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# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules



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

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# Notices of Rulemaking Intent

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

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

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

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

*[OAR Docket #06-1276]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 1. General Provisions  
252:100-1-3. Definitions [AMENDED]  
Subchapter 2. Incorporation by Reference [NEW]  
252:100-2-1. Purpose [NEW]  
252:100-2-2. [RESERVED]  
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Subchapter 4. New Source Performance Standards [REVOKED]  
252:100-4-1. Purpose [REVOKED]  
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252:100-5-2.1. Emission inventory [AMENDED]  
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252:100-8-1.1 Definitions [AMENDED]  
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252:100-39-2. Definitions [AMENDED]  
Subchapter 40. Control of Emission of Friable Asbestos During Demolition and Renovation Operations [NEW]  
252:100-40-1. Purpose [NEW]  
252:100-40-2. [RESERVED]  
252:100-40-3. Definitions [NEW]  
252:100-40-4. [RESERVED]  
252:100-40-5. Additional provisions for handling, storing, and transporting of friable asbestos during demolition or renovation operations [NEW]  
Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]

Part 1. General Provisions [REVOKED]  
252:100-41-1. Purpose [REVOKED]  
252:100-41-1.1. Supersession by Subchapter 42 [REVOKED]  
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252:100-41-15. National emission standards for hazardous air pollutants (NESHAP) [REVOKED]  
252:100-41-16. Asbestos [REVOKED]  
Part 5. Toxic Air Contaminants  
252:100-41-35. Applicability [REVOKED]  
252:100-41-36. General prohibition; scope [REVOKED]  
252:100-41-37. New sources [REVOKED]  
252:100-41-38. Existing sources [REVOKED]  
252:100-41-39. Area sources [REVOKED]  
252:100-41-40. Maximum acceptable ambient concentrations (MAAC) [REVOKED]  
252:100-41-41. Emissions inventories [REVOKED]  
252:100-41-42. Compliance requirements [REVOKED]  
252:100-41-43. Exemptions [REVOKED]  
252:100-41-44. Compliance date [REVOKED]  
Subchapter 44. Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units [NEW]  
252:100-44-1. Purpose [NEW]  
252:100-44-2. [RESERVED]  
252:100-44-3. Reference to 40 CFR [NEW]  
252:100-44-4. [RESERVED]  
252:100-44-5. Timing requirements for Hg allowance allocations [NEW]  
252:100-44-6. [RESERVED]  
252:100-44-7. Hg allowance allocations [NEW]  
252:100-44-8. [RESERVED]  
252:100-44-9. Auction to offset Hg program costs [NEW]  
Appendix Q. Title 40, Code of Federal Regulations, Incorporations by Reference [NEW]

### **SUMMARY:**

The Department is proposing to amend Oklahoma Administrative Code (OAC) Title 252 Chapter 100-1-3, OAC 252:100-8-1.1, OAC 252:100-37-2, and OAC 252:100-39-2 to clarify definitions including particulate matter and volatile organic compounds.

The Department proposes to add to Title 252 Chapter 100, a new Subchapter 2, Incorporation by Reference, a new Subchapter 40, Control of Emission of Friable Asbestos During Demolition and Renovation Operations, and a new Appendix Q, Title 40, Code of Federal Regulations,

## Notices of Rulemaking Intent

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Incorporation by Reference. Staff proposes revoking Subchapter 4, New Source Performance Standards, and Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants.

The Department is proposing amendments of OAC 252:100-5, Registration, Emission Inventory and Annual Operating Fees. In OAC 252:100-5.2.1(b)(3) staff proposes to change the requirement to provide written explanation when yearly emission changes are in excess of 30 percent. The written explanation would be required only if the Department requests that documentation. The authority to request this information is in the next paragraph, 252:100-5.2.1(c) Documentation. The other proposed change would set the due date for submittal of the annual emission inventory to April 1st each year, and allowing the opportunity for a 30-day extension.

The Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal Fired Electric Steam Generating Units. The Department is proposing to incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in March 2005 with some variation of allocations and set-asides. Prior to and at the October 18, 2006 public hearing, the Department will accept public comments regarding the allocation of mercury credits for inclusion in Oklahoma's CAMR State Implementation Plan ("SIP").

### **AUTHORITY:**

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

### **COMMENT PERIOD:**

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 18, 2006. For comments received at least 5 business days prior to the Council meeting, staff will post written responses on the Department's web page at least 1 day prior to the Council meeting and provide hard copy written responses to these comments to the Council and the public at that Council meeting. Oral comments may be made at the October 18, 2006 hearing and at the appropriate Environmental Quality board meeting.

### **PUBLIC HEARINGS:**

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 18, 2006, at the Forest Heritage Center, Beavers Bend State Park, Broken Bow, Oklahoma. Before the Environmental Quality Board on November 14, 2006 in Tulsa.

This hearing shall also serve as the public hearing to receive comments on the proposed revisions to the SIP under the requirements of 40 CFR § 51.102 of the EPA regulations concerning the SIPs and 27A O. S. § 2-5-107(6)(c).

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

The Department requests that business entities or any other members of the public affected by these rules provide the Department, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping

equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

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

The proposed rules are available for review 30 days prior to the hearing at the Air Quality Division of the Department and on the Department's website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Air Quality Division, Council Meetings, or copies may be obtained from the contact person by calling (405) 702-4100.

### **RULE IMPACT STATEMENT:**

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

### **CONTACT PERSON:**

Please send written comments to Max Price at [max.price@deq.state.ok.us](mailto:max.price@deq.state.ok.us) for Subchapters 1, 8, 37 and 39; and for Subchapters 2, 4, 40 and 41, and Appendix Q. For Subchapters 5 (5-2.1) and the new Subchapter 44, please send written comments to Morris Moffett at [morris.moffett@deq.state.ok.us](mailto:morris.moffett@deq.state.ok.us). Mailing address is: Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, Fax (405) 702-4101.

### **PERSONS WITH DISABILITIES:**

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

*[OAR Docket #06-1276; filed 8-24-06]*

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

*[OAR Docket #06-1269]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 3. Licensure of Physician Assistants

435:15-3-1. Application for licensure [AMENDED]

435:15-3-18. License renewal period; reinstatement [AMENDED]

Subchapter 11. Prescriptive Guidelines and Drug Formulary

435:15-11-1. Prescriptive and dispensing authority [AMENDED]

### **SUMMARY:**

The application requirements are being amended to specify what the physician assistant program should consist of and to require a jurisprudence examination to be passed for both initial licensure and renewal/reinstatement of licensure. The prescriptive guidelines are being amended to change the amount of schedules III, IV and V controlled medications that may be prescribed by physician assistants.

**AUTHORITY:**

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

**COMMENT PERIOD:**

The comment period will run from September 15, 2006 to October 16, 2006. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

**PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views on October 19, 2006, 3:00 p.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than October 16, 2006.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after September 15, 2006 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

**CONTACT PERSON:**

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

*[OAR Docket #06-1269; filed 8-15-06]*

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION  
CHAPTER 45. RESPIRATORY CARE PRACTITIONER**

*[OAR Docket #06-1270]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Regulation of Practice  
435:45-5-1. Continuing education [AMENDED]

**SUMMARY:**

The rule regarding continuing education is being amended and will require at least half of the hours to be directly related to clinical practice and approving resuscitation and life support courses.

**AUTHORITY:**

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

**COMMENT PERIOD:**

The comment period will run from September 15, 2006 to October 19, 2006. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

**PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views on October 26, 2006, 11:30 a.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than October 19, 2006.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after September 15, 2006 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

**CONTACT PERSON:**

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

*[OAR Docket #06-1270; filed 8-15-06]*

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

*[OAR Docket #06-1271]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Annual Renewal/Continuing Education  
435:55-5-2. Requirements for renewal of license or registration [AMENDED]

**SUMMARY:**

The amendment would remove the requirement that applicants for reinstatement must meet all current licensure requirements.

**AUTHORITY:**

TITLE 59 O.S., Section 30049, State Board of Medical Licensure and Supervision

**COMMENT PERIOD:**

The comment period will run from September 15, 2006 to October 20, 2006. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

**PUBLIC HEARING:**

A public hearing will be held to provide an opportunity for persons to orally present their views on October 27, 2007, 11:00 a.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than October 20, 2006.

## Notices of Rulemaking Intent

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**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

n/a

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENT:**

A rule impact statement will be prepared and available after September 15, 2006 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

**CONTACT PERSON:**

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

*[OAR Docket #06-1271; filed 8-15-06]*

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# Submissions for Review

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

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

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**TITLE 325. OKLAHOMA HORSE RACING  
COMMISSION  
CHAPTER 35. GENERAL CONDUCT**

*[OAR Docket #06-1275]*

**RULEMAKING ACTION:**

Submission for gubernatorial and legislative review

**RULE:**

325:35-1-5. [AMENDED]

**SUBMITTED TO GOVERNOR:**

August 24, 2006

**SUBMITTED TO HOUSE:**

August 24, 2006

**SUBMITTED TO SENATE:**

August 24, 2006

*[OAR Docket #06-1275; filed 8-24-06]*

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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 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS

*[OAR Docket #06-1272]*

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 7. Public Warehouses  
35:10-7-15. [AMENDED]

### AUTHORITY:

State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. 2001 §§ 2-4(2), (22) and (29); and 9-20 et seq.

### DATES:

#### Adoption:

June 22, 2006

#### Approved by Governor:

August 7, 2006

#### Effective:

Immediately upon Governor's approval

#### Expiration

Effective through July 14, 2007 unless superseded by another rule or disapproved by the Legislature

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATIONS BY REFERENCE:

N/A

### FINDING OF EMERGENCY:

Due to the potential for economic hardship to grain producers and grain warehouses in Oklahoma, the agency finds a compelling public interest and immediate need for this emergency rule.

### ANALYSIS:

This emergency rule is necessary to ensure that anyone with a grain graders permit can perform grain grading duties for any state chartered warehouse. The rule also provides provisions for a temporary permit to be issued. The current rule does not allow transfer of the permit, and as a result, significant hardship occurs to small grain warehouses who lose their grain grader. As a result, they would not be able to take in any grain for that year. Producers would then be unable to take their grain to a convenient location.

### CONTACT PERSON:

Chuck Brown, (405) 522-6102

**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. PUBLIC WAREHOUSES

### 35:10-7-15. Weighers and graders permit

(a) An applicant, in order to qualify for a weighers and graders permit issued by the Board, as evidence of their competence, shall pass a test composed of a written and practical application. The test shall be administered following each approved grain grading school, by a representative of the Board. First-time permit applicants shall complete all practical applications at the school.

(b) A weighers and graders permit shall remain in force as long as the permit holder is employed by ~~the same a state chartered~~ warehouse and ~~attends~~ completes a grain grading class approved by the Board at least one (1) time each five (5) years. If the permit holder fails to ~~attend~~ complete an approved class, the permit shall automatically terminate.

(c) A temporary permit may be granted for a period of one year upon written request to the Department by the applicant and upon completion of training by the Department.

*[OAR Docket #06-1272; filed 8-16-06]*

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

*[OAR Docket #06-1273]*

### RULEMAKING ACTION:

EMERGENCY adoption

### RULES:

Subchapter 42. Tuberculosis Eradication in Cervidae

Part 1. Definitions

35:15-42-1. [AMENDED]

Part 3. Rules Adopted From USDA Uniform Methods and Rules For Tuberculosis Eradication in Cervidae

35:15-42-34. [AMENDED]

35:15-42-37. [AMENDED]

35:15-42-39. [AMENDED]

35:15-42-41. [AMENDED]

35:15-42-43. [AMENDED]

35:15-42-44. [AMENDED]

Part 5. Herd Status Requirements

35:15-42-51. [AMENDED]

### AUTHORITY:

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

### DATES:

#### Adoption:

June 22, 2006

# Emergency Adoptions

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**Approved by Governor:**

August 7, 2006

**Effective:**

Immediately upon Governor's approval

**Expiration**

Effective through July 14, 2007 unless superseded by another rule or disapproved by the Legislature

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**FINDING OF EMERGENCY:**

Oklahoma must incorporate the federal requirements into state law to ensure Oklahoma cervidae herds to maintain their Tuberculosis Free Status. Due to the potential for economic hardship to cattle producers in Oklahoma, the agency finds a compelling public interest and immediate need for this emergency rule.

**ANALYSIS:**

This emergency rule is necessary to effectuate the new federal changes to the Tuberculosis in Captive Cervids rules regarding reaccreditation of Tuberculosis accredited herds and removing the use of the blood tuberculosis test. Oklahoma must incorporate the federal requirements into state law to ensure Oklahoma cervidae herds to maintain their Tuberculosis Free Status. Producers in Oklahoma would receive a severe economic hardship if the state does not adopt the rules. The rule extends the time period from two years to three years for retesting to obtain reaccreditation of the herd.

**CONTACT PERSON:**

Dr. Becky Brewer-Walker, (405) 522-6142

**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 42. TUBERCULOSIS ERADICATION IN CERVIDAE

### PART 1. DEFINITIONS

**35:15-42-1. Definitions**

The following words or terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

**"Accredited Herd (Cervidae)"** means a herd that has passed three (3) or more consecutive negative official tuberculosis tests of all eligible animals conducted at not less than nine (9) nor more than fifteen (15) month intervals, has no evidence of bovine tuberculosis and meets the standards of this Subchapter.

**"Adjacent Herd"** means a group or groups of cervids, cattle, bison, or dairy goats sharing common pasture, or having other direct contact with the affected herd, and herds containing previous purchases from or exchanges with the affected herd. Herds separated by a single fence are considered contact or adjacent herds.

**"Affected Herd"** means a herd of cervids that contains, or has recently contained, one (1) or more animals infected with *Mycobacterium bovis*, and that has not passed the required tests necessary for release from quarantine.

**"Annual Tests"** means those tests conducted at intervals of not less than ten (10) months nor more than fourteen (14) months.

**"Approved Laboratory"** means a state, federal, or other USDA approved veterinary diagnostic laboratory. The primary laboratory for tuberculosis histopathology and bacteriology culture shall be the National Veterinary Services Laboratories (NVSL), Ames, IA. Food Safety and Inspection Service (FSIS) field service laboratories may be utilized for histopathology.

**"Area Veterinarian In Charge (AVIC)"** means the veterinary official of Veterinary Services (VS), APHIS, USDA, who is assigned by the Deputy Administrator to supervise and perform official APHIS animal health work.

**"Blood Tuberculosis (BTB) Test"** means a supplemental test for bovine tuberculosis in Cervidae. ~~The BTB test may be used at the owner's expense as a supplemental test to establish the disease status of a herd. Samples for this test shall be collected only by state, federal, or accredited veterinarians.~~

**"Cervidae"** means all species of deer, elk and moose raised under confinement and/or agricultural conditions for the production of meat, the production of other agricultural products, sport or exhibition.

**"Comparative Cervical Tuberculin (CCT) Test"** means the intradermal injection of biologically balanced bovine purified protein derivative (PPD) tuberculin and an avian PPD tuberculin at separate sites in the midcervical area and a determination as to the probable presence of bovine tuberculosis (*Mycobacterium bovis*) by comparing the responses of the two (2) tuberculins seventy-two (72) hours (+ or - 6 hours) following injection. This test shall be administered only by a full-time state or federal regulatory veterinarian.

**"Designated Accredited Veterinarian"** means an accredited veterinarian trained and approved by state or federal representatives to conduct the single cervical test for tuberculosis on cervids.

**"Direct Shipment to Slaughter"** means the shipment of tuberculosis reactors, tuberculosis suspects, and tuberculosis exposed cervids from the premises of origin by permit directly to a slaughter establishment operating under state or federal inspection without diversion to assembly points of any type.

**"Exposed Animals"** means Cervidae that have associated with or been in direct contact with animals known to be tuberculous.

**"Herd"** means one or more cervids, or a group of cervids and other hoofed stock, maintained on common ground or two (2) or more groups of cervids and other hoofed stock under common ownership or supervision that are geographically separated but can have an interchange or movement without regard to health status.

**"Herd Depopulation"** means the removal of all Cervidae exposed to bovine tuberculosis in a herd directly to slaughter prior to any restocking of the premises with cervids.

**"Herd Plan"** means a herd management and testing agreement designed by a state or federal regulatory veterinarian and the herdowner that will control and eventually eradicate bovine tuberculosis from an affected, adjacent, or exposed herd of Cervidae.

**"Monitored Herd"** means a herd raised under range conditions on which identification records are maintained for animals over one (1) year of age that are slaughtered and inspected for tuberculosis at an approved state or federal slaughtering facility or an approved laboratory. The animals slaughtered shall be identified to the herd and the number slaughtered shall be evenly distributed over a three (3) year period at a rate to detect infection at a two percent (2%) prevalence level with ninety-five percent (95%) confidence.

**"Natural Additions"** means animals born and raised in a herd.

**"Negative Animals"** means cervids that show no response to a tuberculosis test or have been classified negative by the testing veterinarian or designated epidemiologist based upon history, supplemental test, examination of carcasses or laboratory results.

**"No Gross Lesion (NGL) Animals"** means cervids that do not reveal one or more lesions of bovine tuberculosis upon postmortem examination.

**"Official Tuberculosis Test (Cervidae)"** means a test for bovine tuberculosis applied and reported by approved personnel in accordance with this Subchapter. The official tests for Cervidae are the single cervical test, the comparative cervical test, the blood tuberculosis test, and any other test that is approved by the United States Department of Agriculture (USDA).

**"Permit"** means an official document issued by an authorized agent of the Board of Agriculture, a representative of APHIS VS, or an accredited veterinarian that is required to accompany reactor, suspect, or exposed cervids to slaughter. The permit will list the reactor tag number, or in the case of suspect or exposed cervids, an official eartag number; the owner's name and address; origin and destination locations; number of cervids covered; and the purpose of the movement. If a change in destination becomes necessary, a new permit shall be issued by authorized personnel. No diversion from the destination on the permit is allowed.

**"Qualified Herd"** means a cervid herd that has undergone at least one (1) complete official negative test of all eligible animals within the previous twelve (12) months and is not classified as an accredited herd, has no evidence of bovine tuberculosis, and meets the standards of this Subchapter.

**"Reactor"** means any cervid that shows a response to an official tuberculosis test and is classified a reactor by the testing veterinarian or designated epidemiologist.

**"Single Cervical Tuberculin (SCT) Test (Cervidae)"** means the intradermal injection of 0.1 milliliters (5,000 tuberculin units) of USDA PPD bovis tuberculin in the midcervical region with reading by visual observation and palpation in seventy-two (72) hours (+ or - 6 hours) following injection. This test shall be administered only by a state, federal or designated accredited veterinarian.

**"Suspect"** means any cervid that shows a response to the single cervical tuberculin test and is not classified as a reactor; or is not classified as negative or a reactor by a supplemental tuberculosis test.

**"Tuberculin"** means a product that is approved by and produced under USDA license for the intradermal injection of cervids for the purpose of detecting bovine tuberculosis.

**"Tuberculosis"** means a disease in Cervidae caused by *Mycobacterium bovis* (*M. bovis*).

### PART 3. RULES ADOPTED FROM USDA UNIFORM METHODS AND RULES FOR TUBERCULOSIS ERADICATION IN CERVIDAE

#### 35:15-42-34. Supplemental diagnostic tests

The comparative cervical tuberculin (CCT) test, ~~the blood tuberculosis (BTB) test,~~ or any other test which is approved by the USDA ~~will~~shall be used for the retesting of suspects.

#### 35:15-42-37. Classification of Cervidae tested

(a) **Single cervical tuberculin test.** In herds of unknown status, all responses to the SCT test shall be recorded and the animals classified as suspects and quarantined for retest with the CCT test ~~or BTB test~~ unless in the judgement of the testing veterinarian, the reactor classification is indicated. In known affected herds all responses shall be recorded and the animals classified as reactors.

(b) **Comparative cervical tuberculin test.** All responses are to be measured to the nearest 0.5 millimeters. Animals having a response to bovine PPD of less than one (1) millimeter should be classified negative. Animals having a response to bovine PPD of one (1) millimeter through two (2) millimeters and also equal or greater than the responses to the avian PPD shall be classified as suspects. Animals having a response to bovine PPD greater than two (2) millimeters, but equal to the response to avian PPD, shall be classified as suspects except when in the judgement of the testing veterinarian, the reactor classification is indicated. Animals meeting the criteria for suspect classification on two (2) successive CCT tests shall be classified as reactors. Animals having a response to bovine PPD that is greater than two (2) millimeters and is at least 0.5 millimeters greater than the avian PPD response shall be classified as reactors.

(c) **Retest of suspects.** Suspects to the SCT test may be retested by either the CCT ~~or the BTB test~~. The CCT may be applied within ten (10) days following the SCT test injection or after ninety (90) days. If the CCT test is applied within ten (10) days of the SCT test, the opposite side of the neck shall be used. ~~The sample for the BTB test shall be taken not less than twelve (12) days nor more than thirty (30) days after the SCT test injection.~~ Animals positive to the CCT test ~~or the BTB test~~ shall be classified as reactors.

(d) **Reclassification of animals.** Suspects to the SCT test may be necropsied in lieu of retesting by supplemental test and, if found without evidence of *M. bovis* infection by histopathology (including selected specimens submitted from animals having no gross lesions indicative of tuberculosis) or culture, shall be considered negative for tuberculosis.

## Emergency Adoptions

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### 35:15-42-39. Reporting of tests

A report of all tuberculin tests (SCT, ~~and CCT, and BTB~~), including the individual identification of each animal by eartag number or tattoo, age, sex, and breed and a record of the size of the response where indicated and test interpretation, shall be submitted to the Oklahoma Department of Agriculture, Animal Industry Services Division, within ten (10) days of the date the test is read.

### 35:15-42-41. Disposition of tuberculin responding Cervidae

(a) Reactors shall remain on the premises where they were disclosed until a state or federal permit for movement has been obtained. Movement for immediate slaughter will be within fifteen (15) days of classification directly to a slaughter establishment where approved state or federal inspection is maintained. Alternatively, the animals may be destroyed and a necropsy may be conducted by or under the supervision of a full time state or federal regulatory veterinarian trained in tuberculosis necropsy procedures.

(b) Herds containing suspects to the SCT test shall be quarantined until the suspect animals are:

(1) retested negative by the CCT test within ten (10) days of the SCT test injection, ~~(or)~~

(2) retested negative by the CCT test after ninety (90) days, ~~(or)~~

~~(3) retested negative by the BTB test not less than twelve (12) days nor more than thirty (30) days following the SCT test injection, (or)~~

(34) shipped under permit directly to a slaughter facility under state or federal inspection or may be necropsied by or under the supervision of a full-time state or federal regulatory veterinarian trained in tuberculosis necropsy procedures. If such animals are found without evidence of *M. bovis* infection by histopathology (including selected specimens submitted from animals having no gross lesions indicative of tuberculosis) or culture, they shall be considered negative for tuberculosis.

(c) Suspects to the CCT test ~~or equivocal to the BTB test~~ shall remain under quarantine until:

(1) comparative cervical suspects are tested negative using the CCT test after ninety (90) days, ~~(or)~~

~~(2) BTB equivocal animals are retested negative using the BTB test not less than thirty (30) nor more than sixty (60) days following the SCT test injection, (or)~~

~~(23)~~ shipped under permit directly to a slaughter facility under state or federal inspection or necropsied by or under the supervision of a full-time state or federal regulatory veterinarian trained in tuberculosis necropsy procedures. Such animals shall be considered tuberculosis negative unless evidence of the disease is found by culture or histopathology (including selected specimens submitted from animals having no gross lesions).

(d) An animal meeting the suspect criteria on two (2) successive CCT ~~or BTB (equivocal)~~ tests shall be classified as a reactor and be identified as such. The testing veterinarian must

justify exceptions in writing and have the concurrence of state or federal animal health officials.

(e) All Cervidae necropsied shall be properly disposed at owner's expense by a method approved by the Board and under the supervision of a full-time state or federal regulatory veterinarian.

### 35:15-42-43. Quarantine procedures for Cervidae

(a) All herds in which reactor animals are disclosed shall be quarantined. The remaining exposed animals must remain on the premises where the disease was disclosed unless a state or federal permit for movement to slaughter has been obtained. Movement for immediate slaughter must be direct to a slaughter establishment where approved state or federal inspection is administered. Exposed animals must be identified by official eartag and "S" branded prior to shipment, or animals must be shipped in an officially sealed vehicle. The "S" brand shall be applied to the tail head.

(b) Cervid herds in which *M. bovis* is confirmed (affected herds) shall remain under quarantine, if not depopulated, and must pass three (3) consecutive negative whole herd SCT test. ~~The BTB test may be used, provided that it is used simultaneously with a whole herd SCT test. The sample for the BTB test may be taken at the time of injection or reading of the SCT tests.~~ All animals positive to ~~either~~ the test shall be classified as reactors. The first test must be conducted not less than ninety (90) days after the last test yielding a positive animal, and two (2) additional tests must be conducted at not less than 180-day intervals. The CCT test shall not be used in affected herds until the completion of two (2) consecutive negative whole herd tests or two (2) consecutive whole herd tests with NGL reactors only in which selected tissues are negative on histopathology and culture. Five (5) annual whole herd tests of all animals shall be conducted following the release from quarantine.

(c) Cervid herds that have had a test of all eligible animals with NGL reactors only and on evidence of tuberculosis infection found by histopathology and culture of *M. bovis* (including selected specimens submitted from animals having no gross lesions indicative of tuberculosis) may be released without further restrictions.

(d) Cervid herds in which one (1) or more animals are found to have compatible or suggestive lesions by histopathology without the isolation of *M. bovis* may be released from quarantine following a negative 90-day retest of the entire herd and with the concurrence of the regional tuberculosis epidemiologist provided that there is no known association with *M. bovis*.

(e) Cervid herds with NGL reactors only (in which no evidence of tuberculosis infection is found by histopathology and culture of *M. bovis*) and such herds where all eligible animals cannot be tested shall be evaluated by the state and/or regional tuberculosis epidemiologist for possible release of quarantine.

(f) The issuance of a quarantine may be waived if the State Board of Agriculture or the State Veterinarian enters into a formal cooperative agreement with the affected party that will control and eradicate *M. bovis* from the cervid herd.

**35:15-42-44. Retest schedules for high risk cervid herds**

- (a) In herds with a history of lesions compatible or suggestive for tuberculosis by histopathology (without isolation of *M. bovis*), two (2) annual whole herd tests shall be given after release from quarantine. Herds with a bacteriologic isolation of a microbacteria species other than *M. bovis* should be considered negative for bovine tuberculosis with no further testing requirements.
- (b) In a newly assembled herd on premises where a tuberculous herd has been depopulated, two (2) annual whole herd tests shall be conducted. The first test is to be given not less than six (6) months nor more than one (1) year after assembly of the new herd. If the premises has been vacated for more than one (1) year, these requirements may be waived.
- (c) Exposed animals previously sold from known affected herds shall be depopulated if possible or tested with the SCT test by full-time state or federal regulatory veterinarians. ~~The BTB test may be used simultaneously with the SCT test as an additional diagnostic tool. The sample for the BTB test may be taken at the time of injection or reading of the SCT test.~~ All animals positive to ~~either~~ the test shall be classified as reactors.
  - (1) If bovine tuberculosis is confirmed in the exposed animal(s), the remainder of the receiving herd shall be tested with the SCT test by full-time state or federal regulatory veterinarians. The BTB test may be used, provided that it is used simultaneously with a whole herd SCT test. ~~The BTB test may be taken at the time of injection or reading of the SCT test.~~ All animals positive to ~~either~~ the test shall be classified as reactors.
  - (2) If negative to the test, the exposed animals will subsequently be handled as if they were part of the affected herd of origin for purposes of testing, quarantine release, and the five (5) annual high risk tests; also, the remainder of the herd shall be retested in one (1) year with the SCT test. Supplemental diagnostic tests may be used if needed.
- (d) Herds indicated as the source of an infected animal in slaughter traceback investigations shall be placed under quarantine within 30 days of notification to the State Veterinarian, and a complete herd test shall be scheduled within 30 days. Testing of source herds of slaughter animals having lesions of tuberculosis shall be done by full-time state or federal regulatory veterinarians. If the herd of origin is positively identified and *M. bovis* has been confirmed by bacterial isolation from the slaughtered animal, all animals responding to the SCT test shall be classified as reactors. In all other cases, supplemental diagnostic tests may be used.
- (e) Herds identified as the source of animals found to have tuberculous lesions in an affected herd shall be tested by full-time state or federal regulatory veterinarians using the SCT test. Responding animals may be classified as reactors or suspects. If classified as suspects, they may be retested by supplemental diagnostic tests.
- (f) In the event new technology and advancements provide alternative testing procedures which are approved by the

USDA, the State Veterinarian may alter testing schedules listed above to conform and utilize the new and improved methods and tests.

**PART 5. HERD STATUS REQUIREMENTS**

**35:15-42-51. Minimum standards for accreditation and reaccreditation for Cervidae herds**

- (a) **Animals to be tested.** Testing of herds for accreditation of reaccreditation shall include all Cervidae and all other hoof stock over twelve (12) months of age and animals under twelve (12) months of age that are not natural additions.
- (b) **Qualifying standards.** To meet the requirements for accredited herd status, the herd must pass at least ~~three~~two consecutive negative official tests for tuberculosis conducted at not less than nine (9) nor more than fifteen (15) month intervals with no evidence of bovine tuberculosis disclosed. Herds meeting these standards shall be issued a certificate by the local, state and federal officials.
- (c) **Additions.** Herd additions must originate directly from one of the following sources and have no exposure to cervids from herds of lesser status than the additions' herd of origin:
  - (1) An accredited herd, (or)
  - (2) A qualified or monitored herd provided that the individual animals for addition are negative to an official tuberculosis test conducted not more than ninety (90) days prior to entry and isolated from members of the accredited herd until negative to an official tuberculosis test conducted not less than ninety (90) days following entry, (or)
  - (3) Individual animals for additions from herds not meeting the requirements listed above must be isolated from all other members of the herd of origin and must pass two (2) negative official tests for tuberculosis conducted at least ninety (90) days apart, with the second test conducted within ninety (90) days prior to movement to the premises of the accredited herd. These additions must be kept in isolation for members of the accredited herd until they are negative to an official tuberculosis test conducted not less than ninety (90) days following the date of entry. Animals from accredited, qualified, or monitored herds shall not receive accredited status for sale or movement purposes until they are negative on a retest ninety (90) days after entry.
- (d) **Reaccreditation.** To qualify for reaccreditation, the herd must pass a test within a period of not less than ~~twenty-one~~thirty-three (2433) nor more than ~~twenty-seven~~thirty-nine (2739) months of the anniversary date. The accreditation period will be ~~twenty-four~~thirty-six (2436) months (~~730 days~~) from the anniversary date (~~not 24 months from the date of the reaccreditation test~~).

[OAR Docket #06-1273; filed 8-16-06]



# 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

**1:2006-17.**

### EXECUTIVE ORDER 2006-17

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution and 63 O.S. §§ 683.1 et seq., hereby declare that because there is a state of emergency existing in the State of Oklahoma due to extremely dry weather and lack of significant rainfall, it is necessary to assist and expedite all efforts of drought relief and wildfire suppression. In order to accommodate this need and to provide assistance to the citizens in this extraordinary situation, I hereby order the temporary suspension of the following as they apply to vehicles used in the support efforts:

1. The requirements for special permits for use of overweight/oversized vehicles under Title 47;
2. The requirements for licensing/operating authority as required by the Oklahoma Corporation Commission;
3. The requirements for licensing/registration as required by the Oklahoma Tax Commission;
4. The requirements contained in the Motor Carrier Safety Regulations, CFR 49, Parts 390-399 under the authority of CFR 49, Part 390.23. All other regulations in CFR 49 shall apply.

In addition, due to the wildfires and severe drought conditions occurring statewide it is necessary to expedite access

to hay and water for livestock. In order to accommodate this need and to provide assistance to our farmers and ranchers in this extraordinary situation, I hereby order the temporary suspension of the requirements for special permits for use of overweight/oversized vehicles under Title 47 as they apply to vehicles used to transport round baled hay and water for livestock.

This temporary order shall terminate at the end of ninety (90) days.

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 16th day of August, 2006.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Brad Henry

ATTEST:  
M. Susan Savage  
Secretary of State

[OAR Docket #06-1274; filed 8-16-06]

