

Volume 22
Number 21
July 15, 2005
Pages 2669 - 2722

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules



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

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ISSN 0030-1728

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Notices of Rulemaking Intent

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

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

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

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

[OAR Docket #05-1146]

RULEMAKING ACTION:

Notice of proposed EMERGENCY rulemaking

PROPOSED RULES:

Chapter 10. Flexible Benefits Plan [AMENDED]

SUMMARY:

The proposed changes to Chapter 10 implement three new provisions. The first is the implementation of a 2½ month grace period at the end of the regular Plan Year for incurring reimbursable expenses for Health Care Reimbursement Accounts. The second new provision would implement rules providing for the purchase of a TRICARE Supplement Insurance Plan for certain military retirees. The third new provision implements rules allowing for group health plans to disclose protected health information to the Council in accordance with the standards for privacy of the Health Insurance Portability & Accountability Act (HIPPA).

AUTHORITY:

Employees Benefits Council, Employees Benefits Act; 74 O.S. § 1361 et seq.

COMMENT PERIOD:

Persons wishing to present data, views, or arguments, orally or in writing, may do so before 4:45 p.m., Central Time on July 22, 2005 at the following address: Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., Central Time on July 22, 2005 at the offices of the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, Oklahoma. Interested persons can present their views at the public hearing, orally or in writing, but must sign in at the door no later than 10:00 a.m., Central Time, July 22, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003. Copies of the proposed rules will be provided pursuant to OAC: 87:1-3-13.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared. Copies may be obtained from the Employees Benefits Council at the above address. The rule impact statement will be issued prior to or within fifteen (15) days after the date of publication of this Notice of Rulemaking Intent.

CONTACT PERSON:

Russell Nash, Employees Benefits Council, (405) 232-1190 ext. 103.

[OAR Docket #05-1146; filed 6-23-05]

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 20. VOLUNTARY PAYROLL DEDUCTION MATERIALS

[OAR Docket #05-1147]

RULEMAKING ACTION:

Notice of proposed EMERGENCY rulemaking

PROPOSED RULES:

Chapter 20. Voluntary Payroll Deduction Materials [NEW]

SUMMARY:

Chapter 20 is a newly created chapter which implements the requirements of Senate Bill 0586 enacted May 18, 2005. The Bill requires materials from authorized payroll deduction vendors to be placed in the annual benefit enrollment materials provided to State employees and dependents. The proposed rules establish a procedure and timeline for the materials to be placed in the benefit enrollment materials beginning with the enrollment period conducted in the fall of 2005.

AUTHORITY:

Employees Benefits Council, Employees Benefits Act; 74 O.S. § 1361 et seq.

COMMENT PERIOD:

Persons wishing to present data, views, or arguments, orally or in writing, may do so before 4:45 p.m., Central Time on July 22, 2005 at the following address: Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., Central Time on July 22, 2005 at the offices of the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, Oklahoma. Interested persons can present their views at the public hearing,

Notices of Rulemaking Intent

orally or in writing, but must sign in at the door no later than 10:00 a.m., Central Time, July 22, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Employees Benefits Council, 200 N. Harvey, Suite 1200, Oklahoma City, OK 73102-4003. Copies of the proposed rules will be provided pursuant to OAC: 87:1-3-13.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared. Copies may be obtained from the Employees Benefits Council at the above address. The rule impact statement will be issued prior to or within fifteen (15) days after the date of publication of this Notice of Rulemaking Intent.

CONTACT PERSON:

Russell Nash, Employees Benefits Council, (405) 232-1190 ext. 103.

[OAR Docket #05-1147; filed 6-23-05]

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

[OAR Docket #05-1168]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

695:10-1-2. [AMENDED]

695:10-1-5. [AMENDED]

695:10-1-6. [AMENDED]

695:10-1-8. [AMENDED]

695:10-1-9. [AMENDED]

695:10-1-10. [AMENDED]

695:10-1-11. [AMENDED]

Subchapter 3. Principal Combined Fund Raising Organizations

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

695:10-3-2. [AMENDED]

695:10-3-3. [AMENDED]

695:10-3-4. [AMENDED]

Subchapter 5. Conduct of the Charitable Contribution Campaign

695:10-5-3. [AMENDED]

695:10-5-4. [AMENDED]

695:10-5-6. [AMENDED]

Subchapter 7. Pledge Cards, Payroll Authorizations and Mailing Lists

695:10-7-2. [AMENDED]

695:10-7-3. [AMENDED]

Subchapter 9. Remittance, Allocation and Distribution of Funds

695:10-9-2. [AMENDED]

Subchapter 11. State and Local PCFRO Proceeds and Costs

695:10-11-2. [AMENDED]

Subchapter 13. Notices, Complaints, Appeals and Hearings

695:10-13-3. [AMENDED]

SUMMARY:

The purpose of these proposed amendments is to make current emergency rules permanent.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Chanda Graham, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to chanda.graham@opm.state.ok.us. The comment period will begin on October 1, 2005. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Friday, November 11, 2005.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at the regularly scheduled State Agency Review Committee Meeting scheduled for 2:30P.M., Wednesday, November 9, 2005, at the State Office of Personnel Management, 2101 N. Lincoln, G-80, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Chanda R. Graham at the above address during the period from October 1, 2005 to November 11, 2005.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained beginning July 15, 2005, between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 521-2177.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning, Friday, July 15, 2005. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

CONTACT PERSON:

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

[OAR Docket #05-1168; filed 6-24-05]

**TITLE 800. DEPARTMENT OF WILDLIFE
CONSERVATION
CHAPTER 10. SPORT FISHING RULES**

[OAR Docket #05-1139]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Sport Fishing Rules [AMENDED]

SUMMARY:

This rule change is needed to exclude a portion of the Mountain Fork River designated trout area from trout license requirements. However, certain rules regarding possession of trout and fishing restrictions would be retained while fishing in this area.

AUTHORITY:

Title 29 O.S., Sections 3-103, 5-401, 4-120(B) and Article XXVI, Sections 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m., August 15, 2005, at the following

address: Oklahoma Department of Wildlife Conservation, Room 221, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

PUBLIC HEARINGS:

A public hearing has not been scheduled, however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Kim Erickson, Chief of Fisheries Division, at the above address or by calling 405/521-3721 no later than 4:30 p.m. August 15, 2005.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules will be available to the public at 1801 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Room 221.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after July 29, 2005 at the above address for the Oklahoma Department of Wildlife Conservation.

CONTACT PERSON:

Kim Erickson, Chief of Fisheries Division, 405/521-3721 or Rhonda Hurst, APA Liaison, 405/522-6279.

[OAR Docket #05-1139; filed 6-16-05]

Continued Hearings/Comment Periods

If an agency continues a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency may submit a notice of such continuation to the Office of Administrative Rules (OAR). The OAR publishes the continuation notice in the *Register* if such publication can be achieved at least five days prior to the announced date of the continued hearing or closing date of the continued comment period.

For additional information on continued hearings and comment periods, see OAC 655:10-7-28.

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 675. NURSING AND SPECIALIZED FACILITIES

[OAR Docket #05-1138]

RULEMAKING ACTION:

Continued comment period and public hearing relating to a proposed EMERGENCY and PERMANENT rulemaking action

PROPOSED RULES:

- Subchapter 7. Administration
310:675-7-9.1. [AMENDED]
- Subchapter 9. Resident Care Services
310:675-9-1.1. [AMENDED]
- 310:675-9-5.1. [AMENDED]
- Subchapter 13. Staff Requirements
310:675-13-5. [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 22 Ok Reg 645.

CONTINUED COMMENT PERIOD:

Original comment period:

May 2, 2005 through June 9, 2005

Continued to:

September 15, 2005

CONTINUED PUBLIC HEARING:

Original public hearing:

Part of the regular meeting of the State Board of Health, June 9, 2005, which began at 1:00 p.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

Continued to:

September 15, 2005, at 1:00 p.m., Room 307 of the Oklahoma State Department of Health Building, 1000 NE 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before September 15, 2005 to James Joslin, Assistant Chief, Long Term Care Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; or before September 15, 2005 may send electronic mail to James@health.state.ok.us

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Long Term Care Service, Protective Health Services, Oklahoma State Department of Health, 1000 Northeast 10th Street, Oklahoma City, OK 73117-1299 or by electronic mail request to James@health.state.ok.us

RULE IMPACT STATEMENT:

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

ADDITIONAL INFORMATION:

For additional information, contact James Joslin, Assistant Chief, Long Term Care Service, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299; telephone: 405-271-9444, x57209; facsimile: 405-271-3442; email: James@health.state.ok.us

[OAR Docket #05-1138; filed 6-14-05]

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 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 1. GENERAL RULES OF THE DEPARTMENT OF PUBLIC SAFETY

[OAR Docket #05-1150]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 1. Organization of the Department of Public Safety

595:1-1-3. Function of each division which deals directly with and affects the public [AMENDED]

Subchapter 9. Inspection and Copying of Final Orders, Decisions, Opinions and Open Records

595:1-9-4. Fees established by the Department pursuant to law [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2005

SUBMITTED TO HOUSE:

March 31, 2005

SUBMITTED TO SENATE:

March 31, 2005

[OAR Docket #05-1150; filed 6-24-05]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 10. DRIVER LICENSES AND IDENTIFICATION CARDS

[OAR Docket #05-1151]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card

Part 1. Purpose

595:10-1-1. Purpose [AMENDED]

Subchapter 3. Examination

595:10-3-4. Application for examination [AMENDED]

595:10-3-5. Incomplete applications [AMENDED]

595:10-3-7. Knowledge test [AMENDED]

595:10-3-8. Pre-trip inspection of Class A, B, and C commercial vehicles [AMENDED]

595:10-3-9. Skills examination [AMENDED]

Subchapter 5. Medical Aspects

595:10-5-7. Vision standards and problems [AMENDED]

Subchapter 7. Points System

595:10-7-2. Points assessed for conviction [AMENDED]

595:10-7-15. Occupational modifications [AMENDED]

Subchapter 9. Certified Schools and Designated Examiners

595:10-9-5. Requirements for certification as a designated examiner, display of certificate, certification renewal [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2005

SUBMITTED TO HOUSE:

March 31, 2005

SUBMITTED TO SENATE:

March 31, 2005

[OAR Docket #05-1151; filed 6-24-05]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 25. WRECKERS AND TOWING SERVICES

[OAR Docket #05-1152]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 3. Wrecker License

595:25-3-1. General requirements [AMENDED]

Subchapter 5. All Wrecker Operators

595:25-5-2. Equipment requirements for all vehicles [AMENDED]

595:25-5-3. Operation [AMENDED]

595:25-5-4. Insurance [AMENDED]

Subchapter 9. Oklahoma Highway Patrol Rotation Log - Additional Requirements

595:25-9-1. Oklahoma Highway Patrol Rotation Log [AMENDED]

Subchapter 11. Denial, Suspension, Revocation or Cancellation of License; Denial or Removal of Class AA Operators from Rotation Log of the Oklahoma Highway Patrol

595:25-11-3. Procedure [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2005

SUBMITTED TO HOUSE:

March 31, 2005

Submissions for Review

SUBMITTED TO SENATE:

March 31, 2005

[OAR Docket #05-1152; filed 6-24-05]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 30. SIZE AND WEIGHT PERMITS**

[OAR Docket #05-1153]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 3. Size and Weight Permit Load

595:30-3-17. Requirements for escort vehicles and escort vehicle operators [AMENDED]

595:30-3-17.1. Certification of operators of escort vehicles for hire [AMENDED]

595:30-3-21. Industrialized housing, houses, and buildings [AMENDED]

595:30-3-26. Special mobilized machinery [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2005

SUBMITTED TO HOUSE:

March 31, 2005

SUBMITTED TO SENATE:

March 31, 2005

[OAR Docket #05-1153; filed 6-24-05]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT**

[OAR Docket #05-1154]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 1. Driver Education Instruction

595:40-1-15. Requirements for all commercial driver education schools and classrooms [AMENDED]

595:40-1-16. Prohibited acts; conduct [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2005

SUBMITTED TO HOUSE:

March 31, 2005

SUBMITTED TO SENATE:

March 31, 2005

[OAR Docket #05-1154; filed 6-24-05]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 55. SAFETY DEVICES**

[OAR Docket #05-1155]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 3. Specifications for Breath Alcohol Ignition Interlock Devices [REVOKED]

595:55-3-1. Purpose [REVOKED]

595:55-3-2. Definitions [REVOKED]

595:55-3-3. Technical requirements [REVOKED]

595:55-3-4. Miscellaneous requirements [REVOKED]

595:55-3-5. Maintenance and calibration requirements [REVOKED]

595:55-3-6. Procedures for approval [REVOKED]

595:55-3-7. Approval, denial, and withdrawal of approval [REVOKED]

SUBMITTED TO GOVERNOR:

March 31, 2005

SUBMITTED TO HOUSE:

March 31, 2005

SUBMITTED TO SENATE:

March 31, 2005

[OAR Docket #05-1155; filed 6-24-05]

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

[OAR Docket #05-1141]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions
377:10-1-5. Testing for research purposes [AMENDED]

GUBERNATORIAL APPROVAL:

May 4, 2005

[OAR Docket #05-1141; filed 6-20-05]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 1. GENERAL RULES OF THE DEPARTMENT OF PUBLIC SAFETY

[OAR Docket #05-1156]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. Organization of the Department of Public Safety
595:1-1-3. Function of each division which deals directly with and affects the public [AMENDED]
Subchapter 9. Inspection and Copying of Final Orders, Decisions, Opinions and Open Records
595:1-9-4. Fees established by the Department pursuant to law [AMENDED]

GUBERNATORIAL APPROVAL:

May 13, 2005

[OAR Docket #05-1156; filed 6-24-05]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 10. DRIVER LICENSES AND IDENTIFICATION CARDS

[OAR Docket #05-1157]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card

Part 1. Purpose

595:10-1-1. Purpose [AMENDED]

Subchapter 3. Examination

595:10-3-4. Application for examination [AMENDED]

595:10-3-5. Incomplete applications [AMENDED]

595:10-3-7. Knowledge test [AMENDED]

595:10-3-8. Pre-trip inspection of Class A, B, and C commercial vehicles [AMENDED]

595:10-3-9. Skills examination [AMENDED]

Subchapter 5. Medical Aspects

595:10-5-7. Vision standards and problems [AMENDED]

Subchapter 7. Points System

595:10-7-2. Points assessed for conviction [AMENDED]

595:10-7-15. Occupational modifications [AMENDED]

Subchapter 9. Certified Schools and Designated Examiners

595:10-9-5. Requirements for certification as a designated examiner, display of certificate, certification renewal [AMENDED]

GUBERNATORIAL APPROVAL:

May 13, 2005

[OAR Docket #05-1157; filed 6-24-05]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 25. WRECKERS AND TOWING SERVICES

[OAR Docket #05-1158]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. Wrecker License

595:25-3-1. General requirements [AMENDED]

Subchapter 5. All Wrecker Operators

595:25-5-2. Equipment requirements for all vehicles [AMENDED]

595:25-5-3. Operation [AMENDED]

595:25-5-4. Insurance [AMENDED]

Subchapter 9. Oklahoma Highway Patrol Rotation Log - Additional Requirements

595:25-9-1. Oklahoma Highway Patrol Rotation Log [AMENDED]

Subchapter 11. Denial, Suspension, Revocation or Cancellation of License; Denial or Removal of Class

Gubernatorial Approvals

AA Operators from Rotation Log of the Oklahoma Highway Patrol

595:25-11-3. Procedure [AMENDED]

GUBERNATORIAL APPROVAL:

May 13, 2005

[OAR Docket #05-1158; filed 6-24-05]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 30. SIZE AND WEIGHT PERMITS**

[OAR Docket #05-1159]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. Size and Weight Permit Load

595:30-3-17. Requirements for escort vehicles and escort vehicle operators [AMENDED]

595:30-3-17.1. Certification of operators of escort vehicles for hire [AMENDED]

595:30-3-21. Industrialized housing, houses, and buildings [AMENDED]

595:30-3-26. Special mobilized machinery [AMENDED]

GUBERNATORIAL APPROVAL:

May 13, 2005

[OAR Docket #05-1159; filed 6-24-05]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT**

[OAR Docket #05-1160]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. Driver Education Instruction

595:40-1-15. Requirements for all commercial driver education schools and classrooms [AMENDED]

595:40-1-16. Prohibited acts; conduct [AMENDED]

GUBERNATORIAL APPROVAL:

May 13, 2005

[OAR Docket #05-1160; filed 6-24-05]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 55. SAFETY DEVICES**

[OAR Docket #05-1161]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. Specifications for Breath Alcohol Ignition Interlock Devices [REVOKED]

595:55-3-1. Purpose [REVOKED]

595:55-3-2. Definitions [REVOKED]

595:55-3-3. Technical requirements [REVOKED]

595:55-3-4. Miscellaneous requirements [REVOKED]

595:55-3-5. Maintenance and calibration requirements [REVOKED]

595:55-3-6. Procedures for approval [REVOKED]

595:55-3-7. Approval, denial, and withdrawal of approval [REVOKED]

GUBERNATORIAL APPROVAL:

May 13, 2005

[OAR Docket #05-1161; filed 6-24-05]

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

[OAR Docket #05-1137]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions

590:10-1-4. Health insurance ~~contribution~~ contributions [AMENDED]

Subchapter 7. Retirement Benefits

590:10-7-16. Rollovers [AMENDED]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. §§901, 909 and 1316.2

DATES:

Public hearing:

May 12, 2005

Adoption:

May 12, 2005

Approved by Governor:

June 7, 2005

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2006, unless superseded by another rule or disapproved by the legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Agency finds 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, amendment, revision, or revocation of an existing rule.

ANALYSIS:

These emergency amendments are intended to keep the Oklahoma Public Employees Retirement System ("OPERS") and the Uniform Retirement System for Justices & Judges ("URJJ") in compliance with requirements of federal tax laws and the rules of the Internal Revenue Service. The amendment to 590:10-1-4 deals with the \$105 per month health insurance subsidy that OPERS pays to most of its retirees. There are several IRS limitations on the payment of health benefits from a qualified retirement plan. This amendment will put those restrictions in the rules. The amendment to 590:10-7-16 deals with rollovers. The amendment deals with a more specific definition of "rollovers" into a variety of retirement plans. The amendment clarifies the types of rollovers that qualify and identifies the applicable restrictions.

CONTACT PERSON:

Tom Spencer (405) 858-6737

**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

590:10-1-4. Health insurance ~~contribution~~ contributions

(a) The Oklahoma Public Employees Retirement System shall contribute the amount required by law towards the cost of health insurance coverage under the State and Education Employees Group Insurance Plan or other eligible group insurance plans only for retired members who actually receive a monthly retirement benefit for that month. This contribution shall not be made for beneficiaries, survivors or directly to the retired member.

(b) For eligible group health insurance plans other than the State and Education Employees Group Insurance Plan, the System will contribute the amount required by law after the group insurance plan has made application to the System and completed any necessary and required forms and/or agreements. The group insurance plan must be in compliance with Oklahoma law and offer insurance to all of the covered participating employer's employees, former employees who are vested and former employees who retired from that covered employer. The insurance plan shall provide a certification monthly detailing each covered retired member in the form and manner required by the System. The subsidy shall be paid in arrears for each eligible retired member.

(c) Pursuant to the federal Internal Revenue Code Section 401(h) and Treasury Regulation §1.401-14, the Retirement Medical Benefit Fund shall be maintained as a sub-account of the Oklahoma Public Employees Retirement Fund. From the Retirement Medical Benefit Fund, OPERS shall remit the amount specified in 74 O.S. Section 1316.2 for health insurance premiums.

(d) All contributions to the Retirement Medical Benefit Fund shall be reasonable and ascertainable.

(e) Contributions to the Retirement Medical Benefit Fund must be subordinate to the contributions to the Oklahoma Public Employees Retirement Fund for retirement benefits. At no time shall the aggregate actual contributions to the Retirement Medical Benefit Fund (when added to actual contributions for

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life insurance protection under the plan, if any) be in excess of twenty-five percent (25%) of the total aggregate actual contributions made to the Oklahoma Public Employees Retirement Fund (not including contributions to fund past service credits). The Board shall annually determine whether the twenty-five (25%) test has been met. If at any time the Retirement Medical Benefit Fund contributions (plus any life insurance contributions) would exceed the twenty-five percent (25%) test, the excess amount of contributions shall be transferred to the Oklahoma Public Employees Retirement Fund for retirement benefits.

(f) Forfeitures in the Retirement Medical Benefit Fund shall not be allocated to individual accounts under the fund, but shall be used for account expenses.

(g) At no time prior to the satisfaction of all liabilities under the Retirement Medical Benefit Fund or termination of the fund shall any assets in the fund be used for, or diverted to, any purpose other than the providing of payment of the Oklahoma Public Employees System's portion of the monthly retiree health insurance premium benefit described by Title 74 O.S. Section 1316.2 and the payment of administrative expenses. Assets in the Retirement Medical Benefit Fund may not be used for retirement or disability benefits or any other purposes for which other assets held in the Oklahoma Employees Retirement Fund are used.

(h) The provisions of section 401(h)(5) of the Internal Revenue Code of 1986, as amended from time to time, shall apply upon the satisfaction of all liabilities under law and the Oklahoma Public Employees Retirement Fund.

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-16. Rollovers

(a) This section applies to the Oklahoma Public Employees Retirement System and to the Uniform Retirement System for Justices and Judges.

(b) A distributee may elect to have eligible rollover distributions paid in a direct rollover to an eligible retirement plan the distributee specifies, pursuant to Section 401(a)(31) of the federal Internal Revenue Code.

(c) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any

distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; the portion of any other distribution(s) that is not includible in gross income; any distribution upon hardship of the employee; and any other distribution(s) that is reasonably expected to total less than \$200.00 during a year.

(d) A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or an individual retirement annuity described in section 408(a) or (b) of the Code or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(e) An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, a qualified plan described in section 401(a) of the Code, an annuity contract described in section 403(b) of the Code, or an eligible deferred compensation plan described in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A) of the Code, that accepts the distributee's eligible rollover distribution.

(f) A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(g) A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

[OAR Docket #05-1137; filed 6-14-05]

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 268. OKLAHOMA COUNCIL ON FIREFIGHTER TRAINING CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #05-1171]

RULEMAKING ACTION:

PERMANENT Final Adoption

RULES:

Subchapter 1. General Provisions [NEW]
268:1-1-1. through 268:1-1-3. [NEW]
Subchapter 2. Leadership [NEW]
268:1-2-1. [NEW]
Subchapter 3. Staffing [NEW]
268:1-3-1. through 268:1-3-2. [NEW]
Subchapter 4. Fiscal Accountability [NEW]
268:1-4-1. through 268:1-4-4. [NEW]

AUTHORITY:

Council on Firefighter Training; 74 O.S. § 325.1.

DATES:

Comment period:

February 15, 2005 through March 21, 2005

Public hearing:

March 22, 2005

Adoption:

March 22, 2005

Submitted to the Governor:

March 28, 2005

Submitted to the House:

March 28, 2005

Submitted to the Senate:

March 28, 2005

Gubernatorial Approval:

May 10, 2005

Legislative Approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 20, 2005

Final Adoption:

May 20, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATION BY REFERENCE:

N/A

ANALYSIS:

This chapter of Administrative Rules describes the purpose and scope of the Council on Firefighter Training along with its statutory responsibilities in accordance with O.S. 74, Section 325.1; describes the composition of council members; discusses methods for public information; describes selection process and responsibilities for the Council Chair, Vice Chair, Executive Director, and authorized individuals to certify supporting documentation for the tax credits submitted to the Oklahoma Tax Commission; and sets forth guidelines on the budget, payment of expenses, financial reports and annual audit.

CONTACT PERSON:

Chris Bain, Director of Operations, Oklahoma State Firefighters Association, 2716 NE 50th Street, Oklahoma City, OK 73111, 405-424-1452

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 JULY 25, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS

268:1-1-1. Purpose and scope

This chapter describes the purpose of, the organization and the operations of the Council on Firefighter Training, as required by 75 O.S., Section 302.

268:1-1-2. Description of organization

(a) The Council on Firefighter Training is charged with the responsibility of:

- (1) identifying firefighter training needs and setting the firefighter training goals for the State of Oklahoma;
- (2) interacting with the Homeland Security Department's Preparedness and Awareness Division on firefighter training and grants; and
- (3) administering and maintaining the incentive and recognition programs established for Oklahoma firefighters, working in conjunction with Oklahoma State University - Fire Service Training, as set forth in the statute.

(b) In addition, as set forth in 74 O.S., Section 325.1., the Council shall also advise the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the State Senate and the Oklahoma State Fire Service on fire and emergency service training needs for the state. The Council shall submit an annual report or recommendations regarding fire and emergency service training needs to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the State Senate not later than December 31 each year.

(c) In accordance with 74 O.S., Section 325.1., the Council shall consist of nine (9) members, two of whom shall be ex-officio and nonvoting, as follows:

- (1) One member to be appointed by the Oklahoma State Firefighters Association who shall be a member of an Oklahoma fire department representing all members of paid, volunteer and combination fire departments;

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(2) One member to be appointed by the Professional Fire Fighters of Oklahoma who shall be a fire union officer, chief officer, or fire service instructor from a full-time paid fire department;

(3) One member to be appointed by the Oklahoma Fire Chiefs' Association who shall be a chief officer or fire service instructor from an Oklahoma combination fire department;

(4) One member to be appointed by the State Fire Marshal Commission who shall be a representative of the Oklahoma Fire Service with commensurate skills in arson investigation or code enforcement;

(5) One member to be appointed by the Oklahoma Rural Fire Coordinators who shall be a chief officer or fire service instructor from a volunteer fire department;

(6) One member to be appointed by the Director of the State Department of Health-Emergency Medical Services Division who shall be a chief officer or fire service EMS instructor from an Oklahoma fire department;

(7) One member to be appointed by the Director of the Oklahoma Department of Homeland Security who shall be a municipal emergency management official;

(8) The Director of Fire Service Training, Oklahoma State University, ex-officio and non-voting; and The Director of Fire Service Publications, Oklahoma State University, ex-officio and non-voting.

268:1-1-3. Methods whereby the public may obtain information or make submissions or requests

(a) Information regarding council matters with the purview of 74 O.S., Section 325.1, which statute defines the Council's jurisdiction, may be secured by oral or written communication address to the Council at its offices located at: Oklahoma State Firefighters Association, 2716 N.E. 50th Street, P.O. Box 11507, Oklahoma City, OK 73136, telephone number (405) 424-1452.

(b) The Executive Director of the Council maintains in permanent form as public record and open to public inspection, records of the official proceedings of the Council, as well as all rules, final orders or decisions of the Council, such records being located in the Council office and shall be available upon request. All information, documents and copies contained in a member's files shall be given confidential treatment and shall not be made public without prior written consent of the member, or by subpoena or court order. Offices of the Council are open daily Monday through Friday from 8:00 am until 4:30 pm.

SUBCHAPTER 2. LEADERSHIP

268:1-2-1. Council chair

In accordance with 74 O.S., Section 325.1., after the initial appointments to the Council have been made and at the beginning of each fiscal year thereafter, the Council shall select from

among its membership a chairperson. In addition, the Council shall also elect another member to serve as vice chairperson, and the vice chairperson shall perform the duties of the chairperson in the absence of the chairperson.

SUBCHAPTER 3. STAFFING

268:1-3-1. Executive Director

The Council shall appoint an Executive Director, who shall be the managing and administrative officer:

(1) The Executive Director shall perform the duties and services as may, from time to time, be requested or directed by the Council;

(2) The Executive Director shall be responsible to the Chair for the day-to-day operation of the Council; and

(3) The Executive Director shall attend all regular meetings of the Council.

(4) Salary for the Executive Director shall be approved by a vote of the Council.

268:1-3-2. Authorized individual(s)

The Council shall officially authorize individual(s) to certify the completed and validated tax support documentation for participating firefighters prior to these certifying forms being sent back to each specific firefighter involved.

SUBCHAPTER 4. FISCAL ACCOUNTABILITY

268:1-4-1. Budget approval

When funds are available, an annual budget shall be prepared and submitted to the Council on Firefighter Training for approval.

268:1-4-2. Payment for expenses incurred

Payments for expenses already approved in the budget by the Council may be paid from COFT funds, with appropriate supporting documentation.

268:1-4-3. Financial reports

Financial reports showing revenue, expenditures and account balances shall be submitted to the Council at each of their regular meetings.

268:1-4-4. Audit

An independent audit shall be performed at the end of each fiscal year and its outcome reported to the Council.

[OAR Docket #05-1171; filed 6-28-05]

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

[OAR Docket #05-1142]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

377:10-1-5. Testing for research purposes [AMENDED]

AUTHORITY:

Board of Juvenile Affairs, pursuant to 10 O.S., Section 7302-1.1(H) and 7302-1.1 (I) and 75 O.S., Section 302 (A)(1).

DATES:

Comment period:

December 1, 2004 through January 1, 2005

Public hearing:

January 3, 2005

Adoption:

March 25, 2005

Submitted to Governor:

March 30, 2005

Submitted to House:

March 30, 2005

Submitted to Senate:

March 30, 2005

Gubernatorial approval:

May 4, 2005

Legislative approval:

Failure of the Legislature to disapprove resulted in approval on May 24, 2005

Final adoption:

May 24, 2005

Effective:

August 1, 2005

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

377:10-1-5. Testing for research purposes. The rule is being amended to add the utilization of an informed consent form and outline the legal requirements for 18 and over or legally emancipated juveniles

CONTACT PERSON:

Robert Morey, (405) 530-2820.

**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 AUGUST 1, 2005:**

SUBCHAPTER 1. GENERAL PROVISIONS

377:10-1-5. Testing for research purposes

(a) Juveniles are permitted to participate in research projects if:

- (1) the research is:
 - (A) non-medical;
 - (B) non-pharmaceutical; or
 - (C) non-cosmetic;
- (2) the Executive Director or appropriate Deputy Director has determined that the resident will not suffer negative effects; and

(3) the juvenile signs an agreement informed consent stating that his or her participation is voluntary.

(b) the juvenile may terminate his or her participation at any time upon the juvenile's written request.

(c) ~~When possible, the~~ The staff shall notify obtain execution of an informed consent by the juvenile's parent, guardian, ~~or legal custodian or obtain a judicial order allowing of~~ the juvenile's participation in research projects. Voluntary participation in research by juveniles who are 18 years of age or older, or who have been legally emancipated, does not require an informed consent by parent, guardian, or legal custodian.

[OAR Docket #05-1142; filed 6-20-05]

**TITLE 475. OKLAHOMA STATE BUREAU
OF NARCOTICS AND DANGEROUS DRUGS
CONTROL
CHAPTER 30. LABELING REQUIREMENTS**

[OAR Docket #05-1144]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

475:30-1-4. [AMENDED]

AUTHORITY:

Oklahoma Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. Sect. 2-301, 2-307, 2-309.

DATES:

Comment period:

February 15, 2005 to March 17, 2005

Public hearing:

No public hearing was held and as no "person demanding a hearing" contacted the Oklahoma Bureau of Narcotics and Dangerous Drugs Control pursuant to 75 O.S. Section 303(B)(9).

Adoption:

March 18, 2005

Submitted to Governor:

April 1, 2005

Submitted to House:

April 1, 2005

Submitted to Senate:

April 1, 2005

Gubernatorial approval:

May 4, 2005

Legislative approval:

Failure of the legislature to disapprove the rules resulted in approval on May 25, 2005

Final adoption:

May 25, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

This rule relates to the labeling requirements for controlled dangerous substances by pharmacists. The rule allows for a pharmacist to transmit certain data in certain situations on a prescription when the practitioner fails to do so. In addition, this rule allows a facsimile to be considered an original prescription for Schedule II controlled dangerous substances if the patient is in a federally certified Hospice program. This rule interprets to 63 O.S. Section 2-309.

CONTACT PERSON:

Chief Agent John Duncan, Oklahoma Bureau of Narcotics and Dangerous Drug Control, 4545 N. Lincoln, Suite 11, Oklahoma City, Oklahoma, 74105, (405) 521-2885

Permanent Final Adoptions

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 JULY 25, 2005:

475:30-1-4. Manner of issuance of prescriptions

(a) The practitioner shall sign a written prescription in the same manner as he/she would sign a check or legal document and shall also type, stamp or print the practitioner's name on the face of each prescription. Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter and shall be manually signed by the practitioner. The prescriptions may be prepared by an agent for the signature of a practitioner, but the prescribing practitioner is responsible in the event the prescription does not conform in all essential respects to the Uniform Controlled Dangerous Substances Act and this Chapter.

(b) A resident or staff practitioner, an intern of a teaching hospital, or a limited institutional practitioner of a federal, state or local government hospital or institution, exempted from registration or registered in fee-exempt status with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, shall include on all prescriptions issued by him/her the hospital or institutional Federal Drug Enforcement Administration registration number with the special intern code number assigned by the hospital or other institution; or include on all prescriptions he/she issues his/her personal Federal Drug Enforcement Administration registration number. Such prescriptions issued by interns of a teaching hospital, if for outpatients, must be countersigned by a practitioner licensed by the practitioner's appropriate State of Oklahoma licensing board.

(c) A practitioner must state on a written prescription for any controlled dangerous substance the name, address and Federal Drug Enforcement Administration registration number of the practitioner; the date of delivery of the prescription; the name, dosage and strength per dosage unit of the controlled dangerous substance; the name and address of the patient, or if it is a veterinary prescription, the species of the animal and the name and address of the owner; the directions for use and any cautionary statements required; and if allowable, the number of times to be refilled.

(1) The face of a prescription must not be materially altered; if an error is made in filling out the prescription, a new prescription must be written by the prescribing practitioner.

(A) A pharmacist may add to the prescription the patient's address or age, the prescribing practitioner's federal DEA number, or the generic drug name if used.

(B) After confirming with the prescribing practitioner, the pharmacist may add information indicating the strength, whether tablet or capsule form, and whether it is compounded if such additions would not materially alter the prescription.

(C) If omitted, the directions (Sig) or the quantity, may be added by the pharmacist after confirming with the prescribing practitioner.

(D) Documentation of contacting the prescribing practitioner will be noted on the back of the prescription regarding (B) and (C) above.

(2) A written prescription for a controlled dangerous substance in Schedule II becomes invalid ~~five (5)~~ thirty (30) days after the date of issuance, with day one (1) of the ~~five (5)~~ thirty (30) day period being the first day after date of issuance.

(3) Each scheduled drug shall be written on a single prescription form, and no other prescriptions (controlled or non-controlled) shall be written on the same prescription form.

(d) Upon receiving an oral prescription, the pharmacist must reduce the oral prescription to the form specified in (c) of this Section, including the typewritten name of the prescribing practitioner. The pharmacist filling any prescription for any controlled dangerous substance must enter the date of filling and handwrite the initials of the pharmacist on the prescription. If the practitioner is not known to the pharmacist, he/she must make a reasonable effort to determine that the oral authorization came from a registered practitioner.

(e) Upon receiving an oral prescription, the pharmacist may use a computer printout label if the label meets all requirements for a prescription as set out by the Uniform Controlled Dangerous Substances Act and this Chapter. On computer labeling for oral prescriptions, it is not necessary that the Drug Enforcement Administration registration number be on the label used as an oral prescription, but it must be recorded on the document prepared by the pharmacist.

(f) Written prescriptions may be transmitted by a practitioner to a dispensing pharmacy by facsimile. ~~For Schedule II drugs, the original written prescription must still be presented and verified against the facsimile at the time the substances are actually dispensed, and the original document must be properly annotated and retained for filing. For drugs in Schedules III and IV, however, a facsimile copy of a written, signed prescription transmitted directly by the prescribing practitioner to the pharmacy can serve as an original prescription. Two exceptions exist:~~

~~(1) A practitioner or the practitioner's agent may transmit a Schedule II prescription involving home infusion/IV pain therapy to the home infusion pharmacy by facsimile. The home infusion pharmacy may consider the facsimile to be a "written prescription". The facsimile copy of the prescription shall be retained as an original prescription and must contain all the information necessary, including date issued, the patient's full name and address, and the practitioner's name, address, DEA registration number, and signature. The exception does not extend to the dispensing of oral dosage units of controlled substances.~~

~~(2) The same requirements as stated above apply to the transmission of prescription by facsimile to Long Term Care Facilities (LTCF). In such cases, the prescribing practitioner shall print "FAXED" on the face of the prescription, and the facsimile received must be on non-fading standard paper. Thermographic paper is not acceptable for any prescriptions for drugs in any Schedule.~~

(1) For drugs in Schedules III and IV, a facsimile of a written, signed prescription transmitted directly by the prescribing practitioner to the pharmacy can serve as an original prescription.

(2) For drugs in Schedule II, the original written prescription must still be presented and verified against the facsimile at the time the substance is actually dispensed and the original document must be properly annotated and retained for filing subject to the exceptions listed in (3) below.

(3) Exception to (2): A facsimile copy of a prescription for a Schedule II drug when sent by facsimile by the prescribing practitioner:

(A) To a Home Infusion Pharmacy.

(B) When the prescription is for a patient in a Long Term Care Facility.

(C) When the prescription is for a patient in a Hospice program certified by Medicare under Title XVIII or licensed by the state.

(g) The pharmacist still bears the responsibility for ensuring that prescriptions for controlled substances have been issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his/her professional practice. This responsibility applies equally to an order transmitted by facsimile. Measures to be considered in authenticating prescriptions sent by facsimile equipment would include maintenance of a practitioner's facsimile number reference file, verification of the telephone number of the originating facsimile equipment and/or telephone verification with the practitioner's office that the prescription was both written by the practitioner and transmitted by the practitioner or the practitioner's agent.

[OAR Docket #05-1144; filed 6-23-05]

TITLE 475. OKLAHOMA STATE BUREAU OF NARCOTICS AND DANGEROUS DRUGS CONTROL
CHAPTER 55. PSEUDOEPHEDRINE CONTROL

[OAR Docket #05-1145]

RULEMAKING ACTION: PERMANENT final adoption
RULES:

- 475:55-1-1. [NEW]
475:55-1-2. [NEW]
475:55-1-3. [NEW]
475:55-1-4. [RESERVED]
475:55-1-5. [RESERVED]
475:55-1-6. [NEW]
475:55-1-7. [NEW]
475:55-1-8. [NEW]
475:55-1-9. [NEW]
475:55-1-10. [NEW]
475:55-1-11. [NEW]
475:55-1-12. [NEW]

AUTHORITY: Oklahoma Bureau of Narcotics and Dangerous Drugs Control; 63 O.S. Sect. 2-301, 2-307, 2-309.

DATES:

Comment period: February 15, 2005 to March 17, 2005

Public hearing:

No public hearing was held and as no "person demanding a hearing" contacted the Oklahoma Bureau of Narcotics and Dangerous Drugs Control pursuant to 75 O.S. Section 303(B)(9).

Adoption:

March 18, 2005

Submitted to Governor:

April 1, 2005

Submitted to House:

April 1, 2005

Submitted to Senate:

April 1, 2005

Gubernatorial approval:

May 4, 2005

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 25, 2005.

Final adoption:

May 25, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

- 475:55-1-1. Purpose [NEW]
475:55-1-2. Characteristics of exempt pseudoephedrine products [NEW]
475:55-1-3. Pharmacy requirements [NEW]
475:55-1-6. Special registration for distribution centers [NEW]
475:55-1-7. Lawful possession of Schedule V pseudoephedrine [NEW]
475:55-1-8. Records and invoices [NEW]
475:55-1-9. Labeling [NEW]
475:55-1-10. Prescriptions [NEW]
475:55-1-11. Distributor and warehouse storage of Schedule V pseudoephedrine products [NEW]
475:55-1-12. Criteria for exemption [NEW]

Gubernatorial Approval:

June 16, 2004

Register publication:

22 Ok Reg 1030

Docket number:

05-707

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

These rules relate to the passage of HB 2176, The Nik Green Act, which made pseudoephedrine in the tablet form a Schedule V controlled dangerous substance. The rules respectively address the purpose of Chapter 55, the characteristics of exempt pseudoephedrine products, the requirements placed upon pharmacies selling pseudoephedrine, special requirements for distribution centers, the lawful possession of pseudoephedrine, records and invoices for distributors or retailers of pseudoephedrine, labeling requirements, prescriptions for pseudoephedrine, distributor or warehouse storage of pseudoephedrine, and the criteria for requests for exemption.

CONTACT PERSON:

Chief Agent John Duncan, Oklahoma Bureau of Narcotics and Dangerous Drug Control, 4545 N. Lincoln, Suite 11, Oklahoma City, Oklahoma, 74105, (405) 521-2885

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 JULY 25, 2005:

475:55-1-1. Purpose

(a) The Oklahoma Bureau of Narcotics and Dangerous Drugs Control has been granted statutory authority by 63 O.S., 2-301 to "promulgate rules and regulations relating to

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the registration and control of the manufacture, distribution, dispensing, prescribing, administering or use for scientific purposes of controlled dangerous substances within this state." Furthermore, 63 O.S., 2-212 authorizes the Oklahoma Bureau of Narcotics and Dangerous Drugs Control to promulgate rules specifically for Schedule V pseudoephedrine products. These statutes, as well as the entire Oklahoma Uniform Controlled Dangerous Substances Act, O.S. 63 Chapter 2, and the Oklahoma Administrative Code Title 475, are used as guiding authorities for the specific points of these rules and regulations.

(b) The rules of this Chapter specify the requirements for pseudoephedrine control in Oklahoma. Included in this Chapter are characteristics of exempt pseudoephedrine products, pharmacy requirements, dispensing pseudoephedrine products, thirty-day requirement, special registration for distribution centers, lawful possession of Schedule V pseudoephedrine products, records and invoices, labeling, prescriptions, distributor and warehouse storage of Schedule V pseudoephedrine, and criteria for exemption.

475:55-1-2. Characteristics of exempt pseudoephedrine products

(a) All products that are either: (1) soft gelatin liquid-filled capsules; or, (2) liquid preparations, are exempt from Schedule V. Conversely, all solid dosage forms of medications, including powders, that contain any quantity of pseudoephedrine are classified as Schedule V controlled dangerous substances and are subject to the rules of this section.

(b) The term "gel capsule," as specified in O.S. Title 63, means any soft gelatin liquid-filled capsule that contains a liquid suspension, which, in the case of pseudoephedrine, is suspended in a matrix of glycerin, polyethylene glycol, and propylene glycol, along with other liquid substances. Regardless of the product manufacturers' labeling, a gelatin-covered solid does not constitute a "gel capsule" under this provision.

(c) The term "active ingredient," as specified in O.S. Title 63, shall include the matrix of glycerin, polyethylene glycol, and propylene glycol that is found in liquid capsules.

(d) Nothing in this section shall exempt from Schedule V status any liquid preparation that is found in an illegal laboratory, is associated with an illegal laboratory, or is in any form other than that manufactured and sold by a registered manufacturer for medicinal purposes.

(e) Products containing pseudoephedrine that are dispensed pursuant to a valid prescription by a registrant are exempt from classification as Schedule V. As such, these are not restricted to the limitations of five (5) refills within a six (6) month period -instead, they are regulated the same as any non-scheduled prescription drug. Any product that is dispensed by prescription must be kept in a container that is supplied by the pharmacy and must be labeled in a manner consistent with any other prescription.

475:55-1-3. Pharmacy requirements

Schedule V pseudoephedrine substances may be sold only in licensed pharmacies that are registered with the Oklahoma

Bureau of Narcotics and Dangerous Drugs Control. These substances, as a special class of Schedule V controlled substances, shall be kept in a locked environment (shelving unit, safe, cabinet, etc.) that is within view of the pharmacy, or behind the pharmacy counter. As specified in 63 OS, 2-303 (1), 2-304 (A)-4, and OAC 475:20-1-2, the pharmacist and those with access to pseudoephedrine products will have an affirmative duty to guard against the theft and diversion of these products.

475:55-1-4. [RESERVED]

475:55-1-5. [RESERVED]

475:55-1-6. Special registration for distribution centers

Wholesale distribution centers located in Oklahoma that are engaged in interstate business to states in which Schedule V pseudoephedrine products may be sold legally can apply for and be granted a limited Schedule V pseudoephedrine pharmacy distributor license from the Oklahoma Bureau of Narcotics and Dangerous Drugs Control. Eligibility for this registration shall be subject to the applicant's meeting the following conditions:

(1) Applicant is actively engaged in the interstate sale of grocery or pharmaceutical items;

(2) Applicant's sales are not limited to pseudoephedrine items alone, or to pseudoephedrine items in conjunction with other items associated with the illegal manufacture of methamphetamine or other controlled drugs;

(3) Applicant does not have a history of association with the diversion of pseudoephedrine, or of having failed to guard against the diversion of pseudoephedrine or other products used in manufacturing illegal drugs;

(4) Applicant provides a list of customers, and they do not have a history of association with the diversion of pseudoephedrine, or of having failed to guard against the diversion of pseudoephedrine or other products used in manufacturing illegal drugs;

(5) Applicant meets the security conditions determined by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control in 475:20 of this code. However, the security for pseudoephedrine shall be less restrictive than for other pharmaceutical Schedule V controlled drugs and shall be held to a level commensurate with the nature of wholesale distribution;

(6) Other conditions, as determined on a case-by-case basis by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.

455:55-1-7. Lawful possession of Schedule V pseudoephedrine

(a) The following persons are allowed to lawfully possess Schedule V pseudoephedrine while in the course of legitimate business:

(1) Any Schedule V pseudoephedrine-only limited pharmaceutical distributor, or its agents, licensed by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control;

(2) Any wholesale drug distributor, or its agents, licensed by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control;

(3) Any manufacturer of controlled drugs, or its agents, licensed by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control;

(4) A pharmacist licensed by the Oklahoma State Board of Pharmacy; and,

(5) A physician, certified registered nurse anesthetist, advance practice nurse, physician's assistant, or other person, registered with the Oklahoma Bureau of Narcotics and Dangerous Drugs Control who is allowed to possess and dispense controlled drugs.

(b) These individuals will be required to guard against the diversion of controlled drugs and are subject to the rules and regulations pertaining to registrants handling, reporting, dispensing controlled dangerous drugs, and submission to inspections by peace officers as set forth in 63 O.S. and OAC 475.

475:55-1-8. Records and invoices

Any distributor or retailer of Schedule V pseudoephedrine products must keep readily retrievable records, as specified in 475:25-1-3 (b), and invoices pertaining to the receipt and sale of the substance. These records do not have to be kept separate from other records, if and only if such records can be produced within a reasonable period of time (no more than 2 days) as requested by the Oklahoma Bureau of Narcotics and Dangerous Drugs Control or other persons legally authorized to request these records. All records must be kept for a minimum of two (2) years.

475:55-1-9. Labeling

Schedule V pseudoephedrine products shall be exempt from the labeling requirements for other prescriptions or other Schedule V controlled drugs. Pseudoephedrine products that are obtained pursuant to a valid prescription and exempt from Schedule V classification must have an attached pharmacy label consistent with other non-scheduled drugs obtained by prescription.

475:55-1-10. Prescriptions

The nine (9) gram per month threshold limit shall not apply to Schedule V pseudoephedrine products that are dispensed for a valid prescription.

475:55-1-11. Distributor and Warehouse Storage of Schedule V Pseudoephedrine Products

Scheduled pseudoephedrine products shall be stored in a locked area that is monitored; however, they will not be required to be kept in a special locked cage. Pharmaceutical distributors and warehouses are responsible for establishing security measures to guard against diversion as specified in Chapter 20 of this code.

475:55-1-12. Criteria for exemption

(a) Any person may request an exemption or conditional exemption of Schedule V classification for a specific product. The decision of whether to grant an exemption shall be made by the Director of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, who will take the following into consideration:

(1) Ease with which the product can be converted to methamphetamine;

(2) Ease with which pseudoephedrine is extracted from the substance and whether it forms an emulsion, salt, or other form;

(3) Whether the product contains a "molecular lock" that renders it incapable of being converted into methamphetamine;

(4) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine; and,

(5) Any pertinent data that can be used to determine the risks of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance.

(b) The burden of proof for exemption shall be upon the person requesting the exemption. The petitioner shall provide the Oklahoma Bureau of Narcotics and Dangerous Drugs Control with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. Such evidence shall include the furnishing of a valid scientific study, conducted by a professional laboratory and evincing professional quality chemical analysis, which is in accordance with uniform parameters set forth in writing by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control. This report shall include documentable and reviewable data and a clear delineation of methodology.

[OAR Docket #05-1145; filed 6-23-05]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 1. GENERAL RULES OF THE DEPARTMENT OF PUBLIC SAFETY**

[OAR Docket #05-1162]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 1. Organization of the Department of Public Safety

Permanent Final Adoptions

595:1-1-3. Function of each division which deals directly with and affects the public [AMENDED]

Subchapter 9. Inspection and Copying of Final Orders, Decisions, Opinions and Open Records

595:1-9-4. Fees established by the Department pursuant to law [AMENDED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. §§ 2-108, 2-123, and 6-117

DATES:

Comment Period:

February 15, 2005, through March 28, 2005

Public Hearing:

March 28, 2005

Adoption:

March 30, 2005

Submitted to Governor:

March 31, 2005

Submitted to House:

March 31, 2005

Submitted to Senate:

March 31, 2005

Gubernatorial approval:

May 13, 2005

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 25, 2005.

Final Adoption:

May 25, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Amendments to 595:1-1-3 update information regarding the Oklahoma Highway Safety Office. Amendments to 595:1-9-4 amend the fee schedule for Department records to conform to the Open Records Act.

The proposed actions are amendments to existing rules.

The circumstances which created the need for these rules are the clarification of the organization of the agency and updating fees for open records.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

CONTACT PERSON:

David W. Beatty, Administrative Rules Liaison, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Email: dbeatty@dps.state.ok.us.

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 JULY 25, 2005:

SUBCHAPTER 1. ORGANIZATION OF THE DEPARTMENT OF PUBLIC SAFETY

595:1-1-3. Function of each division which deals directly with and affects the public

(a) **Oklahoma Highway Patrol Division.** The Oklahoma Highway Patrol Division provides safety and protection for the citizens on the highways of Oklahoma. The headquarters of the Oklahoma Highway Patrol Division is located at the Department of Public Safety. Telephone: (405) 425-2424 [47 O.S. §2-103] The division is divided into the following field and specialty troops and sections located throughout the state:

(1) **Field troops.** Field troops of the Highway Patrol have primary law enforcement authority on state, federal, and interstate highways, excluding those portions within city limits. Following is a list of the field troops, the location of their headquarters, and their telephone numbers:

- (A) Troop A: Oklahoma City, (405) 425-2285
- (B) Troop B: Tulsa, (918) 627-3881
- (C) Troop C: Muskogee, (918) 683-3256
- (D) Troop D: McAlester, (918) 423-3636
- (E) Troop E: Durant, (580) 924-2601
- (F) Troop F: Ardmore, (580) 223-8800
- (G) Troop G: Lawton, (580) 353-0783
- (H) Troop H: Clinton, (580) 323-2424
- (I) Troop I: Guymon, (580) 338-3366
- (J) Troop J: Enid, (580) 234-6147
- (K) Troop K: Pawnee, (918) 762-3662
- (L) Troop L: Vinita, (918) 256-3388
- (M) Troop M: Altus, (580) 477-2765

(2) **Turnpike troops.** Turnpike troops of the Highway Patrol have sole law enforcement authority on the turnpikes of this state. Following is a list of the turnpike troops, the turnpike each patrols, and their telephone numbers:

- (A) Troop XA: Will Rogers, (918) 356-7476
- (B) Troop XB: Muskogee, (918) 683-1782
- (C) Troop XC: Indian Nation, (918) 548-3512
- (D) Troop XD: Cherokee, (918) 868-2372
- (E) Troop XE: Creek, (918) 299-6599
- (F) Troop YA: Cimarron, (405) 724-3564
- (G) Troop YB: Turner, (918) 968-3000
- (H) Troop YC: H.E. Bailey, (405) 222-3165
- (I) Troop YD: Chickasaw, (580) 223-8800
- (J) Troop YE: Kilpatrick, (405) 425-7410

(3) **Specialty troops.** Specialty troops of the Highway Patrol perform specialized law enforcement functions within the scope of the mission and operation of the Department of Public Safety. Following is a list of the specialty troops, their functions, and their telephone numbers:

- (A) Troop O: Aircraft, (405) 789-4012
- (B) Troop P: Public Information [see (j) of this Section]
- (C) Troop R: Capitol Patrol Section [see (4)(C) of this subsection]
- (D) Troop S:
 - (i) Motor Carrier Safety, (405) 521-6103,
 - (ii) Hazardous Materials Transportation, (405) 521-6103,
 - (iii) Size and Weight Enforcement Section [see (4)(A) of this subsection]
- (E) Troop SO: Special Operations, (405) 425-2440
- (F) Troop T: Training, (405) 425-2410
- (G) Troop W: Lake Patrol Section [see (4)(B) of this subsection]
- (H) Troop Z: Internal Affairs, (405) 425-2137
- (I) Driver License Fraud Investigation, (405) 425-2477

(4) **Troops created by statute.** Following are sections within the Highway Patrol Division which are created by statute:

(A) **Size and Weight Enforcement Section (Troop S).** The Size and Weight Enforcement Section has the primary duty of enforcing the provisions of the size, weight and load laws [47 O.S. §14-101 et seq.] and rules [OAC 595:30]. Telephone: (405) 521-6103. [47 O.S. §116.11]

(B) **Lake Patrol Section (Troop W).** The Lake Patrol Section has the primary duty of enforcing state boat registration laws [63 O.S. §4001 et seq. and §4101 et seq.], boating and water safety laws [63 O.S. §4200 et seq.], federal regulations, and rules [OAC 595:45] pertaining to Oklahoma lakes, rivers and adjacent shores. The address for the headquarters of the Lake Patrol Section is RR 1, Box 721, Barnsdall, OK 74002-9739. Telephone: (918) 847-2001. [47 O.S. §2-105.6]

(C) **Capitol Patrol Section (Troop R).** The Capitol Patrol Section has the primary duty of providing law enforcement services to all state buildings and properties within Oklahoma County, including the State Capitol Park and the Governor's mansion, and Tulsa County, including the State Capitol Complex, and enforcing all parking, traffic, and criminal laws within the boundaries of Oklahoma and Tulsa Counties. Telephone: (405) 521-4541 [47 O.S. §2-105.7]

(D) **Bomb Squad Section (Troop R & BT).** The Bomb Squad Section has the primary duty of carrying out the duties prescribed in 63 O.S. §122.2. Telephone: (405) 425-2471 [47 O.S. §2-105.4B]

(b) **Communications Division.** The Communications Division is the link between the general public and public safety services provided by the Department and other law enforcement agencies or emergency providers. These services may be obtained by telephone or in person at any of the thirteen Field Troop Headquarters statewide [see (a) in this Section for telephone numbers]. [47 O.S. §2-105.8]

(c) **Legal Division.** The Legal Division provides legal services for the Department and administratively enforces Oklahoma's implied consent law [47 O.S. §751 et seq.]. Specific legal advice is not made available to the general public. The division is located at the Department of Public Safety, Room 102. Telephone: (405) 425-2148. Associate Counsel is also currently located in Jenks, Oklahoma. [47 O.S. §2-121]

(d) **Records Management Division.** The Records Management Division is the designated repository for all official traffic accident reports and records required to be submitted by law enforcement officers of municipal, county and state agencies, and for court abstracts and other records concerning motor vehicle and related convictions and offenses required to be reported by municipal and district courts. This division also ensures that appropriate entries from the above documents are made to the respective individual driver's record master file. This division is also responsible for providing documents available to the public under the provisions of the Open

Records Act [see 595:1-9-5 and 595:1-9-6 (relating to obtaining open records)]. The division is located at the Department of Public Safety, Room 206. Telephone: (405) 425-2192. [47 O.S. §2-103]

(e) **Size and Weight Permit Division.** The Size and Weight Permit Division issues appropriate permits for eligible oversize and overweight vehicles and loads. The central location of the division is located at the Department of Public Safety, Room 207. For information concerning operation and for addresses and telephone numbers of branch offices, call (405) 425-2206. [47 O.S. §2-103]

(f) **Driver License Administration.** The Driver License Administration unit is divided into four divisions [47 O.S. §2-106]:

(1) **Driver License Examining Division.** The Driver License Examining Division provides licensing for commercial driver training schools and instructors, issues permits for driver education instructors, and administers tests for the purpose of issuing driver licenses. The division is located at the Department of Public Safety, Room 113. Telephone: (405) 425-7745.

(2) **Driver License Services Division.** The Driver License Services Division provides administrative services related to the issuance and renewal of driver licenses and identification cards, coordinates the issuance of driver licenses and identification cards with motor license agents, and issues parking permits for the physically disabled. The division is located at the Department of Public Safety, Room 203. Telephone: (405) 425-2026.

(3) **Driver Improvement Division.** The Driver Improvement Division may suspend, deny, cancel, revoke, or disqualify individual driving privileges, subject to statutory authorization. The division administers rules relating to the point system and discretionary suspensions [OAC 595:10-7], medical aspects [OAC 595:10-5], alcohol and drug substance abuse courses [595:10-5-12], and mature driver accident prevention [OAC 595:10-5]. It also administers the *Nonresident Violator Compact* [47 O.S. §§789 and 790]. The division is located at the Department of Public Safety, Room 201. For information concerning operation and availability of branch office services, call (405) 425-7034.

(4) **Financial Responsibility Division.** The Financial Responsibility Division is charged with enforcement of the provisions of the financial responsibility laws of this state (47 O.S. § 7-101 et seq.) and the Compulsory Insurance Law (47 O.S. §7-600 et seq.). The division is located at the Department of Public Safety, Room 201. For information concerning operation and the availability of branch office services, call (405) 425-2098. [47 O.S. §2-103]

(g) **Wrecker Services Division.** The Wrecker Services Division is responsible for the licensing and governance of wrecker or towing services [47 O.S. §951 et seq.]. The division provides notification to owners and lien holders of the location of vehicles impounded at the request of law enforcement agencies within the state, and receives and maintains records of vehicles impounded from private property and of vehicles stored over thirty (30) days by wrecker or towing services. The

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division is located at the Department of Public Safety, Room 109. Telephone: (405) 425-2312. [47 O.S. §2-103]

(h) **Public Information Office.** The Public Information Office acts as the liaison between the Department and the public, the media, and other city, county, state, and federal agencies. Information provided includes traffic safety campaigns, press releases, traffic statistics, road conditions, and services provided by each of the Department's divisions. Telephone: (405) 425-7707. [47 O.S. 2-103]

(i) **Oklahoma Highway Safety Office.** The Oklahoma Highway Safety Office (OHSO) is the state organization responsible for developing an annual statewide plan (Highway Safety Plan) to decrease fatalities and injuries on Oklahoma roadways. Each state has a highway safety program under the direction of the state governor. ~~The Governor's Representative for Highway Safety is currently the Commissioner of Public Safety.~~ The OHSO administers federal highway safety funds in the form of highway safety projects with state and local agencies, nonprofit organizations, and private contractors. Project applications are normally due in February or March of each year for the following federal fiscal year, which begins on October 1. The OHSO is located at 3223 N. Lincoln, Oklahoma City, OK 73105. Telephone: 405-523-1570. Fax: 405-523-1586. [69 O.S. §§4008, 4009, and 4009.1]

(j) **Oklahoma Law Enforcement Telecommunications System.** The Oklahoma Law Enforcement Telecommunications System (OLETS) is a statewide telecommunications network which serves city, county, state, federal, and military law enforcement and criminal justice agencies in Oklahoma. Additionally, OLETS provides direct computer interfaces to the computer systems of the Department of Public Safety, the Oklahoma Tax Commission, the Oklahoma State Bureau of Investigation, the National Crime Information Center (NCIC), the National Law Enforcement Telecommunications System (NLETS), and the National Weather Service Computer System and Network in Oklahoma City, Oklahoma. OLETS is managed and operated by the Department of Public Safety. The division is located at the Department of Public Safety. Telephone: (405) 425-2224. [47 O.S. §2-124]

(k) **Transportation Division.** The Transportation Division is responsible for the purchase, repair, and disposal of all Department vehicles. Repairs may be done at private facilities or at the Department garage with funding coordinated by the Division. Department vehicles are disposed of by sale to other law enforcement agencies in Oklahoma or by public auction. The location of the Transportation Division is at 2300 N.E. 36th Street at the Department of Public Safety. Telephone (405) 425-2122. [47 O.S. §2-103]

(l) **Finance Division.** The Finance Division is responsible for paying the bills of the Department within its approved budget and accounting for and depositing receipts collected for fees, fines, penalties, and other monies as provided by law. The Division also processes sales of surplus and forfeited property as provided in Subchapter 15 of this Chapter. The location of the Finance Division is at the Department of Public Safety. Telephone (405) 425-2091. [47 O.S. §2-103]

SUBCHAPTER 9. INSPECTION AND COPYING OF FINAL ORDERS, DECISIONS, OPINIONS AND OPEN RECORDS

595:1-9-4. Fees established by the Department pursuant to law

Pursuant to state statutes, as shown, the following fees are established by the Department of Public Safety:

(1) **Request for ~~summary of driving record~~ Motor Vehicle Report (MVR).** Request for a ~~summary of person's driving record~~ Motor Vehicle Report, \$10.00 (per request) [47 O.S. §6-117(D)]. As used in this paragraph, "Motor Vehicle Report" shall include only pertinent data relating to a single person's record of traffic and driving offenses for the past three (3) years, as required by 47 O.S. §6-117(D), and shall not include any driving index required to be prepared and maintained by the Department pursuant to 47 O.S. §6-117(A).

(2) **Collision report.**

(A) Collision report filed by an officer, \$7.00 (per report) [47 O.S. §6-117(C)].

(B) Certified collision report filed by an officer, \$10.00 (per report) [47 O.S. §§ 2-110(B) and 6-117(C)].

(3) **Other record.** Copy of a written or printed record, other than a record named in (1) or (2) of this section, ~~\$0.25~~ [51 O.S. §24A.5.(3)]:

(A) ~~1-3 sheets, no charge~~

(B) ~~4 sheets, \$1.00 total~~

(C) ~~Each sheet beyond 4 sheets, \$ 0.25.~~

(4) **Certification.** Certifying a copy of a record, other than a record named in (1) or (2) of this Section, \$3.00 (per record), which shall be in addition to the copy fee in (3) of this Section [47 O.S. §2-110(B)].

(5) **Copy in a format other than written.** Copy of ~~audio tape, video tape, or other~~ a record in a format which is not written may cost whatever is the direct cost to the Department of Public Safety for labor and expendable supplies actually used in copying [51 O.S. §24A.5.(3)].

[OAR Docket #05-1162; filed 6-24-05]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 10. DRIVER LICENSES AND IDENTIFICATION CARDS

[OAR Docket #05-1163]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card

Part 1. Purpose

595:10-1-1. Purpose [AMENDED]

Subchapter 3. Examination

595:10-3-4. Application for examination [AMENDED]

595:10-3-5. Incomplete applications [AMENDED]

- 595:10-3-7. Knowledge test [AMENDED]
- 595:10-3-8. Pre-trip inspection of Class A, B, and C commercial vehicles [AMENDED]
- 595:10-3-9. Skills examination [AMENDED]
- Subchapter 5. Medical Aspects
- 595:10-5-7. Vision standards and problems [AMENDED]
- Subchapter 7. Points System
- 595:10-7-2. Points assessed for conviction [AMENDED]
- 595:10-7-15. Occupational modifications [AMENDED]
- Subchapter 9. Certified Schools and Designated Examiners
- 595:10-9-5. Requirements for certification as a designated examiner, display of certificate, certification renewal [AMENDED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 6-101

DATES:

Comment Period:

February 15, 2005, through March 28, 2005

Public Hearing:

March 28, 2005

Adoption:

March 30, 2005

Submitted to Governor:

March 31, 2005

Submitted to House:

March 31, 2005

Submitted to Senate:

March 31, 2005

Gubernatorial approval:

May 13, 2005

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 25, 2005.

Final Adoption:

May 25, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Amendments to 595:1-1-1 define the terms "parent" and "guardian" as they apply to this Chapter. Amendments to 595:10-3-4 update identification requirements for certain persons desiring a hazardous materials endorsement. Amendments to 595:10-3-5 extend the time period that examination scores for hazardous materials endorsements remain valid. Amendments to 595:10-3-7 and 595:10-3-8 prohibit cheating on examinations given for driver licenses. Amendments to 595:10-3-9 modify the list of commercial vehicles which are not acceptable for administering a commercial driving skills examination and make certain traffic violations committed during the examination an automatic disqualification for a commercial driving skills examination. Amendments to 595:10-5-7 modify field-of-vision standards to apply to only one eye. Amendments to 595:10-7-2 add two offenses to the list of offenses for which points are assessed. Amendments to 595:10-7-15 clarify that occupational modifications for suspended or revoked licensees must comply with state and federal law. Amendments to 595:10-9-5 require a designated examiner for Class A, B, or C commercial driver licenses to retake the written and driving examinations of the Department every 4 years instead of every 2 years.

The proposed actions are amendments to existing rules.

The circumstances, other than clarifying language, which created the need for these rules is the need to update the driver license issuance process and to update and refine procedures used to examine applicants.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

CONTACT PERSON:

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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 JULY 25, 2005:

SUBCHAPTER 1. PROCEDURES FOR OBTAINING AND MAINTAINING A DRIVER LICENSE OR IDENTIFICATION CARD

PART 1. PURPOSE

595:10-1-1. Purpose

The Department of Public Safety issues driver licenses and identification cards to qualified applicants and renews and replaces licenses and cards for licensees and cardholders who maintain their licenses and cards in accordance with this Subchapter. This Subchapter establishes how to apply for an initial, renewal, or replacement driver license or an identification card, what identification is required, how to change information on the license or card, and procedures for motor license agents. For the purposes of this Chapter:

- (1) "Parent" means a biological or adoptive parent who has actual physical and legal custody of a minor under the age of eighteen (18) years.
- (2) "Guardian" means any person over the age of twenty-one (21) years who has actual physical and legal custody of a minor under the age of eighteen (18) years.

SUBCHAPTER 3. EXAMINATION

595:10-3-4. Application for examination

(a) **Information from applicant.** The applicant must complete and submit an application for a driver license at the Driver License Examination Station prior to the commencement of the required examination. When determined by the Driver Examiner, from information received from the applicant, that the applicant may be afflicted with any physical or mental ailment as set out in 47 O.S. §6-119, the examination will be discontinued until the applicant has met all of the requirements set out in the Medical Aspects of Driver Licensing [see Subchapter 5 of the Chapter regarding medical aspects]. In addition, applicants for a Commercial Driver License who do not certify they are exempt from Subpart E of the Federal Motor Carrier Safety Regulations must meet the requirements under Subpart E, 49 CFR §391.41.

(b) **Required identification.** Each applicant must furnish documentary proof to establish his or her identity, legal name and birth date as required in OAC 595:10-1-3(b). Notwithstanding the requirements of OAC 595:10-1-3(b), an applicant for an "H" endorsement who possesses either an I-766 or I-688 card issued by United States Citizenship and Immigration Service (USCIS) shall not be granted an "H" endorsement pursuant to 49 CFR § 383.71.

(c) **Medical reports.** An applicant may be required to submit medical reports regarding any physical or mental condition which might affect driving ability as set forth in 47 O.S. § 6-119

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and Department of Public Safety rules regarding the Medical Aspects of Driver Licensing [see Subchapter 5 of this Chapter regarding medical aspects].

(d) **License application void.** Approved Class D driver license applications and identification card applications shall be void after ten (10) days from the date of approval or no more than thirty (30) calendar days following initial application date, whichever occurs first. Approved commercial driver license applications (Class A, B, or C) shall be void twenty-four (24) hours from the time of approval. If the license or card has not been obtained by the applicant within the allowed time, the applicant must appear before a Driver License Examiner and, after determination by the Examiner that all criteria and test scores are still valid, the Examiner may revalidate the application.

595:10-3-5. Incomplete applications

(a) If an applicant has passed at least one (1) examination required for issuance of a driver license, but is unable to complete other required examinations, for whatever reason, the application shall be designated by the Department as "Incomplete." The applicant shall have ninety (90) days from the date of initial application to complete the application process and take all required examinations for the driver license; provided, a passing score for an examination for an "H" endorsement shall remain valid for one (1) year from the date of the successful test. If a license has not been obtained by the end of the ninety-day period, the applicant must restart the application process. Reasons for an "Incomplete" designation may include, but are not limited to:

- (1) The applicant has no vehicle for a driving skills examination.
- (2) The applicant provides an unsafe or improperly equipped vehicle for a driving skills examination.
- (3) The applicant is unfamiliar with the vehicle being operated for a driving skills examination resulting in termination of the examination by the examiner. The applicant shall be allowed a second opportunity on the same day to take the driving skills examination. If the applicant is still unfamiliar with the vehicle, the applicant shall be required to take the examination on another day.
- (4) The applicant must obtain a clearance for medical reasons (if required, the proper medical form will be issued to the applicant),
- (5) The applicant fails to meet vision standards (a DL-20 shall be issued to the applicant).
- (6) The applicant, during the driving skills examination, is involved in an ~~accident~~ collision which is not the fault of the applicant.

(b) A passing score for any examination will remain valid for a period of ninety (90) days from the date the examination was taken. If a license has not been obtained by the expiration of the ninety-day period, the applicant will be required to retake the examination.

(c) A failed examination shall not make the applicant eligible for an "Incomplete" designation under this Section. [47 O.S. § 6-110]

595:10-3-7. Knowledge test

(a) **General.** A knowledge test is administered to each applicant for a driver license to determine the person's ability to read and understand highway signs and the person's knowledge of the traffic laws of this state. The knowledge test, if it is not waived, and the vision test shall be successfully passed by the applicant before the skills test is administered. The knowledge test includes, when applicable, any separate endorsement/restriction test as described in this Section. An applicant determined by an examiner to be cheating on any portion of an examination shall:

- (1) immediately forfeit the examination,
- (2) be given a failing score by the examiner, and
- (3) be disqualified from retaking the examination for one week.

(b) **Class D driver license.** The knowledge test administered for a Class D driver license shall consist of a minimum of twenty (20) multiple choice questions. The minimum passing score for a Class D knowledge test shall be seventy-five percent (75%).

(c) **Class A, B, or C commercial driver license.**

(1) **Knowledge test.** The knowledge test administered for a Class A, B, or C commercial driver license shall consist of a minimum of thirty-three (33) multiple choice questions. The minimum passing score for a Class A, B, or C knowledge test shall be eighty percent (80%). In addition, the combination test administered for a Class A license shall consist of a minimum of twenty (20) multiple choice questions. The minimum passing score shall be eighty percent (80%).

(2) **Written pre-trip inspection test.** The written pre-trip inspection test administered for a Class A, B, or C commercial driver license shall consist of seven (7) multiple-choice questions. The minimum passing score shall be six (6) questions correct out of the seven (7) questions.

(3) **Physical pre-trip inspection test.** The physical pre-trip inspection test administered for a Class A, B, or C commercial driver license shall consist of a minimum of nine (9) and a maximum of twenty-seven (27) items of inspection and shall be performed only on commercial vehicles with air brakes, depending on the type and axle configuration of the vehicle. The test shall include the items prescribed in 595:10-3-8.

(d) **Endorsement.** The minimum number of multiple choice questions and the minimum passing score for each endorsement/restriction test shall be as follows:

- (1) "P" Passenger - 20 questions - 80% score
- (2) "H" Hazardous Materials - 30 questions - 80% score
- (3) "N" Tank Vehicle - 20 questions - 80% score
- (4) "M" Motorcycle - 20 questions - 75% score
- (5) "S" School Bus - 20 questions - 80% score.

On and after July 15, 2004, the Department shall begin implementation of the "S" endorsement on commercial driver license for any person who is certified by the State Department of Education to operate a school bus. On and after July 15, 2004, and until and through September 30, 2005, any person who presents valid and current evidence of completion of a twenty-five (25) hour school bus driver

certification course sanctioned by the State Department of Education along with his or her current Oklahoma commercial driver license, with a passenger endorsement, shall be authorized to apply for the "S" endorsement without additional examinations. Expired school bus certifications shall not be accepted. On and after October 1, 2005, any applicant for a school bus endorsement shall be required to take both knowledge and skills examinations, administered by examiners or certified designated examiners of the Department.

(6) "T" Double or triple Trailers - 20 questions - 80% score

(e) **Restriction.** Failure to pass at least 80% of the 25 questions regarding air brakes will result in a restriction code "V" (Vehicle Without Air Brakes) being placed on the applicant's license upon issuance. The applicant shall be prohibited from taking the skills examination in a vehicle with air brakes.

(f) **Alternate method of testing.** The Department may provide an alternate method of testing the knowledge of the individual who cannot read or has a language barrier.

(g) **Retesting.** An applicant failing the knowledge, combination, or endorsement test may be granted the opportunity to retest on the next regular business day.

(h) **Discretionary tests.** Tests may be administered as required for the establishment and authorization of special endorsements or of permits for the operation of certain vehicles.

(i) **Restricted Class A, B, or C commercial driver license.** Any person eighteen (18) years of age or older may apply for a Class A, B, or C commercial driver license, as provided in 47 O.S. §6-101(F), solely for the purpose of behind-the-wheel training while accompanied by a licensed driver twenty-one (21) years of age or older holding a valid license for the class of vehicle being driven including any and all required endorsements.

(1) The restricted commercial driver license shall be issued as provided for 47 O.S., § 6-101(F)(2). Any person may reapply for another restricted commercial driver license by complying with all requirements for the class of restricted license desired.

(2) A hazardous materials (H) endorsement shall not be placed on a restricted commercial driver license for anyone under twenty one (21) years of age.

595:10-3-8. Pre-trip inspection of Class A, B, and C commercial vehicles

(a) **Condition of vehicle.** It is the responsibility of the applicant to furnish for the driving skills examination a commercial motor vehicle in good working order which meets all state rules and federal requirements.

(b) **In general.** Applicants for a commercial driver license shall pass a vehicle pre-trip inspection test at the designated inspection location. The pre-trip inspection test:

(1) shall be performed in a vehicle representative of the vehicle class for the type of commercial driver license for which the applicant is applying;

(2) shall not be performed using a vehicle transporting hazardous materials or a vehicle which is required to be

placarded for hazardous materials under the rules of the Department of Public Safety or federal law;

(3) shall not be performed using a vehicle which requires an oversize permit under state law or Department of Public Safety rules; ~~and~~

(4) shall not be performed using a vehicle that was not designed and constructed by the manufacturer with a seating capacity for one or more persons in addition to the driver, ~~and~~

(5) shall not be performed with the aid or assistance of notes or prompting. An applicant determined by an examiner to be cheating on any portion of an examination shall:

(A) immediately forfeit the examination,

(B) be given a failing score by the examiner, and

(C) be disqualified from retaking the examination for one week.

(c) **Scoring procedure.** The scoring procedure will be on a system based on the applicant's ability to identify and explain the function or purpose of each item required to be inspected. Failure to perform ~~air brakes check while the engine is running~~ any of the following actions will constitute an automatic failure:

(1) an air brakes leakage test while the engine is running.,

(2) turn the ignition key to the "on" or "accessory" position for air brake bleed down test, or

(3) release the parking brake for air leakage and bleed down test.

(d) **Components.** The vehicle pre-trip inspection test may include, but not be limited to, the inspection of the following items:

(1) **All vehicles:**

(A) Engine compartment

(i) air compressor

(ii) leaks

(B) Engine start

(i) air buzzer sounds

(ii) air brakes

(2) **Tractor only:** air, electric lines

(3) **Truck, school buses, tractors and coach/transit buses:**

(A) Front brake

(i) Slack adjustor

(ii) chamber

(iii) hoses

(iv) drum

(B) Rear brakes

(i) slack adjustor

(ii) chamber

(iii) hoses

(iv) drum

(4) **Trailer:**

(A) Trailer front - air/electric connect

(B) Brakes

(i) slack adjustor

(ii) chamber

(iii) hoses

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- (iv) drum

595:10-3-9. Skills examination

(a) **In general.** The skills examination shall only be administered after the applicant has successfully passed the knowledge test, or had it waived if eligible, and the vision test. Whenever a skills examination is required, the following general conditions shall apply:

(1) The skills examination shall start at a designated location and shall include an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. Applicants shall furnish the type of vehicle required for the skills examination necessary for the class of driver license requested. A vehicle used for a Class A, B, or C skills examination not equipped with air brakes will be required to have driving restriction code "V" (Vehicle without air brakes) placed on the license of the applicant.

(2) The skills examination shall not be administered in a vehicle:

- (A) transporting hazardous materials or a vehicle which is required to be placarded for hazardous materials,
- (B) which requires an oversize permit under the laws of this state or the rules of the Department of Public Safety,
- (C) which was not designed and constructed by the manufacturer with a seating capacity for one or more persons in addition to the driver,
- (D) which is not insured as required by 47 O.S. §7-600 et seq., or
- (E) which does not have a current license plate,
- (F) which is saddle mounted, or
- (G) which is a wrecker vehicle towing another vehicle.

(b) **Scoring of examination.** The scoring procedure will be on a cumulative deduction system based on poor driving practices. The Commissioner or the Commissioner's representative shall determine a point value for each improper driving act.

(c) **Content of examination for Class D driver license.** The skills examination shall include, but not be limited to, the following maneuvers:

- (A) Starting,
- (B) Backing (excluding two-wheel vehicles),
- (C) Parallel parking (excluding commercial motor vehicles over 26,001 pounds GVWR and two-wheel vehicles),
- (D) Hill parking (excluding two-wheel vehicles),
- (E) Starting on hill (excluding two-wheel vehicles),
- (F) Intersection movement and observance,
- (G) Lane observance and changing,
- (H) Left and right turns,
- (I) Pedestrian and vehicle right-of-way,
- (J) Proper use of automatic transmission or clutch gear (excluding two-wheel vehicles),
- (K) Use of brake and accelerator, and
- (L) Traffic lights or signals.

(5) The skills examination will not be conducted when examination route roadways are considered by the examiner to be slick or hazardous due to inclement weather.

(6) Criteria for a skills examination are as follows:

(A) **Starting:** To determine if the individual is familiar with the vehicle's controls and proper use, and to determine the individual's skill and ability to move the vehicle from a parking space or parking lot into the traffic lane.

(B) **Backing:** To determine the individual's ability to control vehicle while backing.

(C) **Parallel parking:** To determine the proficiency an individual has attained in coordinating judgment, skill, and ability to park a vehicle and drive away from a designated area, and to maneuver the vehicle in close quarters.

(D) **Hill parking (stopping and starting):** To determine if the individual has the ability to park a vehicle on an incline in a safe manner and leave that position in a safe manner.

(E) **Transmission (automatic or standard):** To determine if the individual has the coordination and ability necessary for reasonable control of the vehicle.

(F) **Brakes:** To determine the individual's skill and physical ability in the proper usage of the brake(s).

(G) **Control of speed:** To determine the speed the individual maintains relative to speed limits and other traffic.

(H) **Gap selection:** To determine whether the individual exercises proper judgment when entering or leaving the roadway, when turning or crossing an intersection, or when changing lanes.

(I) **Driver alertness:** To determine whether the individual observes and is aware of situations and circumstances which play an important part in safe driving.

(J) **Right-of-way:** To determine the individual's knowledge of right-of-way and the ability to react properly, and to determine whether an individual shares the road properly with other drivers and pedestrians.

(K) **Legal stop:** To determine whether the individual observes, understands, and obeys stop signs and traffic signals.

(L) **Traffic lights or signs:** To determine whether the individual sees, understands, and obeys traffic lights and other signs.

(M) **Signals:** To determine whether the individual gives the proper signal when driving away from the curb, changing lanes, or turning.

(N) **Lane usage:** To determine whether the individual has the knowledge and ability to use lanes properly.

(O) **Observation:** To determine whether the individual observes those things which are necessary for safe driving.

(P) **Final Park:** To determine the individual's ability to park the vehicle at the conclusion of the skills

examination in a manner compatible with safe driving practices and statutory requirements.

(Q) Left turn items scored:

- (i) Cuts corner on approach.
- (ii) Cuts corner on lane entry.
- (iii) Turns into the wrong lane (does not affect other traffic).
- (iv) Turns from wrong lane (does not affect other traffic).
- (v) Turns wheels while stopped, waiting to make turn.
- (vi) Too wide on lane entry.
- (vii) Fail to signal turn for at least 100 feet before turning.
- (viii) Fail to approach turn in the proper lane.

(R) Right turn items scored:

- (i) Too wide on approach.
- (ii) Too wide on lane entry.
- (iii) Turns from wrong lane (does not affect other traffic).
- (iv) Turns into wrong lane (does not affect other traffic).
- (v) Bumps, scrapes, or climbs curb.
- (vii) Fail to signal turn for at least 100 feet before turning.
- (viii) Fail to approach turn in the proper lane.

(S) Passenger vehicles other than school buses or vehicles transporting passengers for hire are not required to stop at a railroad crossing.

(7) Disqualifications are as follows:

- (A) Collision with an object or a person.
- (B) Violation of traffic laws.
- (C) Collision prevented by defensive driving on the part of another driver, or evasive or defensive action taken by a pedestrian. An act which interferes with other vehicles or pedestrians, or otherwise could be considered an act or action that endangers lives or property shall constitute immediate failure.
- (D) Action that results in damage to a vehicle or vehicles or property, or personal injury.
- (E) Applicant's refusal to attempt to comply with the examiner's instruction.
- (F) Examiner must aid in controlling the vehicle physically or by voice command.
- (G) An applicant offers a bribe or gratuity.
- (H) Applicant is unable or fails to operate the controls needed for the inspection of the vehicle.

(d) **Content of examination for Class A, B, or C commercial driver license.** The skills examination shall be conducted in conformance with 49 C.F.R., Section 383. The following actions by the applicant during the skills examination shall result in the applicant being disqualified from retaking the examination for one week:

- (1) a collision with an object or a person;
- (2) any violation of traffic laws;
- (3) a potential collision which is prevented by defensive driving on the part of another driver or by evasive or defensive actions taken by a pedestrian;

(4) an act which interferes with another vehicle or a pedestrian or which otherwise could be considered an act or action that endangers life or property;

(4) an action that results in damage to any vehicle or property or in personal injury;

(5) the refusal by an applicant to attempt to comply with the instructions of the examiner;

(6) an action requiring the examiner to aid in controlling the vehicle either physically or by voice command;

(7) an applicant offering a bribe or gratuity to the examiner; or

(8) the inability or failure of the applicant to operate the controls needed for the inspection of the vehicle.

(e) **Retesting.**

(1) Applicants who fail the skills examination for a driver license or the motorcycle endorsement may be granted the opportunity to retest following a minimum waiting period of one (1) week. When an applicant fails to qualify for a Class A, B, C, or D license after three (3) skills examination attempts, he or she will be required to obtain a restricted driver license, restricting the individual to operating a motor vehicle while accompanied by a qualified licensed driver in the front seat, before another skills examination will be administered.

(2) The Department shall conduct the skills examination for the holder of a restricted Class A, B, or C commercial driver license not more than three (3) times during the first one hundred eighty (180) days after the date of issuance of the restricted license and not more than one (1) time every ninety (90) days thereafter at the request of the restricted licensee [47 O.S. § 6-101(F)(2)].

(3) The Department shall conduct the skills examination for the holder of a restricted Class D driver license not more than three (3) times, each time at least seven (7) days apart or as instructed by the examiner, beginning thirty (30) days from the date of issuance of the restricted license. Should the restricted licensee fail the third examination, the licensee shall wait ninety (90) days before being given another skills examination by the Department. The fourth and subsequent examinations shall be given not more than one (1) time every ninety (90) days thereafter at the request of the restricted licensee.

(4) In computing any time period prescribed by this subsection, the day of the failed examination from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included, unless it is not a working day, in which event the period runs until the end of the next working day.

(f) **Minimum waiting period for examination.** The holder of a restricted driver license will not be eligible to have a skills examination administered until after a minimum of thirty (30) days following the issuance of such license, provided the applicant is at least sixteen (16) years of age. However, the holder of a restricted Class A, B or C commercial driver license, restricting the holder to being accompanied by a licensed driver twenty-one (21) years of age or older holding a valid license for the class of vehicle being driven, may have the thirty-day waiting time waived, provided the holder of such restricted

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license is currently receiving instruction or has completed the driver training program conducted by a commercial truck driver education school licensed by the Department, a school bus driver education course conducted by the State Department of Education, or a truck driver training course offered by the Oklahoma Department of Career and Technology Education. Evidence of course completion or evidence the applicant is currently receiving instruction is required. In computing the 30-day time period prescribed by this subsection, the day on which the restricted driver license is issued shall not be included. The last day of the period computed shall be included, unless it is not a working day, in which event the period runs until the end of the next working day.

(g) **Skills examination for severely handicapped.** Any severely handicapped individual, who has completed the standard skills examination and not been disqualified, will continue to drive an extended route, as provided in this subsection, in order to evaluate the operation of special equipment that may be required because of the handicap.

(1) The extended skills examination will be at least thirty (30) minutes long, making the total examination at least forty-five (45) minutes in duration. However, the individual may be given a four-minute rest stop midway through the examination.

(2) The extended skills examination will consist of interstate, expressway, or highway driving, or a combination of such driving situations, where possible so that a better evaluation may be rendered. Key points in this portion of the skills examination are as follows:

- (A) Proper usage of acceleration and deceleration lanes,
- (B) Lane usage,
- (C) Highway speed control,
- (D) Reaction to larger vehicles and fast traffic, and
- (E) Use of special control devices.

(3) If the individual fails to adequately perform on the extended portion of the examination, at the discretion of the driver examiner, the individual will be notified when he or she is eligible to return for the next examination.

(h) **Substitute for skills examination.** A skills examination may be waived for a licensee when one of the following requirements is met:

(1) The licensee is the holder of a valid commercial driver license from one of the fifty (50) states, the District of Columbia, or a Canadian province.

(2) The licensee is a fireman or an active member of a branch of the military, provided the person for the two (2) years immediately preceding application for a commercial driver license [49 C.F.R. Parts 383 and 391];

(A) can show, with proper documentation, that he or she has operated a representative class vehicle for the two (2) years immediately preceding application for a commercial driver license. [49 C.F.R. Parts 383 & 391].

(B) certifies that he or she has not been licensed by more than one jurisdiction at the same time.

(C) certifies that he or she has not had any suspension, revocation, cancellation, denial, or disqualifications of driving privileges in the two (2) years immediately preceding application.

(D) has not been convicted of any major disqualifying offense, as defined in 47 O.S. § 6-205.2.

(E) has not been convicted more than once of a serious traffic offense, as defined in 47 O.S. § 6-205.2, regardless of type of vehicle the offense occurred in, and

(F) certifies that he or she has not been involved in any collision in which he or she was recorded as being at fault.

(3) The licensee is applying for a Class D driver license, provided all established requirements for a Class D license have been satisfied, and the licensee is licensed at the time of application by one of the fifty (50) states, by the District of Columbia, by a Canadian province, or by another country; provided, the current driver examination requirements of the country must be on file with the Department and must meet or exceed the standards, specifications, and requirements of the Department as set out in this Subchapter [47 O.S. § 6-110(A)(2)].

(4) The licensee:

(A) has enrolled in and successfully completed a course taught by an instructor certified by the Motorcycle Safety Foundation and using the Motorcycle Safety Foundation curriculum, and

(B) submits to the Department at the time of application for a motorcycle endorsement a Motorcycle RiderCourse® or an Experienced RiderCourse® completion card filled out by the certified instructor [47 O.S. §6-101(D)].

(i) **Exemption from skills examination.** Any current licensee who is changing from a Class D driver license to a Class C commercial driver license with a hazardous materials endorsement is not required to take a skills examination unless the vehicle is equipped with air brakes.

SUBCHAPTER 5. MEDICAL ASPECTS

595:10-5-7. Vision standards and problems

(a) **Acuity.**

(1) A person may be considered for a Class D driver license if the visual acuity is:

(A) Twenty/sixty (20/60) or better in both eyes, with or without corrective lenses.

(B) Twenty/fifty (20/50) or better in one eye, with or without corrective lenses.

(C) Any person not meeting the requirements in (A) or (B) of this paragraph may apply for a restricted driver license with such restrictions as speed limit, locale, and time, if the visual acuity is no worse than twenty/one hundred (20/100) in one eye or both eyes, with or without corrective lenses.

(2) A person may be considered for a Class A, B, or C intrastate commercial driver license if the visual acuity in

one eye alone or with both eyes is twenty-fourty (20/40) or better, with or without corrective lenses.

(b) Field of vision.

(1) A person may be considered for a Class D driver license if the field of vision is at least seventy (70) degrees in the horizontal meridian in one eye alone or with both eyes. Any person not meeting the requirement in this paragraph may apply for a restricted driver license with such restrictions as speed limit, locale, and time, if the field of vision is not narrower than sixty (60) degrees in the horizontal Meridian in one eye alone ~~or with both eyes.~~

(2) A person may be considered for a Class A, B, or C intrastate commercial driver license if the field of vision is at least seventy (70) degrees in the horizontal meridian in one eye alone ~~or with both eyes.~~

(c) Eye diseases. A person with progressive eye disease such as cataract, glaucoma, nystagmus, iritis, iridocyclitis, retinitis pigmentosa, choroiditis, retinal detachments, macular degeneration, inflammatory vascular, eye ground diseases, optic atrophy, or other disease affecting vision or visual fields shall not be licensed unless they meet the visual standards set

forth in (a) and (b) of this Section. If licensed, future periodic vision reports may be required to be submitted to the Department by an ophthalmologist or optometrist.

(d) Telescopic lenses. A person wearing telescopic lenses shall not be licensed.

(e) Required equipment. Any person with visual acuity of 20/100 or worse in the left eye shall be required to have a left outside rearview mirror (Restriction Code2) [see 595:10-1-92 regarding driving restriction codes] on any vehicle the person operates.

SUBCHAPTER 7. POINTS SYSTEM

595:10-7-2. Points assessed for conviction

The following points shall be assessed to the driving record of any licensed or unlicensed person for the offenses which the Department of Public Safety has received a final conviction from any court having jurisdiction of the violations as stated below:

VIOLATION	POINTS
Reckless driving without regard for the safety of others	4
Failure to stop or to remain stopped for school bus loading or unloading	4
Speeding in excess of 25 M.P.H. above the postal speed posted speed limit	3
<u>Inattentive driving resulting in a collision</u>	<u>2</u>
Left of center or <u>wrong</u> wring way	2
Failure to yield right of way	2
Violation of driver license restrictions	2
Following too close or improperly	2
Failure to obey stop sign or traffic light	2
Careless driving	2
Sppeding Speeding	2
Contest racing on public traffic way	2
Spped Speed in excess of posted maximum	2
Speed less than posted minimum	2
Speed in school zone	2
Radar checked speed violation	2
Airplane checked speed violation	2
Vascar	2
<u>Any violation related to a railroad crossing</u>	<u>2</u>
Operating a defective vehicle	1
Operating a vehicle without being licensed	1

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Leaving a vehicle unattended with engine running	1
Towing or pushing vehicle improperly	1
Failure to dim lights as required	1
Failure to stop at required stops with explosives or flammable load	1
Transporting hazardous substances without safety devices or precautions	1
Improper lane usage	1
Driving on shoulder, in ditch or on sidewalk	1
Making improper entrance to or exit from trafficway	1
Loading a vehicle so drivers view is obstructed	1
Starting improperly from parked position	1
Improper backing	1
Spinning wheels	1
Operating a vehicle with view obstructed	1
Negligent driving	1
Improper passing	1
Operating a motor vehicle at speed greater than reasonable and proper	1
Operating of a motor vehicle at speed less than reasonable and proper	1
Coasting or operating with gears disengaged	1
Failure to follow instructions of police officer	1
Failure to obey traffic instructions stated <u>on traffic sign</u> or shown by traffic control device	1
Passing through or around barrier positioned to prohibit or channel channel traffic	1
Failure to observe warnings or instructions on vehicle properly displaying them	1
Failure to signal intention to change vehicle direction or to reduce speed suddenly	1
Giving improper signal	1
Failure to stop for railroad crossing	1
Improper stopping on roadway	1
Improper turns	1
Operating defective vehicle after receiving a warning or summons	1
Impeding traffic (and under 40 M.P.H.)	1
Crossing Center center median	1

595:10-7-15. Occupational modifications

(a) Any person licensed by this state, who otherwise would not be prohibited from driving, may appear for an informal hearing, as specified on the withdrawal order, to discuss having the order modified for extreme and unusual hardship when it is determined there is no other adequate means of transportation, subject to the following factors and except those orders issued under this Subchapter, state statute, or federal law or regulation which are not subject to modification. No modification

shall be considered for the operation of a Class A, B, or C commercial motor vehicle. The Department of Public Safety shall not modify a person's order under this Section more than once in any five (5) year period of time. The following factors are considered during the hearing:

- (1) Would modification of the order be consistent with traffic safety?
- (2) Does a real need exist?

(3) If under eighteen (18) years of age, one or both parents or guardian must be present at the hearing.

(4) As a condition to having an order modified, the person must agree to, and shall during the period of modification:

(A) Not violate any state or municipal traffic law or ordinance;

(B) Abide by all restrictions granted by the modification;

(C) Take any portion of the driver license examination that may be requested by the Department; provided, the person must complete and pass such examination(s);

(D) Furnish medical report, if requested by the Department; and

(E) Complete a driver improvement course, a defensive driving course, or a motor vehicle accident prevention course within a time period specified by the Department, if requested by the Department.

(b) Any person who is denied an occupational modification under this Section by the Department shall have the right of appeal as provided by 47 O.S. §6-211.

SUBCHAPTER 9. CERTIFIED SCHOOLS AND DESIGNATED EXAMINERS

595:10-9-5. Requirements for certification as a designated examiner, display of certificate, certification renewal

(a) **Requirements and application for certification.** A driver training instructor may apply for certification as a designated examiner. The applicant must meet the following requirements:

(1) Meet all the requirements for a Driver License Examiner of the Department [47 O.S. §2-106(c) and (d)].

(2) Complete an application provided by the Department [see 595:10-9-13] and submit a certified criminal history report from the Oklahoma State Bureau of Investigation certified.

(3) Be employed by a certified school.

(4) Have and maintain throughout the time period to be covered by the certification:

(A) a valid Oklahoma commercial driver license for the class or classes of vehicle, including any endorsement or endorsements, for which the instructor desires to administer examinations; provided, the applicant shall not be required to have a hazardous materials endorsement (Endorsement H),

(B) in order to administer school bus examinations, a current School Bus Workshop Instructor Certificate issued by the State Board of Education,

(C) in order to administer truck examinations, a current certificate issued by the Oklahoma Board of Career and Technology Education showing the applicant has met the current requirements.

(5) Successfully complete a course of instruction prescribed by the Department [see 595:10-9-6].

(6) Meet the same vision standards as for Driver License Examiners of the Department.

(7) Have full use of both upper and lower extremities.

(b) **Ineligibility based upon driving record or criminal record.** A driver training instructor shall be deemed to be ineligible for certification as a designated examiner upon evidence of a record of any of the following convictions:

(1) Two (2) or more convictions for a moving traffic offense within the twelve (12) months immediately preceding the application.

(2) Any alcohol- or drug-related conviction requiring the Department to revoke, suspend, or disqualify the instructor's driving privilege within the five (5) years immediately preceding the application.

(3) Any conviction for any offense which required or will require the Department to take any type of action against the instructor within the three (3) years immediately preceding the application, including, but not limited to:

(A) a warning letter, or

(B) a revocation, suspension, cancellation, denial or disqualification of the instructor's driving privileges.

(4) Any misdemeanor conviction, except for a misdemeanor conviction for a traffic offense, within the five (5) years immediately preceding the application.

(5) Any felony conviction in this state or any other state or country.

(c) **Certification.** Upon acceptance and approval by the Department of the application for certification from a driver training instructor, or upon acceptance and approval by the Department of the application for renewal of certification from a designated examiner, and upon completion to the satisfaction of the Department by the instructor or designated examiner of all other requirements for certification, the Department will provide the designated examiner with:

(1) a certificate evidencing approval by the Department as a designated examiner, which shall be posted at the examination location at the certified school and in full view of the public. The certification will be valid for five (5) years.

(2) an identification card to be carried by the designated examiner whenever the examiner is administering an examination.

(3) an official seal to be used by the designated examiner to be used as provided in 595:10-9-14.

(d) **Renewal of certification.**

(1) A certified designated examiner shall be eligible for renewal of certification if the examiner:

(A) submits an application for certification renewal upon a form provided by the Department no later than December 1 of each year [see 595:10-9-13],

(B) is currently employed by a certified school,

(C) currently meets the requirements and standards of the Department as prescribed by this Subchapter,

(D) administered fifteen (15) or more examinations within the twelve (12) months immediately preceding the application for renewal of certification, and

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(E) has passed all the written and the driving skills examinations for the class or classes of vehicle for which the designated examiner administers the examination. The examinations must be taken and passed every ~~two (2)~~ four (4) years, with a score of 80% or higher.

(2) Any driver training instructor who was previously certified as a designated examiner and whose previous certification has been expired for not more than one (1) year may make application for renewal of certification as provided in paragraph (1) of this section.

(3) Any designated examiner who does not qualify for renewal of certification may apply, after a period of at least six (6) months from the date the examiner was notified he or she was not qualified for renewal of certification, for certification as a designated examiner and must meet all requirements as for an initial application for certification as a designated examiner.

[OAR Docket #05-1163; filed 6-24-05]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 25. WRECKERS AND TOWING SERVICES

[OAR Docket #05-1164]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 3. Wrecker License

595:25-3-1. General requirements [AMENDED]

Subchapter 5. All Wrecker Operators

595:25-5-2. Equipment requirements for all vehicles [AMENDED]

595:25-5-3. Operation [AMENDED]

595:25-5-4. Insurance [AMENDED]

Subchapter 9. Oklahoma Highway Patrol Rotation Log - Additional Requirements

595:25-9-1. Oklahoma Highway Patrol Rotation Log [AMENDED]

Subchapter 11. Denial, Suspension, Revocation or Cancellation of License; Denial or Removal of Class AA Operators from Rotation Log of the Oklahoma Highway Patrol

595:25-11-3. Procedure [AMENDED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 952

DATES:

Comment Period:

February 15, 2005, through March 28, 2005

Public Hearing:

March 28, 2005

Adoption:

March 30, 2005

Submitted to Governor:

March 31, 2005

Submitted to House:

March 31, 2005

Submitted to Senate:

March 31, 2005

Gubernatorial approval:

May 13, 2005

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 25, 2005.

Final Adoption:

May 25, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Amendments to 595:25-3-1 prohibit certain convicted persons from operating wrecker services and require a 24-hour telephone number to be published in the telephone directory. Amendments to 595:25-5-2 require certain warning lights to be visible for 360 degrees or to be equipped with separate switches. Amendments to 595:25-5-3 clarify to whom a stored vehicle may be released. Amendments to 595:25-5-4 modify insurance coverage requirements. Amendments to 595:25-9-1 modify procedures for placement on the rotation log. Amendments to 595:25-11-3 modify procedures for mailing of certain notices to conform to state law.

The proposed actions are amendments to existing rules.

The circumstances, other than clarifying language, which created the need for these rules are to improve the working environment of the wrecker and towing services as well as to ensure the safety and protect the property of the motoring public of Oklahoma.

The intended effect of this rule is to allow the Department of Public Safety to perform its duties as required or authorized by law.

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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 JULY 25, 2005:

SUBCHAPTER 3. WRECKER LICENSE

595:25-3-1. General requirements

The following are the requirements for obtaining a wrecker license:

(1) **License required.** No operator as defined by law, regardless of storage location, shall operate a wrecker vehicle upon any public street, road or highway of this state for the offering to tow vehicles or to transport property or the actual towing of vehicles or transporting of property without first obtaining from the Department a license as provided in this Chapter. Any wrecker vehicle being operated on any public street, road, highway or turnpike in violation of Oklahoma law or these rules may be removed from service by Oklahoma law enforcement officers.

(2) **Display and use.** An operator's wrecker service license shall be personal to the holder thereof and a wrecker vehicle license shall be unique to the vehicle. Each license shall be issued only to a person, a corporation or some definite legal entity. The licenses are non-transferable and any change in ownership, whether of a wrecker service or wrecker vehicle, shall cancel the applicable license. The wrecker service license shall be conspicuously displayed at the primary place of business. The license shall be valid only at the place of business as shown on the license. Additional or satellite places of business shall not be permitted or approved on the same license but shall require a separate application and license.

- (3) **Reason for application.** No showing of public convenience or necessity need to be made in support of an application for a wrecker or towing license.
- (4) **Issuance.** No license for operation of a wrecker or towing service shall be issued until:
- (A) Certificates of insurance as prescribed by the Department are on file with the Department, and
 - (B) Each wrecker vehicle has been inspected by an officer of the Department to verify that equipment requirements of this Chapter have been met.
- (5) **Carry license.** A copy of the wrecker vehicle license issued by the Department shall be carried at all times in the wrecker vehicle for which the license was issued.
- (6) **Return license to Department.** Any wrecker operator that disposes of or deletes any wrecker vehicle from operation shall return the license issued for that particular vehicle to the Department of Public Safety.
- (7) **Additional wreckers.** Any wrecker operator that adds a wrecker vehicle shall:
- (A) Notify the Department of the make, model and serial number of the vehicle.
 - (B) Send notification to the Department from the insurance carrier of the wrecker operator that the vehicle has been added to present insurance coverage.
 - (C) Have the vehicle inspected and approved by an employee of the Department.
- (8) **Sticker required on each vehicle.** Each wrecker vehicle which is used by an operator in pulling or towing a vehicle shall display in the lower right hand corner of the windshield a valid sticker furnished by the Department indicating the classification of wrecker service.
- (9) **License number.**
- (A) The wrecker license number issued to the operator by the Department for the operation of a wrecker or towing service, along with the name of the wrecker service, shall be clearly visible at all times and shall be conspicuously displayed and vertically centered on each side of every vehicle used by the operator in the wrecker or towing service.
 - (B) On wrecker vehicles in use on or before July 14, 2002, the wrecker license number shall be at least two inches (2") in height. On wrecker vehicles put into use on or after July 15, 2002, the number and business name shall be at least three inches (3") in height.
 - (C) The signage required by this paragraph shall be permanent in nature and shall not contain any misleading or false information. Magnetic signs are not approved; provided, if requested of and approved by the Director, a magnetic sign may be used for a period of thirty (30) days in an emergency situation.
- (10) **Service of notice.** Any notice required by law or by the rules of the Department served upon any holder of a wrecker or towing license shall be served personally or mailed to the last known address of such person as reflected by the records on file with the Department. It is the duty of every holder of a certificate or license to notify the

Department of Public Safety, Wrecker Services Division, in writing as to any change in the address of such person or of the place of business.

(11) **License prohibited.** Any person who, within the previous five (5) years, has been released from incarceration under the custody of the Department of Corrections, or one of its contractors, or the equivalent state agency in another state or has been convicted in any court of law for larceny or any felony by a preponderance of the evidence shall not be licensed, nor shall any operator employ any person or continue to employ any person who has been convicted of such offense within the previous five (5) years. Any person who has been charged with, on or after July 15, 2005, any of the following crimes and who has been convicted pursuant to a pleading of guilty or no contest to said charge, regardless of the sentence imposed, shall not own or be employed in any capacity by any licensed wrecker service in the state of Oklahoma:

- (A) any felony or misdemeanor crime involving dishonesty, including but not limited to burglary, larceny, fraud, or forgery.
- (B) any felony crime of violence upon a human being, or
- (C) any felony drug offense as defined in Title 63 of the Oklahoma Statutes.

(12) **Itemized statement.** All wrecker operators shall develop and maintain for each vehicle towed or serviced an itemized statement [see OAC 595:25-5-5(b) regarding records] and shall furnish the owner, or the agent of the owner, of each vehicle with an itemized statement, and a bill or invoice of the towing and storage charges incurred, which shall include, but not be limited to, the beginning and ending times of service and the beginning and ending mileage of the wrecker vehicle or vehicles used for the service. The itemized statement may be listed on the bill or invoice or may be listed separately but shall, in any case, be provided to the owner or agent.

(13) **One Class AA license per place of business.** Wrecker operators shall be issued no more than one Class AA wrecker license for any one place of business.

(14) **One Class AA wrecker service on Oklahoma Highway Patrol's rotation log in same rotation area.** An operator shall be permitted to rotate no more than one Class AA wrecker service in the same Highway Patrol rotation area on the Highway Patrol's rotation log. For purposes of this paragraph, "Class AA wrecker service" shall include those services with a Class AA-TL wrecker vehicle.

(15) **Business telephone number.** Each wrecker service shall have a local business telephone number published in the local telephone directory. The telephone number published shall be a number that is accessible to the public twenty-four hours a day.

SUBCHAPTER 5. ALL WRECKER OPERATORS

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595:25-5-2. Equipment requirements for all vehicles

(a) Each wrecker which is used by an operator in the performance of a wrecker or towing service shall be equipped with the following items:

- (1) One (1) or more dry chemical, B.C. rating, fire extinguisher having a minimum of ten pounds (10 lbs.) total capacity, which shall be mounted and readily accessible.
- (2) At least one (1) amber rotating or flashing light, visible from 360 degrees or on a lightbar, and approved by an officer of the Department. The amber rotating light is for use only at the scene of an emergency or where a traffic hazard exists and there is the necessity to warn approaching vehicles, such as at a routine vehicle pickup [47 O.S. §12-227(C)]. Wreckers presently approved will not be required to have lights of another color replaced with an amber light until such time as the present lights become defective to the point of needing replacement, at which time it shall be replaced with an amber light. Any wrecker service approved after April 27, 1990, shall be required to have the amber light. Any wrecker vehicle approved after July 15, 2004, shall be required to have the amber rotating or flashing light or light bar permanently mounted on each wrecker. In addition to the required amber rotating light, the wrecker may be equipped with a red or blue flashing light, or a combination of red and blue flashing lights, for use only at the scene of an emergency [47 O.S. §12-227(C)]; provided, on any wrecker vehicle approved after July 15, 2005, the red or blue light, or the combination of red and blue flashing lights, shall be on a separate switch from the amber light. Under no circumstances are any of the rotating or flashing red or blue lights intended for use when traveling on the streets or highways [47 O.S. §12-227(C)]. White rotating lights are not authorized under Oklahoma statutes.
- (3) Two (2) chains of sufficient grade to assist in securing the towed vehicle; one (1) push-type broom; one (1) shovel; one (1) set of tire chains, mud and snow tires or other device to assist wrecker to maintain traction in mud, snow or ice.
- (4) Warning devices, applicable to trucks as required in 47 O.S. § 12-407, capable of protecting the scene of a collision by day or night.
- (5) Wreckers must be equipped to operate a towed vehicle's stop, turn and clearance lights (if applicable), or be equipped with a light bar or other lighting equipment to provide the highway lighting requirements for vehicles. When used, the light bar or tow lights shall be affixed securely to the towed vehicle to assure a minimum of movement while traveling on the highway and to prevent any damage to the towed vehicle.
- (6) Two (2) safety chains or wheel straps of sufficient capacity to keep the towed vehicle attached to the wrecker in the event of disengagement.

(b) When a wrecker dolly is used as the lift or towing device, both the wrecker dolly and the wrecker shall first be approved and licensed as a unit by the Department. In addition to the requirements in (a) of this Section for all wreckers, a wrecker

dolly towing vehicle shall also be equipped at a minimum with the following:

- (1) A ball or pintle hook of sufficient size and capacity to safely control the wrecker dolly, securely fastened to the appropriate frame member of the wrecker.
- (2) Two safety chains of sufficient capacity to keep the wrecker dolly attached to the wrecker in the event of hitch failure.

595:25-5-3. Operation

All operators using the public roads and highways within the State of Oklahoma shall comply with the following:

- (1) All operators shall require each driver of a wrecker vehicle be proficient in the operation thereof, and be properly licensed for the type vehicle operated.
- (2) No operator shall knowingly permit any operator of a wrecker vehicle to consume beer, wine, intoxicating beverages, drugs or other stimulants or depressants while subject to call nor knowingly permit any operator to come on duty after having inhaled or consumed any such beverage, drug or other stimulants or depressants.
- (3) No operator shall, within the previous five (5) years:
 - (A) have an unpardoned conviction for larceny or any felony nor knowingly employ any person with such record, or
 - (B) have been released from incarceration under the custody of the Department of Corrections, or one of its contractors, or the equivalent state agency in another state.
- (4) No operator shall proceed to the scene of a collision or traffic tie-up without being requested to do so by a law enforcement agency or the owner or driver of a vehicle involved.
- (5) Any operator traveling on the roads and highways of the State of Oklahoma during the normal course of his business may, upon arriving at the scene of a collision or traffic tie-up, stop and assist in rendering emergency aid. However, the operator shall not solicit business directly or indirectly from the owner or drivers at the scene.
- (6) An operator at the scene of a collision or traffic tie-up is subject to the same traffic-control directions issued by an officer to the motoring public.
- (7) An operator shall not use the rotating or flashing light while traveling on the roadway en route to any location. The use of the flashing or rotating light is authorized only in the vicinity of hook-up or at the scene of a collision to protect the scene and the vehicle involved.
- (8) Each operator must be a person of good moral character and reputation in his community, as determined by the Commissioner of Public Safety, and conduct the operation of the storage facilities and towing service in a responsible manner so as not to endanger the public safety of persons or property of others in the custody of the operator.
- (9) No operator shall tow a vehicle when the combined weight of the wrecker vehicle and the wrecker supported weight of the towed vehicle exceeds the factory gross

vehicle weight rating of the wrecker vehicle, regardless of the weight for which the wrecker vehicle is licensed.

(10) No wrecker service shall suspend or abandon said service without prior written notice to this Department of such intent and returning of all wrecker licenses issued.

(11) Wrecker services shall comply with 47 O.S. § 11-1110(C).

(12) Except in those instances when a roll-back or other special equipment is specifically requested by the law enforcement agency, a wrecker operator shall respond to law enforcement agencies' wrecker service requests with a wrecker vehicle and operator capable of efficiently uprighting an overturned vehicle, pulling or winching a vehicle back onto the roadway, lifting a vehicle off of a victim, or assisting with opening a vehicle to extricate a victim. In addition, the wrecker vehicle shall be equipped to remove a disabled vehicle without inflicting further damage to the disabled vehicle.

(13) Upon payment of the reasonable cost of removal, and storage of a stored vehicle, whether stored at the request of law enforcement or a private property owner and recorded by the wrecker service as provided in OAC 595:25-5-5(b), the vehicle shall be released to:

(A) the owner, upon presentation of evidence of ownership which is satisfactory to the wrecker operator and required by 47 O.S. § 904, such as a certificate of title or registration, or written verification from a local law enforcement agency as to the identity of the owner;

(B) a person representing the owner, upon presentation of the certificate of title, a notarized letter from the owner permitting said person to act in behalf of the owner, and proper personal identification, such as a driver license, of the representative, or written verification from a local law enforcement agency as to the identity of the person representing the owner;

(C) an individual with possessory interest in the vehicle, upon presentation of an agreement with the owner of the vehicle giving that individual a present possessory interest in the vehicle;

(D) a lienholder or a duly authorized agent of a lienholder, upon presentation of evidence satisfactory to the wrecker operator that the lienholder has a present possessory interest in the vehicle; or

(E) the insurer of or the insurer accepting liability for or purchasing a motor vehicle as provided in 47 O.S., Section 904, 953.1, or 953.2.

(14) Personal property, which shall include everything in a stored vehicle except the vehicle and its factory-installed equipment, shall be released, upon request, to the owner or owner's representative, upon showing of proof as described in (13) of this section, without the requirement that the owner or owner's representative pay towing and storage fees owing the wrecker service as a condition of release of the personal property. The owner or owner's representative shall be required to comply with any city or county regulation or ordinance requiring the payment of fees due to the city or county. The wrecker service may

assess and collect lawful fees, such as after hours fees or subcontractor fees but other than towing and storage fees, as a condition of release of personal property to the owner or owner's representative. Wrecker operators shall allow the vehicle owner or owner's representative to have access to the vehicle for the sole purpose of retrieving ownership documentation, such as title or registration.

(15) If two or more vehicles are involved in a collision and two or more wrecker services are called the following shall apply:

(A) The first wrecker service arriving at the scene will tow the vehicle causing the greatest traffic hazard, which shall be determined by the investigating officer.

(B) If a requested wrecker service is first on the scene, said wrecker service will assist in removing the vehicle causing the traffic hazard from roadway, then will proceed to pick up the vehicle it has been requested to tow.

(16) Wrecker operators shall not call hazardous materials remediation companies unless at the direction of the vehicle owner or a governmental agency.

595:25-5-4. Insurance

(a) **Liability for operator's negligent acts.** Each operator, from the time of movement of or otherwise making contact with any vehicle to be towed, may be liable for injury to persons, damage to property, fire or theft resulting from the operator's negligent acts.

(b) **Insurance policy.** Each operator shall maintain a valid insurance policy issued by a surety or an insurance company currently authorized to issue policies of insurance covering risks in the State of Oklahoma. The insurance policy shall protect the public against loss of life, bodily injury to person, and damage to property in the following amounts:

(1) **Class General or Class AA.**

(A) Bodily Injury and Property Damage - Not less than One Hundred Thousand Dollars (\$100,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.

(B) Garagekeeper's Legal Liability - Not less than Fifty Thousand Dollars (\$50,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which must include comprehensive perils ~~and collision~~ to the towed vehicle under the care, custody, and control of while being stored by the wrecker operator. Any General class wrecker service which does not have storage facilities shall be exempt from the provisions of this subparagraph.

(C) On-Hook or In-Tow - Not less than Fifty Thousand Dollars (\$50,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include

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comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator.

(2) **Class AA-TM.**

(A) Bodily Injury and Property Damage - Not less than Two Hundred Thousand Dollars (\$200,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.

(B) Garagekeeper's Legal Liability - Not less than One Hundred Thousand Dollars (\$100,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which must include comprehensive perils ~~and collision~~ to the towed vehicle ~~under the care, custody, and control of~~ while being stored by the wrecker operator.

(C) On-Hook or In-Tow - Not less than One Hundred Thousand Dollars (\$100,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator.

(3) **Class AA-TL.**

(A) Bodily Injury and Property Damage - Not less than Three Hundred Thousand Dollars (\$300,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.

(B) Garagekeeper's Legal Liability - Not less than One Hundred Fifty Thousand Dollars (\$150,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which must include comprehensive perils ~~and collision~~ to the towed vehicle ~~under the care, custody, and control of~~ while being stored by the wrecker operator.

(C) On-Hook or In-Tow - Not less than One Hundred Fifty Thousand Dollars (\$150,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator.

(4) **All Wrecker Classes.** Bailee Coverage - Not less than Two Thousand Five Hundred Dollars (\$2,500.00) for loss of contents of the vehicle with a deductible not greater than Five Hundred Dollars (\$500.00).

(c) **Judgment.** Any final judgment rendered by a court of competent jurisdiction against a wrecker service or an owner or employee thereof, arising out of any services provided by the operator of or any employee of the wrecker service, including towing or storage of towed vehicles, must be satisfied within thirty (30) days. If such judgment is not timely satisfied, the wrecker license shall be revoked and such revocation shall remain in effect until the judgment is satisfied. Provided, however, a release or written agreement signed by the judgment

creditor and approved by the Department shall reinstate eligibility. Provided, if judgment is covered by insurance up to the amount and to the extent required in the rules, this Subsection shall not apply.

(d) **Carrier certification.** The insurance company of each wrecker service shall certify to the Department on a form prescribed by the Department that the insurance company will notify the Department in writing at least ten (10) days before the date the company cancels such policy.

(e) **Insurance information.** An operator shall provide contact and other pertinent information regarding the insurance company and policy covering the wrecker service to any person who might be eligible to file a claim against the operator's insurance policy.

SUBCHAPTER 9. OKLAHOMA HIGHWAY PATROL ROTATION LOG - ADDITIONAL REQUIREMENTS

595:25-9-1. Oklahoma Highway Patrol Rotation Log

(a) **Official Rotation Log.** The Department of Public Safety maintains two (2) official Oklahoma Highway Patrol Rotation Logs, a Class AA wrecker log and a Class AA-TL wrecker log, each of which shall consist of licensed wrecker services *for the performance of services carried out pursuant to the request of or at the direction of any officer of the Department* [47 O.S. §952(D)].

(b) **Request for placement on the Rotation Log.** A licensed Class AA wrecker service desiring to be placed on the Highway Patrol Rotation Log in the Highway Patrol Troop District in which the place of business and the primary storage facility of the wrecker service is located shall file a written request with the Department, pursuant to (e) of this Section. ~~In addition, the wrecker service may file a separate written request, pursuant to (e) of this Section, for placement on the Rotation Log in another Troop District adjacent to the Troop District in which the place of business and the primary storage facility of the wrecker service is located, if the wrecker service is in proximity to and within a reasonable radius of the boundary of the other Troop District, as determined by the Director of the Wrecker Services Division of the Department in consultation with the Troop Commander of the other Troop District.~~ [47 O.S. §952(D)]

(c) **Assignment to the Rotation Log.** If a request for placement on the Rotation Log is approved by the Department, the wrecker service shall be assigned by the Department to the Highway Patrol Troop District specified on the request. Both the Troop Commander of the Troop District and the wrecker service will be notified by the Department of the assignment of the wrecker service to the Rotation Log. [47 O.S. §952(D)]

(d) **Geographical areas of rotation.** [47 O.S. §955(B)]

(1) The Director of the Wrecker Services Division shall be responsible for establishing geographical areas of rotation within the Troop District to which wrecker services on the District's Rotation Log will be assigned for operation when responding to calls for service from the Rotation Log. The Director shall notify each wrecker

service of the geographical area of rotation to which it is assigned.

(2) The Director will establish each geographical area of rotation based upon a reasonable radius from the primary storage facility of each wrecker service operating within the geographical area. The reasonable radius will be determined by the Director based upon:

- (A) the estimated time it will take the wrecker service to respond to calls for service,
- (B) the number of wrecker services available on the Rotation Log,
- (C) conformity with 47 O.S. §955(B),
- (D) consideration of the economic impact of the wrecker services fees and charges [see 47 O.S. §953.1 regarding maximum fees and charges for wrecker services] on the owner or lienholder of the vehicle; and
- (E) other factors within the Troop District as deemed appropriate by the Director.

(3) The Director may overlap geographical areas of rotation whenever necessary to ensure adequate response to requests for wrecker services.

(4) The Director may modify geographical areas of rotation for the Troop District at any time and for just cause, but shall notify as soon as practicable each wrecker service affected of such modifications.

(5) The Director may extend any geographical area of rotation by a reasonable radius beyond the boundaries of the Troop District to include on the rotation log of the District a wrecker service:

- (A) which is located outside of but in proximity to the boundary of the District, and
- (B) upon receiving notification from the Department of the approval of the wrecker service for placement on the rotation log for the District of the Commander.

(6) Nothing in this Section shall prohibit the Troop Commander from using the services of any licensed wrecker service:

- (A) outside of its assigned geographical area of rotation, or
- (B) which has not been assigned to the Rotation Log of the Troop District.

(e) **Forms.** A request for placement on any rotation log shall be filed by the wrecker service with the Department of Public Safety on a form prescribed and provided by the Department [47 O.S. §952(D)]. The wrecker service shall provide on the request one (1) telephone number to be used for request of services during the day and one (1) telephone number to be used for request of services during the night, specifying the time period of normal use; these numbers shall also be on file with the Wrecker Services Division. Any change in the telephone numbers shall be immediately transmitted to:

- (1) the Troop Commander(s) of the Oklahoma Highway Patrol Troop District(s) on whose Rotation Log the wrecker service has been assigned, and
- (2) the Wrecker Services Division of the Department of Public Safety.

SUBCHAPTER 11. DENIAL, SUSPENSION, REVOCATION OR CANCELLATION OF LICENSE; DENIAL OR REMOVAL OF CLASS AA OPERATORS FROM ROTATION LOG OF THE OKLAHOMA HIGHWAY PATROL

595:25-11-3. Procedure

In the event that the Department has determined that a license should be denied, suspended, revoked or canceled, or that an operator should be denied or removed from the Rotation Log for any reason, or both, the following procedures shall apply in accordance with the Administrative Procedures Act, 75 O.S. § 309, et seq.

(1) The Department shall send by ~~certified~~ first-class mail, return receipt requested, Notice of Department Action containing all information required by 75 O.S. § 309, et seq., to the concerned applicant or operator at the last known address as reflected by the records of the Department. The Department shall follow up the mailed Notice with a documented telephone call to the telephone number on file with the Department for the wrecker service to ensure the wrecker service has received and understands the Notice.

(2) The notice shall provide that the Department action shall become effective fifteen (15) days after ~~receipt thereof by date of mailing to the applicant or operator~~, unless the applicant or operator timely files a written request for a hearing with the Department of Public Safety, Wrecker Services Division. Such request shall be timely when filed prior to the effective date of the Department Action.

(3) If a timely hearing is requested, the hearing shall be scheduled not less than seven (7) days nor more than fifteen (15) days from the date the Department receives the request.

(4) The Department hearing officer shall be designated by the Commissioner, and each party shall be afforded an opportunity to be heard and to present evidence.

(5) The hearing officer shall render a decision based upon the law and the evidence presented and shall enter an appropriate final order regarding the matter. Each party shall be promptly notified either personally or by mail.

(6) Unless the hearing officer timely receives a written request for a rehearing, reopening or reconsideration of the decision as provided by the Administrative Procedures Act, the final order will become effective ten (10) days after the entry of the decision.

(7) If an applicant operator fails to appear at the scheduled hearing without good cause, the hearing officer shall record the nonappearance and enter a final order reflecting the effective date prescribed in (2) of this Subsection, in lieu of the decision and final order as prescribed in (5) and (6) of this Subsection. Each party shall be promptly notified thereof either personally or by mail.

(8) If the Department representative fails to appear without good cause, the hearing officer shall record the nonappearance and enter a final order of dismissal of the Department Actions, The order of dismissal shall be

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without prejudice if the basis for the action constitutes noncompliance or a continuing violation of these rules. Each party shall be promptly notified thereof either personally or by mail.

(9) Where a timely written request for a rehearing, reopening or reconsideration of the case is received, the Department Action shall be stayed until ten (10) days after an order is issued concerning the request for rehearing, reopening or reconsideration of the case.

(10) Notwithstanding (2) through (9) of this Subsection, Department Action shall become effective immediately where:

(A) An original application for a license or placement on the Rotation Log is denied for failure to qualify under this Chapter.

(B) The Department finds that the health, safety, or welfare of the public imperatively requires such action and finding to that effect is incorporated in its order, pursuant to the Administrative Procedures Act, 75 O.S. § 314(c).

(11) Where the Department has determined that a minor disqualification and/or violation exists which may be readily rectified by the applicant or operator, the Department of Public Safety may informally notify such party by mail or telephone of such minor disqualification or violation, with a request for compliance with a specified period of time. If such party fails to rectify the minor disqualification or violation, the Department may proceed according to other provisions of this Subchapter.

[OAR Docket #05-1164; filed 6-24-05]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 30. SIZE AND WEIGHT PERMITS

[OAR Docket #05-1165]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 3. Size and Weight Permit Load

595:30-3-17. Requirements for escort vehicles and escort vehicle operators [AMENDED]

595:30-3-17.1. Certification of operators of escort vehicles for hire [AMENDED]

595:30-3-21. Industrialized housing, houses, and buildings [AMENDED]

595:30-3-26. Special mobilized machinery [AMENDED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. §§ 2-108 and 14-101 et seq

DATES:

Comment Period:

February 15, 2005, through March 29, 2005

Public Hearing:

March 29, 2005

Adoption:

March 30, 2005

Submitted to Governor:

March 31, 2005

Submitted to House:

March 31, 2005

Submitted to Senate:

March 31, 2005

Gubernatorial approval:

May 13, 2005

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 25, 2005.

Final Adoption:

May 25, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Amendments to 595:30-3-17 and 595:30-3-17.1 clarify requirements for escort vehicle operators. Amendments to 595:30-3-21 update restrictions on the movement of house and buildings. Amendments to 595:30-3-26 clarify statutory references.

The proposed actions are amendments to existing rules.

The circumstance, other than clarifying language, which created the need for these rules is the passage and approval of EHB 2336 (2004) which modified the restrictions on the movement of houses.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

CONTACT PERSON:

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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 JULY 25, 2005:

SUBCHAPTER 3. SIZE AND WEIGHT PERMIT LOAD

595:30-3-17. Requirements for escort vehicles and escort vehicle operators

(a) **General requirements for escort vehicles.** Any vehicle to be used as an escort vehicle must be either a pickup truck of not less than one-quarter (1/4) ton rated load capacity or an automobile of not less than 2,000 pounds. The escort vehicle must be properly licensed under the statutes of the State of Oklahoma [47 O.S. § 1101 et seq.] or properly licensed in another state. If commercially licensed, an escort for an intrastate move must obtain a temporary registration from the Oklahoma Tax Commission Motor Vehicle Registration Division.

(b) **Identification of escort vehicles.** The owner of an escort vehicle must have displayed on each side of the escort vehicle the name and city of the escort vehicle company, the owner of the escort vehicle, or both. Well known company logos are acceptable. Such identifying markings must be:

- (1) Plainly legible and visible to the motoring public.
- (2) Readily legible during daylight hours from a distance of fifty (50) feet while the vehicle is stationary.
- (3) Kept and maintained in a manner to preserve legibility.
- (4) In a color or colors which sharply contrast with the background on which they are placed.

(c) **Equipment of escort vehicles.** An escort vehicle must carry the following items of equipment at all times when escorting an oversize/overweight vehicle or load:

(1) **Flags.** Red flags, at least twelve (12) inches square, must be attached to standards angled upward to the left and right at forty-five (45) degrees and mounted on the top of the cab. No flags shall be displayed unless the escort vehicle is actually engaged in escorting.

(2) **Mirrors.** The vehicle shall be equipped with an outside rear-view mirror on each side of the vehicle.

(3) **Radio.** Escort and towing vehicles shall be equipped with a two-way radio which is capable of transmitting and receiving voice messages over a minimum distance of one-half (1/2) mile and which is compatible with radios in the escorted vehicle and any other escort vehicle(s).

(4) **Fire extinguisher.** One (1) ten-pound or two (2) five-pound ABC fire extinguishers. Extinguishers shall be checked annually to ensure they are operational.

(5) **Flares or reflectors.** Four (4) fifteen minute flares or three (3) portable triangle reflector units.

(6) **Sign.** The regulation "Oversize Load" sign, as provided in 595:30-3-16 [see Appendix A of this Chapter regarding signs], shall be placed on the front of front escort vehicles and on the rear of rear escort vehicles while escorting an oversize vehicle or load. The sign will be clearly visible without an obstruction. No signs shall be displayed unless the escort vehicle is actually engaged in escorting.

(7) **Warning lights.** One AAMVA-approved rotating or flashing amber beacon or a flashing amber light bar system shall be mounted on top of the escort vehicle and shall be of sufficient intensity when illuminated to be visible from five hundred (500) feet in normal sunlight. The rotating beacon shall be at least ten (10) inches in diameter and eight (8) inches in height and shall rotate, oscillate or flash through 360 degrees. Blue, red, or white rotating lights are not authorized under Oklahoma statutes. In addition:

(A) Headlights of escort vehicles shall be lighted at all times during movement.

(B) Warning lights in conformance with 47 O.S. § 12-220(D) and § 12-227(C) may be used in conjunction with the headlights.

(C) No warning lights shall be displayed unless the escort vehicle is actually engaged in escorting.

(8) **Measuring pole.** A current height measuring pole made of non-conductive, flexible, non-fragile material when escorting a load or vehicle exceeding fifteen (15) feet and nine (9) inches in height.

(9) **Traffic control sign.** A standard eighteen (18) inch "STOP" and "SLOW" paddle sign.

(10) **Safety clothing.** A hard hat and a jacket or vest, both in safety orange color, for each person who may be assigned to traffic control, setting reflectors or any other duties conducted on or near a roadway.

(11) **Flashlight.** A flashlight equipped with and powered by at least two (2) D cell batteries.

(12) **Spare tire.** A full-size spare tire for the escort vehicle, tire jack and lug wrench.

(d) **Prohibitions when operating escort vehicles.** The escort vehicle shall not:

(1) Carry any item, equipment or load in or upon the vehicle which:

(A) Exceeds the height, length or width of the vehicle, overhangs the escort vehicle; or otherwise impairs its immediate recognition as an escort vehicle by the motoring public.

(B) Impairs the view of the operator of the escort vehicle or the escorted vehicle.

(C) Obstructs the view of signs or flags used by the escort vehicle or causes safety risks to the motoring public.

(D) Impairs the performance of the escort vehicle.

(2) Tow any trailer or other vehicle, except that an escort vehicle operator not required to be certified by the Department *may tow a trailer when escorting a manufactured home. Such trailer shall not exceed eight and one-half (8 1/2) feet in width and twenty (20) feet in length with siding not to exceed four (4) feet in height measured from the bed of the trailer. The trailer may only be used to transport supplies and equipment necessary to carry out the mission of escort vehicle operators* [47 O.S. § 14-120.1(C)] and shall not be used to carry other supplies, equipment, or cargo.

(e) **Duties of escort vehicle operators.**

(1) **Traffic control.** In the performance of duties as the operator of an escort vehicle, the operator is authorized to direct traffic to stop, slow down or proceed in situations where such direction is necessary to allow traffic or the escorted vehicle or load to continue moving safely, except as provided below.

(A) The operator of the escort vehicle shall require the escorted vehicle or load to stop, and the escorted vehicle shall move as far off of the roadway as practicable and stop to allow other traffic to pass, under the following conditions:

(i) When the escorted vehicle or load becomes disabled.

(ii) When the movement of the escorted vehicle or load on a particular section of roadway presents a safety risk or unreasonable risk to or unreasonably interferes with the efficient movement of other traffic, based upon such factors as the widths of the escorted vehicle or load, roadway, volume of traffic, limited visibility or mountainous terrain.

(iii) When driving conditions for the escorted vehicle or load are hazardous for any reason including weather.

(B) When the escorted vehicle or load stops, the escort vehicle operator may direct other traffic past the escorted vehicle or load as necessary until such time as the escorted vehicle or load can reenter the roadway and continue moving without presenting a

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safety risk or unreasonably interfering with efficient movement of other traffic.

(2) **Escort vehicle operation.**

(A) The operator of an escort vehicle must comply with all applicable traffic laws of this state and with the requirements of this Chapter when escorting a vehicle on all routes of the state highway system, including but not limited to the Dwight D. Eisenhower National System for Interstate and Defense Highways, all turnpikes, and such other roads, streets, or public ways that the Commissioner of Public Safety and the Oklahoma Department of Transportation shall deem appropriate.

(B) On two-lane highways, the first escort vehicle will travel far enough to the front and the second escort vehicle, if required, will travel far enough to the rear of the escorted vehicle or load to timely warn approaching motorists. On multi-lane highways, the first escort vehicle will travel far enough to the rear of the escorted vehicle or load to timely warn motorists approaching from the rear.

(f) **Insurance.** Each escort vehicle operator who operates in interstate commerce shall maintain a valid insurance policy issued by a surety or an insurance company currently authorized to issue policies of insurance covering risks in the State of Oklahoma. The insurance policy shall protect the public against loss of life, bodily injury to persons, and damage to property, and shall provide not less than One Million Dollars (\$1,000,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the escort vehicle, the escorted vehicle, or both causing the bodily injury and/or property damage. This subsection shall not apply to any operator who operates only in intrastate commerce or in interstate commerce into or through states which do not have escort vehicle certification requirements for the type of vehicle and/or load being escorted and who applies for and is granted ~~intrastate/non-certified-state-restricted~~ certification as provided for in OAC 595:30-3-17.1(c)(3).

595:30-3-17.1. Certification of operators of escort vehicles for hire

(a) **Requirements.** Every person who drives an escort vehicle for hire to escort a permitted over-dimensional load or vehicle in this state must be certified by the Department of Public Safety. To be certified, the person must meet the following requirements:

- (1) Be at least eighteen (18) years of age.
- (2) Possess a valid driver license from the state or jurisdiction in which the person is a resident.
- (3) Submit an application for certification to the Size and Weight Permit Division of the Department of Public Safety on the form provided by the Department. The application must contain all required information.
- (4) Attend a course in escort vehicle certification, as prescribed by the Department, and successfully pass the escort vehicle certification examination.

(b) **Course and examination.** The course will be taught by the Oklahoma State University Center for Local Government

Technology (OSU Tech). Courses will be taught at locations throughout the state. Class size shall be determined by OSU Tech. Locations, times, and enrollment information will be made available after July 14, 2001, by calling (405) 744-9905.

(c) **Certification.** The Department of Public Safety will grant a certification card to any person who completes an escort vehicle course prescribed by the Department and passes the escort vehicle certification examination and satisfy all other requirements.

(1) The term of the certification shall be for a maximum period of five (5) years, subject to subsection (d), and shall expire automatically five (5) years after the date of issuance. Upon expiration of the certification, the operator must again comply with the requirements in (a)(1), (a)(2), ~~and (a)(3), and (a)(4)~~ of this Section before the Department of Public Safety will issue a new certificate.

(2) Operators must notify the Department of Public Safety, Size ~~an~~ and Weight Permit Division in writing within thirty (30) days of any change of address or name.

(3) Operators who operate only in intrastate commerce or in interstate commerce into or through states which do not have escort vehicle certification requirements for the type of vehicle and/or load being escorted may apply for ~~an intrastate/non-certified-state~~ a restricted certification. Such certification shall be exempt from the insurance requirements of OAC 595:30-3-17(f).

(d) **Denial or withdrawal of certification.** The following circumstances shall result in denial or withdrawal of certification:

(1) Failure to satisfy the requirements of or failure to give required or correct information on the application for certification as an escort vehicle operator, or the commission of any fraud in making the application.

(2) Violation of rules established by the certifying state.

(3) Suspension, revocation, cancellation, or denial of the driver license of the certified operator. The certified operator shall notify the Department of Public Safety, Size and Weight Permit Division, within five (5) days of any such suspension, revocation, cancellation, or denial, and shall provide the Division a copy of the Order of the Department.

(4) An accumulation of 10 points against the driver license of the certified operator.

(e) **Hearing.** Any party aggrieved by the denial or withdrawal of certification under this Section may request a hearing, in writing, with the Department pursuant to OAC 595:1-3.

(f) **Certification by other states.** ~~No application for certification need be made if the driver of~~ Until and through June 30, 2006, Oklahoma shall recognize valid escort certifications issued by other states and in the possession of escort vehicle operators who are residents of other states. On and after July 1, 2006, an escort vehicle operator shall possess an Oklahoma certification, unless the escort vehicle for hire operator is a resident of a state other than Oklahoma which has a reciprocal agreement with Oklahoma recognizing escort vehicle operator certifications issued by that state [47 O.S., §14-120.1(E)] and is in possession of a current escort vehicle

operator certification issued by another that state. However, an Under all circumstances, an escort vehicle operator who is an Oklahoma resident must shall have an Oklahoma certification.

595:30-3-21. Industrialized housing, houses, and buildings

Permits for house movement will be issued in accordance with 47 O.S. §14-103C.

(1) Movement of industrialized housing. For industrialized housing:

(A) Permitted movement will be allowed on certain highways, as specified on the permit.

(B) For structures which are eighteen (18) feet or less in width at the base or the top, a maximum traveling distance shall not apply, and travel will be routed accordingly.

(C) The maximum width will not exceed twenty-six (26) feet at the base and thirty (30) feet at the top on state and federal highways.

(2) Houses and buildings. For houses and buildings:

(A) The maximum width will not exceed thirty-two (32) feet at the base and thirty-four (34) feet at the top. The height shall not exceed twenty-one (21) feet on any state or federal highway.

(B) The maximum traveling distance from the place of origin to the destination where it is to be permanently set shall not exceed fifty (50) miles. Travel shall be on such highways when and at times and dates determined by the Department and consistent with public convenience and safety, and the highways to be used will be as specified on the permit. Permits will be issued in accordance with 47 O.S. §14-101 et seq.

(C) Loads which are fourteen (14) feet or more in width, or in excess of eighty (80) feet in overall length must have two escorts with a flag person.

(D) House movers will be required to notify any railroad company across whose railroad a house or building is to be moved of the date, time of the anticipated crossing and obtain the train schedule. In all cases when overhead lines are present and the load is fifteen (15) feet and nine (9) inches or more in height, the house mover will be required to notify any affected utility or railroad company in advance of the anticipated move, so overall safety measures can be taken and flag person(s) can be provided.

595:30-3-26. Special mobilized machinery

(a) Permits for special mobilized machinery as defined in 47 O.S. 1991, § 1102 §1-165 and authorized by 47 O.S. 1991, §14-118 shall be issued upon application and approval, when such application is accompanied by a certificate of registration or receipt of ad valorem fees paid for such special mobilized machinery. Permit holders shall operate in accordance with the safety requirements of the Oklahoma statutes relating to motor vehicle operations and required equipment

found in 47 O.S. 1991, chapters Chapters 11, 12, and 74 and any related provision of this subchapter.

(b) Permits for oversize and/or overweight special mobilized machinery shall be issued upon proper application and approval, under authority of 47 O.S. 1991, §§ 14-103, 14-118 and OAC 730:30-9. Machines that exceed twelve (12) feet in width and fifteen (15) in height shall not be authorized an annual oversize permit. All oversize equipment shall display the regulation "Oversize Load" sign on the front and rear of the equipment.

[OAR Docket #05-1165; filed 6-24-05]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT

[OAR Docket #05-1166]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 1. Driver Education Instruction
595:40-1-15. Requirements for all commercial driver education schools and classrooms [AMENDED]

595:40-1-16. Prohibited acts; conduct [AMENDED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. §§ 6-105 and 802

DATES:

Comment Period:

February 15, 2005, through March 28, 2005

Public Hearing:

No public hearing was scheduled or requested.

Adoption:

March 30, 2005

Submitted to Governor:

March 31, 2005

Submitted to House:

March 31, 2005

Submitted to Senate:

March 31, 2005

Gubernatorial approval:

May 13, 2005

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 25, 2005.

Final Adoption:

May 25, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Amendments to 595:40-1-15 remove the requirement that a permanent sign be posted at the school's location. 595:40-1-16 prohibit use of Department of Public Safety test materials by schools.

The proposed actions are amendments to existing rules.

The circumstance which created the need for these rules is to ensure reliable service to the citizens of Oklahoma.

The intended effect of these rules is to allow the Department of Public Safety to perform its duties as required or authorized by law.

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Permanent Final Adoptions

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 JULY 25, 2005:

SUBCHAPTER 1. DRIVER EDUCATION INSTRUCTION

595:40-1-15. Requirements for all commercial driver education schools and classrooms

(a) **Location and classroom facility of commercial driver education schools.** An application for a Commercial Driver Training School license shall not be approved if the school is located or driving instruction is conducted within one (1) mile, using the most direct driving route, of the Department of Public Safety or any district office thereof. The school shall:

(1) have at least one (1) permanent classroom. Each classroom shall be used exclusively for classroom instruction during the time of such instruction. A classroom shall not be located in:

- (A) a residence or residential facility or complex,
- (B) a motor vehicle, or converted motor vehicle,
- (C) a hotel or motel, or
- (D) any other facility which has a bar, lounge, or other business which sells alcohol for public consumption on the premises;

(2) ~~post a permanent sign which shall comply with local sign ordinances, in easy view of the public, setting forth the hours the school is open for business.~~

(3) display its current and valid Commercial Driver Training License in the licensee's principal place of business at all times. The license or a copy of the license shall also be made available for inspection to students, or prospective students and their parents;

(4) comply with local municipal ordinances regarding lighting, heating, ventilation, and restroom facilities. Separate restroom facilities shall be provided for males and females, shall be fully plumbed with at least one toilet and one sink in each restroom, and shall be located in the same building as the classroom. The requirement for separate restroom facilities may be waived if a single restroom facility is provided that has a door which is capable of being locked from the inside; and

(5) have adequate room for equipment such as chalkboard, projector, tables and chairs for the number of students enrolled in the class being taught at the time.

(b) **Advertising.**

(1) No Commercial Driver Training School shall use or conduct any business under any name other than its fully licensed name.

(2) A sign reading "This school is licensed by the Department of Public Safety, State of Oklahoma" or similar language may be displayed on the school premises.

(3) The school may place language such as "This school is licensed by the Department of Public Safety,

State of Oklahoma" in any advertisements and publications of the school. However, a school may not use advertisement or publicity that states or implies that the school specifically or uniquely recognized, recommended, or endorsed, or directly supervised by the Department of Public Safety.

(4) No fraudulent or deceptive statements, promotions, or fee incentives shall be used on any sign or in advertisement, whether written or oral.

(5) No school shall advertise, by any means, or otherwise state or imply that a driver license or permit is guaranteed or assured to any student or individual who will take or complete any instruction offered by the school.

(c) **Agreements and schedule of fees.**

(1) A sample copy of all contracts or agreements with students must be submitted to the Department with the application for licensing.

(2) Prior to enrollment or payment of fee all prospective students shall be provided the following information, in writing:

- (A) the type of instruction offered, whether classroom or behind the wheel;
- (B) length of each lesson;
- (C) rate per lesson;
- (D) rate for use of school vehicle for road test, if extra charge is made;
- (E) terms of payment and disclosure of any interest charged;
- (F) a statement indicating the specific date and time when instruction is to start.

(3) The schedule of fees shall be posted in easy view of students and prospective students.

(4) If any school fails to comply with the provisions, the school shall refund, on a prorated basis, all monies collected from the student.

(d) **Records to be maintained.**

(1) Each school shall maintain a permanently bound book with pages consecutively numbered or a computer spreadsheet, setting forth the name of the school; the name of the student; the contract or agreement number; the type and date of instruction given, whether classroom or behind-the-wheel. All entries shall be made in ink.

(2) All student instruction records, including a duplicate copy of each contract or agreement entered into between the school and the student (the original must be given to the student) must be kept on file in the office of each school for a period of (1) calendar year after the student has concluded instruction at or with the school. Each school shall furnish the student, if requested, a duplicate of his/her instruction record when all of the contracted courses are completed or the student otherwise ceases taking instruction at or with the school.

(3) The student instruction record shall contain a copy of a receipt for any monies paid to the school by the student. The receipt form shall contain:

- (A) The name of the school.
- (B) The name of the student.
- (C) The date of payment.

- (D) The amount of payment.
 - (E) The signature of the person receiving the payment.
- (4) The student instruction record file maintained by the school shall be available at all times for inspection or copying by an authorized representative of the Department of Public Safety.

595:40-1-16. Prohibited acts; conduct

- (a) No school owner, agent, instructor or employee shall:
- (1) solicit any individual for the purpose of enrolling the person in any driver training program within fifteen hundred (1,500) feet of any premises owned, leased, rented, or used by the Department of Public Safety;
 - (2) instruct on or near the driver testing route used by the Department of Public Safety;
 - (3) distribute or use, for any purpose, any test or examination designed or used by the Department;
 - (4) use, or permit to be used, any form of alcoholic beverage or drugs in or about the premises of the school or a motor vehicle being used for driver education;
 - (4~~5~~) engage in any conduct involving moral turpitude; or
 - (5~~6~~) commit or omit any act which constitutes a violation of any of the rules of this subchapter or the laws of this state governing designated examiner certification.
- (b) Instructors shall at all times be cognizant of their primary obligation to render impartial, efficient, and effective service to the public in the discharge of their duties and to always regard their position as a public trust.

[OAR Docket #05-1166; filed 6-24-05]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 55. SAFETY DEVICES

[OAR Docket #05-1167]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 3. Specifications for Breath Alcohol Ignition Interlock Devices [REVOKED]

- 595:55-3-1. Purpose [REVOKED]
- 595:55-3-2. Definitions [REVOKED]
- 595:55-3-3. Technical requirements [REVOKED]
- 595:55-3-4. Miscellaneous requirements [REVOKED]
- 595:55-3-5. Maintenance and calibration requirements [REVOKED]
- 595:55-3-6. Procedures for approval [REVOKED]
- 595:55-3-7. Approval, denial, and withdrawal of approval [REVOKED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. §§ 2-108, 2-123, and 6-117

DATES:

Comment Periods:

February 15, 2005, through March 28, 2005

Public Hearings:

No hearing was scheduled or requested.

Adoption:

March 30, 2005

Submitted to Governor:

March 31, 2005

Submitted to House:

March 31, 2005

Submitted to Senate:

March 31, 2005

Gubernatorial approval:

May 13, 2005

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 25, 2005.

Final Adoption:

May 25, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Revocation of this Subchapter is required pursuant to EHB 2265 (2004) which transferred oversight of ignition interlock devices from the Department of Public Safety to the Board of Tests for Alcohol and Drug Influence.

The proposed actions are revocation existing rules.

The circumstance which created the need for these rules is the passage and approval EHB 2265 (2004) which transferred oversight of ignition interlock devices from the Department of Public Safety to the Board of Tests for Alcohol and Drug Influence.

The intended effect of this rule is to allow the Department of Public Safety to perform its duties as required or authorized by law.

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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 JULY 25, 2005:

SUBCHAPTER 3. SPECIFICATIONS FOR BREATH ALCOHOL IGNITION INTERLOCK DEVICES [REVOKED]

595:55-3-1. Purpose [REVOKED]

~~This Subchapter is for the purpose of establishing standards for the approval or disapproval of Breath Alcohol Ignition Interlock Devices, as defined in 22 O.S. § 991a(A)(1)(n), and to issue and enforce regulations establishing standards and specifications for approval thereof [22 O.S. § 991a(A)(1)(n) and (A)(7)(d); 47 O.S. §§ 11-902(J) and 754.1(B)].~~

595:55-3-2. Definitions [REVOKED]

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

~~"Alcohol" means ethanol; ethyl alcohol.~~

~~"Alveolar air" means an air sample which is the last portion of a prolonged, uninterrupted exhalation and which gives a quantitative measurement of alcohol concentration from which BrAC can be determined.~~

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"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.

"Alcohol concentration (BrAC)" means breath alcohol concentration expressed in percent weight by volume (% w/v) based upon grams of alcohol per 210 liters of breath.

"Alcohol setpoint" means the breath alcohol concentration (BrAC) at which the BAHD is set to lock the ignition of the vehicle. It should be noted that the alcohol setpoint is the nominal lockpoint at which the BAHD is set at the time of calibration.

"Approval" means meeting and maintaining the requirements of this Subchapter and placement on the Department of Public Safety list of approved devices. Approval may be denied, canceled, withdrawn, and/or suspended at any time, for cause by the Department of Public Safety.

"BAHD" means Breath Alcohol Ignition Interlock Device. These interlock devices are designed to allow a vehicle ignition switch to start the engine when the BrAC test result is below the alcohol setpoint while locking (or disabling) the ignition when the BrAC result is at or above the alcohol setpoint.

"Bogus" means any gas sample other than the unaltered, undiluted, or filtered alveolar air sample coming from the individual required to have an ignition interlock device installed in his/her vehicle.

"Breath alcohol analysis" means the analysis of a person's expired alveolar breath to determine the concentration of alcohol in the person's breath.

"Circumvention and tampering (circumvention)" means an overt, conscious attempt to bypass the BAHD whether by providing samples other than the natural unfiltered breath of the driver, or by starting the car without using the ignition switch, or any other act intended to start the vehicle without first taking and passing a breath test, and thus permitting a driver with a BrAC in excess of the alcohol setpoint to start the vehicle. (Tampering) An overt, conscious attempt to physically disable or otherwise disconnect the BAHD from its power source and thereby allow a person with a BrAC above the alcohol setpoint to start the engine.

"Designated manufacturer's representative" means an individual and/or agency designated by the manufacturer to act on behalf of or represent the manufacturer of a device.

"Designated service representative" an individual designated by the manufacturer or designated manufacturer's representative to calibrate, maintain, and repair the interlock device.

"Device" means a breath alcohol ignition interlock device.

"Fail-safe" means when the BAHD cannot operate properly due to some condition (e.g., improper voltage, temperature exceeding operating range, dead sensor, etc...) the BAHD will not permit the vehicle to be started.

"False negative" means an analysis result indicating an alcohol concentration less than the setpoint value when the actual alcohol concentration exceeds the setpoint value.

"False positive" means a test result indicating an alcohol concentration exceeding the setpoint value when the actual alcohol concentration is less than the setpoint value.

"Filtered air sample" means 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, etc.

"Interlock" means the mechanism which prevents a motor vehicle from starting when the alcohol concentration of a person exceeds a preset value.

"Manufacturer" means the actual producer of the device.

"Negative result" means a negative result is a test result indicating that the alcohol concentration is less than the setpoint.

"Optional feature" means any specification that is not specifically recommended at this time but may be necessary to include at some future issuance of certification specifications. Non inclusion at this time is due to lack of evidence that failure to include constitutes a significant problem. Also the optional feature may, if implemented, cause the cost and complexity of the BAHD to rise substantially.

"Positive result" means a test result indicating that the alcohol concentration exceeds the setpoint.

"Purge" means any mechanism which cleanses or removes a previous breath or reference sample from the device and specifically removes alcohol.

"Random retest" means a requirement that after passing the test to allow the engine to start, the BAHD shall require a second test within a randomly variable interval ranging from 5 to 30 minutes. (See specifications for more information).

"Reference sample device" means a device which generates a headspace gas above a water/alcohol solution that is maintained at a thermostatically controlled temperature. This headspace 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 a breath sample. The results of this analysis are expressed as grams of alcohol/210 liters of breath.

"Restart" means 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 restart is the ability to start the engine again, within one minute, without the completion of another breath alcohol analysis.

"Safety feature" means any specification related to insuring that the BAHD will function reliably and not interfere with driving by operators whose BrAC are below the alcohol setpoint.

"Security" means protection and safeguards incorporated into ignition interlock devices to ensure proper performance and ensure against failure caused either by inherent defects or human tampering which causes the device not to operate as designed.

"Setpoint" (See Alcohol Setpoint)

"Withdrawal of approval" means cancellation of approval of a device; to wit, not meeting or maintaining the regulations in this Subchapter.

595:55-3-3. Technical requirements [REVOKED]

(a) **Accuracy.** The alcohol setpoint for the BAHD shall be 0.04 g/210 liters alcohol concentration. The accuracy of the device shall be at 0.04 g/210 liters a plus or minus 0.01 g/210 liters. The accuracy will be determined by analysis of an external sample generated by a reference sample device.

(b) **Precision.** The device shall correlate with a known alcohol concentration of 0.04 g/210 liters with accuracy set forth in (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 an alcohol concentration of 0.04 g/210 liters or greater or any other limits as set by the Department of Public Safety.

(1) The proportions of false positive results shall not exceed 5.0%.

(2) The proportion of false negative and uncertain results shall not exceed 5.0%.

(c) **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 significantly contribute to positive results.

(d) **Temperature.** The BAHD shall meet the requirements of (a) and (b) of this Section when used at ambient temperatures of -20 degrees C to +85 degrees C or other limits as set forth by the Department of Public Safety.

(e) **Barometric pressure.** The BAHD shall meet the requirements of (a) and (b) of this Section irrespective of atmospheric pressure or, as a minimum, operate according to said requirements at altitudes from 0 to 8,000 feet above sea level.

(f) **Vibrational stability.** The BAHD shall meet the requirements of (a) and (b) of this Section when subjected to simple harmonic motion having an amplitude of 0.38mm (0.015 inches) applied initially at a frequency of 10 Hz and increased at a uniform rate to 30 Hz in 2 1/2 minutes. The device shall also meet the requirements of (a) and (b) of this Section when subjected to simple harmonic motion having an amplitude of 0.19mm (0.0075 inches) applied initially at a frequency of 30 Hz and increased at a uniform rate to 60 Hz in 2 1/2 minutes, then decreased at a uniform rate to 30 Hz in 2 1/2 minutes.

(g) **Breath sampling requirement.** All BAHD shall require that a minimum of 1.5 liters of breath be introduced through the mouthpiece and run through the instrument before the alcohol content is measured, to ensure a deep lung air sample. As an alternative, the unit may ensure a proper deep lung sample in a manner consistent with evidential instruments such as an Intoxilizer, i.e., by means of slope detection incorporated with a minimum pressure requirement.

(h) **Calibration stability.** All BAHD must meet the accuracy requirements set forth in (a) and (b) of this Section after having been operated for 7 days longer than the calibration period of time specified by the Department of Public Safety.

(i) **Lockout 7 days after service interval.** A BAHD must prevent engine ignition if it has not been recalibrated for a period in excess of 7 days beyond the calibration period set by the

Department of Public Safety. A warning must precede lockout when the calibration interval has passed.

(j) **Power.** The BAHD shall meet the requirements of (a) and (b) of this Section when operated within the normal range of automotive voltages of 11 to 16 volts DC.

(k) **Radio frequency interference.** The BAHD shall meet the requirements of (a) and (b) of this Section when exposed to radio frequencies generated by such common in-vehicle appliances, such as CB radios or cellular phones.

(l) **Random retest.** After passing the test to allow the engine to start, the BAHD shall require a second test within a randomly variable interval ranging from 5 to 30 minutes. During the random retest, the retest alcohol setpoint shall be 0.02% w/v higher than the startup setpoint to preclude a false positive result. In order to alert the driver that a retest is to be required, a 5 minute warning light and/or tone shall come on. The driver would then have 5 minutes to exit the roadway and retest. If the engine is intentionally or accidentally shutdown after the 5 minute warning but before retesting, the retest clock shall not be reset. Retesting takes a priority over free restarts. The consequences of a failure to take a retest shall be threefold. First, the refusal to perform a random retest shall be flagged and recorded on the data recorder. Second, the BAHD shall warn the driver by a unique auditory or visual cue that the vehicle ignition will enter a lockout condition within a period of 5 days, and that the assignee shall report to the BAHD program monitor promptly. Third, the lockout shall proceed within 5 days. A retest that is taken as required and subsequently failed shall result in an alert condition that is flagged on the data recorder. The BAHD assignee shall be signalled that the BAHD program monitor must be notified promptly of the violation, the automatic lockout within 5 days shall proceed.

(m) **Data recording.** The BAHD shall be capable of recording the following data and shall retain this data in the event the main power source is removed:

- (1) Efforts to disable the unit.
- (2) Date of vehicle use.
- (3) Time of vehicle use.
- (4) Pass/Fail records.
- (5) BrAC levels.
- (6) Starting and stopping of vehicle engine.
- (7) Service reminders issued (date).
- (8) Date service performed.

(n) **Fail safe.** When the BAHD cannot operate properly due to some condition (e.g., improper voltage, temperature exceeding operating range, dead sensor, etc...) the BAHD shall not permit the engine to be started.

595:55-3-4. Miscellaneous requirements [REVOKED]

(a) **Security.** The BAHD shall be designed so that security features will be difficult to circumvent.

(1) Security 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 circumvention of the BAHD electronically.

(2) The BAHD may use special seals or other materials that record attempts to circumvent security provisions.

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- (3) The BAHD shall be checked for evidence of tampering at least every other month or more frequently if the need arises, by the manufacturer service representative.
- (4) When evidence of tampering is discovered, the manufacturer's designated service representative shall notify, in writing, the court authorizing installation and the Department of Public Safety.
- (b) **Operational features.** The BAHD shall be designed to permit a restart of the vehicle's ignition within one minute after the ignition has been shut off, without requiring a further alcohol analysis. The restart function shall be checked during each routine inspection. The BAHD shall also automatically purge alcohol before allowing subsequent analyses. In addition to the operational features of these regulations, the Department of Public Safety may impose additional requirements as needed depending upon design and functional changes in BAHD technology.
- (c) **Product liability.** The manufacturer of the BAHD shall carry liability insurance covering product liability, including coverage in Oklahoma with a minimum policy limit of \$1 million.
- (d) **Product warranty.** The manufacturer shall provide a warranty of performance to ensure responsibility for support for service within a maximum of 48 hours after notification of a complaint. This support shall be in effect during the period the BAHD is required to be installed in a motor vehicle.
- (e) **Modifications.** Once a BAHD by model and/or class has been approved no modification in design or operational concept may be made without prior written consent of the Department of Public Safety. (This does not include replacement or substitution of repair parts to maintain the BAHD.)
- (f) **Warning label.** A warning label containing the following language shall be affixed to each BAHD: "Any individual tampering, circumventing, or misusing this BAHD shall be subject to prosecution and/or civil liability."
- (g) **Safety.** The BAHD shall be designed to comply with generally recognized safety requirements. The BAHD shall not disable the vehicle anytime while the vehicle is operating.
- (h) **Specification and operating instructions.** Manufacturers shall provide with each BAHD 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 BAHD. Operating instructions shall be compatible with performance standards and with performance evaluation requirements. Operational instruction shall be provided by manufacturing representative to the applicable operator of the vehicle.
- (i) **General.** Any other requirements as may be determined necessary by the Department of Public Safety to ensure that the BAHD functions properly and reliably.
- (j) **Approved models of BAHD.** The Department of Public Safety shall maintain a list of the approved models of BAHD. This information shall be available to the court system and the general public.

595:55-3-5. Maintenance and calibration requirements [REVOKED]

- (a) The BAHD shall be inspected, maintained, and calibrated for accuracy and operational performance at least every other month and more frequently, if necessary, as specified by the Department of Public Safety. This maintenance and calibration check will be performed by the designated service representative approved by the manufacturer.
- (b) The maintenance and calibration check will consist of but not be limited to a check of the BAHD to determine that the device is properly functioning in accordance with the following sections:
- (1) accuracy (relating to Technical Requirements)
 - (2) security and operational features (relating to Miscellaneous Requirements)
- (c) Documentation and records of periodic checks shall be maintained by the manufacturer and/or the manufacturer's designated representative and the manufacturer or the manufacturer's designated representative shall ensure that copies of said records are forwarded monthly to the Driver Improvement Division of the Department of Public Safety. Said records shall be made available to any court adjudicating civil or criminal liability, or supervising a probationer.
- (d) If at any time of routine inspection, or at any other time, the BAHD fails to meet the provisions of this section, the device shall be removed from service or calibrated and/or repaired, and the manufacturer's designated service representative shall notify, in writing, the court ordering and/or authorizing installation and the Department of Public Safety.

595:55-3-6. Procedures for approval [REVOKED]

- All BAHD to be used in the State of Oklahoma must be approved by model and/or class by the Department of Public Safety.
- (1) The Department of Public Safety will establish and maintain a list of approved devices by model and/or class for use in this state.
 - (2) 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.
 - (3) A manufacturer or designated manufacturer's representative requesting approval of a BAHD must submit a production model of the BAHD along with a written request for approval (Oklahoma Breath Alcohol Ignition Interlock Device Application Affidavit). It shall be the responsibility of the manufacturer or the designated manufacturer's representative to incur cost of mailing or shipping of the BAHD to and from the Department of Public Safety.
 - (4) Accompanying each device shall be a notarized letter and/or affidavit from a testing laboratory certifying that the submitted device by model and/or class meets or exceeds all requirements set forth in this section and all other requirements set forth by the Department of Public Safety. Said letter or certificate shall also include:
 - (A) name and location of testing laboratory
 - (B) address and phone number of testing laboratory

- (C) description of tests performed
 - (D) copies of the data and results of the testing procedures
 - (E) names and qualifications of the individuals performing the tests
- (5) ~~Prior to approval of the BAHD, the manufacturer or the designated manufacturer's representative shall complete and submit an application approval affidavit available from the Department of Public Safety. The notarized application approval affidavit shall be signed by the manufacturer or the designated manufacturer's representative. This approval affidavit shall state that the BAHD by model and/or class will be calibrated and maintained pursuant to these regulations and as designated by the Department of Public Safety. This form shall serve as an agreement that if the BAHD is not calibrated, maintained, or does not meet or exceed all standards as set forth in these regulations, and designated by the Department of Public Safety, approval of the device shall be denied.~~
- (6) ~~If a BAHD is submitted for approval by a party other than the manufacturer, the submitting party shall submit a notarized affidavit from the manufacturer of the BAHD certifying that the submitting party is an authorized and designated representative of the manufacturer and that it is agreed and understood that any action taken by the Department of Public Safety or any cost incurred in accordance with the provisions of these regulations shall ultimately be the responsibility of the manufacturer.~~
- (7) ~~The manufacturer and/or manufacturer's representative shall submit, with the application for approval, the names, addresses, phone numbers, and qualifications of individuals designated as the in state service representatives responsible for installation, periodically maintaining, calibrating, and repairing the BAHD in accordance with this Subchapter.~~
- (8) ~~The manufacturer will certify to the Department of Public Safety that the designated service representative possesses the necessary qualifications to maintain, calibrate, and repair the BAHD pursuant to this Subchapter.~~

595:55-3-7. Approval, denial, and withdrawal of approval [REVOKED]

(a) ~~Upon proof of compliance with this Subchapter, an ignition interlock device will be approved by brand and/or class 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 this Subchapter and is the same model and/or class approved by the Department of Public Safety. It will further be the responsibility of the manufacturer to provide expert or other required testimony in any civil or criminal proceedings as to the method of the manufacture of the BAHD, how said BAHD functions, and the testing protocol by which the device was approved.~~

- (b) ~~The approval of a device, or the approval of a manufacturer, manufacturer's representative, or designated service representative may be denied or withdrawn by the Department of Public Safety if:~~
- (1) ~~the device, entity, or person fails to meet the requirements for approval under this Subchapter; or~~
 - (2) ~~the entity or person fails to comply with this Subchapter pertaining to Breath Alcohol Ignition Interlock Devices.~~

[OAR Docket #05-1167; filed 6-24-05]

**TITLE 630. SCENIC RIVERS COMMISSION
CHAPTER 10. LICENCING LICENSING
AND USE PERMITS**

[OAR Docket #05-1149]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions
- 630:10-1-3. Definitions [AMENDED]
- 630:10-1-4. User fees [AMENDED]
- 630:10-1-5. Commercial licensing procedures, requirements, and annual use fees [AMENDED]
- Subchapter 2. Public Access Areas
- 630:10-2-1. Definitions [AMENDED]
- 630:10-2-2. Camping fees [AMENDED]
- 630:10-2-4. Conditions of public access area use [AMENDED]

AUTHORITY:

Oklahoma Scenic Rivers Commission; O.S., § 1451 - 1471.

DATES:

Comment period:

February 15, 2005 through March 17, 2005

Public hearing:

March 17, 2005

Adoption:

March 22, 2005

Submitted to Governor:

March 30, 2005

Submitted to House:

March 30, 2005

Submitted to Senate:

March 30, 2005

Gubernatorial approval:

May 10, 2005

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 24, 2005

Final adoption:

May 24, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

ANALYSIS:

Oklahoma Administrative Code ("OAC") Section 630:10-1-3 provides definitions of words and terms used in the chapter. The amendment adds "kayak" to the definitions of Commercial Flotation Device and Flotation Device. This amendment is intended to ensure that "kayak" is defined as a flotation device.

Section 630:10-1-4 explains provisions of the \$1.00 User Fee required by 82 O.S. Section 1470. The amendment is to correct inaccuracies in this chapter and align wording with recent changes to 82 O.S. Section 1470. This amendment ensures that OSRC Rules require all flotation devices to pay a

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\$1.00 per person per float trip user fee and that all fees are remitted to the OSRC on a monthly basis.

Section 630:10-1-5 requires certain commercial licensing procedures, requirements and annual use fees. The amendment requires Commercial Flotation Device Operators to advise all customers that tying, lashing, or otherwise connecting two or more flotation devices together while floating is prohibited. This amendment is intended to minimize environmental damage to stream and river banks immediately adjacent the waters under jurisdiction of the OSRC.

Section 630:10-2-1 provides definitions of words and terms used in the chapter relating to camping in OSRC Access Areas. The amendment corrects spelling and spacing between words in the defined terms "Family Unit" and "Group".

Section 630:10-2-2 explains the application of camping fees collected in OSRC Access Areas. The amendment will charge organized groups one camping fee for each multiple of eight persons. The amendment is intended to correct a discrepancy between the term "group" and the camping fee charged to "organized groups".

Section 630:10-2-4 describes conditions for public access area use. The amendment deletes "primitive or semi improved" wording from this chapter of the OSRC Rules. Thus, all campsites in OSRC Access Areas will be charged a camping fee. Additionally, the word "of" will be changed to "or" in 630:10-2-4.(e)(1).

CONTACT PERSON:

Ed H. Fite, III, OSRC Administrator, (918) 456-3251

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 JULY 25, 2005:

SUBCHAPTER 1. GENERAL PROVISIONS

630:10-1-3. Definitions

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

"Commercial float operators (or operations)" means any person who makes flotation devices available for hire by the public for use upon waterways within the jurisdiction of the OSRC.

"Commercial flotation device" means a canoe, boat, kayak, raft, inner tube, or other similar device suitable for transportation of individuals that is available for hire by the public for use upon waterways within the jurisdiction of the OSRC.

"Flotation device" means a canoe, boat, kayak, raft, inner tube, or other similar device suitable for transportation of individual on waterways.

"Minimum health standards" means the minimum health standards prescribed by the Oklahoma State Department of Health.

"Minimum water safety standards" means the minimum safety standards prescribed by the Oklahoma Department of Public Safety.

"Private users" means those persons utilizing the waterways and public facilities within the jurisdiction of the OSRC for recreational purposes, using privately owned flotation ~~devices~~ devices that are not offered for hire.

"Property owners adjacent to the river" means all landowners with property located within the jurisdiction of the OSRC.

"Public facilities" means state and commercially owned access points and waterside rest areas within the jurisdiction of the OSRC.

"Trip per canoe" means that period of time from the point when an individual first places his flotation device into the river until he removes the flotation device from the river for the last time during consecutive days of down river progression. If the individual removes the flotation device from the river and places it back into the river upstream from the removal point, that shall constitute an additional "trip per canoe"

630:10-1-4. User fees

~~From May 1 through October 1 of each year there shall be imposed a~~ A user fee of one dollar (\$1.00) per ~~trip~~ person per ~~canoe~~ flotation device to be paid as follows:

(1) For commercial ~~canoe~~ flotation devices, the individual renting the ~~canoe~~ flotation device must pay the user fee to the commercial ~~canoe~~ flotation device operator.

(2) For privately owned ~~canoe~~ flotation devices, the individual floating the ~~canoe~~ flotation device must purchase and display a private user fee permit for each person on each trip on the right front (starboard bow) of the canoe. Private user permits may be obtained from the OSRC office, OSRC rangers, commercial ~~canoe~~ flotation device operator, or other authorized businesses.

(3) Property owners adjacent to the river may own and operate one ~~canoe~~ flotation device per trip for their individual use without paying the user fee.

(4) All user fees required pursuant to this chapter are due and payable and must be paid prior to use of the ~~canoe~~ flotation device on the river.

(5) All user fees collected pursuant to this chapter by authorized individuals must be turned over to the appropriate OSRC representative along with the collection tally sheet required to be maintained by the individual pursuant to the written policy of the OSRC Administrator, on a weekly ~~monthly~~ basis.

630:10-1-5. Commercial licensing procedures, requirements, and annual use fees

(a) There is hereby established an annual use fee of five dollars (\$5.00) per commercially owned and operated flotation device. Said use fees shall be due, payable and paid at the time of issuance of the license which is required by this section.

(b) The license required on commercial float operations shall be an annual license and the license year shall begin June 1 and end on May 31 of the following year. Licenses shall be available at the office of the Oklahoma Scenic Rivers Commission by April 15 of each year, and must be properly displayed on each flotation device prior to its use on the river. Applications for licenses shall be filed with the Oklahoma Scenic Rivers Commission from February 01 through February 10, annually.

(c) Application for such licenses shall be made on the form prescribed by the OSRC which shall include:

- (1) The name and address of the commercial float operation;
- (2) The name and address of the owner or owners thereof; and
- (3) An agreement to abide by all State laws and all OSRC rules and regulations.

(d) Licenses shall be issued in such form as is prescribed by the Administrator of the OSRC, and shall be displayed as follows:

- (1) Canoes, Kayaks, jon boats, rubber rafts, and all other boats: Licenses shall be displayed on right front (starboard bow).
- (2) Inner tubes and other similar flotation devices: Licenses shall be conspicuously displayed on outside surface area above water line.

(e) The license granted by this Chapter shall be transferable only after application to and approval by the OSRC board.

(f) The number of flotation devices to be licensed for commercial use shall be limited as provided in 630:10-1-7.

(g) All commercial float operators must maintain at least minimum health and safety standards with respect to their business premises and all flotation devices offered for hire and must also provide or do the following:

- (1) Provide restrooms (in accordance with minimum health standards) for their customers.
- (2) Offer trash bags and disposal information to all customers.
- (3) Conspicuously exhibit safety and trespass rules and information on business premises and at departure points for customer float trips.
- (4) All signs placed along the river corridor shall be informational in nature and shall comply to standards established by the OSRC.
- (5) All flotation devices offered for hire shall conspicuously display the name of the enterprise offering same for hire and an identification number no less than three (3) inches in height and two (2) inches in width on both the right and left sides (port and starboard sides).
- (6) Each commercial float operator shall provide reasonable assistance in river clean-up and removal of navigational hazards in his float area at least once each week during all weeks his flotation devices are operated on the river.
- (7) Every vessel shall be required to carry at least one wearable personal flotation device for each person on board so placed as to be readily accessible and of a size suitable to the person who is or will be wearing it. All life-saving devices shall be in good and serviceable condition.
- (8) Advise all customers that tying, lashing, or otherwise connecting two or more flotation devices is prohibited.

(h) The user fee required to be paid by individuals renting canoes from each commercial operation pursuant to 630:10-1-4, must be collected by the operator or his employees and paid to the OSRC Administrator, in such a form as prescribed by the OSRC, in written policy.

SUBCHAPTER 2. PUBLIC ACCESS AREAS

630:10-2-1. Definitions

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

"Camping" means any method used for remaining overnight in a public access area which includes, but is not limited to tents, vehicles, cots, and sleeping bags.

"Campsites" means a single site located within a public access area which has been designated as open to camping by the Administrator.

"Family unit" means a mother and/or father or grandparents(s) and ~~dependent~~ dependent children under the age of eighteen (18).

"Group" ~~means eight~~ means eight (8) or more persons.

"Immediate family member" means person living in the household of a totally disabled or blind individual.

"Improved campsite" means a site where electricity and water are provided.

"Per day" means from 5:00 p.m. to 5:00 p.m. on the following day.

"Primitive campsite" means a site or area where there are no utilities, sanitation facilities or developments and is generally a significant distance from emergency services.

"Public Access Areas" means an area within the jurisdiction of the Commission which has been designated by the Administrator as open for use by the public for camping and day use activities under the terms and conditions of this subchapter.

"Reservation" means a confirmed request to use a public access area which has been verified as available for use for the purpose of camping and for which a fee has been received by the Commission.

"Unimproved campsite" means a site where there are no water, electric or sanitation hookups for recreational vehicles, but at which tables and grills are available in the area.

630:10-2-2. Camping fees

(a) Camping shall only be allowed in campsites which are designated by the Administrator and are located within Public Access Areas.

(b) Each person shall be charged a camping fee of \$10.00 per night for the use of improved campsites. \$8.00 per night for the use of unimproved campsites and \$7.00 per night for the use of primitive campsites except that:

- (1) Persons in a family unit shall only be charged one camping fee for each designated campsite, and
- (2) Organized groups shall be charged one camping fee for each multiple of ~~four~~ eight persons.

(c) The following person or groups shall also receive a 50% discount off of the regular camping fee.

- (1) Individuals 62 years of age and over and his or her spouse, provided that their home state provides similar discounts to Oklahoma residents. Age and residency shall be verified by driver's license.

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- (2) Individuals who have been certified as totally (100%) disabled or blind as defined by state or federal law and immediate family members with out regard to residency. Total disability shall be verified by presentation of a Medicare card, hunting or fishing license issued by the Veteran's Administration, award letter of disability from a retirement insurance board, commission, or administrator which defines total disability, or a letter from a physician declaring and defining total disability.
- (3) Children's groups that provide at least 25 hours each year of beneficial service to the environment. Such services shall be limited to projects that provide environmental education awareness such as tree planting, refuse clean up or wildlife habitat improvement.
- (d) All fees established pursuant to this section shall be posted in a convenient location at each public access area.
- (e) The Administrator may, when in the public interest, prescribe times or periods during which the collection of fees may be waived or suspended.

630:10-2-4. Conditions of public access area use

- (a) No person shall use a ~~primitive or semi-improved~~ campsite under the jurisdiction of the Commission without paying the fee established by this section in advance at Commission Headquarters.
- (b) Camping fee receipts shall be retained by campers for the duration of their stay and shall be available for review upon request of any Commission employee.
- (c) Camping fees receipts entitle the named holder to use a campsite for the duration indicated on the receipt under the conditions set forth in this section. All camping fee receipts are non-transferable.
- (d) The daily fee covers use of campsites from 5:00 p.m. on the day of payment until 5:00 p.m. on the following day. Occupants shall vacate the campsite by removing their personal property from the campsite prior to 5:00 p.m. on the day they are scheduled to leave.
- (e) The following activities are prohibited in all public access areas:
- (1) Excavation ~~of~~ or leveling of the ground.
 - (2) Hanging a propane or gas operated lantern on any tree or plant.
 - (3) Leaving refuse or human waste at a campsite after departure.
 - (4) Camping within 25 feet of a water hydrant or within 100 feet of a stream, river or body of water, except where otherwise designated.
 - (5) Creating or sustaining unreasonable noise at a campsite as determined by the Administrator or a Scenic River Ranger considering the nature and purpose of the actor's conduct, the impact on other users, and other factors which would govern the conduct of a reasonably prudent person under the circumstances.
 - (6) Constructing permanent camping facilities or dwellings.
 - (7) Camping or parking vehicles outside of campsites and parking areas designated by the Administrator.

- (8) Parking a vehicle in, blocking access to, or occupying any designated campsites without having first paid camping fees for that campsite.
- (9) Using the utility services in a campsite or public access area without having first paid campsite or utility fees.
- (10) Connecting more than one water, electrical or sanitary connection per campsite or connecting to a utility which exceeds its manufactured design or capacity.
- (11) The placing or parking of 2 or more vehicles on any site not designed for more than one vehicle.
- (12) Camping longer than duration of stay noted on the camping receipt or exceeding the time limits set forth in this subchapter without prior written approval from the Administrator.
- (13) Entering or remaining in a public access area for any purpose other than camping or authorized day use activities, except fishing.
- (14) No fireworks or firearms are allowed in public access areas. The Administrator may authorize fireworks on the 4th of July.
- (15) Fires may only be built in fire pits or cookers established by the Commission.
- (16) Violation of any of the terms and conditions of this subchapter or any other state law may result in the suspension or revocation of the use of campsite and any other penalties prescribed by law.

[OAR Docket #05-1149; filed 6-23-05]

TITLE 630. SCENIC RIVERS COMMISSION CHAPTER 15. PROTECTION OF NATURAL RESOURCES

[OAR Docket #05-1148]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

630:15-1-2. Commission responsibilities and objectives [AMENDED]

630:15-1-5. Role of Scenic River Rangers [REVOKED]

630:15-1-6.1. Operation of jet skis, airboats, hovercrafts, and similar water craft prohibited [AMENDED]

630:15-1-10. Voting for Commissioners [AMENDED]

630:15-1-15. Tying flotation devices prohibited [NEW]

AUTHORITY:

Oklahoma Scenic Rivers Commission; O.S., § 1451 - 1470.

DATES:

Comment period:

February 15, 2005 through March 17, 2005

Public hearing:

March 17, 2005

Adoption:

March 22, 2005

Submitted to Governor:

March 30, 2005

Submitted to House:

March 30, 2005

Submitted to Senate:

March 30, 2005

Gubernatorial approval:

May 10, 2005

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 24, 2005

Final adoption:

May 24, 2005

Effective:

July 25, 2005

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

ANALYSIS:

Oklahoma Administrative Code ("OAC") Section 630:15-1-2 provides OSRC responsibilities and objectives in the chapter. The amendment adds the word "three" and deletes the word "two" in the explanation of section (b) Objectives. This amendment is intended to explain that the OSRC has jurisdiction for three scenic river areas.

Section 630:15-1-5 Role of Scenic River Rangers, it is to delete this section within the rules in its entirety. This amendment ensures that obsolete and unnecessary wording within OSRC Rules are removed.

Section 630:15-6.1 prohibits the operation of certain watercraft on scenic rivers under the jurisdiction of the OSRC. The amendment adds "airboats" and "hovercrafts" to the list of prohibited watercraft under specific times/purposes. This amendment is intended to minimize aesthetic and environmental damage to stream and river banks immediately adjacent to the scenic rivers under jurisdiction of the OSRC.

Section 630:15-1-10 provides explanation for voting for OSRC Commissioners. The word "that" will be changed to "who" within the rule language. The amendment grammatically corrects the explanation of the rule.

Section 630:15-1-15 is new language within rules to prohibit tying, lashing or connecting two or more flotation devices together while floated on scenic rivers under the jurisdiction of the OSRC. The amendment was developed in consultation with Commercial Flotation Device Operations and in response to public requests for such prohibition.

CONTACT PERSON:

Ed H. Fite, III, OSRC Administrator, (918) 456-3251

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 JULY 25, 2005:

630:15-1-2. Commission responsibilities and objectives

(a) **Responsibilities.** The OSRC is responsible for three streams (the Illinois River and Flint Creek and those portions of the Barren Fork Creek within Cherokee County) which have similar qualities with respect to aesthetic, scenic, archaeological, and scientific features.

(b) **Objectives.** The major objective of the OSRC is to maintain these streams as pollution free as possible. This means that the OSRC will need to serve as a "watch dog" on the adjacent and contiguous areas along these scenic rivers for water pollution. Should pollution or the possibility of pollution be a threat to any of these ~~two~~ three streams, regardless of the distance or by whom (commercial, private, or cities) it will be the responsibility of the OSRC to report the problem to the State

Health Department, the Oklahoma Water Resources Board, the Environmental Protection Agency, law enforcement agencies, or any other appropriate agencies for proper management.

630:15-1-5. Role of Scenic Rangers [REVOKED]

~~The Scenic River Rangers may assist landowners or make arrest on private property.~~

630:15-6.1. Operation of jet skis, airboats, hovercrafts, and similar water craft prohibited

(a) No jet skis, airboats, hovercrafts, or similar water craft are to be operated within "Scenic Rivers Areas"

(1) on the Illinois River and Flint Creek above the confluence of the Barren Fork Creek in Cherokee, Adair and Delaware Counties;

(2) those portions of Barren Fork Creek in Cherokee County.

(b) Exceptions to (a) of this Section would be jet skis, airboats, hovercrafts or other similar water craft used by the OSRC, Oklahoma Highway Patrol, Lake Patrol Division, and other appropriate organizations and individuals for the purposes of law enforcement, search and rescue and other appropriate purposes as authorized by the OSRC.

630:15-1-10. Voting for Commissioners

Only individuals ~~that~~ who meet county and state law election requirements and who own or reside on land that is within six hundred and sixty (660) feet of the Illinois River or Flint Creek or those portions of the Barren Fork Creek within Cherokee County are eligible to vote in elections for the OSRC Commissioner(s) representing their respective counties.

630:15-1-15. Tying flotation devices prohibited

To minimize environmental damage to the stream and river banks immediately adjoining the waters under jurisdiction of the OSRC, operators of both commercial and privately owned flotation devices are prohibited from tying or otherwise connecting two or more flotation devices together while such flotation devices are being floated on OSRC waters. This prohibition shall not apply to rescue or flotation device retrieval operations conducted by commercial operators or OSRC-authorized personnel.

[OAR Docket #05-1148; filed 6-23-05]

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

1:2005-16.

EXECUTIVE ORDER 2005-16

I, Brad Henry, Governor of the State of Oklahoma, by the authority vested in the Office of the Governor by the Constitution of the State of Oklahoma, hereby amend Executive Order 2004-28, which created the Fuel Cell Initiative Task Force; Executive Order 2005-2, which extended the Fuel Cell Initiative Task Force; and, Executive Order 2005-11, which further extended the fuel Cell Initiative Task Force.

The Fuel Cell Task Force will be extended until September 1, 2005. The Task Force shall make a final written report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the appropriate committees of the State Senate and the Oklahoma House of Representatives by September 1, 2005. The remainder of Executive Order 2004-28 shall remain in full force and effect.

This Executive Order shall be distributed to the Secretary of Energy who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 20 day of June, 2005.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #05-1143; filed 6-21-05]

