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# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules



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

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Forestry	35	Oklahoma <b>FUNERAL</b> Board ( <i>Formerly:</i> Oklahoma State	
Oklahoma Board of Licensed <b>ALCOHOL</b> and Drug		Board of <b>EMBALMERS</b> and Funeral Directors)	235
Counselors	38	Oklahoma Department of <b>EMERGENCY</b> Management	
Board of Tests for <b>ALCOHOL</b> and Drug Influence	40	( <i>Formerly:</i> Department of <b>CIVIL</b> Emergency	
<b>ALCOHOLIC</b> Beverage Laws Enforcement		Management) - <i>See</i> Title 145	
Commission	45	Oklahoma <b>EMPLOYMENT</b> Security Commission	240
<b>ANATOMICAL</b> Board of the State of Oklahoma	50	Oklahoma <b>ENERGY</b> Resources Board	243
Board of Governors of the Licensed <b>ARCHITECTS</b> and		State Board of Registration for Professional <b>ENGINEERS</b>	
Landscape Architects of Oklahoma	55	and Land Surveyors	245
<b>ARCHIVES</b> and Records Commission	60	Board of Trustees for the <b>ENID</b> Higher Education	
Board of Trustees for the <b>ARDMORE</b> Higher Education		Program	250
Program	65	Department of <b>ENVIRONMENTAL</b> Quality	252
Oklahoma <b>ARTS</b> Council	70	State Board of <b>EQUALIZATION</b>	255
<b>ATTORNEY</b> General	75	<b>ETHICS</b> Commission ( <i>Title revoked</i> )	257
State <b>AUDITOR</b> and Inspector	80	<b>ETHICS</b> Commission	258
State <b>BANKING</b> Department	85	Office of State <b>FINANCE</b>	260
Oklahoma State Employees <b>BENEFITS</b> Council	87	State <b>FIRE</b> Marshal Commission	265
Council of <b>BOND</b> Oversight	90	Oklahoma Council on <b>FIREFIGHTER</b> Training	268
Oklahoma Professional <b>BOXING</b> Commission	92	Oklahoma <b>FIREFIGHTERS</b> Pension and Retirement	
State <b>BURIAL</b> Board ( <i>abolished 7-1-92</i> )	95	System	270
[RESERVED]	100	[RESERVED]	275
Oklahoma <b>CAPITOL</b> Investment Board	105	State Board of Registration for <b>FORESTERS</b>	280
Oklahoma <b>CAPITOL</b> Improvement Authority	110	<b>FOSTER</b> Care Review Advisory Board	285
State <b>CAPITOL</b> Preservation Commission	115	Oklahoma <b>FUNERAL</b> Board ( <i>Formerly:</i> Oklahoma State	
<b>CAPITOL-MEDICAL</b> Center Improvement and Zoning		Board of Embalmers and Funeral Directors) - <i>See</i> Title	
Commission	120	235	
Oklahoma Department of <b>CAREER</b> and Technology		Oklahoma <b>FUTURES</b>	290
Education ( <i>Formerly:</i> Oklahoma Department of		<b>GOVERNOR</b>	295
<b>VOCATIONAL</b> and Technical Education) - <i>See</i> Title		<b>GRAND</b> River Dam Authority	300
780		Group Self-Insurance Association <b>GUARANTY</b> Fund	
Board of Regents of <b>CARL</b> Albert State College	125	Board	302
Department of <b>CENTRAL</b> Services ( <i>Formerly:</i> Office of		Individual Self-Insured <b>GUARANTY</b> Fund Board	303
<b>PUBLIC</b> Affairs) - <i>See</i> Title 580		<b>STATE</b> Use Committee ( <i>Formerly:</i> Committee on	
<b>CEREBRAL</b> Palsy Commission	130	Purchases of Products and Services of the Severely	
Commission on <b>CHILDREN</b> and Youth	135	<b>HANDICAPPED</b> )	304
Board of <b>CHIROPRACTIC</b> Examiners	140	Office of <b>HANDICAPPED</b> Concerns	305
Oklahoma Department of <b>EMERGENCY</b> Management		Oklahoma State Department of <b>HEALTH</b>	310
( <i>Formerly:</i> Department of <b>CIVIL</b> Emergency		Oklahoma Basic <b>HEALTH</b> Benefits Board ( <i>abolished</i>	
Management)	145	<i>11-1-97</i> )	315
Oklahoma Department of <b>COMMERCE</b>	150	Oklahoma <b>HEALTH</b> Care Authority	317
<b>COMMUNITY</b> Hospitals Authority	152	<b>HIGHWAY</b> Construction Materials Technician Certification	
<b>COMPSOURCE</b> Oklahoma ( <i>Formerly:</i> State <b>INSURANCE</b>		Board	318
Fund) - <i>See</i> Title 370		Oklahoma <b>HISTORICAL</b> Society	320
Oklahoma <b>CONSERVATION</b> Commission	155	Oklahoma <b>HORSE</b> Racing Commission	325
<b>CONSTRUCTION</b> Industries Board	158	Oklahoma <b>HOUSING</b> Finance Agency	330
Department of <b>CONSUMER</b> Credit	160	Oklahoma <b>HUMAN</b> Rights Commission	335
<b>CORPORATION</b> Commission	165	Department of <b>HUMAN</b> Services	340
Department of <b>CORRECTIONS</b>	170	Committee for <b>INCENTIVE</b> Awards for State	
State Board of <b>COSMETOLOGY</b>	175	Employees	345
Oklahoma State <b>CREDIT</b> Union Board	180	Oklahoma <b>INDIAN</b> Affairs Commission	350
<b>CRIME</b> Victims Compensation Board	185	Oklahoma <b>INDIGENT</b> Defense System	352
Joint <b>CRIMINAL</b> Justice System Task Force		Oklahoma <b>INDUSTRIAL</b> Finance Authority	355
Committee	190	Oklahoma State and Education Employees Group	
Board of <b>DENTISTRY</b>	195	<b>INSURANCE</b> Board	360
Oklahoma <b>DEVELOPMENT</b> Finance Authority	200		

Agency	Title	Agency	Title
<b>INSURANCE</b> Department	365	Oklahoma <b>PUBLIC</b> Employees Retirement System	590
<b>COMPSOURCE</b> Oklahoma ( <i>Formerly:</i> State <b>INSURANCE</b> Fund	370	Department of <b>PUBLIC</b> Safety	595
Oklahoma State Bureau of <b>INVESTIGATION</b>	375	<b>REAL</b> Estate Appraiser Board	600
Council on <b>JUDICIAL</b> Complaints	376	Oklahoma <b>REAL</b> Estate Commission	605
Office of <b>JUVENILE</b> Affairs	377	Board of Regents of <b>REDLANDS</b> Community College	607
Department of <b>LABOR</b>	380	State <b>REGENTS</b> for Higher Education	610
Department of the Commissioners of the <b>LAND</b> Office	385	State Department of <b>REHABILITATION</b> Services	612
Council on <b>LAW</b> Enforcement Education and Training	390	Board of Regents of <b>ROGERS</b> State College	615
Oklahoma <b>LAW</b> Enforcement Retirement System	395	Board of Regents of <b>ROSE</b> State College	620
Board on <b>LEGISLATIVE</b> Compensation	400	Oklahoma <b>SAVINGS</b> and Loan Board ( <i>abolished</i> <i>7-1-93</i> )	625
Oklahoma Department of <b>LIBRARIES</b>	405	<b>SCENIC</b> Rivers Commission	630
<b>LIEUTENANT</b> Governor	410	Oklahoma Commission on <b>SCHOOL</b> and County Funds Management	635
Oklahoma <b>LINKED</b> Deposit Review Board	415	Advisory Task Force on the Sale of <b>SCHOOL</b> Lands ( <i>functions concluded 2-92</i> )	640
Oklahoma <b>LIQUEFIED</b> Petroleum Gas Board	420	The Oklahoma School of <b>SCIENCE</b> and Mathematics	645
Oklahoma <b>LIQUEFIED</b> Petroleum Gas Research, Marketing and Safety Commission	422	Oklahoma Center for the Advancement of <b>SCIENCE</b> and Technology	650
<b>LITERACY</b> Initiatives Commission	425	<b>SECRETARY</b> of State	655
<b>LONG-RANGE</b> Capital Planning Commission	428	Department of <b>SECURITIES</b>	660
Board of Trustees for the <b>MCCURTAIN</b> County Higher Education Program	430	Board of Regents of <b>SEMINOLE</b> State College	665
Commission on <b>MARGINALLY</b> Producing Oil and Gas Wells	432	<b>SHEEP</b> and Wool Commission	670
State Board of <b>MEDICAL</b> Licensure and Supervision	435	State Board of Licensed <b>SOCIAL</b> Workers	675
<b>MEDICAL</b> Technology and Research Authority of Oklahoma	440	<b>SOUTHERN</b> Growth Policies Board	680
Board of <b>MEDICOLEGAL</b> Investigations	445	Oklahoma <b>SOYBEAN</b> Commission ( <i>abolished 7-1-97</i> )	685
Department of <b>MENTAL</b> Health and Substance Abuse Services	450	Board of Examiners for <b>SPEECH-LANGUAGE</b> Pathology and Audiology	690
<b>MERIT</b> Protection Commission	455	<b>STATE</b> Agency Review Committee	695
<b>MILITARY</b> Planning Commission, Oklahoma Strategic	457	<b>STATE</b> Use Committee ( <i>Formerly:</i> Committee on Purchases of Products and Services of the Severely <b>HANDICAPPED</b> ) – <i>See</i> Title 304	
Department of <b>MINES</b>	460	Oklahoma <b>STUDENT</b> Loan Authority	700
Oklahoma <b>MOTOR</b> Vehicle Commission	465	<b>TASK</b> Force 2000	705
Board of Regents of <b>MURRAY</b> State College	470	Oklahoma <b>TAX</b> Commission	710
Oklahoma State Bureau of <b>NARCOTICS</b> and Dangerous Drugs Control	475	Oklahoma Commission for <b>TEACHER</b> Preparation	712
Board of Regents of <b>NORTHERN</b> Oklahoma College	480	<b>TEACHERS'</b> Retirement System	715
Oklahoma Board of <b>NURSING</b>	485	State <b>TEXTBOOK</b> Committee	720
Oklahoma State Board of Examiners for <b>NURSING</b> Home Administrators	490	Oklahoma <b>TOURISM</b> and Recreation Department	725
Board of Regents of <b>OKLAHOMA</b> City Community College	495	Department of <b>TRANSPORTATION</b>	730
Board of Regents of <b>OKLAHOMA</b> Colleges	500	Oklahoma <b>TRANSPORTATION</b> Authority	731
Board of Examiners in <b>OPTOMETRY</b>	505	State <b>TREASURER</b>	735
State Board of <b>OSTEOPATHIC</b> Examiners	510	Board of Regents of <b>TULSA</b> Community College	740
<b>PARDON</b> and Parole Board	515	Oklahoma <b>TURNPIKE</b> Authority ( <i>name changed - see Title</i> <i>731</i> )	745
Oklahoma <b>PEANUT</b> Commission	520	Board of Trustees for the <b>UNIVERSITY</b> Center at Tulsa	750
Oklahoma State <b>PENSION</b> Commission	525	<b>UNIVERSITY</b> Hospitals Authority	752
State Board of Examiners of <b>PERFUSIONISTS</b>	527	Board of Regents of the <b>UNIVERSITY</b> of Oklahoma	755
Office of <b>PERSONNEL</b> Management	530	Board of Regents of the <b>UNIVERSITY</b> of Science and Arts of Oklahoma	760
Oklahoma State Board of <b>PHARMACY</b>	535	Oklahoma <b>USED</b> Motor Vehicle and Parts Commission	765
<b>PHYSICIAN</b> Manpower Training Commission	540	Oklahoma Department of <b>VETERANS</b> Affairs	770
Board of <b>PODIATRIC</b> Medical Examiners	545	Board of <b>VETERINARY</b> Medical Examiners	775
Oklahoma <b>POLICE</b> Pension and Retirement System	550	Oklahoma Department of <b>CAREER</b> and Technology Education ( <i>Formerly:</i> Oklahoma Department of <b>VOCATIONAL</b> and Technical Education)	780
State Department of <b>POLLUTION</b> Control ( <i>abolished</i> <i>1-1-93</i> )	555	Oklahoma <b>WATER</b> Resources Board	785
<b>POLYGRAPH</b> Examiners Board	560	Board of Regents of <b>WESTERN</b> Oklahoma State College	790
Oklahoma Board of <b>PRIVATE</b> Vocational Schools	565	Oklahoma <b>WHEAT</b> Commission	795
State Board for <b>PROPERTY</b> and Casualty Rates	570	Department of <b>WILDLIFE</b> Conservation	800
State Board of Examiners of <b>PSYCHOLOGISTS</b>	575	<b>WILL</b> Rogers and J.M. Davis Memorials Commission	805
Department of <b>CENTRAL</b> Services ( <i>Formerly:</i> Office of <b>PUBLIC</b> Affairs)	580		
<b>PUBLIC</b> Employees Relations Board	585		



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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.*

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

*[OAR Docket #05-284]*

### **RULEMAKING ACTION:**

Notice of proposed Permanent Rulemaking

### **PROPOSED RULE:**

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

### **SUMMARY:**

40:25-1-3. Alcoholic breath simulators, correcting error made in original filing with OAC and published in the Oklahoma Register. The Board finds that an imminent peril exists to the preservation of the public health, safety, or welfare of the motoring public and a compelling public interest requires a permanent rule to correct this error made by the Board of Tests for Alcohol and Drug Influence.

### **AUTHORITY:**

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

### **COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so on or before 10:00 A.M. on May 2, 2005 at the following address: Administrative Offices of the Board, 3600 N Martin Luther King Blvd., Building No. 9, Department of Public Safety Complex, Oklahoma City, Oklahoma 73111.

### **PUBLIC HEARING:**

A Public Hearing will be held at 10:00 A.M. on Wednesday May 2, 2005 at The Administrative Offices of the Board located in Building No. 9, 3600 N Martin Luther King Blvd., Department of Public Safety Complex, Oklahoma City, Oklahoma. Anyone wishing to speak must sign in at the door by 10:00 A.M.

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

n/a

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

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

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., §303 (D), a rule impact statement will be available beginning April 15, 2005 and may be obtained from the Board of Tests at the above address.

### **CONTACT PERSON:**

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

*[OAR Docket #05-284; filed 3-8-05]*

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# Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

*For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.*

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

*[OAR Docket #05-285]*

**RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

**RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 9. Long Term Care Facilities  
317:30-5-131.2. [AMENDED]  
**(Reference APA WF # 04-01)**

**SUBMITTED TO GOVERNOR:**

February 24, 2005

**SUBMITTED TO HOUSE:**

February 24, 2005

**SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-285; filed 3-8-05]*

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

*[OAR Docket #05-287]*

**RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

**RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 9. Long Term Care Facilities  
317:30-5-123. [AMENDED]  
**(Reference APA WF # 04-03A)**

**SUBMITTED TO GOVERNOR:**

February 24, 2005

**SUBMITTED TO HOUSE:**

February 24, 2005

**SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-287; filed 3-8-05]*

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

*[OAR Docket #05-289]*

**RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

**RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 2. Physician Assistants  
317:30-5-30. through 317:30-5-31. [AMENDED]  
317:30-5-34. [REVOKED]  
**(Reference APA WF # 04-04)**

**SUBMITTED TO GOVERNOR:**

February 24, 2005

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February 24, 2005

**SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-289; filed 3-8-05]*

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

*[OAR Docket #05-290]*

**RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

**RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 79. Dentists  
317:30-5-700. [AMENDED]  
**(Reference APA WF # 04-05)**

**SUBMITTED TO GOVERNOR:**

February 24, 2005

**SUBMITTED TO HOUSE:**

February 24, 2005

**SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-290; filed 3-8-05]*

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## Submissions for Review

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

*[OAR Docket #05-291]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

#### **RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 90. Diagnostic Testing Entities [NEW]  
317:30-5-907. through 30-5-907.3. [NEW]  
(Reference APA WF # 04-09)

#### **SUBMITTED TO GOVERNOR:**

February 24, 2005

#### **SUBMITTED TO HOUSE:**

February 24, 2005

#### **SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-291; filed 3-8-05]*

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

*[OAR Docket #05-292]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

#### **RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 9. Long Term Care Facilities  
317:30-5-134. [AMENDED]  
(Reference APA WF # 04-10)

#### **SUBMITTED TO GOVERNOR:**

February 24, 2005

#### **SUBMITTED TO HOUSE:**

February 24, 2005

#### **SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-292; filed 3-8-05]*

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

*[OAR Docket #05-293]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

#### **RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 6. Inpatient Psychiatric Hospitals  
317:30-5-96. [AMENDED]  
(Reference APA WF # 04-12)

#### **SUBMITTED TO GOVERNOR:**

February 24, 2005

#### **SUBMITTED TO HOUSE:**

February 24, 2005

#### **SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-293; filed 3-8-05]*

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

*[OAR Docket #05-295]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

#### **RULES:**

Subchapter 3. General Provider Policies  
Part 3. General Medical Program Information  
317:30-3-40. [AMENDED]  
Subchapter 5. Individual Providers and Specialties  
Part 51. Habilitation Services  
317:30-5-482. [AMENDED]  
(Reference APA WF # 04-16A)

#### **SUBMITTED TO GOVERNOR:**

February 24, 2005

#### **SUBMITTED TO HOUSE:**

February 24, 2005

#### **SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-295; filed 3-8-05]*

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

*[OAR Docket #05-286]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

#### **RULES:**

Subchapter 6. Soonercare Health Benefits for Categorically  
Needy Pregnant Women and Families with Children  
Part 7. Certification, Redetermination and Notification  
317:35-6-64.1. [NEW]  
(Reference APA WF # 04-02)

**SUBMITTED TO GOVERNOR:**

February 24, 2005

**SUBMITTED TO HOUSE:**

February 24, 2005

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February 24, 2005

*[OAR Docket #05-286; filed 3-8-05]*

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

*[OAR Docket #05-288]*

**RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

**RULES:**

Subchapter 19. Nursing Facility Services

317:35-19-14. [AMENDED]

(Reference APA WF # 04-03B)

**SUBMITTED TO GOVERNOR:**

February 24, 2005

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February 24, 2005

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February 24, 2005

*[OAR Docket #05-288; filed 3-8-05]*

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

*[OAR Docket #05-294]*

**RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

**RULES:**

Subchapter 21. Breast and Cervical Cancer Treatment

Program [NEW]

317:35-21-1. through 35-21-13. [NEW]

(Reference APA WF # 04-13)

**SUBMITTED TO GOVERNOR:**

February 24, 2005

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February 24, 2005

**SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-294; filed 3-8-05]*

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

*[OAR Docket #05-296]*

**RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

**RULES:**

Subchapter 5. Client Services

Part 9. Service Provisions

317:40-5-113. [NEW]

(Reference APA WF # 04-16B)

**SUBMITTED TO GOVERNOR:**

February 24, 2005

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February 24, 2005

**SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-296; filed 3-8-05]*

**TITLE 375. OKLAHOMA STATE BUREAU  
OF INVESTIGATION  
CHAPTER 40. OKLAHOMA IDENTITY  
THEFT PASSPORT PROGRAM**

*[OAR Docket #05-274]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

375:40-1-1. through 375: 40-1-12. [NEW]

**SUBMITTED TO THE GOVERNOR:**

February 28, 2005

**SUBMITTED TO THE HOUSE:**

February 28, 2005

**SUBMITTED TO THE SENATE:**

February 28, 2005

*[OAR Docket #05-274; filed 3-2-05]*

**TITLE 375. OKLAHOMA STATE BUREAU  
OF INVESTIGATION  
CHAPTER 45. DONATION OF SURPLUS  
PROPERTY**

*[OAR Docket #05-275]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

375:45-1-1. to 375:45-1-7. [NEW]

## Submissions for Review

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**SUBMITTED TO THE GOVERNOR:**

February 28, 2005

**SUBMITTED TO THE HOUSE:**

February 28, 2005

**SUBMITTED TO THE SENATE:**

February 28, 2005

*[OAR Docket #05-275; filed 3-2-05]*

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

*[OAR Docket #05-268]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. Office of the Executive Director

Part 3. Office of the Advocate General

377:3-1-25. [AMENDED]

377:3-1-28. [AMENDED]

Subchapter 13. Office of Public Integrity

Part 3. Requirements for Secure Juvenile Detention Centers

377:3-13-36. [AMENDED]

377:3-13-43. [AMENDED]

377:3-13-44. [AMENDED]

377:3-13-47. [AMENDED]

**SUBMITTED TO THE GOVERNOR:**

February 28, 2005

**SUBMITTED TO THE HOUSE:**

February 28, 2005

**SUBMITTED TO THE SENATE:**

February 28, 2005

*[OAR Docket #05-268; filed 2-28-05]*

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**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 5. DIVISION OF THE PAROLE  
BOARD**

*[OAR Docket #05-269]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions [NEW]

377:5-1-1. [NEW]

377:5-1-2. [NEW]

377:5-1-3. [NEW]

Subchapter 3. Pre-Release Planning [NEW]

377:5-3-1. [NEW]

377:5-3-2. [NEW]

377:5-3-3. [NEW]

377:5-3-4. [NEW]

377:5-3-5. [NEW]

SUBCHAPTER 5. HEARINGS [NEW]

377:5-5-1. [NEW]

377:5-5-2. [NEW]

377:5-5-3. [NEW]

**SUBMITTED TO THE GOVERNOR:**

February 28, 2005

**SUBMITTED TO THE HOUSE:**

February 28, 2005

**SUBMITTED TO THE SENATE:**

February 28, 2005

*[OAR Docket #05-269; filed 2-28-05]*

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

*[OAR Docket #05-270]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 9. Services to Juveniles in Out\_of\_Home  
Placements

Part 3. Grand Staffing

377:10-9-10. [AMENDED]

377:10-9-11. [REVOKED]

377:10-9-12. [REVOKED]

**SUBMITTED TO THE GOVERNOR:**

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February 28, 2005

*[OAR Docket #05-270; filed 2-28-05]*

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

*[OAR Docket #05-271]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 7. Custody

Part 5. Rules of Supervised Community Placement

7:25-7-30. [REVOKED]

Part 7. Parole [REVOKED]

377:25-7-40. [REVOKED]

377:25-7-41. [REVOKED]

377:25-7-42. [REVOKED]

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February 28, 2005

*[OAR Docket #05-271; filed 2-28-05]*

**TITLE 377. OFFICE OF JUVENILE AFFAIRS  
CHAPTER 30. RESIDENTIAL SERVICES**

*[OAR Docket #05-272]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 5. Division of the Parole Board [REVOKED]
- 377:30-5-1. [REVOKED]
- 377:30-5-2. [REVOKED]
- 377:30-5-3. [REVOKED]
- 377:30-5-4. [REVOKED]
- 377:30-5-5. [REVOKED]
- 377:30-5-6. [REVOKED]
- 377:30-5-7. [REVOKED]

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

*[OAR Docket #05-273]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 3. Security and Control [AMENDED]
- Subchapter 5. Food Services, Sanitation, Safety and Hygiene [AMENDED]
- Subchapter 7. Medical and Health Care [AMENDED]
- Subchapter 9. Juvenile Rights [AMENDED]
- Subchapter 11. Juvenile Rules/Discipline [AMENDED]
- Subchapter 17. Ancillary Programs [AMENDED]
- Subchapter 19. Release and Revocations (Delinquent Programs) [REVOKED]

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February 28, 2005

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February 28, 2005

*[OAR Docket #05-273; filed 2-28-05]*

**TITLE 445. BOARD OF MEDICOLEGAL  
INVESTIGATIONS  
CHAPTER 10. MEDICAL EXAMINER  
CASES**

*[OAR Docket #05-300]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- 445:10-1-11. Fees for Forensic Science and Laboratory Services [AMENDED]

**SUBMITTED TO GOVERNOR:**

March 9, 2005

**SUBMITTED TO HOUSE:**

March 9, 2005

**SUBMITTED TO SENATE:**

March 9, 2005

*[OAR Docket #05-300; filed 3-9-05]*

**TITLE 710. OKLAHOMA TAX  
COMMISSION  
CHAPTER 85. VARIOUS TAX INCENTIVES**

*[OAR Docket #05-280]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review.

**RULES:**

- Subchapter 1. Oklahoma Quality Jobs Program
- 710:85-1-3. Procedure upon qualification; reporting [AMENDED]
- 710:85-1-6. Qualified establishments are employers [AMENDED]
- 710:85-1-8. Procedure for filing claim, verification, payment, protest [AMENDED]
- 710:85-1-10. Limitation on incentive payments [AMENDED]
- 710:85-1-12. Cessation, suspension, resumption of incentive payments [AMENDED]
- 710:85-1-13. Qualified establishment may protest suspension of incentive payments [AMENDED]
- Subchapter 3. Saving Quality Jobs Program
- Part 3. Premium Payment Program
- 710:85-3-30. Procedure upon qualification; reporting [AMENDED]
- 710:85-3-32. Qualified establishments are employers [AMENDED]

## Submissions for Review

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710:85-3-34. Procedure for filing claim, verification, payment, protest [AMENDED]  
Part 5. High Impact Projects  
710:85-3-57. Qualified establishment may protest suspension of payments [AMENDED]  
Subchapter 5. Small Employer Quality Jobs Program  
710:85-5-3. Procedure upon qualification; reporting [AMENDED]  
710:85-5-6. Qualified establishments are employers [AMENDED]  
710:85-5-7. Transfers to Small Employer Quality Jobs Incentive Payment Fund [AMENDED]  
710:85-5-8. Procedure for filing report, review, determination [AMENDED]  
710:85-5-10. Payment of claim [AMENDED]  
710:85-5-11. Procedure when claim cannot be verified, is revised, or is denied [AMENDED]  
710:85-5-13. Limitation on incentive payments [AMENDED]  
710:85-5-15. Denial, cessation, and resumption of incentive payments [AMENDED]  
Subchapter 7. Oklahoma Film Enhancement Rebate Program  
710:85-7-2. Definitions [AMENDED]  
710:85-7-3. Procedure upon qualification; payment [AMENDED]  
Subchapter 9. Oklahoma Quality Investment Act [NEW]  
710:85-9-1. Purpose [NEW]  
710:85-9-2. Definitions [NEW]  
710:85-9-3. Transfers to Quality Investment Payment Fund [NEW]  
710:85-9-4. Procedure for filing claim, review determination [NEW]  
710:85-9-5. Disclosure of information [NEW]  
710:85-9-6. Limitation on incentive payments [NEW]  
710:85-9-7. Incentive payments unavailable to delinquent tax reporters/remitters [NEW]  
710:85-9-8. Cessation of incentive payments [NEW]

**SUBMITTED TO GOVERNOR:**

March 3, 2005

**SUBMITTED TO HOUSE:**

March 3, 2005

**SUBMITTED TO SENATE:**

March 3, 2005

*[OAR Docket #05-280; filed 3-3-05]*

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**TITLE 715. TEACHERS' RETIREMENT SYSTEM  
CHAPTER 10. GENERAL OPERATIONS**

*[OAR Docket #05-267]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. Membership Provisions  
715:10-1-2. [AMENDED]  
715:10-1-3. [AMENDED]  
715:10-1-5. [AMENDED]  
Subchapter 5. Establishing Other Service Credits  
715:10-5-1. [AMENDED]  
715:10-5-18. [AMENDED]  
715:10-5-27. [AMENDED]  
715:10-5-28. [AMENDED]  
Subchapter 9. Survivor Benefits  
715:10-9-2. [AMENDED]  
Subchapter 13. Contributions for Membership Service  
715:10-13-1. [AMENDED]  
715:10-13-3. [AMENDED]  
Subchapter 15. Service Retirement  
715:10-15-1. [AMENDED]  
715:10-15-2. [AMENDED]  
715:10-15-7.1. [AMENDED]  
715:10-15-10. [AMENDED]  
Subchapter 17. Post-Retirement Employment  
715:10-17-13. [AMENDED]  
Subchapter 19. Tax-Sheltered Annuity Program  
715:10-19-8. [AMENDED]  
715:10-19-9. [AMENDED]

**SUBMITTED TO GOVERNOR:**

February 24, 2005

**SUBMITTED TO HOUSE:**

February 24, 2005

**SUBMITTED TO SENATE:**

February 24, 2005

*[OAR Docket #05-267; filed 2-25-05]*

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**TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION  
CHAPTER 1. GENERAL**

*[OAR Docket #05-281]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 7. Civil Rights Compliance  
780:1-7-1. [AMENDED]

**SUBMITTED TO GOVERNOR:**

March 4, 2005

**SUBMITTED TO HOUSE:**

March 4, 2005

**SUBMITTED TO SENATE:**

March 4, 2005

*[OAR Docket #05-281; filed 3-4-05]*

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**TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 10. ADMINISTRATION AND SUPERVISION**

*[OAR Docket #05-282]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 7. Local Programs: Application; Student Accounting, Evaluation

780:10-7-2. [AMENDED]

Subchapter 9. Service Contracts and Equipment Guidelines

780:10-9-2. [AMENDED]

**SUBMITTED TO GOVERNOR:**

March 4, 2005

**SUBMITTED TO HOUSE:**

March 4, 2005

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March 4, 2005

*[OAR Docket #05-282; filed 3-4-05]*

**TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 15. TECHNOLOGY CENTERS**

*[OAR Docket #05-283]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 3. Technology Centers Education

780:15-3-2. [AMENDED]

780:15-3-5. [AMENDED]

780:15-3-6. [AMENDED]

780:15-3-7. [AMENDED]

**SUBMITTED TO GOVERNOR:**

March 4, 2005

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March 4, 2005

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March 4, 2005

*[OAR Docket #05-283; filed 3-4-05]*

**TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 1. ORGANIZATION AND PROCEDURE OF OKLAHOMA WATER RESOURCES BOARD**

*[OAR Docket #05-299]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 3. Organization, Meetings And Comprehensive Water Plan

785:1-3-1. Origin, composition and operations of the Board [AMENDED]

Subchapter 5. Rules

785:1-5-3. Amending of rules or Standards by Board [AMENDED]

**SUBMITTED TO GOVERNOR:**

March 9, 2005

**SUBMITTED TO HOUSE:**

March 9, 2005

**SUBMITTED TO SENATE:**

March 9, 2005

*[OAR Docket #05-299; filed 3-9-05]*



# Gubernatorial Approvals

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

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

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

*[OAR Docket #05-297]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **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]

### **GUVERNATORIAL APPROVAL:**

March 4, 2005

*[OAR Docket #05-297; filed 3-9-05]*

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

*[OAR Docket #05-298]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

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

### **GUVERNATORIAL APPROVAL:**

March 4, 2005

*[OAR Docket #05-298; filed 3-9-05]*

## **TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #05-278]*

### **RULEMAKING ACTION:**

Gubernatorial approval.

### **RULES:**

- Subchapter 3. Public Policy
- Part 5. Filing and Mailing of Documents  
710:1-3-30. Timely filing [AMENDED]  
710:1-3-31. Sender assumes risk of untimeliness of mail  
[AMENDED]  
710:1-3-32. ~~Registered or certified mail avoids risk~~  
Documentation to avoid risk of untimeliness  
[AMENDED]  
710:1-3-33. Designated delivery services [NEW]
- Part 7. Taxpayer Payments  
710:1-3-46. Partial payment of tax liabilities, allocation  
to taxes, penalties, interest, service charges, and fees  
[AMENDED]
- Part 11. Public Records  
710:1-3-71. Rules of the Oklahoma Tax Commission  
[AMENDED]  
710:1-3-72. Decisions of the Oklahoma Tax Commission  
[AMENDED]
- Part 13. Other Policy Provisions  
710:1-3-82. Calculation of amount of nonresident  
contractor bond to be posted [AMENDED]
- Subchapter 5. Practice and Procedure  
Part 3. Description of Administrative Review and Hearings  
710:1-5-17. Petitions for declaratory rulings [AMENDED]  
Part 5. Administrative Proceedings Related to Tax Protests  
710:1-5-46. Dismissal of case [AMENDED]  
710:1-5-49. Survival and abatement of protests [NEW]

### **GUVERNATORIAL APPROVAL:**

February 23, 2005

*[OAR Docket #05-278; filed 3-3-05]*

## **TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 55. MOTOR FUELS**

*[OAR Docket #05-279]*

### **RULEMAKING ACTION:**

Gubernatorial approval.

### **RULES:**

- Subchapter 1. General Provisions  
701:55-1-2. Definitions [NEW]
- Subchapter 4. Motor Fuel Tax  
Part 3. Exemptions and Refunds  
710:55-4-114. Procedure for perfecting and claiming  
exemption for sales to certain exempt entities  
[AMENDED]

## Gubernatorial Approvals

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710:55-4-119. Diesel fuel used in the fuel supply tank of a motor vehicle used to operate attached equipment, in vehicles while parked off the highways, or in trucks used for transporting certain wastes ~~and used to operate attached equipment~~ or diesel fuel consumed by a vehicle ~~while parked off the highways~~ [AMENDED]

### GUBERNATORIAL APPROVAL:

February 23, 2005

*[OAR Docket #05-279; filed 3-3-05]*

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# Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption" of the proposed new, amended, or revoked rules. "Final adoption" occurs upon approval by the Governor and the Legislature, or upon enactment of a joint resolution of approval by the Legislature. Before proposed permanent rules can be reviewed and approved/disapproved by the Governor and the Legislature, the agency must provide the public an opportunity for input by publishing a Notice of Rulemaking Intent in the *Register*.

Permanent rules are effective ten days after publication in the *Register*, or on a later date specified by the agency in the preamble of the permanent rule document.

Permanent rules are published in the *Oklahoma Administrative Code*, along with a source note entry that references the *Register* publication of the permanent action.

*For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 303.2, 308 and 308.1.*

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

[OAR Docket #05-276]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 29. Fertilizer  
35:30-29-22. [AMENDED]  
35:30-29-37. [AMENDED]  
35:30-29-51. [AMENDED]

### 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

### DATES:

#### Comment period:

November 1, 2004 through December 1, 2004

#### Public hearing:

December 1, 2004

#### Adoption:

January 20, 2005

#### Submitted to Governor:

January 20, 2005

#### Submitted to House:

January 20, 2005

#### Submitted to Senate:

January 20, 2005

#### Gubernatorial approval:

February 16, 2005

#### Legislative approval:

Approved on February 23, 2005 by HCR 1001, waiving the Legislature's thirty legislative-day review period

#### Final adoption:

February 23, 2005

#### Effective:

April 11, 2005

#### SUPERSEDED EMERGENCY ACTIONS:

N/A

#### INCORPORATIONS BY REFERENCE:

N/A

#### ANALYSIS:

The proposed rules provide additional requirements for fertilizer storage facilities. These requirements include guidelines for directions of use of fertilizers, labeling of storage bins, application requirements, and correcting an error in terminology.

#### CONTACT PERSON:

Kenny Naylor, Plant Industry, Oklahoma Department of Agriculture, Food, and Forestry, (405) 522-5974

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 11, 2005:**

## SUBCHAPTER 29. FERTILIZER

### PART 1. GENERAL

#### 35:30-29-22. General

(a) **Guarantee requirements.** Other plant nutrients when mentioned in any form or manner shall be registered and shall be guaranteed. Guarantees shall be made on the elemental basis. Sources of the elements guaranteed and proof of availability shall be provided to the Board upon request. Except guarantees for those water soluble nutrients labeled for ready to use foliar fertilizer, ready to use specifically liquid fertilizer, hydroponic, or continuous liquid feed programs and guarantees for potting soils, the minimum percentages ~~which that~~ shall be accepted for registration are as follows:

- (1) Calcium (Ca) - 1.0000%
- (2) Magnesium (Mg) - 0.5000%
- (3) Sulfur (S) - 1.0000%
- (4) Boron (B) - 0.0200%
- (5) Chlorine (Cl) - 0.1000%
- (6) Cobalt (Co) - 0.0005%
- (7) Copper (Cu) - 0.0500%
- (8) Iron (Fe) - 0.1000%
- (9) Manganese (Mn) - 0.0500%
- (10) Molybdenum (Mo) - 0.0005%
- (11) Sodium (Na) - 0.1000%
- (12) Zinc (Zn) - 0.0500%

(b) **Guarantees for plant nutrients.** ~~GuaranteesOnly~~ guarantees or claims for the above listed plant nutrients ~~as recognized by AAFCO, are the only ones which~~ shall be accepted. Proposed labels and directions for the use of the fertilizer shall be furnished with the application for registration upon request. Any of the above listed elements ~~which that~~ are guaranteed shall appear in the order listed and shall immediately ~~following~~ follow guarantees for the primary nutrients of nitrogen, phosphate, and potash.

(c) **Warning or caution statement.** A warning or caution statement may be required for any product which contains a nutrient in water soluble form when there is evidence that the micro-nutrient is present in excess of a guaranteed percentage that may be harmful to certain crops or where there are unusual environmental conditions.

#### (d) **Examples of warning or caution statements:**

- (1) Directions: Apply this fertilizer at a maximum rate of (number of pounds) per acre for (name of crop).

# Permanent Final Adoptions

(2) CAUTION: Do not use on other crops. The (name of micro-nutrient) may cause injury to them.

(3) CAUTION: Apply this fertilizer at a maximum rate of (number of pounds) per acre for (name of crop). Do not use on other crops; the (name of micro-nutrient) may cause serious injury to them.

(4) WARNING: This fertilizer carries added (name of micro-nutrient) and is intended for use only on (name of crop). Its use on any other crops or under conditions other than those recommended may result in serious injury to the crops.

(5) CAUTION: This fertilizer is to be used only on soil which responds to (name of micro-nutrient). Crops high in (micro-nutrient) are toxic to grazing animals (ruminants).

(6) CAUTION: (Name of micro-nutrient) is recommended for all crops where (name of micro-nutrient) may be deficient; however, excessive application to susceptible crops may cause damage.

(e) **Fertilizer labels.** The following information, in the format presented in Appendix A of this Chapter, is the minimum required for all fertilizer labels. For packaged products, this information shall either (1) appear on the front or back of the package, (2) occupy at least the upper-third of a side of the package, or (3) be printed on a tag and attached to the package. This information shall be in a readable and conspicuous form. For bulk products, this same information in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery.

- (1) Net weight
- (2) Brand
- (3) Grade
- (4) Guaranteed Analysis

~~Total Nitrogen (N)\* \_\_\_\_\_ %  
 \_\_\_\_\_ % Ammoniacal Nitrogen  
 \_\_\_\_\_ % Nitrate Nitrogen  
 \_\_\_\_\_ % Water Insoluble Nitrogen  
 \_\_\_\_\_ % Urea Nitrogen  
 \_\_\_\_\_ % (Other recognized and determinable forms of N)~~

~~Available Phosphate (P<sub>2</sub>O<sub>5</sub>) \_\_\_\_\_ %~~

~~Soluble Potash (K<sub>2</sub>O) \_\_\_\_\_ %~~

~~(Other nutrients, elemental basis) \_\_\_\_\_ %~~

~~\* If chemical forms of N are claimed or required, the form shall be shown.~~

(5) Sources of nutrients, ~~when shown on the label~~, shall be listed below the completed guaranteed analysis statement.

(6) Name and address of registrant or licensee.

(7) Directions for use for fertilizer to the end user shall follow the guidelines established by the Association of American Plant Food Control Officials.

(f) **Plant nutrients.** When a plant nutrient is broken down into the component forms, the percentage for each component shall be shown before the name of the form as illustrated in Appendix B of this Chapter.

**EXAMPLES:**

~~Total Nitrogen (N) \_\_\_\_\_ %  
 \_\_\_\_\_ % Ammoniacal Nitrogen  
 \_\_\_\_\_ % Nitrate Nitrogen~~

~~Magnesium (Mg) \_\_\_\_\_ %~~

~~\_\_\_\_\_ % Water Soluble Magnesium (Mg)~~

~~Sulfur (S) \_\_\_\_\_ %~~

~~\_\_\_\_\_ % Free Sulfur (S)~~

~~\_\_\_\_\_ % Combined Sulfur (S)~~

~~Iron (Fe) \_\_\_\_\_ %~~

~~\_\_\_\_\_ % Chelated Iron (Fe)~~

~~Manganese (Mn) \_\_\_\_\_ %~~

~~\_\_\_\_\_ % Water Soluble Manganese (Mn)~~

(g) **Slowly released plant nutrients.**

(1) No fertilizer label shall bear a statement that implies that certain plant nutrients contained in a fertilizer are released slowly over a period of time, unless the slow release components are identified and guaranteed at a level of at least 15% of the total guarantee for that nutrient(s).

(2) Types of products with slow release properties recognized are (1) water insoluble, such as natural organics, ureaform materials, urea-formaldehyde products, isobutylidene diurea, oxamide, etc., (2) coated slow release, such as sulfur coated urea and other encapsulated soluble fertilizer, (3) occluded slow release, where fertilizer or fertilizer materials are mixed with waxes, resins, or other inert materials and formed into particles and (4) products containing water soluble nitrogen such as ureaform materials, urea formaldehyde products, methylenediurea (MDU), dimethylenetriurea (DMTU), dicyanodiamide (DCD), etc. The terms "water insoluble", "coated slow release", "slow release", "controlled release", "slowly available water soluble", and "occluded slow release" are accepted as descriptive of these products, provided the manufacturer can show a testing program substantiating the claim (testing under guidance of Experiment Station personnel or a recognized reputable researcher acceptable to the Board.) A laboratory procedure, acceptable to the Board for evaluating the release characteristics of the product(s) shall also be provided by the manufacturer.

(3) Until more appropriate methods are developed, AOAC International Method 970.04 (15th Edition) is to be used to confirm the coated slow release and occluded slow release nutrients and others whose slow release characteristics depend on particle size. AOAC International Method 945.01 (15th Edition) shall be used to determine the water insoluble nitrogen of organic materials.

(h) **Definitions.** Except as the Board designates in specific cases, the names and definitions for commercial fertilizer shall be those adopted by the Association of American Plant Food Control Officials.

(i) **Percentages.** The term of "percentage" by symbol or word, when used on a fertilizer label shall represent only the amount of individual plant nutrients in relation to the total product by weight.

(j) **Penalties.** When the combined commercial value for total nitrogen, available phosphoric acid or phosphate P<sub>2</sub>O<sub>5</sub>, and soluble potash is found to be 4% or more deficient from the guarantee, or when any one of the above is found to be 10% deficient from the guarantee, the penalty assessed the manufacturer, or custom blender shall be twice the commercial value of the nutrient deficiency. Penalties shall be assessed

in accordance with the AAPFCO formula: a 4% penalty is calculated at twice the value of the deficiency times total tons (i.e., 5 tons of 34-0-0 found to be 30.97-0-0 is  $2 \times \$12.12 \times 5$ ); a 10% penalty is calculated at twice the units deficient times the value per unit times total tons (i.e., 5 tons of 27-13-13 found to be 23.26-13-13 is  $2 \times 3.76 \times \text{commercial value} \times 5$ ). When a fertilizer is subject to a penalty payment under both 4% and 10%, the larger penalty shall be assessed.

(1) A deficiency in an official sample of mixed fertilizer resulting from non-uniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject of official action.

(2) The commercial values of fertilizer shall be established by the Board for calculating penalties.

(3) Penalty assessment refunds shall be documented by receipts signed by the consumer acknowledging the refund or credit, and shall be furnished to the Board within forty-five (45) days after receiving notice of the penalty assessed. If the consumer(s) cannot be found, the penalty (or amount not refunded) shall be paid to the Board within forty-five (45) days after receiving notice of the penalty assessed.

(k) **Organic nitrogen.** If an amount of nitrogen is designated as organic, then the water insoluble nitrogen or the slow release nitrogen guarantee shall not be less than 60% of the nitrogen so designated. Coated urea shall not be included in meeting the 60% requirement.

(l) **Discharges.** For the purpose of protecting surface and groundwater, any discharge of two hundred (200) pounds of dry or fifty-five (55) gallons or more of liquid fertilizer shall be reported (telephone or fax) to the Board or its authorized agent within 24 hours if discharged outside the loading, transfer or application area.

(m) **Accidental discharge response plan for dry, liquid, and anhydrous ammonia.** The operator of a commercial storage facility shall prepare a written "Discharge response plan" for the storage facility. The plan shall include:

(1) The identity and telephone number of the persons or agencies who are to be contacted in the event of a discharge, including persons responsible for the stored fertilizer; and,

(2) For each bulk fertilizer stored at the facility, a complete copy of the storage container labeling required by these rules and the labeling required under Oklahoma Fertilizer Law to accompany sale of the fertilizer; and,

(3) An identification, by location, of every storage container located at the storage facility, and the type of bulk fertilizer stored in each storage container; and,

(4) For each type of bulk fertilizer stored at the facility, the procedures to be used in controlling and recovering, or otherwise responding to a discharge; and,

(5) Procedures to be followed in using or disposing of a recovered discharge.

(n) **Availability.** A copy of the discharge response plan shall be kept readily available at the storage facility and at the nearest local office from which the storage facility is administered.

(o) **Community awareness.** The operator of a commercial storage facility shall inform the local fire and police departments, and the appropriate state environmental agency, of the existence of the plan and shall provide a current copy of the plan to the local fire and police departments and the appropriate state environmental agency.

### PART 3. LIQUID, DRY, AND ANHYDROUS AMMONIA

#### 35:30-29-37. Dry fertilizer requirements

(a) Every dry bulk storage bin shall be clearly labeled with the grade to identify its fertilizer contents. This requirement shall only apply to individual storage bins and shall not be construed to require labeling on the exterior of any building associated with the dry bulk storage bin.

(b) All dry bulk fertilizers shall be stored inside a sound structure or device having a cover or rooftop, sidewalls, and base sufficient to prevent contact with precipitation and surface waters.

### PART 5. LICENSES AND COMPLAINTS

#### 35:30-29-51. Fertilizer license

(a) Any person engaged in the distribution or sale of fertilizer shall obtain a license.

(b) The Board shall not issue a fertilizer ~~registration~~ license to any bulk dry, liquid, or anhydrous ammonia facility unless the following are approved by the Board:

(1) ~~Complete~~ Completed fertilizer license application for a fertilizer license.

(2) A completed fertilizer facility application package shall be submitted in a format approved by the Board.

(3) Site inspection performed by the Board prior to construction.

(34) Final construction of the ~~liquid containment~~ facility.

(45) Completion of all other conditions required by the Board.

(c) The Board shall not issue and may revoke any fertilizer registration if the Board determines:

(1) The nutrient value of the product or substance has inadequate plant food content.

(2) The registration is for the primary purpose of disposal of the product or substance.

(d) Fertilizer license renewal applications received thirty (30) or more days after the renewal date shall result in the Board charging a penalty equal and in addition to the cost of the license.

## Permanent Final Adoptions

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### APPENDIX A. GUARANTEED ANALYSIS 35:30-29-22(C)(4) [NEW]

Total Nitrogen (N)\* \_\_\_\_\_%  
\_\_\_\_\_ % Ammoniacal Nitrogen  
\_\_\_\_\_ % Nitrate Nitrogen  
\_\_\_\_\_ % Water Insoluble Nitrogen  
\_\_\_\_\_ % Urea Nitrogen  
\_\_\_\_\_ % (Other recognized and determinable forms of N)  
Available Phosphate (P<sub>2</sub>O<sub>5</sub>) \_\_\_\_\_%  
Soluble Potash (K<sub>2</sub>O) \_\_\_\_\_%  
(Other nutrients, elemental basis) \_\_\_\_\_%

\* If chemical forms of any nutrients are claimed or required, the chemical forms shall be shown.

**APPENDIX B. PLANT NUTRIENTS 35:30-29-22(F) [NEW]**

**EXAMPLES:**

Total Nitrogen (N) \_\_\_\_\_ %  
    \_\_\_\_\_ % Ammoniacal Nitrogen  
    \_\_\_\_\_ % Nitrate Nitrogen  
Magnesium (Mg) \_\_\_\_\_ %  
    \_\_\_\_\_ % Water Soluble Magnesium (Mg)  
Sulfur (S) \_\_\_\_\_ %  
    \_\_\_\_\_ % Free Sulfur (S)  
    \_\_\_\_\_ % Combined Sulfur (S)  
Iron (Fe) \_\_\_\_\_ %  
    \_\_\_\_\_ % Chelated Iron (Fe)  
Manganese (Mn) \_\_\_\_\_ %  
    \_\_\_\_\_ % Water Soluble Manganese (Mn)

*[OAR Docket #05-276; filed 3-2-05]*

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# Permanent Final Adoptions

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

[OAR Docket #05-277]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 29. Fertilizer  
Part 3. Liquid, Dry, and Anhydrous Ammonia  
35:30-29-37.1. [NEW]

### 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

### DATES:

#### Comment period:

December 15, 2004 through January 18, 2005

#### Public hearing:

January 18, 2005

#### Adoption:

January 20, 2005

#### Submitted to Governor:

January 20, 2005

#### Submitted to House:

January 20, 2005

#### Submitted to Senate:

January 20, 2005

#### Gubernatorial approval:

February 16, 2005

#### Legislative approval:

Approved on February 23, 2005 by HCR 1001, waiving the Legislature's thirty legislative-day review period

#### Final adoption:

February 23, 2005

#### Effective:

April 11, 2005

#### SUPERSEDED EMERGENCY ACTIONS:

N/A

#### INCORPORATIONS BY REFERENCE:

N/A

#### ANALYSIS:

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.

#### CONTACT PERSON:

Kenny Naylor, Plant Industry, Oklahoma Department of Agriculture, Food, and Forestry, (405) 522-5974

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF APRIL 11, 2005:

## SUBCHAPTER 29. FERTILIZER

### PART 3. LIQUID, DRY, AND ANHYDROUS AMMONIA

#### **35:30-29-37.1. Ammonium Nitrate Security**

(a) Ammonium nitrate storage shall be secured to provide reasonable protection against vandalism, theft, or unauthorized access.

(b) Fertilizer retailers shall obtain the following regarding any sale of ammonium nitrate:

(1) Date of sale;

(2) Quantity purchased;

(3) License number of the purchaser's valid state or federal driver's license, or other picture identification card number approved for purchaser identification by the Board; and

(4) The purchaser's name, current physical address, and telephone number.

(c) Records created pursuant to this rule shall be maintained for a minimum of two years on a form or using a format set forth by the Board.

(d) Any retailer of ammonium nitrate may refuse to sell to any person attempting to purchase ammonium nitrate out of season, in unusual quantities, or under suspect purchase patterns.

[OAR Docket #05-277; filed 3-2-05]

# 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

**1:2005-6.**

### EXECUTIVE ORDER 2005-6

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Article VI of the Oklahoma Constitution and the Oklahoma Emergency Management Act of 2003, 63 O.S. §683.1, et seq., hereby direct and order as follows:

After September 11, 2001, a substantial restructuring occurred at the federal level which resulted in the elimination or realignment of over 22 federal agencies and departments, including the Federal Emergency Management Agency (FEMA). The restructuring at the federal level has resulted in the potential for duplication of efforts and confusion at the state level. In order to resolve this concern, there must be coordination between the Oklahoma Homeland Security Director and the Oklahoma Emergency Management Director. Some of the homeland security efforts which may have previously been tasked to the Oklahoma Emergency Management Director or the Oklahoma Department of Emergency Management shall now be coordinated through and reported to the Oklahoma Homeland Security Director. In an attempt to alleviate any confusion, the Oklahoma Homeland Security Director shall be the single point of contact for all homeland security efforts within the State of Oklahoma and the Oklahoma Emergency Management Director shall be the single point of contact for all natural disasters within the State of Oklahoma. The Oklahoma Emergency Management Director shall report directly to the Oklahoma Homeland Security Director on all matters related to homeland security efforts.

The purpose of the Oklahoma Homeland Security Director position is to coordinate homeland security efforts for the State of Oklahoma including initiatives to prevent, reduce our vulnerability and prepare to respond and recover from any terrorist attacks. The Oklahoma Homeland Security Director reports directly to the Governor on such matters.

The Oklahoma Emergency Management Director shall report to the Oklahoma Homeland Security Director on any and all initiatives or efforts initiated by the United States Department of Homeland Security and its subdivisions. Such efforts and national initiatives shall include, but not be limited to, those outlined in the FY 2005 Homeland Security Grant Program: National Incident Management System, Homeland Security Presidential Directives, Achieving Tactical Interoperable Communications, National Response Plan, Institutionalizing Awareness Training, Catastrophic Incident Planning, and Public Awareness and Citizen Participation. The Oklahoma Emergency Management Director shall report to the Oklahoma Homeland Security Director on all emergency management functions pursuant to the Oklahoma Emergency Management Act of 2003 which relate to homeland security or terrorism. In addition, the Oklahoma Emergency Management Director shall report to the Oklahoma Homeland Security Director on all funds received related to homeland security or terrorism initiatives.

This Executive Order shall be distributed to all Cabinet Secretaries and to the Secretary of Safety and Security, the Oklahoma Homeland Security Director and the Oklahoma Emergency Management Director for immediate implementation.

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 8 day of March, 2005.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:  
M. Susan Savage  
Secretary of State

[OAR Docket #05-311; filed 3-11-05]

