230.52,

230.55 through 56, 230.60, 230.62, through 230.66 of Title 56 of the O.S.; Section 41.4A of Title 62 of the O.S.; Personality Responsibility and Work Opportunity Act of 1996; Titles IV-B and IV-E of the Social Security Act, the Social Security Act Amendments of 1994 (Public Law (P.L.) 103-432); Section 1823(c) of Title 38 of the United States Code (U.S.C.), (P.L.) 104-204; P.L. 106-419; Section 403(a)(5)(C)(viii) of the Social Security Act (42 U.S.C. 603(a)(5)(viii)) as amended; and the Job Creation and Worker Assistance Act of 2002 (P.L. 107-47).

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Sandy Stewart, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2005 at 5:00 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

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

*[OAR Docket #04-1446; filed 11-23-04]*

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

*[OAR Docket #04-1447]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 7. Eligibility
  - 340:40-7-1. [AMENDED]
  - 340:40-7-6. [AMENDED]
  - 340:40-7-8. through 340:40-7-9. [AMENDED]
  - 340:40-7-11. through 340:40-7-12. [AMENDED]
  - Subchapter 13. Child Care Rates and Provider Issues
  - 340:40-13-5. [AMENDED]
- (Reference APA WF 04-09, 04-14, and 04-27)**

**SUMMARY:**

Family Support Services Division rules for Child Care Services are revised to: (1) require a mandatory referral to Child Support Enforcement Division (CSED) for child care clients; (2) change language about how child care support is considered; (3) change rules regarding when child care contracts are required, including the criteria that must be met before a contract is signed and the notification procedure when a contract is cancelled; (4) change the process of determining whether a good cause exception should be given; (5) add new language regarding payment of child care support to the client or child care provider; (6) add a rule regarding how to consider irregular income; (7) remove rule citations; (8) restore the category of predetermined eligibility for child care assistance to a zero co-payment for persons receiving public assistance or Supplemental Security Income (SSI); (9) 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; (10) clarify information about who is predetermined eligible for child care with a zero co-payment; (11) remove the requirement that all members of a TANF household included in a TANF benefit be included in the child care household income computation; (12) remove language regarding the earnings of an 18 year old child receiving TANF benefits; (13) clarify how to consider need for child care for employment; (14) remove the need factor for Food Stamp Employment and Training recipients as this rule is being moved to Food Stamp rules; and (15) describe how to consider money received by another household for a household member.

**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 (P.L.) 104-193; the Balanced Budget Act of 1997, P.L. 105-33; and 45 Code of Federal Regulations (CFR) Parts 98 and 99.

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Sandy Stewart, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2005 at 5:00 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

# Notices of Rulemaking Intent

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## **RULE IMPACT STATEMENT:**

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

## **CONTACT PERSON:**

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

*[OAR Docket #04-1447; filed 11-23-04]*

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

*[OAR Docket #04-1448]*

## **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

## **PROPOSED RULES:**

Subchapter 3. The Application Process

340:50-3-2. [AMENDED]

Subchapter 5. Non-financial Eligibility Criteria

Part 1. Household Definition

340:50-5-8.1. [AMENDED]

Part 3. Special Households

340:50-5-26. through 340:50-5-27. [AMENDED]

Part 5. Students, Strikers, Resident Farm Laborers, Migrant

Households, Sponsored Aliens, and School Employees

340:50-5-45. [AMENDED]

Part 7. Related Provisions

340:50-5-64. [AMENDED]

Part 9. Work Registration

340:50-5-87. through 340:50-5-88. [AMENDED]

340:50-5-97. [AMENDED]

Subchapter 7. Financial Eligibility Criteria

Part 1. Resources

340:50-7-2. [AMENDED]

Subchapter 9. Eligibility and Benefit Determination

Procedures

340:50-9-1. [AMENDED]

340:50-9-5. through 340:50-9-6. [AMENDED]

Subchapter 11. Special Procedures

Part 9. Disaster Procedures and Reporting Requirements

340:50-11-85. [REVOKED]

Appendix D. Application and Affidavit for Emergency

Disaster Food Stamp Assistance [REVOKED]

**(Reference APA WF # 04-07, 04-08, and 04-28)**

## **SUMMARY:**

Family Support Services Division rules for the Food Stamp Program are revised to: (1) correct the processing standard for expedited benefits from five to seven days; (2) clarify the process for procedures related to ineligible and illegal aliens; (3) define what constitutes a resident of a drug or alcohol treatment facility and how to determine if persons in the facility can participate in the Food Stamp Program; (4) replace

outdated information with current information; (5) update information on agencies that approve group homes as a retailer; (6) clarify language regarding students; (7) exempt clients in 19 counties from having to meet the work requirement; (8) state that an individual older than 49 years of age is exempt from the Food Stamp Program work requirement; (9) correct the disqualification period for head of household who is non-compliant with the Employment and Training (E&T) program; (10) added rules regarding the procedure to approve childcare for E&T participants; (11) include an additional resource that is exempt; (12) expand benefit reporting to include households with unearned income or zero income unless the household contains a countable able-bodied adult without dependents (ABAWD) who is not meeting the work requirement or all adult household members are elderly or disabled; and (13) revoke rules and an appendix that is no longer used.

## **AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 6(o) of the Food Stamp Act, as amended by Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act (PROWOA) of 1996, Public Law 104-193; Section 273.24(f)(3)(iii) of Title 7 of the Code of Federal Regulations; 2002 Farm Bill; Section 183(c) of Title 38 of the United States Code; and Section 273 of Title 7 of the Code of Federal Regulations.

## **COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Sandy Stewart, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

## **PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2005 at 5:00 p.m.

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

n/a

## **COPIES OF PROPOSED RULES:**

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

## **RULE IMPACT STATEMENT:**

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

## **CONTACT PERSON:**

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

*[OAR Docket #04-1448; filed 11-23-04]*

**TITLE 340. DEPARTMENT OF HUMAN SERVICES  
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES**

*[OAR Docket #04-1449]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Eligibility for Benefits

OAC 340:65-3-1. [AMENDED]

OAC 340:65-3-4. [AMENDED]

**(Reference APA WF # 04-30)**

**SUMMARY:**

Chapter 65 proposed rule revisions: (1) explain what application forms are used; (2) clarify worker responsibilities; (3) describe what information is verified upon receipt; and (4) replace out-of-date language.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, and 230.55 of Title 56 of the Oklahoma Statutes; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-19.

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Sandy Stewart, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2005 at 5:00 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

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

*[OAR Docket #04-1449; filed 11-23-04]*

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

*[OAR Docket #04-1450]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions [REVOKED]

340:70-1-1. through 340:70-1-7. [REVOKED]

Subchapter 3. Family Services [REVOKED]

340:70-3-1. through 340:70-3-5. [REVOKED]

Appendix J. Notice for DHS Regarding Contractual Services [REVOKED]

**(Reference APA WF # 04-19)**

**SUMMARY:**

Subchapters 1 and 3 in Chapter 70 are revoked as the rules have been incorporated elsewhere or are no longer applicable to administering social services. Appendix J is revoked as it is obsolete.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; IV-A, IV-B, and IV-C, XVI, XIX, and XX of the Social Security Act, as amended; and the Refugee Act of 1980.

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Sandy Stewart, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 14, 2005 at 5:00 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

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

*[OAR Docket #04-1450; filed 11-23-04]*

# Notices of Rulemaking Intent

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

[OAR Docket #04-1457]

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. General Provisions

Part 1. Scope and Applicability

340:75-1-18. [AMENDED]

340:75-1-18.1. [AMENDED]

340:75-1-20. [AMENDED]

340:75-1-22. [AMENDED]

Subchapter 6. Permanency Planning

Part 1. General Provisions

340:75-6-4. [AMENDED]

Part 5. Permanency Planning Services

340:75-6-31. [AMENDED]

340:75-6-31.3. [AMENDED]

Subchapter 13. Other Child Welfare Services and Medical

Services for Children in ~~Substitute~~ Out-of-Home Care

Part 5. Clothing Purchases and ~~Special~~ Services

340:75-13-45. [AMENDED]

Subchapter 15. Adoptions

Part 14. Post Adoption Services

340:75-15-128.1. [AMENDED]

(Reference APA WF 04-16, 04-17, and 04-18)

### SUMMARY:

The revisions to Subchapters 1, 6, 13, and 15 of Chapter 75 reflect: (1) an increase of \$0.50 per day in foster care payment rates; (2) modifications to placement considerations and adoption assistance benefits for children as a result of House Bill (HB) 1734, creating the Bryar Wheeler Act, that became effective July 1, 2004; (3) modifications to the definition of residual parental rights and responsibilities pursuant to HB 2528 that became effective July 1, 2004; and (4) modifications to supervision and permanency hearing considerations for children, as a result of Senate Bill (SB) 1340 that became effective November 1, 2004.

340:75-1-18 is amended to reflect that the court must consider the order of custody preference and the person's background, per Sections 21.1 and 7003-8.1 of Title 10 of the Oklahoma Statutes, and that custody or visitation with a child is not granted to any person if the custody or visitation established will likely expose the child to a foreseeable risk of material harm.

340:75-1-18.1 is amended to reflect the elimination of: (1) required permanency hearings at different intervals contingent upon the child's age, thus setting time frames based on the child's date of placement in out-of-home care and when reasonable efforts are not required; and (2) the permanency meeting prior to a permanency hearing, without compromising contact with interested persons when preparing the court report.

340:75-1-20 is amended to specify that a review hearing may be held concurrently with a permanency hearing.

340:75-1-22 and 340:75-6-31 are amended to eliminate a repealed section of law referenced for permanency hearings.

340:75-6-4 is amended based on statutory changes made pursuant to HB 2528 that refines the definition of residual parental rights to specify that these rights do not include the right to consent to the marriage of a minor, per Section 3 of Title 43 of the Oklahoma Statutes, as well as eliminate definitions that are currently referenced elsewhere in Oklahoma Department of Human Services (OKDHS) rules.

340:75-6-31.3 is amended based on statutory changes pursuant to SB 1340 that requires every child returned to a person named in a deprived petition be supervised for six months prior to case dismissal; however, the court may increase or decrease the duration of supervision.

340:75-13-45 is amended to: (1) move specified clothing allowances for children in paid kinship and foster family care to OKDHS Appendix C-20, Children and Family Services Division Rates Schedule, which sets forth rate payments in correspondence to the child's age; and (2) clarify one time startup and emergency authorizations for children in out-of-home care.

340:75-15-128.1 is amended to reflect requirements for the continuation of adoption assistance payments for a child upon reaching 18 years of age. The child must have a severe physical or mental disability that warrants the continuation of assistance until the child reaches age 19. The child may be considered for continued assistance after reaching age 19 and until age 21 when the child has applied for Supplemental Security Income (SSI) and the initial application for SSI is pending or has been denied and the child's needs, behaviors, or conditions meet the criteria for difficulty of care (DOC) Rate IV or V as determined by OKDHS. Adoption assistance payments terminate when SSI payments are approved and in no event continue after the child reaches age 21.

### AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 7003-5.5, 7004-3.2, 7206, and the Oklahoma Adoption Assistance Act, Sections 7510-1.1 et seq. of Title 10 of the Oklahoma Statutes; the Bryar Wheeler Act, HB 1734; HB 2048; HB 2528; and SB 1340.

### COMMENT PERIOD:

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Millie Carpenter, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-522-6325.

### PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 14, 2005.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

For information regarding processing of proposed rulemaking contact Dena Thayer, OKDHS Policy Management Unit, 405-521-4326.

*[OAR Docket #04-1457; filed 11-23-04]*

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

*[OAR Docket #04-1458]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 10. Emergency Shelter Care  
340:75-10-9. [AMENDED]
  - Subchapter 12. OKDHS Operated Group Homes  
340:75-12-9. [AMENDED]
  - Subchapter 13. Other Child Welfare Services and Medical Services for Children in ~~Substitute~~ Out-of-Home Care  
Part 3. Income and Resources to the Child  
340:75-13-25. through 340:75-13-26. [AMENDED]  
340:75-13-27. [REVOKED]  
340:75-13-28. through 340:75-13-29. [AMENDED]
  - Part 7. Medical Services  
340:75-13-82. [AMENDED]
  - Subchapter 16. Mental Health Treatment Services  
Part 1. Inpatient Mental Health Treatment  
340:75-16-32. [AMENDED]
  - Part 3. Outpatient Behavioral Health Care Services  
340:75-16-45. through 340:75-16-46. [AMENDED]
- (Reference APA WF 04-21)**

**SUMMARY:**

The revisions to Subchapters 10, 12, 13, and 16 of Chapter 75 clarify: (1) recently developed diversion protocol used to divert children from Oklahoma Department of Human Services (OKDHS) operated Pauline E. Mayer shelter, when overcrowded, into participating youth services shelters; (2) the amount of allowance provided to Pauline E. Mayer group home residents; (3) the role of the Child Welfare (CW) worker and custody specialist in providing children's benefits information to Children and Family Services Division; (4) child support procedures and benefits pursuant to House Bill (HB) 2526 that became effective May 4, 2004; (5) accrual limits for children receiving Supplemental Security Income (SSI) and procedures for establishing a special needs trust; (6) responsibility of

funeral and burial expenses when children reside with their parents; and (7) the provision of mental health services for children.

340:75-10-9 is amended to reflect diversion procedures, when the resident population critically exceeds capacity, for children diverted from the Pauline E. Mayer shelter to participating youth services shelters.

340:75-12-9 is amended to clarify current practice regarding allowances for teenage residents of the Pauline E. Mayer group home. Residents are provided \$25 each and an additional \$10 for each of their children.

340:75-13-25 and 75-13-28 are amended to clarify the CW worker's and custody specialist's role in identifying and reporting financial benefits and resources for children in OKDHS custody and out-of-home placement.

340:75-13-26 is amended to set forth current child support procedures in accordance with HB 2526 and incorporate some provisional language found in OAC 340:75-13-27.

340:75-13-27 is revoked.

340:75-13-29 is amended to reflect a maximum accrual amount of \$2,000 for child SSI recipients and instructions for establishing a special needs trust.

340:75-13-82 is amended to clarify that the parents are responsible for funeral and burial expenses when children reside with their parents.

340:75-16-32 is amended to reflect current extension time frames for acute inpatient and residential mental health care.

340:75-16-45 is amended to specify that children in OKDHS custody are eligible to receive a mental health assessment once per local community mental health center services provider or other outpatient Medicaid approved services provider, without prior authorization.

340:75-16-46 is amended to reflect current information regarding the systems of care model.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Section 7004-3.1 of Title 10 of the Oklahoma Statutes; Section 5-521 of Title 43A of the Oklahoma Statutes; and HB 2526.

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Millie Carpenter, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-522-6325.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 14, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

# Notices of Rulemaking Intent

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## RULE IMPACT STATEMENT:

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

## CONTACT PERSON:

For information regarding processing of proposed rulemaking contact Dena Thayer, OKDHS Policy Management Unit, 405-521-4326.

*[OAR Docket #04-1458; filed 11-23-04]*

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

*[OAR Docket #04-1459]*

## RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

## PROPOSED RULES:

Subchapter 3. Child Protective Services

340:75-3-6. through 340:75-3-6.1. [AMENDED]

340:75-3-8. [AMENDED]

340:75-3-8.6. [AMENDED]

340:75-3-10.1. [AMENDED]

340:75-3-13. [AMENDED]

340:75-3-14. [AMENDED]

Subchapter 4. Family-Centered and Community Services

Part 9. SoonerStart Early Intervention Program

[REVOKED]

340:75-4-120. through 340:75-4-128. [REVOKED]

Subchapter 6. Permanency Planning

Part 5. Permanency Planning Services

340:75-6-30. [AMENDED]

340:75-6-31.4. [AMENDED]

340:75-6-31.5. [NEW]

Part 7. Case Plans

340:75-6-40.4. [AMENDED]

340:75-6-44. [AMENDED]

Part 8. Role of the Child Welfare Worker

340:75-6-48. [AMENDED]

Part 11. Permanency Planning and Placement Services

340:75-6-92. [AMENDED]

Subchapter 13. Other Child Welfare Services and Medical

Services for Children in ~~Substitute~~ Out-of-Home Care

Part 7. Medical Services

340:75-13-60. [REVOKED]

340:75-13-61. through 340:75-13-64. [AMENDED]

340:75-13-75. [AMENDED]

340:75-13-80. [AMENDED]

Subchapter 19. Working with Indian Children

340:75-19-9. [AMENDED]

**(Reference APA WF 04-24)**

## SUMMARY:

The revisions to Subchapters 3, 4, 6, 13, and 19 of Chapter 75 clarify: (1) Child Protective Services (CPS) intake processes; (2) routing of reports to the district attorney for child custody actions; (3) procedures for CPS reports on children who are married; (4) general protocols for investigations and assessments; (5) procedures for removal of and medical treatment for children not in Oklahoma Department of Human Services (OKDHS) custody; (6) notification procedures to the person responsible for the child (PRFC) of investigative findings and assessment conclusions; (7) time frames for completion of investigations and assessments; (8) Child Welfare (CW) contact requirements for children in out-of-home care; (9) requirements for the Supported Permanency program; (10) usage of Individualized Service Plan reports in case planning; (11) case planning for heinous and shocking cases or when reasonable efforts are not required; (12) OKDHS involvement when a youth in OKDHS custody wishes to terminate her pregnancy; (13) CW worker's role in the establishment of paternity; (14) medical services, eligibility requirements, and sources of funding for and authorization procedures related to children involved with CW Services; (15) entities involved with the Memorandum of Understanding (MOU) for Reporting and Investigating Child Abuse Criminal Offenses in Indian Country; and (16) by revoking sections of policy that are duplicative.

340:75-3-6 is amended to clarify CPS intake processes, including protective service alerts.

340:75-3-6.1 is amended to include notification and report procedures for divorce or child custody actions, as well as clarification of CPS reports on children who are married.

340:75-3-8 is amended to better detail investigation protocol, including the CW worker's role in making initial contact with the family and interviewing collaterals.

340:75-3-8.6 is amended to clarify protocols associated with investigations and assessments.

340:75-3-10.1 is amended to specify procedures for removal of and procedures for securing emergency medical treatment for children not in OKDHS custody.

340:75-3-13 is amended to clarify notification to the PRFC of investigation findings and assessment conclusions and the time frames for completion of investigations and assessments.

340:75-3-14 is amended to delete a reference to a revoked policy cite.

340:75-4-120 through 340:75-4-128 is revoked as similar information regarding the SoonerStart program is referenced in OAC 340:100.

340:75-6-30 is amended to reference Form CWS-KIDS-25-A, Individualized Service Plan (ISP) Dispositional Report, and specify CW worker responsibilities for contact between siblings separated in out-of-home placement.

340:75-6-31.4 is amended to reflect the Supported Permanency program eligibility requirement that the child must be age 12 or older or have a sibling 12 or older who resides in the same relative foster home and to clarify that the

monthly cash benefit is no longer based on standard foster care rates.

340: 75-6-31.5 is issued to provide guidance to CW staff regarding procedures for the establishment of paternity.

340:75-6-40.4 is amended to reference Form CWS-KIDS-25-A.

340:75-6-44 is amended to clarify CW worker responsibilities for case planning and contact with parents when the case is heinous and shocking or reasonable efforts are not required.

340:75-6-48 is amended to include CW worker responsibilities for contact with children in emergency foster care and clarify worker responsibilities for contact with a parent who is incarcerated or out-of-state.

340:75-6-92 is amended to clarify whom the CW worker contacts when a youth in OKDHS custody wishes to relinquish her child for adoption and that OKDHS does not consent or sign any form related to the termination of a pregnancy for any child in OKDHS custody.

340:75-13-60 is revoked as this information is reflected in other Sections of Subchapter 13.

340:75-13-61 is amended to clarify medical services to children in out-of-home care and reference OAC 340:75-6-88 for Early Periodic, Screening, Diagnosis and Treatment (EPSDT) screenings.

340:75-13-62 and 340:75-13-75 are amended to specify that the parents are responsible for their child's medical expenses when the child resides with the parents.

340:75-13-63 is amended to reflect current procedures for prior authorization and claims procedures for medical services.

340:75-13-64 is amended to clarify procedures related to payment of child abuse examinations.

340:75-13-80 is amended to reflect information regarding medical coverage for youth, up to age 21, who may be eligible to receive medical benefits.

340:75-19-9 is amended to denote the change from two MOUs to one MOU for the Western, Northern, and Eastern Districts of Oklahoma.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 7003-5.3, 7004-1.1, and 7101 et seq. of Title 10 of the Oklahoma Statutes.

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Millie Carpenter, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-522-6325.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 14, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

For information regarding processing of proposed rulemaking contact Dena Thayer, OKDHS Policy Management Unit, 405-521-4326.

[OAR Docket #04-1459; filed 11-23-04]

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

[OAR Docket #04-1451]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Administration  
Part 1. General Administration  
340:100-3-15. [NEW]

Part 3. Operations  
340:100-3-27. [AMENDED]  
340:100-3-38. [AMENDED]

Subchapter 5. Client Services  
Part 3. Service Provisions  
340:100-5-15. [AMENDED]  
340:100-5-26. [AMENDED]

Subchapter 17. ~~Vocational~~ Employment Services  
Part 1. General ~~Vocational~~ Employment Expectations  
340:100-17-1. through 340:100-17-2. [AMENDED]  
340:100-17-3. through 340:100-17-4. [REVOKED]

Part 3. State-Funded Employment (Sheltered Workshop) Services  
340:100-17-10. [AMENDED]  
340:100-17-11. [REVOKED]  
340:100-17-12. through 340:100-17-17. [AMENDED]

Part 4. Community Integrated Employment Services  
[NEW]  
340:100-17-25. [NEW]

(Reference APA WF # 04-23)

**SUMMARY:**

Developmental Disabilities Services Division (DDSD) rules are revised to: (1) clarify requirements for home visits for case managers; (2) add procedures for determining if a training class will be cancelled due to inclement weather; (3) update case manager activities; (4) require the DDSD nurse and case manager to determine if a pharmacological review is needed, if the service recipient meets specified criteria; (5) clarify and

# Notices of Rulemaking Intent

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update rules; and (6) revoke rules as the necessary information is covered in other rules.

New rules are issued to establish rules regarding: (1) the SoonerStart Early Intervention Program, contingent upon approval of a request to revoke OAC 340:75-4-120 through 340:75-4-128. The responsibility for administering this program was transferred from the Children and Family Services Division to DDS in an organizational restructuring; and (2) Community Integrated Employment Services.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3 and 4 of the Oklahoma Constitution; Section 13-121 et seq. of Title 70 of the Oklahoma Statutes; and Section 1020 of Title 56 of the Oklahoma Statutes.

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Leslie Parks, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4974.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 15, 2005 at 5:00 p.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

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

*[OAR Docket #04-1451; filed 11-23-04]*

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

*[OAR Docket #04-1460]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

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

Part 5. Area Agencies on Aging

340:105-10-43. [AMENDED]

Part 7. Program Standards for Services Funded Under Title III

340:105-10-72. [AMENDED]

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

340:105-10-101. [AMENDED]

340:105-10-117. [AMENDED]

340:105-10-118. through 340:105-10-119. [REVOKED]

340:105-10-120. through 340:105-10-122. [AMENDED]

**(Reference APA WF 04-13)**

**SUMMARY:**

The revisions to Subchapter 10 of Chapter 105 update and clarify requirements for: (1) advertising availability of funds; (2) grantee staffing of Area Agencies on Aging (AAAs) and Title III projects, according to local need; (3) providing direct services; (4) monitoring the program and fiscal reports of Title III projects; and (5) developing personnel policies and procedures.

340:105-10-43 is revised to clarify that the Area Agency on Aging (AAA) monitors and evaluates Title III projects except when the State Agency has agreed with the AAA to provide the service.

340:105-10-72 is amended to clarify that: (1) AAAs are the final authority on appropriate staffing patterns in the Title III projects; (2) site visits are limited to one per day per registered dietitian (RD) or nutrition consultant; (3) the RD verifies requirements are met by signing the monthly form; and (4) the RD provides nutrition education and counseling, as appropriate, to meal participants.

340:105-10-101 is amended to clarify: (1) procedures in the request for proposals (RFP) process, including directing the announcement of availability of funds to newspapers and existing and potential service providers known to the AAA in the planning and service area (PSA); and (2) when the AAA has authority to provide a direct service.

340:105-10-117 is amended to clarify the authority of the AAAs in recruiting, selecting, and advancing employees.

340:105-10-118 and 340:110-10-119 are revoked as they are superseded by amendments to other sections.

340:105-10-120 is amended to clarify that AAAs and Title III projects develop, document, and update job descriptions based on local need.

340:105-10-121 is amended to clarify that AAAs and Title III projects assign job descriptions and salaries according to local market value and state and federal limits.

340:105-10-122 is amended to update cross references and define public agency.

**AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; the Older Americans Act, as amended.

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Nadine Beat-Walter, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-522-3077.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 14, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

For information regarding processing of proposed rulemaking contact Dena Thayer, OKDHS Policy Management Unit, 405-521-4326.

*[OAR Docket #04-1460; filed 11-23-04]*

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

*[OAR Docket #04-1461]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

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

Part 1. Introduction

340:105-10-3. [AMENDED]

Part 5. Area Agencies on Aging

340:105-10-41. [AMENDED]

Part 7. Program Standards for Services Funded Under Title III

340:105-10-50.1. [AMENDED]

340:105-10-51. [AMENDED]

340:105-10-61. [AMENDED]

340:105-10-85. [AMENDED]

340:105-10-89. [AMENDED]

340:105-10-90.1. [AMENDED]

340:105-10-91. [AMENDED]

340:105-10-94. [REVOKED]

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

340:105-10-105.1. [AMENDED]

340:105-10-106. [AMENDED]

340:105-10-107. [AMENDED]

340:105-10-108. [AMENDED]

340:105-10-109. [AMENDED]

340:105-10-110. [AMENDED]

340:105-10-110.1. [AMENDED]

340:105-10-112. [AMENDED]

340:105-10-113. [AMENDED]

(Reference APA WF 04-26)

**SUMMARY:**

The revisions to Subchapter 10 of Chapter 105: (1) provide clearer oversight and guidance to Aging Services Division (ASD) staff and contract providers; (2) incorporate requirements of the Office of Management and Budget (OMB) Notice of Action 0985-0008, OMB Circular A-133, and Section 212A of Title 74 of the Oklahoma Statutes (74 O.S. § 212A); (3) incorporate Oklahoma State Department of Health (OSDH) Food Service Establishment Regulation OAC 310:256-5-9; and (4) revoke a section to accommodate the transfer of state funded senior centers funding to the Oklahoma Department of Commerce (ODOC).

340:105-10-3 is amended to include OMB Notice of Action 0985-0008 requirements for clarity to definitions.

340:105-10-41 is amended to reflect Title III direct services allowed by the State Plan on Aging.

340:105-10-50.1 is amended to include OMB Notice of Action 0985-0008 requirements for clarity to the Older American Act (OAA) Title III services taxonomy.

340:105-10-51 is amended to include clarity to the intake procedures for OAA participants.

340:105-10-61 is amended to include OMB Notice of Action 0985-0008 requirements for clarity to information and assistance services.

340:105-10-85 is amended to include the proper home delivered meal temperatures.

340:105-10-89 is amended to include appropriate language regarding disease prevention and health promotion services.

340:105-10-90.1 is amended to include monitoring guidance and the OMB Notice of Action 0985-0008 requirements for clarity of the National Family Caregiver Support Program.

340:105-10-91 is amended to include the OMB Notice of Action 0985-0008 requirements for clarity of the homemaker service standards.

340:105-10-94 is revoked to accommodate the transfer of state funded senior centers funding to ODOC.

340:105-10-105.1 is amended to include guidance to grantee agencies regarding income generated from OAA funded programs.

340:105-10-106 is amended to include corrected authority references.

340:105-10-107 is amended to update language and format.

340:105-10-108 is amended to include OMB Circular A-133 requirements for audits of government entities and nonprofits receiving less than \$25,000 federal and state funds.

340:105-10-109 is amended to include OMB Circular A-133 requirements for audit of profit-making grantees.

340:105-10-110 is amended to include OMB Circular A-133 requirements for audit of local governments and nonprofit organizations expending \$500,000 or more in federal funds.

# Notices of Rulemaking Intent

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340:105-10-110.1 is amended to include 74 O.S. § 212A requirements for audit of government entities and nonprofit agencies receiving between \$25,000 and \$500,000 in federal and state funds.

340:105-10-112 is amended to include time extensions for audit reports not submitted within 150 days after the fiscal year end.

340:105-10-113 is amended to include reference to OMB Circular A-133.

## **AUTHORITY:**

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; the Older Americans Act, as amended; OMB Notice of Action 0985-0008; OMB Circular A-133; 74 O.S. § 212A; and OSDH Food Service Establishment Regulation OAC 310:256-5-9.

## **COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Nadine Beat-Walter, Oklahoma Department of Human Services (OKDHS), P.O. Box 25352, Oklahoma City, OK 73125, 405-522-3077.

## **PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 14, 2005.

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

n/a

## **COPIES OF PROPOSED RULES:**

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

## **RULE IMPACT STATEMENT:**

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

## **CONTACT PERSON:**

For information regarding processing of proposed rulemaking contact Dena Thayer, OKDHS Policy Management Unit, 405-521-4326.

*[OAR Docket #04-1461; filed 11-23-04]*

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

*[OAR Docket #04-1462]*

## **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

## **PROPOSED RULES:**

Subchapter 3. Licensing Standards for Child Care Facilities  
Part 1. Requirements for Child Care Centers  
340:110-3-29. [AMENDED]

Part 2. Requirements for Part-Day Children's Programs

340:110-3-49.5. [AMENDED]

Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes

340:110-3-86. through 340:110-3-87. [AMENDED]

Part 9. Requirements for Residential Child Care Facilities

340:110-3-154.5. [AMENDED]

340:110-3-163. [AMENDED]

Part 14. Requirements for School-Age Programs

340:110-3-239. [AMENDED]

Subchapter 5. Requirements for Child-Placing Agencies

Part 5. Requirements for Foster Family Homes

340:110-5-57. [AMENDED]

**(Reference APA WF 04-11 and 04-12)**

## **SUMMARY:**

The revisions to Subchapters 3 and 5 of Chapter 110 bring child care licensing requirements into compliance with: (1) the Smoking in Public Places and Indoor Workplaces Act, Sections 1247 et seq. of Title 21 of the Oklahoma Statutes, effective September 1, 2003; and (2) Senate Bill (SB) 1224, effective March 31, 2004.

Recent Oklahoma Department of Human Services (OKDHS) legal counsel opinion has determined that the Smoking in Public Places and Indoor Workplaces Act applies to all licensed child care facilities. This act was passed in an effort to reduce exposure to secondhand tobacco smoke inside public places and workplaces, and applies to OKDHS licensed child care centers, family child care homes, part-day, school-age, residential facilities, and foster homes licensed under child-placing requirements. Currently, only child care center, part-day, and school-age requirements are consistent with the law. The revisions ensure these programs have requirements that are consistent with the law and coordinate with OKDHS Children and Family Services Division rules regarding implementation. Revisions regarding illegal drugs and paraphernalia further ensure the safety of children and their environment.

SB 1224 was passed to address child safety during transportation in a motor vehicle. According to the Oklahoma SAFE KIDS Coalition at the University of Oklahoma Medical Center, more than 20 children under six years of age die each year in motor vehicle crashes, and more than 1,100 children are injured permanently. The revisions comply with SB 1224 to allow licensing requirements to be consistent with state law [47 O.S. § 11-1112] regarding child care centers, part-day, school-age, family child care, residential child care, and child-placing agencies as it relates to foster homes to further protect children while they are transported by a licensed child care facility.

340:110-3-86 and 340:110-3-163 are amended to include language to restrict smoking and prohibit drug usage and paraphernalia.

340:110-3-29, 340:110-3-49.5, 340:110-3-87, 340:110-3-154.5, 340:110-3-239, and 340:110-5-57 are amended to include language to require compliance with state

law when children are transported by a licensed child care facility.

**AUTHORITY:**

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Oklahoma Child Care Facilities Licensing Act, Sections 401 et seq. of Title 10 of the Oklahoma Statutes; Sections 1247 et seq. of Title 21 of the Oklahoma Statutes, Smoking in Public Places and Indoor Workplaces Act; and SB 1224.

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2004 through January 14, 2005 during regular business hours by contacting Mitzi Lee or Susan Case, OKDHS, P.O. Box 25352, Oklahoma City, OK 73125, 405-521-3561.

**PUBLIC HEARING:**

A public hearing has not been scheduled; however, pursuant to 75 O.S. § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than 5:00 p.m. on January 14, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

For information regarding processing of proposed rulemaking contact Dena Thayer, OKDHS Policy Management Unit, 405-521-4326.

[OAR Docket #04-1462; filed 11-23-04]

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

[OAR Docket #04-1404]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Chapter 1. Administrative Operations [AMENDED]

**SUMMARY:**

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

**AUTHORITY:**

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

**COMMENT PERIOD:**

Written comments may be made from this date until January 18, 2005. Comments should be filed in the office of Gary Goff, Attorney, Assistant Administrator, State and Education Employees Group Insurance Board, located at 3545 NW 58<sup>th</sup> Street, Suite 1000, Oklahoma City, Oklahoma 73112.

**PUBLIC HEARING:**

8:00 am, January 18, 2005, in the 5<sup>th</sup> Floor Board Room of the State and Education Employees Group Insurance Board, 3545 NW 58<sup>th</sup> Street, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

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

**CONTACT PERSON:**

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

[OAR Docket #04-1404; filed 11-15-04]

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

[OAR Docket #04-1405]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

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

**SUMMARY:**

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

## Notices of Rulemaking Intent

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### **AUTHORITY:**

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

### **COMMENT PERIOD:**

Written comments may be made from this date until January 18, 2005. Comments should be filed in the office of Gary Goff, Attorney, Assistant Administrator, State and Education Employees Group Insurance Board, located at 3545 NW 58<sup>th</sup> Street, Suite 1000, Oklahoma City, Oklahoma 73112.

### **PUBLIC HEARING:**

8:00 am, January 18, 2005, in the 5<sup>th</sup> Floor Board Room of the State and Education Employees Group Insurance Board, 3545 NW 58<sup>th</sup> Street, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

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

n/a

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

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

### **RULE IMPACT STATEMENT:**

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

### **CONTACT PERSON:**

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

*[OAR Docket #04-1405; filed 11-15-04]*

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

*[OAR Docket #04-1406]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Chapter 15. The Disability Program [AMENDED]

### **SUMMARY:**

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

### **AUTHORITY:**

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

### **COMMENT PERIOD:**

Written comments may be made from this date until January 18, 2005. Comments should be filed in the office of Gary Goff, Attorney, Assistant Administrator, State and Education Employees Group Insurance Board, located at 3545 NW 58<sup>th</sup> Street, Suite 1000, Oklahoma City, Oklahoma 73112.

### **PUBLIC HEARING:**

8:00 am, January 18, 2005, in the 5<sup>th</sup> Floor Board Room of the State and Education Employees Group Insurance Board, 3545 NW 58<sup>th</sup> Street, Oklahoma City, Oklahoma. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door.

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

n/a

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

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

### **RULE IMPACT STATEMENT:**

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

### **CONTACT PERSON:**

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

*[OAR Docket #04-1406; filed 11-15-04]*

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## **TITLE 422. OKLAHOMA LIQUEFIED PETROLEUM GAS RESEARCH, MARKETING AND SAFETY COMMISSION CHAPTER 15. ASSESSMENT ENFORCEMENT AND COLLECTION**

*[OAR Docket #04-1456]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking.

### **PROPOSED RULES:**

Subchapter 1. Purpose and Definitions [NEW]  
422:15-1-1. [NEW]  
422:15-1-2. [NEW]  
Subchapter 3. Audits and Investigations [NEW]  
422:15-3-1. [NEW]  
422:15-3-2. [NEW]  
Subchapter 5. Assessment Hearings [NEW]  
422:15-5-1. through 422:15-5-6. [NEW]

### **SUMMARY:**

The purpose of the proposed new Chapter 15 is to set forth the procedures of the Commission used in the auditing and investigation of loading rack operators and importers, and the enforcement and collection of assessments due under the Act. The proposed rule provides the definition of several words and terms used in the Chapter, outlines the procedure for issuing an

Order of Audit and Investigation and outlines the procedure for ordering and conducting an Assessment Hearing.

The proposed rule was necessary to help clarify and specify statutory language that allows the Commission to enforce the assessment requirements of the Act.

**AUTHORITY:**

Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Act; Pursuant to O.S. 52, Sec. 420.24.

**COMMENT PERIOD:**

Interested persons may submit data, views or arguments in writing to the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission, 6412 N. Santa Fe Ave., Suite C, Oklahoma City, OK 73116-9111. Comments will be accepted between December 15, 2004 and January 17, 2005.

**PUBLIC HEARING:**

A Public Hearing is scheduled for 1:30 p.m., Friday, January 21, 2005, at 4200 N. Lindsay, Oklahoma City, OK 73105. Interested persons may orally present their views or arguments at this time.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained by calling the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission at (405) 879-9828. A \$5.00 charge will be assessed to offset copying charges and the cost of postage.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and made available on and after December 15, 2004. Copies may be obtained by calling the Oklahoma Liquefied Petroleum Gas Research, Marketing and Safety Commission at (405) 879-9828.

**CONTACT PERSON:**

For information regarding the proposed rulemaking, contact Mr. Daniel Fitzpatrick, Associate Director, at (405) 879-9828.

*[OAR Docket #04-1456; filed 11-23-04]*

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION  
CHAPTER 1. ADMINISTRATION AND ORGANIZATION**

*[OAR Docket #04-1395]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

435:1-1-7. Fees [AMENDED]

**SUMMARY:**

The fee schedule is being amended to comply with changes in law (SB 369 effective June 9, 2004) regarding special licenses and administrative fines.

**AUTHORITY:**

Title 59 O.S., Section 489, State Board of Medical Licensure and Supervision

**COMMENT PERIOD:**

The comment period will run from December 15, 2004 to January 17, 2005. 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 January 27, 2005, 9:00 a.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than January 17, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after December 15, 2004 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

**CONTACT PERSON:**

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

*[OAR Docket #04-1395; filed 11-12-04]*

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

*[OAR Docket #04-1396]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

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

**SUMMARY:**

Amendments to this rule allow the Board to utilize a Board Advisor during hearings/individual proceedings and lists the duties that may be performed.

**AUTHORITY:**

TITLE 59 O.S., Section 489, State Board of Medical Licensure and Supervision

**COMMENT PERIOD:**

The comment period will run from December 15, 2004 to January 17, 2005. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

## Notices of Rulemaking Intent

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### **PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views on January 27, 2005, 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 January 17, 2005.

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

n/a

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

Copies of the proposed rules may be obtained at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma.

### **RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after December 15, 2004 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

### **CONTACT PERSON:**

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

*[OAR Docket #04-1396; filed 11-12-04]*

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### **TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 5. DISCIPLINARY ACTIONS**

*[OAR Docket #04-1397]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

435:5-1-5.2. Suspension/revocation upon conviction of a felony [NEW]

435:5-1-6. Reinstatement [AMENDED]

435:5-1-6.1. Reinstatement requirements [AMENDED]

### **SUMMARY:**

The rules set forth procedures and authority of the Board in regard to action the Board may take in and for disciplinary actions and the reinstatement requirements after action has been taken. Amendments are being made to comply with changes in law (SB 369 effective June 9, 2004).

### **AUTHORITY:**

TITLE 59 O.S., Section 489, State Board of Medical Licensure and Supervision

### **COMMENT PERIOD:**

The comment period will run from December 15, 2004 to January 17, 2005. 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 January 27, 2005, 9:00 a.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent

to make oral comment must be received by this office no later than January 17, 2005.

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

n/a

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

Copies of the proposed rules may be obtained at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma.

### **RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after December 15, 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 #04-1397; filed 11-12-04]*

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

*[OAR Docket #04-1398]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 4. Application and Examination Procedures for Licensure as Physician and Surgeon

435:10-4-4. Application procedure [AMENDED]

435:10-4-5. Additional requirements for foreign applicants [AMENDED]

Subchapter 11. Temporary and Special Licensure

435:10-11-3. Procedure for special licensure [AMENDED]

435:10-11-3.1. Special license for first-year post-graduate training [AMENDED]

435:10-11-4. Fees [AMENDED]

### **SUMMARY:**

The rules in this chapter describe the application process and requirements for licensure by examination and endorsement, including special licenses for training. Amendments are being made regarding reinstatement of an expired license, certification by the Educational Commission for Foreign Medical Graduates, and amendments regarding special licenses.

### **AUTHORITY:**

TITLE 59 O.S., Section 489, State Board of Medical Licensure and Supervision

### **COMMENT PERIOD:**

The comment period will run from December 15, 2004 to January 17, 2005. 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 January 27, 2005, 9:00 a.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than January 17, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**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 December 15, 2004 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

**CONTACT PERSON:**

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

*[OAR Docket #04-1398; filed 11-12-04]*

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION  
CHAPTER 15. PHYSICIAN ASSISTANTS**

*[OAR Docket #04-1399]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 11. Prescriptive Guidelines and Drug Formulary  
435:15-11-2. Drug formulary [AMENDED]

**SUMMARY:**

This Drug Formulary is for prescriptions issued by physician assistants. The Committee will review this formulary and make revisions as it deems necessary.

**AUTHORITY:**

TITLE 59 O.S., Section 519.3, State Board of Medical Licensure and Supervision

**COMMENT PERIOD:**

The comment period will run from December 15, 2004 to January 17, 2005. 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 January 20, 2005, 3:00 p.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than January 17, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma.

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after December 15, 2004 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

**CONTACT PERSON:**

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

*[OAR Docket #04-1399; filed 11-12-04]*

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION  
CHAPTER 50. LICENSED PEDORTHISTS**

*[OAR Docket #04-1400]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 7. Regulation of Practice  
435:50-7-1.1. Administrative fines [NEW]

**SUMMARY:**

Pursuant to 59 O.S., Section 2307, this rule will allow the Committee to recommend to the Board an administrative fine for practicing without a license or violating any provision of the Licensed Pedorthists Act.

**AUTHORITY:**

TITLE 59 O.S., Section 2031, State Board of Medical Licensure and Supervision

**COMMENT PERIOD:**

The comment period will run from December 15, 2004 to January 17, 2005. 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 January 27, 2005, 9:00 a.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than January 17, 2005.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma.

## Notices of Rulemaking Intent

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### **RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after December 15, 2004 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

### **CONTACT PERSON:**

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

*[OAR Docket #04-1400; filed 11-12-04]*

### **TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 55. LICENSED ORTHOTISTS AND PROSTHETISTS AND REGISTERED TECHNICIANS AND ASSISTANTS**

*[OAR Docket #04-1401]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 7. Regulation of Practice

435:55-7-2.1. Administrative fines [NEW]

### **SUMMARY:**

Pursuant to 59 O.S., Section 3007, this rule will allow the Committee to recommend to the Board an administrative fine for practicing without a license or violating any provision of the Orthotics and Prosthetics Practice Act.

### **AUTHORITY:**

TITLE 59 O.S., Section 3004, State Board of Medical Licensure and Supervision

### **COMMENT PERIOD:**

The comment period will run from December 15, 2004 to January 17, 2005. 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 January 27, 2005, 9:00 a.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than January 17, 2005.

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

n/a

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

Copies of the proposed rules may be obtained at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma.

### **RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after December 15, 2004 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

### **CONTACT PERSON:**

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

*[OAR Docket #04-1401; filed 11-12-04]*

### **TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION CHAPTER 15. ADVERTISING**

*[OAR Docket #04-1416]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 3. Specific Advertising Regulations

465:15-3-8. [AMENDED]

465:15-3-14. [AMENDED]

465:15-3-15. [NEW]

### **SUMMARY:**

The proposed rule amendments would modify the current advertising regulations under the headings of Prohibited Statements, Identification and adding a new subsection entitled "Dealership Name". These amendments would update and provide clarity to the rules in response to the ever changing styles and trends of advertising by new motor vehicle dealers. The intended effect of the proposed amendments will assist the Commission with proper enforcement to protect the citizens of Oklahoma from false and misleading advertising and ensure fair treatment for all dealers.

### **AUTHORITY:**

Oklahoma Motor Vehicle Commission, 47 O.S. Section 563 (F) and Section 565 5(b).

### **COMMENT PERIOD:**

Persons wishing to make written or oral comments may do so before 4:30 p.m. on Monday January 17, 2005 at the Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116.

### **PUBLIC HEARING:**

A public hearing has not been scheduled, however, "persons may demand a hearing" pursuant to and in accordance with 75 O.S., Section 303 (B)(8). Please make your request in writing by January 17, 2005 to the Oklahoma Motor Vehicle Commission at the location listed above.

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

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by Monday January 17, 2005 to the Oklahoma Motor Vehicle Commission at the location listed above.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained by fax or email for free, or in person, or by written request from the Oklahoma Motor Vehicle Commission located at the above named address at the cost of .25 cents per page. Each new motor vehicle dealer has been provided a copy of the proposed Rules in our November 2004 newsletter via U.S. postal services.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared no later than December 24, 2004 and may be obtained from the Oklahoma Motor Vehicle Commission at the above address.

**CONTACT PERSON:**

Marilyn Maxwell, Deputy Director (405) 607-8227, ext 101

*[OAR Docket #04-1416; filed 11-18-04]*

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

*[OAR Docket #04-1408]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions  
485:10-1-3. [AMENDED]

**SUMMARY:**

The proposed rule amends the fee schedule. The Board is a non-appropriated state agency, thus the income received from fees constitute the agency's financial support.

**AUTHORITY:**

Oklahoma Board of Nursing 59 O.S. §567.4F, §567.7D

**COMMENT PERIOD:**

Persons wishing to submit written comments must do so by January 21, 2005 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106 Attn: Kim Glazier, R.N., M.Ed., Executive Director.

**PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views on Tuesday, January 25, 2005 at 5:30 p.m. at the Holiday Inn Conference Center, 2101 S. Meridian, Oklahoma City. Anyone who wishes to speak must sign in at the door by 5:00 p.m., January 25, 2005.

**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 by January 21, 2005 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106, Attn: Kim Glazier, R.N., M.Ed., Executive Director.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained by contacting Sandra Ellis at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1813.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available on and after publication of this Notice of Rulemaking Intent on December 15, 2004. The rule impact statement may be obtained by contacting Sandra Ellis at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1813.

**CONTACT PERSON:**

Kim Glazier, R.N., M.Ed., Executive Director (405) 962-1800

*[OAR Docket #04-1408; filed 11-17-04]*

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

*[OAR Docket #04-1409]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Regulations for Approved Nursing Education Programs

485:10-3-2. [AMENDED]

Subchapter 5. Minimum Standards for Approved Nursing Education Programs

485:10-5-2. [AMENDED]

485:10-5-3.2. [AMENDED]

485:10-5-7. [AMENDED]

485:10-5-11. [REVOKED]

485:10-5-12. [NEW]

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

485:10-7-1. [AMENDED]

485:10-7-2. [AMENDED]

485:10-7-3. [AMENDED]

485:10-7-4. [AMENDED]

485:10-7-5. [AMENDED]

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

485:10-9-1. [AMENDED]

485:10-9-2. [AMENDED]

485:10-9-3. [AMENDED]

485:10-9-4. [AMENDED]

## Notices of Rulemaking Intent

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485:10-9-5. [AMENDED]

Subchapter 15. Requirements for Practice as an Advanced Practice Nurse

485:10-15-7. [AMENDED]

### SUMMARY:

The proposed rules in Subchapter 3 are intended to clarify requirements for application for a new nursing education program. The proposed rules for Subchapter 5 are to address responsibilities of the nurse administrator, clarify expectations for tracking program outcomes, delete current requirements for advisory committee bylaws and minutes, and add requirements for out-of-state nursing education programs seeking to complete clinical experiences in the State of Oklahoma. The proposed rules in Subchapter 7 and 9 add a time restriction that limits the time after completion of a nursing education program in which an individual may take the licensure examination and provide language clarifications to requirements for licensure by examination. Other rules in Subchapter 7 and 9 allow foreign-educated nurses from additional countries to be exempt from English language testing requirements and clarify requirements for renewal, endorsement, reinstatement, and inactive status. The proposed rules in Subchapter 15 establish requirements for certifying examinations for Clinical Nurse Specialists.

### AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §567.2A.3, 567.3a.7, 567.4.F, 567.5.A, 567.5.B, 567.6.A, 567.6.B, 567.12.

### COMMENT PERIOD:

Persons wishing to submit written comments must do so by January 21, 2005 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106 Attn: Gayle McNish, RN, Ed.D.

### PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on Tuesday, January 25, 2005 at 5:30 p.m. at the Holiday Inn Conference Center, 2101 S. Meridian, Oklahoma City. Anyone who wishes to speak must sign in at the door by 5:00 p.m., January 25, 2005.

### 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 by January 21, 2005 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106, Attn: Gayle McNish, RN, Ed.D.

### COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Gayle McNish, RN, Ed.D at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available on and after publication of this Notice of Rulemaking Intent on December 15, 2004. The rule impact statement may be obtained by contacting Gayle McNish, RN, Ed.D at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

### CONTACT PERSON:

Gayle McNish, RN, Ed.D (405) 962-1800

*[OAR Docket #04-1409; filed 11-17-04]*

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

*[OAR Docket #04-1421]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. General Provisions

550:1-1-1. [AMENDED]

Subchapter 3. Organization of Board

550:1-3-3. [AMENDED]

550:1-3-4. [AMENDED]

Subchapter 5. Petition Procedures

550:1-5-2. [AMENDED]

550:1-5-5. [AMENDED]

Subchapter 7. Collections and Disbursements

550:1-7-2. [AMENDED]

### SUMMARY:

The proposed amendments to OAC 550:1-1-1 correct grammar and clarify that a purpose of the Chapter is to facilitate the administration of the Oklahoma Police Pension and Retirement System rather than the administration of the Oklahoma Police Pension and Retirement Board. The proposed amendments to OAC 550:1-3-3 and OAC 550:1-3-4 correct grammar, provide that each member in a district under election will "be sent" a letter regarding the election of a Board member instead of stating that each member "will receive" the letter, and clarify when ballots will be mailed. The proposed amendments to OAC 550:1-5-2 correct grammar and make gender references neutral. The proposed amendments to OAC 550:1-5-5 correct a reference to a member's Deferred Option Plan account as it relates to qualified domestic relations orders. The proposed amendments to OAC 550:1-7-2 mandate that those currently receiving monthly pension benefits from the System by paper voucher must identify a personal depository agent for direct deposit of the monthly pension benefit by December 31, 2005.

**AUTHORITY:**

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

**COMMENT PERIOD:**

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., January 18, 2005, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

**PUBLIC HEARING:**

A public hearing will be held at 9:00 a.m., on Wednesday, January 19, 2005, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on December 27, 2004.

**CONTACT PERSON:**

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

*[OAR Docket #04-1421; filed 11-19-04]*

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

*[OAR Docket #04-1422]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

550:15-1-3. [AMENDED]

**SUMMARY:**

The proposed amendments remove a contradiction with the provisions of 11 O.S. Section 50-111.3 as a result of Senate Bill 1422 which became effective June 9, 2004.

**AUTHORITY:**

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

**COMMENT PERIOD:**

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., January 18, 2005, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

**PUBLIC HEARING:**

A public hearing will be held at 9:00 a.m., on Wednesday, January 19, 2005, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on December 27, 2004.

**CONTACT PERSON:**

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

*[OAR Docket #04-1422; filed 11-19-04]*

**TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS  
CHAPTER 1. ORGANIZATION OF BOARD AND PROCEDURES FOR HANDLING COMPLAINTS**

*[OAR Docket #04-1442]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

575:1-1-4. Hearings for psychologists [AMENDED]

**SUMMARY:**

This proposed rule change would make it possible for the Chair of the Board or Executive Officer to set the date, time and place for formal hearings rather than to be set in open meeting.

## Notices of Rulemaking Intent

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### **AUTHORITY:**

The State Board of Examiners of Psychologists has the authority to promulgate Rules for this area of control according to Title 59, O.S. 1991, Section 1352.1(8).

### **COMMENT PERIOD:**

Persons wishing to make written or oral comments may do so by 2:00 p.m., January 21, 2005, at the office of the State Board of Examiners of Psychologists, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma, 73105.

### **PUBLIC HEARING:**

A public hearing will be held at 9:00 a.m. on Saturday, January 22, 2005, in Room 419C of the State Capitol, 2300 N. Lincoln, Oklahoma City, Oklahoma.

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

Copies of the proposed rules are available for public inspection at the office of the State Board of Examiners of Psychologists, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma. Contact Sue Fleming, Executive Officer, at 405-524-9094.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. Section 303(D), a rule impact statement is being prepared and will be made available for review in the office of the Board of Examiners of Psychologists at the above address beginning December 30, 2004.

### **CONTACT PERSON:**

Sue A. Fleming, Executive Officer, (405) 524-9094

*[OAR Docket #04-1442; filed 11-23-04]*

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## **TITLE 575. STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS CHAPTER 10. LICENSURE OF PSYCHOLOGISTS**

*[OAR Docket #04-1443]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

575:10-1-4. Fees for applicants [AMENDED]

575:10-1-6. Directory listing of licensed psychologists [AMENDED]

### **SUMMARY:**

The Board is proposing possible rule changes which change the wording from licensing fee to application fee, and to change the date of the publication of the annual directory from April of each year to annually, and to update the date of the most recent publication of the Oklahoma Statutes from 1991, to 2001.

### **AUTHORITY:**

The State Board of Examiners of Psychologists has the authority to promulgate Rules for this area of control according to Title 59, O.S. 1981, Section 1352.1(8).

### **COMMENT PERIOD:**

Persons wishing to make written or oral comments may do so by 2:00 p.m., January 21, 2005, at the office of the State

Board of Examiners of Psychologists, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma 73105.

### **PUBLIC HEARING:**

A public hearing will be held at 9:00 a.m. on Saturday, January 22, 2005, in Room 419C of the State Capitol, 2300 N. Lincoln, Oklahoma City, OK.

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

Copies of the proposed rules are available for public inspection at the office of the State Board of Examiners of Psychologists, 201 N.E. 38<sup>th</sup> Terrace, Suite 3, Oklahoma City, Oklahoma. Contact Sue Fleming, Executive Officer, at 405-524-9094. There will be a charge of 1.00 cents per copy for first copy and .50 for each copy thereafter.

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and made available in the office of the Board of Examiners of Psychologists at the above address on or before December 30, 2004.

### **CONTACT PERSON:**

Sue A. Fleming, Executive Officer, (405) 524-9094.

*[OAR Docket #04-1443; filed 11-23-04]*

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## **TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 46. IMPLEMENTATION OF OKLAHOMA'S WATER QUALITY STANDARDS**

*[OAR Docket #04-1465]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Chapter 46. Implementation of Oklahoma's Water Quality Standards [AMENDED]

### **SUMMARY:**

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing to amend various provisions of OAC 785:46 as follows:

OAC 785:46-1-2 is proposed to be amended to add a definition for the terminology "naturally occurring conditions" which is used in several rules throughout OAC 785:46; to add definitions for the terms "event mean concentration" and "storm event" which are used in new language proposed in 785:46-15-10(h); and to change the format of some equation terms. The Office of the Oklahoma Attorney General has commented that "naturally occurring conditions" should be defined to clarify applicability of rules in OAC 785:46-15. In addition, new language is being proposed in OAC 785:46-15-10 for assessing conditions in Oklahoma Scenic Rivers; this new language includes certain terms which should be defined. Finally, there are several equation terms which are inappropriately formatted in 785:46-1-2 and these formats should be corrected. The intended effect of the amendments of 785:46-1-2 is to clarify the applicability of "naturally occurring

conditions in rules in OAC 785:46-15, to provide definitions of terms proposed for assessing conditions in Oklahoma Scenic Rivers, and to correct the format of certain equation terms.

OAC 785:46-1-4 is proposed to be amended to add language allowing testing procedures to include additional practices. The circumstance which created the need for this amendment is that the current language is unduly restrictive. The intended effect of this amendment is to update allowable methods and to clarify authorities designated to approve testing methods.

OAC 785:46-9-2 is proposed to be amended to add references for criteria for chlorides, sulfates and total dissolved solids. The circumstance which created the need for these amendments is that the implementation language found in OAC 785:46 does not reflect the same latitude for determination of background as do certain rules in OAC 785:45. The intended effect of this amendment is to allow state environmental agencies latitude in determining natural background conditions consistent with that specified in OAC 785:45, thereby creating a more accurate determination of beneficial use support.

OAC 785:46-15-3 is proposed to be amended pertaining to data collection and analysis for the purpose of determining use support, in response to a request from an interested person to delete language allowing "widely-accepted and peer-reviewed methods" other than the testing procedures provided in 785:45-1-4. This or some other amendment of 785:46-15-3 is needed, and the intended effect would be to clarify what additional testing procedures are permissible for purposes of determining use support.

OAC 785:46-15-3 is also proposed to be amended: (1) to extend spatial and temporal requirements to observations and other data to be used in addition to samples, (2) to provide exceptions for the general rule requiring a minimum of 10 samples, and (3) to provide clarifying language that quality assurance methods must protect the integrity of the sample and provide documentation of the analysis. The circumstances which created the need for these amendments are (1) an absence of specific temporal and spatial requirements preventing inappropriate use of observations and other data for assessment within this subchapter, (2) the general rule requiring a minimum of 10 samples inappropriately applies to biological collections required for subsections (e), (h), (i), (j), (k), (l), and (m) of 785:46-15-5, and (3) further need for clarifying language that quality assurance methods must protect the integrity of the sample and provide documentation of the analysis. The intended effects of these amendments are (1) to extend spatial and temporal requirements to observations and other data to be used in addition to samples to prevent inappropriate use of such information, (2) to provide exceptions for the general rule requiring a minimum of 10 samples for biological collections, and (3) to ensure quality assurance methods are in place to protect the integrity of the sample and provide documentation of the analysis.

OAC 785:46-15-5 is proposed to be amended to provide special rules for determining beneficial use support in wadable streams in the Central Great Plains ecoregion. The

circumstance which created the need for these amendments is the inability to measure directly the support for aquatic life beneficial uses in these streams. The intended effect of these amendments is to create an ability to measure aquatic life use support in the specified streams.

OAC 785:46-15-8 is proposed to be amended to change the test for total dissolved solids from 750 to 700 mg/L in determining whether the Agriculture beneficial use is supported. The circumstance which created the need for this amendment is that a typographic error has been discovered that creates a conflict between OAC 785:45 and 785:46. The intended effect of this amendment is to provide consistency in the rules in these two chapters.

OAC 785:46-15-10 is proposed to be amended to add language providing special rules for determining whether the designated beneficial use of Aesthetics is supported in Scenic Rivers with respect to the criterion for total phosphorus. The circumstance which created the need for these amendments is that the adoption of a numerical criterion to protect the Aesthetics beneficial use requires specific language to determine how ambient data should be assessed for determining beneficial use support. The intended effect of these amendments is to provide specific language to assess the Aesthetics beneficial use for Scenic Rivers with respect to the total phosphorus criterion in lieu of the inappropriate default assessment protocol.

OAC 785:46-17-3 is proposed to be amended to add language in the OWRB's Water Quality Standards Implementation Plan. These amendments explain the processes used by the OWRB in some of its loan and grant programs to ensure compliance with anti-degradation standards and leading to maintenance of, removal of threats to, and restoration of beneficial uses. The circumstance which created the need for these amendments is the periodic review and revision of the OWRB's Water Quality Standards Implementation Plan as required by 27A O.S. Section 1-1-202(B). The intended effect of these amendments is to make OAC 785:46-17-3 consistent with both the changes made to the OWRB's Water Quality Standards Implementation Plan as well as the current procedures being used in the OWRB's loan and grant programs.

**AUTHORITY:**

Oklahoma Water Resources Board, 82 O.S. 2001, § 1085.30; 27A O.S. 2001, § 1-3-101; and 82 O.S. 2001, § 1085.2.

**COMMENT PERIOD:**

Persons wishing to present data, views, or arguments orally or in writing may do so at 3800 North Classen, Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 21, 2005. In addition, persons may submit oral or written comments during the public hearing described below. It is currently anticipated that proposed amendments may be presented to the OWRB for consideration or action or both, at one or more of its regular meetings on February 8, 2005 or March 8, 2005. According to 27A O.S. 2001, § 1-1-202(A)(7), each state environmental agency shall have the opportunity to present

## Notices of Rulemaking Intent

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written comment to the members of the OWRB at the same time staff recommendations are submitted to the OWRB members for review and consideration. The OWRB may or may not choose to consider additional comments at the meeting or meetings in which the proposed amendments are considered or acted upon.

### **PUBLIC HEARING:**

A hearing on the proposed amendments is scheduled for January 21, 2005 at 2:00 P.M. in the Board Room of the OWRB's offices located at 3800 North Classen, Oklahoma City, Oklahoma. Persons may present their views on the proposed amendments orally or in writing during the hearing.

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

The OWRB requests that any business entities affected by these proposed rules provide the OWRB, within the Comment Period from December 15, 2004 through January 21, 2005, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing

to Derek Smithee at 3800 North Classen, Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 21, 2005.

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

Copies of the proposed amendments may be reviewed at the OWRB's office location at 3800 North Classen, Oklahoma City, Oklahoma 73118, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge. The proposed amendments may also be viewed on the OWRB web site at [http://www.owrb.state.ok.us/util/rules/wqs\\_revisions.php](http://www.owrb.state.ok.us/util/rules/wqs_revisions.php).

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen, Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at [http://www.owrb.state.ok.us/util/rules/wqs\\_revisions.php](http://www.owrb.state.ok.us/util/rules/wqs_revisions.php).

### **CONTACT PERSON:**

Derek Smithee, Water Quality Programs Division Chief, 405/530-8800.

*[OAR Docket #04-1465; filed 11-24-04]*

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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.

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

[OAR Docket #04-1426]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### RULES:

Subchapter 3. Animal Health Reportable Diseases

35:15-3-2. [AMENDED]

35:15-3-3. [AMENDED]

### SUBMITTED TO GOVERNOR:

November 18, 2004

### SUBMITTED TO HOUSE:

November 18, 2004

### SUBMITTED TO SENATE:

November 18, 2004

[OAR Docket #04-1426; filed 11-19-04]

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

[OAR Docket #04-1427]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### RULES:

Subchapter 15. Equine Infectious Anemia (EIA)

Part 3. Procedures

35:15-15-34. [AMENDED]

### SUBMITTED TO GOVERNOR:

November 18, 2004

### SUBMITTED TO HOUSE:

November 18, 2004

### SUBMITTED TO SENATE:

November 18, 2004

[OAR Docket #04-1427; filed 11-19-04]

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

[OAR Docket #04-1428]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### RULES:

Subchapter 30. Soil Amendment [NEW]

### SUBMITTED TO GOVERNOR:

November 18, 2004

### SUBMITTED TO HOUSE:

November 18, 2004

### SUBMITTED TO SENATE:

November 18, 2004

[OAR Docket #04-1428; filed 11-19-04]

## TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 410. WIC

[OAR Docket #04-1402]

### RULEMAKING ACTION:

Submission for gubernatorial and legislative review

### 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]

## Submissions for Review

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310:410-3-52. [AMENDED]

310:410-3-53. [AMENDED]

310:410-3-55. [AMENDED]

**SUBMITTED TO GOVERNOR:**

November 12, 2004

**SUBMITTED TO HOUSE:**

November 12, 2004

**SUBMITTED TO SENATE:**

November 12, 2004

*[OAR Docket #04-1402; filed 11-12-04]*

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

*[OAR Docket #04-1403]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**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]

**SUBMITTED TO GOVERNOR:**

November 12, 2004

**SUBMITTED TO HOUSE:**

November 12, 2004

**SUBMITTED TO SENATE:**

November 12, 2004

*[OAR Docket #04-1403; filed 11-12-04]*

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# Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register*.

For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

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**TITLE 310. OKLAHOMA STATE  
DEPARTMENT OF HEALTH  
CHAPTER 250. FEE SCHEDULE FOR  
ENVIRONMENTAL CONSUMER HEALTH  
SERVICES**

*[OAR Docket #04-1413]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**PROPOSED RULES:**

Subchapter 1. General Provisions

310:250-1-2. [AMENDED]

Subchapter 3. License Classifications and Associated

Fees For ~~Environmental~~ Consumer Health Services  
[AMENDED]

310:250-3-1. [AMENDED]

310:250-3-2. [AMENDED]

310:250-3-3. [AMENDED]

310:250-3-4. [AMENDED]

**GUBERNATORIAL APPROVAL:**

November 2, 2004

*[OAR Docket #04-1413; filed 11-17-04]*

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**TITLE 310. OKLAHOMA STATE  
DEPARTMENT OF HEALTH  
CHAPTER 256. FOOD SERVICE  
ESTABLISHMENTS**

*[OAR Docket #04-1414]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**PROPOSED RULES:**

Subchapter 5. Food

310:256-5-67. [AMENDED]

**GUBERNATORIAL APPROVAL:**

November 2, 2004

*[OAR Docket #04-1414; filed 11-17-04]*

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**TITLE 310. OKLAHOMA STATE  
DEPARTMENT OF HEALTH  
CHAPTER 610. ALCOHOLISM  
TREATMENT CENTERS REGULATIONS  
[REVOKED]**

*[OAR Docket #04-1415]*

**RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

**PROPOSED RULES:**

Subchapter 1. General Provisions [REVOKED]

310:610-1-1. through 310:610-1-4. [REVOKED]

Subchapter 3. Construction [REVOKED]

310:610-3-1. through 310:610-3-5. [REVOKED]

Subchapter 5. Standards [REVOKED]

310:667-5-1. through 310:667-5-4. [REVOKED]

**GUBERNATORIAL APPROVAL:**

November 2, 2004

*[OAR Docket #04-1415; filed 11-17-04]*

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

*[OAR Docket #04-1419]*

**RULEMAKING ACTION:**

Gubernatorial approval

**RULES:**

Subchapter 1. General Provisions

Part 1. Scope and Applicability

340:75-1-18. [AMENDED]

Subchapter 15. Adoptions

Part 14. Post Adoption Services

340:75-15-128.1. [AMENDED]

(Reference APA WF 04-17)

**GUBERNATORIAL APPROVAL:**

November 4, 2004

*[OAR Docket #04-1419; filed 11-19-04]*

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# Gubernatorial Approvals

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

*[OAR Docket #04-1420]*

**RULEMAKING ACTION:**

Gubernatorial approval

**RULES:**

Subchapter 13. Other Child Welfare Services and Medical Services for Children in ~~Substitute~~ Out-of-Home Care

Part 5. Clothing Purchases and ~~Special Services~~

340:75-13-45. [AMENDED]

(Reference APA WF 04-16)

**GUBERNATORIAL APPROVAL:**

November 4, 2004

*[OAR Docket #04-1420; filed 11-19-04]*

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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 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 50. IGNITION INTERLOCK DEVICES**

*[OAR Docket #04-1410]*

### **RULEMAKING ACTION:**

EMERGENCY Adoption

### **RULES:**

- 40:50-1-1. Explanation of terms and actions [NEW]
- 40:50-1-2. Procedure for device approval [NEW]
- 40:50-1-3. Technical requirements [NEW]
- 40:50-1-4. Miscellaneous requirements [NEW]
- 40:50-1-5. Maintenance and calibration requirements [NEW]
- 40:50-1-6. Approval, denial, and withdrawal of approval [NEW]
- 40:50-1-7. Certification and inspection of service centers [NEW]
- 40:50-1-8. Service representative [NEW]
- 40:50-1-9. Ignition interlock inspector [NEW]
- 40:50-1-10. Appeal of final administrative order [NEW]
- 40:50-1-11. Approved ignition interlock devices [NEW]

### **AUTHORITY:**

Title 47, Chapter 67, Section 759; Board of Tests for Alcohol and Drug Influence

### **DATES:**

October 13, 2004

### **COMMENT PERIOD:**

None

### **PUBLIC HEARING:**

None

### **ADOPTION:**

October 13, 2004

### **APPROVED BY GOVERNOR:**

October 27, 2004

### **EFFECTIVE:**

Immediately upon Governor's approval

### **EXPIRATION:**

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

### **SUPERSEDED EMERGENCY RULES:**

N/A

### **INCORPORATIONS BY REFERENCE:**

N/A

### **FINDING OF EMERGENCY:**

HB-2265 was signed by the Governor June 4, 2004 placing the Board in charge of the Oklahoma Ignition Interlock Program. We need these rules in place to comply with HB-2265, since the Board has been designated as the rule maker to cover the ignition interlock program in Oklahoma. **Without this, the safety of the motoring public would be at risk.**

### **ANALYSIS:**

HB-2265 places the responsibility of the Ignition Interlock Devices Rules on the Board of Tests for Alcohol and Drug Influence. This bill was signed by the Governor June 4, 2004 which makes an imminent peril existing to preserve the safety, welfare and public health of the motoring public. There is also a compelling public interest on or regarding this emergency rule.

### **CONTACT PERSON:**

McBeth Sample, Jr.; State Director of Tests for Alcohol and Drug Influence, 405-425-2460. msample@dps.state.ok.us

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

### **40:50-1-1. Explanation of terms and actions**

- (a) **Alcohol.** Ethyl Alcohol, also called ethanol.
- (b) **Alcohol Concentrations.** The weight amount of alcohol contained in a unit of breath or air, measured in grams of Ethanol/210 liters of breath or air which gives a quantitative measurement of alcohol concentration from which breath alcohol concentrations can be determined. "Alveolar" refers to the alveoli, which are the smallest air passages in the lungs, surrounded by capillary blood vessels and through which an interchange of gases occurs during respiration.
- (c) **Alveolar Air.** Also called "deep lung air" or "alveolar breath". An air sample which is the last portion of a prolonged, uninterrupted exhalation and which gives a quantitative measurement of alcohol concentration from which breath alcohol concentrations can be determined. "Alveolar" refers to alveoli, which are the smallest air passages in the lungs, surrounded by capillary blood vessels and through which an interchange of gases occurs during respiration.
- (d) **Anti-Circumvention feature(s).** Any feature or circuitry incorporated into the Ignition Interlock Device (IID) that is designated to prevent human tampering which would cause the device not to operate as intended.
- (e) **Approval.** Meeting and maintaining the requirements of these rules and placement on the Board of Tests for Alcohol and Drug Influence (Board) list of approved devices. Approval may be denied, canceled, withdrawn, and/or suspended at any time, for cause by the Board.
- (f) **Appropriate Judicial Authority.** A phrase used throughout these rules that is meant to include personnel or court orders of the Oklahoma judicial system including but not limited to: the actual court order requiring or authorizing installation of an IID, the court (or judge) that ordered or authorized that installation, pretrial services authorities (having

## Emergency Adoptions

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to do bail bond requirements in these matters), adult supervision (or adult probation) authorities and/or occupational licensing authorities.

(g) **Board.** The unmodified word Board in these rules refers to the Oklahoma Board of Tests for Alcohol and Drug Influence.

(h) **Bogus Air Sample.** Any gas sample other than the unaltered, undiluted, or unfiltered alveolar air sample coming from the individual required to have an ignition interlock device installed in his/her vehicle.

(i) **Breath-Alcohol Analysis.** Analysis of a sample of a person's expired alveolar breath to determine the concentration of alcohol in the person's breath.

(j) **Certification.**

(1) Certification refers to meeting and maintaining the requirements set forth in these rules. Under the provisions of these rules, certification is granted to:

(A) inspectors,

(B) service representatives, and

(C) service centers.

(2) Certification is granted by the Board only when minimum requirements of certification have been met. All aspects of IID business in Oklahoma must be performed under certification in order to be eligible for court purposes.

(3) Certificates are issued to inspectors, service representatives, and service centers. Certificates are not issued for individual IID's or reference sample devices.

(k) **Certified IID Inspectors.** Refers to an individual who meets the requirements stated in 40:50-1-9 of this title (relating to Ignition Interlock Device Inspector).

(l) **Certified Service Center.** Refers to any IID service center, whether fixed site or mobile, meeting and maintaining the provisions stated in 40:50-1-7 of this title (relating to Certification and Inspection of Service Centers).

(m) **Certified Service Center Representative.** Refers to an individual who has successfully completed the requirements stated in these rules and has received certification from the Board to install, inspect, download, calibrate, repair, monitor, maintain, service and/or remove a specific Ignition Interlock Device (s). Service representative certification is contingent upon compliance with all provisions stated in 40:50-1-8 of this title (relating to Service Representative).

(n) **Fees.** The non-refundable original administrative fees plus any and all costs incurred by the Board for approval, or reevaluation, of any device. Additionally the cost established by the Board in the form of inspection fees payable by either the manufacturer or vendor, whichever is appropriate. Fees for Reinstatement of an inactivated certificate, revoked certificate, suspended certificate or any other fees which the Board deems necessary to maintain the IID program in a safe and dependable way. Failure to pay or reimburse the Board for these reasonable costs shall result in the denial or loss of certification of affected service center(s). This will be fees charged under Chapter 55 of the Boards Rules and listed in the appropriate sections.

(o) **Data Storage System.** A computerized recording of all events monitored by the installed IID, which may be reproduced in the form of required reports.

(p) **Device.** An ignition interlock device (abbreviated in this title as IID).

(q) **Director.** Refers to the position of the State Director of Tests for Alcohol and Drug Influence as defined in OAC 40:50-1-3, and will be under the overall guidance of the Chairman of the Board, and with the assistance of the Administrative Assistant to the Board, to conduct and administer the affairs and functions of the Board between meetings thereof. The appeals made by an ignition interlock manufacturer, vendor or employee will go from the State Director to the Board to 40:50-1-10 of this rule.

(r) **Emergency Bypass.** A one time event, authorized by a service representative that permits the IID equipped vehicle to be started without the requirement of passing the breath test. This event must be recorded in the Data storage system. Also see Illegal Start.

(s) **Filtered Air Sample.** Any mechanism by which there is an attempt to remove alcohol from the human breath sample. Filters would include, but are not limited to silica gel, drierite, cat litter, cigarette filters, water filters, cotton, or by any other means not mentioned.

(t) **Fixed-Site Service Center.** A certified service center that is at a permanent location, i.e., not mobile.

(u) **Free Restart.** The condition in which a test is successfully completed and the motor vehicle is started, and then at some point the engine stops for any reason (including stalling). A free restart is the ability to start the engine again, within a reasonable time as approved by the Board, without completion of another breath-alcohol analysis. This free restart does not apply, however, if the IID was awaiting a rolling retest that was not delivered.

(v) **IID.** The common abbreviation for Ignition Interlock Device used throughout these Rules.

(w) **Ignition Interlock Device.** (Abbreviated in this Rule as IID) A device that is a breath-alcohol analyzer that is connected to a motor vehicle ignition. In order to start the motor vehicle engine, a driver must deliver an alveolar breath sample an approved IID which measures the alcohol concentration using fuel cell analysis. If the alcohol concentration meets or exceeds the startup set point on the interlock device, the motor vehicle will not start.

(x) **Illegal Start.** An event wherein the IID equipped vehicle is started without the requisite breath test having been taken and passed and/or is started when the IID is in a lockout condition or is started by enabling an authorized emergency bypass. Any and all of these events shall be recorded in the Data storage system as violations.

(y) **Inactivation.**

(1) Inactivation refers to the voluntary or temporary discontinuance of certification. Unless specifically stated otherwise, this loss of certification will be an administrative program control as opposed to suspension or revocation for violation of these rules or the unreliability or incompetence. Inactivation may be initiated by anyone having authority to suspend or revoke or by the certified entity in case of voluntary surrender of certification. In questionable cases, the decision to accept inactivated suspension or revocation will be determined by the Board or its designee.

Re-certification of an inactivated certificate will require a written request from the applicant to the Board and successful completion of requirements outlined in 40:50-1-7, 40:50-1-8, and 40:50-19 of this title (relating to Certification and Inspection of Service Centers, Service Representative, and Ignition Interlock Device Inspector) as appropriate for re-certification and/or other requirements determined by the Board or its designee. Inactivation will be used in, but not limited to, the following situations:

(A) an inspector or service representative terminates employment under which certification was acquired and a new employment does not require certification, or the new location of the inspector or service representative cannot be ascertained; or

(B) a service representative fails to renew current certification and reverts to an inactive status; or

(C) a service center that no longer meets all the requirements for certification.

(2) Inactivation will not be considered by the Board as a disciplinary action. It is for administrative program control to safeguard the scientific integrity of the IID program.

(z) **Interlock.** The mechanism which prevents a motor vehicle from starting when the alcohol concentration of a person meets or exceeds a preset value.

(aa) **Lockout Condition.** A state wherein the IID will not allow the vehicle to be started until a certified service representative completes a violation reset, downloads the data storage system and restores the IID to a state that will allow the vehicle to be started. Violation conditions that trigger the lockout condition will enable a unique auditory and/or visual cue that will warn the driver that the vehicle ignition will enter a lockout condition within a period not to exceed seven (7) days. This event will be uniquely recorded in the data storage system and will simultaneously start a clock that culminates in the actual lockout condition.

(bb) **Manufacturer.** The actual producer of the device.

(cc) **Manufacturer's Representative.** An individual and/or entity designated by the manufacturer to act on behalf of or represent the manufacturer of the device. May be synonymous with vendor.

(dd) **Mobile Service Center.** Any IID facility that has the personnel and equipment capability to be in use separately and simultaneously with its parent fixed service center, whether set up in a vehicle or temporarily set up at a site with a permanent foundation.

(ee) **Negative Result.** A test result indicating that the alcohol concentration is less than startup set point value.

(ff) **Positive Result.** A test result indicating that the alcohol concentration meets or exceeds the startup set point value.

(gg) **Proficiency Test.** A test administered by, and in the presence of, an IID inspector to establish and/or ascertain the competency of a service representative with regard to IID equipment.

(hh) **Purge.** Any mechanism which cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.

(ii) **Re-certification.** Re-certification refers to the regaining of lost certification; for example, certification loss by inactivation, suspension, or revocation. Unless provided for by specific provision in these rules, application for re-certification requires a written request from the applicant to the Board. Upon receipt of the request, the applicant will be advised of necessary procedure to regain certification. Re-certification requires the successful completion of requirements stated in 40:50-1-7, 40:50-1-8, and 40:50-1-9 of this title (relating to Certification and Inspection of Service Centers, Service Representative, and Ignition Interlock Device Inspector) as appropriate, and/or additional requirements as stated by the department.

(jj) **Reference Sample Device.** A device which generates a head space gas above a water/alcohol solution that is maintained at a thermostatically controlled temperature. This head space gas can be used to simulate the breath-alcohol concentration of an individual who has been drinking alcoholic beverages and whose alcohol concentration is reflected in an analysis of breath sample. The results of this analysis are expressed as grams of alcohol per two hundred and ten liters of breath (g/210L).

(kk) **Retest Set Point.** A pre-set or pre-determined alcohol concentration setting, which is the same (0.02g/210L) as the startup set point, at which, or above, during a rolling retest, the device will record in the data storage system, the high alcohol result as a violation.

(ll) **Revocation.**

(1) Revocation refers to the immediate cancellation of certification. Revocation is an action taken only by the Board or its designee. To regain certification after revocation requires a written request from the applicant to the Board and successful completion of the requirements for certification and/or re-certification and/or a cost for this reinstatement, plus any other requirements determined by the Board. Revocation invalidates any current IID program certification issued to the revoked entity for the period of revocation and until recertification. Unless provided for by specific provision in these rules, revocation will apply when the holder of the certification no longer meets the criteria for certification. Examples of cases for which revocation will apply include, but not limited to, the following:

(A) a certified IID service center that no longer meets the requirements of these rules because of unreliability, incompetence, or violation of these rules.

(B) A certified inspector or service representative who is no longer in compliance with the requirements for certification under these rules including a certified inspector or certified service representative who, subsequent to certification, is convicted of driving while intoxicated, theft, a crime involving moral turpitude, or any offense classified as a felony.

(C) any case where, in the opinion of the Board or its designee, continuance of certification would not uphold the scientific integrity of the IID program.

(2) If after the allowed appeals process, the revocation of a service center is sustained; the revoked entity shall be required to replace the IID service and/or the IID as in

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40:50-1-5 of this title (relating to Maintenance and Calibration Requirements).

(3) In the event that no appeal from the revoked service center is forthcoming, the revoked entity shall have 30 days to achieve the requirements of 40:50-1-5 of this title (relating to Maintenance and Calibration Requirements)

(mm) **Rolling re-start.** After passing the test allowing the engine to start, the IID shall require a second test within a randomly variable interval ranging from 5-15 minutes. The third and subsequent retests shall be required at intervals not to exceed 15 minutes from the previously requested test for the duration of the travel. See re-test set point.

(nn) **Rolling re-test violation.** An event, recorded in the data storage system when the rolling retest requirements is not met.

(oo) **Service center.** The physical location where the service representative performs their IID services. Also see certified service center.

(pp) **Service representative.** See Certified service representative.

(qq) **Startup set point.** A pre-set or pre-determined alcohol concentration setting at which, or above, the device will prevent the ignition of a motor vehicle from operating. That value shall be an alcohol concentration of 0.02g/210 liters of breath.

(rr) **Suspension.** Suspension refers to the immediate cancellation or curtailment of certification and may be applied to any certified IID entity when, because of unreliability, incompetence, or violation of these rules that entity is not in compliance with the provisions stated in these rules or when continuance of such certification is the opinion of the Board would not uphold the scientific integrity of the IID program. A suspension can be initiated by an IID inspector or designated representative of the Board. Prior to appeal to the Board, suspensions may be set aside or sustained only after investigation by the Board. The minimum period of suspension as determined by the Board will be for a period of time not less than 30 days. The IID inspector or a designated representative of the Board may recommend a specific period of suspension to the Board.

(1) A suspension cancels any certification issued to a suspended inspector or service representative for a period of suspension until recertification. During a suspension, the suspended entity is barred from providing any service in the IID program.

(2) A suspension curtails any certification issued to a suspended service center for a period of suspension until recertification. During a suspension, the suspended service center may continue to provide service to those IID customers in existence prior to the suspension, but shall not acquire new IID customers during the period of suspension.

(3) To regain certification after the period of suspension requires a written request from the suspended entity to the Board. Upon receipt of the written request, the applicant will be advised of the necessary steps to be taken in order to regain certification. Suspension will not be considered by the Board to be a disciplinary action but shall be for the purpose of maintaining the scientific integrity of the ignition interlock program and upholding these rules.

Suspension may be appealed in accordance to 40:50-1-10 of these rules.

(ss) **Tampering.** An overt or conscious attempt to physically disable, disconnect the IID from its power source, wire around the device or otherwise use an artificial air source and thereby allow the operator to start the engine without taking and passing the requisite breath. This attempt, whether successful or not, shall be recorded in the data storage system as a violation.

(tt) **Vendor.** The person or entity representing the manufacturer(s) of an approved IID and responsible for the day-to-day operations and continuing of an IID service center. Must have manufacturer's approval for use of a particular approved IID either through purchase or lease agreement. May be synonymous with manufacturer's representative.

(uu) **Violation.** Any of several events including but not limited to such things as high alcohol, whether from a violation set point or from a retest set point, rolling retest violation, tampering or an illegal start. These events, recorded in the data storage system, must be reported as per appropriate judicial requirements and which, when accumulated to a total determined by the appropriate judicial authority, shall enter a lockout condition within a period to exceed seven (7) days and require a violation reset.

(vv) **Violation reset.** An unscheduled service of the IID and download of the data storage system by the service center required because an accumulation of violations has reached a number (predetermined by appropriate judicial authority) that generates a lock out condition. This information shall be reported to the appropriate judicial authority within 48 hours after the vendor becomes aware of the violation. Completion of this service will include restoring the IID to a state that will allow the vehicle to be started.

(ww) **Violation set point.** A pre-set or pre-determined alcohol concentration setting at which, or above, the device will record the high alcohol result in data storage system as a violation.

(xx) **Withdrawal of approval.** Cancellation of approval of a device; to wit, not meeting or maintaining these regulations.

### **40:50-1-2. Procedure for Device Approval**

(a) All ignition interlock devices to be used in the state of Oklahoma must be approved by the State Director of Tests for Alcohol and Drug Influence, of the Board of Tests for Alcohol and Drug Influence. The rules and requirements only apply to the IID usage in the Oklahoma legal system in applications such as (but not limited to) court orders, probation requirements or by the Department of Public Safety's Legal Division and/or occupational licensing requirements intended to apply to or limit IID use in a voluntary or non-adjudicated scenario such as a parent having an IID placed on a child's motor vehicle.

(b) The Board will establish and maintain a list of approved devices, published in these rules, by model and/or class for use in the state. **Only fuel cell devices will be accepted in Oklahoma.**

(c) If application is made for approval of a device by model and/or class not on the approved list, the following procedures and standards shall apply.

(1) A manufacturer or manufacturer's representative requesting approval of a device must submit a product model of the device, along with a written request for approval. It shall be the responsibility of the manufacturer or manufacturer's representative to incur costs of mailing, shipping or physically bring the device to and from the Board. It shall also be the responsibility of the manufacturer or the manufacturer's representative to submit a certified check or money order in the amount of \$75.00, as designated on the Board's fee schedule posted in Chapter 55 (this is an administrative processing fee and is non-refundable). In the event of non-approval, additional requests for approval may be limited by the Board. The Board shall not get involved in research and development procedures of these devices.

(2) Accompanying each device shall be a notarized affidavit from a testing laboratory certifying that the submitted device by model and/or class meets or exceeds all requirements set forth in 40:50-1-3 of this title (relating to Technical requirements) and 40:50-1-4 of this title (relating to Miscellaneous Requirements) and/or any other requirements as determined by the Board. This affidavit shall also include:

- (A) the name and location of the laboratory;
- (B) the address and phone number of the testing laboratory;
- (C) a description of the test performed;
- (D) copies of the data and results of the testing procedures; and
- (E) the names and qualifications of the individuals performing the test.

(d) Prior to approval of the device, the manufacturer or the manufacturer's representative shall complete and submit an approved application Affidavit available through the Board. The notarized Affidavit shall be signed by the manufacturer or the manufacturer's representative. This affidavit shall state that the device by model and/or class will be calibrated and maintained pursuant to these rules and as designated by the Board. The affidavit shall include the following information:

- (1) Name of individuals designated as the state service representative responsible for installation, periodically maintaining, calibrating and repairing the IID in accordance with the rules of the Board.
- (2) Address of these individuals.
- (3) Phone number of these individuals.
- (4) Qualifications of these individuals.

(A) If a device is submitted for approval by a party other than the manufacturer, the submitting party shall submit a notarized affidavit from the manufacturer of the device certifying that the submitting party is an authorized manufacturer's representative and that it is agreed and understood that any action taken by the Board or any cost incurred in accordance with the provisions of these rules shall ultimately be the responsibility of the manufacturer.

(B) After the device is approved, in order to do business in the Oklahoma IID program, a manufacturer must vend through a Certified IID Service Center as described in 40:50-1-7 of this title (relating to Certification and Inspection of Service Centers).

(e) An annual reevaluation of the approved IID, pursuant to Board of Tests for Alcohol and Drug Influence Title 40, Chapter 50, shall be required in order for continued approval (\$75.00). This reevaluation shall consider those requirements, and 40:50-1-3, 40:50-1-4 and 40:50-1-5 of this title (relating to Technical Requirements, Miscellaneous Requirements, and Maintenance and Calibration Requirements). The cost of this reevaluation shall be the same as for the initial approval process noted in subsection c (1) of this section.

(f) Annually provide to the Board a written report of each service and feature of all approved IIDs made available by the manufacturer. The Board shall make available the form for this report.

(g) The vendor shall notify the Board in writing if the Certification or approval of a device that is approved for use in Oklahoma is or ever has been suspended, revoked or denied in another state, whether such action occurred before or after approval in Oklahoma. This notification shall be made in a timely manner, not to exceed 30 days, after the vendor has received notice of the suspension, revocation, or denial of certification or approval of the device, whether or not the action is or has been appealed.

**40:50-1-3. Technical requirements**

(a) **Accuracy.** The startup set point value for the interlock device shall be an alcohol concentration of 0.020g/210L of breath. The accuracy of the device shall be 0.020g/210L ± 0.01g/210L. The accuracy will be determined by analysis of an external standard generated by a reference sample device, wet bath simulator, dry gas or other methodologies approved by the Board.

(b) **Alveolar breath sample.** The device shall have a demonstrable feature designed to assure that the breath sample that is measured is essentially alveolar.

(c) **Precision.** The device shall correlate with a known alcohol concentration of 0.020g/210L with accuracy set forth in subsection set forth in subsection (a) of this section. A correlation of 95% will be considered reliable precision; 95 of 100 times the device must respond to, detect, and prevent the motor vehicle engine from operating when the operator has alcohol concentration of 0.02g/210L or greater, or any other limits as set by the Board.

- (1) The proportion of false positive results shall not exceed 5.0%
- (2) The proportion of false negative results shall not exceed 5.0%.

(d) **Specificity.** A test of alcohol-free samples shall not yield a positive result. Endogenously produced substances capable of being present in the breath shall not yield or significantly contribute to positive results.

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(e) **Temperature.** The device shall meet the requirements of subsections (a) and (b) of this section when used at ambient temperature of -20°C to 50°C or other limits as set by the Board.

(f) **Rolling restart or retest.** To thwart curbside assistance, after passing the test allowing the engine to start, the IID shall require a second test within a randomly variable interval ranging from 5 to 15 minutes. Third and subsequent retests shall be required at intervals not to exceed 15 minutes from previously requested test for the duration of the travel. During the rolling retest, the retest set point shall be the same as the startup set point. In order to alert the driver that a retest is to be required, a warning light and/or tone shall come on. The driver will then be afforded sufficient time to retest. If the engine is intentionally or accidentally shutdown after or during the warning but before retesting, the free restart shall not be operative. The failure to take a retest shall be recorded in the data storage system as a violation.

(g) **Vibrational stability.** The device shall meet the requirements of subsections (a) and 9 (c) of this section when subjected to simple harmonic motion having an amplitude of 0.38 mm (0.015 inches) applied initially at a frequency of 10 Hz and increased at a uniform rate to 30 Hz in 2½ minutes, then decrease at a uniform rate to 10 Hz in 2½ minutes. The device shall also meet the requirements to simple harmonic motion having an amplitude of 0.19mm (0.0075 inches) applied initially at a frequency of 30 Hz in 2½ minutes.

### 40:50-1-4. **Miscellaneous requirements**

(a) **Anticircumvention.** The device shall be designed so that anticircumvention features will be difficult to bypass.

(1) Anticircumvention provisions shall include, but not be limited to, prevention or preservation of evidence of cheating by attempting to use bogus or filtered breath samples or bypass the breath sampling requirements of the device electronically.

(2) The device may use special seals or other methods that record attempts to bypass anticircumvention provisions.

(3) The device shall be checked for evidence of tampering at least every thirty (30) days or more frequently if the need arises.

(4) When evidence of tampering is discovered, the appropriate judicial authority and /or the Department of Public Safety shall be notified in writing and these records shall be made available to the Board.

(b) **Operational features.**

(1) The device shall be designed to permit a free restart of the motor vehicle's ignition within a reasonable time as approved by the Board after the ignition has shut off, without requiring a further alcohol analysis.

(2) The device shall also automatically purge alcohol before allowing subsequent analyses. In addition to the operational features of these rules, the Board may impose additional requirements, as needed, depending upon design and functional changes in device technology.

(3) The device shall have a data storage system of sufficient capacity to facilitate the recording and maintaining

of all daily driving activities for the period of time elapsed from one maintenance and calibration check, as referred to in 40:50-1-5 of this title (relating to Maintenance and Calibration Requirements) to the next.

(c) **Product liability.** The manufacturer of the device shall carry liability insurance covering product liability, including coverage in Oklahoma with a minimum policy limit of one million dollars (\$1,000,000.00).

(d) **Service report.** The manufacturer shall ensure responsibility for service within a maximum of 48 hours after notification of a reported malfunction. This support shall be in effect during the period the device is required to be installed in a motor vehicle.

(e) **Modifications.** Once a device by model and/or class has been approved, no modification in design or operational concept may be made without prior written consent of the Board or its designee. This does not include replacement or substitution of repair parts to maintain the device nor software changes that do not modify the operational concept of the device.

(f) **Warning label.** A label warning against tampering, circumventing, or misuse shall be affixed to each device.

(g) **Safety.** The device shall be designed to comply with generally recognized safety requirements.

(h) **Specification and operating instructions.** Manufacturers shall provide to the Board with each device submitted for approval, a precise set of specifications, which describe the features of the device concerned in the evaluation of its performance. A set of detailed operating instructions shall be supplied with each device.

(i) **Product indemnity.** The manufacturer shall provide a signed statement that the manufacturer shall indemnify and hold harmless the state of Oklahoma, the Board and its members, employees and agents from claim, demands, and actions, as a result of damage or injury to persons or property which may arise, directly or indirectly, out of any act or omission by the manufacturer or their representative relating to the installation, service, repair, use and/or removal of an IID.

(j) **General.** Any other requirements as may be determined necessary by the Board or its designee to ensure that the device functions properly and reliably.

### 40:50-1-5. **Maintenance and calibration requirements**

(a) The device shall be inspected, maintained, and calibrated for accuracy and operational performance at least once every thirty (30) days and more frequently, if necessary, as specified by the Board or the appropriate judicial authority. This maintenance and calibration check will be performed by a certified IID service center as described in 40:50-1-7 of this title (relating to Certification and Inspection of Service Centers).

(b) The maintenance and calibration check will consist of, but not be limited to, a check of the device to determine that the device is properly functioning in accordance with the following sections:

(1) **Accuracy** - 40:50-1-3(a) of this title (relating to Technical Requirements);

(A) The device shall be calibrated before placing into service. The calibration described herein shall verify the IID accuracy to be within plus or minus ( $\pm$ ) 0.010g/210L of the reference sample predicted value.

(B) Upon return to the service center as in subsection (a) of this section, the device shall be subjected to a calibration confirmation test. The test results described herein shall verify the accuracy of the IID to be within plus or minus ( $\pm$ ) 0.010g/210L of the reference sample predicted value.

(i) Should the device fail the calibration confirmation test referred to in subsection (b) (1) (B) of this section that information shall be made available to the appropriate judicial authority and the Board.

(ii) Should the calibration confirmation test referred to in subsection (b) (1) (B) of this section not agree within plus or minus ( $\pm$ ) 0.010 g/210L of the reference sample predicted value, the device shall be recalibrated so as to restore accuracy described in subsection (b) (1) (A) of this section before the device may be returned to service.

(2) **Anticircumvention** - 40:50-1-4 of this title (relating to Miscellaneous Requirements); and

(3) **Operational features** - 40:50-1-4 of this title (relating to Miscellaneous Requirements).

(c) Maintenance and calibration records shall be maintained by the manufacturer, the manufacturer's representative, and/or the vendor and shall be provided upon request to the Board and/or any appropriate judicial authority and/or the Department of Public Safety.

(d) If at any time the device fails to meet the provisions of this section, the device shall be removed from service or recalibrated and/or repaired, and these shall be made available to the appropriate judicial authority and/or the Department of Public Safety and upon request to the Board.

(e) A manufacturer shall be responsible for providing continuing service by a certified service center during the installation period, without interruption, should a certified service center go out of business or be revoked.

(1) If the out of business or revoked service center is being replaced, the manufacture shall make all reasonable efforts to obtain participant records and data from certified service center being replaced and provide them to the new service center. The Board shall be notified of this event within thirty (30) days.

(2) If the out of business or revoked service center is not replaced, the manufacturer shall retain the records and data as required in subsection (e)(1) of this section. The Board shall be notified of this event as soon as possible.

(A) The manufacturer shall be responsible for, and shall bear the cost of, removal of the original IID, regardless of the manufacture of the device being substituted, if another manufacture's device is available.

The manufacturer shall also determine that each participant with an existing installed IID is able to obtain the required service within a reasonable distance, or the closest service center available, of participant's residence or place of business.

(B) The manufacturer shall make every reasonable effort to notify all participants of the change of the certified service center or replacement of the device thirty (30) days before the change or replacement will occur, or as soon as is possible.

(3) If neither subsection (e) (1) nor subsection (e) (2) of this section can be accomplished, the manufacturer shall be responsible for notifying the clients and appropriate judicial authority that service will be terminated within sixty (60) days, and then removing the device at no cost to the clients in question.

**40:50-1-6. Approval, denial, and withdrawal of approval**

(a) Upon proof of compliance with these rules, an ignition interlock device will be approved by Brand and/or Model and will be placed on a list of approved devices. Notification of approval shall be made in writing to the manufacturer. It will be the responsibility of the manufacturer to provide proof that each individual device installed in any motor vehicle meets or exceeds the minimum standards of these rules and is the same model and/or class approved by the Board. It will further be the responsibility of the manufacturer to provide expert or other testimony in any civil or criminal proceedings as to the method of manufacturer of the device, how said device functions, and the testing protocol by which the device was approved.

(b) The approval of a device may be denied or withdrawn by the Board if:

(1) the device, entity, or person fails to meet the requirements for approval under the Oklahoma ignition interlock device rules; or

(2) changes in IID technology are such that continued approval of the device would, as determined by the Board, not be in the best interest of the State of Oklahoma.

(3) for misconduct as determined by the Board

(c) The denial or withdrawal of an approval may be appealed by the process established in 40:50-1-10 of these rules and the cost for recertification will be \$100.00.

**40:50-1-7. Certification and inspection of service centers**

(a) All IID service centers conducting business in this state, whether fixed or mobile, must have the approval of and be certified by the Board and pay a fee for site inspection of \$100.00.

(b) To initiate certification for an IID service center, a vender or IID manufacturer's representative shall submit an application to the Board for approval. The application, available from the Board, shall show physical location of service center, the brand and/or model of the ignition interlock device(s) to be merchandised and reference sample device(s) to be used. The application shall also contain a statement acknowledging permission from the IID manufacturer to vend the IID described

## Emergency Adoptions

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by application. Only IID's listed on the approved (40:50-1-11) list referenced in 40:50-1-2 of this title (relating to Procedure for Device Approval) may be merchandised. A vendor applying for certification of an IID service center must agree to:

- (1) Allow access for inspection under subsection (d) of this section.
  - (2) comply with subsection (g) of this section.
  - (3) comply with subsection (c) of 40:50-1-4 of this title (relating to Miscellaneous Requirements) concerning product liability insurance requirements, and
  - (4) comply with subsection (d) 40:50-1-4 of this title (relating to Miscellaneous Requirements) concerning service support requirements.
  - (5) pay fees for inspection of site as stated in (a) of this section.
- (c) All IID testing techniques, in order to be approved, shall meet, but not be limited to, the following:

(1) A certified IID service center shall be located in a facility which properly and successfully accommodates installing, inspection, downloading, calibrating, repairing, monitoring, maintaining, servicing an /or removing a specific IID device(s). The service center must incorporate the use of analysis of a reference sample such as head space gas from a mixture of water and known weight of alcohol at a known temperature, the results of which must agree with the reference sample predicted value as in 40:50-1-5 of this title (relating to Maintenance and Calibration Requirements), or other methodology that may be approved by the Board (40:50-1-3, Technical Requirements, (a) Accuracy) Preparatory documentation (such as certificate of analysis) on then reference sample solution(s) shall be available to the Board. Only reference sample devices approved by the Board may be used in certified IID operations.

(2) Services rendered by IID service center must be performed by a properly trained and certified service representative. IID service centers shall maintain sufficient staff to ensure an acceptable level of service. Monitor checks shall be scheduled in a manner such as not to deprive the client of an acceptable level of service. The IID service center must at all times be staffed with at least one certified service representative. Potential service representative candidates may train in the certified IID service center only under the direct supervision of a currently certified service representative. The potential service representative candidate will be given a reasonable time as determined by the Board to train before being required to take and pass the IID service representative examination.

(3) All analytical results shall be expressed in grams of alcohol per two hundred and ten liters (g/210L).

(4) The applicant must agree to maintain any specified records designated by the Board, including but not limit to:

(A) submitting violation(s) if any, of any court order to appropriate judicial authority and/or the Department of Public Safety, not later than 48 hours after the vendor confirms the violation.

(B) maintaining complete records of each device installed for five (5) years from the date of the removal.

(C) making IID records available, either by inspection or via copy to any appropriate judicial authority or the Department of Public Safety and upon request to the Board.

(5) Anticircumvention features must be activated on any installed IID.

(6) If applicable, the device must be installed and inspected in accordance with applicable court order. Furthermore, the service center, through the certified IID representative(s), shall perform a visual inspection of the vehicle, the devices, and the device's wiring to ensure no tampering or circumvention has occurred during the monitoring period. In the case wherein the client returns to the service center as in 40:50-1-5. of this title (relating to Maintenance and Calibration Requirements) absent their vehicle, such fact shall be made available to the appropriate judicial authority or the Department of Public Safety.

(d) An IID inspector or a designated representative of the Board may at any time make an inspection of the certified IID service center to ensure compliance with these rules.

(e) A designated custodian of records, when required, shall be provided by the vendor to testify in court and provide testimony concerning the interpretation of any data storage system records, as required by these courts and to answer questions concerning certification of the IID program.

(f) Upon proof of compliance with subsection (a)-(c) of this section, certification will be issued by the Board. Issuance of a certificate to the service center shall be evidence that the service center meets all necessary criteria for approval and certification. Prior to issuance of the certification, an on-site evaluation may be required by the Board to ensure compliance with the provisions of this section.

(g) Certification of the IID service center is contingent upon the applicant's agreement to conform and abide by any directives, orders or policies issued or to be issued by the Board regarding any aspect of the IID service center; this shall include, but not limited to, the following:

- (1) program administration;
- (2) reports;
- (3) records and forms;
- (4) inspections;
- (5) methods of operation and testing techniques;
- (6) personnel training and qualifications;
- (7) criminal history considerations for service representative; and
- (8) records custodian.

(h) Certification of an IID service center may be denied, withdrawn, inactivated, suspended, or revoked by the Board if a vendor, service center, service representative, or IID equipment fails to meet all criteria stated in this section, or if the vendor violates any law of this state that applies to the vendor. An IID service center whose pending application for certification has been denied, or an IID service center whose certification has

been withdrawn, inactivated, suspended or revoked may appeal may be made by following the appeal process established in 40:50-1-10 of these rules. The Board may allow the pending application for certification of the IID service center, or the Board may reinstate certification of the IID service center appealing the withdrawal, activation, suspension or revocation of certification under such conditions deemed necessary.

(i) Recertification of a service center whose certification has been withdrawn, inactivated, suspended or revoked will require a written request from the applicant to the Board and successful completion of the original requirements for certification as outlined in subsection (b) of this section and/or other requirements as determined by the Board.

(j) Recertification of a service center whose certification has been withdrawn, inactivated, suspended or revoked will require a fee as show in Chapter 55 of the Boards Rules before recertification will take place.

### **40:50-1-8. Service representative**

#### **(a) Initial certification.**

(1) In order to apply for certification as a service representative of an ignition interlock device service center, an applicant must successfully attain the following and pay a fee of \$100.00:

(A) proof of employment by an ignition interlock device service center that meets the requirements set forth in 40:50-1-7 of this title (relating to Certification and Inspection of Service Centers); and

(B) documentation from the aforementioned employee that the applicant is currently trained in all necessary aspects of the specific IIDs involved in the vendors service center.

(C) If a service representative is certified to work with a specific brand and/or model of equipment and is required to be certified on an additional brand and/or model of equipment, the Board may waive portions of subsection (a)(1)(B) of this section and require only that instruction needed to acquaint the applicant with proper operation of the new brand and/or model of equipment.

(2) Prior to initial certification as a service representative of an ignition interlock device service center, an applicant must satisfactorily complete a written examination which shall cover the regulatory aspects of the Oklahoma IID program.

(A) Failure of the initial written examination will cause the applicant to be ineligible for reexamination for a period of thirty (30) days.

(B) A subsequent failure will be handled the same as an initial failure.

(3) An applicant who has been convicted of an alcohol related offense, theft, crime involving moral turpitude, or any offense classified as a felony, within five (5) years prior to the date of filing of the applicant's application for certification as an IID service representative is not eligible for certification. For purpose of this section, a conviction means the applicant was adjudicated guilty, No lo

contendere or received a deferred sentence by a court of competent jurisdiction.

(4) Upon successful completion of the requirements for initial certification, the Board or its designee will issue the individual a service representatives certificate valid for a period of time designated by the Board unless certification is withdrawn, inactivated, suspended, or revoked.

(b) **Renewal of current certification.** The service representative is required to renew certification prior to its expiration date. The minimum requirement for renewal of service representative certification will be:

(1) a biennial written acknowledgment from the service representative's employing IID vendor that this service representative is both:

(A) employed by the vendor in the capacity of service representative, and

(B) currently trained in all necessary aspects of the IIDs involved in the vendor's service center.

(C) Renewal fee of \$75.00 has been paid.

(2) a biennial written acknowledgment from the service representative that he or she still meets the requirements of subsection (a)(3) of this section.

(3) Renewal of certification will be denied and current certification will be inactivated when the service representative:

(A) fails to finish proper documentation required in subsection (b)(1)(A) and of this section or

(B) fails to meet requirements of subsection (a)(3) of this section.

(4) Upon successful completion of the requirements for renewal of certification, the Board will issue the individual a service representative's certificate valid for a period of time designated by the Board or until next renewal unless certification is withdrawn, inactivated, suspended, or revoked.

(c) Certification of the service representative may denied, withdrawn, inactivated, suspended or revoked by the director if the service representative fails to meet the requirements of these rules. A person whose pending application for certification has been denied, or service representative whose certification has been withdrawn, inactivated, suspended or revoked may appeal such action as established in 40:50-1-10 of this rules. The Board may allow the pending application for certification as an IID service representative, or the Board may reinstate certification of the IID service representative appealing the withdrawal, inactivation, suspension or revocation of certification under such conditions deemed necessary.

(d) Recertification of a service representative whose certification has been withdrawn, inactivated, suspended or revoked will require written request from the applicant to the Board and successful completion of the original requirements for certification as outlined in subsection (a) of this section and/or other requirements as determined by the Board.

(e) Recertification of a service representative whose certification has been withdrawn, inactivated, suspended or revoked will require a reinstatement fee, this fee will be found in Chapter 55 of the Boards Rules.

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### **40:50-1-9. Ignition interlock inspector**

(a) The **minimum qualifications** for certification as an IID inspector are:

(1) graduation from a standard senior high school or the equivalent plus two (2) years or more responsible work experience. College may substitute for experience on a year-per-basis.

(2) the satisfactory completion of IID inspector training that is approved by the Board, the content of which shall include, but not limit to familiarity with:

(A) record keeping appropriate to approved IIDs in use in the State of Oklahoma;

(B) operational principles and theories applicable to the program; and

(C) legal aspects of the IID program.

(3) Knowledge and understanding of the scientific theory and principles as to the operation of the IID and reference same device.

(4) Persons who are currently engaged in business with or employed by an IID manufacturer or an IID vendor shall not be eligible to become a certified IID inspector.

(5) An applicant who has been convicted of an alcohol related offense, theft, a crime involving moral turpitude, or any offense classified as a felony, within five (5) years prior to the date of filing of the applicant's application for certification as an IID inspector is not eligible for certification. For purpose of this section, a conviction means the applicant was adjudicated guilty, no lo contendere or received a deferred sentence by a court of competent jurisdiction.

(6) Upon satisfactory proof to the Board by the applicant that the minimum qualifications of this subsection have been met, the Board will approve and direct the State Director to issue a certificate that will be valid unless certification is withdrawn, inactivated, suspended or revoked for cause.

(b) **Duties.** A certified IID inspector will make a minimum of one onsite inspection of each service center as needed or directed by the State Director. Such an inspection will include but not limited to:

(1) Any and all IID technician requirements as per 40:50-1-3 of this section (relating to Technical Requirements).

(2) Any and all IID miscellaneous requirements as per 40:50-1-4 of this title (relating to Miscellaneous Requirements).

(3) Any and all IID maintenance and calibration requirements as per 40:50-1-5 of this title (relating to Maintenance and Calibration Requirements).

(4) Any and all service center representative requirements as per 40:50-1-7 of this title (relating to Certification and Inspection of Service).

(5) Any and all service representative requirements as per 40:50-1-8 of this title (relating to Service Representative).

(c) **Fees.** Vendors shall reimburse the Board for conducting each inspection of the vendor's facility under this section

(\$100.00 for initial and \$75.00 renewal each year there after). This cost shall be uniform for all facilities inspected.

(1) The Board may conduct more inspections for cause, such as complaints from judicial, adult supervision, or client at additional cost to the service center being inspected.

(2) The calculated cost per inspection will be standardized throughout the IID program unless there are individual vendor circumstances that require additional costs to the Board and will consequently be passed through to the affected vendor(s).

(d) Certified IID inspector will be **appointed by** the State Director of Tests and this appointment will be reviewed and approved by the Board and a fee of \$100.00 for initial issuance and \$75.00 for renewal.

(e) Certification of a IID inspector may be **denied, withdrawn, inactivated, suspended or revoked** by the Director, if the inspector fails to meet the requirements of these rules.

(f) A person whose pending application for certification has been denied, or an IID inspector whose certification has been withdrawn, inactivated, suspended or revoked **may appeal** such action as required in 40:50-1-10 of these rules. The Board may allow the pending application for certification as an IID inspector, or the Board may reinstate certification of the IID inspector appealing the withdrawal, inactivation, suspension or revocation of certification under such conditions deemed necessary.

(g) Recertification of an IID inspector whose certification has been withdrawn, inactivated, suspended, or revoked will require a written request from the applicant to the State Director, will be reviewed and approved by the Board, and successful completion of the original requirements for certification as outlined in subsection (a) of this section and/or other requirements as determined by the State Director.

### **40:50-1-10. Appeal of final administrative order**

A appeal of a final administrative order of the Board of Tests for Alcohol and Drug Influence under the provisions of these sections may be made in accordance with the provisions of the Oklahoma Administrative Procedures Act, 75 O.S. 250, et seq.

### **40:50-1-11. Approved ignition interlock devices**

(a) Guardian Interlock System Model 4.4, Type 33 or AMS 2000

(b) Lifesaver Interlock System Model SC100 or FC100

(c) CSI, Inc., Model 1001A

(d) Draeger Interlock Model 920; Model XT and part number 3530920

(e) SmartStart Instrument Model SSI-1000

*[OAR Docket #04-1410; filed 11-17-04]*

**TITLE 310. OKLAHOMA STATE  
DEPARTMENT OF HEALTH  
CHAPTER 315. PUBLIC BATHING PLACE  
FACILITY STANDARDS**

[OAR Docket #04-1411]

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 7. Construction and Operation  
310:315-7-2. [AMENDED]

**AUTHORITY:**

Oklahoma State Board of Health; 63 O.S., Sections 1-1017 et seq.

**DATES:**

**Public Hearing:**

September 16, 2004

**Adoption:**

September 16, 2004

**Approved by Governor:**

October 31, 2004

**Effective:**

Immediately upon Governor's approval

**Expiration:**

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

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATION BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

The State Board of Health finds that public interest requires seeking of emergency certification of the rules in Chapter 315. Unless an emergency is declared and certified, these rules cannot go into effect until approximately July 14, 2005, which would unreasonably delay implementation of rules providing safety for small children. Without this rule revision small children will not be sufficiently protected because there is no minimum height, enclosure standard regarding outdoor pools, which are not open to the general public. This proposed rule would prevent small-unattended children access to the pool and possible drowning.

**ANALYSIS:**

The proposal amends Subchapter 7, Section 7-2 Pool layout, of the present Public Bathing Place Facility Standards in order to complete and clarify the existing regulations. The changes involve clarification of language and modification to regulations, which were impractical or unenforceable. Without this rule revision small children will not be sufficiently protected because there is no minimum height, enclosure standard regarding outdoor pools, which are not open to the general public. This proposed rule would prevent small-unattended children access to the pool and possible drowning.

**CONTACT PERSON:**

Ted Evans, Chief, Consumer Health Services, Protective Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 telephone: (405) 271-9444, ext. 57944; facsimile: (405) 271-5243 electronic mail: Tede@health.state.ok.us

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

**SUBCHAPTER 7. CONSTRUCTION AND  
OPERATION**

**310:315-7-2. Pool layout**

(a) **Location.** In selecting the site for a proposed public bathing place, the water supply, sanitary sewer, and other

drainage facilities shall be given due consideration. Outside pools should not be located near unpaved highways where road dust and dirt would be carried into the pool by prevailing winds. The site of outdoor pools shall be elevated or otherwise protected by drainage ditches, curbs or retaining walls so that surface water will not flow into and contaminate the pool water.

(b) **Trees, shrubbery.** Trees and shrubbery overhanging or adjacent to the pool or walkway, or in the immediate vicinity on the windward side, are objectionable in that they are the source of dirt, leaves, and other contaminants which may fall into the water.

(c) **Exclusion of unauthorized persons.**

(1) Provision must be made to exclude unauthorized persons from the bathing facilities area. All bathing facilities must be surrounded by an effective barrier for this purpose.

(A) Outdoor pools open to general public such as municipal pools and pools used by organizations (YWCA, YMCA, etc.), shall be enclosed by a suitable barrier equal to a six (6) foot high woven wire fence. Within this pool area may then be established a semi-barrier which shall serve to separate the swimmers from the spectators. Enforcement of this section shall then be based on the observance of rules which shall be adopted so as to prevent the mingling of swimmers and spectators on the pool walk area.

(B) Indoor pools ~~open to the general public~~ must be located in a room with doors that can be locked at all times when the pool is not in use (regardless of whether a fee is charged) ~~or as in 7-2(c)(1)(C).~~

(C) ~~Indoor~~Outdoor pools not open to the general public shall be enclosed with a suitable effective barrier to prevent unattended small children from entering the pool. The barrier may be any fence, wall or structure which prevents entry except through self-closing, self-latching gates and does not prevent visual observation of the pool and is not less than four (4) feet in height. Decorative type barriers shall not have open spaces greater than four (4) inches. See also 310:315-7-7. Where existing construction prohibits compliance with this rule, the owner shall file with the county or state health department, an operation procedure which will serve to ensure the exclusion of animals and unattended small children from the pool area.

(2) A suitable effective barrier shall be accomplished in one of the following manners:

(A) **Wood.**

(i) Wood posts shall be at least four (4) inches in diameter or four (4) inches x four (4) inches, shall be of pressure-treated wood and shall be spaced not more than ten (10) feet apart. Posts shall be embedded at least eighteen (18) inches into the ground.

(ii) Wood railings, when used, shall be at least two (2) inches x four (4) inches in nominal dimension. There shall be at least two (2) railings. Railings shall provide no horizontal projections

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or recessions unless at four (4) feet. Railings shall not be used in such a way as to form a ladder.

**(B) Wire.**

(i) Wire posts shall be galvanized pipe at least two (2) inches in diameter and shall be spaced not more than ten (10) feet apart. Such posts shall be embedded to a depth of twelve (12) inches in a concrete jacket at least eighteen (18) inches deep and six (6) inches in diameter.

(ii) Chain link shall be at least eleven (11) gauge galvanized metal.

(iii) Wire supports shall be galvanized metal at least one and one-quarter (1-1/4) inches thick and shall provide no footholds.

**(C) Wrought iron.**

(i) Wrought iron posts shall consist of at least one-half (1/2) inch thick steel bars spaced not more than four (4) inches apart.

(ii) Wrought iron fence sections shall consist of at least one-half (1/2) inch thick steel bars spaced not more than four (4) inches apart.

(iii) Wrought iron horizontal rails shall not form a ladder.

**(D) Masonry.** Walls of brick, concrete or stone shall be constructed so as to provide no projections or recessions within four (4) feet of the ground's surface. Such walls shall meet the visual observation requirement of 310:315-7-2. Construction shall not be such as to form a ladder. There shall not be more than four (4) inches of space between the bottom of the enclosure and the ground's surface or the pool deck. Indoor bathing facilities not open to general public shall be enclosed so that access is only through self-closing, self-latching gates or doors, to control access by unattended small children. Enclosures shall have maximum openings of four (4) inches, and the enclosure design shall not form a ladder.

**(E) Alternate enclosure materials.** The Department may approve alternative enclosure materials and methods where the Department finds such materials and methods equivalent to those described.

**(d) Sand or grass plots.** The area within the pool enclosure of outdoor municipal and other pools open to the general public, and school pools, shall be free of all sand or grass plots used for sun-bathing or play areas. Sand and grass areas provided for sun-tanning or sun-bathing purposes in connection with swimming pools open to the general public shall be separated from the pool and walk area by a fence or other barrier. The exits from the sand or grass sun-bathing area to the pool area shall be provided with continuous or automatic showers, with volume and pressure of water sufficient to remove gross particles of sand, grass, etc., from the bathers. In lieu of the above shower arrangement, sun-bathers may be routed from the sand or grass sun-bathing areas through the regular shower rooms.

**(e) Layout of filter plant and chemical storage facilities.**

(1) The filter plant and chemical storage areas shall be enclosed or shall otherwise limit access by the general public.

(2) The filter area shall be large enough to provide easy access to all equipment and appurtenances with sufficient room for adequate pipe run for the flow meter and for system maintenance.

(3) There must be at least eighteen (18) inches clearance about freestanding equipment.

**(f) Hose connections.** Ample hose connections shall be provided and suitably arranged in interior shower rooms, toilet rooms, and exterior walks, so that all floors, walks and drains may be flushed with water, using a fifty (50) foot section of flexible hose. Approved vacuum breakers shall be included at all hose connections (including any in equipment rooms).

**(g) Wall, floor, and ceiling material.** Walls, floors, and ceilings of new pool rooms and new filter rooms shall be of non-sorbent, smooth, cleanable material.

*[OAR Docket #04-1411; filed 11-17-04]*

### TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 677. NURSE AIDE TRAINING AND CERTIFICATION

*[OAR Docket #04-1412]*

**RULEMAKING ACTION:**

EMERGENCY adoption

**RULES:**

Subchapter 1. General Provisions  
310:677-1-6. [NEW]

**AUTHORITY:**

Oklahoma State Board of Health: Title 63 O.S. Section 1-104 and Title 63 O.S. 2003 Section 1-1950.3, as amended by Section 13 of Enrolled House Bill No. 2723 of the 2nd Session of the 49th Oklahoma Legislature, effective June 4, 2004, and Section 1 of Enrolled House Bill No. 2282 of the 2nd Session of the 49th Oklahoma Legislature, effective June 4, 2004.

**DATES:**

**Comment Period:**

August 16, 2004 through September 16, 2004

**Public Hearing:**

September 16, 2004

**Adoption:**

September 16, 2004

**Approved by Governor:**

October 31, 2004

**Effective:**

Immediately upon Governor's approval

**Expiration:**

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

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

The State Board of Health finds a compelling public interest to adopt these rules on an emergency basis in order for the Board to comply with a September 30, 2004 deadline for rule promulgation relating to temporary emergency waivers for nurse aides, as established in Section 13 of Enrolled House Bill No. 2723 of the 2nd Session of the 49th Oklahoma Legislature.

**ANALYSIS:**

The proposed rulemaking action implements new requirements in 63 O.S. 2003 Section 1-1950.3, as amended by Section 13 of Enrolled House Bill No. 2723 of the 2nd Session of the 49th Oklahoma Legislature and Section 1 of Enrolled House Bill No. 2282 of the 2nd Session of the 49th Oklahoma Legislature, effective June 4, 2004.

The proposed amendments implement temporary emergency waivers for nursing facilities, continuum of care facilities, adult day care centers, and residential care homes that are unable to meet the nurse aide certification and registration requirements pursuant to 63 O.S. Section 1-1950.3(A). The amendments specify requirements relating to eligibility, process and conditions for temporary emergency waivers.

Proposed amendments to the certified medication aide requirements in Subchapter 13 have been withdrawn from consideration. The Oklahoma State Department of Health currently is working with the Long Term Care Facility Advisory Board on certified medication aide requirements and will reinstate rulemaking action at a later date.

**CONTACT PERSON:**

Henry Hartsell Jr., Health Resources Development Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-9444, extension 57269; facsimile: 405-271-7360

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

**SUBCHAPTER 1. GENERAL PROVISIONS**

**310:677-1-6. Temporary emergency waiver**

(a) **Purpose.** This section implements until July 15, 2005 the temporary emergency waivers authorized in 63:1-1950.3(A)(2) for nursing facilities, specialized facilities, continuum of care facilities, assisted living centers, adult day care centers, and residential care homes.

(b) **Eligibility for waiver.** A facility, center or home is eligible to receive a waiver if it:

- (1) Makes diligent efforts to recruit and retain certified nurse aides; and
- (2) Has not been cited with a deficiency or violation based on activity or inactivity of an uncertified nurse aide that caused a resident serious injury, harm, impairment or death, and does not have an uncorrected deficiency, arising from an investigation or inspection conducted on or after the effective date of this section, relating to the following:
  - (A) a deficiency cited for failure to develop and implement policies and procedures that prohibit mistreatment, neglect and abuse of residents, clients or participants, and misappropriation of resident, client or participant property;
  - (B) a deficiency cited for failure to implement infection control procedures;
  - (C) a deficiency cited for the facility's, center's or home's failure to ensure that staff observe resident, client or participant rights and responsibilities;
  - (D) a deficiency cited for the facility's, center's or home's failure to comply with criminal history background checks in 63:1-1950.1;
  - (E) a deficiency cited on nursing or personal care services arising from failure of a nurse aide to perform proficiently; or
  - (F) a deficiency related to lack of nurse aide competency or facility, center or home failure to conduct performance appraisals or training for nurse aides.

(c) **Process.** This subsection specifies the process to obtain a waiver.

(1) A facility, center or home shall submit a written request on an application form made available by the Department. The form shall require:

- (A) Identifying information for the facility;
- (B) An affirmation that the facility complies with the eligibility requirements specified in OAC 310:677-1-6(b); and
- (C) An attestation of the truth of the information provided in the application.

(2) Within thirty days after receipt of a completed request for a waiver, the Department shall approve or disapprove the request and send written notice of the decision to the facility, center or home.

(3) The Department shall provide notice to the Office of the Oklahoma Long Term Care Ombudsman established under section 307(a)(12) of the Older Americans Act of 1965 of the Department's action on each waiver application.

(4) The facility, center or home shall notify residents, clients or participants (or, where appropriate, the guardian or legal representative) and members of their immediate families of the Department's action on the waiver application. A copy of the notice shall be posted in an easily accessible and conspicuous place in the facility, center or home.

(5) An applicant who disagrees with the Department's disapproval of the waiver application may file a written petition requesting review by an administrative law judge in an individual proceeding under the Oklahoma Administrative Procedures Act.

(d) **Conditions for obtaining waiver.** The following additional conditions apply.

(1) To remain eligible for a waiver, the facility must continue after November 1, 2004 to comply with the substantive training limitations specified in 63:1-1950.3(A)(1), (B), (C) and (D).

(2) A waiver approved by the Department is effective until July 15, 2005, unless sooner withdrawn by the Department for failure to meet eligibility requirements.

[OAR Docket #04-1412; filed 11-17-04]

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

[OAR Docket #04-1417]

**RULEMAKING ACTION:**  
EMERGENCY adoption

**RULES:**  
Subchapter 1. General Provisions  
Part 1. Scope and Applicability  
340:75-1-18. [AMENDED]  
Subchapter 15. Adoptions  
Part 14. Post Adoption Services  
340:75-15-128.1. [AMENDED]  
**(Reference APA WF 04-17)**

# Emergency Adoptions

## AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; the Bryar Wheeler Act, HB 1734; Section 7003-5.5 and the Oklahoma Adoption Assistance Act, Sections 7510-1.1 et seq. of Title 10 of the Oklahoma Statutes; and Part IV-E of the Social Security Act, Sections 670 through 679 of Title 42 of the United States Code Annotated.

## DATES:

### Adoption:

September 28, 2004.

### Approved by Governor:

November 4, 2004

### Effective:

Upon Governor's approval.

### Expiration:

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

## SUPERSEDED EMERGENCY ACTIONS:

n/a

## INCORPORATIONS BY REFERENCE:

n/a

## FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as the Oklahoma Department of Human Services (OKDHS) finds there is a compelling public interest to preserve the health, safety, and welfare of abused and neglected children by modifying rules that support the best interests of children and utilizing a more long-term source of funds that best serves children attaining 18 years of age with severe physical and mental disabilities. HB 1734 mandates these changes effective July 1, 2004

## ANALYSIS:

The proposed revisions to Subchapters 1 and 15 of Chapter 75 reflect modifications to placement considerations and adoption assistance benefits for children as a result of House Bill (HB) 1734, creating the Bryar Wheeler Act, that became effective July 1, 2004.

340:75-1-18 is revised to reflect that the court must consider the order of custody preference and the person's background, per Sections 21.1 and 7003-8.1 of Title 10 of the Oklahoma Statutes, and that custody or visitation with a child is not granted to any person if the custody or visitation established will likely expose the child to a foreseeable risk of material harm.

340:75-15-128.1 is revised to reflect requirements for the continuation of adoption assistance payments for a child upon reaching 18 years of age. The child must have a severe physical or mental disability that warrants the continuation of assistance until the child reaches age 19. The child may be considered for continued assistance after reaching age 19 and until age 21 when the child has applied for Supplemental Security Income (SSI) and the initial application for SSI is pending or has been denied and the child's needs, behaviors, or conditions meet the criteria for difficulty of care (DOC) Rate IV or V as determined by the Oklahoma Department of Human Services (OKDHS). Adoption assistance payments terminate when SSI payments are approved and in no event continue after the child reaches age 21.

## CONTACT PERSON:

Dena Thayer, Oklahoma Department of Human Services, 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):**

## SUBCHAPTER 1. GENERAL PROVISIONS

### PART 1. SCOPE AND APPLICABILITY

#### 340:75-1-18. Dispositional hearing

(a) **Dispositional hearing.** After making an order of adjudication for a deprived child is adjudicated deprived, the court holds a dispositional hearing, ~~[10 O.S. § per Section 7003-5.5]~~ of Title 10 of the Oklahoma Statutes. The court

~~may~~ must enter a dispositional order on the same day, ~~but if not, then~~ or within 40 days of adjudication, unless the court finds on the record that the child's best interests ~~of the child~~ are served by granting a delay. If the court grants a delay, the court ~~should~~ must state why the delay is necessary and the minimum amount of time needed to resolve the reasons for ~~the~~ delay. If a child is removed from the custody of the child's parent, the court or the Oklahoma Department of Human Services (OKDHS), as applicable, immediately considers concurrent permanency planning, in order that permanency occur at the earliest opportunity.

(b) **Dispositional hearing purpose.** The purpose of the dispositional hearing is to determine the service needs of the child and family and custody of the child during the deprived case. The court considers all evidence that is helpful in determining the disposition that is in the child's best interests ~~of the child~~.

(1) At the ~~dispositional~~ hearing, the recommended treatment and service plan is presented to the court. The judge makes the final decision ~~as to~~ regarding whether the proposed treatment and service plan is acceptable accepted and whether a court order is issued regarding compliance with any or all recommendations. The family is ultimately responsible for only those recommendations that are court-ordered, by the court per OAC 340:75-6-40.4.

(2) Each dispositional order includes a statement informing the child's parent(s) that the consequences of non-compliance with the court's requirements may include, as applicable, loss of custody of the child or termination of the parent's rights to the child. If reasonable efforts are required for the return of the child to the child's home, the parent of the child must be given at least three months to correct conditions that led to the adjudication of the child, prior to requesting termination of parental rights.

(3) Every disposition order is reviewed by the court at least once every six months until:

(A) ~~such time as the conditions which that~~ caused the child's adjudication are corrected; ~~or~~

(B) the ~~parental~~ parent(s)' rights of the ~~parent(s)~~ to the child are terminated and a final adoption is decreed; ~~or~~

(C) permanent care and custody of the child is awarded to another person or a kinship guardian; is granted; or

(D) the court terminates jurisdiction.

(c) **Special rules regarding custody orders.** Before placing custody of a child with the parent, legal guardian, legal custodian, or other suitable person, the court must consider the order of custody preference and the person's background, per Sections 21.1 and 7003-8.1 of Title 10 of the Oklahoma Statutes.

(1) **Order of custody preference.** When a child is removed from the custodial parent and the court, in the child's best interests, is unable to release the child to the custodial parent, or, as the next priority preference, give placement to the noncustodial parent, custody is awarded, per Section 21.1 of Title 10 of the Oklahoma Statutes, to a:

- (A) grandparent;
- (B) person indicated by wishes of a deceased parent;
- (C) relative of either parent;
- (D) person in whose home the child has been living in a wholesome and stable environment; or
- (E) any other person deemed by the court to be suitable. If the court determines custody of the child cannot be made according to the order of preference, the court must document the reasons in the court record.

(2) **Background considerations.** The court is prohibited from placing custody of a child with a person who is subject to the Oklahoma Sex Offenders Registration Act or with a person who is married to or living with a person who is subject to the Oklahoma Sex Offenders Registration Act.

- (A) "Person" does not include a parent, legal guardian, or legal custodian of a child.
- (B) Before awarding custody, the court must inquire whether the person has been previously convicted of any felony, relevant misdemeanor, or has such charges pending. A person requesting custody must respond to the court's inquiry by affidavit or sworn testimony and provide the court with an Oklahoma criminal history record.

(3) **Presumptions against placement.** Custody or visitation with a child is not granted to any person if the custody or visitation established will likely expose the child to a foreseeable risk of material harm. There is a rebuttable presumption that it is not in the child's best interests to have custody or visitation granted to a person who:

- (A) is or has been subject to, or resides with anyone who is subject to the Oklahoma Sex Offenders Registration Act;
- (B) was convicted of or resides with a person who was convicted of a crime of child abuse, neglect, or of a sexual nature;
- (C) was convicted of or resides with a person who was convicted of domestic abuse within the past five years; or
- (D) is found alcohol or drug dependent by clear and convincing evidence and expected in the near future to inflict or attempt to inflict serious bodily harm to self or others as a result of dependency.

(d) **Dispositional options.** Subject to the conditions and restrictions per OAC 340:75-1-18(c), the

- (1) The court makes findings in one or more dispositional orders, including:
  - (A1) placement of placing the child under supervision by DHS OKDHS in his or her the child's own home, or in the custody of a suitable person with the child's custodial parent, legal guardian, or legal custodian from whom the child was removed, or placement with the noncustodial parent. If a child has been removed from the custodial parent and, in the best interests of the child, the court is unable to release the child to the custodial parent, the court shall give priority for placement of the child with the noncustodial parent of the child unless such

placement would not be in the child's best interests. If the court cannot place the child with the noncustodial parent, custody shall be awarded in accord with Section 21-1 of Title 10 of the Oklahoma Statutes. The court may require the parent or other person to comply with certain conditions and to give security by bond. Such an order remains in effect for a period to be specified by the court but not for more than one year. Such orders can be extended or renewed by the court. The court may specify conduct to be followed by the parent and any other adult in the home. Supervision by OKDHS may not exceed one year unless extended by the court;

(B2) placement of placing the child with his or her parent, legal guardian, or custodian a suitable person, including a grandparent, relative, or other person specified in OAC 340:75-1-18(c)(1);

(C3) placement of the child in the custody of a private institution or agency;

(D4) ordering the child to receive counseling or other community-based services;

(E5) committing the child to the custody of the Department OKDHS;

(F6) ordering the parent, legal guardian, legal custodian, stepparent, or other adult living in the home, or other person or agency receiving custody of the child, to follow any treatment and service plan prescribed by DHS OKDHS; other person or agency receiving custody of the child;

(G) dismissing the petition and terminating its jurisdiction at any time for good cause when in the best interests of the child;

(H7) ordering a child's permanent care and custody transferred to another person upon the written consent of the parent(s) of the child; or, per OAC 340:75-1-18.2;

(I8) ordering a child's permanent care and custody transferred to a kinship guardian, per OAC 340:75-1-18.3; and

(J9) dismissing the petition and terminating its jurisdiction at any time for good cause when in the child's best interests.

(2) Any dispositional order entered includes a statement informing the child's parent(s) that the consequences of non-compliance with the requirements of the court may include, as applicable, loss of custody of the child or termination of the parent's rights with respect to the child.

(3e) **Additional court determinations.** The court makes a determination whether:

- (1) reasonable efforts:
  - (A) are being have been made to reunite the child with his or her family;
  - (B) are being made to reunite or have been made and failed and are no longer feasible; and (C) are being made to secure an alternate permanent placement for the child;
  - (DC) are being made to place the child in a timely manner in accordance with the permanency plan or whether the necessary steps have been taken to finalize the permanent placement of the child if the continuation of reasonable efforts to return the child home

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are inconsistent with the permanency plan for a child;  
or

(~~E~~D) to reunite the child with the family are not required, ~~per OAC 340:75-1-18.4~~;

(42) ~~The court makes a determination whether an out-of-state home placement continues to be appropriate and in the child's best interests of the child; and~~

(53) ~~The court makes a determination for services provided to assist any child youth, 16 years of age and or older, of the services needed to assist the child to make in the transition from out-of-home care to independent living are appropriate.~~

## SUBCHAPTER 15. ADOPTIONS

### PART 14. POST ADOPTION SERVICES

#### 340:75-15-128.1. Adoption assistance benefits

(a) Adoption assistance benefits may include Medicaid coverage, a monthly assistance payment, special services, reimbursement of non-recurring adoption expenses, or any combination of these. Children eligible for Title IV-E assistance are also eligible for available Title XX services.

(1) **Medicaid.** The child is eligible for the Oklahoma Medicaid program or the Medicaid program in the state of residence, if Title IV-E eligible. All necessary medical and dental care under the scope of that program is compensable at usual and customary charges, ~~per OAC 340:75-15-129~~.

(2) **Monthly assistance payments.** A child may be eligible for a monthly assistance ~~payments~~ payment to provide financial support to families who adopt children considered difficult to place. Payments are made to eligible families as long as the Oklahoma Department of Human Services (OKDHS) has sufficient funds available and is authorized to make payments under Form DCFS-68, Adoption Assistance Agreement, as allowable within the OKDHS budget.

(A) **Rates.** The standard rates for monthly adoption assistance payments ~~are described in (i) through (iii) of this subparagraph~~ correspond to the child's age set out in OKDHS Appendix C-20, Children and Family Services Division Rates Schedule, as amended from time to time, as approved by the Oklahoma Commission for Human Services (Commission).

(i) ~~Ages 0 – 5: Ranges from \$0 to a maximum of \$270 plus Difficulty of Care (DOC) Rate I, II, III, IV, or V if eligible.~~

(ii) ~~Ages 6 – 12: Ranges from \$0 to a maximum of \$324 plus DOC Rate I, II, III, IV, or V if eligible.~~

(iii) ~~Ages 13 – 18: Ranges from \$0 to a maximum of \$378 plus DOC Rate I, II, III, IV, or V if eligible.~~

(B) **DOC rate descriptions.** The difficulty of care (DOC) descriptions in this subparagraph are guidelines from which the most appropriate DOC rate ~~can be is~~ determined for the eligible child. Not every situation will clearly fit into one DOC rate category. Consideration of the child's age is part of determining the appropriate rate category. Documentation that the child's needs, conditions, or behaviors fit the rate category is required from professional sources outside the adoptive family as well as from the adoptive family itself. Updated documentation may be required by the OKDHS from time to time to establish a child's ongoing eligibility for a particular DOC rate. DOC descriptions are set out in OKDHS Appendix C-20 as amended from time to time, as approved by the Commission.

(i) **DOC Rate I.** ~~The rate is \$50 per month more than the standard rate. A child approved for DOC Rate I has one or more of the needs, conditions, or behaviors described in (I) through (IV) of this subparagraph. The child:~~

(I) ~~requires ongoing scheduled medical or psychological appointments that routinely occur more than twice weekly;~~

(II) ~~displays emotional difficulties that result in destruction of property;~~

(III) ~~requires medical or educational supplies on a routine basis that are not compensable through Medicaid; or~~

(IV) ~~requires daily physical therapy performed by the adoptive parent(s).~~

(ii) **DOC Rate II.** ~~The rate is \$100 per month more than the standard rate. A child approved for DOC Rate II has one or more of the needs, conditions, or behaviors listed in DOC Rate I, and, in addition:~~

(I) ~~requires 24 hour intensive supervision due to severe medical or emotional needs;~~

(II) ~~requires special food preparation and feeding due to a condition that restricts normal eating;~~

(III) ~~requires special equipment for transportation that results in restricted mobility for the child and the adoptive parent(s);~~

(IV) ~~displays incontinence of the bladder and bowel that is not age appropriate;~~

(V) ~~displays multiple disabilities, birth defects, or brain damage that prevents normal intellectual or physical functioning;~~

(VI) ~~requires strict monitoring of medication;~~

(VII) ~~requires assistance in movement which is very difficult due to the child's size;~~

(VIII) ~~requires post hospitalization care such as frequent changing of bandages, tubes, and special hygiene techniques; or~~

(IX) ~~displays emotional disturbances, developmental delay, or mental retardation that~~

results in behavior such as constant difficulties in school, aggressive and delinquent activities, destructiveness, resistance to authority, and sexual disturbances.

(iii) **DOC Rate III.** The rate is \$150 per month more than the standard rate. A child approved for DOC Rate III has one or more of the needs, conditions, or behaviors in each of DOC Rates I and II, and, in addition:

(I) requires medical supplies, special equipment, or educational supplies on a routine basis which are not compensable through Medicaid; or

(II) requires specialized substitute care.

(iv) **DOC Rate IV.** The rate is \$225 per month more than the standard rate. A child approved for DOC Rate IV has one or more of the needs, conditions, or behaviors described in each of DOC Rates I, II, and III and requires such specialized care that normally the child would be in institutional or inpatient psychiatric care. The child:

(I) requires special equipment, such as apnea monitor, suction machine, gastrostomy tube, oxygen, tracheotomy tube, and shunt;

(II) requires special feeding or nursing care around the clock;

(III) requires frequent nighttime supervision and care that is not age appropriate;

(IV) displays such frequent seizures or other abnormal physical reactions that 24-hour monitoring is required;

(V) displays bizarre, socially unacceptable behavior, violent tendencies, potentially harmful behavior to self or others, or sexually predatory behavior to others or animals;

(VI) required previous inpatient mental health treatment or has recently been discharged from an inpatient facility;

(VII) requires such intensive care that the adoptive parent(s) is severely restricted in normal daily activities and is frequently homebound;

(VIII) requires frequent 24-hour awake supervision; or

(IX) requires post-hospitalization care for severe burns.

(v) **DOC Rate V.** The rate is \$400 per month more than the standard rate. A child approved for DOC Rate V has one or more of the needs, conditions, or behaviors described in each of DOC Rates I, II, III, and IV and has a significant number of high-severity needs. The child's level of need is not moderate, is likely to become more severe over time, and is likely at some time to require personal attendant care or specialized care outside of the home, when prescribed by a professional. A current medical or psychological report within the last six months is required from a qualified physician.

This report must include a diagnosis, prognosis, and recommended treatment. Medical or psychological conditions considered in determination of DOC Rate V include a child who has:

(I) been diagnosed by a qualified physician as having severe mental illness, such as child schizophrenia, severe developmental disabilities, brain damage, or autism;

(II) severe physical disabilities or medical conditions that are not expected to improve over time and adversely impact life expectancy when compared with others who have similar physical disabilities or medical conditions;

(III) severely inhibiting diagnosed mental health conditions, defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM), diagnosed within the past year, that severely limit normal social and emotional development and require ongoing outpatient behavioral health services;

(IV) severe mental retardation as determined by the Social Security Administration and defined by the DSM;

(V) been waiting for organ transplant or is up to one year post transplant; or

(VI) a physical condition uncontrolled by medication or treatment such as Tourette's syndrome or epilepsy.

(3) **Special services.** Special services are used to meet the child's needs which that cannot be met by the adoptive parent(s) and which that are not covered under any other program for which the child would qualify.

(A) These services include corrective appliances, which that may include costs of leg braces, prostheses, walkers, and similar appliances as long as such appliances cannot be secured through any other program for which the child would qualify.

(B) Tutoring and private school tuition are not covered as special services, as the public school systems are mandated to provide all children with special needs with an appropriate public education.

(C) The special services child's needs are reviewed at least annually and special services may be approved for a limited time.

(D) The amount paid does not exceed the reasonable fee for the service rendered.

(E) The special service is negotiated with the adoptive parent(s), approved by the State Office, Children and Family Services Division (CFSD), Adoption Assistance Section, and included in Form DCFS-68, Adoption Assistance Agreement.

(4) **Reimbursement of non-recurring adoption expenses.** Certain non-recurring expenses incurred by or on behalf of the adoptive parent(s) in connection with the adoption of a child with special needs may be reimbursed.

(A) **Reimbursable expenses.** The term "non-recurring Non-recurring adoption expenses" means are the reasonable and necessary adoption fees, court

## Emergency Adoptions

costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs, are not incurred in violation of state or federal law, and have not been reimbursed from other sources or funds. Financial reimbursement is available to the adoptive parent(s) of an eligible child for:

- (i) adoption fees;
- (ii) court costs;
- (iii) attorney fees;
- (iv) adoptive home study fee;
- (v) costs incurred to obtain health and psychological reports on family members;
- (vi) supervision of the adoptive placement by another agency;
- (vii) transportation, food, and lodging for the adoptive parent(s) and child during the placement process; and
- (viii) cost of fingerprinting paid by the adoptive parent(s).

(B) **Eligibility.** The child must meet all of the eligibility criteria for a child with special needs, as set forth in per OAC 340:75-15-128.4, and have been placed for adoption in accordance with applicable state and local laws. The child does not have to be in the custody of OKDHS or a federally recognized tribe at the time of finalization of the adoption. The child does not have to meet the Title IV-E categorical eligibility requirements for adoption assistance, as set forth in per OAC 340:75-15-128.2.

(C) **Amount of reimbursement.** Reimbursement of non-recurring adoption expenses, as defined in OAC 340:75-15-128.1(a)(4)(A), may be approved on behalf of the eligible child as described in (i) and (ii) of this subparagraph.

(i) **Finalized adoption.** Assistance is limited to documented actual expenses incurred up to a maximum of \$1,200 per child if the adoption is finalized. ~~In the event~~ If an Order Terminating Parental Rights or an Order Determining the Child Eligible for Adoption Without the Consent of a Biological Parent had to be obtained in the adoption case, a request for reimbursement up to a maximum of \$2,000 per child ~~will be~~ is considered by OKDHS on a case-by-case basis. In cases where siblings are ~~adopted as a unit~~ placed together with the same adoptive family, each child is treated as an individual with separate reimbursement for non-recurring expenses.

(ii) **Non-finalized adoption.** A potential adoptive parent(s) whose trial adoption disrupts prior to finalization ~~on or after January 1, 1999~~ may be eligible for up to a maximum reimbursement of \$500 per child.

(D) **Approval and payment.** The request for reimbursement of non-recurring adoption expenses must be approved and Form DCFS-68, Adoption

Assistance Agreement, signed by the adoptive parent(s) and OKDHS designee prior to finalization of the adoption. Payment is made directly to the adoptive parent(s) for approved amounts shown on the itemized statement as paid in full. Payment is made directly to a ~~vendor(s) vendor~~, such as ~~attorney(s) an attorney~~ and private adoption agency, for the ~~fee(s) which fee~~ that the itemized statement indicates has not yet been paid in full by the adoptive parent(s).

(E) **Interstate placement.** The provisions of OAC 340:75-15-128.5(b) apply to reimbursement of non-recurring adoption expenses in interstate adoptions.

(b) **Overpayments.** ~~State Office, Children and Family Services Division, CFSD~~ Adoption Assistance Section staff immediately notifies the adoptive parent(s) when it is discovered that an overpayment has occurred. The adoptive parent(s) is responsible for repayment, even if he or she is not responsible for causing the overpayment. ~~In the event~~ If the adoptive parent(s) was previously the adopted child's foster parent(s) and foster care payments continued after adoption assistance payments began, a repayment plan is required. The adoptive parent(s) is notified in writing of the overpayment and given 30 days in which to repay. Failure to repay results in an automatic reduction of no less than 10% of each future month's payment until the overpayment is satisfied. Any other types of overpayments are handled in the same manner.

(c) **Modification.** Form DCFS-68, Adoption Assistance Agreement, may be modified and the adoption assistance payment amount may be readjusted periodically when warranted by a change in circumstances and with the concurrence of the adoptive parent(s). A change in the child's eligibility for the DOC rate paid constitutes a change in circumstance.

(1) The adoption assistance payment amount may not be automatically adjusted without agreement of the adoptive parent(s) except for an across-the-board reduction or increase in OKDHS foster care ~~maintenance~~ reimbursement rates or DOC rates.

(2) Modification of Form DCFS-68, Adoption Assistance Agreement, is prospective only and may not be retroactive.

(3) If the parties cannot come to an agreement, OKDHS establishes the payment amount.

(4) The adoptive parent(s) has a duty to ~~keep~~ inform OKDHS ~~informed~~ of circumstances that would make the child ineligible for adoption assistance payments or eligible for payments of a different amount. OKDHS may require:

(A) the adoptive parent(s) to provide updated documentation of a child's ongoing eligibility for the payment amount received; and

(B) ~~OKDHS may require~~ evaluation of a child by a suitably licensed or certified examiner selected by OKDHS if the child's eligibility is in question.

(d) **Termination.** Once an ~~agreement~~ Adoption Assistance Agreement is signed and in effect, it is only terminated if one of the conditions described in (1) through (3) ~~of this subsection~~ is met.

(1) The child has attained the age of 18 years, ~~or the age of 21 if it has been determined~~ except where OKDHS determines that the child has a ~~mental or severe physical or mental~~ disability which would warrant that warrants the continuation of adoption assistance until the child reaches the age of 19 years. ~~To continue adoption assistance after the age of 18, the adoptive parent(s) must submit documentation of a continuing mental or physical disability prior to the child's 18<sup>th</sup> birthday and yearly thereafter.~~

(A) The child may be considered for continued assistance after reaching the age of 19 years and until 21 years when the child has applied for Supplemental Security Income (SSI) and the initial application for SSI is pending or has been denied and the child's needs, conditions, or behaviors meet the criteria for DOC Rate IV or V as determined by OKDHS.

(B) Prior to the child reaching 19 years, in order for adoption assistance to continue after the child's 19<sup>th</sup> birthday, the adoptive parent(s) must provide OKDHS documentation that:

(i) shows application for SSI benefits has been received by Social Security Administration (SSA) and is pending or has been denied; and

(ii) demonstrates the child's needs, conditions, or behaviors meet the criteria for DOC Rate IV or V. When the SSI application is pending, the adoptive parent(s) must provide documentation monthly to OKDHS that demonstrates due diligence in securing for SSA the necessary information to timely process the child's SSI application.

(C) Adoption assistance payments terminate when SSI payments are approved and in no event continue after the child reaches the age of 21 years.

(D) Failure to comply with OAC 340:75-15-128.1(d) results in termination of adoption assistance payments on the child's 19<sup>th</sup> birthday or on the month following failure to provide documentation on a pending SSI application, whichever occurs first.

(2) A determination is made by OKDHS that the adoptive parent(s) is no longer legally responsible for support of the child.

(3) OKDHS determines that the adoptive parent(s) is no longer providing financial support to the child. If a child is placed in out-of-home care, including psychiatric, residential, therapeutic, or foster family care, and the adoptive parent(s) continues to provide financial support to the child, adoption assistance may continue. The rate of payment may be renegotiated, as appropriate.

(e) **Death of adoptive parents or dissolution of the adoption.** Any child who was receiving Title IV-E adoption assistance at the time of the death of all of the child's adoptive parents or at the time the adoption dissolves may be eligible for adoption assistance if he or she is adopted again after October 1, 1997. A child receiving state funded adoption assistance is eligible if adopted after May 29, 1998. To be eligible, the child must continue to meet the special needs criteria and all of the requirements in (1) through (4) of this paragraph.

(1) The prospective adoptive parent(s) must make application on Form DCFS-54, Adoption Assistance Application.

(2) The prospective adoptive parent(s) must provide from a district or tribal court a copy of a file-stamped Petition for Adoption if requesting prefinalization adoption assistance or a Final Decree of Adoption if requesting adoption assistance to begin after adoption.

(3) OKDHS must be able to document the child was receiving Title IV-E or state funded assistance at the time of the death of the adoptive parent(s) or at the time the adoption dissolved.

(4) OKDHS must be provided documentation that the new adoptive parent(s) is not the biological parent(s).

(f) **Relocation by adoptive family to another state.** An Adoption Assistance Agreement signed on or after October 1, 1983 remains in effect regardless of the state in which the adoptive parent(s) is a resident at any given time.

[OAR Docket #04-1417; filed 11-19-04]

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

[OAR Docket #04-1418]

**RULEMAKING ACTION:**  
EMERGENCY adoption

**RULES:**  
Subchapter 13. Other Child Welfare Services and Medical Services for Children in ~~Substitute~~ Out-of-Home Care  
Part 5. Clothing Purchases ~~and Special Services~~  
340:75-13-45. [AMENDED]  
(Reference APA WF 04-16)

**AUTHORITY:**  
Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Section 7004-3.2 of Title 10 of the Oklahoma Statutes.

**DATES:**  
**Adoption:**  
September 28, 2004.  
**Approved by Governor:**  
November 4, 2004

**Effective:**  
Upon Governor's approval.

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

**SUPERSEDED EMERGENCY ACTIONS:**  
n/a

**INCORPORATIONS BY REFERENCE:**  
n/a

**FINDING OF EMERGENCY:**  
Emergency rulemaking approval is requested as the Oklahoma Department of Human Services (OKDHS) finds there is a compelling public interest to preserve the health, safety, and welfare of abused and neglected children by providing flexibility of supports to foster families and improved benefits to children placed in out-of-home care. In addition to the benefits to children and foster families, it is projected that OKDHS may realize an annual savings of approximately \$20,000 by incorporating the clothing allowance into the foster care payment, at a time when current budget projections deem a \$22 million shortfall to the overall fiscal year (FY) 2005 OKDHS budget.

**ANALYSIS:**  
The proposed revisions to Subchapter 13 of Chapter 75 set forth clothing allowance payments to foster resource families in an OKDHS appendix

# Emergency Adoptions

to provide a mechanism for more expedient implementation of clothing allowance changes in the future. The proposed revisions are necessary as a result of the OKDHS budget shortfall and the need to make clothing dollars more readily available to children placed in paid kinship and traditional foster care and to these families.

340:75-13-45 is revised to: (1) move specified clothing allowances for children in paid kinship and foster family care to OKDHS Appendix C-20, Children and Family Services Division Rates Schedule, which sets forth rate payments in correspondence to the child's age; and (2) clarify one time startup and emergency authorizations for children in out-of-home care.

**CONTACT PERSON:**

Dena Thayer, Oklahoma Department of Human Services, 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):**

**SUBCHAPTER 13. OTHER CHILD WELFARE SERVICES AND MEDICAL SERVICES FOR CHILDREN IN SUBSTITUTE OUT-OF-HOME CARE**

**PART 5. CLOTHING PURCHASES AND SPECIAL SERVICES**

**340:75-13-45. Clothing purchases for children in DHS voluntary or legal custody**

(a) **Clothing accompanies child.** ~~It is the obligation of each The Child Welfare (CW) staff member to join with the out of home care provider to ensure that children for whom they are responsible are adequately clothed to meet their individual needs. Upon initial removal of a child from home, it is the CW staff's obligation to obtain worker obtains the child's clothing, and any other items that have personal meaning to the child, from the parents parent(s) at the time of initial placement in out-of-home care. Clothing purchased for a child, or accompanying a the child, belongs to that child, and it is the worker's and foster parent's responsibility to The CW worker and placement provider ensure that the clothing accompany that accompanies the child if he or she the child moves from one placement to another if the item is still of use to that child. Clothing needs for a custody child placed in his or her own home are met by the parent.~~

(b) **Clothing purchase authorization amounts.** The amounts designated as clothing authorizations are set out in Oklahoma Department of Human Services (OKDHS) Appendix C-20, Children and Family Services Division Rates Schedule, as amended from time to time, as approved by the Oklahoma Commission for Human Services.

(1) **One time special clothing authorizations or startup funds startup authorization.** One time special clothing authorizations or startup funds may be made when a child newly committed to DHS custody is initially placed into an eligible placement for the first time during a custody episode. Eligible placements are DHS regular and contract

(A) A one time startup authorization is issued for a child at initial placement into:

- (i) foster family care;
- (ii) paid and non-paid kin placement, kinship care;
- (iii) therapeutic foster care (TFC); and
- (iv) emergency foster care (EFC). ~~Children in emergency foster care may receive start up funds after they have the child has been in care for 30 days.~~

(B) Another one time startup authorization may be issued when OKDHS subsequently obtains custody of the child and the child reenters any of the placements listed in OAC 340:75-13-45(1)(A). Children in out of state foster care through Interstate Compact on the Placement of Children (ICPC) are handled in a different manner. The authorizations are provided by designated staff in each county through the automated authorization system. The authorization is provided to the foster parent who purchases the clothing through a vendor of his or her choice who is willing to accept DHS authorizations. The vendor accepting the clothing authorization processes it back to DHS for payment. The foster parent makes appropriate purchases in keeping with the needs of the child considering age, lifestyle, and personal preferences. An emergency clothing authorization may not be issued within 90 days of the issuance of a one time special clothing authorization. The amounts designated as the one time special clothing purchase authorizations are:

- (A) age 0—5, authorized purchase amount of \$100;
- (B) age 6—12, authorized purchase amount of \$150; and
- (C) age 13 and over, authorized purchase amount of \$200.

(2) **Clothing for children in DHS regular foster care, specialized community homes, paid and non paid kinship care, therapeutic community homes and contract foster family care placements.** After the initial special clothing purchase authorization, the cost of clothing for children in a DHS regular, contracted foster family home, paid and non paid kinship care, therapeutic community homes and specialized community home care is met as per (A)–(B) of this paragraph.

(A) DHS regular foster care, paid kinship, specialized community homes, therapeutic community homes and contract foster parents are obligated to dedicate a portion of their monthly reimbursement check for clothing in the amounts of:

- (i) age 0—5, \$17 per month for clothing;
- (ii) age 6—12, \$31 per month for clothing; and
- (iii) age 13 and over, \$47 per month for clothing.

(B) In addition to dedicating a portion of their monthly reimbursement check for clothing, DHS foster parents, contract foster homes, specialized community home parents, paid and non paid kinship providers and therapeutic community homes, not

therapeutic foster homes, receive an automated clothing authorization voucher to help purchase clothing for the specific child identified on the authorization. The authorization is issued on a quarterly basis in February, May, August and November to be used to purchase clothing during that quarter. The authorization is automatically issued by the finance system based on the placement of the specific child on the last day of the previous quarter. If an authorization is sent to a foster home that no longer serves as the placement for the child, it is the foster parent's responsibility to return the authorization to the child's CW worker who requests a new voucher be issued to the new caretaker. The authorization is issued in the foster parent's name and the child's name and cannot be used by anyone else. The vendor accepting the authorization processes it back to DHS for payment. The vouchers are issued in the amounts of:

- (i) age 0—5, \$ 60 per quarter for clothing;
- (ii) age 6—12, \$ 75 per quarter for clothing; and
- (iii) age 13 and over, \$ 100 per quarter for clothing.

(3) **Children in ICPC placement.** Clothing is provided for children out of state in ICPC placement as per Instructions to Staff 3.

(4) **Clothing for children in emergency foster care, Developmental Disabilities Services Division (DDSD) foster care homes, therapeutic foster care, residential child care facilities and non-DHS group homes.** The daily reimbursement rates in emergency foster care, therapeutic foster care, residential child care facilities, and non-DHS group homes include the cost for providing clothing for the DHS custody child while he or she resides in that contract facility. Clothing for deprived custody children who are dually certified and placed in DDSD foster homes is obtained by the foster parent utilizing the child's SSI benefits. If a child is placed directly from inpatient psychiatric care into a DDSD home prior to the availability of SSI benefits, an emergency clothing order may be issued. As per (1) and (4) of this Section, children in some of these settings may be eligible for one time special start up and emergency clothing authorizations. Clothing for children in all other out of home placements or situations is provided through emergency clothing authorizations as outlined in (5) of this Section.

(5) **Emergency clothing authorizations.** Emergency clothing authorizations in the amount of \$75 may be provided by authorized Authorized staff in each county may provide emergency clothing authorizations not more than four times in any twelve-month period for any one DHS custody child under certain circumstances as described in (A) — (N) of this paragraph. An emergency clothing authorization may not be issued within 90 days of the issuance of a one time special clothing startup authorization or a previous emergency clothing authorization. An emergency purchase order may not be issued within

90 days of the issuance of a previous emergency clothing authorization. Expenditures of emergency clothing authorizations are closely monitored in each area.

(A) The child's CW worker requests an emergency clothing authorization four times a year for a child placed in a:

- (i) non-paid kinship home;
- (ii) non-funded group home;
- (iii) Developmental Disabilities Services Division (DDSD) and CW grand-staffed placement, such as therapeutic community home, home with daily living supports, and agency companion home; or
- (iv) psychiatric facility, such as acute or residential treatment center (RTC), in-state or out-of-state.

(B) The circumstances under which emergency Emergency authorizations may be provided to children in out of home settings are for a child:

- (Ai) upon initial placement of a child initially placed into voluntary foster care, excluding voluntary care after the age of 18. Thereafter clothing needs are met as described in (2) of this Section. If the voluntarily placed child is subsequently placed into DHS legal custody and regular foster home placement is made or continued following initial shelter or emergency foster care placement, the one time special purchase authorization is provided to meet clothing needs;
- (Bii) for a child residing in youth services shelters without adequate clothing;
- (Ciii) for a child residing in DHS OKDHS operated shelters in need of special sizes or articles of clothing not available in bulk purchase stock;
- (D) for a child in residential psychiatric care without adequate clothing;
- (E) for a child newly committed to DHS custody without sufficient clothing whose initial placement is in a private setting as described in (4) of this Section;
- (Fiv) to replace who lost clothing lost due to unauthorized leave, Absent Without Leave as a result of being absent without leave (AWOL); or disasters a disaster, such as fire, flood, and similar natural disasters, while in out of home care;
- (Gv) upon placement of a child placed into a new foster home who has been in continuous custody without sufficient clothing provided by the previous caretaker placement provider;
- (Hvi) for a child leaving out-of-home care for independent living status;
- (I) for a child in out of home care who is beginning employment and requires uniforms, footwear, and equipment such as safety goggles, steel toed boots, safety helmets and similar items;
- (Jvii) for a child returned returning from placement through Interstate Compact on the Placement of Children (ICPC), into out of home care without sufficient clothing, into out-of-home placement;

## Emergency Adoptions

- (Kviii) ~~for a child being placed for adoption without sufficient clothing. This does not include a child who is in a foster home where the foster parent is adopting the child;~~
- (L) ~~for babies in contract maternity home care;~~
- (Mix) ~~for a child who, due to special size or hard-to-fit clothing needs, requires additional clothing purchases; and~~
- (Nx) ~~for custody children and their children residing in DHS an OKDHS operated group homes home, and, if applicable, her child; and~~
- (xi) ~~placed directly from inpatient psychiatric care into a DDS home prior to the availability of Supplemental Security Income (SSI) benefits.~~
- (3) **Clothing authorization process.** The designated staff at the local OKDHS office processes clothing authorizations through the AS400 Finance Division system. The authorization is provided to the placement provider who purchases the clothing through a vendor who accepts OKDHS authorizations. The vendor submits the authorization to OKDHS for payment.
- (4) **Clothing.**
- (A) The foster parent is responsible for providing adequate clothing for the child based on the child's needs, such as a minimum of a week's worth of clothing that is appropriate for the season and well-fitting. The foster parent maintains an inventory of clothing utilizing Form DCFS-118, Clothing Inventory. After the one time startup authorization, the clothing allowance is included in the monthly foster care reimbursement for a child who is in OKDHS custody and placed in a:
- (i) foster family home;
- (ii) paid kinship home; or
- (iii) specialized community home.
- (B) Clothing is made available to a child while placed in EFC per the OKDHS contract and the clothing remains with the EFC agency.
- (C) The clothing allowance is included in the daily reimbursement rates per the OKDHS contract for:
- (i) TFC; and
- (ii) funded OKDHS group homes and maternity homes.
- (D) Clothing is purchased with SSI or Social Security Administration (SSA) benefits for a child who is in OKDHS custody and placed in a DDS foster home or non-paid kinship home.
- (5) **ICPC placements.** The clothing allowances for a child in OKDHS custody placed in foster care out-of-state through ICPC are:
- (A) included in the receiving state's monthly reimbursement; or
- (B) reimbursed by OKDHS when not included in the receiving state's monthly reimbursement. The foster parent may spend the equivalent of the monthly allowance, per OKDHS Appendix C-20. The foster parent obtains store receipts with the store's name and address that clearly identifies the items purchased.

The foster parent sends the receipts to Children and Family Services Division Administrative Services Unit, P.O. Box 25352, Oklahoma City, OK 73125. Finance Division issues a warrant to the foster parent.

- (6) ~~Items that may be purchased with a Allowable clothing authorization or voucher purchases. The appropriate items to purchase with clothing authorizations or vouchers are: Allowable purchases must meet the child's needs and include:~~
- (A) clothing;
- (B) shoes; and
- (C) disposable diapers; and
- (D) work equipment and uniforms.
- (7) ~~Items that may not be purchased with a Disallowable clothing authorization or voucher purchases. The items not appropriate to purchase with clothing authorizations or vouchers are any non-clothing item, such as:~~
- (A) hair accessories;
- (B) ~~any non-clothing item;~~
- (C) jewelry;
- (D) cosmetics or personal grooming supplies;
- (E) athletic equipment;
- (F) any food item;
- (G) haircuts;
- (H) toys;
- (I) school supplies; and
- (J) non-prescription medication or supplies; and
- (K) ~~caps and gowns.~~

[OAR Docket #04-1418; filed 11-19-04]

## TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 30. BUYER'S IDENTIFICATION CARDS

[OAR Docket #04-1407]

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 1. Licensing Qualifications, Procedures and Fees  
765:30-1-7. [NEW]

### AUTHORITY:

Oklahoma Used Motor Vehicle and Parts Commission  
47 O.S. Section 582(E)(1)  
75 O.S. Section 302(A)(1)  
75 O.S. Section 307

### DATES:

#### Comment Period:

A comment period was not required or utilized.

#### Public Hearing:

September 14, 2004

#### Adoption:

September 14, 2004

#### Approved by Governor:

October 27, 2004

#### Effective:

Immediately upon Governor's approval

#### Expiration:

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

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**FINDING OF EMERGENCY:**

Statutory changes by the Legislature in Enrolled HB 2470 made it necessary to enact rules to define and create licensing requirements for foreign buyers at salvage disposal sales.

**ANALYSIS:**

The new rules provide a definition for "foreign buyer" that was not provided in the statute and creates licensing requirements for them which eliminates confusion and establishes minimum standards for licensing.

**CONTACT PERSON:**

John W. Maile, Executive Director (405)949-2626

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

**SUBCHAPTER 1. LICENSING  
QUALIFICATIONS, PROCEDURES AND  
FEES**

**765:30-1-7. Foreign buyers**

**(a) Definition.** A foreign buyer shall be a Buyer's Identification Cardholder residing outside the boundaries of the fifty states of the United States and having the authority to engage in the automotive dismantling business in the country of the buyer's residence.

**(b) Application.** All applications for a Buyer's Identification Card shall be submitted in English. All foreign buyer applicants shall submit a copy of a photo identification issued by the governmental authority of the nation in which they reside.

**(c) Limitation.** Buyer's Identification Cards for foreign buyers shall not be issued to an address within the boundaries of the fifty states of the United States.

*[OAR Docket #04-1407; filed 11-16-04]*



# Executive Orders

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

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

## TITLE 1. EXECUTIVE ORDERS

**1:2004-36.**

### EXECUTIVE ORDER 2004-36

I, Brad Henry, Governor of the State of Oklahoma, 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 Wednesday, November 24, 2004, to honor Judge Carl B. Jones, who died on Saturday, November 20, 2004.

Judge Carl B. Jones was a decorated Vietnam veteran who received a Purple Heart for wounds received in combat. Judge Jones was born in 1947 and graduated from College High School in Bartlesville. In 1969, he earned his Bachelor's Degree from Oklahoma State University. He then served for two years in the United States Army. In the Army, Jones served 13 months as an enlisted doorgunner, 71st Assault Helo Company, Americal Division.

In 1974, Carl B. Jones earned his Juris Doctor from the University of Oklahoma College of Law and went into private practice in Tulsa. He then served as a research clerk to Oklahoma Court of Appeals Judge Lester Reynolds. In 1978, Jones became a law clerk for newly appointed Supreme Court of Oklahoma Justice Rudolph Hargrave. In 1991, Governor David Walters appointed Jones as a Judge of the Oklahoma Court of Civil Appeals. Judge Jones served as Chief Judge of the Court in 1999 and 2000. Judge Jones was a devoted husband, father and grandfather. He was a member of the Southern Baptist Church.

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 22nd day of November, 2004.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:  
M. Susan Savage  
Secretary of State

*[OAR Docket #04-1463; filed 11-23-04]*

**1:2004-37.**

### EXECUTIVE ORDER 2004-37

I, Brad Henry, Governor of the State of Oklahoma, in recognition of Pearl Harbor Remembrance Day, direct that appropriate steps be taken to fly all American flags and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Tuesday, December 7, 2004, to honor the many Oklahoma and United States citizens who perished on December 7, 1941, as a result of the infamous attack by the Japanese on Pearl Harbor, Hawaii.

On that day, 2,403 service people were killed, including 429 aboard the USS Oklahoma. Eight of the 429 aboard the USS Oklahoma were Oklahoma citizens. The loss of those people was heavy burden for all Americans to bear. The flying of these flags at half staff is a symbol from Oklahomans that demonstrates our remembrance of those killed and sympathy for their families.

## 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, Oklahoma, this 1 day of December, 2004.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage  
Secretary of State

*[OAR Docket #04-1472; filed 12-1-04]*

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