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

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# Submissions for Review

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

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

## **TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 1. ADMINISTRATIVE OPERATIONS**

*[OAR Docket #06-241]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

Subchapter 3. Organization and Administration  
87:1-3-14. Benefits Coordinators [AMENDED]

### **SUBMITTED TO GOVERNOR:**

March 2, 2006

### **SUBMITTED TO HOUSE:**

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### **SUBMITTED TO SENATE:**

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*[OAR Docket #06-241; filed 3-2-06]*

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

*[OAR Docket #06-242]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

Subchapter 17. Benefit Plan Election  
87:10-17-3. Employee election of benefit plans [AMENDED]  
Subchapter 19. Benefit Allowance  
87:10-19-1. Flexible benefit allowance [AMENDED]  
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87:10-25-2. Definitions [AMENDED]  
87:10-25-9. Reimbursement or payment of dependent care expenses [AMENDED]  
87:10-25-10. Forfeiture of unused benefits [AMENDED]  
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87:10-27-9. Reimbursement of health care expenses [AMENDED]  
87:10-27-10. Forfeiture of unused benefits [AMENDED]  
Subchapter 35. Group Health Plan Disclosure of Protected Health Information to the Plan Administrator [NEW]

87:10-35-1. General Provisions [NEW]

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*[OAR Docket #06-242; filed 3-2-06]*

## **TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 20. AUTHORIZED PAYROLL DEDUCTION VENDOR MATERIALS**

*[OAR Docket #06-243]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

87:20-1-1. Purpose [NEW]  
87:20-1-2. Definitions [NEW]  
87:20-1-3. General provisions [NEW]

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*[OAR Docket #06-243; filed 3-2-06]*

## **TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 10. CERTIFICATION OF INDUSTRIAL PARKS**

*[OAR Docket #06-208]*

### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

### **RULES:**

150:10-1-11. [NEW]

### **SUBMITTED TO GOVERNOR:**

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### **SUBMITTED TO HOUSE:**

February 24, 2006

## Submissions for Review

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**SUBMITTED TO SENATE:**

February 24, 2006

*[OAR Docket #06-208; filed 2-24-06]*

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

*[OAR Docket #06-206]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

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150:65-1-2. [AMENDED]

150:65-1-3. [AMENDED]

150:65-1-6. [AMENDED]

Subchapter 6. Small Employer Quality Jobs Program

150:65-6-3. [AMENDED]

150:65-6-4. [AMENDED]

150:65-6-6. [AMENDED]

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*[OAR Docket #06-206; filed 2-24-06]*

**TITLE 150. OKLAHOMA DEPARTMENT OF  
COMMERCE  
CHAPTER 115. RX FOR OKLAHOMA  
PROGRAM**

*[OAR Docket #06-207]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

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150:115-1-4. [NEW]

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*[OAR Docket #06-207; filed 2-24-06]*

**TITLE 150. OKLAHOMA DEPARTMENT OF  
COMMERCE  
CHAPTER 120. WORKFORCE  
INVESTMENT ACT**

*[OAR Docket #06-205]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

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150:120-9-8. [NEW]

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150:120-11-1. [NEW]

Part 3. Grievance Filed Directly with ODOC [NEW]

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150:120-11-11. [NEW]

150:120-11-12. [NEW]

150:120-11-13. [NEW]

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*[OAR Docket #06-205; filed 2-24-06]*

**TITLE 165. CORPORATION COMMISSION  
CHAPTER 15. FUEL INSPECTION**

*[OAR Docket #06-263]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

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  - 165:15-1-2. Definitions [AMENDED]
  - 165:15-1-6. Fuel Specialists' Identification [AMENDED]
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  - Part 3. Motor Fuels and Antifreeze
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    - 165:15-3-21. Containment of petroleum products [AMENDED]
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    - 165:15-3-23. Marina inspections [AMENDED]
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      - 165:15-3-24.1. Airport inspections [AMENDED]
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  - Part 7. Money Values and Volumes Dispensed
    - 165:15-15-28. Position of equipment and money value divisions [AMENDED]
    - 165:15-15-29. Digital indication and representation [AMENDED]
    - 165:15-15-35. Money value display and computation [AMENDED]
  - Subchapter 19. Violations and Contempt
    - 165:15-19-2. Enforcement procedure [AMENDED]
  - Appendix A. Tolerances for Retail and Wholesale Devices [REVOKED]
  - Appendix A. Tolerances for Retail and Wholesale Devices [NEW]

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March 2, 2006

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*[OAR Docket #06-263; filed 3-8-06]*

**TITLE 165. CORPORATION COMMISSION  
CHAPTER 25. UNDERGROUND STORAGE  
TANKS**

*[OAR Docket #06-264]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Chapter 25. Underground Storage Tanks [AMENDED]

**SUBMITTED TO GOVERNOR:**

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## Submissions for Review

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### **TITLE 165. CORPORATION COMMISSION CHAPTER 26. ABOVEGROUND STORAGE TANKS**

*[OAR Docket #06-265]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

Chapter 26. Aboveground Storage Tanks [AMENDED]

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

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*[OAR Docket #06-265; filed 3-8-06]*

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### **TITLE 165. CORPORATION COMMISSION CHAPTER 27. INDEMNITY FUND**

*[OAR Docket #06-266]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

Subchapter 1. General Provisions

165:27-1-2. Definitions [AMENDED]

165:27-1-4. Authority [AMENDED]

165:27-1-6. Prescribed forms [AMENDED]

Subchapter 5. Qualifications for Reimbursement

165:27-5-2. Application for reimbursement [AMENDED]

165:27-5-3. Application for supplemental reimbursement  
[AMENDED]

Subchapter 7. Reimbursement

165:27-7-2. Reimbursement [AMENDED]

165:27-7-2.1 Limitations on reimbursement [REVOKED]

165:27-7-6. Conditions for reimbursement [AMENDED]

165:27-7-7. Exclusions from reimbursement [AMENDED]

165:27-7-11. Purchase order procedures [AMENDED]

Subchapter 9. Administrative Provisions

165:27-9-1. Hearing, orders, and appeals [AMENDED]

165:27-9-3. Notices [AMENDED]

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*[OAR Docket #06-266; filed 3-8-06]*

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### **TITLE 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES**

*[OAR Docket #06-277]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

Subchapter 9. Extent of Service

165:35-9-1. Extent of service [AMENDED]

Subchapter 19. Consumer Data, Deposits, and Billing

Part 1. Consumer Records, Information, and Interruption of  
Service

165:35-19-4. Restoration of service [AMENDED]

Part 7. Application for Service and Tampering of  
Equipment

165:35-19-40. Failure to make application for electric  
service [AMENDED]

Subchapter 21. Disconnection of Service

Part 3. Special Provisions Regarding Residential  
Disconnection

165:35-21-10. Delays to disconnection of residential  
service [AMENDED]

Part 9. Mediation and Commission Review

165:35-21-40. Mediation [AMENDED]

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

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*[OAR Docket #06-277; filed 3-9-06]*

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### **TITLE 165. CORPORATION COMMISSION CHAPTER 45. GAS SERVICE UTILITIES**

*[OAR Docket #06-276]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

#### **RULES:**

Subchapter 9. Records and Reports

165:45-9-2.1. Restoration of service [AMENDED]

Subchapter 11. Customer Service

Part 3. Disconnection of Service

165:45-11-14. Delays to disconnection of residential  
service [AMENDED]

165:45-11-20. Mediation [AMENDED]

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*[OAR Docket #06-276; filed 3-9-06]*

**TITLE 165. CORPORATION COMMISSION  
CHAPTER 65. WATER SERVICE UTILITIES**

*[OAR Docket #06-275]*

**RULEMAKING ACTION:**

Submission for gubernatorial/legislative review

**RULES:**

Subchapter 9. Records, Reports, and Filing Requirements  
165:65-9-2.1. Restoration of service. [NEW]

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*[OAR Docket #06-275; filed 3-9-06]*

**TITLE 210. STATE DEPARTMENT OF  
EDUCATION  
CHAPTER 15. CURRICULUM AND  
INSTRUCTION**

*[OAR Docket #06-271]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 31. Middle School Mathematics Laboratories  
for Public Schools with Low Student Achievement in  
Mathematics Program [NEW]

210:15-31-1. [NEW]

210:15-31-2. [NEW]

**SUBMITTED TO GOVERNOR:**

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*[OAR Docket #06-271; filed 3-9-06]*

**TITLE 210. STATE DEPARTMENT OF  
EDUCATION  
CHAPTER 15. CURRICULUM AND  
INSTRUCTION**

*[OAR Docket #06-272]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 3. Priority Academic Student Skills

Part 5. Language Arts

210:15-3-22. [AMENDED]

210:15-3-23. [AMENDED]

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*[OAR Docket #06-272; filed 3-9-06]*

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

*[OAR Docket #06-274]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 19. Local Professional Development Programs

210:20-19-2. [AMENDED]

210:20-19-3. [AMENDED]

210:20-19-4. [AMENDED]

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*[OAR Docket #06-274; filed 3-9-06]*

## Submissions for Review

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**TITLE 210. STATE DEPARTMENT OF  
EDUCATION  
CHAPTER 35. STANDARDS FOR  
ACCREDITATION OF ELEMENTARY,  
MIDDLE LEVEL, SECONDARY, AND  
CAREER AND TECHNOLOGY SCHOOLS**

*[OAR Docket #06-269]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 9. Additional Standards for Secondary Schools  
Part 7. Standard IV: Curriculum, Instruction, Assessment  
and Climate

210:35-9-31. [AMENDED]

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**TITLE 210. STATE DEPARTMENT OF  
EDUCATION  
CHAPTER 35. STANDARDS FOR  
ACCREDITATION OF ELEMENTARY,  
MIDDLE LEVEL, SECONDARY, AND  
CAREER AND TECHNOLOGY SCHOOLS**

*[OAR Docket #06-270]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 7. Additional Standards for Middle Level  
Schools

Part 9. Standard V: The School Staff

210:35-7-43. [AMENDED]

Subchapter 9. Additional Standards for Secondary Schools

Part 9. Standard V: The School Staff

210:35-9-43. [AMENDED]

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*[OAR Docket #06-270; filed 3-9-06]*

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**TITLE 210. STATE DEPARTMENT OF  
EDUCATION  
CHAPTER 35. STANDARDS FOR  
ACCREDITATION OF ELEMENTARY,  
MIDDLE LEVEL, SECONDARY, AND  
CAREER AND TECHNOLOGY SCHOOLS**

*[OAR Docket #06-273]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 3. Standards for Elementary, Middle Level,  
Secondary, and Career and Technology Schools

Part 19. Standard X: School Facilities

210:35-3-186. [AMENDED]

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*[OAR Docket #06-273; filed 3-9-06]*

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**TITLE 340. DEPARTMENT OF HUMAN  
SERVICES  
CHAPTER 25. CHILD SUPPORT  
ENFORCEMENT DIVISION**

*[OAR Docket #06-222]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. Scope and Applicability

340:25-1-1. through 340:25-1-2.1. [AMENDED]

340:25-1-5.1. [AMENDED]

Subchapter 3. Commissioned Peace Officers

340:25-3-1. through 340:25-3-1.1. [AMENDED]

340:25-3-3. [AMENDED]

Subchapter 5. Operational Policies

Part 7. The Case Record - Computer File Records and Case  
Folders

340:25-5-55. [AMENDED]

Part 9. Disclosure of Information

340:25-5-66. through 340:25-67.1. [AMENDED]

Part 11. CSED System Security

340:25-5-75. [AMENDED]

Part 13. Retention and Destruction of Records

340:25-5-95. [AMENDED]

Part 15. Case Initiation, Case Management, and Case  
Closure

340:25-5-110. through 340:25-5-110.1. [AMENDED]

340:25-5-114. [AMENDED]

340:25-5-117. [AMENDED]

340:25-5-123. through 340:25-5-124. [AMENDED]  
 340:25-5-124.2. [AMENDED]  
 340:25-5-133. [AMENDED]  
 Part 17. Past Support  
 340:25-5-140. through 340:25-5-140.1. [AMENDED]  
 Part 19. Locate Services  
 340:25-5-155. [AMENDED]  
 Part 20. Medical Support  
 340:25-5-168. [AMENDED]  
 340:25-5-170. through 340:25-5-171. [AMENDED]  
 Part 21. Establishment  
 340:25-5-176. [AMENDED]  
 340:25-5-178. through 340:25-5-179.1. [AMENDED]  
 Part 22. Review and Modification  
 340:25-5-198. through 340:25-5-198.2. [AMENDED]  
 Part 23. Enforcement  
 340:25-5-200. through 340:25-5-200.2. [AMENDED]  
 340:25-5-201.1. [AMENDED]  
 340:25-5-203. [AMENDED]  
 340:25-5-203.1. [NEW]  
 340:25-5-211.1. through 340:25-5-214. [AMENDED]  
 Part 25. Federal Offset Programs  
 340:25-5-215. through 340:25-5-215.1. [AMENDED]  
 340:25-5-225. [AMENDED]  
 Part 27. State Tax Refund Offset Program  
 340:25-5-235. [AMENDED]  
 340:25-5-244. [AMENDED]  
 Part 31. Consumer Reporting Agencies - Credit Bureaus  
 340:25-5-265. through 340:25-5-265.1. [AMENDED]  
 Part 33. Interstate and International Cases  
 340:25-5-270. [AMENDED]  
 340:25-5-285. [NEW]  
 Part 37. Recovery  
 340:25-5-305. [AMENDED]  
 340:25-5-312. [AMENDED]  
 340:25-5-328. [AMENDED]  
 Part 38. IV-D and Non-IV-D Central Case Registry  
 Information  
 340:25-5-339. [NEW]  
 340:25-5-340.1. [AMENDED]  
 Part 39. Accounting and Distribution  
 340:25-5-345.1. [AMENDED]  
 340:25-5-350.2. through 340:25-5-351. [AMENDED]  
**(Reference APA WF 05-27 and 05-08)**  
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[OAR Docket #06-222; filed 2-28-06]

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

[OAR Docket #06-236]

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 3. Administration of Plans  
 360:10-3-4. [AMENDED]  
 360:10-3-20. [AMENDED]  
 360:10-3-30. [NEW]  
 Subchapter 5. Coverage and Limitations  
 Part 11. Medicare Supplement  
 360:10-5-75. [AMENDED]  
 360:10-5-77. [AMENDED]

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[OAR Docket #06-236; filed 3-2-06]

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

[OAR Docket #06-237]

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

360:15-1-2. [AMENDED]  
 360:15-1-12. [AMENDED]  
 360:15-1-18. [AMENDED]

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[OAR Docket #06-237; filed 3-2-06]

## Submissions for Review

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

*[OAR Docket #06-211]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

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

377:1-1-5. Board of Juvenile Affairs [AMENDED]

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

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*[OAR Docket #06-211; filed 2-24-06]*

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

*[OAR Docket #06-212]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

Subchapter 13. Office of Public Integrity

Part 7. Requirements for Community Intervention Centers (CIC)

377:3-13-86. Organization, administration, and finance [AMENDED]

377:3-13-88. Personnel [AMENDED]

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*[OAR Docket #06-212; filed 2-24-06]*

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

*[OAR Docket #06-213]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

Subchapter 5. Court

377:25-5-3. Certification Hearings [REVOKED]

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

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*[OAR Docket #06-213; filed 2-24-06]*

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

*[OAR Docket #06-214]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

Subchapter 7. Custody

Part 1. General Provisions

377:25-7-1. Definitions [REVOKED]

377:25-7-3. Placement of OJA custody juveniles [AMENDED]

377:25-7-4. Short term, up to thirty day intensive, highly structured placement [REVOKED]

Part 5. Rules for Supervised Community Placement [AMENDED]

377:25-7-27. Rules for Supervised Community Placement (SCP) [AMENDED]

377:25-7-28. Non compliance with Supervised Community Placement rules [AMENDED]

377:25-7-29. District review hearing [AMENDED]

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*[OAR Docket #06-214; filed 2-24-06]*

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

*[OAR Docket #06-215]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

Subchapter 1. General Provisions

377:30-1-1. Legal base, scope, and purpose [AMENDED]

Subchapter 3. OJA-Operated Group Homes

377:30-3-1. Administration [REVOKED]

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*[OAR Docket #06-215; filed 2-24-06]*

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

*[OAR Docket #06-216]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 11. Juvenile Rules/Discipline
- 377:35-11-2. Waiver of Intensive Treatment Program Transfer Hearing [REVOKED]
- 377:35-11-3. Intensive Treatment Program Transfer Hearing [AMENDED]

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*[OAR Docket #06-216; filed 2-24-06]*

**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 1. AGENCY AUTHORITY AND  
OBJECTIVES**

*[OAR Docket #06-225]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- 390:1-1-2.1. [NEW]
- 390:1-1-9. [NEW]
- 390:1-1-10. [NEW]
- 390:1-1-11. [NEW]

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*[OAR Docket #06-225; filed 3-1-06]*

**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 2. ADMINISTRATIVE  
PROCEDURES**

*[OAR Docket #06-226]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

390:2-1-8. [AMENDED]

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*[OAR Docket #06-226; filed 3-1-06]*

**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 10. PEACE OFFICER  
CERTIFICATION**

*[OAR Docket #06-227]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

390:10-1-2. [AMENDED]

390:10-1-5. [AMENDED]

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*[OAR Docket #06-227; filed 3-1-06]*

**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 15. BASIC PEACE OFFICER  
CERTIFICATION TRAINING**

*[OAR Docket #06-228]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. Basic Academy Programs

## Submissions for Review

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390:15-1-2. [AMENDED]  
390:15-1-3. [AMENDED]  
390:15-1-9. [AMENDED]  
390:15-1-13. [AMENDED]  
390:15-1-19. [AMENDED]  
Subchapter 3. Collegiate Officer Program  
390:15-3-3. [AMENDED]  
390:15-3-6. [AMENDED]  
390:15-3-7. [AMENDED]  
Appendix A. Academy City Agreement Form Agreement  
[REVOKED]

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**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 25. CONTINUING LAW  
ENFORCEMENT EDUCATION**

*[OAR Docket #06-229]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

390:25-1-8. [AMENDED]

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*[OAR Docket #06-229; filed 3-1-06]*

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**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 30. CDS DETECTOR DOG  
CERTIFICATION**

*[OAR Docket #06-230]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

390:30-1-4. [AMENDED]

390:30-1-6. [AMENDED]

390:30-1-7. [AMENDED]

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**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 31. BOMB DETECTOR DOG  
CERTIFICATION**

*[OAR Docket #06-231]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Chapter 31. Bomb Detector Dog Certification [NEW]

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*[OAR Docket #06-231; filed 3-1-06]*

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**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 35. REGULATION OF PRIVATE  
SECURITY INDUSTRY**

*[OAR Docket #06-232]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions

390:35-1-4. [AMENDED]

Subchapter 5. License Requirements

390:35-5-2. [AMENDED]

390:35-5-3. [AMENDED]

390:35-5-5. [AMENDED]

Subchapter 7. Application Procedure

390:35-7-1. [AMENDED]

390:35-7-4. [AMENDED]

Subchapter 11. Insurance and Bond Requirements

390:35-11-3. [AMENDED]

Subchapter 13. Use of Firearms

390:35-13-2. [AMENDED]

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*[OAR Docket #06-232; filed 3-1-06]*

**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 40. OKLAHOMA  
SELF-DEFENSE ACT**

*[OAR Docket #06-233]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions

390:40-1-4. [AMENDED]

Subchapter 7. Instructor Application Procedure

390:40-7-1. [AMENDED]

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**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 45. RETIRED PEACE OFFICER  
FIREARMS PERMIT**

*[OAR Docket #06-234]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

390:45-1-3. [AMENDED]

390:45-1-4. [AMENDED]

390:45-1-5. [AMENDED]

390:45-1-6. [AMENDED]

**SUBMITTED TO GOVERNOR:**

March 1, 2006

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March 1, 2006

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*[OAR Docket #06-234; filed 3-1-06]*

**TITLE 390. COUNCIL ON LAW  
ENFORCEMENT EDUCATION AND  
TRAINING  
CHAPTER 50. PENALTY ASSESSMENT  
FEES**

*[OAR Docket #06-235]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

390:50-1-4. [AMENDED]

**SUBMITTED TO GOVERNOR:**

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*[OAR Docket #06-235; filed 3-1-06]*

**TITLE 429. OKLAHOMA LOTTERY  
COMMISSION  
CHAPTER 1. GENERAL ADMINISTRATION**

*[OAR Docket #06-256]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions [NEW]

429:1-1-1. [RESERVED]

429:1-1-2. Applicability [NEW]

429:1-1-3. Definitions [NEW]

429:1-1-4. Public Accountability [NEW]

429:1-1-5. Procedures for Retailer Appeal to Board [NEW]

429:1-1-6. Officers [NEW]

**SUBMITTED TO GOVERNOR:**

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March 2, 2006

*[OAR Docket #06-256; filed 3-7-06]*

## Submissions for Review

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### **TITLE 429. OKLAHOMA LOTTERY COMMISSION** **CHAPTER 10. RETAILER PROVISIONS**

*[OAR Docket #06-257]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

- Subchapter 1. General Provisions [NEW]
- 429:10-1-1. [RESERVED]
- 429:10-1-2. Definitions [NEW]
- 429:10-1-3. Retailer Compensation [NEW]
- 429:10-1-4. Retailer Selection Criteria [NEW]
- 429:10-1-5. Acceptance and Return of Instant Lottery tickets [NEW]
- 429:10-1-6. Acceptance of Online Tickets [NEW]
- 429:10-1-7. Payment of Prizes [NEW]
- 429:10-1-8. Minimum Sales Requirement [NEW]
- 429:10-1-9. Merchandising [NEW]
- 429:10-1-10. Settlement and Retailer Invoicing [NEW]
- 429:10-1-11. Banking, Deposits and Payment Requirements [NEW]
- 429:10-1-12. Damage to OLC Provided Equipment [NEW]

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

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

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

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*[OAR Docket #06-257; filed 3-7-06]*

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### **TITLE 429. OKLAHOMA LOTTERY COMMISSION** **CHAPTER 15. INSTANT GAMES**

*[OAR Docket #06-258]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

- Subchapter 1. General Provisions [NEW]
- 429:15-1-1. [RESERVED]
- 429:15-1-2. Definitions [NEW]
- 429:15-1-3. Ticket Responsibility [NEW]
- 429:15-1-4. Sale of Instant Game Tickets [NEW]
- 429:15-1-5. Determination of Prize Winner [NEW]
- 429:15-1-6. Ticket Validation Requirements [NEW]
- 429:15-1-7. Disputed Ticket [NEW]
- 429:15-1-8. Game End Date or Game Promotion End Date and Prize Claim Period [NEW]
- 429:15-1-9. Governing Law [NEW]
- 429:15-1-10. Required Prize Withholding [NEW]
- 429:15-1-11. Game Report [NEW]

- 429:15-1-12. Grand Prize Drawing [NEW]
- 429:15-1-13. Instant Game Procedures [NEW]
- 429:15-1-14. Instant Game Promotion Procedures [NEW]
- Appendix A. Instant Game Procedures [NEW]
- Appendix B. Instant Game Promotion Procedures [NEW]

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

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March 2, 2006

*[OAR Docket #06-258; filed 3-7-06]*

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### **TITLE 429. OKLAHOMA LOTTERY COMMISSION** **CHAPTER 20. GENERAL ADMINISTRATION**

*[OAR Docket #06-259]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

- Subchapter 1. General Provisions [NEW]
- 429:20-1-1. [RESERVED]
- 429:20-1-2. Definitions [NEW]
- 429:20-1-3. Ticket Responsibility [NEW]
- 429:20-1-4. Sale of Online Game Tickets [NEW]
- 429:20-1-5. Determination of Prize Winner [NEW]
- 429:20-1-6. Ticket Validation Requirements [NEW]
- 429:20-1-7. Disputed Ticket [NEW]
- 429:20-1-8. Game End Date or Game Promotion End Date and Prize Claim Period [NEW]
- 429:20-1-9. Draw Procedures [NEW]
- 429:20-1-10. Governing Law [NEW]
- 429:20-1-11. Prize Withholdings [NEW]
- 429:20-1-12. Game Report [NEW]
- 429:20-1-13. Prize Amounts for Online Games [NEW]
- 429:20-1-14. Game Sell-Out Prohibited [NEW]
- 429:20-1-15. Entry of Plays [NEW]
- 429:20-1-16. Online Game Procedures [NEW]
- 429:20-1-17. Online Game Promotion Procedures [NEW]
- Appendix A. Online Game Procedures [NEW]
- Appendix B. Online Game Promotion Procedures [NEW]

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

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*[OAR Docket #06-259; filed 3-7-06]*

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**TITLE 560. POLYGRAPH EXAMINERS BOARD  
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #06-223]

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- 560:1-1-2. [AMENDED]
- 560:1-1-4. [AMENDED]
- 560:1-1-7. [AMENDED]

**SUBMITTED TO GOVERNOR:**

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March 1, 2006

[OAR Docket #06-223; filed 3-1-06]

**TITLE 560. POLYGRAPH EXAMINERS BOARD  
CHAPTER 10. LICENSURE AND REGULATION OF POLYGRAPH EXAMINERS**

[OAR Docket #06-224]

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- 560:10-1-13.1. [NEW]

**SUBMITTED TO GOVERNOR:**

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[OAR Docket #06-224; filed 3-1-06]

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

[OAR Docket #06-251]

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review.

**RULES:**

- Subchapter 1. Academic Scholars Program

610:25-1-4. Eligibility Requirements and Term of Scholarship Award [AMENDED]

Subchapter 7. Oklahoma Tuition Aid Grant Program

610:25-7-6. Eligibility; amount of grant; application procedures and deadlines; disbursement of funds [AMENDED]

Subchapter 23. Oklahoma Higher Learning Access Program (OHLAP)

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

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

**SUBMITTED TO THE GOVERNOR:**

February 24, 2006

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February 24, 2006

[OAR Docket #06-251; filed 3-2-06]

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

[OAR Docket #06-260]

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 7. Relationships with Department Established by Law

612:1-7-2. Relationships with appointed state officials [AMENDED]

**SUBMITTED TO GOVERNOR:**

March 7, 2006

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March 7, 2006

[OAR Docket #06-260; filed 3-7-06]

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

[OAR Docket #06-261]

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

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

## Submissions for Review

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612:3-5-12. Policy Development [AMENDED]

**SUBMITTED TO GOVERNOR:**

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March 7, 2006

*[OAR Docket #06-261; filed 3-7-06]*

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

*[OAR Docket #06-262]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions

612:10-1-2. [AMENDED]

612:10-1-5. [AMENDED]

Subchapter 3. Client Participation in Cost of Services

612:10-3-4. [AMENDED]

612:10-3-5. [AMENDED]

Subchapter 7. Vocational Rehabilitation and Visual Services

Part 1. Scope of Vocational Rehabilitation and Visual Services

612:10-7-1. [AMENDED]

612:10-7-4. [AMENDED]

612:10-7-5. [AMENDED]

612:10-7-8. [AMENDED]

Part 9. Actions Requiring Review and Approval

612:10-7-87. [AMENDED]

612:10-7-88. [AMENDED]

Part 11. Physical and Mental Restoration Services

612:10-7-104. [AMENDED]

612:10-7-117. [AMENDED]

Part 13. Supportive Services

612:10-7-131. [AMENDED]

Part 15. Training

612:10-7-157. [AMENDED]

612:10-7-162. [AMENDED]

Part 17. Supported Employment Services

612:10-7-179. [AMENDED]

612:10-7-180. [AMENDED]

612:10-7-185. [AMENDED]

Part 19. Special Services for Individuals Who Are Blind, Deaf, or Have Other Severe Disabilities

612:10-7-199. [AMENDED]

Part 21. Purchase of Equipment, Occupational Licenses and Certificates

612:10-7-216. [AMENDED]

612:10-7-221. [NEW]

Subchapter 11. Independent Living ~~Rehabilitation~~ Services for Older Individuals Who Are Blind

Part 1. Scope of Services

612:10-11-4. [AMENDED]

**SUBMITTED TO GOVERNOR:**

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*[OAR Docket #06-262; filed 3-7-06]*

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**TITLE 725. OKLAHOMA TOURISM AND  
RECREATION DEPARTMENT  
CHAPTER 1. ADMINISTRATIVE  
OPERATIONS**

*[OAR Docket #06-244]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 1. General Provisions

725:1-1-1. Purpose [AMENDED]

Subchapter 3. Organizational Structure

725:1-3-1. Director as Chief Executive Officer [AMENDED]

725:1-3-2. Divisions of the Department [AMENDED]

**SUBMITTED TO GOVERNOR:**

February 28, 2006

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*[OAR Docket #06-244; filed 3-2-06]*

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**TITLE 725. OKLAHOMA TOURISM AND  
RECREATION DEPARTMENT  
CHAPTER 15. FISCAL, PERSONNEL AND  
GENERAL OPERATIONS**

*[OAR Docket #06-245]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 3. Acceptance of Checks [AMENDED]

Subchapter 9. Uniform Personnel Standards and Practices [AMENDED]

Subchapter 17. Pets on Premises [AMENDED]

Subchapter 19. Oklahoma Tourism and Recreation Product Development, Promotion, and Events Funding Criteria [AMENDED]

- Subchapter 27. Promotion of Facilities [AMENDED]
- Subchapter 29. Oklahoma Today Magazine [AMENDED]
- Subchapter 31. Refunds [AMENDED]
- Subchapter 33. Oklahoma Tourism Development Act Tax Credit Program [AMENDED]
- Subchapter 35. Revenue Bond and Note Issuance [AMENDED]
- Subchapter 37. Pay Incentive Plan [AMENDED]

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*[OAR Docket #06-245; filed 3-2-06]*

**TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT  
CHAPTER 20. MARKETING SERVICES OPERATION**

*[OAR Docket #06-246]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 9. Brochure Charges [AMENDED]
- Subchapter 11. Promotional Items Fees [AMENDED]
- Subchapter 13. Traveler Information Centers [AMENDED]

**SUBMITTED TO GOVERNOR:**

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*[OAR Docket #06-246; filed 3-2-06]*

**TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT  
CHAPTER 20. MARKETING SERVICES OPERATION**

*[OAR Docket #06-247]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 7. Reimbursement of Matching Funds to Multicounty Organizations
- 725:20-7-1. Definition of multicounty organization; directors [AMENDED]

- 725:20-7-2. Definition of matching funds; limitations [AMENDED]
- 725:20-7-3. Tourism marketing plan; budget work program [AMENDED]
- 725:20-7-4. Allocation of matching funds among multicounty organizations [AMENDED]
- 725:20-7-5. Allowable expenditures [AMENDED]
- 725:20-7-6. Administrative expenditures [AMENDED]
- 725:20-7-7. Tourism promotion expenditures [AMENDED]
- 725:20-7-8. Discretionary expenditures [AMENDED]
- 725:20-7-9. Independent and certified audit [AMENDED]

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*[OAR Docket #06-247; filed 3-2-06]*

**TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT  
CHAPTER 25. STATE LODGES OPERATIONS [REVOKED]**

*[OAR Docket #06-248]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

- Subchapter 1. General Provisions [REVOKED]
- Subchapter 3. Use of Lodge Public Space for Private Groups [REVOKED]
- Subchapter 7. Reservations [REVOKED]
- Subchapter 9. Fees and Rates for Lodge Guest Rooms, Meeting Rooms, Banquet Rooms, and Commercial Use of Facilities [REVOKED]
- Subchapter 11. Prices, Fees and Other Charges for Commodities and Services Provided by Lodges [REVOKED]
- Subchapter 15. Resort Credit Policy [REVOKED]
- Subchapter 23. Pets on Premises [REVOKED]
- Subchapter 25. Swimming Pools [REVOKED]
- Subchapter 27. Confidentiality of Guest Records [REVOKED]
- Subchapter 29. Smoking [REVOKED]

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February 28, 2006

*[OAR Docket #06-248; filed 3-2-06]*

## Submissions for Review

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### **TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 30. DIVISION OF STATE PARKS**

*[OAR Docket #06-249]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

- Subchapter 2. General Provisions [AMENDED]
- Subchapter 4. Public Use and Recreation [AMENDED]
- Subchapter 6. Fees, Discounts and Waivers [AMENDED]
- Subchapter 8. Camping and Day Use [AMENDED]
- Subchapter 10. Trails [AMENDED]
- Subchapter 12. Reservations and Use of Cabins, Group Camps, Shelters, Reserved/Assigned Camping Facilities, Amphitheaters, Community Buildings and Meeting Rooms [AMENDED]
- Subchapter 16. Permits [AMENDED]
- Subchapter 18. Special Use Areas [AMENDED]
- Subchapter 20. Volunteers [AMENDED]
- Subchapter 22. Concession Leases [AMENDED]
- Subchapter 23. Mineral Leases and Operations [AMENDED]
- Subchapter 24. Golf [AMENDED]
- Subchapter 26. Vehicle and Traffic Safety [AMENDED]
- Subchapter 28. Park Security and Law Enforcement [AMENDED]
- Subchapter 29. Operations of State Lodges [NEW]

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

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*[OAR Docket #06-249; filed 3-2-06]*

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### **TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT CHAPTER 35. THE OKLAHOMA FILM OFFICE**

*[OAR Docket #06-250]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

- Subchapter 1. Oklahoma Film Enhancement Rebate Program
- 725:35-1-1. Purpose [AMENDED]
- 725:35-1-2. Definitions [AMENDED]
- 725:35-1-3. Program requirements and qualifications [AMENDED]
- 725:35-1-4. Items not eligible for rebate [AMENDED]

725:35-1-5. Procedures for submission and review of rebate claims [AMENDED]

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

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*[OAR Docket #06-250; filed 3-2-06]*

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### **TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 40. RAILROADS**

*[OAR Docket #06-267]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

- Subchapter 5. Railroad Modernization Program [NEW]
- 730:40-5-1. through 730:40-5-4. [NEW]

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

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

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*[OAR Docket #06-267; filed 3-8-06]*

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

*[OAR Docket #06-253]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

- Subchapter 3. Licensure of Veterinarians [AMENDED]
- Subchapter 5. Rules of Professional Conduct [AMENDED]
- Subchapter 7. Certification Of Veterinary Technicians [AMENDED]
- Subchapter 10. Complementary and Alternative Therapy [AMENDED]

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

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*[OAR Docket #06-253; filed 3-7-06]*

**TITLE 775. BOARD OF VETERINARY  
MEDICAL EXAMINERS  
CHAPTER 25. RECORDKEEPING AND  
SUPERVISION REQUIREMENTS**

*[OAR Docket #06-254]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

775:25-1-3. Dispensing and Labeling Requirements  
[AMENDED]

**SUBMITTED TO GOVERNOR:**

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March 7, 2006

*[OAR Docket #06-254; filed 3-7-06]*

**TITLE 775. BOARD OF VETERINARY  
MEDICAL EXAMINERS  
CHAPTER 26.  
WHOLESALE/DISTRIBUTOR OF  
VETERINARY PRESCRIPTION DRUGS**

*[OAR Docket #06-255]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

775:26-1-1. Wholesaler/Distributor of Veterinary  
Prescription Drugs [NEW]

**SUBMITTED TO GOVERNOR:**

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March 7, 2006

*[OAR Docket #06-255; filed 3-7-06]*

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

*[OAR Docket #06-238]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 3. State Technical Assistance, Supervision, and  
Services

780:10-3-2. [AMENDED]

Subchapter 5. Finance

780:10-5-2. [AMENDED]

780:10-5-4. [AMENDED]

Subchapter 9. Service Contracts and Equipment Guidelines

780:10-9-1. [AMENDED]

780:10-9-2. [AMENDED]

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*[OAR Docket #06-238; filed 3-2-06]*

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

*[OAR Docket #06-239]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULES:**

Subchapter 3. Technology Centers Education

780:15-3-2. [AMENDED]

780:15-3-3. [AMENDED]

780:15-3-6. [AMENDED]

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*[OAR Docket #06-239; filed 3-2-06]*

## Submissions for Review

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### **TITLE 780. OKLAHOMA DEPARTMENT OF CAREER AND TECHNOLOGY EDUCATION CHAPTER 20. PROGRAMS AND SERVICES**

*[OAR Docket #06-240]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

Subchapter 3. Secondary, Full-Time and Short-Term Adult CareerTech Programs

780:20-3-1. [AMENDED]

780:20-3-2. [AMENDED]

780:20-3-3. [AMENDED]

780:20-3-4. [AMENDED]

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

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*[OAR Docket #06-240; filed 3-2-06]*

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### **TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 45. OKLAHOMA'S WATER QUALITY STANDARDS**

*[OAR Docket #06-209]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

Subchapter 1. General Provisions

785:45-1-2. Definitions [AMENDED]

Subchapter 5. Surface Water Quality Standards

Part 3. Beneficial Uses and Criteria to Protect Uses

785:45-5-10. Public and private water supplies [AMENDED]

785:45-5-12. Fish and wildlife propagation [AMENDED]

785:45-5-13. Agriculture: livestock and irrigation [AMENDED]

785:45-5-20. Fish consumption [AMENDED]

Part 5. Special Provisions

785:45-5-29. Delineation of NLW areas [NEW]

Appendix A. Designated Beneficial Uses for Surface Waters [REVOKED]

Appendix A. Designated Beneficial Uses for Surface Waters [NEW]

Appendix C. Suitability of Water for Livestock and Irrigation Uses [REVOKED]

Appendix E. Requirements for Development of Site Specific Criteria for Metals [REVOKED]

Appendix E. Requirements for Development of Site-Specific Criteria for Metals [NEW]

Appendix F. Statistical Values of the Historical Data for Mineral Constituents of Water Quality (Beginning October 1976 Ending September 1983, Except As Indicated) [REVOKED]

Appendix F. Statistical Values of the Historical Data for Mineral Constituents of Water Quality (Beginning October 1976 Ending September 1983, Except As Indicated) [NEW]

Appendix H. Beneficial Use Designations for Certain Limited Areas of Groundwater [NEW]

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

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*[OAR Docket #06-209; filed 2-24-06]*

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

*[OAR Docket #06-210]*

#### **RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

#### **RULES:**

Subchapter 1. General Provisions

785:46-1-2. Definitions [AMENDED]

785:46-1-6. Determination of ~~7Q2 and seasonal 7Q2~~ regulatory low flow [AMENDED]

Subchapter 9. Implementation of Criteria to Protect the Agriculture Beneficial Use

785:46-9-5. Reasonable potential [AMENDED]

Subchapter 15. Use Support Assessment Protocols

785:46-15-3. Data requirements [AMENDED]

Subchapter 19. Implementation of Dissolved Oxygen Criteria to Protect Fish and Wildlife Propagation

785:46-19-2. Regulatory flows [AMENDED]

785:46-19-3. Reasonable potential determination [AMENDED]

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

February 24, 2006

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

February 24, 2006

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

February 24, 2006

*[OAR Docket #06-210; filed 2-24-06]*

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# Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register*.  
For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

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## **TITLE 380. DEPARTMENT OF LABOR CHAPTER 25. BOILER AND PRESSURE VESSEL RULES**

*[OAR Docket #06-218]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

Subchapter 7. General Requirements

380:25-7-18. Air and ventilation requirements - combustion air supply and ventilation of boiler room  
[AMENDED]

### **GUBERNATORIAL APPROVAL:**

February 17, 2006

*[OAR Docket #06-218; filed 2-27-06]*

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## **TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 10. LICENSURE AND CERTIFICATION REQUIREMENTS**

*[OAR Docket #06-219]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

600:10-1-5. Qualifying education prerequisites  
[AMENDED]

600:10-1-7. Continuing education [AMENDED]

600:10-1-8. Course approval requirements [AMENDED]

600:10-1-16. Supervision of trainee appraisers  
[AMENDED]

### **GUBERNATORIAL APPROVAL:**

February 17, 2006

*[OAR Docket #06-219; filed 2-28-06]*

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## **TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 15. DISCIPLINARY PROCEDURES**

*[OAR Docket #06-221]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

600:15-1-6. Notice of disciplinary proceedings  
[AMENDED]

### **GUBERNATORIAL APPROVAL:**

February 17, 2006

*[OAR Docket #06-221; filed 2-28-06]*

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## **TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 20. COMMITTEES**

*[OAR Docket #06-220]*

### **RULEMAKING ACTION:**

Gubernatorial approval of permanent rules

### **RULES:**

600:20-1-3. Appointment and Removal of Committee Members [AMENDED]

### **GUBERNATORIAL APPROVAL:**

February 17, 2006

*[OAR Docket #06-220; filed 2-28-06]*

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# Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] . . . . [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

## TITLE 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #06-268]

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

- Subchapter 1. General Provisions
- 165:35-1-2. Definitions [AMENDED]
- Subchapter 34. Competitive Procurement [NEW]
- 165:35-34-1. Purpose of this Subchapter [NEW]
- 165:35-34-2. Confidential Information [NEW]
- 165:35-34-3. RFP Competitive Procurement Process [NEW]
- Subchapter 35. Prudence Reviews [NEW]
- 165:35-35-1. Prudence Reviews [NEW]
- Subchapter 37. Integrated Resource Planning [NEW]
- 165:35-37-1. Purpose of this Subchapter [NEW]
- 165:35-37-2. Confidential Information [NEW]
- 165:35-37-3. Public Meetings [NEW]
- 165:35-37-4. Integrated Resource Plan Reviews [NEW]
- Subchapter 38. Recoverable Costs [NEW]
- 165:35-38-1. Purpose of Subchapter [NEW]
- 165:35-38-2. Application and Scope of Subchapter [NEW]
- 165:35-38-3. Transmission Upgrades [NEW]
- 165:35-38-4. Capital Expenditures to Meet Environmental Requirements [NEW]
- 165:35-38-5. Self-build or Purchase Options [NEW]

### AUTHORITY:

Oklahoma Corporation Commission  
Article IX, Section 18, Oklahoma Constitution  
17 Okla. Stat. §§ 152 and 286

### DATES:

#### Comment Period:

Notice of Proposed Rulemaking was filed August 30, 2005 and published on August 31, 2005 and September 7, 2005. Public Comments were accepted through January 12, 2006

#### Public Hearing:

Public Hearing was announced in the Notice of Proposed Rulemaking filed on August 30, 2005. Hearings were held December 13, 2005, December 22, 2005, January 4, 2006, and January 12, 2006

#### Adoption:

January 12, 2006

#### Submitted to Governor:

January 20, 2006

#### Approved by Governor:

February 17, 2006

#### Effective:

Immediately upon approval of the Governor

#### Expiration:

Effective through July 14, 2006, unless suspended or superseded by another rule or disapproved by the Legislature.

#### SUPERSEDED EMERGENCY ACTIONS:

n/a

#### INCORPORATIONS BY REFERENCE:

None

### FINDING OF EMERGENCY:

1. **WHEREAS** homes, businesses, and industries in the State of Oklahoma are cooled primarily through the use of electricity, and

2. **WHEREAS** electricity consumed in the State of Oklahoma is produced primarily by the combustion of coal or natural gas, and

3. **WHEREAS** the Energy Information Administration of the U.S. Department of Energy expects the spot market cost of natural gas to rise from slightly less than \$8.00 per thousand cubic feet (mcf) in 2002 and somewhat more than \$11.00 per mcf today to more than \$16.00 per mcf in 2006, and

4. **WHEREAS** most coal used in Oklahoma to generate electricity comes from the Powder River Basin in Wyoming, which produces the cheapest coal of all the major American coal fields, according to the Energy Information Administration, and

5. **WHEREAS** the Energy Information Administration reports that the spot market cost of coal from the Powder River Basin increased during 2005 from just more than \$5.00 per ton to almost \$15.00 per ton in just ten months, and

6. **WHEREAS** a portion of the upward pressure on fuel prices is attributed to destruction and damage to Gulf Coast oil and gas facilities caused by Hurricanes Katrina and Rita during the storm season that ended in November, and

7. **WHEREAS** while heat-related death is not typically a reportable condition, according to the *American Journal of Forensic Medicine and Pathology*, general weather-related death is a reportable condition, and Oklahoma consistently is among the states reporting the largest number of weather-related deaths, according to the U.S. Centers for Disease Control, and

8. **WHEREAS** a 2001 Centers for Disease Control study published in the *Morbidity and Mortality Weekly Report* found that when heat-related deaths are investigated in Oklahoma and surrounding states, approximately half of the fatalities occur among the most vulnerable citizens—those under the age of four years or over the age of seventy-five years, and

9. **WHEREAS** the cost of coal and natural gas directly affects the price paid by Oklahoma ratepayers for electricity, and

10. **WHEREAS**, according to the Bureau of Economic Analysis of the U.S. Department of Commerce, Oklahoma's 2004 per capita income was thirty-ninth out of the fifty states and the District of Columbia and such income affects ratepayers' ability to purchase electricity needed to cool their homes, and

11. **WHEREAS** July typically is the hottest month in Oklahoma, with high temperatures often exceeding one hundred degrees Fahrenheit and the average daily temperature hovering just below ninety degrees, according to the Oklahoma Climatological Survey, and

12. **WHEREAS** fuel purchasing for production of electricity in July and the rest of the summer cooling season must be robust during the winter months in order to assure adequate supplies,

**NOW THEREFORE, IT IS FOUND AND DETERMINED** by the Oklahoma Corporation Commission that an imminent peril exists to the preservation of the public health, safety, or welfare, and that there is a compelling public interest as contemplated by 75 Okla. Stat. § 253(A) such that an emergency exists in the State of Oklahoma, which emergency can be ameliorated by implementation of the rules promulgated by the Commission in this rulemaking cause and that such rules should be emergency rules, effective immediately upon approval by the Governor of Oklahoma.

### ANALYSIS:

Technical conferences were held on September 9, and October 28, 2005, for the purpose of allowing the public to discuss the proposed rules with Commission staff and to make oral comments regarding the proposed rules.

## Emergency Adoptions

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The rules, as proposed, were agreed upon by all present. Both prior to and following the technical conferences, written comments were submitted.

All written and oral comments received by the Commission were considered prior to the submission of the rules for approval.

Oral comments made at the hearing on the merits were also in support of the rules as proposed.

Written comments are summarized below:

The American Association of Retired Persons-Oklahoma ("AARP") was concerned about bidder qualifications, payment to and independence of the Independent Evaluator, when an Independent Evaluator would be used, the amount of resources subject to bid, the voluntary nature of the rules, bidding of short-term resources, and confidentiality of utility information. AARP was also concerned about the lack of demand-side requirements in the integrated resource plan rules. As to the rules promulgated to implement the 2005 session's House Bill 1910 (codified as 17 O.S. § 286), AARP believed the rules should "track" statutory language.

The Commission believed that a specific utility seeking bids was in the best position to determine what qualifications bidders should meet for specific projects and that the utility should engage in "due diligence" as to bidders' financial abilities; therefore, the Commission did not include AARP's proposal for this area in the rules. The Commission agreed with AARP that the Independent Evaluator must be truly independent of utilities and bidders and therefore included in the rules provisions to have the Independent Evaluator compensated by the Commission, retained by contract with the Commission, and reporting to the Commission and the Attorney General. The Commission also agreed that an Independent Evaluator should be used in all bidding situations and amended the rules to provide for such. The Commission also agreed that limiting bidding on long-term resources to a percentage of those resources was contrary to the rules' purpose and therefore made all long-term resources subject to bidding. The Commission somewhat agreed that the rules should not be merely voluntary but mandatory and changed the rules to provide that utilities "shall" bid rather than are "strongly encouraged" to bid. The Commission, mindful of Oklahoma Supreme Court pronouncements concerning utility management discretion and the need for utility flexibility, also provided an opportunity for utilities to seek waivers of rule requirements after notice and hearing. Finally, the Commission did not agree that short-term resources should be bid for various reasons. Comments from virtually all other parties—utilities and potential bidders—indicated that hour-ahead and day-ahead bidding was not possible with today's logistics requirements. Comments also indicated that industry practice defines long-term resources and that if the Commission redefined those resources, it might be difficult for utilities to comply with Oklahoma rules and industry practice, including the practices of the federally recognized regional transmission organization ("RTO") for the area including this State. It was further understood that the RTO imbalance market should provide some market correction for some short-term resource purchases although not all nor even a majority. AARP's information confidentiality concerns are addressed in the discussion of Coalition and Oklahoma Gas and Electric Company comments below. The rules are supply oriented because meaningful demand-side incentives were not clearly identified in any participants' comments; therefore, the Commission did not add demand-side incentives although it may do so at a later date, as those proposed incentives become clearer. As stated below, the Commission agreed with the suggestion that the rule promulgated to implement 17 Okla. Stat. § 286 should track statutory language.

A coalition of independent power producers Redbud Energy, L.P. and AES Shady Point, L.L.C., ratepayers in the Oklahoma Industrial Energy Consumers association, and the Attorney General ("Coalition") presented a number of comments, including seeking utility bidding for generation and fuel supply, comparison of utility self-generation cost with purchased power prices, objection to limiting such bidding and comparison to a percentage of resources, transparency in the bidding process, short-term resource bidding other than hour-ahead or day-ahead, Commission funding of the Independent Evaluator, code of conduct for utilities soliciting bids and Commission proceedings to remedy abuse, use of prudence reviews to determine whether utility costs for electricity generation and purchases are appropriate, refund of customer payments when prudence reviews indicate costs are not prudent, creation of long-term integrated resource plans to guide the Commission's prudence reviews and for potential bidders to determine utility needs, as well as for utilities to prepare for the future, public hearings on utility's proposed integrated resource plans, and concern that rules written to implement 17 Okla. Stat. § 286 in some cases did not comport with the statute. These rules concern the ability of a utility to obtain the Commission's prior approval of new generation facilities and presumption of rate base treatment for RTO-required transmission upgrades and for facilities necessary to meet environmental

requirements. The Coalition also sought to have the Commission review utility "judgment" during prudence reviews. At one point, the proposed rules included definitions for "co-generation" and "must-run generation," and the Coalition objected to these definitions.

The Commission agreed with the Coalition that bidding and comparison of self-generation with purchased-power options for long-term resources and electricity was appropriate and included such provisions in the rules. The Commission also agreed that limiting such competition to just a portion of the long-term resources was inappropriate and amended the proposed rule to include all long-term purchases. The Commission also agreed that the bidding process must be open to public scrutiny but balanced the desire for openness with the need to protect trade secrets and other such proprietary information as permitted by 51 Okla. Stat. § 24A.22; therefore, the Commission required all such records to be open unless a utility obtained a protective order for a particular record from the Commission after notice and hearing. For the reasons stated above in the section explaining Commission action regarding AARP comments, the Commission declined to make short-term purchases subject to the bidding rules. Likewise, for the reasons stated in the AARP section and below in the discussion of Oklahoma Gas and Electric Company's comments, the Commission agreed that the Independent Evaluator should be compensated by and contracted with the Commission. The Commission agreed that utilities should be held to a standard of good-faith conduct in their bidding process and included a list of prohibited activities in the rules. It also created a complaint process by which bidders, the Attorney General, or Commission staff could file a cause before the Commission seeking remedy for improper actions. The Commission already has the constitutional and statutory authority to conduct prudence reviews of utilities at any time; however, the Commission agreed that a schedule of such reviews should be placed in the rules and established a two-year schedule of prudence reviews for large utilities and a three-year schedule for small utilities to (1) ensure periodic investigation of utility action and (2) to assure the investment community that such reviews are not a signal of wrongdoing that would precipitate adverse bond or stock treatment. The Commission clarified that remedies arising from a prudence review include refunds to customers if supported by evidence. The Commission agreed that long-term integrated resource planning, while by the nature of future planning is uncertain, is also a useful tool for the Commission, utilities, ratepayers, and entities doing business with utilities. The rules provide for such planning; however, the Commission did not agree that such planning was appropriate for an adjudicatory hearing that would result in an order. The Commission did not see what order it would issue at the conclusion of such a hearing since long-term planning is, of necessity, uncertain and subject to change. Instead, the Commission provided a public meeting with participation by interested parties as part of the planning process. The Commission agreed that the House Bill 1910 provisions were unclear and clarified them by adding statutory language to the rules. In this regard, the Commission notes that there is an error in 17 Okla. Stat. § 286(B) in which the word "less" is used twice as the statute attempts to set parameters when "less" should be used once and "more" should be used the second time. The Commission decided to review utility "decisions" rather than "judgment" because judgment indicates discretion, and the Supreme Court has limited the Commission's ability to question utility management discretion. The Commission completely removed the terms "co-generation" and "must-run generation" from the rules. The Commission agreed with the Coalition that electric generation and fuel procurement costs, as well as processes, should be studied in prudence reviews and added the word "costs" to the rules.

Oklahoma Gas and Electric Company ("OG&E") was concerned about confidentiality of information and wanted to make confidential information a utility considered "highly sensitive" unless it the Commission determined it should be open; sought to have each utility write its own competitive bidding proposal for each purchase with approval of the Commission after notice and hearing; allow for a complaint procedure for bidders and others; have the Independent Evaluator compensated by the utility but report to the Commission and Attorney General, provide bidding for a portion of long-term resources but not all; and exempt from bidding short-term resources, purchases under one million dollars, resources having two or fewer providers in the market, and generation from assets existing when the rules became effective. OG&E also sought to make comparison of self-generation with purchased power voluntary rather than mandatory. OG&E also commented that resources subject to competitive bidding should not be subject to Commission prudence reviews. OG&E agreed with the concept of integrated resource plans but asked that utilities be allowed to decide what proprietary information should be kept confidential unless the Commission ordered otherwise.

The Commission disagreed that utilities should be able to determine at the outset what information would be kept confidential with allowance for a later

order opening the document to public inspection; instead, the Commission provided, pursuant to 51 O.S. § 24A.22, that all submitted documents would be open unless a protective order closing them was issued following notice and hearing. To preserve government resources, instead of approving each request for proposal and competitive bidding process as they were implemented, the Commission chose to establish a general bidding process subject to review by the Commission upon complaint filed by any bidder or potential bidder. The Commission also provided a waiver provision that allows utilities to proposed bidding processes that better fit their circumstances. Such waivers would be such to approval or non-approval following notice and hearing before the Commission. The Commission agreed that the Independent Evaluator should report to the Commission and Attorney General, but to preserve the appearance and reality of independence, the Commission decided that the Independent Evaluator should be compensated directly by the Commission. The Commission noted that if the Independent Evaluator was paid by the utility, the utility would recover the cost from ratepayers in its next rate case. The Commission agreed that short-term resources should not be subject to competitive bidding for the reasons stated in the discussion of the AARP's comments. The Commission did not agree with exemptions from bidding and generation comparison for long-term purchases less than one million dollars, where there are two or fewer providers of the service or commodity sought, or for existing generation assets. The Commission believed that savings were possible through bidding or generation comparison for each instance. The Commission believes it has constitutional and statutory responsibility to review utility actions; therefore, it did not agree to removal of competitively bid items from prudence reviews. While competitive bidding should be an indication of market price and by definition produce a prudent price, competitive bidding does not indicate whether the purchase at the outset was prudent.

Public Service Company of Oklahoma ("PSO") was concerned that the proposed rules were too complicated and would lead to confusion. They were also concerned that an early version of the rules provided for Commission regulation of non-regulated entities outside Commission jurisdiction. PSO preferred to have an Independent Evaluator involved in all bidding transactions. PSO supported the concept of requests of proposal ("RFP") and bidding for long-term purchases but not for short-term. PSO was concerned that prior approval of bidding processes would slow a utility's ability to respond to market, weather, and load conditions. PSO was also concerned that the original rules limited a utility's ability to ensure that bidders were financially and physically capable of performing. PSO also was concerned that the rules removed or at least hampered a utility's long-term planning discretion.

The Commission agreed that the original rules had too much detail and attempted to control too much of a utility's operation. In response, the Commission removed much of the detail and greatly simplified the rules and procedures, including removal of prior approval for RFPs. The Commission agreed that portions of the rules as drafted were unenforceable because they attempt to regulate non-regulated entities. These portions were removed. The Commission also agreed that the Independent Evaluator should be involved in all long-term bidding and rewrote the rules to provide for such. As discussed above in the AARP section, the Commission agreed that short-term purchases could not realistically be included in the bidding requirement at this time. As already discussed, the Commission agreed that bidder qualifications should be determined on an RFP-by-RFP basis and amended the rules to provide for such. As also discussed above, the Commission changed the earlier formal public hearing process for integrated resource plans to a more informational public meeting process.

**CONTACT PERSON:**

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**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. 2001 SECTION 253(D):**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**165:35-1-2. Definitions**

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

**"Affiliate"** means any person, entity, business section, or division that directly or through one or more intermediaries controls, is controlled by, or is under ~~common the control with the of an entity in question that is regulated by this Commission.~~ Control includes, but is not limited to, the direct or indirect possession, directly or indirectly and whether acting alone or in conjunction with others, of authority to direct a direction of the management or policies of a person or entity, whether such authority is the result of acting alone or in conjunction with others. Control may be exercised through management, ownership of voting securities or other right to vote, by contract, or otherwise. A voting interest or ownership of five percent (5%) or more creates a presumption of control.

**"ANSI"** means the American National Standards Institute.

**"Capacity"** means the quantity of electric power produced by a generating facility at a point in time, as measured in kilowatts or megawatts.

**"Commission"** means the Oklahoma Corporation Commission and the Commission's staff operating under its direction.

**"Company submeter"** means ~~KWK~~ kWh measuring device provided by the utility located on line beyond the point of delivery of electrical service providing service to another consumer. Usage from these meters ~~are~~ is deducted from the meter at point of delivery.

**"Competitive bidder"** means any entity that submits a competitive bid in response to a request.

**"Competitive bidding process"** means a process to solicit offers to provide fuel supplies, electric generation service, fuel transportation services, and other goods or services related to a utility's provision of electric service to end users.

**"Complaint"** means an expression of dissatisfaction regarding the utility's billings, service procedures, or employee conduct which requests or requires some remedial or corrective action be taken by the utility. Complaints may be made by the consumer or other interested party. A complaint may be made orally, electronically or in writing, but must be made or received at the utility's offices.

**"Consumer"** means any person, member of a cooperative, firm, corporation, municipality or agency, other political subdivision of the United States, or the State of Oklahoma receiving electric service of any nature from a utility.

**"Corporate support services" or "Shared Services"** are human resources, procurement services, information technology, regulatory services, administrative services, real estate services, legal services, accounting, environmental services, research and development, internal audit, community relations, corporate communications, financial services, financial planning and management support services shared between or among a an electric utility, its parent holding company or an affiliated entity and such other services authorized by the Commission on a case-by-case basis.

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**"Customer submeter"** means a ~~KWH~~ kWh measuring device provided by the customer and located on line beyond the point of delivery of electrical service.

**"Demand-side program"** means any program or measure conducted by the utility to modify the net consumption of electricity on the retail customer's side of the electric meter, including, but not limited to energy efficiency measures, load management, interruptible load, and on-site generation.

**"Disconnection"** means electric service has been discontinued by consumer request or by the utility.

**"Economy energy"** means electric energy that is purchased during the course of a day to take advantage of the opportunity to purchase power from unexpected surpluses on or available to the grid more cheaply than producing it oneself or purchasing power under existing contracts.

**"Electric consuming facility"** means anything that utilizes electric energy from a central station source.

**"Electric energy"** means the quantity of electric power that is generated over a specific interval of time, measured in kilowatt-hours or megawatt-hours.

**"Electric plant"** means facilities and equipment owned or operated by a utility, including but not limited to generating stations, substations, transformers, towers, poles, conductors, transportation equipment, conduits, meters, motors, real estate, buildings, and dams.

**"Electric service"** means the supply of electricity, including generation, transmission, distribution and ancillary services (e.g. spinning and supplemental reserves) for ultimate consumption.

**"Electricity"** means electric power and energy produced, transmitted, distributed, or furnished by a utility.

**"End-use measure"** means an energy efficiency measure or an energy management measure.

**"FERC"** means the Federal Energy Regulatory Commission.

**"Fuel procurement plan"** means a plan that (1) establishes the parameters of a fuel supply portfolio for a utility and (2) strikes an appropriate balance between fuel costs and the related risks to which ratepayers are exposed (e.g., fuel cost increases and supply disruptions) over the term of the resource plan.

**"Fuel supplies"** means the coal, oil, natural gas and other fuels that generation facilities consume to produce electricity and the transportation and transmission services used to deliver those fuels.

**"Generation facility"** means a machine or machines capable of producing capacity, energy or other electricity products.

**"Generation service"** means the production of energy, capacity and other electricity products to meet customer demands for electricity.

**"Generation supplier"** means an entity capable of providing generation service.

**"Independent power producer"** means any generation supplier that is not a utility or an affiliate thereof.

**"Integrated resource plan"** means a utility's plan as further defined and established in Commission rules found at OAC 165:35-37 to ensure that sufficient supply- and

demand-side resources are available to meet its obligation to serve and to achieve public policy objectives, including those prescribed by law, rule, or Commission order.

**"Interested party"** means any individual or entity with appropriate authority to act on behalf of a particular consumer or group of consumers, or any other party involved in, or affected by, the provision of electric generation service.

**"kW"** means kilowatts, and **"kWh"** means kilowatt-hours.

**"Legal holiday(s)"** means those days declared to be legal holidays by the Chief Executive of the State of Oklahoma.

**"Long-term"** means one year or longer.

**"Meter"** means any device or devices used to measure or register electric power and energy.

**"Meter shop"** means a shop used for the inspection, testing, and repair of meters.

**"Municipality"** means an incorporated city or town in the State of Oklahoma.

**"MW"** means megawatts, and **"MWh"** means megawatt-hours.

**"Planned interruption"** means electric service that has been suspended by the utility.

**"Planning period"** means the ten (10) year period that begins on the date that the utility files its plan with the Commission.

**"Premises"** means any piece of land or real estate, any building or other structure or portion thereof, or any facility where electric service is furnished to a consumer.

**"Prudence review"** means a comprehensive review that examines as fair, just, and reasonable, a utility's practices, policies, and decisions regarding an investment or expense at the time the investment was made or expense was incurred; including direct or indirect maximization of its positive impacts and mitigation of adverse impact upon its ratepayers, without consideration of its ultimate used and useful nature.

**"Purchased-power procurement plan"** means a plan that establishes the parameters of a purchased-power portfolio for a utility that meets the utility's planning objectives and strikes an appropriate balance between power supply costs and the related risks to which ratepayers are exposed (e.g., purchased-power cost increases and power supply disruptions) over the term of the resource plan.

**"Records"** means documentation maintained by the utility either in electronic or paper form.

**"Residence"** means any dwelling unit containing kitchen appliances, permanent sewer or septic facilities, and water service. A weekend cabin and a mobile home are residences when used as such. An individual room in a hotel or motel is not a residence.

**"Resources"** means supply-side generating facilities including life extension and repowering projects for such facilities (and the output thereof), and demand-side program and end use measures.

**"RFP"** means "request for proposal," the document that publicly opens a competitive bidding process by describing the utility's needs and seeking bids to fulfill those needs.

**"Risk management plan"** means a systematic method utilized by a utility to, among other things:

(A) Identify risks inherent in procuring and obtaining a supply portfolio;

(B) Establish the means by which the utility plans to address and balance or hedge the identified risks related to cost, price volatility and reliability; and

(C) Address the fuel, purchased-power and utility supply costs implicit in the utility's supply portfolio, and also demand-side programs as a potential hedge against risk.

"RUS" means the Rural Utilities Service.

"Special contract" means a written agreement between a utility and a consumer providing for furnishing electric service on terms different from those prescribed in approved tariffs.

"Stakeholder" means an interested party, as defined above.

"Subdivision" means any land, wherever located, whether improved or unimproved, contiguous or not, which is divided into lots or proposed to be divided for the purpose of disposition pursuant to a common promotional scheme or plan of advertising for disposition.

"Subsidize" means to furnish financial support by the utility to the affiliate.

"Tariff" ~~shall include~~ includes every rate schedule, or provision thereof, and all terms, conditions, rules, and regulations for furnishing electric service.

"Unplanned or emergency interruption" means service has been suspended due to circumstances beyond the control of the utility.

"Utility" means any person, firm, partnership, or corporation furnishing electric service to the public in Oklahoma and subject to the regulatory jurisdiction of the Commission.

**SUBCHAPTER 34. COMPETITIVE PROCUREMENT**

**165:35-34-1. Purpose of this Subchapter**

(a) This Subchapter establishes a fair, just, and reasonable process that best serves the public interest of all electricity consumers and that will complement and improve the state's economic growth by, among other things, making the most efficient use of Oklahoma's coal, natural gas, and power generation and transmission assets and furthers the policy of the Commission that a competitive procurement process is among the most effective means to achieve these objectives. All utilities shall employ a competitive bidding process when purchasing long-term electric generation or long-term fuel supply for self-generation of electricity. The competitive bidding process shall be open to Commission scrutiny, as are other regulated utility practices. The provisions of this Subchapter must be followed unless the utility obtains a waiver pursuant to 165:35-34-3(e).

(b) It is the intent of the Commission to create an open, transparent, fair and nondiscriminatory competitive bidding process for the utility to meet its needs. It should not be construed that this Subchapter absolves or relieves any utility or competitive bidder from any duty prescribed by the laws of the State of Oklahoma or the United States including, but not limited to,

the federal Public Utility Regulatory Policies Act (Public Law 95-617) and any other state or federal law regarding contractual rights and obligations, antitrust enforcement or liability, or laws against improper restraint of trade or "takings" of property.

(c) This Subchapter also establishes reasonable standards of conduct for transactions between utilities and their affiliates and standards for transactions between utilities and competitive bidders conducting business within the State of Oklahoma.

**165:35-34-2. Confidential Information**

(a) A person or entity may file a motion with the Commission for an order to protect confidential information pursuant to 51 O.S., Section 24A.22.

(b) A bid, which is determined to be a successful bid, pursuant to the competitive bidding process of this Subchapter, must be publicly disclosed and shall not be subject to the confidentiality provisions of this Subchapter unless otherwise ordered by the Commission. The soliciting utility will provide the non-winning bidders the rationale used for the selection of the winning bid.

(c) Pending a determination by the Commission regarding any protective order, the person or entity seeking the protective order, the Commission, the Attorney General and the Independent Evaluator may, at their option, review the information claimed to be confidential at a mutually agreed upon location.

**165:35-34-3. RFP Competitive Bidding Procurement Process**

(a) Competitive Bidding Structure and Process Guidelines  
(1) The soliciting utility shall prepare the initial draft of the request for proposal ("RFP") documents, including but not limited to RFP procedures, and a pro forma power purchase agreement that, to the maximum extent practicable, utilizes industry standard contractual terms and contains all expected material terms and conditions and a solicitation schedule (collectively, the "RFP Document").

(2) In addition to the information required by (1) of this Section, the RFP and RFP Document, at a minimum, shall identify clearly:

- (A) Term;
- (B) Amount of megawatts, if applicable, and types of products being solicited;
- (C) All price and non-price evaluation factors to be considered;
- (D) Respective weight for each price and non-price evaluation factor; and
- (E) Utility's preliminary analysis of transmission availability and the utility's plan for evaluation of transmission availability for each proposal received, including, but not limited to:

(i) Description of the role of transmission analysis to be conducted by the utility in the bid evaluation process. This analysis should use publicly available tools provided by the controlling entity, such as the Southwest Power Pool Scenario Analyzer, and



any bidder regarding its bid, provided, any such communication between or among the soliciting utility, Commission, Attorney General, or Independent Evaluator and bidder should be conducted through an open process in which the utility, Independent Evaluator, Commission and Attorney General are given adequate notice and an opportunity to attend.

(4) The Commission, Attorney General and Independent Evaluator, as well as the soliciting utility, may rely on the Southwest Power Pool to conduct all necessary transmission analyses concerning bids received. Southwest Power Pool analyses provided to the Commission, Attorney General, or Independent Evaluator shall be equivalent in quality and content to that provided to the soliciting utility. No bidder, including any bidder that is an affiliate (including the Bid Team) of the soliciting utility, shall communicate with the Southwest Power Pool Transmission group during the course of the competitive bidding process regarding any aspect of the RFP or process.

(5) In conducting the evaluation of the responses, the soliciting utility shall not:

(A) Waive or otherwise modify any evaluation factor or evaluation weight for any bidder;

(B) Add any adjustments on the basis of expected effects on the utility's cost of capital if not already contained in the RFP;

(C) Impose any penalty on the price of purchased power; or

(D) Include any discount for utility self-generation on the basis of reliability as part of the utility's resource mix.

(6) The variable cost of the utility producing power through self-generation will serve as the benchmark for comparing bids. Only bids below the benchmark will be eligible for acceptance.

(e) Prior to a utility taking long-term procurement action other than that contemplated by these rules, a utility shall seek a waiver of all or any part of these competitive bidding rules by filing a cause with the Commission.

(f) The utility shall promptly file its decision with the Commission and mail copies of such filing to all bidders, the Independent Evaluator, and the Attorney General identifying the successful bidder, which filing shall include a copy of the successful bid.

(1) Any unsuccessful bidder, the Independent Evaluator, or the Attorney General shall have fifteen (15) days following filing of the successful bid decision with the Commission to file with the Commission a complaint challenging the decision as not meeting the criteria for decision specified in this subchapter or waiver previously obtained pursuant to 165:35-34-3(e) and the RFP document and bid evaluation procedures developed pursuant to 165:35-34-3(a).

(2) In the event of the filing of such a complaint, after notice to all bidders and hearing, the Commission shall determine whether the utility's decision reveals either a clear

departure from the criteria stated in these rules or previously obtained waiver, the RFP Document and bid evaluation procedures for decision or is erroneous, in which event the utility shall be required immediately to rebid, in accordance with this Subchapter, the items which were the subject of such determination.

(g) Upon determination of the successful bidder, the utility and successful bidder shall promptly proceed to finalize contracts necessary to implement the bid.

(1) The contract shall contain appropriate guarantees, as set by the Commission, regarding the reliability of services.

(2) At the request of either party and upon notice and hearing, the Commission shall have authority to determine any disputes between the parties as to terms incidental to the bid. All matters to be determined by the Commission under this provision shall be heard on an expedited basis and a decision rendered thereon within thirty (30) days from filing.

### **SUBCHAPTER 35. PRUDENCE REVIEWS**

#### **165:35-35-1. Prudence Reviews**

(a) The Commission shall conduct prudence reviews on all generation and fuel procurement processes and costs. The first prudence review will be selected by March 31, 2006. Utilities serving four hundred thousand (400,000) ratepayers or more shall be reviewed at least once every two (2) years. Utilities serving fewer than four hundred thousand (400,000) ratepayers shall be reviewed at least once every three (3) years.

(b) All fuel and generation expenses, including purchased-power-related expenses, shall be reviewed by the Commission in adjudicatory proceedings to determine that such expenses were prudently incurred. The utility shall bear the burden of proof as to prudence. Additional prudence reviews shall be conducted when the Commission determines that circumstances warrant such review.

(c) The Commission may impose any corrective action or penalty allowed explicitly or implicitly by law, including refund, as the result of a prudence review.

(d) Nothing in this Subchapter shall diminish the authority of the Commission to review for prudence or other reasons any utility contract, decision or other action for the provision of electric power capacity or energy.

### **SUBCHAPTER 37. INTEGRATED RESOURCE PLANNING**

#### **165:35-37-1. Purpose of this Subchapter**

(a) The purpose of this Subchapter is to establish fair, just, and reasonable rules and procedures for Commission review of the resource plans of utilities. The utility resource plans establish additional bases for substantial investment and expenses incurred by utilities to provide electric supply to retail consumers. The practices and polices embodied in a utility's

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resource plan have direct, substantial effects on the costs and reliability of the electric supply to be provided to retail consumers in Oklahoma. Resource planning is a complex process affecting decisions that account for a substantial portion of the total cost of electricity over the long term, including investments in generation and transmission facilities, purchases of power and fuel supply, and investments in energy efficiency. Recognizing the significance of the costs incurred based on resource plans, the Commission believes it is in the best interest of retail ratepayers and the utilities providing regulated retail electric supply to establish regular review of the utilities resource plans to ensure that the utilities' resource planning and resulting investment are reasonably and prudently conducted and that the overall cost of power supply to retail ratepayers is fair, just, and reasonable.

(b) This Subchapter establishes fair, just, and reasonable procedures for:

- (1) Setting standards for prudent resource planning;
- (2) Conducting periodic reviews of utility resource plans;
- (3) Participation of stakeholders, particularly those representing ratepayer interests, to review and have input into the utility's resource plans and the Commission's resource planning policies;
- (4) Establishing the need for additional resources serving as the basis for long-term competitive procurement of resources, including, but not limited to, utility construction of new electric generation facilities, the utility purchase of existing electric generation facilities, and the purchase of long-term power supplies;
- (5) Establishing objectives and action plans consistent with Commission resource planning policies;
- (6) Establishing appropriate plans for capital expenditures for equipment or facilities at utility generation facilities necessary to comply with the Federal Clean Air Act, as amended, and other federal, state, local, or tribal environmental requirements;
- (7) Establishing a clear, before-the-fact foundation for the recovery of prudently incurred investment and expenses in subsequent rate and fuel and purchased-power cost recovery proceedings; and
- (8) Establishing the appropriate portfolio of products to be obtained through competitive procurement.

### **165:35-37-2. Confidential Information**

(a) If a utility is required by this Subchapter to submit information to the Commission that is alleged by the utility to be confidential, a motion for a protective order concerning such information may be filed requesting a determination to be made by the Commission to protect the information pursuant to 51 O.S., Section 24A.22.

(b) Pending a determination regarding approval of any protective order by the Commission, the Commission and Attorney General, at their option, may review the information claimed to be confidential at a mutually agreed upon location, provided that for purposes of 51 O.S., Section 24A.22, the information shall be deemed confidential pending such determination by the Commission.

### **165:35-37-3. Public Meeting**

(a) A utility shall notify the Commission that it has prepared a proposed initial integrated resource plan at least thirty (30) days prior to submission pursuant to 165:35-37-4. After giving notice, the Commission shall conduct a public meeting on the record concerning the utility's proposed initial integrated resource plan, allowing comment from interested persons as to the strengths and weaknesses of the proposed plan.

(b) The utility shall take into account the comments made at the public meeting and make such changes to the plan as seem reasonable.

(c) The utility shall make the proposed plan available prior to the public meeting to any person who requests it, except any portions subject to a Commission protective order.

(d) The Commission may conduct similar public meetings at its discretion concerning updates to the integrated resource plan as provided by 165:35-37-4.

### **165:35-37-4. Integrated Resource Plan Reviews**

(a) Each utility shall submit to the Commission a proposed integrated resource plan, with the utility's first plan due on before October 1, 2006, and subsequent plans due every three (3) years thereafter, unless otherwise ordered by the Commission. The proposed resource plan shall include, among other things, a fuel procurement plan, purchased-power procurement plan, a risk management plan, an environmental compliance plan, and other elements as described further in this Subchapter. This plan will be made available upon request by any person or entity to the soliciting utility, except any portions subject to a Commission protective order.

(b) Each utility shall have an ongoing obligation to monitor markets and inputs and to notify the Commission when material changes in planning assumptions occur. As the integrated resource plan changes from year to year, the utility shall submit updates to the Commission. The Commission may require the utility to submit an interim, updated integrated resource plan to reflect material change(s) in planning assumptions.

(c) The integrated resource plan shall include, at a minimum, the following:

- (1) An electric demand and energy forecast;
- (2) A forecast of capacity and energy contributions from existing and committed supply-and demand-side resources;
- (3) A description of transmission capabilities and needs covering the forecast period;
- (4) An assessment of need for additional resources;
- (5) A description of the supply, demand-side and transmission options available to the utility to address the identified needs;
- (6) A fuel procurement plan, purchased-power procurement plan, and risk management plan;
- (7) An action plan identifying the near-term (i.e., across the first five [5] years) actions that the utility proposes to take to implement its proposed resource plan;
- (8) Any proposed RFP(s), supporting documentation, and bid evaluation procedures by which the utility intends to solicit and evaluate new resources; and

- (9) A technical appendix for the data, assumptions and descriptions of models needed to understand the derivation of the resource plan.
- (10) A description and analysis of the adequacy of its existing transmission system to determine its capability to serve load over the next ten (10) years, including any planned proposed changes to existing transmission facilities.
- (11) An assessment of the need for additional resources to meet reliability, cost and price, environmental or other criteria established by the Commission, the State of Oklahoma, the Southwest Power Pool, North American Electric Reliability Council, or the Federal Energy Regulatory Commission. This assessment should address both base line forecast condition and important uncertainties, including but not limited to load growth, fuel prices, and availability of planned supplies.
- (12) An analysis of the utility's proposed resource plan and any alternative scenarios necessary to demonstrate how the preferred plan best meets the planning criteria. Technical appendices should be included to document the planning analysis and assumptions used in preparing this analysis.

**SUBCHAPTER 38. RECOVERABLE COSTS**

**165:35-38-1. Purpose of Subchapter**

The purpose of this Subchapter is to provide for utility recovery of (1) costs directly associated with transmission upgrades approved by a regional transmission organization of which such utility is a member and which upgrades are the result of an order by a federal regulatory authority having legal jurisdiction over interstate regulation of transmission rates; (2) capital expenditures for equipment or facilities necessary to comply with the Federal Clean Air Act (Public Law 84-159), as amended, and, as the Commission may deem appropriate, federal, state, local or tribal environmental requirements that apply to generation facilities; and (3) costs associated with the purchase or construction of a generation facility needed to provide reliable service using the competitive bidding RFP Process.

**165:35-38-2. Application and Scope of Subchapter**

- (a) This Subchapter is applicable to all electric utilities operating within the State of Oklahoma under the jurisdiction of the Commission.
- (b) These cost recovery rules are promulgated to establish processes, procedures, enforcement, reporting, and monitoring provisions that apply to electric utilities regarding the expenditures referenced in 165:35-38-1.
- (c) The intention of this Subchapter includes, but is not limited to:
  - (1) The provision of rules for the recovery of costs associated with transmission upgrades, environmental facilities installed at generation facilities, generation assets constructed by the utility, and generation assets acquired by the utility; and

- (2) The protection of customers of a utility from imprudent financial obligations or costs.
- (d) All amounts subject to recovery are subject to Commission audit and review. The Commission will resolve any disputes regarding this Subchapter.

**165:35-38-3. Transmission Upgrades**

- (a) Effective July 1, 2006, the portion of costs incurred by an electric utility, which is subject to rate regulation by the Corporation Commission, for transmission upgrades approved by a regional transmission organization to which such utility is a member and resulting from an order of a federal regulatory authority having legal jurisdiction over interstate regulation of transmission rates, shall be presumed recoverable by such utility. The presumption established in this subsection may be rebutted by evidence that the costs so incurred by the utility for such transmission upgrades exceed the scope of the project authorized by the regional transmission organization or order issued by such federal regulatory authority having jurisdiction over interstate regulation of transmission rates. [17 O.S., Section 286(A)]
- (b) Costs incurred by a utility that are directly related to transmission upgrades as set forth in 165:35-38-1 are presumed recoverable by such utility. However, the presumption may be rebutted by evidence presented by a complainant or through the audit and review process that the costs so incurred by the utility for such transmission upgrades exceed the scope of the project authorized by the regional transmission organization or federal regulatory authority order.
- (c) Before costs are allowed to go into effect, a cause will be opened by the utility before the Commission. After notice and hearing and upon proper evidence, the Commission may authorize an electric utility to recover all or a portion of the costs incurred by the utility for such transmission upgrades.
- (d) A utility seeking cost recovery for transmission upgrades as they pertain to this subsection may file an application to recover such costs and shall provide, at a minimum:
  - (1) A detailed summary of the costs for which recovery is sought;
  - (2) Evidence of the approval received by the utility from the regional transmission organization or order received from the federal regulatory authority giving rise to the transmission upgrade; and
  - (3) A proposed recovery mechanism to recover such costs, which shall be in accordance with Commission's traditional rate making procedures.

**165:35-38-4. Capital Expenditures to Meet Environmental Requirements**

- (a) An electric utility subject to rate regulation by the Corporation Commission may file an application seeking Commission authorization of the utility's plan to make capital expenditures for equipment or facilities necessary to comply with the Federal Clean Air Act, as amended, and, as the Commission

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may deem appropriate, federal, state, local or tribal environmental requirements which apply to generation facilities. If approved by the Commission, after notice and hearing, the equipment or facilities specified in such approved utility plan are conclusively presumed used and useful. The utility may elect to periodically adjust its rates to recover the costs of such expenditures; provided that the utility shall file a request for a review of its rates pursuant to Section 152 of Title 17 of the Oklahoma Statutes. Provided further, that such periodic rate adjustment or adjustments are not intended to prevent a utility from seeking cost recovery of such capital expenditures as otherwise may be authorized by the Commission. However, the reasonableness of the costs to be recovered by the utility shall be subject to Commission review and approval. [17 O.S. Section 286(B)]

(b) A utility may file an application seeking Commission authorization of the utility's plan to make capital expenditures for equipment or facilities necessary to comply with the environmental requirements as set forth in 165:35-37.

(c) If approved by the Commission after notice and hearing, the equipment or facilities specified in the approved utility plan shall be conclusively presumed used and useful.

(d) The utility may elect periodically to adjust its rates to recover the costs of such expenditures provided that the utility shall file a request for a review of its rates pursuant to Section 152 of Title 17 of the Oklahoma Statutes.

(e) Periodic rate adjustments as contemplated above shall not prevent a utility from seeking cost recovery of capital expenditures as otherwise may be authorized by the Commission. However, the reasonableness of the costs to be recovered by the utility shall be subject to Commission review and approval.

### **165:35-38-5. Self-build or Purchase Options**

(a) An electric utility subject to rate regulation by the Corporation Commission may elect to file an application seeking approval by the Commission to construct a new electric generating facility or to purchase an existing electric generation facility subject to the provisions of this subsection. If, and to the extent that, the Commission determines there is a need for construction or purchase of such electric generating facility, the generating facility shall be considered used and useful and its costs shall be subject to cost recovery rules promulgated by the Commission. The Commission shall enter an order on an application filed pursuant to this subsection within two hundred forty (240) days of the filing of the application, following notice and hearing and after consideration of reasonable alternatives. [17 Okla. Stat. § 286(C)]

(b) Upon application by an electric utility pursuant to this Subchapter, the Commission shall review the requested cost recovery.

(c) If the soliciting utility wishes to consider an option for full or partial ownership of a self-build option, the utility must submit its construction proposal ("Self-build Proposal") to provide all or part of the capacity requested in the RFP stated in 165-35-34 at the same time the bids are requested.

(d) Once submitted, the Self-build Proposal may not be modified by the soliciting utility. If a Self-build Proposal is selected and approved by the Commission, the amount

the soliciting utility shall recover through the rate base or other cost-recovery methods without additional Commission approval is limited to the total project cost identified in the Self-build Proposal.

(e) A Cause shall be opened by the utility for cost recovery if the competitive bidding RFP process established in 165-35-34 is not utilized and the utility wishes to gain approval of cost before construction starts.

(f) Bid responses will be opened with the Independent Evaluator, Commission and the Attorney General present.

(g) Bid award terms and conditions shall be posted on the utility's web site or electronic bulletin board within sixty (60) days after receipt, with a notice to the Commission.

(h) The Commission decision approving or denying the plan shall address the contents of the utility's resource plan, including its fuel procurement plan, purchased-power procurement plan, and risk management plan. If the record contains sufficient evidence, the Commission shall specifically approve or reject:

(1) The utility's proposed plans for resources in the planning period.

(2) The utility's proposed plans for acquiring additional resources through the competitive acquisition process, and

(3) The utility's proposed RFP(s).

(i) Upon the filing of an application pursuant to this Subchapter, the Commission will establish a procedural schedule, which shall provide for a Commission order within two hundred forty (240) days of the date of such filing.

[OAR Docket #06-268; filed 3-9-06]

## **TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 15. COMMERCIAL HARVEST RULES, AQUATIC SPECIES**

[OAR Docket #06-252]

### **RULEMAKING ACTION:**

EMERGENCY adoption

### **RULES:**

Subchapter 7. Commercial Mussel Harvest  
800:15-7-3. General; operating provisions [AMENDED]

### **AUTHORITY:**

Title 29 O.S., Section 3-103; 4-129(c) and Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation.

### **DATES:**

#### **Adoption:**

January 9, 2006

#### **Approved by Governor:**

February 17, 2006

#### **Effective:**

Immediately upon Governor's approval

#### **Expiration:**

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

#### **SUPERSEDED EMERGENCY ACTION:**

n/a

#### **INCORPORATED BY REFERENCE:**

n/a

#### **FINDING OF EMERGENCY:**

Oklahoma currently has no active mussel buyers, but there are some mussel harvesters from outside of Oklahoma who want to harvest mussels knowing

that there are no active buyers. They indicate that they want to harvest shells in several different counties. Our wardens need to be able to check these harvesters to ascertain that they are not harvesting illegal shells and that they are not exporting the shells out of Oklahoma contrary to law. We also have had some mussel harvesters who have harvested shells and then become buyers and purchase the shells from themselves. The Department receives a severance fee from mussel buyers based on the price they pay for mussel shells. To keep the buyers from not paying the Department a fair severance fee the purchase price needs to be based on the fair market value of the shells at the time of purchase.

**ANALYSIS:**

This rule will require that any mussel shell harvester must notify the local game warden before the harvester goes to the water to harvest shells. This rule change would also require that any mussel buyers must purchase mussel shells using fair market value of the shells.

**CONTACT PERSON:**

Larry Manering, Chief of Law Enforcement, 405/521-4643 or APA Liaison, Rhonda Hurst, Administrative Assistant, 405/522-6279.

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

**SUBCHAPTER 7. COMMERCIAL MUSSEL HARVEST**

**800:15-7-3. General; operating provisions**

Operating provisions for commercial mussel harvesting shall be in accordance with 29 O. S., Section 4-129 and the following:

- (1) **Harvest methods.** It shall be unlawful to take any mussels except by hand only, with or without, the use of diving equipment. No power dredge, crowfeet, common dredge, scrapes or rakes may be used in the taking of mussels.
- (2) **Size limit.** It shall be unlawful for anyone to take or possess mussels or shells smaller than the size limits provided in 29 O.S., Section 4-129(D). All undersized mussels shall be immediately returned to the water from which they were taken.
- (3) **Season and time of day.** The season shall be open throughout the year from January 1 through December 31. Commercial mussel pickers may harvest from daylight to dark on weekdays only. No mussels shall be harvested except during daylight hours, from sunrise until sunset, Monday through Friday. No mussels shall be harvested at any time on Saturdays or Sundays or the following state holidays: Memorial Day, Independence Day, or Labor Day.
- (4) **Reporting.** Each Commercial Mussel harvester shall notify the local game warden where he plans to harvest mussel shells at least one day prior to mussel harvest and inform the game warden when and where the mussel harvester plans to harvest mussel shells. Each Commercial Mussel Dealer must keep accurate records of all mussels purchased within and exported from the State of Oklahoma. These records shall be available for inspection by any agent of the Department at any time. A copy of each mussel purchase transaction must be given

to the seller (picker) by the buyer (dealer) at the time of sale on forms provided by the Department. A copy of all mussel purchase transactions and mussel exports shall be submitted to the Department as follows:

(A) Each Commercial Mussel Dealer shall complete and submit to the Department a true and accurate purchase ~~record-report~~ for each mussel purchase transaction. Each purchase ~~record-report~~ must contain:

- (i) the buyer's (Dealer's) name and license number;
- (ii) seller's (picker's) name and license number;
- (iii) the total pounds of mussels purchased by species;
- (iv) the total amount paid to pickers for these mussels by species; and
- (v) the price per pound by species for the transaction.

(B) ~~A copy of each transaction along with a monthly summary~~ Monthly Mussel Dealers Summary Report must be mailed to the Department by the 15th of ~~each the following~~ month by each Commercial Mussel Dealer and include copies of each purchase transaction and sales receipts from all sales transactions between the Mussel Dealer and the mussel exporter, wholesaler or mussel buying company during that month.

(C) Each Commercial Mussel Dealer must supply to the Department shipping bills of lading of all mussels exported from the state during the monthly reporting period. A copy of the shipping bill of lading must accompany all mussel shell shipments from the state.

(D) The shipping bill of lading must contain:

- (i) Person, firm or corporation's name transporting mussels out of Oklahoma;
- (ii) Person, firm or corporation's name(s) that sold or otherwise provided the mussels to be transported out of Oklahoma;
- (iii) Date of shipment;
- (iv) Total pounds, live weight, of mussels in the shipment;
- (v) Total pounds, dry weight, of mussels in the shipment;
- (vi) The mussel harvest season, species legal for harvest and all mussel size restrictions in the state where the mussels were harvested;
- (vii) Origin of shipment;
- (viii) Destination of shipment; and
- (ix) Total purchase price (amount paid to pickers), live weight, of mussels in shipment.

(E) Each commercial mussel dealer must supply to the Department an annual Mussel Dealers summary report of all mussels purchased within and exported from the State of Oklahoma. This report shall contain:

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- (i) total pounds of mussels purchased, by species;
  - (ii) total purchase value of mussels ~~purchased~~ paid to pickers, by species;
  - (iii) total pounds of mussels exported from Oklahoma, by species;
  - (iv) total sale price of mussels exported from Oklahoma during the year.
- (5) **Severance fee.** Any person who purchases and/or exports mussels from the State of Oklahoma shall pay the Department a severance fee amount of 1/8 (12.5%) of the dollar value of purchased shells. For the purpose

of this rule, the "dollar value of purchased shells" shall be the value of the mussel shells purchased from the Mussel Dealer by a mussel exporter, wholesaler or mussel shell buying company. Payment shall be computed ~~from shipping bills of lading on the Monthly Mussel Dealer Summary form~~ (as described in ~~(D)~~ (B) of this subsection) and paid by the 15th of the following month.

*[OAR Docket #06-252; filed 3-6-06]*

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# Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

## TITLE 1. EXECUTIVE ORDERS

1:2006-7.

### EXECUTIVE ORDER 2006-7

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

1. There is hereby declared a disaster emergency caused by severe thunderstorms, straight-line winds and a tornado in Delaware County on March 12, 2006, that threatened the lives and property of the people of this State and the public's peace, health and safety.

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

3. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated

by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

4. This Executive Order shall terminate at the end of thirty (30) days.

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

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 14 day of March, 2006.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage  
Secretary of State

[OAR Docket #06-300; filed 3-15-06]

