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Brad Henry, Governor
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Secretary of State
Peggy Coe, Managing Editor

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Table of Contents

Agency/Action/Subject Index	iii
Rules Affected Index	iv
Agency Index (Title numbers assigned)	vi
Notices of Rulemaking Intent	
Commerce, Oklahoma Department of (Title 150)	115
Education, State Department of (Title 210)	115, 116, 117, 118, 119
Firefighters Pension and Retirement System, Oklahoma (Title 270)	119
Horse Racing Commission, Oklahoma (Title 325)	120, 121, 122, 123, 124, 125
Mental Health and Substance Abuse Services, Department of (Title 450)	125
Motor Vehicle Commission, Oklahoma (Title 465)	126, 127
Optometry, Board of Examiners in (Title 505)	127
Water Resources Board, Oklahoma (Title 785)	128, 131
Wildlife Conservation, Department of (Title 800)	133, 134, 135
Emergency Adoptions	
Education, State Department of (Title 210)	137, 138, 140
Health Care Authority, Oklahoma (Title 317)	141, 143, 152, 153
Executive Orders (Title 1)	155

Agency/Action/Subject Index

COMMERCE, Oklahoma Department of (Title 150)

Notices of Rulemaking Intent

General Rules of Practice and Procedures (Chapter 1) 115

EDUCATION, State Department of (Title 210)

Notices of Rulemaking Intent

Curriculum and Instruction (Chapter 15) 115, 116

Staff (Chapter 20) 116, 117

Finance (Chapter 25) 118

Standards for Accreditation of Elementary, Middle Level,
Secondary, and Career and Technology Schools
(Chapter 35) 118

Grants and Programs-In-Aid (Chapter 40) 119

Emergency Adoptions

Curriculum and Instruction (Chapter 15) 137

Staff (Chapter 20) 138

Grants and Programs-In-Aid (Chapter 40) 140

**FIREFIGHTERS Pension and Retirement System,
Oklahoma (Title 270)**

Notices of Rulemaking Intent

Firefighters Pension and Retirement Plan (Chapter 10) ... 119

GOVERNOR

Executive Orders

Creating Governor's Oklahoma United We Ride Council
(06-20) 155

Amending Executive Order 2005-25, creating Governor's
Emergency Medical Services Readiness Task Force
(06-21) 156

HEALTH Care Authority, Oklahoma (Title 317)

Emergency Adoptions

Medical Providers-Fee for Service (Chapter 30) 141, 143

Medical Assistance for Adults and Children-Eligibility
(Chapter 35) 152

Oklahoma Employer and Employee Partnership for Insurance
Coverage (Chapter 45) 153

HORSE Racing Commission, Oklahoma (Title 325)

Notices of Rulemaking Intent

Licensing (Chapter 15) 120

Entries and Declarations (Chapter 25) 121

Claiming Races (Chapter 30) 122

General Conduct (Chapter 35) 123

Running the Race (Chapter 60) 124

Oklahoma-Bred Program (Chapter 75) 124, 125

**MENTAL Health and Substance Abuse Services,
Department of (Title 450)**

Notices of Rulemaking Intent

Standards and Criteria for Certified Eating Disorder Treatment
Programs (Chapter 60) 125

MOTOR Vehicle Commission, Oklahoma (Title 465)

Notices of Rulemaking Intent

License (Chapter 10) 126

Advertising (Chapter 15) 127

OPTOMETRY, Board of Examiners in (Title 505)

Notices of Rulemaking Intent

Licensure and Regulation of Optometrists (Chapter 10) ... 127

WATER Resources Board, Oklahoma (Title 785)

Notices of Rulemaking Intent

Oklahoma's Water Quality Standards (Chapter 45) 128

Implementation of Oklahoma's Water Quality Standards
(Chapter 46) 131

WILDLIFE Conservation, Department of (Title 800)

Notices of Rulemaking Intent

Sport Fishing Rules (Chapter 10) 133

Commercial Harvest Rules; Aquatic Species
(Chapter 15) 134

Wildlife Rules (Chapter 25) 134

Department of Wildlife Lands Management
(Chapter 30) 135

Rules Affected Index

[(E) = Emergency action]

Rule	Register Page	Rule	Register Page
10:15-33-7.	[AMENDED] (E) 25	317:35-15-8.	[AMENDED] (E) 96
25:20-1-1.	[REVOKED] (E) 71	317:35-15-8.1.	[AMENDED] (E) 98
25:20-1-2.	[REVOKED] (E) 71	317:35-15-10.	[AMENDED] (E) 99
25:20-1-3.	[REVOKED] (E) 72	317:35-15-13.1.	[AMENDED] (E) 100
25:20-1-4.	[REVOKED] (E) 72	317:35-21-12.	[AMENDED] (E) 152
25:20-1-5.	[REVOKED] (E) 72	317:45-1-2.	[AMENDED] (E) 102
25:20-1-6.	[NEW] (E) 72	317:45-1-3.	[AMENDED] (E) 103
25:20-1-7.	[NEW] (E) 72	317:45-1-4.	[NEW] (E) 103
25:20-1-8.	[NEW] (E) 73	317:45-5-1.	[AMENDED] (E) 104
25:20-1-9.	[NEW] (E) 73	317:45-7-1.	[AMENDED] (E) 153
25:20-1-10.	[NEW] (E) 73	317:45-7-2.	[AMENDED] (E) 104
35:10-7-15.	[AMENDED] (E) 7	317:45-7-8.	[AMENDED] (E) 104
35:15-42-1.	[AMENDED] (E) 8	317:45-9-1.	[AMENDED] (E) 104
35:15-42-34.	[AMENDED] (E) 9	317:45-9-3.	[AMENDED] (E) 105
35:15-42-37.	[AMENDED] (E) 9	317:45-9-5.	[REVOKED] (E) 105
35:15-42-39.	[AMENDED] (E) 10	317:45-9-7.	[AMENDED] (E) 105
35:15-42-41.	[AMENDED] (E) 10	317:45-11-1.	[NEW] (E) 105
35:15-42-43.	[AMENDED] (E) 10	317:45-11-2.	[NEW] (E) 105
35:15-42-44.	[AMENDED] (E) 11	317:45-11-10.	[NEW] (E) 106
35:15-42-51.	[AMENDED] (E) 11	317:45-11-11.	[NEW] (E) 107
92:10-1-4.	[AMENDED] (E) 59	317:45-11-20.	[NEW] (E) 107
210:15-3-51.	[AMENDED] (E) 137	317:45-11-21.	[NEW] (E) 108
210:15-11-3.	[NEW] (E) 60	317:45-11-22.	[NEW] (E) 108
210:20-9-98.	[AMENDED] (E) 139	317:45-11-23.	[NEW] (E) 108
210:20-19-2.	[AMENDED] (E) 61	317:45-11-24.	[NEW] (E) 109
210:20-19-3.	[AMENDED] (E) 61	317:45-11-25.	[NEW] (E) 109
210:20-19-4.	[AMENDED] (E) 62	317:45-11-26.	[NEW] (E) 109
210:40-87-1.	[AMENDED] (E) 140	317:45-11-27.	[NEW] (E) 109
210:40-87-2.	[REVOKED] (E) 140	317:45-11-28.	[NEW] (E) 109
210:40-87-3.	[AMENDED] (E) 140	340:10-3-33.	[AMENDED] (E) 28
210:40-87-4.	[AMENDED] (E) 141	380:70-1-1.	[NEW] (E) 30
235:10-13-10.	[AMENDED] (E) 27	380:70-1-2.	[NEW] (E) 30
235:10-13-11.	[AMENDED] (E) 27	380:70-3-1.	[NEW] (E) 31
235:10-13-12.	[AMENDED] (E) 27	380:70-3-2.	[NEW] (E) 32
235:10-13-13.	[AMENDED] (E) 28	380:70-3-3.	[NEW] (E) 32
235:10-13-14.	[AMENDED] (E) 28	380:70-3-4.	[NEW] (E) 32
317:25-7-2.	[AMENDED] (E) 74	380:70-3-5.	[NEW] (E) 32
317:25-7-10.	[AMENDED] (E) 74	380:70-3-6.	[NEW] (E) 33
317:25-7-13.	[AMENDED] (E) 76	380:70-3-7.	[NEW] (E) 33
317:30-3-59.	[AMENDED] (E) 142	380:70-3-8.	[NEW] (E) 33
317:30-3-65.4.	[AMENDED] (E) 76	380:70-3-9.	[NEW] (E) 33
317:30-5-2.	[AMENDED] (E) 144	380:70-3-10.	[NEW] (E) 34
317:30-5-8.	[AMENDED] (E) 148	380:70-3-11.	[NEW] (E) 34
317:30-5-13.	[AMENDED] (E) 78	380:70-3-12.	[NEW] (E) 34
317:30-5-25.	[AMENDED] (E) 79	380:70-3-13.	[NEW] (E) 34
317:30-5-137.	[NEW] (E) 142	380:70-3-14.	[NEW] (E) 35
317:30-5-138.	[NEW] (E) 142	380:70-3-15.	[NEW] (E) 35
317:30-5-139.	[NEW] (E) 143	380:70-5-1.	[NEW] (E) 35
317:30-5-140.	[NEW] (E) 143	380:70-5-2.	[NEW] (E) 36
317:30-5-141.	[NEW] (E) 143	380:70-5-3.	[NEW] (E) 36
317:30-5-391.	[AMENDED] (E) 80	380:70-5-4.	[NEW] (E) 37
317:30-5-392.	[AMENDED] (E) 80	380:70-5-5.	[NEW] (E) 37
317:30-5-393.	[AMENDED] (E) 82	380:70-5-6.	[NEW] (E) 37
317:30-5-676.	[AMENDED] (E) 83	380:70-5-7.	[NEW] (E) 37
317:30-5-763.	[AMENDED] (E) 83	380:70-5-8.	[NEW] (E) 38
317:30-5-764.	[AMENDED] (E) 91	380:70-5-9.	[NEW] (E) 38
317:30-5-951.	[AMENDED] (E) 92	380:70-7-1.	[NEW] (E) 38
317:30-5-952.	[AMENDED] (E) 93	380:70-7-2.	[NEW] (E) 38
317:30-5-953.	[AMENDED] (E) 93	380:70-7-3.	[NEW] (E) 39
317:35-3-2.	[AMENDED] (E) 94	380:70-9-1.	[NEW] (E) 39
317:35-15-2.	[AMENDED] (E) 96	380:70-9-2.	[NEW] (E) 39

380:70-9-3. [NEW] (E)	40	380:70-11-10. [NEW] (E)	42
380:70-9-4. [NEW] (E)	40	380:70-11-11. [NEW] (E)	42
380:70-11-1. [NEW] (E)	40	380:70-11-12. [NEW] (E)	42
380:70-11-2. [NEW] (E)	40	380:70-11-13. [NEW] (E)	42
380:70-11-3. [NEW] (E)	40	380:70-11-14. [NEW] (E)	42
380:70-11-4. [NEW] (E)	40	380:70, App. A. [NEW] (E)	43
380:70-11-5. [NEW] (E)	41	485:10-7-2. [AMENDED] (E)	44
380:70-11-6. [NEW] (E)	41	485:10-9-2. [AMENDED] (E)	45
380:70-11-7. [NEW] (E)	41	590:10-7-5. [AMENDED] (E)	47
380:70-11-8. [NEW] (E)	41	800:15-7-3. [AMENDED] (E)	110
380:70-11-9. [NEW] (E)	41		

Agency/Title Index

[Assigned as of 11-15-06]

Agency	Title	Agency	Title
Oklahoma ACCOUNTANCY Board	10	State ELECTION Board	230
State ACCREDITING Agency	15	Oklahoma FUNERAL Board (<i>Formerly:</i> Oklahoma State Board of EMBALMERS and Funeral Directors)	235
AD Valorem Task Force (<i>abolished 7-1-93</i>)	20	Oklahoma Department of EMERGENCY Management (<i>Formerly:</i> Department of CIVIL Emergency Management) - <i>See</i> Title 145	
Oklahoma AERONAUTICS Commission	25	Oklahoma EMPLOYMENT Security Commission	240
Board of Regents for the Oklahoma AGRICULTURAL and Mechanical Colleges	30	Oklahoma ENERGY Resources Board	243
Oklahoma Department of AGRICULTURE , Food, and Forestry	35	State Board of Licensure for Professional ENGINEERS and Land Surveyors (<i>Formerly:</i> State Board of Registration for Professional ENGINEERS and Land Surveyors)	245
Oklahoma Board of Licensed ALCOHOL and Drug Counselors	38	Board of Trustees for the ENID Higher Education Program	250
Board of Tests for ALCOHOL and Drug Influence	40	Department of ENVIRONMENTAL Quality	252
ALCOHOLIC Beverage Laws Enforcement Commission	45	State Board of EQUALIZATION	255
ANATOMICAL Board of the State of Oklahoma	50	ETHICS Commission (<i>Title revoked</i>)	257
Board of Governors of the Licensed ARCHITECTS and Landscape Architects of Oklahoma	55	ETHICS Commission	258
ARCHIVES and Records Commission	60	Office of State FINANCE	260
Board of Trustees for the ARDMORE Higher Education Program	65	State FIRE Marshal Commission	265
Oklahoma ARTS Council	70	Oklahoma Council on FIREFIGHTER Training	268
ATTORNEY General	75	Oklahoma FIREFIGHTERS Pension and Retirement System	270
State AUDITOR and Inspector	80	[RESERVED]	275
State BANKING Department	85	State Board of Registration for FORESTERS	280
Oklahoma State Employees BENEFITS Council	87	FOSTER Care Review Advisory Board	285
Council of BOND Oversight	90	Oklahoma FUNERAL Board (<i>Formerly:</i> Oklahoma State Board of Embalmers and Funeral Directors) - <i>See</i> Title 235	
Oklahoma Professional BOXING Commission	92	Oklahoma FUTURES	290
State BURIAL Board (<i>abolished 7-1-92</i>)	95	GOVERNOR	295
[RESERVED]	100	GRAND River Dam Authority	300
Oklahoma CAPITOL Investment Board	105	Group Self-Insurance Association GUARANTY Fund Board	302
Oklahoma CAPITOL Improvement Authority	110	Individual Self-Insured GUARANTY Fund Board	303
State CAPITOL Preservation Commission	115	STATE Use Committee (<i>Formerly:</i> Committee on Purchases of Products and Services of the Severely HANDICAPPED)	304
CAPITOL-MEDICAL Center Improvement and Zoning Commission	120	Office of HANDICAPPED Concerns	305
Oklahoma Department of CAREER and Technology Education (<i>Formerly:</i> Oklahoma Department of VOCATIONAL and Technical Education) - <i>See</i> Title 780		Oklahoma State Department of HEALTH	310
Board of Regents of CARL Albert State College	125	Oklahoma Basic HEALTH Benefits Board (<i>abolished 11-1-97</i>)	315
Department of CENTRAL Services (<i>Formerly:</i> Office of PUBLIC Affairs) - <i>See</i> Title 580		Oklahoma HEALTH Care Authority	317
CEREBRAL Palsy Commission	130	HIGHWAY Construction Materials Technician Certification Board	318
Commission on CHILDREN and Youth	135	Oklahoma HISTORICAL Society	320
Board of CHIROPRACTIC Examiners	140	Oklahoma HORSE Racing Commission	325
Oklahoma Department of EMERGENCY Management (<i>Formerly:</i> Department of CIVIL Emergency Management)	145	Oklahoma HOUSING Finance Agency	330
Oklahoma Department of COMMERCE	150	Oklahoma HUMAN Rights Commission	335
COMMUNITY Hospitals Authority	152	Department of HUMAN Services	340
COMPSOURCE Oklahoma (<i>Formerly:</i> State INSURANCE Fund) - <i>See</i> Title 370		Committee for INCENTIVE Awards for State Employees	345
Oklahoma CONSERVATION Commission	155	Oklahoma INDIAN Affairs Commission	350
CONSTRUCTION Industries Board	158	Oklahoma INDIGENT Defense System	352
Department of CONSUMER Credit	160	Oklahoma INDUSTRIAL Finance Authority	355
CORPORATION Commission	165	INJURY Review Board	357
Department of CORRECTIONS	170	Oklahoma State and Education Employees Group INSURANCE Board	360
State Board of COSMETOLOGY	175	INSURANCE Department	365
Oklahoma State CREDIT Union Board	180	COMPSOURCE Oklahoma (<i>Formerly:</i> State INSURANCE Fund)	370
CRIME Victims Compensation Board	185	Oklahoma State Bureau of INVESTIGATION	375
Joint CRIMINAL Justice System Task Force Committee	190	Council on JUDICIAL Complaints	376
Board of DENTISTRY	195	Office of JUVENILE Affairs	377
Oklahoma DEVELOPMENT Finance Authority	200	Department of LABOR	380
Board of Regents of EASTERN Oklahoma State College	205	Department of the Commissioners of the LAND Office	385
State Department of EDUCATION	210		
EDUCATION Oversight Board	215		
Oklahoma EDUCATIONAL Television Authority	220		
[RESERVED]	225		

Agency	Title	Agency	Title
Council on LAW Enforcement Education and Training	390	State Department of REHABILITATION Services	612
Oklahoma LAW Enforcement Retirement System	395	Board of Regents of ROGERS State College	615
Board on LEGISLATIVE Compensation	400	Board of Regents of ROSE State College	620
Oklahoma Department of LIBRARIES	405	Oklahoma SAVINGS and Loan Board (<i>abolished 7-1-93</i>)	625
LIEUTENANT Governor	410	SCENIC Rivers Commission	630
Oklahoma LINKED Deposit Review Board	415	Oklahoma Commission on SCHOOL and County Funds Management	635
Oklahoma LIQUEFIED Petroleum Gas Board	420	Advisory Task Force on the Sale of SCHOOL Lands (<i>functions concluded 2-92</i>)	640
Oklahoma LIQUEFIED Petroleum Gas Research, Marketing and Safety Commission	422	The Oklahoma School of SCIENCE and Mathematics	645
LITERACY Initiatives Commission	425	Oklahoma Center for the Advancement of SCIENCE and Technology	650
LONG-RANGE Capital Planning Commission	428	SECRETARY of State	655
LOTTERY Commission, Oklahoma	429	Department of SECURITIES	660
Board of Trustees for the MCCURTAIN County Higher Education Program	430	Board of Regents of SEMINOLE State College	665
Commission on MARGINALLY Producing Oil and Gas Wells	432	SHEEP and Wool Commission	670
State Board of MEDICAL Licensure and Supervision	435	State Board of Licensed SOCIAL Workers	675
MEDICAL Technology and Research Authority of Oklahoma	440	SOUTHERN Growth Policies Board	680
Board of MEDICOLEGAL Investigations	445	Oklahoma SOYBEAN Commission (<i>abolished 7-1-97</i>)	685
Department of MENTAL Health and Substance Abuse Services	450	Board of Examiners for SPEECH-LANGUAGE Pathology and Audiology	690
MERIT Protection Commission	455	STATE Agency Review Committee	695
MILITARY Planning Commission, Oklahoma Strategic	457	STATE Use Committee (<i>Formerly: Committee on Purchases of Products and Services of the Severely HANDICAPPED</i>) – <i>See Title 304</i>	
Department of MINES	460	Oklahoma STUDENT Loan Authority	700
Oklahoma MOTOR Vehicle Commission	465	TASK Force 2000	705
Board of Regents of MURRAY State College	470	Oklahoma TAX Commission	710
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs Control	475	Oklahoma Commission for TEACHER Preparation	712
Board of Regents of NORTHERN Oklahoma College	480	TEACHERS' Retirement System	715
Oklahoma Board of NURSING	485	State TEXTBOOK Committee	720
Oklahoma State Board of Examiners for NURSING Home Administrators	490	Oklahoma TOURISM and Recreation Department	725
Board of Regents of OKLAHOMA City Community College	495	Department of TRANSPORTATION	730
Board of Regents of OKLAHOMA Colleges	500	Oklahoma TRANSPORTATION Authority (<i>Name changed to Oklahoma TURNPIKE Authority 11-1-05 - See Title 731</i>)	
Board of Examiners in OPTOMETRY	505	Oklahoma TURNPIKE Authority (<i>Formerly: Oklahoma TRANSPORTATION Authority AND Oklahoma TURNPIKE Authority - See also Title 745</i>)	731
State Board of OSTEOPATHIC Examiners	510	State TREASURER	735
PARDON and Parole Board	515	Board of Regents of TULSA Community College	740
Oklahoma PEANUT Commission	520	Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma TRANSPORATION Authority 11-1-99 - no rules enacted in this Title - See Title 731</i>)	745
Oklahoma State PENSION Commission	525	Board of Trustees for the UNIVERSITY Center at Tulsa	750
State Board of Examiners of PERFUSIONISTS	527	UNIVERSITY Hospitals Authority	752
Office of PERSONNEL Management	530	UNIVERSITY Hospitals Trust	753
Oklahoma State Board of PHARMACY	535	Board of Regents of the UNIVERSITY of Oklahoma	755
PHYSICIAN Manpower Training Commission	540	Board of Regents of the UNIVERSITY of Science and Arts of Oklahoma	760
Board of PODIATRIC Medical Examiners	545	Oklahoma USED Motor Vehicle and Parts Commission	765
Oklahoma POLICE Pension and Retirement System	550	Oklahoma Department of VETERANS Affairs	770
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	Board of VETERINARY Medical Examiners	775
POLYGRAPH Examiners Board	560	Oklahoma Department of CAREER and Technology Education (<i>Formerly: Oklahoma Department of VOCATIONAL and Technical Education</i>)	780
Oklahoma Board of PRIVATE Vocational Schools	565	Oklahoma WATER Resources Board	785
State Board for PROPERTY and Casualty Rates (<i>abolished 7-1-06; see also Title 365</i>)	570	Board of Regents of WESTERN Oklahoma State College	790
State Board of Examiners of PSYCHOLOGISTS	575	Oklahoma WHEAT Commission	795
Department of CENTRAL Services (<i>Formerly: Office of PUBLIC Affairs</i>)	580	Department of WILDLIFE Conservation	800
PUBLIC Employees Relations Board	585	WILL Rogers and J.M. Davis Memorials Commission	805
Oklahoma PUBLIC Employees Retirement System	590		
Department of PUBLIC Safety	595		
REAL Estate Appraiser Board	600		
Oklahoma REAL Estate Commission	605		
Board of Regents of REDLANDS Community College	607		
State REGENTS for Higher Education	610		

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 150. OKLAHOMA DEPARTMENT OF COMMERCE CHAPTER 1. GENERAL RULES OF PRACTICE AND PROCEDURES

[OAR Docket #06-1340]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Records and Inspections

150:1-9-10. Destruction of records [NEW]

SUMMARY:

This action is to clarify the procedures used by the Oklahoma Department of Commerce to destroy records in its possession.

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the rules and regulations of the Archives and Records Commission.

COMMENT PERIOD:

Written and oral comments will be accepted from November 16, 2006 through December 19, 2006 during regular business hours by contacting Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Wednesday December 20, 2006, at 9:00 AM Gallery 1-2, 900 North Stiles Avenue, Oklahoma City, Oklahoma. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained without charge from the Oklahoma Department of Commerce, 900

North Stiles Avenue, Oklahoma City, Oklahoma 73104 by contacting Donald R. Hackler, Jr. at (405) 815-5359.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #06-1340; filed 10-20-06]

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

[OAR Docket #06-1369]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Priority Academic Student Skills

Part 7. Mathematics

210:15-3-51. [AMENDED]

SUMMARY:

The proposed rule provides reorganization and alignment to the *Priority Academic Student Skills*, Oklahoma's core curriculum. The changes will allow public school educators responsible for implementing the curriculum in Algebra I to pursue appropriate depths of content related to algebraic expressions, equations, and problem solving.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., January 24, 2007, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, January 25, 2007, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on November 16, 2006.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #06-1369; filed 10-26-06]

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

[OAR Docket #06-1371]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Early Childhood Education Programs
210:15-11-3. [NEW]

SUMMARY:

The proposed rules are to establish a pilot early childhood program to consist of private donations and state funds that will serve at-risk children in at least one urban and one rural area of this state to be selected by the State Board of Education.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., January 24, 2007, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, January 25, 2007, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on November 16, 2006.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #06-1371; filed 10-26-06]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #06-1364]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 19. Local Professional Development Programs
210:20-19-2. [AMENDED]
210:20-19-3. [AMENDED]
210:20-19-4. [AMENDED]

SUMMARY:

Effective July 1, 2006, 70 O. S. § 6-194 adds special education and teacher training in the recognition and reporting of child abuse and neglect to program requirements, deletes obsolete language, deletes certain professional development delivery methods, removes requirement to submit plan to the State Board of Education and requires districts to report certain information to the State Department of Education.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., December 18, 2006, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Tuesday, December 19, 2006, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on November 16, 2006.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #06-1364; filed 10-26-06]

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

[OAR Docket #06-1365]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-98. [AMENDED]

SUMMARY:

The proposed rule change is to require any noncitizen of the United States to submit an unexpired United States Citizenship and Immigration Services (USCIS) employment authorization document when applying for an Oklahoma teaching credential. Any noncitizen seeking certification to teach in Oklahoma schools shall possess a legal work permit in order to receive a salary from the state of Oklahoma.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., December 18, 2006, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Tuesday, December 19, 2006, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on November 16, 2006.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #06-1365; filed 10-26-06]

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

[OAR Docket #06-1366]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 26. Academic Achievement Award Program
210:20-26-3. [AMENDED]

SUMMARY:

Rules are being clarified for the Academic Achievement Award program. Clarifying language has been added related to the required periods of time that a school district employee must be employed for award qualification purposes: (1) by the district, and (2) by a specific district site.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., December 18, 2006, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Tuesday, December 19, 2006, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on November 16, 2006.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #06-1366; filed 10-26-06]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 25. FINANCE**

[OAR Docket #06-1370]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Funding Criteria
210:25-3-7. [AMENDED]

SUMMARY:

The proposed rule change changes the process school districts will use to claim federal program funds. The State Department of Education is implementing an electronic reimbursement program which will allow school districts the ability to access their federal funds using a draw-down method.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., January 24, 2007, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, January 25, 2007, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building,

2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on November 16, 2006.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #06-1370; filed 10-26-06]

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

[OAR Docket #06-1367]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Additional Standards for Secondary Schools
Part 7. Standard IV: Curriculum, Instruction, Assessment
and Climate
210:35-9-31. [AMENDED]

SUMMARY:

The proposed rule amendments will clarify language in 70 O. S. § 11-111 regarding the college preparatory curriculum requirements for students pre-enrolling in the ninth grade for the 2006-2007 school year.

The rule amendment clarifies that all students including those students enrolling in the college preparatory curriculum must take $\frac{1}{2}$ unit of government, $\frac{1}{2}$ unit of Oklahoma History and 2 units of art in order to be eligible for a high school diploma in 2010.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., December 18, 2006, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Tuesday, December 19, 2006, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on November 16, 2006.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #06-1367; filed 10-26-06]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 40. GRANTS AND
PROGRAMS-IN-AID**

[OAR Docket #06-1368]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 87. Rules for Payment to Charter Schools
- 210:40-87-1. [AMENDED]
- 210:40-87-2. [REVOKED]
- 210:40-87-3. [AMENDED]
- 210:40-87-4. [AMENDED]

SUMMARY:

The purpose of the rule change is to delete language in the rules pursuant to Senate Bill 1493 passed during the 2006 Legislative Session. Deleted language relates to the receipt of state-dedicated and county revenue (local and county) revenue by Charter schools. Charter schools do not receive local and county revenue; they do receive state aid formula and state-appropriated-revenue. Minor clarifying language has been added and obsolete language has been deleted.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., January 24, 2007, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, January 25, 2007, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on November 16, 2006.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #06-1368; filed 10-26-06]

**TITLE 270. OKLAHOMA FIREFIGHTERS
PENSION AND RETIREMENT SYSTEM
CHAPTER 10. FIREFIGHTERS PENSION
AND RETIREMENT PLAN**

[OAR Docket #06-1363]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 270:10-1-5. [AMENDED]
- 270:10-1-9. [AMENDED]

SUMMARY:

The proposed rule changes in 270:10-1-5 would reflect recent changes to the National Fire Protection Association's medical standards affecting candidates seeking entrance into the Oklahoma Firefighters Pension and Retirement System. The proposed changes in 270:10-1-9 would reflect changes to the System's procedure for purchasing of transferred credited service.

AUTHORITY:

Board of Trustees of the Oklahoma Firefighters Pension and Retirement System; O.S. Title 11, Section 49-100.7 (B)

COMMENT PERIOD:

Written or oral comments will be accepted from 08:00 a.m. to 04:30 p.m., from November 15, 2006 to December 15, 2006, at the offices of the Oklahoma Firefighters Pension and Retirement System, which is located at 4545 N. Lincoln Blvd., Suite 265, Oklahoma City, Oklahoma 73105-3414.

PUBLIC HEARING:

The Board of Trustees of the Oklahoma Firefighters Pension and Retirement System has not scheduled an official hearing. However, if comments arise, the public may demand a hearing at any time from 08:00 a.m. to 04:30 p.m., from November 15, 2006 to December 15, 2006, at the offices of the Oklahoma Firefighters Pension and Retirement System, which is located at 4545 N. Lincoln Blvd., Suite 265, Oklahoma City, Oklahoma 73105-3414.

Notices of Rulemaking Intent

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules are available at the office of the Oklahoma Firefighters Pension and Retirement System, which is located at 4545 N. Lincoln Blvd., Suite 265, Oklahoma City, Oklahoma 73105-3414.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303 (D), a rule impact statement will be prepared and will be available at the offices of the Oklahoma Firefighters Pension and Retirement System on or after November 30, 2006.

CONTACT PERSON:

Herb Bradshaw, Deputy Director, Oklahoma Firefighters Pension and Retirement System, (405) 522-4600.

[OAR Docket #06-1363; filed 10-25-06]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 15. LICENSING

[OAR Docket #06-1351]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

Subchapter 5. Occupation Licensing
325:15-5-15. Physical examination [AMENDED]

SUMMARY:

The Board of Stewards at Remington Park requested amendment because in its current fashion, the rule requires that all riders must provide written proof of a satisfactory physical exam within the past 12 months. In today's environment, riders fly into Oklahoma to participate in one race and promptly return to their home base. It is, therefore, a tremendous burden for an out-of-town jockey who would typically appear just hours prior to post time to provide such proof of examination. Not every jurisdiction requires such proof. This rule change does not, however, absolve jockeys from the requirement of physical exams should the Stewards deem it necessary.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, December 18, 2006, at the following address: Oklahoma

Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2006.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by November 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-1351; filed 10-25-06]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 15. LICENSING

[OAR Docket #06-1352]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

Subchapter 5. Occupation Licensing
325:15-5-21. Licensing required prior to entry or scratch time [AMENDED]

SUMMARY:

Amendment is proposed to make consistent the completion of licensing procedures before starting the horse rather than prior to entry which may potentially cause hardship on a Trainer shipping into Oklahoma from another racing jurisdiction. The license requirement is universal and will be required except that the proposed change eases the time requirements.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, December 18, 2006, at the

following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2006.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by November 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-1352; filed 10-25-06]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 25. ENTRIES AND DECLARATIONS**

[OAR Docket #06-1353]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:25-1-10. Horses ineligible to start in a race [AMENDED]

SUMMARY:

Amendment is proposed in order to bring this rule into compliance with concurrent proposed amendment to Rule 325:15-5-21, Licensing Required Prior to Entry or Scratch Time, in which a horse becomes ineligible if all parties are not licensed prior to *starting* in a race.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2006.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by November 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-1353; filed 10-25-06]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 25. ENTRIES AND DECLARATIONS**

[OAR Docket #06-1354]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:25-1-17. Coupling of entries [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

Amendment is proposed to delete the requirement that the horses entered in the same race owned wholly or in part by the same Owner are trained by the same Trainer.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2006.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by November 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-1354; filed 10-25-06]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 30. CLAIMING RACES

[OAR Docket #06-1355]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:30-1-17. Entry of claimed horse [AMENDED]

SUMMARY:

The Commission adopted amendments to Rule 325:30-1-17, Entry of Claimed Horse, at the September 15, 2005 meeting to make uniform the eligibility requirements so that a horse claimed in another state would be handled as all other claimed horses in the jurisdiction in which the horse was claimed. The Governor approved the amendments on November 3, 2005 with Legislative approval on March 31, 2006 with the amendments considered effective May 11, 2006. Since the May 11, 2006 effective date of the earlier amendments, there has been confusion about where a Thoroughbred horse may participate. The new amendments are proposed for clarification.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2006.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by November 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-1355; filed 10-25-06]

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

[OAR Docket #06-1356]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:35-1-17. Illegal or improper communications equipment or devices [AMENDED]

SUMMARY:

Commission Staff proposes that this rule be repealed for obvious reasons. In today's day and age of technology, this rule proves to be outdated. The Commission is not staffed to confiscate every unauthorized cell phone, PDA or two-way radio communication system.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2006.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by November 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-1356; filed 10-25-06]

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

[OAR Docket #06-1357]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:35-1-38. Prohibited provisions of horsemen's agreements [AMENDED]

SUMMARY:

Amendments are proposed in order to be in compliance with Section 264, Race Meetings -Number Required, in the State-Tribal Gaming Act. Section 264 specifies the number of races by breed at a particular racetrack as well as the parameters of the number of races per race day.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2006.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by November 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-1357; filed 10-25-06]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 60. RUNNING THE RACE

[OAR Docket #06-1358]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:60-1-12. Display of colors and post position numbers
[AMENDED]

SUMMARY:

Amendment is proposed because helmet covers are part of the owner's colors and this rule as noted deprives them of full use of their colors. It merely eliminates the requirement that helmet cover must correspond to the saddle towel.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities

may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2006.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by November 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-1358; filed 10-25-06]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 75. OKLAHOMA-BRED PROGRAM

[OAR Docket #06-1359]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:75-1-7. Registration required for Oklahoma-Bred eligibility [AMENDED]

SUMMARY:

Section 208.3, Oklahoma Breeding Development Special Account, of Title 3A, Oklahoma Horse Racing Act, was amended with the passage of SB 1399, which took effect June 7, 2006. The amendment eliminated the requirement of a signed affidavit being provided before an Oklahoma-Bred payment with the affidavit verifying that the horse involved complies with the requirements for a purse supplement, stake reward or broodmare or stallion award. With the affidavit no longer required, Commission Staff reviewed OHRC *Rules of Racing* for possible rule amendment(s) to be made in compliance with SB 1399 provisions. This is one of two rules to be amended.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, December 18, 2006, at the following address: Oklahoma

Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2006.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by November 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-1359; filed 10-25-06]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 75. OKLAHOMA-BRED PROGRAM**

[OAR Docket #06-1360]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:75-1-9. Decision as to eligibility of Oklahoma-Bred [AMENDED]

SUMMARY:

Section 208.3, Oklahoma Breeding Development Special Account, of Title 3A, Oklahoma Horse Racing Act, was amended with the passage of SB 1399, which took effect June 7, 2006. The amendment eliminated the requirement of a signed affidavit being provided before an Oklahoma-Bred payment with the affidavit verifying that the horse involved complies with the requirements for a purse supplement, stake reward or broodmare or stallion award. With the affidavit no longer required, Commission Staff reviewed OHRC Rules of Racing for possible rule amendment(s) to be made in compliance with SB 1399 provisions. This is one of two rules to be amended.

AUTHORITY:

75 O.S., §303; Title 3A O.S. §204(A); Oklahoma Horse Racing Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 4:30 p.m., Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held between the hours of 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:30 p.m. on Monday, December 18, 2006, at the following address: Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107. Anyone who wishes to present oral comment at the public hearing must sign a speaker's register.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Oklahoma Horse Racing Commission requests that business entities affected by this proposed rule provide the Commission, within the comment period, in dollar amounts, if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing to the Commission, at the above address, before the close of the comment period on December 18, 2006.

COPIES OF PROPOSED RULES:

A copy of the proposed rule amendment may be obtained from the Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. §303(D), a rule impact statement will be prepared by November 15, 2006 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Assistant to the Administrator, (405) 943-6472.

[OAR Docket #06-1360; filed 10-25-06]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 60. STANDARDS AND CRITERIA FOR CERTIFIED EATING DISORDER TREATMENT PROGRAMS**

[OAR Docket #06-1332]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 60. Standards and Criteria for Certified Eating Disorder Treatment Programs [NEW]

Notices of Rulemaking Intent

SUMMARY:

In accordance with the Administrative Procedures Act the Department is proposing the adoption of Chapter 60 as permanent rules.

AUTHORITY:

43A O.S. § 3-320; Board of Mental Health and Substance Abuse Services.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., December 15, 2006 to the attention of Terri White, Director of Communications and Public Policy. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, or by facsimile, at (405) 522-0637.

PUBLIC HEARING:

The Department will conduct a public hearing on December 19, 2006 at 1:30 p.m. in Conference Rooms A and B of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., December 15, 2006 to the Department of Mental Health and Substance Abuse Services, P. O. Box 53277, Oklahoma City, OK, 73152-3277, Attention: Terri White.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Terri White, Director of Communications and Public Policy, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning November 16, 2006. Copies may be obtained from Terri White, Director of Communications and Public Policy, at the address above.

CONTACT PERSON:

Terri White, Director of Communications and Public Policy, (405) 522-3841.

[OAR Docket #06-1332; filed 10-16-06]

TITLE 465. OKLAHOMA MOTOR VEHICLE COMMISSION CHAPTER 10. LICENSE

[OAR Docket #06-1344]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULE:

Subchapter 3. License Identification and Changes

465:10-3-2. [AMENDED]

465:10-3-3. [AMENDED]

Subchapter 7. Off Premise Sale and Display

465:10-7-1. [AMENDED]

465:10-7-2. [AMENDED]

465:10-7-3. [AMENDED]

Subchapter 9. Dealership Locations

465:10-9-1. [AMENDED]

465:10-9-2. [AMENDED]

SUMMARY:

The proposed amendments are primarily to clean up language and for clarification purposes. The amendment for Rule 465:10-3-2 deletes the requirement that new motor vehicle dealers must submit a list of their salespersons in order for their dealer licenses to be issued. Rule 465:10-3-3 provides clarification of the process for transferring salesperson licenses.

The purpose statement for Subchapter 7 needs amending due to statutory language change effective July 1, 2005. The proposed change for Rule 465:10-7-2 reduces the Off Premise application time from twenty to seven days prior to the event. Rule 465:10-7-3 provides clarification that Off Premise Sales may only be conducted by recreational vehicle dealers and that all Off Premise permits must be prominently affixed to the windshield of each vehicle.

The purpose statement for Subchapter 9 cleans up vague language. The proposed changes to Rule 465:10-9-2 update the definition of an established place of business.

AUTHORITY:

Oklahoma Motor Vehicle Commission, 47 O.S. Sections 563(F), 564, 564.1, and 565.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 4:30 p.m. on Friday, December 15, 2006 at the Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing has not been scheduled, however, "persons may demand a hearing" pursuant to and in accordance with 75 O.S., Section 303 (B)(8). Please make your request in writing by December 15, 2006 to the Oklahoma Motor Vehicle Commission at the location listed above.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by Friday, December 15, 2006, to the Oklahoma Motor Vehicle Commission at the location listed above.

COPIES OF PROPOSED RULE:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared no later than December 1, 2006 and may be obtained from the Oklahoma Motor Vehicle Commission at the above address, or by email: email@omvc.state.ok.us.

CONTACT PERSON:

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

[OAR Docket #06-1344; filed 10-24-06]

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

[OAR Docket #06-1345]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
465:15-1-2. [AMENDED]
- Subchapter 3. Specific Advertising Regulations
465:15-3-7. [AMENDED]
465:15-3-14. [AMENDED]
- Subchapter 7. Enforcement
465:15-7-2. [AMENDED]

SUMMARY:

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

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 4:30 p.m. on Friday December 15, 2006, at the Oklahoma Motor Vehicle Commission, 4334 N.W. Expressway, Suite 183, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing has not been scheduled, however, "persons may demand a hearing" pursuant to and in accordance with 75 O.S., Section 303 (B)(8). Please make your request in writing by December 15, 2006 to the Oklahoma Motor Vehicle Commission at the location listed above.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by Friday December 16, 2006 to the Oklahoma Motor Vehicle Commission at the location listed above.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared no later than December 1, 2006 and may be obtained from the Oklahoma Motor Vehicle Commission at the above address, or by email: email@omvc.state.ok.us.

CONTACT PERSON:

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

[OAR Docket #06-1345; filed 10-24-06]

**TITLE 505. BOARD OF EXAMINERS IN OPTOMETRY
CHAPTER 10. LICENSURE AND REGULATION OF OPTOMETRISTS**

[OAR Docket #06-1334]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Regulation of licensees
505:10-5-7. [AMENDED]
505:10-5-18. [NEW]

SUMMARY:

This proposed rulemaking amends 505:10-5-7 to clarify that provision of emergency care in hospitals and the performance of low vision therapy or low vision training while visiting in the office of another optometrist does not require the optometrist to register either the hospital in which emergency care is provided or the office of the other optometrist visited to perform low vision therapy or low vision training as one of the two office

Notices of Rulemaking Intent

locations allowed by statute and by the rules of the Board of Examiners in Optometry. In addition, the rulemaking proposes a new section 505:10-5-18 which governs the circumstances under which optometrists may practice in nursing homes and establishes the circumstances under which optometrists routinely practicing in nursing homes must register "Nursing Home Practice" as one of his or her two office locations.

AUTHORITY:

Oklahoma Optometry Act; 59 O.S. § 583.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 5:00 p.m. on January 12, 2007 at the following address: 6912 E. Reno, Suite 302, Midwest City, OK 73110.

PUBLIC HEARING:

The Board of Examiners will hold a public hearing at m on Saturday, January 20, 2007 at 4850 N. Lincoln Boulevard, Oklahoma City, OK 73105 at 10:00 a.m. Anyone who wishes to speak must sign in at the door by 9:50 a.m.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Board of Examiners in Optometry at 6912 E. Reno, Suite 302, Midwest City, OK 73110.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement has been prepared and may be obtained from the Board of Examiners in Optometry at 6912 E. Reno, Suite 302, Midwest City, OK 73110 beginning on immediately.

CONTACT PERSON:

Mary Walker, Administrative Assistant to the Board, (405) 733-7836.

[OAR Docket #06-1334; filed 10-17-06]

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

[OAR Docket #06-1361]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 45. Oklahoma's Water Quality Standards
[AMENDED]

SUMMARY:

The staff of the Oklahoma Water Resources Board ("OWRB") is proposing to amend, or is considering amending, various provisions of Oklahoma Administrative Code ("OAC") 785:45 as follows:

OAC 785:45-1-2, Definitions, is proposed to be amended. A definition explaining that the acronym "SWS" means "Sensitive Water Supply" will be added. The circumstance which created the need for this amendment is that this acronym is used in several places in OAC 785:45 without being defined.

The intended effect of this amendment is to clarify that this acronym refers to Sensitive Water Supplies.

OAC 785:45-3-2, Applications of Antidegradation Policy, is proposed to be amended to add a section dealing with Sensitive Water Supplies. OWRB staff recently re-examined the text surrounding the SWS designations and found some areas that could be clarified. No new limitations are being proposed, but tests are being incorporated into the narrative that should help clarify what benchmarks a waterbody must attain in order to be designated as SWS. The circumstance which created the need for this amendment is that staff have been approached twice in recent years to make new designations of SWS waters, but had no guidance to measure the validity of the requests. The intended effect of this amendment is to provide users of the Water Quality Standards ("WQS") a consistent measure of what is required in order for a waterbody to be designated as SWS.

OAC 785:45-5-4, Applicability of narrative and numerical criteria, is proposed to be amended in at least two ways. First, the language referring to instream applicability is being changed to specify that it applies to all waterbodies. The circumstance which created the need for this amendment is that staff from other state environmental agencies have alerted OWRB staff that the term "instream" may be construed by some persons to prevent application of water quality criteria to reservoirs. The intended effect of this amendment is clarify that water quality criteria apply to all waters designated with the pertinent beneficial uses. Also in this section, new language is being added to discuss the applicability of site-specific criteria. The circumstance which created the need for this amendment is the recognition that no language currently exists which allows for the derivation and use of criteria other than those applied statewide. The intended effect of this amendment is to specifically allow the derivation and use of site-specific criteria which are already being developed and used.

OAC 785:45-5-9, General narrative criteria, is proposed to be amended in order to correct a typographical error by changing the word "of" to "or".

Numerical criteria for phosphorus for Lake Eucha and Lake Spavinaw are proposed to be adopted. This amendment will be either added to OAC 785:45-5-10, Public and private water supplies, or will be incorporated into the revisions of Appendix E dealing with site specific criteria. The circumstance which created the need for this amendment is the recognition that excess phosphorus is contributing to the overall decline of water quality of these lakes and ongoing taste and odor problems associated with the algae attributed to the excess phosphorus. The intended effect of this amendment is to reduce the operation and maintenance costs for the City of Tulsa in treating this lake water for use as a drinking water supply and extend the usable life of the reservoirs.

OAC 785:45-5-12, Fish and wildlife propagation, is also proposed to be amended. Language dealing with dissolved metals in this section is proposed to be revised to be consistent with federal law. The circumstance which created the need

for this amendment is the recognition that certain language in the WQS appears to allow the use of dissolved metal concentrations for determining permit conditions. The latter result is contrary to federal regulation. The proposed amendment limits the use of dissolved metals to assessment purposes only. The intended effect of this amendment is to maintain consistency between federal and state regulation.

OAC 785:45-5-13, Agriculture: livestock and irrigation, is proposed to be amended in at least two ways. First, staff propose to delete the reference to "instream" since it appears to be grammatically unnecessary and potentially confusing. The circumstance which created the need for this amendment is that staff from other state environmental agencies have alerted OWRB staff that the term "instream" may be construed by some persons to prevent application of water quality criteria to reservoirs. The intended effect of this amendment is to clarify that water quality criteria apply to all waters designated with the pertinent beneficial uses. Also, the reference to Appendix C is being deleted. The circumstance which created the need for this amendment is that Appendix C was deleted last year and all references should have been deleted with it. The intended effect of this amendment is to correct this oversight.

OAC Sections 785:45-5-14, Hydroelectric power generation, 785:45-5-15, Industrial and municipal process and cooling water, and 785:45-5-18, Navigation, and corresponding language and references in Appendix A, are all proposed to be revoked. The circumstance that created the need for these amendments is the recognition by staff that these rules are extraneous and create the need for additional language elsewhere in OAC 785:46 and the Unified Assessment Report to the U.S. Environmental Protection Agency ("EPA") to account for the assessment of whether these beneficial uses are being supported. The intended effect of these amendments is to allow agencies to stop spending effort reporting support status of beneficial uses that have no criteria associated with them and therefore cannot be monitored.

OAC 785:45-5-25, Implementation Policies for the Antidegradation Policy Statement, is proposed to be amended. Language is being added to this section to clarify the applicability of HQW and SWS designations. Staff re-examined the text surrounding the HQW and SWS designations and found some areas that could be clarified. No new limitations are being proposed, but tests are being incorporated into the narrative that should help clarify what benchmarks a waterbody must attain in order to be designated as HQW or SWS. The circumstance which created the need for this amendment is that staff have been approached twice in recent years to make new designations of HQW or SWS waters but had no guidance to measure the validity of the requests. The intended effect of this amendment is to provide users of the WQS a consistent measure of what is required in order for a waterbody to be designated as HQW or SWS.

OAC 785:45-5-29, Delineation of NLW areas, is proposed to be amended. Lake Chickasha is proposed to be added to the list of NLW waters due to excessive algae growth caused by nutrient loading that is potentially causing impairment of

the beneficial uses of this waterbody. The circumstance which created the need for this amendment is the lake has exceeded 62 TSI, which is the threshold previously established for this designation. The intended effect of this amendment is to cause implementation of more protective regulations or practices in the affected watershed.

Appendix A, Designated Beneficial Uses for Surface Waters, is proposed to be revoked and reenacted with numerous changes. First, the entire Appendix will be reformatted and divided into eight smaller appendices, which will include Appendix A (the current introductory text) and then Appendices A.1 through A.7 (corresponding to the seven water quality management basins in the state). Language changes will be made to the introduction text to reflect this change. The circumstance which created the need for these amendments is the size of Appendix A has made rulemaking difficult and cumbersome. The intended effect of these amendments is to make it easier and less complicated to change this Appendix in the future. Another proposed change is replacing the WQM segment numbers with Waterbody Identification Numbers. Language changes will also be made to the introduction text to reflect this change. The circumstance which created the need for these amendments is that many other state environmental agencies have requested that Waterbody Identification Numbers be incorporated into the WQS. The intended effect of these amendments is to facilitate integration of water quality management between state agencies. Another proposed change is the addition of many alternate names of waterbodies listed in the tables. The circumstance which created the need for these amendments is that the Department of Environmental Quality uses alternate names for many waterbodies that are different from those listed in the WQS. The intended effect of these amendments is to include these alternate names for ease of reference. Another proposed change is to add an NLW designation for Lake Chickasha. The circumstance which created the need for this amendment is the lake has exceeded 62 TSI, which is the threshold previously established for this designation. Excessive algae growth caused by nutrient loading is potentially causing impairment of the beneficial uses of this waterbody. The intended effect of this amendment is to cause implementation of more protective regulations or practices in the affected watershed. Another change is a proposal to add an HQW designation for the Lower Mountain Fork River located between U.S. Highway 70 and the confluence with the Little River in eastern McCurtain County. The circumstance which created the need for this amendment is the recognition that environmental conditions found in the segment in question are similar to the conditions found in the surrounding stream segments that are currently designated HQW. The segment between U.S. Highway 70 and the Broken Bow Reservoir dam to the north is already designated as an HQW and has the beneficial use designation of "Trout". Little River below this segment is already listed as an HQW. There is no physical separation between the segments. The intended effect of this revision to provide consistent protection for all waters with similar environmental

Notices of Rulemaking Intent

conditions. Another set of proposed changes is to remove the numbers referring to the different classes of Agriculture from the introduction and the tables, and replace the numbers with dots only in the tables. The circumstance which created the need for these amendments is that the appendix providing explanation and support for these numbers was deleted last year. The intended effect of this amendment is to correct an oversight referencing an appendix that no longer exists. Another proposed change is to add the Public and Private Water Supply beneficial use for Lake Overholser. The circumstance which created the need for this amendment is that this use, which has been and is an existing use, was inadvertently omitted when Appendix A was revoked and reenacted in 2006. The intended effect of this amendment is to correct this omission so that Lake Overholser is protected for this use. Finally, the Fish and Wildlife Propagation beneficial use subcategory for the segment of the Canadian River from U.S. Highway 81 in Canadian County to Buckhead Creek near Rosedale in McClain County is proposed to be changed from Habitat Limited Aquatic Community to Warm Water Aquatic Community. The circumstance which created the need for this amendment is the discovery of a substantial biotic community in that segment of the river that indicated the more stringent designation was warranted. Both federal and state rule require incremental increases in levels of protection as the water quality and biological community improve. The intended effect of this amendment is to provide appropriate levels of protection for the existing biological community in that waterbody.

Appendix B, Areas With Waters Of Recreational And/Or Ecological Significance, is proposed to be revoked and reenacted with several changes. Appendix B areas include wildlife refuges, wildlife management areas, state parks and resorts and critical habitat for federally-listed endangered species of wildlife. Other agencies have requested that additional areas be included in Appendix B in order to provide a level of support for the agencies' jurisdictional areas of responsibility. The circumstances which created the need for these amendments are: (1) the Oklahoma Department of Wildlife Conservation has acquired new areas of land in its management system; (2) the name for Oklahoma Bat Cave has changed to Ozark Plateau; and (3) a federal notice has been issued which formally designates critical habitat for the Arkansas River Shiner, a federally-listed threatened species. The intended effect of these amendments is to provide a central listing of areas that other state and federal environmental agencies have determined require additional levels of protection beyond those already provided by the WQS.

Appendix E, Requirements for Development of Site-Specific Criteria for Metals, is proposed to be revoked and reenacted with extensive changes. Appendix E is proposed to be revised to allow for development and promulgation of site-specific criteria for parameters other than metals. The first set of proposed edits involves segregating the applicability to metals and non-metals, as well as situations specific to

National Pollutant Discharge Elimination System permits and those that are not related to discharges. Finally, changes are proposed to address the future site-specific criteria needs for nutrients and other non-metals. One subdivision of the revised appendix, as proposed, will contain the metals criteria that have previously been derived for certain waterbodies. Two new subdivisions will address the future needs for non-metals as currently foreseen. The circumstance that created the need for these amendments is the increasing likelihood of needing site-specific criteria for compounds other than metals. The science surrounding this issue is improving and there is recognition that statewide criteria for some compounds other than metals may not be appropriate. The intended effect of these amendments is to allow for development of water quality criteria that is protective of the environment while considering localized effects.

Appendix G, Numerical Criteria to Protect Beneficial Uses, is proposed to be revoked and reenacted with several changes. New criteria for Nonylphenol, Diazinon, and Perchlorate will be added. While diazinon is a relic insecticide that is no longer manufactured, unknown amounts still exist and are being used by the public. Nonylphenol is an intermediate product of certain petrochemical processes and a companion compound used in certain fuel dyes and additives. Both compounds are toxic to fish and wildlife above certain concentrations and the EPA has released new guidance on protective water quality criteria. Water quality criteria are also proposed for perchlorate for the protection of human health as well as fish and wildlife. Perchlorate is an ionic molecule primarily used in defense activities and the aerospace industry as a strong oxidizer of explosives and solid rocket boosters. It has also been found in fireworks, airbag deployment charges in cars, road flares, and some fertilizers. The circumstance which created the need for these amendments is the absence of WQS for these compounds, the increased likelihood of finding them in Oklahoma waters, and the publication of the guidance documents assisting states in promulgating appropriately protective criteria for diazinon and nonlyphenol. The intended effect of these amendments is to provide state environmental agencies appropriately protective criteria for these compounds on which to base decisions pertinent to their individual areas of jurisdictional responsibility.

Appendix H, Beneficial Use Designations for Certain Limited Areas of Groundwater, is proposed to be revoked and reenacted with a few changes. The amendments and new language are proposed to provide beneficial use designations for certain limited areas of groundwater that are more appropriate and accurate than the default designations prescribed in 785:45-7-3. The circumstance which created the need for these amendments is that the default designated uses for certain areas of groundwater are not existing uses and likely cannot be supported due to natural conditions or irreversible human-induced impacts such as pollution. The intended effect of these amendments is to provide more accurate and appropriate designations of the uses of the groundwater in these limited areas. This appendix will also be modified to add

clarifying language and definitions to the introduction. The circumstance which created the need for these amendments is an increasing awareness that information relating to areas of contaminated groundwater and groundwater with special protections may not be readily available to well drillers, state environmental agencies or the general public. The intended effect of these amendments is to provide an easy reference that lists areas of contaminated groundwater and groundwater requiring special protections. The legal description of one of the existing listings also needs to be corrected. The circumstance which created the need for this amendment is a request from the Department of Environmental Quality to correct the legal description in question. The intended effect of this amendment is to accurately reflect the legal description of one of the areas of contaminated groundwater.

In addition to the proposed amendments and new rules described herein, it is possible that interested persons may, during the comment period, comment or request that other provisions of Chapter 45 be amended. While the OWRB staff is not at this time proposing any other amendments, all interested persons should be on notice that it is possible that staff may propose additional amendments or new rules for adoption by the OWRB if public comment indicates that such proposals are appropriate and justified.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present data, views, or arguments orally or in writing may do so at 3800 North Classen, Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 12, 2007. In addition, persons may submit oral or written comments during the public hearing described below. It is currently anticipated that proposed amendments may be presented to the OWRB for consideration or action or both, at one or more of its regular meetings on February 13, 2007 or March 13, 2007. According to 27A O.S., § 1-1-202(A)(7), each state environmental agency shall have the opportunity to present written comment to the members of the OWRB at the same time staff recommendations are submitted to the OWRB members for review and consideration. The OWRB may or may not choose to consider additional comments at the meeting or meetings in which the proposed amendments are considered or acted upon.

PUBLIC HEARING:

A hearing on the proposed amendments is scheduled for January 12, 2007 at 1:00 P.M. in the Board Room of the OWRB's offices located at 3800 North Classen, Oklahoma City, Oklahoma. Persons may present their views on the proposed amendments orally or in writing during the hearing.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the OWRB, within the Comment Period from November 15, 2006 through January 12, 2007, in dollar amounts if possible, the increase in the level of

direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Derek Smithee at 3800 North Classen, Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 12, 2007.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #06-1361; filed 10-25-06]

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

[OAR Docket #06-1362]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

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

SUMMARY:

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

OAC 785:46-3-3, Sampling for Whole Effluent Toxicity Testing, is proposed to be amended. OWRB staff propose to delete the reference to "instream" since it appears to be grammatically unnecessary. The circumstance which created the need for this amendment is that staff from other state environmental agencies have alerted OWRB staff that this term may be construed by some persons to prevent application of water quality criteria to reservoirs. The intended effect of this amendment is clarify that water quality criteria apply to all waters designated with the pertinent beneficial uses.

OAC 785:46-9-1, Applicability and Scope, and OAC 785:46-9-2, Applicable mineral criteria, are both proposed

Notices of Rulemaking Intent

to be amended. The circumstance which created the need for these amendments is that in a separate rulemaking, the OWRB staff is proposing amendments of OAC 785:45-5-13 which will change how the subdivisions in the latter section are organized. There are references to 785:45-5-13 and its subdivisions in 785:46-9-1 and 785:46-9-2 which will be inaccurate if the amendments of 785:45-5-13 are adopted. The intended effect of the proposed amendments of 785:46-9-1 and 785:46-9-2 is to correspond the references to the new lettering scheme of 785:45-5-13.

OAC 785:46-9-3, Regulatory flows, is proposed to be amended to update a reference to a publication. The circumstance which created the need for this amendment is that the reference to the Tortorelli publication in this section is now outdated. The intended effect of this amendment is to refer to the most recent version of this publication.

OAC 785:46-9-5, Reasonable potential, is proposed to be amended in at least two ways. First, staff propose to delete the reference to "instream". The circumstance which created the need for this amendment is that staff from other state environmental agencies have alerted OWRB staff that this term may be construed by some persons to prevent application of water quality criteria to reservoirs. The intended effect of this amendment is to clarify that water quality criteria apply to all waters designated with the pertinent beneficial uses. Second, a typographical error is being corrected. The circumstance which created the need for this amendment is that a scrivener's error occurred when this section was amended in 2006. The screening values for chlorides and sulfates were erroneously listed as 200 instead of 250. The intended effect of this amendment is to correct this error to reflect the appropriate screening values.

OAC 785:46-15-5, Assessment of Fish and Wildlife Propagation support, is proposed to be amended in several ways. First, language addressing dissolved metals is proposed to be added. The circumstance which created the need for this amendment is a potential conflict between beneficial use support assessment results based upon total metals and results based upon dissolved metals. The intended effect of this amendment is to clarify how dissolved metals criteria are determined and to give preference to use support assessment results based upon dissolved metals where those conflict with the results based upon total metals. Next, language revisions are proposed to clarify the applicability of acute and chronic criteria. The circumstance which created the need for this amendment is that waterbodies have been erroneously deemed impaired as result of beneficial use support assessments based upon larger data sets of toxic substances. The intended effect of this amendment is to provide separate decision processes for assessing beneficial use support with acute criteria and chronic criteria for toxic substances; to retain the established decision process for evaluating acute criteria; to add an assessment process based upon percent exceedance in combination with the number of events that concentration of a toxic substance parameter exceeds the chronic criterion; to eliminate partial support determinations; and to remove an

inappropriate reference to OAC 785:45-5-12(f)(6)(G). Also, this section is proposed to be amended by adding new language to establish protocols to determine whether the beneficial use of Fish and Wildlife Propagation is supported with respect to suspended and bedded sediments. In addition, the new language will contain at least two terms which are proposed to be added to and defined in 785:46-1-2, Definitions. The circumstance which created the need for these amendments is that sedimentation causes adverse impacts in Oklahoma's streams, and needs to be addressed in the implementation of Oklahoma's Water Quality Standards. The intended effect of these amendments is to provide a uniform methodology that will be used by all state environmental agencies to assess and regulate the impacts of sediments in Oklahoma's streams.

OAC Sections 785:46-15-11, Assessment of Hydroelectric Power Generation support, 785:46-15-12, Assessment of Industrial and Municipal Process and Cooling Water support, and 785:46-15-13, Assessment of Navigation support, are all proposed to be revoked. The circumstance which created the need for these amendments is that these uses are not dependent on water quality and, consequently, there are no criteria to protect these uses, nor protocols to determine whether these uses are supported. This creates unnecessary complications in other areas of water quality management, such as the State's list of uses that are not supported. The intended effect of these amendments, together with the revocation of related rules in OAC 785:45 also being proposed, is to end the complications that arise from the unnecessary classifications of these uses in Oklahoma's Water Quality Standards and attempts to determine support of these uses.

OAC 785:46-15-8, Assessment of Agriculture support, is proposed to be amended in a couple of ways. The first is to clarify which OAC 785:45 Appendix F mineral values to use when assessing lakes for Agriculture beneficial use support. The intended effect of this amendment is to provide clarification and guidance on how to assess lakes for Agriculture beneficial use support. Also in this section, language is proposed to be added addressing what to do if there is no value for a substance in OAC 785:45 Appendix F for any given waterbody segment. The intended effect of this amendment is to provide clarification and guidance on how to assess waterbodies for Agriculture beneficial use support when values in Appendix F are missing.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present data, views, or arguments orally or in writing may do so at 3800 North Classen, Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 12, 2007. In addition, persons may submit oral or written comments during the public hearing described below. It is currently anticipated that proposed amendments may be presented to the OWRB for consideration or action or both, at one or more of its regular meetings on February 13, 2007 or March 13, 2007. The OWRB may or may not choose to consider additional

comments at the meeting or meetings in which the proposed amendments are considered or acted upon.

PUBLIC HEARING:

A hearing on the proposed amendments is scheduled for January 12, 2007 at 1:00 P.M. in the Board Room of the OWRB's offices located at 3800 North Classen, Oklahoma City, Oklahoma. Persons may present their views on the proposed amendments orally or in writing during the hearing.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide the OWRB, within the Comment Period from November 15, 2006 through January 12, 2007, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Derek Smithee at 3800 North Classen, Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 12, 2007.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

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

[OAR Docket #06-1362; filed 10-25-06]

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

[OAR Docket #06-1335]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Sport Fishing Rules [AMENDED]

SUMMARY:

Proposed rulemaking includes amendments to size and bag limits on fish, rules of public use and opportunity on new and existing Department Fishing Areas, definitions of certain

methods of taking fish, and fishing opportunities on certain designated trout streams.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 12, 2007, at the following address: Oklahoma Department of Wildlife Conservation, Room 221, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

PUBLIC HEARINGS:

Fisheries & Wildlife Pubic Hearings (unless otherwise noted)

DATE: JANUARY 8, 2007

TIME: 6:30 P.M. - 9:30 P.M.

Durant - State Fish Hatchery, 2021 Caddo Hwy
Lawton - Lawton Public Library, 110 SW 4th St.

Okmulgee - East Central Electric, Public Meeting Room, 2001 South Wood Drive (Hwy 75)

DATE: JANUARY 8, 2007

TIME: 6:00 P.M. - 9:00 P.M.

Muskogee - Northeastern State University Campus Auditorium, 2400 West Shawnee

DATE: JANUARY 9, 2007

TIME: 6:30 P.M. - 9:30 P.M.

Ada - Pontotoc County Vo-Tech Center, 601 W. 33rd Street (Wildlife Hearing Only)

Altus - Altus Public Library, 421 N. Hudson St.

Broken Bow - Broken Bow Public Library, 404 N. Broadway

Enid - Central Fire Station, 410 West Garriott

Oklahoma City - Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Auditorium

Tishomingo - Tishomingo Community Center, Fairgrounds, 816 E. 6th (Fisheries Hearing Only)

Tulsa - Tulsa Technology Center Riverside Campus, Alliance and Conference Center Building, 801 E. 91st St., Aud. Rm A150

Date: January 9, 2007

TIME: 6:00 P.M. - 9:00 P.M.

Sallisaw - Indian Capital Vo-Tech, North Meeting Room, 401 Houser Ave.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after November 17, 2006 at the above address for the Oklahoma Department of Wildlife Conservation.

Notices of Rulemaking Intent

CONTACT PERSON:

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

[OAR Docket #06-1335; filed 10-17-16]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 15. COMMERCIAL HARVEST RULES; AQUATIC SPECIES

[OAR Docket #06-1336]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. Commercial Harvest Rules; Aquatic Species
[AMENDED]

SUMMARY:

Proposed rulemaking includes amendments to general operating provisions of commercial mussel harvesting (currently effective in emergency status).

AUTHORITY:

Title 29 O.S., Sections 3-103, 4-129 and 5-401; Article XXVI, Sections 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 12, 2007, at the following address: Oklahoma Department of Wildlife Conservation, Room 221, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

PUBLIC HEARINGS:

Fisheries & Wildlife Public Hearings (unless otherwise noted)

DATE: JANUARY 8, 2007

TIME: 6:30 P.M. - 9:30 P.M.

Durant - State Fish Hatchery, 2021 Caddo Hwy

Lawton - Lawton Public Library, 110 SW 4th St.

Okmulgee - East Central Electric, Public Meeting Room, 2001 South Wood Drive (Hwy 75)

DATE: JANUARY 8, 2007

TIME: 6:00 P.M. - 9:00 P.M.

Muskogee - Northeastern State University Campus Auditorium, 2400 West Shawnee

DATE: JANUARY 9, 2007

TIME: 6:30 P.M. - 9:30 P.M.

Ada - Pontotoc County Vo-Tech Center, 601 W. 33rd Street (Wildlife Hearing Only)

Altus - Altus Public Library, 421 N. Hudson St.

Broken Bow - Broken Bow Public Library, 404 N. Broadway

Enid - Central Fire Station, 410 West Garriott

Oklahoma City - Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Auditorium

Tishomingo - Tishomingo Community Center, Fairgrounds, 816 E. 6th (Fisheries Hearing Only)

Tulsa - Tulsa Technology Center Riverside Campus, Alliance and Conference Center Building, 801 E. 91st St., Aud. Rm A150

DATE: JANUARY 9, 2007

TIME: 6:00 P.M. - 9:00 P.M.

Sallisaw - Indian Capital Vo-Tech, North Meeting Room, 401 Houser Ave.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after November 17, 2006 at the above address for the Oklahoma Department of Wildlife Conservation.

CONTACT PERSON:

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

[OAR Docket #06-1336; filed 10-17-06]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 25. WILDLIFE RULES

[OAR Docket #06-1337]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 25. Wildlife Rules [AMENDED]

SUMMARY:

The proposed rule amendments are designed to establish guidelines for Wildlife Rehabilitators, better manage the various wildlife species such as deer, allow additional hunting opportunities, remove firearm and hunting hour restrictions on several Wildlife Management Areas, create a river otter season, allow mt. lions to be taken, establish rules for new Management Areas, increase antlerless season length for DMAP cooperators, delete unnecessary or redundant language, and require website application for controlled hunts.

AUTHORITY:

Title 29 O.S., Sections 3-103 5-401(SB 1296); Article XXVI, Sections 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 12, 2007, at the following address: Oklahoma Department of Wildlife Conservation,

Room 221, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

PUBLIC HEARINGS:

Fisheries & Wildlife Pubic Hearings (unless otherwise noted)

DATE: JANUARY 8, 2007

TIME: 6:30 P.M. - 9:30 P.M.

Durant - State Fish Hatchery, 2021 Caddo Hwy
Lawton - Lawton Public Library, 110 SW 4th St.

Okmulgee - East Central Electric, Public Meeting Room, 2001 South Wood Drive (Hwy 75)

DATE: JANUARY 8, 2007

TIME: 6:00 P.M. - 9:00 P.M.

Muskogee - Northeastern State University Campus Auditorium, 2400 West Shawnee

DATE: JANUARY 9, 2007

TIME: 6:30 P.M. - 9:30 P.M.

Ada - Pontotoc County Vo-Tech Center, 601 W. 33rd Street (Wildlife Hearing Only)

Altus - Altus Public Library, 421 N. Hudson St.

Broken Bow - Broken Bow Public Library, 404 N. Broadway

Enid - Central Fire Station, 410 West Garriott

Oklahoma City - Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Auditorium

Tishomingo - Tishomingo Community Center, Fairgrounds, 816 E. 6th (Fisheries Hearing Only)

Tulsa - Tulsa Technology Center Riverside Campus, Alliance and Conference Center Building, 801 E. 91st St., Aud. Rm A150

DATE: JANUARY 9, 2007

TIME: 6:00 P.M. - 9:00 P.M.

Sallisaw - Indian Capital Vo-Tech, North Meeting Room, 401 Houser Ave.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after November 17, 2006 at the above address for the Oklahoma Department of Wildlife Conservation.

CONTACT PERSON:

Alan Peoples, Chief of Wildlife Division, 405/521-2739 or Rhonda Hurst, APA Liaison, 405/522-6279.

[OAR Docket #06-1337; filed 10-17-06]

**TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 30. DEPARTMENT OF WILDLIFE LANDS MANAGEMENT**

[OAR Docket #06-1338]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 30. Department of Wildlife Lands Management [AMENDED]

SUMMARY:

The proposed rule amendments are designed to allow public use on a new Management Area, add "low-point beer" to restricted use and clarify rule on controlled or dangerous substance possession on Department properties, allow fishing and angler camping on a Department Lake, and delete unnecessary language.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to present their views in writing may do so on or before 4:30 p.m., January 12, 2007, at the following address: Oklahoma Department of Wildlife Conservation, Room 221, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

PUBLIC HEARINGS:

Fisheries & Wildlife Pubic Hearings (unless otherwise noted)

DATE: JANUARY 8, 2007

TIME: 6:30 P.M. - 9:30 P.M.

Durant - State Fish Hatchery, 2021 Caddo Hwy
Lawton - Lawton Public Library, 110 SW 4th St.

Okmulgee - East Central Electric, Public Meeting Room, 2001 South Wood Drive (Hwy 75)

DATE: JANUARY 8, 2007

TIME: 6:00 P.M. - 9:00 P.M.

Muskogee - Northeastern State University Campus Auditorium, 2400 West Shawnee

DATE: JANUARY 9, 2007

TIME: 6:30 P.M. - 9:30 P.M.

Ada - Pontotoc County Vo-Tech Center, 601 W. 33rd Street (Wildlife Hearing Only)

Altus - Altus Public Library, 421 N. Hudson St.

Broken Bow - Broken Bow Public Library, 404 N. Broadway

Enid - Central Fire Station, 410 West Garriott

Oklahoma City - Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Auditorium

Tishomingo - Tishomingo Community Center, Fairgrounds, 816 E. 6th (Fisheries Hearing Only)

Notices of Rulemaking Intent

Tulsa - Tulsa Technology Center Riverside Campus,
Alliance and Conference Center Building, 801 E. 91st St., Aud.
Rm A150

DATE: JANUARY 9, 2007

TIME: 6:00 P.M. - 9:00 P.M.

Sallisaw - Indian Capital Vo-Tech, North Meeting Room,
401 Houser Ave.

**REQUESTS FOR COMMENTS FROM BUSINESS
ENTITIES:**

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is
being prepared and will be available for review after November
17, 2006 at the above address for the Oklahoma Department of
Wildlife Conservation.

CONTACT PERSON:

Alan Peoples, Chief of Wildlife Division, 405/521-2739 or
Rhonda Hurst, APA Liaison, 405/522-6279.

[OAR Docket #06-1338; filed 10-17-06]

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

[OAR Docket #06-1341]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. Priority Academic Student Skills
Part 7. Mathematics
210:15-3-51. [AMENDED]

AUTHORITY:

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

DATES:

Adoption:

August 24, 2006

Approved by Governor:

October 8, 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:

70 O.S. § 11-103.6a requires the State Board of Education to adopt and revise curricular standards to achieve quality education for students of this state. This is considered to be an emergency because revisions need to be made effective for the 2006-2007 school year in order to be aligned with state and federally mandated assessments that will take place in the spring of 2007.

ANALYSIS:

The proposed rule provides reorganization and alignment to the *Priority Academic Student Skills*, Oklahoma's core curriculum. The changes will allow public school educators responsible for implementing the curriculum in Algebra I to pursue appropriate depths of content related to algebraic expressions, equations, and problem solving.

CONTACT PERSON:

Connie Holland, 405-521-3308

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 3. PRIORITY ACADEMIC STUDENT SKILLS

PART 7. MATHEMATICS

210:15-3-51. Mathematics content skills algebra I

(a) **Standard - number sense and algebraic operations.** The student will use expressions and equations to model number relationships.

~~(1) Translate word phrases and sentences into expressions and equations and vice versa.~~

(1) Equations and formulas

(A) Translate word phrases and sentences into expressions and equations and vice versa.

(B) Solve literal equations involving several variables for one variable in terms of the others.

(C) Use the formulas from measurable attributes of geometric models (perimeter, circumference, area and volume), science, and statistics to solve problems within an algebraic context.

(D) Solve two-step and three-step problems using concepts such as rules of exponents, rate, distance, ratio and proportion, and percent.

(2) Expressions

(A) Simplify and evaluate linear, absolute value, rational and radical expressions.

(B) Simplify polynomials by adding, subtracting or multiplying.

(C) Factor polynomial expressions.

(b) **Standard - relations and functions.** The student will use relations and functions to model number relationships.

(1) Relations and functions

(A) Distinguish between linear and nonlinear data.

(B) Distinguish between relations and functions.

(C) Identify dependent and independent variables, domain and range.

(D) Evaluate a function using tables, equations or graphs.

~~(2) Recognize the parent graph of the functions $y = k$, $y = x$, $y = |x|$, and predict the effects of transformations on the parent graph (e.g., $y = |x| + 2$, change slope, change intercepts, change slope and intercept).~~

~~(3) Calculate the slope of a line using a graph, an equation, two points or a set of data points.~~

Emergency Adoptions

- (4) Develop the equation of a line and graph linear relationships given the following:
- (A) slope and y intercept
 - (B) slope and one point on the line
 - (C) two points on the line
 - (D) x intercept and y intercept
 - (E) a set of data points
- (5) Slope Interpretation
- (A) Use the slope to differentiate between lines that are parallel, perpendicular, horizontal, or vertical.
 - (B) Interpret the slope and intercepts within the context of everyday life (e.g., telephone charges based on base rate [y intercept] plus rate per minute [slope]).
- (6) Linear Equations and Inequalities
- (A) Solve linear equations by graphing or using properties of equality.
 - (B) Solve linear inequalities by graphing or using properties of inequalities.
 - (C) Match appropriate equations or inequalities (with 1 or 2 variables) to a graph, table, or situation and vice versa.
- (7) Solve a system of linear equations by graphing, substitution or elimination.
- (8) Problem Solving
- (A) Use the formulas from measurable attributes of geometric models (perimeter, circumference, area and volume), science, and statistics to solve problems within an algebraic context.
 - (B) Solve two step and three step problems using concepts such as rules of exponents, probability, rate, distance, ratio and proportion, measures of central tendency and percent.
- (9) Nonlinear functions
- (A) Match exponential and quadratic functions to a table, graph or situation and vice versa.
 - (B) Solve quadratic equations by graphing, factoring, or using the quadratic formula.
- (2) Linear equations and graphs
- (A) Solve linear equations by graphing or using properties of equality.
 - (B) Recognize the parent graph of the functions $y = k$, $y = x$, $y = |x|$, and predict the effects of transformations on the parent graph.
 - (C) Slope
 - (i) Calculate the slope of a line using a graph, an equation, two points or a set of data points.
 - (ii) Use the slope to differentiate between lines that are parallel, perpendicular, horizontal, or vertical.
 - (iii) Interpret the slope and intercepts within the context of everyday life (e.g., telephone charges based on base rate [y-intercept] plus rate per minute [slope]).
 - (D) Develop the equation of a line and graph linear relationships given the following: slope and y-intercept, slope and one point on the line, two points on

the line, x-intercept and y-intercept, and a set of data points.

(E) Match appropriate equations to a graph, table, or situation and vice versa.

(3) Linear inequalities and graphs

(A) Solve linear inequalities by graphing or using properties of inequalities.

(B) Match appropriate inequalities (with 1 or 2 variables) to a graph, table, or situation and vice versa.

(4) Solve a system of linear equations by graphing, substitution or elimination.

(5) Nonlinear functions

(A) Match exponential and quadratic functions to a table, graph or situation and vice versa.

(B) Solve quadratic equations by graphing, factoring, or using the quadratic formula.

(c) **Standard - data analysis, probability, and statistics.** The student will use data analysis, probability, and statistics to formulate and justify predictions from a set of data.

(1) Data analysis

(A) Translate from one representation of data to another and understand that the data can be represented using a variety of tables, graph, or symbols and that different modes of representation often convey different messages.

(B) Make valid inferences, predictions, and/or arguments based on data shown on graphs, tables, and charts.

(C) Solve two-step and three-step problems using concept such as probability and measures of central tendency.

(2) Collect data involving two variables and display on a scatter plot; interpret results using a linear model/equation and identify whether the model/equation is a line best fit for the data (e.g., given a scatter plot and several linear equations, which one is the best fit?).

[OAR Docket #06-1341; filed 10-20-06]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 20. STAFF

[OAR Docket #06-1342]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification

Part 9. Teacher Certification

210:20-9-98. [AMENDED]

AUTHORITY:

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

DATES:

Adoption:

August 24, 2006

Approved by Governor:

October 8, 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:

The proposed rule change will help to increase security and protect children in Oklahoma public schools by ensuring that all noncitizens employed as an Oklahoma teacher possess a legal employment authorization document from the USCIS.

ANALYSIS:

The proposed rule change is to require any noncitizen of the United States to submit an unexpired United States Citizenship and Immigration Services (USCIS) employment authorization document when applying for an Oklahoma teaching credential. Any noncitizen seeking certification to teach in Oklahoma schools shall possess a legal work permit in order to receive a salary from the state of Oklahoma.

CONTACT PERSON:

Connie Holland, 405-521-3308

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 9. PROFESSIONAL STANDARDS: TEACHER EDUCATION AND CERTIFICATION

PART 9. TEACHER CERTIFICATION

210:20-9-98. Administrative requirements of teacher certification

(a) **Evaluation of foreign credentials.** Foreign credentials must be either analyzed by a recognized translation service or an Oklahoma college before the State Department of Education will accept them.

(b) **Noncitizens of the United States.** Requirements for noncitizens seeking an Oklahoma teaching credential are as follows:

(1) Noncitizens of the United States will be required to submit an unexpired United States Citizenship and Immigration Services (USCIS) employment authorization document with the application before an Oklahoma teaching credential may be issued.

(2) The Oklahoma teaching credential may be issued/reissued for no longer than the validity of the employment authorization document.

(bc) **Privacy and access.** Any person, with proper identification, that makes a written or oral request, will be informed of the certification status of any individual subject to certification. No other information will be given to a third party without the written consent of the person about whom the information is sought.

(1) College transcripts and other supporting documents will neither be duplicated by nor released by the State Department of Education.

(2) An original out-of-state teaching certificate may be returned, upon written request, to the applicant.

(ed) **Multiple applications.** When application is made at the same time for two (2) or more certificates of the same class, only a single processing fee will be charged.

(1) Applications may be made for multiple classes of certificates on one (1) form. There is a fee for each class.

(2) When application is made at different times for two (2) or more certificates, a fee will be charged for each certificate requested.

(de) **Duplicate/update certificates.** A certificate/license may be duplicated or updated by submitting a written request and paying the fee.

(ef) **Change of name.** A legal change of last name on a certificate/license may be accomplished at any time upon written request and paying the fee.

(fg) **Refusal of certification.** No certificate/license will be issued unless all requirements for the certificate/license in question are fully met. In addition, no certificate/license will be issued if the attempt to become certified is based on misrepresentation, forgery, or fraud.

(gh) **Grounds for cancellation of certificates.** Any certificate/license, credential, or endorsement obtained by misrepresentation, forgery, fraud, or issued by error will be cancelled. Upon written request the holder must surrender the certificate/license in question to the State Department of Education.

(hi) **Felony as grounds for noncertification.** No person shall receive an Oklahoma certificate/license who has been convicted of a felony, any crime involving moral turpitude, or a felony violation of the narcotics laws of the United States or the State of Oklahoma, provided the conviction was entered within the ten (10) year period immediately preceding application for teacher certification.

(ij) **Revocation of teaching certificate.** Teaching certificates/licenses issued by authority of the Oklahoma State Board of Education may be revoked by the board for willful violation of any rule or regulation of the board or any federal or state law or other proper cause. A certificate/license will be revoked only after a sufficient hearing has been given to the teacher before the State Board of Education.

(1) No person whose certificate/license has been revoked in Oklahoma or any other state shall be issued an Oklahoma certificate/license unless the revoked certificate/license has been fully reinstated by the revoking state and grounds for the revocation do not conflict with Oklahoma law.

(2) A person who has either voluntarily surrendered a teaching certificate in another state, been denied certification/licensure in another state or has had a certificate suspended in another state is not eligible for Oklahoma certification until an investigation has resolved the issues surrounding the surrender, denial, or suspension of certification.

(jk) **Extending provisional certificates.** A request for extension of validity of any expired provisional certificate will be presented to the State Board of Education only when extenuating circumstances seem to justify its consideration.

Emergency Adoptions

These requests shall be submitted in writing by the employing superintendent. A superintendent who holds an expired provisional certificate needs to have the president of the local board of education make the written request.

(kl) Degree/college credit accepted for certification regulations. Only degrees conferred by state- or regionally accredited colleges and universities recognized by the Oklahoma State Board of Education will be accepted by the Professional Standards Section as part of the requirements for teacher certification. Only work completed in state and regionally accredited colleges and universities, or transfer credit validated by them, will be accepted as a basis for teacher certification. For purposes of Oklahoma certification, state-accredited colleges and universities are considered to be colleges and universities accredited by the Oklahoma State Regents for Higher Education or their counterpart in other states (a statewide higher education coordinating board/agency of control). Regionally accredited colleges and universities are considered to be colleges and universities accredited by regional institutional accrediting bodies recognized by the United States Department of Education.

(lm) Fee for duplicate licenses and certificates. The State Board of Education shall charge and collect reasonable fees for the issuance and duplication of licenses and certificates.

[OAR Docket #06-1342; filed 10-20-06]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 40. GRANTS AND PROGRAMS-IN-AID

[OAR Docket #06-1343]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 87. Rules for Payment to Charter Schools

210:40-87-1. [AMENDED]

210:40-87-2. [REVOKED]

210:40-87-3. [AMENDED]

210:40-87-4. [AMENDED]

AUTHORITY:

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

DATES:

Adoption:

August 24, 2006

Approved by Governor:

October 8, 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:

The amendments to the rules are needed to comply with Senate Bill 1493. Changes need to be made now that will affect the 2006-07 school year, and specifically, the changes in the method of funding for charter schools.

ANALYSIS:

The purpose of the rule change is to delete language in the rules pursuant to Senate Bill 1493 passed during the 2006 Legislative Session. Deleted language relates to the receipt of state-dedicated and county revenue (local and county) revenue by Charter schools. Charter schools do not receive local and county revenue; they do receive state aid formula and state-appropriated-revenue. Minor clarifying language has been added and obsolete language has been deleted.

CONTACT PERSON:

Connie Holland, 405-521-3308

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 87. RULES FOR PAYMENT TO CHARTER SCHOOLS

210:40-87-1. Purpose

Pursuant to 70 O.S.—~~Supp.~~ 1999, § 3-142, the State Board of Education shall adopt rules to implement the policies and procedures relating to payments to charter schools ~~of local and county revenue, state dedicated revenue, and state appropriated funds.~~

210:40-87-2. Definition [REVOKED]

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

~~(a) "Average student expenditure" as the term is used in 70 O.S. Supp. 1999, § 3-142(b), means the quotient obtained by dividing the sum of the sponsoring school district's General Funds' expenditures by its average daily membership.~~

~~(b) "School Year" means the period of instruction from the commencement of classes through June 30. In the event the first year of operation of a charter school is not a complete school year, the funding for the first year of operation shall be prorated in proportion to the number of days that the charter school is in session during the first year of operation.~~

210:40-87-3. Guidelines for payment

(a) During the first year of a charter school's operation, a sponsoring school district shall disburse funding to a charter school in as-equal-as-practicable monthly installments as possible from the effective date of its contract with the sponsoring school district, provided that the first payment shall not be made more than thirty (30) days prior to the commencement of instruction or July 1, whichever shall first occur.

(b) For fiscal years subsequent to a charter school's first year of operation, a sponsoring school district shall disburse funding to a charter school in as-equal-as-practicable monthly installments as possible. ~~Each charter school shall receive, for each student enrolled in or attending the charter school, a portion of the local school district's local and county revenue chargeable in the State Aid Formula, state dedicated revenue,~~

~~and state appropriated funds. The portion paid to each charter school for each funding source shall be calculated in the same manner as generated by the district in total, consistent for all charter schools within the district, and shall be based on the same fiscal year information used by the State Department of Education to calculate the district's allocation. Funding sources not generated by a formula shall be apportioned by Average Daily Membership. The home district shall provide the calculations used to determine such payments to the charter school. Each charter school shall receive the State Aid Formula and state-appropriated funds generated by their students. The State Department of Education shall provide the calculations used to determine such payments to the charter school.~~

(c) By the 15th of the following month, the district shall disburse to each charter school site the generated amount of state-appropriated, state-dedicated and state aid formula funds.

~~(d) By the 15th of the following month, the district shall disburse to the charter school the county 4 mill levy funds and ad valorem funds counted as chargeables in the state aid formula.~~

(ed) Home districts receiving federal funds will disburse to the charter school by the identified student population the charter school's proportionate share of the federal funds. These funds will be disbursed by the 15th of the month following receipt of the reimbursement funds by the home district. However, if the home district and the charter school can agree for the district to provide services, no transfer of funds will occur.

(fe) Disbursement shall result in each charter school having fiscal control over the funds received.

210:40-87-4. Penalty for noncompliance

Upon notice of noncompliance and verification by the charter school, the State Department of Education may make a recommendation to the State Board of Education to withhold future payments of funds until the district disburses payments to the charter school in accordance with 70 O.S. ~~Supp. 1999~~ § 3-142 and these policies. In the event such a recommendation is made, the local school board shall be notified in writing and given an opportunity to appear and provide information prior to any decision by the State Board of Education to invoke the penalty within these rules.

[OAR Docket #06-1343; filed 10-20-06]

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

[OAR Docket #06-1346]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 3. General Provider Policies
Part 3. General Medical Program Information
317:30-3-59. [AMENDED]

Subchapter 5. Individual Providers and Specialties
Part 10. Bariatric Surgery [NEW]
317:30-5-137. through 317:30-5-141. [NEW]
(Reference APA WF # 06-29)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

DATES:

Adoption:

August 16, 2006

Approved by Governor:

October 8, 2006

Effective:

Immediately upon Governor's approval or October 1, 2006, whichever is later

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:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of the new rule to include coverage of bariatric surgery to SoonerCare members who meet the prescribed criteria. It is anticipated that the expected weight loss from the surgery will improve the health of members particularly those who suffer from chronic health problems such as coronary heart disease, high blood pressure and diabetes as a result of severe obesity. The new rule is anticipated to prolong life as well as the quality of life due to the improvements in the overall health of the member.

ANALYSIS:

Agency rules are issued to establish coverage for bariatric surgery for SoonerCare members between the ages of eighteen to sixty-five with a body mass index of thirty-five or greater who have been diagnosed with one of the following conditions, diabetes mellitus, degenerative joint disease of at least one major weight bearing joint or have another co-morbid condition. The agency researched several options to weight loss programs and concluded the bariatric surgery has the best long term results. The following is an excerpt from the State of Washington clinical trial obtained by the agency as part of its research: Morbidly obese individuals have a 10%-28% incidence of type 2 non-insulin dependent diabetes. After surgery, 69%-100% of patients with diabetes had improvement or resolution of diabetes. One review concluded 76.8% of patients had complete diabetes resolution, and 86% had resolution improvement. Clinical trials demonstrated that surgery cured 11 or 12 diabetics in one study and freed 75% of patients of medication for diabetes in another. An average weight loss after surgery is 55-97 pounds after 1-2 years. Up to 8 years after surgery, there is an average 44 pound total loss. Rules are revised to add bariatric surgery as a covered Medicaid service.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING EMERGENCY RULES ARE
CONSIDERED PROMULGATED UPON APPROVAL
BY THE GOVERNOR AS SET FORTH IN 75 O.S.,
SECTION 253(D), AND EFFECTIVE UPON APPROVAL
BY GOVERNOR OR OCTOBER 1, 2006, WHICHEVER
IS LATER:**

**SUBCHAPTER 3. GENERAL PROVIDER
POLICIES**

**PART 3. GENERAL MEDICAL PROGRAM
INFORMATION**

Emergency Adoptions

317:30-3-59. General program exclusions - adults

The following are excluded from Medicaid coverage for adults:

- (1) Inpatient diagnostic studies that could be performed on an outpatient basis.
- (2) Services or any expense incurred for cosmetic surgery.
- (3) Services of two physicians for the same type of service to the same patient at the same time, except when warranted by the necessity of supplemental skills. When supplemental skills are warranted, the initial consultation is reported utilizing the appropriate CPT code for inpatient consultations. Follow-up consultations include monitoring progress, recommending management modifications or advising on a new plan of care in response to changes in the patient's status. If the consultant physician initiates treatment at the initial consultation and participates thereafter in the patient's care, the codes for subsequent hospital care should be used.
- (4) Refractions and visual aids.
- (5) Separate payment for pre and post-operative care when payment is made for surgery.
- (6) Reversal of sterilization procedures for the purposes of conception.
- (7) ~~Treatment for obesity.~~
- (8) Non therapeutic hysterectomies. Therapeutic hysterectomies require that the following information to be attached to the claim:
 - (A) a copy of an acceptable acknowledgment form signed by the patient, or,
 - (B) an acknowledgment by the physician that the patient has already been rendered sterile, or,
 - (C) a physician's certification that the hysterectomy was performed under a life-threatening emergency situation.
- (9) Induced abortions, except when certified in writing by a physician that the abortion was necessary due to a physical disorder, injury or illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the woman in danger of death unless an abortion is performed, or that the pregnancy is the result of an act of rape or incest.
- (10) Medical services considered to be experimental.
- (11) Services of a Certified Surgical Assistant.
- (12) Services of a Chiropractor. Payment is made for Chiropractor services on Crossover claims for coinsurance and/or deductible only.
- (13) Services of a Registered Physical Therapist.
- (14) Services of a Psychologist.
- (15) Services of a Speech and Hearing Therapist.
- (16) Payment for more than four outpatient visits per month (home, office, outpatient hospital) per patient, except those visits in connection with family planning or emergency medical condition.
- (17) Payment for more than two nursing home visits per month.
- (18) More than one inpatient visit per day per physician.

(18) Payment for removal of benign skin lesions unless medically necessary.

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 10. BARIATRIC SURGERY

317:30-5-137. Eligible providers to perform bariatric surgery

The Oklahoma Health Care Authority (OHCA) covers bariatric surgery under certain conditions as defined in this section. Bariatric surgery is not covered for the treatment of obesity alone. To be eligible for reimbursement for bariatric surgery providers must be certified by the American College of Surgeons (ACS) as Level I Bariatric Surgery Center or certified by the American Society for Bariatric Surgery as a Bariatric Surgery Center of Excellence (BSCOE) or the surgeon and facility are currently participating in a bariatric surgery assurance program and a clinical outcomes assessment program. All qualifications must be met and approved by the OHCA. Bariatric surgery facilities and their providers must be contracted with OHCA.

317:30-5-138. General coverage

(a) After determining member requirements are met (see OAC 317:30-5-139) and receiving prior authorization from OHCA, the primary care provider coordinates a process to include:

(1) a comprehensive psychosocial evaluation including:

(A) evaluation for substance abuse;

(B) evaluation for psychiatric illness which would preclude the member from participating in pre-surgical dietary requirements or post surgical lifestyle changes;

(C) if applicable, documentation that the member has been successfully treated for a psychiatric illness and has been stabilized for at least six months; and

(D) if applicable, documentation that the member has been rehabilitated and is free from drug and/or alcohol for a period of at least one year.

(2) an independent medical evaluation performed by an internist who is contracted with the OHCA to assess the member's preoperative and mortality risks.

(3) a surgical evaluation by an OHCA contracted surgeon who has credentials to perform bariatric surgery.

(4) participation in a weight loss program prior to surgery, under the supervision of an OHCA contracted medical provider. The member must, within one hundred and eighty days from the approval of the OHCA's prior authorization, lose at least five percent of member's initial body weight.

(A) If the member does not meet the weight loss requirement in the allotted time the prior authorization is cancelled.

- (B) The member's provider must reapply for prior authorization to restart the process if the requirement is not met.
- (b) When all requirements have been met, a prior authorization for surgery must be obtained from OHCA.
- (c) The bariatric surgery facility or surgeon must, on an annual basis, provide to the OHCA the members statistical data which includes but is not limited to, mortality, hospital readmissions, re-operation, morbidity data and average weight loss.
- (d) OHCA considers surgery to correct complications from bariatric surgery medically necessary, such as obstruction or stricture.
- (e) OHCA considers repeat bariatric surgery medically necessary for a member whose initial bariatric surgery was medically necessary, and member meets either of the following criteria:
 - (1) has not lost more than fifty percent of excess body weight two years following the primary bariatric surgery procedure and is in compliance with prescribed nutrition and exercise programs following the procedure; or
 - (2) revision of a primary bariatric surgery procedure that failed due to dilation of the gastric pouch if the procedure was successful in inducing weight loss prior to the pouch dilation, and is in compliance with prescribed nutrition and exercise programs following the procedure.
- (f) OHCA may withdraw authorization of payment for the bariatric surgery at any time if the OHCA determines that the member or provider is not in compliance with any of the requirements.

317:30-5-139. Member requirements

Members must meet the following criteria to be eligible:

- (1) be between 18 and 65 years of age;
- (2) have body mass index (BMI) of thirty-five or greater;
- (3) be diagnosed with one of the following:
 - (A) diabetes mellitus;
 - (B) degenerative joint disease of a major weight bearing joint(s). The member must be a candidate for joint replacement surgery if weight loss is achieved;
 - or
 - (C) a rare co-morbid condition in which there is medical evidence that bariatric surgery is medically necessary and that the benefits of bariatric surgery outweigh the risk of surgical mortality.
- (4) have presence of obesity that has persisted for at least 5 years;
- (5) have attempted weight loss in the past without successful long term weight reduction, which must be documented by a physician;
- (6) have absence of other medical conditions that would increase the member's risk of surgical mortality or morbidity; and
- (7) the member is not pregnant or planning to become pregnant in the next two years.

317:30-5-140. Coverage for children

- (a) Services, deemed medically necessary and allowable under federal Medicaid regulations, may be covered by the EPSDT/OHCA Child Health program even though those services may not be part of the OHCA Medicaid program. Such services must be prior authorized.
- (b) Federal Medicaid regulations also require the state to make the determination as to whether the service is medically necessary and do not require the provision of any items or services that the state determines are not safe and effective or which are considered experimental.

317:30-5-141. Reimbursement

Payment is made at the lower of the provider's usual and customary charge or the OHCA fee schedule for Medicaid compensable services.

[OAR Docket #06-1346; filed 10-24-06]

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

[OAR Docket #06-1349]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-2. [AMENDED]
317:30-5-8. [AMENDED]
(Reference APA WF # 06-12)

AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

DATES:

Adoption:
August 16, 2006

Approved by Governor:
October 8, 2006

Effective:
Immediately upon Governor's approval or October 1, 2006, whichever is later

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:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of the rule change to clarify payment exclusions regarding services provided prior to and in conjunction with surgery. The clarification enables providers to bill for evaluation services provided prior to the decision to perform surgery which is paid outside of the global rate for surgery.

ANALYSIS:

Agency rules are revised to add clarification to pre and post operative billing procedures. Current rules exclude payment for pre and post operative care outside of the global payment. However, current CPT guidelines provide for a separate payment for evaluation services provided prior to the decision to perform surgery has been made. Other revisions are incorporated in OAC 317:30-5-2 to agree with rule changes proposed at this board meeting and

Emergency Adoptions

submitted to the Governor this same date in APA WF 06-29 (bariatric surgery services).

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR OCTOBER 1, 2006, WHICHEVER IS LATER:

SUBCHAPTER 5. INDIVIDUAL PROVIDERS AND SPECIALTIES

PART 1. PHYSICIANS

317:30-5-2. General coverage by category

(a) **Adults.** Payment for adults is made to physicians for medical and surgical services within the scope of the Authority's medical programs, provided the services are reasonable and necessary for the diagnosis and treatment of illness or injury, or to improve the functioning of a malformed body member. Coverage of certain services may be based on a determination made by the medical consultant in individual circumstances.

(1) Coverages include the following:

- (A) Medically appropriate inpatient hospital visits are covered for all ~~Medicaid~~—SoonerCare covered stays. All inpatient services are subject to post-payment review by the OHCA, or its designated agent.
- (B) Inpatient psychotherapy by a physician.
- (C) Inpatient psychological testing by a physician.
- (D) One inpatient visit per day, per physician.
- (E) Certain surgical procedures performed in a Medicare certified free-standing ambulatory surgical center or a Medicare certified hospital that offers outpatient surgical services. Refer to the List of Covered Surgical Procedures.
- (F) Therapeutic radiology or chemotherapy on an outpatient basis without limitation to the number of treatments per month for ~~persons~~ member with proven malignancies or opportunistic infections.
- (G) Direct physicians' services are covered on an outpatient basis. A maximum payment of four visits are covered per month per ~~patient~~ member in office or home regardless of the number of physicians providing treatment. Additional visits per month are allowed for those services related to emergency medical conditions and for services in connection with Family Planning.
- (H) Direct physicians' services in a nursing facility for those ~~patients~~ members approved for nursing care. Payment is made for a maximum of two nursing facility visits per month. To receive payment for a second

nursing facility visit in a month denied by Medicare for a ~~Medicare/Medicaid~~—patient—Medicare/SoonerCare patient, attach the EOMB from Medicare showing denial and mark "carrier denied coverage".

- (I) Payment is made for medically necessary diagnostic x-ray and laboratory work.
- (J) One screening mammogram and one follow-up mammogram every year for women beginning at age 30. Additional follow-up mammograms are covered when medically necessary. A prior authorization by the Medical Professional Services Division of the Oklahoma Health Care Authority is required for additional follow-up mammograms. This includes interpretation and technical component.
- (K) Obstetrical care.
- (L) Pacemakers and prostheses inserted during the course of a surgical procedure. Payment is made based upon an invoice for the item.
- (M) Prior authorized examinations for the purpose of determining medical eligibility for programs under the jurisdiction of the Authority. A copy of the authorization, DHS form ABCDM-16, Authorization for Examination and Billing, must accompany the claim.
- (N) If a physician personally sees a ~~patient~~ member on the same day as a dialysis treatment, payment can be made for a separately identifiable service unrelated to the dialysis.
- (O) Family planning - including sterilization procedures for legally competent ~~persons~~ members 21 years of age and over who voluntarily request such a procedure and, with their physician, execute the Federally mandated consent form (ADM-71). A copy of the consent form must be attached to the claim form. Separate payment is made for an I.U.D. inserted during an office visit. Certain family planning products may be obtained through the Vendor Drug Program. Reversal of sterilization procedures for the purposes of conception are not covered. Reversal of sterilization procedures may be covered when medically indicated and substantiating documentation is attached to the claim. The Norplant System for birth control is covered; however, removal of the Norplant System prior to five years is covered only when documented as medically necessary. Reinsertion of Norplant contraceptive will be considered on a case by case basis.
- (P) Genetic counseling (requires special medical review prior to approval).
- (Q) Blood count weekly for ~~persons~~ members receiving the drug Clozaril.
- (R) Complete blood count and platelet count prior to receiving chemotherapeutic agents or radiation therapy and for ~~persons~~ members receiving medication such as DPA-D-Penicillamine on a regular basis for treatment other than malignancies.
- (S) Payment of ultrasounds for pregnant women as specified in OAC 317:30-5-22.

- (T) Payment to the attending physician in a teaching medical facility for compensable services when the physician signs as claimant and renders personal and identifiable services to the patient member in conformity with Federal regulations.
- (U) Payment to clinical fellow or chief resident in an outpatient academic setting when the following conditions are met:
- (i) Recognition as clinical faculty with participation in such activities as faculty call, faculty meetings, and having hospital privileges;
 - (ii) Board certification or completion of an accredited residency program in the fellowship specialty area;
 - (iii) Hold unrestricted license to practice medicine in Oklahoma;
 - (iv) If Clinical Fellow, practicing during second or subsequent year of fellowship;
 - (v) Seeing patients members without supervision;
 - (vi) Services provided not for primary purpose of medical education for the clinical fellow or chief resident;
 - (vii) Submit billing in own name with appropriate Oklahoma ~~Medicaid~~ SoonerCare provider number.
 - (viii) Additionally if a clinical fellow practicing during the first year of fellowship, the clinical fellow must be practicing within their area of primary training. The services must be performed within the context of their primary specialty and only to the extent as allowed by their accrediting body.
- (V) Payment to the attending physician for the services of a currently Oklahoma licensed physician in training when the following conditions are met.
- (i) Attending physician performs chart review and sign off on the billed encounter;
 - (ii) Attending physician present in the clinic/hospital setting and available for consultation;
 - (iii) Documentation of written policy and applicable training of physicians in the training program regarding when to seek the consultation of the attending physician.
- (W) Payment to the attending physician for the outpatient services of an unlicensed physician in a training program when the following conditions are met:
- (i) The patient member must be at least minimally examined and reviewed by the attending physician or a licensed physician under the supervision of the attending physician;
 - (ii) This contact must be documented in the medical record.
- (X) Payment to a physician for supervision of CRNA services unless the CRNA bills directly.
- (Y) One pap smear per year for women of child bearing age. Two follow-up pap smears are covered when medically indicated.
- (Z) Organ and tissue transplantation services for children and adults, limited to bone marrow, stem cells, cornea, heart, kidney, liver, lung, SPK (simultaneous pancreas kidney), PAK (pancreas after kidney), and heart-lung, are covered services based upon the conditions listed in (i)-(iv) of this subparagraph:
- (i) All transplantation services, except kidney and cornea, must be prior authorized to be compensable.
 - (ii) To be prior authorized all procedures are reviewed based on appropriate medical criteria.
 - (iii) To be compensable under the ~~Medicaid~~ SoonerCare program all organ transplants must be performed at a Medicare approved transplantation center.
 - (iv) Finally, procedures considered experimental or investigational are not covered.
- (AA) Total parenteral nutritional therapy for certain diagnoses and when prior authorized.
- (BB) Ventilator equipment.
- (CC) Home dialysis equipment and supplies.
- (DD) Ambulatory services for treatment of ~~persons~~ members with tuberculosis (TB). This includes, but is not limited to, physician visits, outpatient hospital services, rural health clinic visits and prescriptions. Drugs prescribed for the treatment of TB not listed in OAC 317:30-3-46 require prior authorization by the University of Oklahoma College of Pharmacy using form "Petition for TB Related Therapy". Ambulatory services to ~~persons~~ members infected with TB are not limited to the scope of the ~~Medicaid~~ SoonerCare program, but require prior authorization when the scope is exceeded.
- (EE) Smoking and Tobacco Use Cessation Counseling for treatment of individuals using tobacco.
- (i) Smoking and Tobacco Use Cessation Counseling consists of the 5As:
 - (I) Asking the patient to describe their smoking use;
 - (II) Advising the patient to quit;
 - (III) Assessing the willingness of the patient to quit;
 - (IV) Assisting the patient with referrals and plans to quit; and
 - (V) Arranging for follow-up.
 - (ii) Up to eight sessions are covered per year per individual.
 - (iii) Smoking and Tobacco Use Cessation Counseling is a covered service when performed by physicians, physician assistants, nurse practitioners, nurse midwives, and Oklahoma State Health Department and FQHC nursing staff. It is reimbursed in addition to any other appropriate global payments for obstetrical care, PCP capitation payments, evaluation and management codes, or other appropriate services rendered. It must be a significant, separately identifiable service, unique from any other service provided on the same day.

Emergency Adoptions

- (iv) Chart documentation must include a separate note and signature along with the patient specific information addressed in the five steps and the time spent by the practitioner performing the counseling. Anything under three minutes is considered part of a routine visit.
- (2) General exclusions include the following:
- (A) Inpatient diagnostic studies that could be performed on an outpatient basis.
- (B) Services or any expense incurred for cosmetic surgery.
- (C) Services of two physicians for the same type of service to the same ~~patient~~ member at the same time, except when warranted by the necessity of supplemental skills. When supplemental skills are warranted, the initial consultation is reported utilizing the appropriate CPT code for inpatient consultations. Follow-up consultations include monitoring progress, recommending management modifications or advising on a new plan of care in response to changes in the ~~patient's~~ member's status. If the consultant physician initiates treatment at the initial consultation and participates thereafter in the ~~patient's~~ member's care, the codes for subsequent hospital care should be used.
- (D) Refractions and visual aids.
- (E) ~~Separate~~ A separate payment for ~~pre pre-operative care, if provided on the day before or the day of surgery, or for typical post-operative follow-up care and post operative care when payment is made for surgery.~~
- (F) Payment to the same physician for both an outpatient visit and admission to hospital on the same date.
- (G) Sterilization of persons who are under 21 years of age, mentally incompetent or institutionalized. Reversal of sterilization procedures for the purposes of conception.
- (H) Non-therapeutic hysterectomy.
- (I) Medical services considered to be experimental or investigational.
- (J) Payment for more than four outpatient visits per month (home or office) per ~~patient~~ member except those visits in connection with family planning, or related to emergency medical conditions.
- (K) Payment for more than two nursing facility visits per month.
- (L) More than one inpatient visit per day per physician.
- (M) Physician supervision of hemodialysis or peritoneal dialysis.
- (N) Physician services which are administrative in nature and not a direct service to the ~~patient~~ member including such items as quality assurance, utilization review, treatment staffing, tumor board, dictation, and similar functions.
- (O) Charges for completion of insurance forms, abstracts, narrative reports or telephone calls.
- (P) Payment for the services of physicians' assistants, social workers, licensed family counselors, registered nurses or other ancillary staff, except as specifically set out.
- (Q) Induced abortions, except when certified in writing by a physician that the abortion was necessary due to a physical disorder, injury or illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the woman in danger of death unless an abortion is performed, or that the pregnancy is the result of an act of rape or incest. (See OAC 317:30-5-6 or 317:30-5-50.)
- (R) Night calls or unusual hours.
- (S) Speech and Hearing services.
- ~~(T) Treatment for obesity, including weight reduction surgery.~~
- ~~(U) Mileage.~~
- ~~(V) Other than routine hospital visit on date of discharge unless ~~patient~~ member expired.~~
- ~~(W) Direct payment to perfusionist as this is considered part of the hospital cost.~~
- ~~(X) Inpatient chemical dependency treatment.~~
- ~~(Y) Fertility treatment.~~
- ~~(Z) Routine immunizations.~~
- ~~(AA) Payment for removal of benign skin lesions unless medically necessary.~~
- (b) **Children.** Payment is made to physicians for medical and surgical services for ~~persons~~ members under the age of 21 within the scope of the Authority's medical programs, provided the services are medically necessary for the diagnosis and treatment of illness or injury, or to improve the functioning of a malformed body member. Medical and surgical services for children are comparable to those listed for adults. In addition to those services listed for adults, the following services are covered for children.
- (1) **Pre-authorization of inpatient psychiatric services.** All inpatient psychiatric services for patients under 21 years of age must be prior authorized by an agency designated by the Oklahoma Health Care Authority. All psychiatric services will be prior authorized for an approved length of stay. Non-authorized inpatient psychiatric services will not be ~~Medicaid~~ SoonerCare compensable.
- (A) Effective October 1, 1993, all residential and acute psychiatric services will be authorized based on the medical necessity criteria as described in OAC ~~317:30-5-46~~ 317:30-5-95.25.
- (B) Out of state placements will not be authorized unless it is determined that the needed medical services are more readily available in another state or it is a general practice for ~~recipients~~ members in a particular border locality to use resources in another state. If a medical emergency occurs while a ~~client~~ member is out of the state, treatment for medical services will be covered in the same way as they would be covered within the state. A prime consideration for placements will be proximity to the family or guardian in

order to involve the family or guardian in discharge and reintegration planning.

(2) **General acute care inpatient service limitations.** All general acute care inpatient hospital services for ~~persons~~ members under the age of 21 are not limited. All inpatient care must be medically necessary.

(3) **Procedures for requesting extensions for inpatient services.** The physician and/or facility must provide necessary justification to enable OHCA, or its designated agent, to make a determination of medical necessity and appropriateness of treatment options.

(A) Extension requests for psychiatric admissions must be submitted to the OHCA or its designated agent. Extension requests must contain the appropriate documentation which validates the need for continued treatment in accordance with the medical necessity criteria described in OAC ~~317:30-5-46~~ 317:30-5-95.25. Requests shall be made prior to the expiration of the approved inpatient stay.

(B) ~~All decisions of OHCA or its designated agent are final. If a denial decision is made, a reconsideration request may be made directly to the OHCA, or its designated agent and should occur within 3 days of the denial notification due to the timeliness of processing such a request with the patient still in the facility. The request for reconsideration shall include new and/or additional medical information to justify the need for continued care.~~

(4) **Utilization control requirements for psychiatric beds.** ~~Medicaid~~ SoonerCare utilization control requirements for inpatient psychiatric services for ~~persons~~ members under 21 years of age apply to all hospitals and residential psychiatric treatment facilities.

(5) **Early and periodic screening diagnosis and treatment program.** Payment is also made to eligible providers for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) of ~~individuals~~ members under age 21. These services include medical, dental, vision, hearing and other necessary health care. Refer to OAC 317:30-3-65.2 through 317:30-3-65.11 for specific guidelines.

(6) **Child abuse/neglect findings.** Instances of child abuse and/or neglect discovered through screenings and regular exams are to be reported in accordance with State Law. Title 21, Oklahoma Statutes, Section 846, as amended, states in part: *Every physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents, and interns, examining, attending, or treating a child under the age of eighteen (18) years and every registered nurse examining, attending or treating such a child in the absence of a physician or surgeon, and every other person having reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon him or her by other than accidental means where the injury appears to have been caused as a result of physical abuse or neglect, shall report the matter promptly to the county office of the Department of Human Services in the county wherein*

the suspected injury occurred. Providing it shall be a misdemeanor for any person to knowingly and willfully fail to promptly report an incident as provided above. Persons reporting such incidents of abuse and/or neglect in accordance with the law are exempt from prosecution in civil or criminal suits that might be brought as a result of the report.

(7) **General exclusions.** The following are excluded from coverage for ~~persons~~ members under the age of 21:

(A) Inpatient diagnostic studies that could be performed on an outpatient basis.

(B) Services or any expense incurred for cosmetic surgery unless the physician certifies the procedure emotionally necessary.

(C) Services of two physicians for the same type of service to the same ~~patient~~ member at the same time, except when warranted by the necessity of supplemental skills. When supplemental skills are warranted, the initial consultation is reported utilizing the appropriate CPT code for inpatient consultations. Follow-up consultations include monitoring progress, recommending management modifications or advising on a new plan of care in response to changes in the ~~patient's~~ member's status. If the consultant physician initiates treatment at the initial consultation and participates thereafter in the ~~patient's~~ member's care, the codes for subsequent hospital care should be used.

(D) ~~Separate A separate~~ payment for ~~pre pre-operative care, if provided on the day before or the day of surgery, or for typical post-operative follow-up care and post operative care when payment is made for surgery.~~

(E) Payment to the same physician for both an outpatient visit and admission to hospital on the same date.

(F) Sterilization of persons who are under 21 years of age.

(G) Non-therapeutic hysterectomy.

(H) Medical Services considered to be experimental or investigational.

(I) More than one inpatient visit per day per physician.

(J) Induced abortions, except when certified in writing by a physician that the abortion was necessary due to a physical disorder, injury or illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the woman in danger of death unless an abortion is performed, or that the pregnancy is the result of an act of rape or incest. (See OAC 317:30-5-6 or 317:30-5-50.)

(K) Physician supervision of hemodialysis or peritoneal dialysis.

(L) Physician services which are administrative in nature and not a direct service to the ~~patient~~ member including such items as quality assurance, utilization review, treatment staffing, tumor board, dictation, and similar functions.

Emergency Adoptions

(M) Payment for the services of physicians' assistants except as specifically set out.

(N) Direct payment to perfusionist as this is considered part of the hospital cost.

~~(O) Treatment of obesity including weight reduction surgery.~~

~~(PQ)~~ Charges for completion of insurance forms, abstracts, narrative reports or telephone calls.

~~(QP)~~ Night calls or unusual hours.

~~(RQ)~~ Mileage.

~~(SR)~~ Other than routine hospital visit on date of discharge unless patient expired.

~~(FS)~~ Tympanometry.

(c) **Individuals eligible for Part B of Medicare.** Payment is made utilizing the Medicaid allowable for comparable services. For in-State physicians, claims filed with Medicare Part B should automatically cross over to OHCA. The explanation of Medicare Benefits will reflect a message that the claim was referred to Medicaid SoonerCare. If such a message is not present, a claim for coinsurance and deductible must be filed with Medicaid SoonerCare within 90 days of the date of Medicare payment in order to be considered timely filed. The Medicare EOMB must be attached to the claim. If payment was denied by Medicare Part B, and the service is a Medicaid SoonerCare covered service, mark the claim "denied by Medicare".

(1) Out of state claims will not "cross over". Providers must file a claim for coinsurance and/or deductible within 90 days of the Medicare payment. The Medicare EOMB must be attached to the claim.

(2) Claims filed under Medicaid SoonerCare must be filed within one year from the date of service. For dually eligible individuals members, to be eligible for payment of coinsurance and/or deductible under Medicaid SoonerCare, a claim must be filed with Medicare within one year from the date of service.

317:30-5-8. Surgery

(a) **Use of surgical modifiers.** The Physicians' Current Procedural Terminology (CPT) provides for 2-digit surgical modifiers to further describe surgical services. All of these modifiers must be used on OHCA claims when applicable. The CPT also provides an alternate method of using a special 5-digit code beginning with 099--. These codes will not be accepted by OHCA. This method cannot be used to record modifications to the procedure code. Use the appropriate 2-digit modifier placed just to the right of the 5-digit surgical procedure code.

(b) **Description of modifiers and how they are paid.**

(1) -20 Microsurgery - OHCA does not make an additional payment for this modifier. The procedure will be paid at the regular OHCA allowable.

(2) -22 Unusual services - OHCA does not make an additional payment for this modifier. The procedure will be paid at the regular OHCA allowable.

(3) -26 Professional component - This modifier is used to identify a professional component. It is used when the physician provides an interpretation rather than a

full-service procedure. Modifier -26 will also be used by the hospital-based radiologist or pathologist on radiology, surgical pathology and echocardiography done in the hospital. The allowables for modifier -26 are listed in the Authority's listing of the procedure-based maximum allowable payments.

(4) -47 Anesthesia by surgeon - OHCA does not make an additional payment for this modifier. OHCA does not make an additional payment for local anesthesia. OHCA will pay additional for surgical procedure codes 62274 through 62279 and nerve block, codes 64400 through 64530. These codes are used by surgeons or obstetricians when applicable without modifier -47. The procedure will be paid at the regular OHCA allowable. Anesthesia coding and methodology is described at the front of the CPT for the practicing anesthesiologist.

(5) -50 Bilateral procedure and -51 Multiple surgery - There has been some misunderstanding about the use of modifier -50 (bilateral surgery) and -51 (multiple surgery). These modifiers are not interchangeable. They have very different meanings and result in very different payments.

(A) Bilateral Procedure. This modifier is to be used when there is no specific code in the CPT for a bilateral procedure. List the bilateral procedure on one line followed by modifier -50. The payment will be 150 percent of the base allowable for the procedure so it is no longer necessary to list the procedure twice on a claim when it is bilateral. The units of service are shown as "1".

(B) Multiple surgery. When a surgeon or assistant surgeon performs multiple surgery, modifier -51 is applied to the secondary procedures. The multiple surgery rule provides that the second and subsequent surgeries are paid at a lesser amount. The major procedure is listed without a -51 modifier. This procedure will be whole or full allowable. All other procedures done at the same session are identified by modifier -51. If the secondary procedure(s) require modifier -51 and modifier -51 is not used, the claim will be denied with the message, "756 - must add modifier to CPT/HCPC." Modifier -51 prices the claim at fifty percent of the allowable.

(6) -52 Reduced services - This modifier will be handled like modifier -51. The claim will be paid at 50 percent of the allowable.

(7) -54 Surgical care only - This is applied to the procedure code when the physician performs itinerant surgery or another physician provides the post-operative care. OHCA will pay this at eighty percent of the allowable for the full procedure.

(8) -55 Postoperative management only - When one physician performs the postoperative management and another physician has performed the surgical procedure, the postoperative component is identified by adding the modifier -55 to the usual procedure number. When the surgery is performed by an "itinerant surgeon", and post-operative care is provided by another physician, payment is made for postoperative care under modifier -55 at the

rate of 20% of the surgical allowable. When the surgery is cataract surgery performed by an ophthalmologist as an "itinerant surgeon", the postoperative care is paid to the optometrist providing the postoperative care under modifier -55. Payment in this instance will also be made at 20% of the surgical allowable.

(9) -56 Preoperative management only - OHCA will deny payment for this modifier. The physician who provides the preoperative care files under the appropriate medicine codes. A preoperative exam is considered part of the global fee for surgery.

(10) -62 Two surgeons - This modifier is used when two surgeons work as co-surgeons. The code is used when the skills of two surgeons (usually of different specialties) are required in the management of a specific surgical procedure. OHCA will pay this at sixty percent of the allowable for the full procedure. The claims from both surgeons must reflect this modifier.

(11) -66 Surgical team - OHCA will deny payment for this modifier. Each physician must file individually using appropriate modifiers.

(12) -75 Concurrent care - This modifier is used when the patient member requires the services of two or more physicians. All claims for payment of concurrent care are suspended for medical review. This -75 modifier shows that a specialist is seeing the patient in consultation and rendering a special service or procedure in addition to the services of the admitting physician or primary physician.

(13) -76 Repeat procedure by same physician - This is not to be used for bilateral surgery. When the same physician performs the same procedure two or more times on the same day, the claim is billed showing the procedure code and the number of times it was performed on one line unless the code itself signifies that multiple services were provided. This is particularly important for radiologists, as repeat procedures on the same day may otherwise deny as duplicates. However, if a repeat procedure on same day was omitted on the first filing, a claim is filed with modifier -76. If the claim is for professional component, modifier -26 must be entered as the first modifier and -76 as the second modifier. Alternately, the physician files an adjusted claim showing the correct number of procedures.

(14) -77 Repeat procedure by another physician - This is not to be used for bilateral surgery. This modifier is used when appropriate as it identifies that the claim is not a duplicate of another physician's services. This is especially important for radiologists. If the claim is for professional component, modifier -26 is entered as the first modifier and -77 as the second modifier.

(15) -78 Return to the operating room for a related procedure during the postoperative period - A procedure with this modifier suspends for physician review to determine appropriate payment.

(16) -79 Unrelated procedure or service by the same physician during the postoperative period - A procedure with this modifier suspends for physician review to determine appropriate payment.

(17) -80 Assistant surgeon:

(A) The assistant surgeon identifies his service by the use of modifier -80 or -82 as appropriate. This modifier is applied to each and every surgical procedure code listed on his claim.

(B) Where there is multiple surgery, the major procedure is followed by -80 and all secondary procedures will have two modifiers: -51, -80. These will follow the procedure code and be on the same line. OHCA will pay modifier -80 at twenty percent of the allowable for the full procedure. All secondary procedures require two modifiers, -51 and -80, and pay ten percent of the allowable for full procedure.

(18) -81 Minimum assistant surgeon - OHCA will deny payment for this modifier.

(19) -82 Assistant surgeon (when qualified resident surgeon not available) - This modifier is used when the claiming physician is the assistant surgeon in a teaching hospital; otherwise, the claim will be denied. OHCA will recognize modifier -82 and pay the modifier at twenty percent of the allowable for the procedure. See modifier -80 for multiple surgery.

(20) -90 Reference (outside) laboratory - OHCA denies payment for this modifier, since the provider performing the procedure must file the claim.

(21) -99 Multiple modifiers - Do not use modifier -99 on the claim. Where two modifiers are required, list the two modifiers on the claim and not the -99 modifier. If modifier -99 is used, OHCA will deny the claim.

(c) **Bilateral surgery.** When a bilateral procedure is performed, the physician lists the procedure only once on a single line and identifies it as bilateral by modifier -50. Additionally, the narrative description identifies it as bilateral so that the procedure code modifier and the description are compatible. This is true even when one physician does one side and another does the other side. In such instances the appropriate modifiers would be -50, -62. Both follow the procedure code and are on the same line.

(1) Modifier -50 has been developed so that CPT manual may eventually eliminate the use of special procedure codes to identify bilateral procedures and to provide for uniform coding of all bilateral procedures. The CPT manual states: "Use of this modifier will eventually eliminate many of the bilateral procedure numbers now listed separately by five digit codes."

(2) However, if the procedure code states bilateral, do not use the -50 modifier as the allowable has already been calculated as a bilateral procedure. It is extremely important that modifier -50 be applied only to bilateral procedures and not to other multiple surgery procedures. OHCA will suspend all modifier -50 claims for medical review to assure proper payment.

(d) **Multiple surgery.** When a surgeon or assistant surgeon performs multiple surgeries, modifier -51 is applied to secondary procedures. The major procedure must not have modifier -51 applied.

(1) When modifier -51 is used OHCA applies the multiple surgery rule. The multiple surgery rule provides that under certain circumstances the second and subsequent

Emergency Adoptions

surgeries are paid at a lesser amount. OHCA currently pays procedure codes with modifier -51 at 50 percent of the full allowable for the procedure.

(2) One other issue is, given two or more procedures performed on the same person, on the same day, when does the multiple surgery rule apply? It is important to distinguish between multiple surgery and the multiple surgery rule. Multiple surgery refers to more than one surgical procedure done on the same person on the same day. The multiple surgery rule provides that under certain circumstances the second and subsequent surgeries are paid at a lesser amount.

(A) Some surgeries are never paid under the multiple surgery rule. In other words, they are never compensable when done in conjunction with other surgeries; payment is made only for the major procedure. Examples are exploratory laparotomy, lysis of adhesions or appendectomy for staging done in conjunction with other abdominal surgery. These procedures are always incidental to the major procedure.

(B) There are many surgeries which always include lesser surgeries. For example, a TUR always includes a cystoscopy; bronchoscopy always includes laryngoscopy. Payment for vaginal delivery always includes payment for any cervical block, episiotomy or episiotomy repair or pudendal block.

(C) Some surgeries do not contribute significantly to the difficulty of a major surgical procedure. These surgeries are denied because they do not represent any significant additional time or effort. An example is liver biopsy during other abdominal surgery.

(D) Some procedures, although multiple, have single codes which combine the procedures. For example, a skin graft to an area may include obtaining the graft from a different area and an arthrodesis code may specify that it includes obtaining the bone graft.

(E) Bilateral multiple surgery using modifier -50 is usually subject to the multiple surgery rule so that modifier -50, followed by -51 may be necessary for a bilateral secondary procedure. The result will be that an allowable of 150 percent is cut in half, or 75 percent of the basic allowable.

(F) Some multiple surgeries are properly treated as co-surgery under a single procedure code. For instance, a neurosurgeon and orthopedist may work together on a laminectomy with arthrodesis (single procedure code) or a neurosurgeon and ENT surgeon may work together on a transnasal surgery on the pituitary gland. Co-surgery is billed using modifier -62.

(3) There are two special procedure codes which may be used when microdissection is involved:

(A) 64830. Microdissection and/or repair of nerve. This code is listed on the next claim line immediately below the nerve repair and the allowable is 50 percent of the allowable for the repair itself.

(B) 61712. Microdissection, intracranial or spinal procedure. This code is listed on the next claim line

immediately below the major procedure and the allowable is 25 percent of the major procedure code allowable.

(e) **Surgical codes not treated as multiple surgery.** There are some surgical procedures which OHCA does not recognize as requiring a multiple surgery modifier. When these procedures are performed in conjunction with another surgical procedure, these procedures will be paid at the full allowable after review.

(f) **Incidental procedures.** Some procedures are rarely compensable when done in conjunction with another surgical procedure. These are procedures which are incidental to the major procedure, such as an incidental appendectomy or a routine intra-abdominal biopsy. These procedures are identified in the CPT manual by the notation "Separate procedure" when they can also be performed as an independent procedure. Following are some of the most common:

(1) Appendectomy with hysterectomy.

(2) Exploratory laparotomy with any abdominal or pelvic surgical procedures.

(3) Ovarian cystectomy with hysterectomy or other ovarian surgery such as wedge-resection of ovaries.

(4) Diagnostic arthroscopy of the knee with any other arthroscopic surgery of the knee.

(5) Diagnostic laryngoscopy with any bronchoscopy procedure.

(6) Only one laparoscopic procedure allowed.

(7) Umbilica hernia repair when done at the same time as a ventral hernia repair.

(g) **Assistant surgeons.** If two surgeons claim as co-surgeons rather than as a primary and assistant surgeon, both use modifier -62 (Two Surgeons) on their claims.

(1) The Authority will not make payment for two assistant surgeons.

(2) Federal rules provide that ~~Medicaid~~ SoonerCare must not make payment for an assistant surgeon in a teaching setting when a resident is available to provide the service. An assistant surgeon who claims for services provided in a teaching setting uses modifier -82 to identify that a resident was not available. These claims are subject to audit and review of the records. If a physician claims for assistant surgeon when a qualified resident was available, penalties may be levied.

(3) Many procedures do not require an assistant surgeon. OHCA will not pay for an assistant surgeon or co-surgeon when unnecessary.

(h) **Non-compensable surgery.** Procedures which are cosmetic are not covered for adults. Intradermal introduction of pigments or tattooing is considered cosmetic surgery and non-compensable for adults except when related to breast reconstruction after surgery for breast cancer and considered medically necessary. Intradermal introduction of pigments or tattooing require medical review prior to payment for children.

(i) **General surgery information.**

(1) When a D & C is performed in conjunction with abdominal hysterectomy, the full allowable is paid for the hysterectomy and 50% of the allowable is paid for the D & C (51 modifier required).

(2) When a D & C is performed in conjunction with a vaginal hysterectomy, only the hysterectomy can be paid.

(3) When multiple surgery involves tubal ligation, removal of tubes and ovaries, or other procedures for which specific codes exist, the regular procedure code is to be used. The proper consent form must also accompany these claims. If the multiple surgery on a person member under 21 years of age involves tubal ligation; removal of the tubes and ovaries, or other procedures for which specific codes exist, the sterilization procedure is not compensable. No consent form is necessary since sterilization may not be paid for persons members under 21 years of age. A postpartum tubal ligation (Procedure Code 58605) is paid at one hundred percent of the allowable charge if the patient member is over 21 years of age and the claim is accompanied by an acceptable consent form.

(4) Vasectomy requires sterilization consent form. Considered incidental in conjunction with any urological operative procedure.

(5) A cochlear implant device is not covered for persons members between the ages of 21 and 65. Cochlear implant is covered for persons members between the ages of two through 17 who meet all of the guidelines listed below.

(A) No contraindications to the implant, including those described in the product's FDA-approved package insert.

(B) Diagnosis of bilateral profound sensorineural deafness with little or no benefit from a hearing (or vibrotactile) aid, as demonstrated by the inability to improve on age appropriate closed-set word identification tasks.

(C) Freedom from middle ear infection, an accessible cochlear lumen that is structurally suited to implantation, and freedom from lesions in the auditory nerve and acoustic areas of the central nervous system.

(D) The device must be used in accordance with the FDA approved labeling.

(E) Claims are suspended for medical review to determine if the guidelines are met.

(6) All aspects of Electrophysiologic Study of the heart are done at one session (sinus node, A-V node, Bundle of HIS and arrhythmia itself). If more than one area is done at the same session, multiple surgery rules apply.

(7) Additional payment is allowed for use of marlex mesh or graft. Use code 99070.

(8) Gravlee jet washer - procedure is compensable only when the patient exhibits clinical symptoms suggestive of endometrial disease, such as irregular or heavy bleeding.

(9) Payment A separate payment is not made for pre and post operative care billed in conjunction with surgery. This does not apply to those specific surgical procedures where the fee is considered to be for the surgical procedure only or to the initial consultation or evaluation of the problem by the surgeon to determine the need for surgery. ~~Under most circumstances, payment~~ Payment for the ~~immediate pre-operative visit within 24 hours, on the date~~

immediately prior to or on the date of the procedure, either in the hospital, or elsewhere to examine the patient, complete the hospital records and initiate the treatment program, is included in the listed value for the surgery. All surgical procedures are considered to include ~~normal typical,~~ uncomplicated follow-up care unless otherwise indicated. ~~The Combined Procedures Terminology manual identifies most of these procedures with a star.~~

(10) Additional payment is not allowed for suprapubic cystotomy performed in conjunction with abdominal bladder or urethral surgery (Marshall-Marchetti). When suprapubic cystotomy is performed in conjunction with genito-urinary surgery from the vaginal approach, it would be allowed as multiple surgery.

(11) Balloon valvuloplasty of heart valves other than pulmonic valve, is not covered.

(12) In cataract participatory surgery, payment can be made to the Ophthalmologist for cataract surgery and separate payment to the Optometrist for postoperative care. The surgery by the Ophthalmologist is billed under the appropriate CPT surgical code with modifier 54 and the payment is made at 80% of the surgical allowable. The postoperative care is billed by the Optometrist under the same CPT surgical code with modifier 55 and the payment is made at 20% of the surgical allowable. Cataract participatory surgery is appropriate for surgical procedure codes 66830 through 66986. The Ophthalmologist shows the name of the Optometrist providing postoperative care on the claim in the block requiring the referring physician's name. If this required information is not on the claim, the claim is denied.

(13) Reduction mammoplasty is covered only when the procedure has been determined medically necessary. Prior approval by the Medical Concurrent Review team is required and prior authorization (PA) must be issued by OHCA. The procedure must be performed within the client's member's Medicaid SoonerCare certification period. The processes and required documentation for prior approval of reduction mammoplasty are provided in subparagraphs (A) and (B) of this paragraph.

(A) Logarithm of body surface area will be applied.

(B) If the data plots above the 22nd percentile, the procedure is considered medically necessary. If the data plots between the 5th and 22nd percentiles, medical necessity would be questioned and referred to the Agency's Medical Director for review. If below the 5th percentile, the procedure is considered cosmetic and not eligible for coverage.

(i) Prior approval is determined based on documentation provided.

(ii) Office progress notes from referring physician with detailed symptomatology must be submitted and includes:

(I) Office progress notes covering one year from current date;

(II) Chronic back and/or neck pain;

(III) Breast pain;

(IV) Intertrigo;

Emergency Adoptions

- (V) Documented weight loss program if applicable.
- (iii) Office progress notes and evaluation from surgeon must be submitted and includes:
 - (I) Patient's height and weight;
 - (II) Front and side view photographs;
 - (III) Projected number of grams of breast tissue to be removed;
 - (IV) Diagnosis; and
 - (V) CPT Code.

[OAR Docket #06-1349; filed 10-24-06]

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

[OAR Docket #06-1347]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 21. Breast and Cervical Cancer Treatment Program

317:35-21-12. [AMENDED]

(Reference APA WF # 06-21)

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

DATES:

Adoption:

August 16, 2006

Approved by Governor:

October 8, 2006

Effective:

Immediately upon Governor's approval or October 1, 2006, whichever is later

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:

The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to establish specific time frames, following approval for the Breast and Cervical Cancer Treatment program (BCC), in which members have to seek diagnostic testing and treatment for breast and/or cervical cancer. Revisions would require a member to seek diagnostic testing within 60 days of an abnormal screening and an additional 60 days to seek treatment. This requirement will ensure members are receiving care and/or treatment in a timely manner.

ANALYSIS:

Agency rules are revised to establish specific time frames, following approval for the Breast and Cervical Cancer Treatment program (BCC), in which a member has to seek diagnostic testing and treatment for breast and cervical cancer. Currently, there is no specific time frame for a member to complete diagnostic testing for BCC. Once a member has an abnormal screening for breast and/or cervical cancer and meets eligibility requirements, they are certified for full scope Medicaid benefits. The member maintains full scope of benefits until their diagnostic testing is completed and results are reviewed by OHCA Care Managers to determine if the member is still in need of treatment. There have been circumstances in which a member purposefully delays diagnostic testing while they focus on other personal medical concerns. More commonly, the member does not place high priority on completing their testing and therefore the case will remain open for extended periods of time

while the member seeks no care at all. Additionally, some members have no intention of seeking treatment. Under the current policy, OHCA has no recourse to close the case upon the members decision to not seek treatment. The proposed revisions would enable the case to be closed if the member does not seek treatment within the 60 day time frame or if the member refuses treatment.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR OCTOBER 1, 2006, WHICHEVER IS LATER:

SUBCHAPTER 21. BREAST AND CERVICAL CANCER TREATMENT PROGRAM

317:35-21-12. Changes after certification/continued need for treatment

(a) A woman found to be in need of treatment as the result of an abnormal BCC screen ~~receives~~ has 60 days from the date of the application to complete the initial appointment for a diagnostic testing procedure and an additional 60 days to complete any additional diagnostic testing required or to initiate compensable treatment for a cancerous or pre-cancerous condition. The exception to the time limit is evidence of a lack of appointment availability to determine if she has breast and/or cervical cancer. Upon completion of the diagnostic testing, OHCA is provided a medical report of the findings.

(1) ~~When diagnostic testing is complete, the OKDHS is notified if~~ If the woman was is found not to have BCC breast or cervical cancer including pre-cancerous conditions and early stage, recurrent or metastatic cancer. When the woman is found not to have breast or cervical cancer, the case is closed by OKDHS and appropriate notification is computer generated. for which she is in need of treatment or fails to have diagnostic testing or begin treatment within the time frames described in OAC 317:35-21-12(a), the case is closed by OKDHS and appropriate notification is computer generated.

(2) If a medical report necessary to determine continued treatment is not received from a provider within ten working days after a request is made by OHCA, the report is considered negative and the case is closed by OKDHS and appropriate notification is computer generated.

(b) ~~If it is determined at any time during the certification period that the woman has creditable health insurance coverage, the OKDHS worker closes the case and appropriate notification is computer generated~~ the woman in need of treatment refuses SoonerCare compensable treatment or diagnostic services and does not plan to pursue the care in the time frames described in OAC 317:35-21-12(a), the case is closed by OKDHS and appropriate notification is computer generated.

(c) ~~If it is determined at any time during the certification period that the woman is no longer in need of treatment, the~~

OKDHS worker closes the case and appropriate notification is computer generated. In the event a woman is unable to initiate or complete diagnostic services due to a catastrophic illness or injury occurring after certification, SoonerCare will remain open with the approval of a SoonerCare Medical Director or his/her designee.

(d) If the OKDHS worker later determines that the woman is otherwise eligible for Medicaid, the worker takes necessary actions to certify her for the appropriate category of Medicaid coverage it is determined at any time during the certification period that the woman is no longer in need of treatment, the OKDHS worker closes the case and appropriate notification is computer generated.

(e) If it is determined at any time during the certification period that the woman has creditable health insurance coverage, the OKDHS worker closes the case and appropriate notification is computer generated.

(f) If the OKDHS worker later determines that the woman is otherwise eligible for SoonerCare, the worker takes necessary actions to certify her for the appropriate category of SoonerCare coverage.

[OAR Docket #06-1347; filed 10-24-06]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY
CHAPTER 45. OKLAHOMA EMPLOYER AND EMPLOYEE PARTNERSHIP FOR INSURANCE COVERAGE**

[OAR Docket #06-1348]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 7. O-EPIC PA Employer Eligibility
317:45-7-1. [AMENDED]
(Reference APA WF # 06-20)

AUTHORITY:
The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; O.S.S. '68-302-5 et seq.

DATES:
Adoption:
August 16, 2006

Approved by Governor:
October 8, 2006

Effective:
Immediately upon Governor's approval or October 1, 2006, whichever is later

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:
The Agency finds that a compelling public interest exists which necessitates promulgation of emergency rules and requests emergency approval of rule revisions to comply with House Bill 2842 of the 2nd Session of the 50th Oklahoma Legislature. Revisions will extend the option to purchase affordable health insurance to a larger group of low income, uninsured employees.

ANALYSIS:

Agency rules are revised to increase the maximum number of employees that an employer may have on its payroll in order for the employer to participate in the O-EPIC Premium Assistance program. Last fall, the agency initiated the O-EPIC Premium Assistance program for small Oklahoma business employers with 25 employees or less. House Bill 2842 of the 2nd Session of the 50th Oklahoma Legislature amended state statutes to authorize OHCA to expand the Premium Assistance program to include employers with 50 employees or less. The Program is funded through a portion of monthly proceeds from the Tobacco Tax that are collected and dispersed through the Health Employee and Economy Improvement Act (HEEIA) Revolving Fund. Revisions are needed to comply with House Bill 2842 of the 2nd Session of the 50th Oklahoma Legislature.

CONTACT PERSON:

Joanne Terlizzi at (405)522-7272

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), AND EFFECTIVE UPON APPROVAL BY GOVERNOR OR OCTOBER 1, 2006, WHICHEVER IS LATER:

SUBCHAPTER 7. O-EPIC PA EMPLOYER ELIGIBILITY

317:45-7-1. Employer application and eligibility requirements for O-EPIC

(a) In order for an employer to be eligible to participate in the O-EPIC program the employer must:

- (1) have no more than a total of ~~25~~ 50 employees on its payroll. The number of employees is determined based on the third month employee count of the most recently filed OES-3 form with the Oklahoma Employment Security Commission (OESC) and that is in compliance with all requirements of the OESC. If the employer is exempt from filing an OES-3 form or is contracted with a PEO or is a Child Care Center, in accordance with OHCA rules, this determination is based on appropriate supporting documentation, such as the W-2 Summary Wage and Tax form as required under OAC 365:10-5-156 to verify employee count;
- (2) have a business that is physically located in Oklahoma;
- (3) be currently offering or intending to offer within ~~60~~ 90 calendar days an O-EPIC Qualified Health Plan. The Qualified Health Plan coverage must begin on the first day of the month and continue through the last day of the month;
- (4) offer Qualified Health Plan coverage to employees in accordance with Oklahoma Small Business Statutes, Oklahoma Department of Insurance, and all other regulatory agencies;
- (5) contribute a minimum 25 percent of the eligible employee monthly health plan premium;

(b) An employer who meets all requirements listed in subsection (a) of this Section must complete and submit an employer enrollment packet to the TPA.

Emergency Adoptions

(c) The employer must provide its Federal Employee Identification Number (FEIN).

(d) The employer must notify the TPA, within 5 working days from occurrence, of any O-EPIC employee's termination or resignation. ~~Additionally, the employer must notify the~~

~~TPA of new hires within 30 days of eligibility for the health plan.~~

[OAR Docket #06-1348; filed 10-24-06]

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

1:2006-20.

EXECUTIVE ORDER 2006-20

I, Brad Henry, Governor of the State of Oklahoma, by the authority vested in me pursuant to Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby establish the Governor's Oklahoma United We Ride Council.

The purpose shall be to provide a comprehensive assessment of existing state and federal human service transportation funding programs. The Council shall evaluate the most effective and efficient use of human service transportation resources including the coordination of transportation services and funding. This shall include assessing opportunities and barriers for improved human service transportation; overlap caused by duplicated agency efforts; and service gaps to enhance citizen access to all available transportation and resources. The Council shall review the transportation policies of state agencies that provide human service transportation to identify the most efficient methods for facilitating the coordination of human service transportation services. All such state agencies that provide human service transportation shall cooperate with the Council in implementing the provisions of this Order. In conjunction with the Joint Oklahoma Information Network (JOIN), the Council shall develop and maintain a consolidated inventory of all human service transportation providers within the state.

The Council shall make recommendations addressing the standards and methods of activity report; the contents of interagency agreements including service assurances, financial commitments, monitoring and compliance plans; and the most appropriate and cost efficient service that can be accomplished through the coordination or consolidation of human service transportation resources.

There is hereby created the Governor's Oklahoma United We Ride Council (Council) composed of at least twenty-seven (27), but not more than twenty-eight (28) members appointed by the Governor.

The Council shall be composed of:

A. State officials that shall include incumbents or designees of the following named offices, or their successors in office or function:

1. Director of the Oklahoma Department of Commerce;
2. Director of the Oklahoma Department of Rehabilitation Services;
3. Commissioner of Health;
4. Director of the Oklahoma Department of Human Services;
5. Commissioner of the Oklahoma Department of Mental Health and Substance Abuse Services;
6. Director of the Oklahoma Department of Veterans Affairs;
7. Director of the Oklahoma Department of Transportation;
8. Director of the Oklahoma Office of Handicapped Concerns;
9. Chief Executive Officer of the Oklahoma Health Care Authority;
10. Director of the Oklahoma Commission on Children and Youth;
11. Director of the Oklahoma Employment Security Commission; and
12. State Superintendent of Public Instruction.

B. The following members shall be appointed at the discretion and pleasure of the Governor:

1. At least four (4) members representing the transportation disadvantaged population;
2. At least three (3) members representing transportation providers;
3. At least four (4) members representing transportation disadvantaged organizations;
4. At least three (3) members representing community government organizations; and
5. At least one (1) member representing an Oklahoma nation or tribe.

C. Other members may be appointed, at the discretion and pleasure of the Governor, representing each of the appropriate agencies involved in the coordination or use of human service transportation resources.

Members listed in Sections B and C above shall be appointed by and serve at the pleasure of the Governor for a three-year term beginning October 1, 2006. Of the initial members appointed, one-third shall be appointed for an initial term of one (1) year, one-third shall be appointed for an initial term of two (2) years, and one-third shall be appointed for an initial term of three (3) years. Members may be reappointed and shall continue to serve until a new appointment is made.

Executive Orders

The Council shall meet at such times and places as it deems appropriate. Members shall serve without compensation. Council members employed by a state agency shall be reimbursed travel expenses related to their service on the Council as authorized by state law by their respective state agency. Remaining Council members shall also be reimbursed travel expenses related to their service on the Council as authorized by state law by the Oklahoma Department of Rehabilitation Services. Administrative support for the Council, including, but not limited to, personnel necessary to ensure the proper performance of the duties and responsibilities of the Council, shall be provided by the Oklahoma Department of Rehabilitation Services. The Council shall elect a chair and vice chair from its membership. The Council shall report to the Governor regarding its progress and status on January 1, 2007 and every six (6) months thereafter.

This Executive Order shall be distributed to the Oklahoma Department of Rehabilitation Services which shall cause the provisions of this Order to be implemented.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 18 day of October, 2006.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #06-1339; filed 10-19-06]

1:2006-21.

EXECUTIVE ORDER 2006-21

I Brad Henry, Governor of the State of Oklahoma, by the authority vested in the Office of the Governor by the Constitution of the State of Oklahoma, hereby amend Executive Order 2005-25, which created the Governor's Emergency Medical Services Readiness Task Force.

The Governor's Emergency Medical Services (EMS) Readiness Task Force will be extended until January 2, 2007. The EMS Task Force shall make a final written report to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives by January 2, 2007. The remainder of Executive Order 2005-25 shall remain in full force and effect.

This Executive Order shall be distributed to the Oklahoma Department of Health who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 19th day of October, 2006.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Kathy Jekel
Acting Assistant Secretary of State

[OAR Docket #06-1350; filed 10-24-06]
