

Volume 25
Number 6
December 3, 2007
Pages 295 - 370

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules



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

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INFORMATION ABOUT THIS PUBLICATION may be obtained by contacting the Oklahoma Secretary of State, Office of Administrative Rules, 2401 North Lincoln Boulevard, Will Rogers Building, Room 220, P.O. Box 53390, Oklahoma City, OK 73152-3390, or by calling (405) 521-4911 or faxing (405) 522-3555. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

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ISSN 0030-1728

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Notices of Rulemaking Intent

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

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

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

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

[OAR Docket #07-1525]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 45. Brucellosis in Cervidae

Part 13. Certified Brucellosis-Free Cervid Herds

35:15-45-131 [AMENDED]

35:15-45-132 [AMENDED]

SUMMARY:

This rule is necessary to protect the cervid industry in Oklahoma from unnecessary injury or fatality to cervidae. Due to the fractious nature of cervidae, frequent testing often results in injury or death to the animals, and also can result in injury to the handler. Testing of cervidae for Brucellosis was on the same schedule as Tuberculosis for maintenance of Certified Brucellosis Free herd status. The Tuberculosis requirements were changed previously from three tests to two tests annually and to increase the time period for recertification from two years to three years. This rule proposes to adopt the same time periods as the Tuberculosis testing for Brucellosis testing in cervidae. This rule was previously adopted as an emergency rule.

AUTHORITY:

State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. 2001 §§ 2-4(2), (7), (17), (27) and (29); 6-2; and 6-291; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804, teena.gunter@oda.state.ok.us during the period from December 3, 2007 through January 3, 2008.

PUBLIC HEARING:

A public hearing will be held at 11:00 a.m., January 3, 2008, in the Plant Industry and Consumer Services Conference Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

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 Teena Gunter at the above address during the period from December 3, 2007 through January 3, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.oda.state.ok.us or by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804, (405) 522-4576, teena.gunter@oda.state.ok.us.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Dr. Becky Brewer, (405) 522-6134, e-mail address: becky.brewer@oda.state.ok.us

[OAR Docket #07-1525; filed 11-8-07]

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

[OAR Docket #07-1526]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 40. Bovine Tuberculosis

Part 1. Definitions

35:15-40-1 [AMENDED]

Part 7. Import Requirements

35:15-40-92 [AMENDED]

35:15-40-93 [NEW]

SUMMARY:

These rules provide new tuberculosis requirements for rodeo bulls used for exhibition purposes in the state, and provide entry requirements for Mexican origin steers and spayed heifers. New rules for brucellosis requirements of rodeo bulls were previously approved by the Board. Tuberculosis positives in rodeo stock have recently occurred in several states. During those investigations, it was discovered that Mexican cattle have entered Oklahoma illegally. These rules clarify the tuberculosis entry requirements and help ensure that Oklahoma keeps its tuberculosis free status. These rules were originally approved as emergency rules.

Notices of Rulemaking Intent

AUTHORITY:

State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. 2001 §§ 2-4(2), (7), (17), and (29); 6-2; and 6-141 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804, teena.gunter@oda.state.ok.us during the period from December 3, 2007 through January 3, 2008.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., January 3, 2008, in the Plant Industry and Consumer Services Conference Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

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 Teena Gunter at the above address during the period from December 3, 2007 through January 3, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.oda.state.ok.us or by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804, (405) 522-4576, teena.gunter@oda.state.ok.us.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Dr. Becky Brewer, (405) 522-6134, e-mail address: becky.brewer@oda.state.ok.us

[OAR Docket #07-1526; filed 11-8-07]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 17. WATER QUALITY

[OAR Docket #07-1527]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 11. Eucha-Spavinaw Management Act [NEW]
35:17-11-1 [NEW]
35:17-11-2 [RESERVED]

35:17-11-3 [NEW]

Appendix A. Eucha-Spavinaw Phosphorus Index [NEW]

SUMMARY:

These rules fulfill the requirements of House Bill 1490 of the 2007 legislative session by promulgating rules to implement the provisions of the Eucha-Spavinaw Management Act. These rules were previously approved as emergency rules. The rules apply to all persons utilizing poultry waste for land application purposes in the Eucha-Spavinaw Watershed. Specifically, these rules incorporate the Eucha-Spavinaw phosphorus index that is currently in use in that watershed into state law and makes the index enforceable by the Department.

AUTHORITY:

State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4(2), (7), (16), and (29); 10-10.1 et seq.; and Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written and oral comments to Teena Gunter at 2800 North Lincoln Boulevard, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804, teena.gunter@oda.state.ok.us during the period from December 3, 2007 through January 3, 2008.

PUBLIC HEARING:

A public hearing will be held at 10:30 a.m., January 3, 2008, in the Consumer Protection Services conference room on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

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 Teena Gunter at the above address during the period from December 3, 2007 through January 3, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.oda.state.ok.us or by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804, teena.gunter@oda.state.ok.us.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #07-1527; filed 11-8-07]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 30. PLANT INDUSTRY/CONSUMER PROTECTION**

[OAR Docket #07-1528]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 17. Combined Pesticide
Part 9. Minimum Standards for Contracts and Keeping of Records
35:30-17-21 [AMENDED]

SUMMARY:

The proposed rule will reconcile the language in 35:30-17-21 that was approved in 2007 as two different rules utilizing the same rule number. Currently, the text of the two rules conflicts and is listed twice in the Oklahoma Administrative Code. In addition, the Department determined that the 2007 text revisions from one rule are no longer necessary, therefore this reconciliation is intended to replace both versions of the rule. The rule contains language related to recordkeeping for pesticide applicators and restricted use pesticide sales. This reconciliation effectively replaces any language requiring records to be kept by non-restricted use pesticide dealers. This rule was previously adopted as an emergency rule.

AUTHORITY:

State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. 2001 §§ 2-4(2) and (29), 3-81 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written and oral comments to Teena Gunter at 2800 North Lincoln Boulevard, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804, teena.gunter@oda.state.ok.us during the period from December 3, 2007 through January 3, 2008.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m., January 3, 2008, in the Plant Industry and Consumer Services Conference Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

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 Teena Gunter at the above address during the period from December 3, 2007 through January 3, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.oda.state.ok.us or by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804, teena.gunter@oda.state.ok.us

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #07-1528; filed 11-8-07]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 37. FOOD SAFETY**

[OAR Docket #07-1524]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 3. Meat Inspection
Part 1. General Provisions
35:37-3-1 [AMENDED]
35:37-3-3 [AMENDED]
Subchapter 5. Poultry Products Inspection
Part 1. General Provisions
35:37-5-1 [AMENDED]
35:37-5-2 [AMENDED]
Subchapter 13. Milk and Milk Products
35:37-13-3 [REVOKED]
Appendix A. Chemical, Bacteriological and Temperature Standards for Milk and Milk Products [REVOKED]
Appendix A. Chemical, Bacteriological and Temperature Standards for Milk and Milk Products [NEW]

SUMMARY:

The proposed rule changes update the incorporation by reference of Code of Federal Regulations citations. In addition, the revisions revoke the rule explaining the PMO and DMO interface because the DMO is incorporated into the PMO. Finally, Appendix A is revoked and reenacted to include references to goat milk standards.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(2), (7), (24), (25), and (29), 6-181 et seq., 6-251 et seq., 6-280.1 et seq., and 6-290.1 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298 or teena.gunter@oda.state.ok.us during the period from December 3, 2007 through January 3, 2008.

Notices of Rulemaking Intent

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., January 3, 2008 in the Boardroom, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

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 Teena Gunter at the above address during the period from December 3, 2007 to January 3, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting oda.state.ok.us or by contacting Teena Gunter, Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298, 405-522-4576, or at teena.gunter@oda.state.ok.us

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #07-1524; filed 11-8-07]

TITLE 195. BOARD OF DENTISTRY CHAPTER 1. ORGANIZATION, OPERATION AND PURPOSES

[OAR Docket #07-1521]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

195:1-1-6. Public inspection of certain records
[AMENDED]

SUMMARY:

The Board is deleting old rules now replaced by 59 O.S. Section 328.43a (H) citing information obtained and all contents of any investigation file shall be exempt from the provisions of the Oklahoma Open Records Act.

AUTHORITY:

59 O.S. 328.15(A); Board of Dentistry

COMMENT PERIOD:

Comment period is from **January 2, 2008 to February 7, 2008**. Comments may be address to the Office of the Board of Dentistry, 201 North East 38th Terrace, Suite 2, Oklahoma City, Oklahoma 73105.

PUBLIC HEARING:

A public hearing has been scheduled for Friday, February 8, 2008, at 9:00 a.m., at the office of the Board, 201 North East 38th Terrace, Suite 2, Oklahoma City, Oklahoma. The hearing will conclude at 12:00 (noon). The Board has scheduled a meeting date of February 15, 2008 to adopt the rules after the public hearing to ensure sufficient time is provided for each member to review all information from both the comment period and the hearing process.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Board with information, in dollar amounts if possible, about any possible increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with this proposed rule. These amendments should have no financial impact on businesses. Business entities may submit this information in writing during the comment period to Linda C. Campbell, Executive Director, at the office of the Board.

COPIES OF PROPOSED RULES:

Copies of the proposed rule for review by the public may be obtained at the Board office address or by the web site at www.dentist.state.ok.us

RULE IMPACT STATEMENT:

Rule Impact Statement has been prepared and copies will be available for inspection at the office of the Board.

CONTACT PERSON:

Linda C. Campbell, Executive Director, (405) 524-9037/Facsimile (405) 524-2223

[OAR Docket #07-1521; filed 11-8-07]

TITLE 195. BOARD OF DENTISTRY CHAPTER 3. COMPLAINTS, INVESTIGATIONS AND HEARINGS

[OAR Docket #07-1522]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

195:3-1-10. Request for declaratory ruling ~~interpretation of rules~~ [AMENDED]

SUMMARY:

The Board is accepting advice from the Attorney General and attempting to clarify process for declaratory rulings.

AUTHORITY:

59 O.S. 328.15(A); Board of Dentistry

COMMENT PERIOD:

Comment period is from **January 2, 2008 to February 7, 2008**. Comments may be address to the Office of the Board of Dentistry, 201 North East 38th Terrace, Suite 2, Oklahoma City, Oklahoma 73105.

PUBLIC HEARING:

A public hearing has been scheduled for Friday, February 8, 2008, at 9:00 a.m., at the office of the Board, 201 North East 38th Terrace, Suite 2, Oklahoma City, Oklahoma. The hearing will conclude at 12:00 (noon). The Board has scheduled a meeting date of February 15, 2008 to adopt the rules after the public hearing to ensure sufficient time is provided for each member to review all information from both the comment period and the hearing process.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Board with information, in dollar amounts if possible, about any possible increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with this proposed rule. These amendments should have no financial impact on businesses. Business entities may submit this information in writing during the comment period to Linda C. Campbell, Executive Director, at the office of the Board.

COPIES OF PROPOSED RULES:

Copies of the proposed rule for review by the public may be obtained at the Board office address or by the web site at www.dentist.state.ok.us

RULE IMPACT STATEMENT:

Rule Impact Statement has been prepared and copies will be available for inspection at the office of the Board.

CONTACT PERSON:

Linda C. Campbell, Executive Director, (405) 524-9037/Facsimile (405) 524-2223

[OAR Docket #07-1522; filed 11-8-07]

**TITLE 195. BOARD OF DENTISTRY
CHAPTER 25. RULES FOR CONTINUING
DENTAL EDUCATION**

[OAR Docket #07-1523]

RULEMAKING ACTION:

Notice of proposed Permanent rulemaking

PROPOSED RULES:

- 195:25-1-2. Continuing Education required [AMENDED]
- 195:25-1-7. Categories of continuing education [AMENDED]

SUMMARY:

The Board is seeking to require an Ethics course once in every three-year reporting cycle. There will be no designation of hours to encourage compliance. The board will also begin to accept "Volunteer Service" for continuing education credit. Hour for hour credit will be granted for up to ten 10 hours for a dentist and five (5) for a dental hygienist. Volunteer Service will benefit the public by providing more dentists at free clinics, etc.

AUTHORITY:

59 O.S. 328.15(A); Board of Dentistry

COMMENT PERIOD:

Comment period is from **January 2, 2008 to February 7, 2008**. Comments may be address to the Office of the Board of Dentistry, 201 North East 38th Terrace, Suite 2, Oklahoma City, Oklahoma 73105.

PUBLIC HEARING:

A public hearing has been scheduled for Friday, February 8, 2008, at 9:00 a.m., at the office of the Board, 201 North East 38th Terrace, Suite 2, Oklahoma City, Oklahoma. The hearing will conclude at 12:00 (noon). The Board has scheduled a meeting date of February 15, 2008 to adopt the rules after the public hearing to ensure sufficient time is provided for each member to review all information from both the comment period and the hearing process.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Board with information, in dollar amounts if possible, about any possible increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with this proposed rule. These amendments should have no financial impact on businesses. Business entities may submit this information in writing during the comment period to Linda C. Campbell, Executive Director, at the office of the Board.

COPIES OF PROPOSED RULES:

Copies of the proposed rule for review by the public may be obtained at the Board office address or by the web site at www.dentist.state.ok.us

RULE IMPACT STATEMENT:

Rule Impact Statement has been prepared and copies will be available for inspection at the office of the Board.

CONTACT PERSON:

Linda C. Campbell, Executive Director, (405) 524-9037/Facsimile (405) 524-2223

[OAR Docket #07-1523; filed 11-8-07]

**TITLE 252. DEPARTMENT OF
ENVIRONMENTAL QUALITY
CHAPTER 300. LABORATORY
ACCREDITATION [REVOKED]**

[OAR Docket #07-1529]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 300. [REVOKED]

SUMMARY:

Title 252, Chapter 300 was originally promulgated in 2002. There have been numerous revisions, revocations and amendments to the Chapter. Therefore, DEQ decided to

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revoke Chapter 300 and adopt a new Chapter to cover much of the same content but in a more streamlined context and format. This rule revocation process is progressing in tandem with the rulemaking process of the new Chapter 301. For further information, refer to the Notice of Rulemaking Intent for Chapter 301.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. §§ 2-2-101, 2-2-201 and Article IV., Laboratory Services and Certification, § 2-4-101 *et seq.*

COMMENT PERIOD:

Deliver or mail written comments on the proposed rule revocation to the contact person from December 17, 2007, through January 23, 2008. Oral comments may be made at the Laboratory Services Advisory Council meeting on January 30, 2008, or at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARINGS:

Before the Laboratory Services Advisory Council at a regular meeting at 1:30 p.m. on January 30, 2008, in the Multi-Purpose Room, first floor of the Department of Environmental Quality (DEQ), 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board at 9:30 a.m. on February 29, 2008, in the Multi-Purpose Room, first floor of the DEQ, 707 N. Robinson, Oklahoma City, OK 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by this proposed rule revocation provide the DEQ, within the comment period and in dollar amounts if possible, the increase or decrease in the level of direct costs such as fees and the 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 rule revocation.

COPY OF PROPOSED RULES:

A copy of the proposed rule revocation may be obtained from the contact person, viewed on the DEQ web site at www.deq.state.ok.us or reviewed at the DEQ, 707 N. Robinson, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rule revocation will be on file at the DEQ and may be requested from the contact person and will be posted on the DEQ web site.

CONTACT PERSON:

David Caldwell, DEQ, State Environmental Laboratory, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-1000, or david.caldwell@deq.state.ok.us

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Laboratory Services Advisory Council and need assistance should notify the contact person

three days in advance of the meeting during business hours at 405-702-1000 or by using TDD relay number 1-800-522-8506.

[OAR Docket #07-1529; filed 11-9-07]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 301. LABORATORY ACCREDITATION

[OAR Docket #07-1530]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 301. Laboratory Accreditation [NEW]

SUMMARY:

This proposed new chapter is a total rewrite of Title 252, Chapter 300, which was originally promulgated in 2002. This process will streamline a new, more readable chapter. Subchapter 3 had contained definitions and related rules. The rules in this subchapter were moved to General Provisions in Subchapter 1. Subchapter 5 contained rules re: the accreditation process, how to file an application, enforcement and inspection, etc., and was not well organized due to having been amended several times over the years. This subchapter was renumbered to Subchapter 3, split into parts, and substantially reorganized. Subchapter 7 became Subchapter 5 with only minor changes. Subchapter 15 became Subchapter 7, with minor changes. Subchapter 17 became Subchapter 9, with minor changes. Appendices containing analytes were revoked and not replaced. "Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act: National Primary Drinking Water Regulations; and National Secondary Drinking Water Regulations : Analysis and Sampling Procedures", also known as the "methods update rule", 72 Federal Register 47, March 12, 2007, 40 CFR 136 and 40 CFR 141 bound-volumes dated July 2007 are proposed for incorporation by reference.

The laboratory accreditation program is supported solely by fees, which have not been adjusted since 1994. Program revenues no longer support the number of staff needed to properly administer the program and provide services to accredited laboratories. This proposal would increase fees by approximately 40% based upon increases in the cost of living adjustment over that time period and establish a process for annual adjustment of the fees based upon changes in the cost of living.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. §§ 2-2-101, 2-2-201 and Article IV, Laboratory Services and Certification, § 2-4-101 *et seq.*

COMMENT PERIOD:

Deliver or mail written comments on the proposed rules to the contact person from December 17, 2007 through January 23, 2008. Oral comments may be made at the Laboratory

Services Advisory Council meeting on January 30, 2008, or at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARINGS:

Before the Laboratory Services Advisory Council at a regular meeting at 1:30 p.m. on January 30, 2008, in the Multi-Purpose Room, first floor of the Department of Environmental Quality (DEQ), 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board at 9:30 a.m. on February 29, 2008, in the Multi-Purpose Room, first floor of the DEQ, 707 N. Robinson, Oklahoma City, OK 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these proposed rules provide the DEQ, within the comment period and in dollar amounts if possible, the increase or decrease in the level of direct costs such as fees and the 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.

COPY OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person, viewed on the DEQ web site at www.deq.state.ok.us, or reviewed at the DEQ, 707 N. Robinson, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules will be on file at the DEQ and may be requested from the contact person and will be posted on the DEQ web site.

CONTACT PERSON:

David Caldwell, DEQ, State Environmental Laboratory, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-1000, or david.caldwell@deq.state.ok.us.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Laboratory Services Advisory Council and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-1000 or by using TDD relay number 1-800-522-8506.

[OAR Docket #07-1530; filed 11-9-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 305. LABORATORY SERVICES**

[OAR Docket #07-1531]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 252:305-1-11. Required fees and other pricing [AMENDED]
- Appendix A. Samples Submitted by Governmental Entities [REVOKED]
- Appendix A. Samples Submitted by Governmental Entities [NEW]
- Appendix B. Samples Submitted by Private Parties [REVOKED]
- Appendix B. Samples Submitted by Private Parties [NEW]

SUMMARY:

The Laboratory Services rules establish the fees charged by the Department of Environmental Quality (DEQ) for work done in the Customer Services Division=s State Environmental Laboratory. Laboratory services are provided to public water supply systems, subdivisions of the DEQ, other state and federal environmental agencies, Indian tribes and private citizens. These fees were last adjusted in 2006. This proposal would increase fees by approximately 5% based upon the increase in cost of living over that time period and would establish a process for annual adjustment of the fee based upon change in the cost of living.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. §§ 2-2-101, 2-2-201 and Article IV., Laboratory Services and Certification, § 2-4-101 *et seq.*

COMMENT PERIOD:

Deliver or mail written comments on the proposed rules to the contact person from December 17, 2007, through January 23, 2008. Oral comments may be made at the Laboratory Services Advisory Council meeting on January 30, 2008, or at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARINGS:

Before the Laboratory Services Advisory Council at a regular meeting at 1:30 p.m. on January 30, 2008, in the Multi-Purpose Room, first floor of the Department of Environmental Quality (DEQ), 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board at 9:30 a.m. on February 29, 2008, in the Multi-Purpose Room, first floor of the DEQ, 707 N. Robinson, Oklahoma City, OK 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these proposed rules provide the DEQ, within the comment period and in dollar amounts if possible, the increase or decrease in the level of direct costs such as fees and the 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.

COPY OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person, viewed on the DEQ web site at

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www.deq.state.ok.us, or reviewed at the DEQ, 707 N. Robinson, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules will be on file at the DEQ and may be requested from the contact person and will be published on the DEQ web site.

CONTACT PERSON:

Chris Armstrong, DEQ, State Environmental Laboratory, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-1000, or chris.armstrong@deq.state.ok.us

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Laboratory Services Advisory Council and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-1000 or by using TDD relay number 1-800-522-8506.

[OAR Docket #07-1531; filed 11-9-07]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 606. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM (OPDES) STANDARDS

[OAR Docket #07-1532]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

252:606-1-4 [AMENDED]

Appendix B. Fees for Non-Industrial Discharge Permits [REVOKED]

Appendix B. Fees for Non-Industrial Discharge Permits [NEW]

Appendix C. Annual Industrial Discharge Permit Fees [REVOKED]

Appendix C. Annual Industrial Discharge Permit Fees [NEW]

Appendix D. Fees for Stormwater Permits and Other General Permits [REVOKED]

Appendix D. Fees for Stormwater Permits and Other General Permits [NEW]

Appendix E. Fees for Individual Discharge Permits for Categorical Industries [REVOKED]

Appendix E. Fees for Individual Discharge Permits for Categorical Industries [NEW]

Appendix F. Fees for Land Application of Biosolids [REVOKED]

Appendix F. Fees for Land Application of Biosolids [NEW]

SUMMARY:

The Department proposes to increase OPDES permit and annual fees by the rate of inflation since the effective date of the last fee modification, which was on or about July

1, 1999, and the projected inflation rate over the next five years. Additionally, the Department proposes to have fees automatically increase every five years thereafter by the rate of inflation over the previous five years. Finally, the Department proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2006, to July 1, 2007.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 14, 2008. Oral comments may be made at the Water Quality Management Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

CONTACT PERSON:

The contact person is Donald D. Maisch. Mr. Maisch can be reached at don.maisch@deq.state.ok.us (e-mail), (405) 702-7189 (phone) or (405) 702-7199 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For

hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1532; filed 11-9-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 611. GENERAL WATER QUALITY**

[OAR Docket #07-1533]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:611-1-3 [AMENDED]

SUMMARY:

The Department proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2006, to July 1, 2007.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 14, 2008. Oral comments may be made at the Water Quality Management Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

CONTACT PERSON:

The contact person is Donald D. Maisch. Mr. Maisch can be reached at don.maisch@deq.state.ok.us (e-mail), (405) 702-7189 (phone) or (405) 702-7199 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1533; filed 11-9-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 616. INDUSTRIAL WASTEWATER SYSTEMS**

[OAR Docket #07-1534]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Permit Procedures
252:616-3-3 [AMENDED]

SUMMARY:

The Department proposes to increase OPDES permit and annual fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1997, and the projected inflation rate over the next five years. Additionally, the Department proposes to have fees automatically increase every five years thereafter by the rate of inflation over the previous five years. **AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 14, 2008. Oral comments may be made at the Water Quality Management Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

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Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

CONTACT PERSON:

The contact person is Donald D. Maisch. Mr. Maisch can be reached at don.maisch@deq.state.ok.us (e-mail), (405) 702-7189 (phone) or (405) 702-7199 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1534; filed 11-9-07]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 621. NON-INDUSTRIAL FLOW-THROUGH AND PUBLIC WATER SUPPLY IMPOUNDMENTS INCLUDING LAND APPLICATION

[OAR Docket #07-1535]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Permit Procedures
252:621-3-3 [AMENDED]

SUMMARY:

The Department proposes to increase OPDES permit and annual fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1999, and the projected inflation rate over the next five

years. Additionally, the Department proposes to have fees automatically increase every five years thereafter by the rate of inflation over the previous five years. **AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 14, 2008. Oral comments may be made at the Water Quality Management Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

CONTACT PERSON:

The contact person is Donald D. Maisch. Mr. Maisch can be reached at don.maisch@deq.state.ok.us (e-mail), (405) 702-7189 (phone) or (405) 702-7199 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1535; filed 11-9-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 623. PRETREATMENT FOR CENTRAL TREATMENT TRUSTS**

[OAR Docket #07-1536]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:623-1-7 [AMENDED]

SUMMARY:

The Department proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2006, to July 1, 2007.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 14, 2008. Oral comments may be made at the Water Quality Management Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

CONTACT PERSON:

The contact person is Donald D. Maisch. Mr. Maisch can be reached at don.maisch@deq.state.ok.us (e-mail), (405) 702-7189 (phone) or (405) 702-7199 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1536; filed 11-9-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 624. MINOR PUBLIC WATER SUPPLY SYSTEMS**

[OAR Docket #07-1537]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 624. Minor Public Water Supply Systems [NEW]

SUMMARY:

The main reason for this proposed rulemaking is to clarify and consolidate all construction and operation and maintenance rules applying to minor public water supply systems into one set of rules separate from the more complex rules that apply to public water supply systems. Currently, the rules dealing with minor water supply systems are located in two separate Chapters of Title 252 of the Oklahoma Administrative Code.

The proposed rulemaking will also: require an individual permit for slow sand filters; make the pre-testing requirements less stringent; include ownership criteria that ensures minor public water supply systems are located on property that is owned by or dedicated in an easement to the users of the system or on property where all service connections are owned by or dedicated in an easement to the owner of the wellhead; reduce the frequency of VOC testing for wells within 300' of gasoline tanks; provide DEQ the option to require additional testing based on the proximity of the well to known potential pollution sources; and include closure requirements.

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-6-303 and 2-6-304

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 2, 2008. Oral comments may be made at the Water Quality Management

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Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/eclsnew/index.htm>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/eclsnew/index.htm>.

CONTACT PERSON:

The contact person is Robert Huber. He can be reached at Robert.Huber@deq.state.ok.us (e-mail), (405) 702-6100 (phone) or (405) 702-6226 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1537; filed 11-9-07]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 626. PUBLIC WATER SUPPLY CONSTRUCTION STANDARDS

[OAR Docket #07-1538]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Introduction

252:626-1-1 [AMENDED]

252:626-1-2 [AMENDED]

Subchapter 3. Permit Procedures

252:626-3-1 [AMENDED]

252:626-3-2 [AMENDED]

252:626-3-4 [AMENDED]

252:626-3-5 [AMENDED]

252:626-3-6 [AMENDED]

252:626-3-7 [AMENDED]

252:626-3-8 [AMENDED]

Subchapter 5. General Design

252:626-5-1 [AMENDED]

252:626-5-2 [AMENDED]

252:626-5-3 [AMENDED]

252:626-5-4 [AMENDED]

252:626-5-5 [AMENDED]

252:626-5-7 [AMENDED]

252:626-5-8 [AMENDED]

252:626-5-9 [AMENDED]

252:626-5-10 [AMENDED]

252:626-5-14 [AMENDED]

252:626-5-15 [AMENDED]

Subchapter 7. Source Development

252:626-7-2 [AMENDED]

252:626-7-3 [AMENDED]

252:626-7-4 [AMENDED]

252:626-7-6 [AMENDED]

Subchapter 9. Treatment

252:626-9-1 [AMENDED]

252:626-9-2 [AMENDED]

252:626-9-4 [AMENDED]

252:626-9-6 [AMENDED]

252:626-9-8 [AMENDED]

252:626-9-9 [AMENDED]

252:626-9-10 [AMENDED]

252:626-9-11 [AMENDED]

252:626-9-13 [AMENDED]

Subchapter 11. Chemical Application

252:626-11-1 [AMENDED]

252:626-11-2 [AMENDED]

252:626-11-3 [AMENDED]

252:626-11-4 [AMENDED]

Subchapter 13. Residuals Management

252:626-13-1 [AMENDED]

252:626-13-2 [AMENDED]

252:626-13-3 [AMENDED]

252:626-13-4 [AMENDED]

252:626-13-5 [AMENDED]

Subchapter 15. Pumping Facilities

252:626-15-1 [AMENDED]

252:626-15-2 [AMENDED]

252:626-15-3 [AMENDED]

252:626-15-4 [AMENDED]

Subchapter 17. Finished Water Storage

252:626-17-1 [AMENDED]

252:626-17-2 [AMENDED]

- 252:626-17-3 [AMENDED]
- 252:626-17-4 [AMENDED]
- Subchapter 19. Distribution System
- 252:626-19-1 [AMENDED]
- 252:626-19-2 [AMENDED]
- 252:626-19-3 [AMENDED]
- 252:626-19-4 [AMENDED]
- Subchapter 21. Design Standards for Minor Systems [REVOKED]
- 252:626-21-1 [REVOKED]
- 252:626-21-2 [REVOKED]
- 252:626-21-3 [REVOKED]
- Appendix A, Piping Color Code [REVOKED]
- Appendix A, Piping Color Code [NEW]
- Appendix C, Steel Pipe [REVOKED]
- Appendix C, Steel Pipe [NEW]
- Appendix D, Gravel Support for Slow Sand Filters [REVOKED]
- Appendix D, Gravel Support for Slow Sand Filters [NEW]
- Appendix E, Gravel Support for Rapid Sand Filters [REVOKED]
- Appendix E, Gravel Support for Rapid Sand Filters [NEW]
- Appendix G, Minor Water Systems [REVOKED]

SUMMARY:

The Department undertook a major re-write of this chapter. The proposed changes remove outdated language, add design and construction standards for new treatment techniques, delete a supplemental information section and integrate that section into the rules, revoke Subchapter 21 and Appendix G, as those requirements are proposed to be moved to OAC 252:624, update construction requirements to meet new EPA disinfection and sampling requirements, and correct typographical errors and omissions of certain definitions.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 14, 2008. Oral comments may be made at the Water Quality Management Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar

amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

CONTACT PERSON:

The contact person is Donald D. Maisch. Mr. Maisch can be reached at don.maisch@deq.state.ok.us (e-mail), (405) 702-7189 (phone) or (405) 702-7199 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1538; filed 11-9-07]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 631. PUBLIC WATER SUPPLY OPERATION**

[OAR Docket #07-1539]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Introduction
- 252:631-1-1 [AMENDED]
- 252:631-1-2 [AMENDED]
- 252:631-1-3 [AMENDED]
- Subchapter 3. Operations
- 252:631-3-1 [AMENDED]
- 252:631-3-2 [AMENDED]
- 252:631-3-3 [AMENDED]
- 252:631-3-6 [AMENDED]
- 252:631-3-10 [AMENDED]
- 252:631-3-11 [AMENDED]
- 252:631-3-12 [REVOKED]
- 252:631-3-13 [REVOKED]
- 252:631-3-17 [AMENDED]
- 252:631-3-19 [AMENDED]

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252:631-3-20 [AMENDED]
252:631-3-23 [NEW]
Subchapter 5. Minor Water Systems [REVOKED]
252:631-5-1 [REVOKED]
252:631-5-2 [REVOKED]
252:631-5-3 [REVOKED]
252:631-5-4 [REVOKED]
252:631-5-5 [REVOKED]

SUMMARY:

The Department proposes to increase public water supply annual fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1993, and the projected inflation rate over the next five years. Additionally, the Department proposes to have fees automatically increase every five years thereafter by the rate of inflation over the previous five years. Additionally, the Department proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations, except for the new groundwater rule, which will not be adopted by reference. The change updates the publication date of the federal rules from July 1, 2006, to July 1, 2007. Other changes revoke Subchapter 5, as those requirements are proposed to be moved to OAC 252:624, update language to meet EPA requirements and rule reference changes by EPA, require 25 psi throughout the entire distribution system, and adopt new requirements for source water development. Finally, the remaining changes correct typographical errors, omissions of certain definitions and other construction requirements from the rules and recognize what kind of testing will be required for new disinfection treatment techniques.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 14, 2008. Oral comments may be made at the Water Quality Management Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue

loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

CONTACT PERSON:

The contact person is Donald D. Maisch. Mr. Maisch can be reached at don.maisch@deq.state.ok.us (e-mail), (405) 702-7189 (phone) or (405) 702-7199 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1539; filed 11-9-07]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 641. INDIVIDUAL AND SMALL PUBLIC ON-SITE SEWAGE TREATMENT SYSTEMS

[OAR Docket #07-1540]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 641. Individual and Small Public On-Site Sewage Treatment Systems [AMENDED]

SUMMARY:

There are eight (8) main reasons for this proposed rulemaking. The first is to increase fees to compensate for the increased cost of operating the program. This increase will help ensure that the on-site program can continue to operate at its current level without the need for increased appropriations.

The second is to add low pressure dosing fields and drip irrigation fields as new options for the treatment and dispersal of wastewater. Low pressure dosing fields are subsurface absorption fields that can be installed closer to limiting layers than conventional systems can be installed. Low pressure dosing fields can also be installed in areas with fractured soils without the need for advanced treatment such as that provided by an aerobic treatment unit, which requires a higher level of maintenance than a septic tank. Drip irrigation is being introduced as an alternative to spray irrigation following

aerobic treatment units on small lots to prevent the misting of neighboring properties. The addition of low pressure dosing fields and drip irrigation fields also required the inclusion of these types of systems as categories for installer certification.

The third is to increase the separation distance from the spray irrigation pattern to property lines from five feet (5') to fifteen feet (15'). This change is in response to numerous complaints of spray irrigation encroaching on neighboring property.

The fourth is to require that installers maintain aerobic systems they install for two (2) years after the date of installation and delineate what maintenance installers shall perform. When wastewater is dispersed using spray irrigation, it is essential that the aerobic system be monitored and maintained on a regular basis to ensure that the wastewater is properly treated, in order to protect the public health and environment. The proposed rules also provide that, at the expiration of the two-year maintenance period, the homeowner will be required to keep the aerobic system properly maintained.

The fifth is to require the use of soil profile descriptions instead of percolation tests when designing systems in Scenic River Corridors. Soil profile descriptions can identify potential causes of contamination from on-site sewage treatment systems, such as shallow rock or groundwater, to scenic rivers that would be missed by percolation tests.

The sixth is to establish property ownership criteria that ensures all on-site sewage treatment systems are located on property that is owned by or dedicated in easement to the users of the system or is located on the property where the wastewater is generated.

The seventh is to increase the number of lots where subsurface systems can be used by reducing the vertical separation distances from limiting layers for soils with high clay content.

The eighth is to include in the rules those systems that were previously categorized as standardized alternative systems.

In a continuing effort to update these rules, this rulemaking also: reorganizes the Chapter so that all dispersal fields are covered in Subchapter 12; requires all tanks to have manhole openings of twenty inches (20"); adds sizing for percolation rates between sixty (60) and (75) minutes per inch; and makes other clarifications, formatting changes and typographical corrections.

AUTHORITY:

Environmental Quality Board; 27A O.S. " 2-2-101, 2-2-201 and 2-6-402; and 59 O.S. ' 1158.

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 2, 2008. Oral comments may be made at the Water Quality Management Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of

Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/eclsnew/index.htm>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/eclsnew/index.htm>.

CONTACT PERSON:

The contact person is Robert Huber. He can be reached at Robert.Huber@deq.state.ok.us (e-mail), (405) 702-6100 (phone) or (405) 702-6226 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1540; filed 11-9-07]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 656. WATER POLLUTION CONTROL FACILITY CONSTRUCTION STANDARDS

[OAR Docket #07-1541]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Permit Procedures
252:656-3-9 [AMENDED]

SUMMARY:

The Department proposes to increase non-industrial wastewater construction permitting fees by the rate of inflation

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since the effective date of the last fee modification, which was on or about July 1, 1993, and the projected inflation rate over the next five years. Additionally, the Department proposes to have fees automatically increase every five years thereafter by the rate of inflation over the previous five years.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 14, 2008. Oral comments may be made at the Water Quality Management Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/>.

CONTACT PERSON:

The contact person is Donald D. Maisch. Mr. Maisch can be reached at don.maisch@deq.state.ok.us (e-mail), (405) 702-7189 (phone) or (405) 702-7199 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For

hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1541; filed 11-9-07]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 690. WATER QUALITY STANDARDS IMPLEMENTATION

[OAR Docket #07-1542]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Introduction
252:690-1-4 [AMENDED]

SUMMARY:

The Department proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2006, to July 1, 2007.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and Water Quality, 27A O.S. § 2-6-101 *et seq.*

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 3, 2007, through January 14, 2008. Oral comments may be made at the Water Quality Management Advisory Council meeting on January 15, 2008, and at the Environmental Quality Board meeting on February 29, 2008.

PUBLIC HEARING:

Before the Water Quality Management Advisory Council on January 15, 2008, at 1:00 p.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on February 29, 2008, at 9:30 a.m. at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these rules provide the DEQ, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at <http://www.deq.state.ok.us/wqdnew/index.htm>.

CONTACT PERSON:

The contact person is Donald D. Maisch. Mr. Maisch can be reached at don.maisch@deq.state.ok.us (e-mail), (405) 702-7189 (phone) or (405) 702-7199 (fax). The DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. The mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1542; filed 11-9-07]

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

[OAR Docket #07-1544]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. General Provider Policies
317:30-3-59. [AMENDED]
- Subchapter 5. Individual Providers and Specialties
Part 1. Physicians
317:30-5-9. [AMENDED]
317:30-5-20. [AMENDED]
- Part 5. ~~Pharmacists~~ Pharmacies
317:30-5-70.2. [AMENDED]
317:30-5-72.1. [AMENDED]
- Part 8. Rehabilitation Hospitals
317:30-5-111. [AMENDED]
- Part 27. ~~Registered~~ Independent Licensed Physical Therapists
317:30-5-290. [AMENDED]
317:30-5-290.1. [NEW]
317:30-5-291. [AMENDED]
317:30-5-291.1. through 317:30-5-291.2. [NEW]
- Part 28. Occupational Therapy Services [NEW]
317:30-5-295. through 317:30-5-298. [NEW]
- Part 43. ~~Adult~~ Agency Companion, Specialized Foster Care, Daily Living Supports, Group Homes, and Community Transition Services
317:30-5-420. through 317:30-5-424. [AMENDED]
- Part 79. Dentists
317:30-5-698. [AMENDED]

(Reference APA WF # 07-06, 07-15, 07-18, 07-23, 07-28, 07-30 and 07-44)

SUMMARY:

Agency rules are revised to update drug categories that are covered under SoonerCare as well as drug categories that are excluded or subject to limitations. Rules are also revised to allow coverage of certain non-prescription medications when they are used as part of a step therapy or other therapeutic algorithm. For example, current SoonerCare rules do not allow coverage for over-the-counter products used to treat lice infestation of the hair or body. This may require a physician visit in addition to a more toxic and expensive prescription product. One of the many intended benefits of the rule revisions will specifically allow SoonerCare payment for non-prescription medications used to treat head lice. Revisions are needed to allow SoonerCare members access to certain over-the-counter products as well as appropriate drug categories.

Physician rules are revised to eliminate the potential for improper billing and reimbursement for venipuncture and catheterization by clarifying that a separate payment is made to physicians for specimen collections using catheterization and routine venipuncture. In addition, a revision of Laboratory services rules is needed to clarify that a separate payment is not made to laboratories for specimens obtained as it is considered part of the laboratory analysis. A Surveillance Utilization Review System (SURS) audit discovered the contradiction. These revisions are needed to clarify that these are allowable separate reimbursements for physicians in their offices but not for laboratories. If this is not changed, there is potential for improper billing or reimbursement based on inconsistency in the rule and how the rule is interpreted. Additional revisions revise language to agree with current SoonerCare language.

Revisions to Dental rules are needed to allow prior authorization information for periodontal scaling and root planing to be submitted post-op in cases where the member has special needs (certain forms of cancer, or behavioral or emotional challenges) and must be sedated in order to obtain needed requirements for the prior authorization. Currently, members with certain special needs require two appointments: one with sedation to obtain prior authorization data and once services are authorized, another appointment with sedation for the scaling and root planing. Without this revision, certain special needs children must undergo unnecessary sedation and SoonerCare must reimburse for an additional appointment and sedation service. Rules need to be revised to allow for prior authorization information to be submitted post-op for certain special needs children who require sedation in order to obtain the needed data.

Agency rules are revised to remove the prior authorization requirement for the initial evaluation for physical therapy services for children. Currently, rules state that all physical therapy services, including the initial evaluation, for children must be prior authorized. As an evaluation is needed to determine if therapy services are medically necessary and compensable, provider prior authorization requests for an

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evaluation are routinely approved. By removing the prior authorization requirement, children will be able to more promptly receive needed services. Provider specific rules for outpatient occupational therapy services are issued to consolidate information regarding payment for services, provider eligibility, coverage, payment rates and procedure codes. Rules regarding speech therapy for children are revised to clarify prior authorization requirements.

Agency rules are revised to: (1) reflect current residential support options through the OKDHS Developmental Disabilities Services Division (DDSD) Home and HCBS Waiver program as approved by CMS; and (2) provide a new residential support option known as Community Transition Services. On April 25, 2007, the Centers for Medicare and Medicaid approved an amendment to Oklahoma's Community Waiver which added Community Transition Services to the waiver program. The revisions will provide Oklahomans with disabilities additional community-based service options. Community Transition Service is a one-time setup expense for members transitioning from an intermediate care facility for the mentally retarded or provider-operated residential setting to the member's own home or apartment. Limited to one service over the member's lifetime, Community Transition Service's maximum benefit is \$2,400 per eligible member and must be authorized in the member's Individual Plan. Rule revisions are needed to support recent amendments to Oklahoma's Community Waiver and allow payment for Community Transition Services.

Agency rules are revised to remove inconsistencies in rules for payment of adult therapies in the inpatient and outpatient hospital settings. Therapy services for adult SoonerCare members are only compensable when provided on an inpatient or outpatient hospital basis. In addition, language regarding the post-payment utilization review conducted by the OHCA's designated Quality Improvement Organization is updated to reflect current practice. Revisions are needed to clarify the rules used by SoonerCare providers who provide therapy services to adults in the inpatient and outpatient hospital settings.

Agency rules are revised to comply with Public Law 110-28 known as the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 requiring prescriptions in written form to be executed on tamper-resistant prescriptions pads in order to qualify for reimbursement by SoonerCare. Currently, there is no rule in place to require certain types of paper for prescriptions. This federal requirement mandates that written prescriptions be printed on certain types of paper which cannot be copied. The requirement does not apply to prescriptions transmitted by telephone, facsimile, or electronic prescribing. Effective October 1, 2007, federal financial participation will not be available for written prescriptions to SoonerCare members that are not written on tamper-resistant prescription pads.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through

5016 of Title 63 of Oklahoma Statutes; 42 CFR '440.120; 42 CFR '440.30; 42 CFR '440.50; CFR 42 _ 440.100; 42 CFR 440.110; 42 CFR 440.20; Public Law 110-28 known as the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007

COMMENT PERIOD:

Written and oral comments will be accepted December 3, 2007 through January 2, 2008 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing is scheduled for January 9, 2008 at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on January 2, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #07-1544; filed 11-9-07]

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

[OAR Docket #07-1545]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Individual Providers and Specialties

Part 1. Physicians

317:30-5-8. [AMENDED]

317:30-5-10. [AMENDED]

Part 9. Long Term Care Facilities

- 317:30-5-123. [AMENDED]
- 317:30-5-131. [AMENDED]
- 317:30-5-131.2 [AMENDED]
- 317:30-5-133. [AMENDED]
- Part 21. Outpatient Behavioral Health Services
- 317:30-5-240. through 317:30-5-241. [AMENDED]
- 317:30-5-248. [AMENDED]
- Part 45. Optometrists
- 317:30-5-431. [AMENDED]
- Part 65. Case Management Services for Over 21
- 317:30-5-585. through 317:30-5-586.1. [AMENDED]
- 317:30-5-587. through 317:30-5-588. [REVOKED]
- 317:30-5-589. [AMENDED]
- Part 67. Behavioral Health Case Management Services for Individuals Under 21 Years of Age
- 317:30-5-595. through 317:30-5-596.1. [AMENDED]
- 317:30-5-599. [AMENDED]
- Part 83. Residential Behavioral Management Services in Foster Care Settings
- 317:30-5-740. through 317:30-5-740.1. [AMENDED]
- 317:30-5-742. through 317:30-5-742.2. [AMENDED]
- 317:30-5-743.1. [AMENDED]
- 317:30-5-746. [AMENDED]
- Part 105. Residential Behavioral Management Services in Group Settings and Non-Secure Diagnostic and Evaluation Centers
- 317:30-5-1043. [AMENDED]
- 317:30-5-1046. [AMENDED]
- (Reference APA WF # 07-07A, 07-08, 07-09, 07-10, 07-12, 07-13, 07-14, 07-16 and 07-17)**

SUMMARY:

PASRR rules are being revised to reflect the new required PASRR form for a Level I screen for nursing home admission. The new form is LTC-300R, Nursing Facility Level of Care Assessment. As part of the federally mandated PASRR process, all Medicaid certified nursing facilities must fill out the form LTC-300R for all applicants that apply to reside in the facility regardless of pay source. The LTC-300R is the new Level I screening form which helps to identify persons with possible mental illness or mental retardation or related conditions who apply to reside in Medicaid certified nursing facilities. Rules also change the submission deadline requirements for this form from thirty days to ten days of resident admission. The change in the submission deadline is expected to increase the level of compliance demonstrated by nursing facility reporting practices.

Agency rules are revised to clarify terminology for cataract surgery by using nationally recognized terminology. The listing of specific CPT codes in rules is limiting as codes are constantly being modified and added. One of the basic objectives of our policy clarification and simplification is to remove specific codes throughout rules. Pricing of the surgical modifiers is standard in the industry and it is redundant to have it in agency rules. Rules regarding surgery are revised to clarify the processing of claims with modifiers. Rules are needed to provide accurate information to providers that do

not hinder provider reimbursement or provider access for Medicaid members.

Children's case management rules are revised to expand educational standards required for individuals to be qualified for ODMHSAS certification as Case Managers for children and to update language on documentation requirements to maintain consistency and clarity between state agencies. The target group for children's behavioral health case management services consists of persons under age 21 who are in imminent risk of out-of-home placement for psychiatric or substance abuse reasons or are in out-of-home placement due to psychiatric or substance abuse reasons. Behavioral health case management services are provided to assist eligible individuals in gaining access to needed medical, social, educational and other services essential to meeting basic human needs.

Residential Behavior Management Services (RBMS) rules are revised to: (1) allow Licensed Alcohol and Drug Counselors (LADC) to provide RBMS services; (2) add trauma informed methodology as an option to staff training requirements; and, (3) update terminology as recommended by the Behavioral Health Collaborative. RBMS are provided by Organized Health Care Delivery Systems (OHCDs) for children in the care and custody of the State who have special psychological, behavioral, emotional and social needs that require more intensive care than can be provided in a family or foster home setting. For eligible RBMS agencies to bill the Oklahoma Health Care Authority for services provided by their staff, providers must meet certain qualification and licensure requirements. These revisions will recognize Licensed Alcohol and Drug Counselor as a licensed provider for these services and expand the number of providers allowed to provide services to SoonerCare members. Rules are amended to include trauma informed methodology as an ongoing training option for RBMS staff who provide behavioral redirection services.

Residential Behavior Management Services (RBMS) rules are revised to: (1) allow Licensed Alcohol and Drug Counselors (LADC) to provide RBMS services; (2) add trauma informed methodology as an option to staff training requirements; (3) update terminology as recommended by the Behavioral Health Collaborative; and (4) add language to the inspection of care section for foster care settings to describe actions on contract deficiencies. Residential Behavior Management Services are provided in residential foster care programs for certain children and youth authorized by the designated agent of the Oklahoma Health Care Authority. The children and youth designated for this program have special psychological, social and emotional needs, requiring more intensive, therapeutic care than can be found in the traditional foster care setting. Providers must meet certain qualification and licensure requirements in order to provide these services. These revisions will recognize the Licensed Alcohol and Drug Counselor as a licensed provider for these services and expand the number of providers available to provide services to SoonerCare members.

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Currently, OHCA requires staff providing behavior redirection services to have current certification and required updates in nationally recognized behavior management techniques. Rules are amended to include trauma informed methodology as an ongoing training option for RBMS staff who provide behavioral redirection services. Rule revision also include adding language to the inspection of care section for foster care settings to describe actions on contract deficiencies. Current language describes the inspection of care process for which OHCA currently recoups monies for non-compensable services in acute and residential therapeutic care; however, there currently is no language that describes the recoupment for non-compensable services for therapeutic foster care. This revision will promote consistency for actions on contract deficiencies.

Adult case management rules are revised to expand educational standards required for individuals to be qualified for ODMHSAS certification as Adult Case Managers and to update language on documentation requirements to maintain consistency and clarity between state agencies. The target group for case management services is the chronically and/or severely mentally ill. Chronically and/or severely mentally ill individuals refers to institutionalized adults or adults at risk of institutionalization. Case management services are provided to assist members to gain access to needed medical, social, educational and other services essential to meeting basic human needs.

Outpatient behavioral health rules are being revised to: (1) streamline documentation; (2) broaden SoonerCare member accessibility to providers; (3) increase consistency among Oklahoma state agencies that deal with mental health services; and (4) eliminate coverage for Clubhouse services at the request of ODMHSAS. Outpatient behavioral health services are covered for adults and children when provided in accordance with a documented individualized service plan, developed to treat the identified mental health and/or substance abuse disorder(s). All services are to be for the goal of improvement of functioning, independence, or well being of the SoonerCare member. The member must be able to actively participate in the treatment. Active participation means that the member must have sufficient cognitive abilities, communication skills, and short term memory to derive a reasonable benefit from the treatment.

Agency rules are revised to move the due date for the payment of the Quality of Care Fee for Licensed Nursing Facilities (LNFs) from the 10th to the 15th of the month following the assessment. Currently, due to the short time frame, LNFs that are making good faith efforts to comply but missing the due date are being penalized and fined. This change will allow for a longer time frame for LNFs to submit their payment. The postmark due date will be changed from the 8th to the 13th to coincide with the new due date. Changes are also being made for the payment of the Quality of Care Assessment to be made to the Opportunities for Living Life Division, Long Term Care Quality Initiatives Unit rather than the Provider Compliance Audits Unit.

Agency rules are revised to allow for the development of an incentive reimbursement rate plan for evidence-based quality improvements in nursing facilities. House Bill 2842 of the 2nd Session of the 50th Oklahoma Legislature amended state statutes to authorize the Oklahoma Health Care Authority (OHCA) to develop an incentive reimbursement rate plan for nursing facilities. Through a competitive bid process, OHCA awarded My InnerView, Inc. the contract to develop the incentive-based payment program for nursing facilities. The overall program consolidates and serves three interrelated public and social policy goals in a single, integrated program: value-based purchasing, provider improvement, and consumer information. All three objectives will be guided by a set of eleven performance data components that will be used to reward demonstrated value, support evidence-based quality improvement by nursing homes, and furnish consumers with frequently updated information by which to compare and choose nursing homes based on their quality of care rating. The revisions remove the nursing facility payment methodology from rules and reference the Medicaid State Plan for the methodology. Rules are revised to comply with House Bill 2842 of the 2nd Session of the 50th Oklahoma Legislature.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 431.123; 42 CFR 440.60; House Bill 2842 of the 2nd Session of the 50th Oklahoma Legislature

COMMENT PERIOD:

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PUBLIC HEARING:

A public hearing is scheduled for January 9, 2008 at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on January 2, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #07-1545; filed 11-9-07]

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

[OAR Docket #07-1546]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. General Provider Policies
 - Part 3. General Medical Program Information
 - 317:30-3-57. [AMENDED]
 - Subchapter 5. Individual Providers and Specialties
 - Part 1. Physicians
 - 317:30-5-2. [AMENDED]
 - 317:30-5-18. [AMENDED]
 - 317:30-5-22. [AMENDED]
 - 317:30-5-22.1. [NEW]
 - Part 3. Hospitals
 - 317:30-5-44. [AMENDED]
 - Part 5. ~~Pharmacists~~ Pharmacies
 - 317:30-5-86.1. [REVOKED]
 - Part 6. Inpatient Psychiatric Hospitals
 - 317:30-5-95. [AMENDED]
 - 317:30-5-95.7. [AMENDED]
 - 317:30-5-95.16. through 317:30-5-95.17. [AMENDED]
 - 317:30-5-95.19. [AMENDED]
 - 317:30-5-95.22. [AMENDED]
 - 317:30-5-95.24. [AMENDED]
 - 317:30-5-95.31. [AMENDED]
 - 317:30-5-95.33. through 317:30-5-95.36. [AMENDED]
 - 317:30-5-95.39. [AMENDED]
 - 317:30-5-95.41. through 317:30-5-95.42. [AMENDED]
 - 317:30-5-96.2. [AMENDED]
 - Part 16. Maternal and Infant Health Licensed Clinical Social Workers [NEW]
 - 317:30-5-204. through 317:30-5-209. [NEW]
 - Part 17. Medical Suppliers
 - 317:30-5-210. [AMENDED]
 - 317:30-5-211. [REVOKED]
 - 317:30-5-211.1. through 317:30-5-211.16. [NEW]
 - 317:30-5-212. [AMENDED]
 - 317:30-5-215. [REVOKED]
 - 317:30-5-216. [NEW]
 - 317:30-5-217. through 317:30-5-218. [AMENDED]

- Part 18. Genetic Counselors [NEW]
 - 317:30-5-219. through 317:30-5-223. [NEW]
 - Part 20. Lactation Consultants [NEW]
 - 317:30-5-230. through 317:30-5-235. [NEW]
 - Part 61. Home Health Agencies
 - 317:30-5-547. [AMENDED]
 - Part 63. Ambulatory Surgical Centers
 - 317:30-5-568. [AMENDED]
- (Reference APA WF # 07-01, 07-02, 07-11, 07-22, 07-38, 07-40, 07-41, 07-42, 07-47, 07-48, 07-51, 07-65)**

SUMMARY:

Rules are revised to expand the Disease Management program to include quality measurements, reporting of outcome measurement data, intervention through educational tools for patients and providers, and treatment guidelines for physicians. Historically, the OU College of Pharmacy has been the designated agent to provide OHCA with disease state management services. Disease management rules are revised and relocated from pharmacy specific to general coverage rules and allows expansion of Disease Management services to be provided by all provider types. The Agency contracts with designated agents to provide disease state management for individuals diagnosed with certain chronic conditions and ensures that treatments are based on protocols developed using evidence-based guidelines. Rules are needed to comply with Section 6 of the Oklahoma Medicaid Reform Act of 2006.

Agency rules are revised to allow providers to use any form that is federally approved for sterilization consent. Current rules require providers to submit the OHCA ADM-71 form for sterilization consent in order to receive SoonerCare payment for the sterilization procedure. Providers who perform sterilization procedures funded through federally assisted public health programs such as Indian health facilities are required to submit a federal sterilization consent form to obtain federal reimbursement in addition to the OHCA ADM-71 for SoonerCare payment. Indian Health Services (IHS) providers have reported that the requirement to use both the federal sterilization form and the OHCA sterilization form causes confusion among SoonerCare members and IHS staff and results in denied SoonerCare claims for not submitting the appropriate form. By eliminating the requirement of a specific sterilization form to be used and allowing providers to use any federally approved form, providers will be in compliance with both OHCA rules and federal regulations without duplicate administrative effort.

Inpatient psychiatric hospital rules are revised to establish criteria for newly defined levels of Psychiatric Residential Treatment Facilities (PRTF's). These speciality facilities, which include a higher rate for specialty treatment programs, would allow SoonerCare members to receive treatment in-state as opposed to going out-of-state for these specialty treatments. Revisions are needed to establish staffing ratios, and add definitions and the criteria for use of restraints and seclusion. Inpatient psychiatric hospitals or psychiatric units provide treatment in a hospital setting 24 hours a day and Psychiatric Residential Treatment Facilities provide non-acute inpatient

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facility care for members who have a behavioral health disorder and need 24-hour supervision and specialized interventions.

Rules are revised to: (1) include supplier accreditation, medical necessity, prescription, documentation, and prior authorization requirements; (2) address rental, purchase, repairs, maintenance, replacement, and delivery of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS); (3) allow SoonerCare members freedom of provider choice; (4) provide guidelines for new billing and reimbursement requirements; and (5) reorganize and be more user friendly by adding definitions and separating services. Revisions are needed to assure federal financial participation. Additional revisions delete obsolete language and forms and clarify coverage for oxygen, nutritional support, prosthetic devices, and supplies.

Rules are revised to add enhanced services for medically high risk pregnancies and allow additional reimbursement to an obstetrical care provider treating a member who is confirmed to be medically/obstetrically "high risk". Enhanced services are available for pregnant women eligible for SoonerCare and are in addition to services for uncomplicated maternity cases. Women deemed high risk based on criteria established by the OHCA may receive prior authorization for medically necessary enhanced benefits which include prenatal at risk ante partum management, non stress test(s), and additional ultrasounds not covered under routine obstetrical care. Proposed rule revisions are a result of the Oklahoma State Department of Health and the Oklahoma Health Care Authority Perinatal Task Force. The focus of this task force is to study issues concerning pregnant women covered by SoonerCare and other public funding sources and to develop programs and plans to target those areas for positive outcomes. These rule revisions will ensure high risk pregnant SoonerCare members receive appropriate prenatal care in an effort to significantly reduce the possibility of poor birth outcomes.

Rules are revised to add Maternal and Infant Health Licensed Clinical Social Workers (MIHLCSWs) to individual providers and specialties who provide health care to SoonerCare members. Services provided by MIHLCSWs consist of supportive counseling, education, and case management toward the goal of reducing poor perinatal outcomes and optimizing early maternal infant health, attachment and bonding. The emphasis is on providing support, motivation, education and assistance in accessing appropriate care. The addition of MIHLCSWs will increase access to counseling services for pregnant/postpartum SoonerCare members who may be at risk due to drug/alcohol use, domestic violence, and/or problems in the post partum environment that interfere with infant health and bonding. Proposed rule revisions are a result of the Oklahoma State Department of Health and the Oklahoma Health Care Authority Perinatal Task Force. The focus of this task force is to study issues concerning pregnant women covered by SoonerCare and other public funding sources and to develop programs and plans to target those areas for positive outcomes. This revision will allow MIHLCSWs to contract directly with

the OHCA and expand the number of providers allowed to provide services to SoonerCare members.

Rules are revised to add Licensed Genetic Counselors (LGCs) to individual providers and specialties who provide health care to SoonerCare members. The field of genetics has developed tests and procedures that have significant impact on perinatal care. Genetic counseling is a process by which critical family history, patient history, and other factors are gathered, analyzed and shared with the member in order to help them understand and adapt to the medical psychosocial and familial contributions to potential or realized birth defects. Proposed rule revisions are a result of the Oklahoma State Department of Health and Oklahoma Health Care Authority Perinatal Task Force. The focus of this task force is to study issues concerning pregnant women covered by SoonerCare and other public funding sources and to develop programs and plans to target those areas for positive outcomes. This revision to rules will allow Genetic Counselors to contract directly with the OHCA and expand the number of providers allowed to provide services to SoonerCare members.

Rules are revised to add Registered Lactation Consultants (RLCs) and International Board Certified Lactation Consultants (IBCLCs) to individual providers and specialties who provide health care to SoonerCare members. Research has confirmed the importance of breastfeeding and breast milk for the optimal health of infants, children and mothers. Professional lactation services provide counseling or behavioral interventions to improve breastfeeding outcomes. Currently, access to lactation education and counseling is limited for SoonerCare members. Proposed rule revisions are a result of the Oklahoma State Department of Health and the Oklahoma Health Care Authority Perinatal Task Force. The focus of this task force is to study issues concerning pregnant women covered by SoonerCare and other public funding sources and to develop programs and plans to target those areas for positive outcomes. This revision to rules will allow Lactation Consultants to contract directly with the OHCA and will increase access to lactation services for pregnant/postpartum SoonerCare members.

Rules are revised to allow an exception for coverage of external breast prosthesis in instances where a woman with breast cancer receives reconstruction following a mastectomy, but the breast implant fails or ruptures and circumstances are such that an implant replacement is not recommended by the surgeon and/or desired by the member. Currently, OHCA rules state that external breast prostheses are not covered once breast reconstruction is performed. Studies have shown that about 20% of modern implants rupture within 10 years of cosmetic augmentation. This rule revision will give SoonerCare members who have had a failed implant or other complications the option to receive an external breast prosthesis in lieu of further more costly reconstructive surgery as well as allow members, who are not candidates for further reconstructive surgery, to obtain external breast prostheses for comfort and balance.

Agency rules are revised to delay the SoonerCare requirement of accreditation by a Medicare deemed accreditation organization for quality standards for providers of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS). In May, 2007, the agency revised rules effective July 1, 2007, to require this accreditation by January 1, 2008; however, it has now been determined that the accreditation organizations will be unable to complete the accreditation process for current SoonerCare contracted providers for two more years. Therefore, the deadline for DMEPOS providers to obtain this accreditation in order to receive reimbursement from SoonerCare is being delayed until January 1, 2011.

Agency rules are revised to allow SoonerCare providers to bill and receive payment for an evaluation and management (E&M) service and an amniocentesis on the same date of service. Amniocentesis is a diagnostic test that detects chromosome abnormalities, neural tube defects and genetic disorders with high levels of accuracy (98-99%). Down syndrome or Trisomy 21 is the most common chromosome abnormality. Genetic disorders include disorders like cystic fibrosis. The most common neural tube defect is spina bifida. Current rules do not allow a SoonerCare provider to provide an E&M service and an amniocentesis on the same day. By allowing both services on the same day, pregnant SoonerCare members, whose fetus may be at risk for genetic defects, are more likely to use this diagnostic tool than if they must return on another day for this procedure. Performing the tests and confirming the diagnosis provides members with certain opportunities. Members may pursue potential interventions (i.e. fetal surgery for spina bifida), planning for a child with special needs and/or identifying support groups and resources. Rule revisions are needed to allow early detection and improve member access to this essential service.

Rules are being revised to eliminate the requirement that an Explanation of Medicare Benefits (EOMB) be attached to a cross-over claim before it can be processed. Cross-over claims are claims filed with Medicare Part B that in most cases, automatically cross over to OHCA. However, if it does not, a claim for coinsurance and deductible must be filed with OHCA within 90 days of the date of the Medicare payment or within one year of the date of service in order to be considered timely filed. Current policy requires that the EOMB must be attached to the claim to be considered for payment. This process is administratively burdensome and adversely impacts the providers. The proposed rule revisions would eliminate the requirement that an EOMB be attached to the claim thus facilitating acceptance of cross-over claims via the internet.

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. 56 Section 1011.6; 42 CFR '50.205, 42 CFR '50.209, and 42 CFR '50.210; 42 CFR 440.160; 42 CFR 483.350; 42 CFR 424.57(c); 42 CFR 440.250(p); 42 CFR Section 440.120; 42 CFR 440.210(a)(2);42 CFR 431.625

COMMENT PERIOD:

Written and oral comments will be accepted December 3, 2007 through January 2, 2008 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing is scheduled for January 9, 2008 at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on January 2, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #07-1546; filed 11-9-07]

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

[OAR Docket #07-1543]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

- Subchapter 5. Eligibility and Countable Income
- Part 5. Countable Income and Resources
- 317:35-5-41. [AMENDED]
- 317:35-5-41.1. through 317:35-5-41.11. [NEW]
- 317:35-5-45. through 317:35-5-47. [AMENDED]
- 317:35-5-49. [AMENDED]
- Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
- Part 2. Medicaid Recovery Program
- 317:35-9-15. [AMENDED]

Notices of Rulemaking Intent

Part 5. Determination of Medical Eligibility for ICF/MR, HCBW/MR, and Individuals Age 65 and Older in Mental Health Hospitals

317:35-9-48.1. [NEW]

Part 7. Determination of Financial Eligibility

317:35-9-65. [AMENDED]

317:35-9-68. [AMENDED]

Subchapter 17. ADvantage Waiver Services

317:35-17-9. [AMENDED]

317:35-17-11. [AMENDED]

Subchapter 19. Nursing Facility Services

317:35-19-4. [AMENDED]

317:35-19-19. [AMENDED]

317:35-19-21. [AMENDED]

(Reference APA WF # 07-21 and 07-24)

SUMMARY:

Rules are revised to establish guidelines for determining Intermediate Care Facility for the Mentally Retarded (ICF/MR) level of care for children as a condition of eligibility for the Tax Equity and Fiscal Responsibility Act (TEFRA). The TEFRA program provides needed services to children allowing them to remain in their own home. The institutional level of care determination allows the child's eligibility to be determined as though the child were institutionalized and therefore only his/her income and resources are considered in the eligibility determination. If guidelines are not established, children may be inappropriately institutionalized. Rule revisions are needed to add guidelines for ICF/MR level of care to provide a necessary component of children's applications to the TEFRA program.

Agency rules are revised to comply with Sections of Public Law 109-171, known as the Deficit Reduction Act of 2005 (DRA), regarding SoonerCare eligibility for long-term care services. The DRA requires tightening of eligibility rules in certain areas to help deter the abuse of sheltering of assets in order to qualify for long-term care services provided by Medicaid. Section 6012 of the DRA requires a change in the disclosure and treatment of annuities purchased on or after February 8, 2006. Prior to the DRA, annuities were treated as exempt assets and no consideration of an individual's annuities held or recently transferred was given when determining eligibility for long-term care services provided by SoonerCare. Section 6014 of the DRA establishes an upper limit for the excluded value of a home when determining the value of an individual's assets for purposes of SoonerCare eligibility for long-term care services. An individual will not be eligible for nursing facility services or other long-term care services provided by SoonerCare if the equity interest in his or her home exceeds \$500,000. Prior to the DRA, the full value of any primary residence was disregarded when determining eligibility for long-term care services provided by SoonerCare. Section 6016(c) of the DRA requires that the definition of assets for purposes of determining SoonerCare eligibility include certain funds used to purchase a promissory note, loan or mortgage. Section 6016(d) of the DRA requires that the definition of assets for purposes of determining SoonerCare

eligibility include any purchase of a life estate interest in another individual's home. Proposed revisions are needed to ensure federal financial participation through compliance with the DRA.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; Public Law 97-248 Tax Equity and Fiscal Responsibility Act of 1982; Public Law 109-171 Deficit Reduction Act of 2005

COMMENT PERIOD:

Written and oral comments will be accepted December 3, 2007 through January 2, 2008 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing is scheduled for January 9, 2008 at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on January 2, 2008.

COPIES OF PROPOSED RULES:

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RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #07-1543; filed 11-9-07]

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

[OAR Docket #07-1547]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Eligibility and Countable Income
 - Part 1. Determination of Qualifying Categorical Relationships
 - 317:35-5-2. [AMENDED]
 - 317:35-5-6.1. [NEW]
 - 317:35-5-8. [AMENDED]
 - Part 3. Non-Medical Eligibility Requirements
 - 317:35-5-25. [AMENDED]
 - 317:35-5-26. [AMENDED]
 - Part 5. Countable Income and Resources
 - 317:35-5-41.9. [AMENDED]
 - 317:35-5-42. [AMENDED]
 - Subchapter 6. SoonerCare Health Benefits for Categorically Needy Pregnant Women and Families with Children
 - Part 3. Application Procedures
 - 317:35-6-15. [AMENDED]
 - Subchapter 7. Medical Services
 - Part 3. Application Procedures
 - 317:35-7-15. [AMENDED]
 - Part 5. Determination of Eligibility for Medical Services
 - 317:35-7-48. [AMENDED]
 - Subchapter 9. ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
 - Part 2. Medicaid Recovery Program
 - 317:35-9-15. [AMENDED]
 - Part 5. Determination of Medical Eligibility for ICF/MR, HCBW/MR, and Individuals Age 65 or Older in Mental Health Hospitals
 - 317:35-9-45. [AMENDED]
 - Part 7. Determination of Financial Eligibility
 - 317:35-9-67. [AMENDED]
 - Subchapter 17. ADvantage Waiver Services
 - 317:35-17-10. [AMENDED]
 - Subchapter 19. Nursing Facility Services
 - 317:35-19-4. [AMENDED]
 - 317:35-19-9. [AMENDED]
 - 317:35-19-14. [AMENDED]
 - 317:35-19-16. [AMENDED]
 - 317:35-19-18. [AMENDED]
 - 317:35-19-20. [AMENDED]
 - Subchapter 22. Pregnancy Related Benefits Covered under Title XXI [NEW]
 - 317:35-22-1. through OAC 317:35-22-11. [NEW]
- (Reference APA WF # 07-07B, 07-25, 07-46, 07-50, 07-57 and 07-58)**

SUMMARY:

PASRR rules are being revised to reflect the new required PASRR form for a Level I screen for nursing home admission. The new form is LTC-300R, Nursing Facility Level of Care Assessment. As part of the federally mandated PASRR process, all Medicaid certified nursing facilities must fill out the form LTC-300R for all applicants that apply to reside in the facility regardless of pay source. The LTC-300R is the new Level I screening form which helps to identify

persons with possible mental illness or mental retardation or related conditions who apply to reside in Medicaid certified nursing facilities. Rules also change the submission deadline requirements for this form from thirty days to ten days of resident admission. The change in the submission deadline is expected to increase the level of compliance demonstrated by nursing facility reporting practices.

Eligibility rules for the SoonerPlan Program (Family Planning Waiver services) are revised to: (1) allow an applicant/member who wants Family Planning services only to enroll in SoonerPlan even if they may be otherwise eligible for SoonerCare; and (2) allow closure of SoonerPlan benefits when the applicant/member has undergone a sterilization procedure. Current rules do not allow an applicant the choice of receiving family planning services only but requires them to apply for SoonerCare, the full scope of Medicaid benefits. Currently, when it appears an applicant may be otherwise eligible for SoonerCare, he/she is sent an application for SoonerCare. They are certified for SoonerPlan but if the SoonerCare application is not returned, they are disenrolled from SoonerPlan. Revisions are needed to allow member/applicants the choice of enrolling in family planning services only when they do not want the full scope of Medicaid. In addition, current rules do not provide a process for closure of family planning services when a member undergoes sterilization procedures. Revisions are needed to allow case closure when the member has undergone a sterilization procedure and is no longer in need of family planning services.

Application procedure rules for medical assistance are revised to allow the acceptance of facsimile signatures on all SoonerCare applications and would not require an original signature to follow. There is no current rule in policy which speaks to obtaining original signatures on SoonerCare applications; however, current practices require caseworkers to obtain original signatures on applications. Not allowing facsimile signatures may delay the processing of SoonerCare applications, impeding members from accessing needed medical attention.

Agency rules are revised to recognize children who reside in IHS, BIA, or Tribal controlled dormitories as residents of Oklahoma for SoonerCare eligibility purposes. Currently, over one thousand children reside in Oklahoma's five IHS, BIA, or Tribal controlled dormitories. Approximately thirty percent of those children lack comprehensive health care coverage. Many of these children, described as "at risk" children, often have had little or no access to even basic health care prior to their arrival at an IHS, BIA, or Tribal controlled dormitory. Making these children eligible for SoonerCare services ensures that the children will receive the primary care and preventive services they need.

Rules are revised to add pregnancy related benefits to improve health outcomes for children who are Oklahoma residents and U. S. citizens upon their birth. Current agency rules prohibit prenatal benefits to pregnant women with certain alien status. As a result of the prohibition, the child goes without prenatal care. The lack of care can result

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in low birth weight and an increased probability of birth defects. Expenditures for these children after birth, who have citizenship, Oklahoma residency, and meet SoonerCare eligibility standards, are more costly than prenatal care. Title XIX gives states the opportunity to cover pregnancy related expenses for the mother of a child that will qualify for SoonerCare at birth. Rule revisions will lower expenditures for neonatal ICU expenses, extended hospital stays after birth and ongoing chronic medical expenses for the child.

Agency rules are revised to comply with Public Law 109-171, known as the Deficit Reduction Act of 2005 (DRA). Section 6021 of the DRA authorizes states to implement long-term care partnership program. Individuals who purchase a qualified long-term care partnership insurance policy are subject to special rules relating to eligibility for long-term care services provided by SoonerCare. These rules allow assets equal to the amount of benefits received from a qualified long-term care partnership insurance policy to be disregarded for the purposes of determining eligibility for long-term care services provided by SoonerCare. Individuals without a long-term care partnership insurance policy are required to spend-down their assets in order to qualify for long-term care services provided by SoonerCare. Agency rules are also revised to comply with Public Laws 104-204, 108-183, and 106-419. Public Law 104-204 requires payments made to certain Vietnam veterans' children with spina bifida to be disregarded for purposes of SoonerCare eligibility. Public Law 108-183 requires payments made to certain Korea service veterans' children with spina bifida to be disregarded for purposes of SoonerCare eligibility. Public Law 106-419 requires payments made to children of women Vietnam veterans who suffer from certain birth defects to be disregarded for purposes of SoonerCare eligibility. Proposed revisions are required to comply with state and federal regulations.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 42 CFR 441.20; 42 CFR 435.907; 42 CFR Part 457; Public Law 109-171 Deficit Reduction Act of 2005; Section 1955.1 through 1955.6 of Title 63 of Oklahoma Statutes; Public Law 104-204; Public Law 108-183; Public Law 106-419.

COMMENT PERIOD:

Written and oral comments will be accepted December 3, 2007 through January 2, 2008 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing is scheduled for January 9, 2008 at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar

amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on January 2, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #07-1547; filed 11-9-07]

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

[OAR Docket #07-1548]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. O-EPIC PA Employee Eligibility
317:45-9-1. [AMENDED]

Subchapter 11. O-EPIC IP

Part 3. O-EPIC IP MEMBER HEALTH CARE BENEFITS
317:45-11-11. [AMENDED]

Part 5. O-EPIC Individual Plan Member Eligibility
317:45-11-20. [AMENDED]

317:45-11-21.1. [NEW]

(Reference APA WF # 07-19, 07-39 AND 07-53)

SUMMARY:

Rule revisions are needed to allow for 12 months of SoonerCare eligibility from birth for children born to O-EPIC Individual Plan (IP) members. Currently these children can receive SoonerCare benefits only after their mothers complete and return an application to OKDHS. This process often delays newborns and children from receiving needed medical benefits which puts children at risk for long-term disabilities and adverse health conditions related to untreated or preventable illnesses. Deeming newborns of O-EPIC IP members for SoonerCare at birth to 12 months of age will assure that these children receive needed medical benefits to treat and prevent illnesses. These rules mirror the same process for the deeming of low income families with children's newborn eligible for

SoonerCare medical benefits for the first year of the newborn's life.

Agency rules are revised to increase the current O-EPIC Employer Sponsored Insurance (ESI) and O-EPIC Individual Plan (IP) maximum income standards to 200% of the federal poverty level. Currently, only working adults with countable household income at or below 185% of the federal poverty level can qualify for O-EPIC ESI or IP. Revisions are needed to comply with House Bill 1225 of the 1st Session of the 51st Oklahoma Legislature to the extent that OHCA's currently approved SoonerCare 1115 demonstration waiver allows. Revisions will extend the option to purchase affordable health insurance to a larger group of low income, uninsured working adults.

Rules are revised to exclude as covered benefits in the Oklahoma Employer and Employee Partnership for Insurance Coverage Individual Plan (O-EPIC IP), services of an International Board Certified Lactation Consultant (IBCLC), Maternal and Infant Health Licensed Clinical Social Worker (MIHLCSW), and enhanced services for medically high risk pregnancies as found in OAC 317:30-5-22.1. Last month, the OHCA Board approved rules to allow OHCA to contract directly with IBCLCs and MIHLCSWs as well as expand services for medically high risk pregnant members. The O-EPIC IP program establishes access to affordable health coverage for low-income working adults and their spouses. O-EPIC IP is a limited benefit program so certain health care services included in SoonerCare are not covered in the O-EPIC IP benefit package. Existing policy states that all O-EPIC IP benefits are subject to the same rules as the SoonerCare program which would include the expanded benefits for high-risk members. Therefore, O-EPIC IP rules are revised in order to exclude these three services for pregnant and postpartum women.

AUTHORITY:

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes; 56 O.S. 2001, as amended; and 42 CFR '435.117; House Bill 1225 of the 1st Session of the 51st Oklahoma Legislature

COMMENT PERIOD:

Written and oral comments will be accepted December 3, 2007 through January 2, 2008 during regular business hours by contacting Joanne Terlizzi, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7272.

PUBLIC HEARING:

A public hearing is scheduled for January 9, 2008 at 1:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping,

equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Joanne Terlizzi, at the above address, before the close of the comment period on January 2, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

CONTACT PERSON:

Joanne Terlizzi, Director, Policy Development, 405-522-7272.

[OAR Docket #07-1548; filed 11-9-07]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 10. RACING ORGANIZATION**

[OAR Docket #07-1504]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

325:10-1-25. Ambulance service [AMENDED]

SUMMARY:

The Commission Executive Director proposes amendments to clarify the requirements of an ambulance as it relates to emergency services on the racetrack.

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, January 7, 2008, 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, January 7, 2008, 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,

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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 January 7, 2008.

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 December 7, 2007 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 #07-1504; filed 11-5-07]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 15. LICENSING

[OAR Docket #07-1505]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 5. Occupation Licensing
325:15-5-19. Workers' Compensation Act compliance
[AMENDED]

SUMMARY:

The Commission Executive Director proposes an amendment to add disciplinary action for a licensee without proper workers' compensation insurance.

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, January 7, 2008, 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, January 7, 2008, 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 January 7, 2008.

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 December 7, 2007 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 #07-1505; filed 11-5-07]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 15. LICENSING

[OAR Docket #07-1506]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 5. Occupation Licensing
325:15-5-22. Qualification for license as horse owner
[AMENDED]

SUMMARY:

The Commission Executive Director proposes an amendment to remove Commissioners from the list of those who cannot be licensed also as an Owner due to the 2006 statutory change to Section 201 of the Horse Racing Act.

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, January 7, 2008, 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, January 7, 2008, 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 January 7, 2008.

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 December 7, 2007 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 #07-1506; filed 11-5-07]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 20. RACING OFFICIALS AND RACING PERSONNEL**

[OAR Docket #07-1507]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

325:20-1-13. Duties of the Starter [AMENDED]

SUMMARY:

The Commission Executive Director proposes amendments to add statewide consistency to the starting gate procedures.

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, January 7, 2008, 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, January 7, 2008, 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 January 7, 2008.

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 December 7, 2007 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 #07-1507; filed 11-5-07]

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

[OAR Docket #07-1508]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

325:60-1-21. Careless riding [AMENDED]

SUMMARY:

The Commission Executive Director proposes an amendment to eliminate potential disputes regarding disqualifications whereby unintentional striking could still be considered by the Stewards.

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, January 7, 2008, 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, January 7, 2008, 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

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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 January 7, 2008.

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 December 7, 2007 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 #07-1508; filed 11-5-07]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 85. GAMING MACHINE SPECIFICATIONS AND USE AND OPERATION REQUIREMENTS

[OAR Docket #07-1509]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 25. Transportation, Receipt, Installation and Disposal of Gaming Machines
325:85-25-2. Transportation of gaming machines into the state [AMENDED]

SUMMARY:

The Commission Executive Director proposes an amendment to further expand and explain the storage devices which shall be removed prior to shipping and provide for disciplinary action.

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, January 7, 2008, 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, January 7, 2008, 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 January 7, 2008.

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 December 7, 2007 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 #07-1509; filed 11-5-07]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 85. GAMING MACHINE SPECIFICATIONS AND USE AND OPERATION REQUIREMENTS

[OAR Docket #07-1510]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 25. Transportation, Receipt, Installation and Disposal of Gaming Machines
325:85-25-4. Transportation of gaming machines between Commission licensed gaming facilities in the state [AMENDED]

SUMMARY:

The Commission Executive Director proposes an amendment to further expand and explain the storage devices which shall be removed prior to shipping and provide for disciplinary action.

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, January 7, 2008, 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, January 7, 2008, 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 January 7, 2008.

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 December 7, 2007 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 #07-1510; filed 11-5-07]

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

[OAR Docket #07-1511]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Risk Management [AMENDED]

Subchapter 13. Office of Public Integrity [AMENDED]

SUMMARY:

Subchapter 11 is being modified to include random drug testing of all OJA employees and consequences of refusal or unreasonable delay/inability to provide a sample for said drug

tests. Subchapter 13 is being revised to implement new duties and requirements for the Office of Public Integrity.

AUTHORITY:

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

COMMENT PERIOD:

Written comments will be accepted from December 3, 2007 through January 3, 2008 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to Robert.Morey@oja.ok.gov. During the same time period, oral comments may be made to Robert Morey @ (405) 530-2820. All comments must be received during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on January 4, 2008 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on or before December 17, 2007 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Robert Morey, Operations Supervisor, (405) 530-2820

[OAR Docket #07-1511; filed 11-6-07]

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

[OAR Docket #07-1512]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Pre-release Planning

Notices of Rulemaking Intent

377:5-3-2. Scheduling of the tentative release date
[AMENDED]

SUMMARY:

Administrative rule revisions are due to title and job description changes within OJA.

AUTHORITY:

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

COMMENT PERIOD:

Written comments will be accepted from December 3, 2007 through January 3, 2008 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to Robert.Morey@oja.ok.gov. During the same time period, oral comments may be made to Robert Morey @ (405) 530-2820 All comments must be received during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on January 4, 2008 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on or before December 17, 2007 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Robert Morey, Operations Supervisor, (405) 530-2820

[OAR Docket #07-1512; filed 11-6-07]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #07-1513]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Contract Programs and Services

Part 3. Contract Based Residential Care

377:10-7-15. Purpose [AMENDED]

377:10-7-16. Level of care system [AMENDED]

377:10-7-17. Specialized Residential Care ("Level C")
[AMENDED]

377:10-7-18. Moderate intensity specialized residential care ("Level D") [AMENDED]

377:10-7-19. Moderate to high Intensity Specialized Residential Care ("Level D Plus") [AMENDED]

377:10-7-20. Specialized residential high intensity treatment programs ("Level E") [AMENDED]

377:10-7-21. Wilderness camp [AMENDED]

Part 7. Independent and Transitional Living

377:10-7-41. Independent living programs [AMENDED]

SUMMARY:

Rule changes to subchapter 7 are due to modifications in the Level E contract.

AUTHORITY:

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

COMMENT PERIOD:

Written comments will be accepted from December 3, 2007 through January 3, 2008 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to Robert.Morey@oja.ok.gov. During the same time period, oral comments may be made to Robert Morey @ (405) 530-2820 All comments must be received during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on January 4, 2008 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on or before December 17, 2007 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Robert Morey, Operations Supervisor, (405) 530-2820

[OAR Docket #07-1513; filed 11-6-07]

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

[OAR Docket #07-1514]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Case Records and Reports
377:25-11-1 Case records [AMENDED]

SUMMARY:

Rule revision is due to incorrect citation as noted.

AUTHORITY:

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

COMMENT PERIOD:

Written comments will be accepted from December 3, 2007 through January 3, 2008 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to Robert.Morey@oja.ok.gov. During the same time period, oral comments may be made to Robert Morey @ (405) 530-2820. All comments must be received during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on January 4, 2008 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Robert Morey at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on or before December 17, 2007 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Robert Morey, Operations Supervisor, (405) 530-2820

[OAR Docket #07-1514; filed 11-6-07]

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

[OAR Docket #07-1515]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Medical and Health Care
377:35-7-2 Surgery [AMENDED]
377:35-7-4. Sanctions/discipline [AMENDED]
377:35-7-5. Refusal of non-necessary medical care [AMENDED]
377:35-7-6. Response to refusal of necessary medical services [AMENDED]
377:35-7-8. Medical isolation [AMENDED]
377:35-7-10. Second medical opinions [AMENDED]
Subchapter 9. Juvenile Rights
377:35-9-4. Access to courts/counsel [AMENDED]
Subchapter 11. Juvenile Rules/discipline
377:35-11-5 Juvenile correspondences [AMENDED]

SUMMARY:

Rule revision in subchapter 7 is needed to condense the guidelines for medical and surgical process to one rule. Revisions to subchapter 9 and subchapter 11 are needed to correct title/job responsibilities.

AUTHORITY:

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

COMMENT PERIOD:

Written comments will be accepted from December 3, 2007 through January 3, 2008 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Robert Morey. Email comments may be sent to Robert.Morey@oja.ok.gov. During the same time period, oral comments may be made to Robert Morey @ (405) 530-2820. All comments must be received during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on January 4, 2008 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred due to compliance with the proposed rules. Business entities may submit this

Notices of Rulemaking Intent

information in writing to Robert Morey at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Robert Morey, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on or before December 17, 2007 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Robert Morey, Operations Supervisor, (405) 530-2820

[OAR Docket #07-1515; filed 11-6-07]

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

[OAR Docket #07-1499]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Prescriptive Guidelines and Drug Formulary
435:15-11-1. Prescriptive and dispensing authority
[AMENDED]

SUMMARY:

Changes to rule 435:15-11-1 are being made to clarify the writing of prescriptions for Schedules III, IV and V controlled medications by physician assistants.

AUTHORITY:

TITLE 59 O.S., Section 489, State Board of Medical Licensure and Supervision

COMMENT PERIOD:

The comment period will run from December 3, 2007 to January 3, 2008. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on January 10, 2008, 3:00 p.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than January 3, 2008.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available after December 3, 2007 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

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

[OAR Docket #07-1499; filed 11-5-07]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 20. PHYSICAL THERAPISTS AND ASSISTANTS

[OAR Docket #07-1500]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Regulation of Practice
435:20-5-8. Unprofessional conduct - Grounds for disciplinary action [AMENDED]

SUMMARY:

The section regarding unprofessional conduct is being amended to include "failure to complete documentation" of patient records under unprofessional conduct.

AUTHORITY:

TITLE 59 O.S., Section 887.5, State Board of Medical Licensure and Supervision

COMMENT PERIOD:

The comment period will run from December 3, 2007 to January 23, 2008. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on January 31, 2008, 9:00 a.m. at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than January 23, 2008.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available after December 3, 2007 at the office of the Board, 5104 North Francis Avenue, Suite C, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

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

[OAR Docket #07-1500; filed 11-5-07]

**TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 1. ADMINISTRATION**

[OAR Docket #07-1492]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

485:1-1-1. [AMENDED]

SUMMARY:

The proposed revision simplifies current language in the rules and reflects correct statute citation.

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §567.2A.3 and §567.4.F.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by January 25, 2008 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106 Attn: Gayle McNish, R.N., Ed.D.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on Tuesday, January 29, 2008 at 5:30 p.m. at the Holiday Inn Conference Center, 2101 S. Meridian, Oklahoma City. Anyone who wishes to speak must sign in at the door by 5:00 p.m., January 29, 2008.

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 by January 25, 2008 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106, Attn: Gayle McNish, R.N., Ed.D.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Gayle McNish, R.N., Ed.D., at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available on and after publication of this Notice of Rulemaking Intent on December 3, 2007. The rule impact statement may be obtained by contacting Gayle McNish, R.N., Ed.D., at the Oklahoma Board of Nursing, 2915

N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

CONTACT PERSON:

Gayle McNish, R.N., Ed.D., (405) 962-1800

[OAR Docket #07-1492; filed 11-1-07]

**TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES**

[OAR Docket #07-1490]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 16. Requirements for Prescriptive Authority for Advanced Practice Nurses

485:10-16-5. [AMENDED]

SUMMARY:

This rule impacts advanced practice nurses with prescriptive authority who prescribe Schedule III-V drugs. The proposed revision would allow a maximum of a 30 day supply of Schedule III-V drugs to be prescribed, instead of the current maximum of 7 days.

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §567.2A.3, §567.3a.6, §567.3a.7, §567.3a.8, §567.4.F, §567.4a.7.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by January 25, 2008 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106 Attn: Gayle McNish, R.N., Ed.D.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on Tuesday, January 29, 2008 at 5:30 p.m. at the Holiday Inn Conference Center, 2101 S. Meridian, Oklahoma City. Anyone who wishes to speak must sign in at the door by 5:00 p.m., January 29, 2008.

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 by January 25, 2008 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106, Attn: Gayle McNish, R.N., Ed.D.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Gayle McNish, R.N., Ed.D., at the Oklahoma Board of

Notices of Rulemaking Intent

Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available on and after publication of this Notice of Rulemaking Intent on December 3, 2007. The rule impact statement may be obtained by contacting Gayle McNish, R.N., Ed.D., at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

CONTACT PERSON:

Gayle McNish, R.N., Ed.D., (405) 962-1800

[OAR Docket #07-1490; filed 11-1-07]

TITLE 485. OKLAHOMA BOARD OF NURSING CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

[OAR Docket #07-1491]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
485:10-1-3. [AMENDED]

SUMMARY:

The proposed rule changes update language in the section on renewal fees, clarify requirements for supervising physician change fees, add fees for survey visits to nursing education programs, and clarify language regarding submission of fees. In the section on renewal fees, although the current renewal fee remains unchanged, information on the old fee is removed and the statement "effective January 1, 2006" is deleted. The fee for supervising physician changes will stay the same, but the proposed revision will allow the advanced practice nurse with prescriptive authority to submit more than one change on the same form for one fee. Fees are added for full survey visits and consultative visits to nursing education programs, effective July 1, 2009.

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §567.2A.3 and §567.4.F.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by January 25, 2008 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106 Attn: Gayle McNish, R.N., Ed.D.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on Tuesday, January 29, 2008 at 5:30 p.m. at the Holiday Inn Conference Center, 2101 S. Meridian, Oklahoma City. Anyone who wishes to speak must sign in at the door by 5:00 p.m., January 29, 2008.

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 by January 25, 2008 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106, Attn: Gayle McNish, R.N., Ed.D.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Gayle McNish, R.N., Ed.D., at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available on and after publication of this Notice of Rulemaking Intent on December 3, 2007. The rule impact statement may be obtained by contacting Gayle McNish, R.N., Ed.D., at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

CONTACT PERSON:

Gayle McNish, R.N., Ed.D., (405) 962-1800

[OAR Docket #07-1491; filed 11-1-07]

TITLE 485. OKLAHOMA BOARD OF NURSING CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

[OAR Docket #07-1493]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Regulations for Approved Nursing Education Programs
485:10-3-2. [AMENDED]
485:10-3-5. [AMENDED]
485:10-3-6. [AMENDED]
Subchapter 5. Minimum Standards for Approved Nursing Education Programs
485:10-5-3.2. [AMENDED]
Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse
485:10-7-1. [AMENDED]
485:10-7-2. [AMENDED]
485:10-7-3. [AMENDED]
485:10-7-4. [AMENDED]
485:10-7-5. [AMENDED]
485:10-7-6. [AMENDED]

Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse

- 485:10-9-1. [AMENDED]
- 485:10-9-2. [AMENDED]
- 485:10-9-3. [AMENDED]
- 485:10-9-4. [AMENDED]
- 485:10-9-5. [AMENDED]
- 485:10-9-6. [AMENDED]

Subchapter 10. Advanced Unlicensed Assistive Personnel

- 485:10-10-7. [AMENDED]
- 485:10-10-8. [AMENDED]
- 485:10-10-8.1. [AMENDED]
- 485:10-10-10. [AMENDED]

Subchapter 15. Requirements for Practice as an Advanced Practice Nurse

- 485:10-15-4. [AMENDED]
- 485:10-15-4.1. [AMENDED]
- 485:10-15-5. [AMENDED]
- 485:10-15-6. [AMENDED]
- 485:10-15-7. [AMENDED]
- 485:10-15-8. [AMENDED]
- 485:10-15-9. [AMENDED]

Subchapter 16. Requirements for Prescriptive Authority for Advanced Practice Nurses

- 485:10-16-1. [AMENDED]
- 485:10-16-3. [AMENDED]
- 485:10-16-4. [AMENDED]
- 485:10-16-6. [AMENDED]
- 485:10-16-7. [AMENDED]

Subchapter 18. Prescriptive Authority for C.R.N.A.

- 485:10-18-2. [AMENDED]
- 485:10-18-3. [AMENDED]
- 485:10-18-4. [AMENDED]

SUMMARY:

In Subchapter 3, a requirement for a consultative visit prior to submission of a Step II application for a nursing education program is added. Materials that must be submitted in the Step II application are revised to add a survey of existing nursing education programs in the area with evidence to support availability of clinical experience. Requirements for reports to the Board are revised to include significant changes in instructional format. Other language in this section is clarified.

Subchapter 5 addresses minimum standards for approved nursing education programs. Language regarding the requirements for the nurse administrator is clarified to reflect updated wording in initial requirements for nursing faculty members. Other language in this section is clarified.

In Subchapter 7, 9, and 10, all revisions that are proposed are simply to clarify current requirements, with the exception of revisions to requirements for practical nurse equivalency in 485:10-9-1. The requirements for practical nurse equivalency are being revised to delete Air Force medics at the 4N051 or 4N071 level from the list of those eligible for practical nurse licensure through equivalency. The U.S. Army medic (91WM6) is also deleted from this section; however, because the U.S. Army provides a board-approved practical nursing

education program for the 91WM6, an equivalency evaluation is not necessary.

In Subchapter 15, revisions clarifying requirements for recognition as an advanced practice nurse are proposed. In addition, the names of national nursing accrediting agencies that accredit educational programs for advanced registered nurse practitioners and clinical nurse specialists are specified. Revisions to requirements for certified nurse midwives and certified registered nurse anesthetists are proposed to update organizational names and clarify requirements.

Subchapter 16 addresses requirements for prescriptive authority for advanced practice nurses. Continuing education categories are revised to ensure appropriate education has been completed. For initial application, proposed revisions limit the category of education to Category A or Category B. For renewal, the proposed revisions allow the advanced practice nurse to submit Category A, B, or C continuing education for up to 100% of the requirements. Other revisions simply clarify current requirements.

In Subchapter 18, an organizational name is updated, current requirements are clarified, and requirements for reinstatement are added.

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §567.2A.3, §567.3a.5, §567.3a.6, §567.3a.7, §567.3a.8, §567.3a.10, §567.3a.13, §567.4.F, §567.4a, §567.12.A, §567.12.B, §567.13, §567.5.A, §567.5.B, §567.6.A, §567.6.B, §567.7.A, §567.7.B, §567.7.C, §567.8.A.

COMMENT PERIOD:

Persons wishing to submit written comments must do so by January 25, 2008 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106 Attn: Gayle McNish, R.N., Ed.D.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on Tuesday, January 29, 2008 at 5:30 p.m. at the Holiday Inn Conference Center, 2101 S. Meridian, Oklahoma City. Anyone who wishes to speak must sign in at the door by 5:00 p.m., January 29, 2008.

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 by January 25, 2008 at 4:30 p.m. to the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106, Attn: Gayle McNish, R.N., Ed.D.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Gayle McNish, R.N., Ed.D., at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available on and after publication of this Notice of Rulemaking Intent on December 3, 2007. The rule impact statement may be obtained by contacting Gayle McNish, R.N., Ed.D., at the Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, Oklahoma 73106, (405) 962-1800.

CONTACT PERSON:

Gayle McNish, R.N., Ed.D., (405) 962-1800

[OAR Docket #07-1493; filed 11-1-07]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #07-1503]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

SUMMARY:

Additions, revocations and amendments are proposed necessitating permanent rulemaking action. Proposed changes may include modifying and clarifying the process of administrative hearings and declaratory rulings. Proposed changes may also include modifying the responsibilities of retirement coordinators. These proposals are designed to make the administration of the Public Employees Retirement System more efficient and member service oriented.

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. Section 909.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 15, 2008, by mail or hand-delivery, to the offices of Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

PUBLIC HEARING:

A Public Hearing will be held to provide an opportunity for persons to present their views orally at 1:30 p.m., Thursday, January 17, 2008, in the Board Room of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (excluding legal holidays) from Pat Ewald, at the offices of the Oklahoma Public Employees Retirement

System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared as required by 75 O.S. Section 303(D), and will be available on and after December 18, 2007, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Joseph A. Fox, General Counsel (405) 858-6737.

[OAR Docket #07-1503; filed 11-5-07]

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

[OAR Docket #07-1502]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Public Employees Retirement System [AMENDED]

SUMMARY:

Additions, revocations and amendments are proposed necessitating permanent rulemaking action. Proposed changes may include topics related to clarifying the start date of certain elected officials' service, permitting repayment of certain withdrawals, modifying certain allowable adjustments which can be retroactive, modifying calculation of certain elected and non-elected service, deleting obsolete computation, and setting forth certain eligibility requirements for post-retirement employment. The agency is considering other proposals which are designed to make the administration of the Public Employees Retirement System more efficient and member service oriented or to ensure continued Plan qualification.

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. Section 909.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 15, 2008, by mail or hand-delivery, to the offices of Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

PUBLIC HEARING:

A Public Hearing will be held to provide an opportunity for persons to present their views orally at 1:30 p.m., Thursday, January 17, 2008, in the Board Room of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (excluding legal holidays) from Pat Ewald, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared as required by 75 O.S. Section 303(D), and will be available on and after December 18, 2007, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Joseph A. Fox, General Counsel (405) 858-6737.

[OAR Docket #07-1502; filed 11-5-07]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 15. UNIFORM RETIREMENT SYSTEM FOR JUSTICES AND JUDGES

[OAR Docket #07-1501]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 15. Uniform Retirement System for Justices and Judges [AMENDED]

SUMMARY:

Additions, revocations and amendments are proposed necessitating permanent rulemaking action. Changes may include topics related to repayment of withdrawals in certain circumstances. The agency is considering other proposals which are designed to make the administration of the Public Employees Retirement System more efficient and member service oriented or to ensure continued Plan qualification.

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. Section 909 and 20 O.S. Sections 1101.1 and 1108.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on January 15, 2008, by mail or hand-delivery, to the offices of Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

PUBLIC HEARING:

A Public Hearing will be held to provide an opportunity for persons to present their views orally at 1:30 p.m., Thursday, January 17, 2008, in the Board Room of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (excluding legal holidays) from Pat Ewald, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared as required by 75 O.S. Section 303(D), and will be available on and after December 18, 2007, at the offices of the Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118.

CONTACT PERSON:

Joseph A. Fox, General Counsel (405) 858-6737.

[OAR Docket #07-1501; filed 11-5-07]

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

[OAR Docket #07-1494]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Sport Fishing Rules [AMENDED]

SUMMARY:

Exempt spotted bass from length limits and remove bag limit statewide except certain streams. Clarify boundaries of McClellan-Kerr Arkansas River Navigation System for enforcement of 14 inch minimum length limit on black bass. Move the boundary of the current regulation area for the Illinois River from confluence of Baron Fork Creek downstream to Horseshoe Bend boat ramp. Exempt spotted bass from length limits and remove bag limit statewide except certain streams. Move the boundary of the current regulation area from the Illinois River from the confluence of Baron Fork Creek downstream to Horseshoe Bend boat ramp. Restrict harvest of alligator gar statewide to one (1) fish/angler/year round except during the period of April 1 through June 15 when fishing for alligator gar is restricted to catch and release only. This eliminates bowfishing for alligator gar during April 1 through June 15. To require anglers who are fishing for paddlefish to have a free annual paddlefish permit. To require paddlefish anglers who have legally taken possession of a paddlefish to attach their paddlefish permit number to that fish in place of the current regulation which requires attaching their first and last name, address and license number. To require that all paddlefish caught in Oklahoma must have all

Notices of Rulemaking Intent

viscera (internal organs) removed before leaving the state. Add non-metallic man-made pole to limblines definitions.

AUTHORITY:

Title 29 O.S., Sections 3-103, 4-101, 4-110, 5-401, 6-301, 6-302, 6-303; 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 11, 2008, at the following address: Oklahoma Department of Wildlife Conservation, Room 221, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

PUBLIC HEARINGS:

Date: January 7, 2008

Time: 7:00 p.m.

Ada - Pontotoc County Technology Center - 601 W. 33rd

Jenks - Tulsa Technology Center, 801 East 91st Street

Lawton - Lawton Public Library, 110 SW 4th

Oklahoma City - OK Dept. Of Wildlife Conservation Auditorium, 1801 N. Lincoln Blvd

Date: January 8, 2008

Time: 7:00 p.m.

Clinton - City Hall, 415 Gary Blvd

Durant - Durant Fish Hatchery Meeting Room, 2021 Caddo Hwy, Caddo, OK

Enid - Central Fire Stations, 410 W. Garriott

January 9, 2008

Time: 7:00 p.m.

Miami - Miami Civic Center, 129 5th Ave NW

Date: January 10, 2008

Time: 7:00 p.m.

Guymon - OSU Extension Center, 301 N. Main

Hugo - Kiamichi Tech Center, 107 South 15th St.

Okmulgee - East Central Electric Co-op, 2001 S. Wood Drive (U.S. Hwy 75)

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 December 14, 2007 at the above address for the Oklahoma Department of Wildlife Conservation.

CONTACT PERSON:

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

[OAR Docket #07-1494; filed 11-2-07]

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

[OAR Docket #07-1495]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

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

SUMMARY:

Tighten restrictions on the possession, importation, culture, sale and use of invasive exotic blueback herring.

AUTHORITY:

Title 29 O.S., Sections 3-103, 7-502, 7-503, 7-602, 7-801; 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 11, 2008, at the following address: Oklahoma Department of Wildlife Conservation, Room 221, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

PUBLIC HEARINGS:

Date: January 7, 2008

Time: 7:00 p.m.

Ada - Pontotoc County Technology Center - 601 W. 33rd

Jenks - Tulsa Technology Center, 801 East 91st Street

Lawton - Lawton Public Library, 110 SW 4th

Oklahoma City - OK Dept. Of Wildlife Conservation Auditorium, 1801 N. Lincoln Blvd

Date: January 8, 2008

Time: 7:00 p.m.

Clinton - City Hall, 415 Gary Blvd

Durant - Durant Fish Hatchery Meeting Room, 2021 Caddo Hwy, Caddo, OK

Enid - Central Fire Stations, 410 W. Garriott

January 9, 2008

Time: 7:00 p.m.

Miami - Miami Civic Center, 129 5th Ave NW

Date: January 10, 2008

Time: 7:00 p.m.

Guymon - OSU Extension Center, 301 N. Main

Hugo - Kiamichi Tech Center, 107 South 15th St.

Okmulgee - East Central Electric Co-op, 2001 S. Wood Drive (U.S. Hwy 75)

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 December 14, 2007 at the above address for the Oklahoma Department of Wildlife Conservation.

CONTACT PERSON:

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

[OAR Docket #07-1495; filed 11-2-07]

**TITLE 800. DEPARTMENT OF WILDLIFE
CONSERVATION
CHAPTER 20. RESTRICTION ON AQUATIC
SPECIES INTRODUCTION**

[OAR Docket #07-1496]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 20. Restriction on Aquatic Species Introduction [AMENDED]

SUMMARY:

Tighten restrictions on the possession, importation, culture, sale and use of invasive exotic Asian Carp and blueback herring. Remove entire "Species to Watch" list from "Noxious Aquatic Plants" section in the "Restrictions on Aquatic Species Introductions: chapter. Replace the list with a clause that gives the Oklahoma Department of Wildlife Conservation the authority to add or remove aquatic plant species from a list of "Species to Watch" whenever necessary. The new list will be maintained by Fisheries Division and made available to the public through the ODWC annual Fishing Guide.

AUTHORITY:

Title 29 O.S., Sections 3-103,7-502, 7-503, 7-602, 7-801; 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 11, 2008, at the following address: Oklahoma Department of Wildlife Conservation, Room 221, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

PUBLIC HEARINGS:

Date: January 7, 2008

Time: 7:00 p.m.

Ada - Pontotoc County Technology Center - 601 W. 33rd
Jenks - Tulsa Technology Center, 801 East 91st Street
Lawton - Lawton Public Library, 110 SW 4th
Oklahoma City - OK Dept. Of Wildlife Conservation Auditorium, 1801 N. Lincoln Blvd

Date: January 8, 2008

Time: 7:00 p.m.

Clinton - City Hall, 415 Gary Blvd

Durant - Durant Fish Hatchery Meeting Room, 2021 Caddo Hwy, Caddo, OK

Enid - Central Fire Stations, 410 W. Garriott

January 9, 2008

Time: 7:00 p.m.

Miami - Miami Civic Center, 129 5th Ave NW

Date: January 10, 2008

Time: 7:00 p.m.

Guymon - OSU Extension Center, 301 N. Main

Hugo - Kiamichi Tech Center, 107 South 15th St.

Okmulgee - East Central Electric Co-op, 2001 S. Wood Drive (U.S. Hwy 75)

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 December 14, 2007 at the above address for the Oklahoma Department of Wildlife Conservation.

CONTACT PERSON:

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

[OAR Docket #07-1496; filed 11-2-07]

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

[OAR Docket #07-1497]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 25. Wildlife Rules [AMENDED]

SUMMARY:

The proposed rule amendments are designed to allow persons with certification to use a crossbow to use a device that permits a bow to be held mechanically at full draw, allow archery hunters to harvest a deer of either sex during January, increase the number of deer archers can harvest from four to six, redefine legal firearms for muzzleloading season to allow electronic ignition systems, reduce the number of antlerless deer that can be taken during gun and muzzleloader seasons on 2 management areas, open a management area to antlerless harvest, clarify what permits are required to apply for controlled hunts in the Persons with Disabilities category, clarify persons drawn in the Disabilities or Youth controlled hunt categories are eligible to be drawn in another category, make emergency rules concerning prairie dog control

Notices of Rulemaking Intent

permanent, streamline the depredation permit process for controlling beaver, coyote, and feral hogs.

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 11, 2008, at the following address: Oklahoma Department of Wildlife Conservation, Room 221, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

PUBLIC HEARINGS:

Date: January 7, 2008

Time: 7:00 p.m.

Ada - Pontotoc County Technology Center - 601 W. 33rd
Jenks - Tulsa Technology Center, 801 East 91st Street
Lawton - Lawton Public Library, 110 SW 4th
Oklahoma City - OK Dept. Of Wildlife Conservation Auditorium, 1801 N. Lincoln Blvd

Date: January 8, 2008

Time: 7:00 p.m.

Clinton - City Hall, 415 Gary Blvd
Durant - Durant Fish Hatchery Meeting Room, 2021 Caddo Hwy, Caddo, OK
Enid - Central Fire Stations, 410 W. Garriott

January 9, 2008

Time: 7:00 p.m.

Miami - Miami Civic Center, 129 5th Ave NW

Date: January 10, 2008

Time: 7:00 p.m.

Guymon - OSU Extension Center, 301 N. Main
Hugo - Kiamichi Tech Center, 107 South 15th St.
Okmulgee - East Central Electric Co-op, 2001 S. Wood Drive (U.S. Hwy 75)

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 December 14, 2007 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 #07-1497; filed 11-2-07]

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

[OAR Docket #07-1498]

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 update our rules to reflect changes in the oil and gas industry's technology and procedures as they pertain to Wildlife Management Areas.

AUTHORITY:

Title 29 O.S., Sections 3-103, 3-304 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 11, 2008, at the following address: Oklahoma Department of Wildlife Conservation, Room 221, 1801 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

PUBLIC HEARINGS:

Date: January 7, 2008

Time: 7:00 p.m.

Ada - Pontotoc County Technology Center - 601 W. 33rd
Jenks - Tulsa Technology Center, 801 East 91st Street
Lawton - Lawton Public Library, 110 SW 4th
Oklahoma City - OK Dept. Of Wildlife Conservation Auditorium, 1801 N. Lincoln Blvd

Date: January 8, 2008

Time: 7:00 p.m.

Clinton - City Hall, 415 Gary Blvd
Durant - Durant Fish Hatchery Meeting Room, 2021 Caddo Hwy, Caddo, OK
Enid - Central Fire Stations, 410 W. Garriott

January 9, 2008

Time: 7:00 p.m.

Miami - Miami Civic Center, 129 5th Ave NW

Date: January 10, 2008

Time: 7:00 p.m.

Guymon - OSU Extension Center, 301 N. Main
Hugo - Kiamichi Tech Center, 107 South 15th St.
Okmulgee - East Central Electric Co-op, 2001 S. Wood Drive (U.S. Hwy 75)

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 December 14, 2007 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 #07-1498; filed 11-2-07]

Submissions for Review

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

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

**TITLE 40. BOARD OF TESTS FOR
ALCOHOL AND DRUG INFLUENCE
CHAPTER 30. ANALYSIS OF ALCOHOL IN
BREATH**

[OAR Docket #07-1483]

RULEMAKING ACTION:

Submission for legislative and gubernatorial review

RULES:

40:30-1-3 [AMENDED]

SUBMITTED TO GOVERNOR

October 29, 2007

SUBMITTED TO HOUSE

October 29, 2007

SUBMITTED TO SENATE

October 29, 2007

[OAR Docket #07-1483; filed 10-29-07]

Gubernatorial Approvals

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

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

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

[OAR Docket #07-1479]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- 40:25-1-1. Purpose [AMENDED]
- 40:25-1-2. Approved evidential breath-alcohol analyzers [AMENDED]
- 40:25-1-3. Alcoholic breath simulators and reference methods [AMENDED]

GUBERNATORIAL APPROVAL:

October 8, 2007

[OAR Docket #07-1479; filed 10-29-07]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE CHAPTER 50. IGNITION INTERLOCK DEVICES

[OAR Docket #07-1480]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- 40:50-1-1. Explanation of terms and actions [AMENDED]
- 40:50-1-2. Procedure for device approval [AMENDED]
- 40:50-1-3. Technical requirements [AMENDED]
- 40:50-1-4. Miscellaneous requirements [AMENDED]
- 40:50-1-5. Maintenance and calibration requirements [AMENDED]
- 40:50-1-7. Certification and inspection of service centers [AMENDED]
- 40:50-1-8. Service representative [AMENDED]
- 40:50-1-9. Ignition interlock inspector [AMENDED]
- 40:50-1-11. Approved ignition interlock devices [AMENDED]

GUBERNATORIAL APPROVAL:

October 8, 2007

[OAR Docket #07-1480; filed 10-29-07]

Gubernatorial Disapprovals

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

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

**TITLE 40. BOARD OF TESTS FOR
ALCOHOL AND DRUG INFLUENCE
CHAPTER 30. ANALYSIS OF ALCOHOL IN
BREATH**

[OAR Docket #07-1481]

RULES:

40:30-1-3 [AMENDED]

GUBERNATORIAL DISAPPROVAL:

October 8, 2007

[OAR Docket #07-1481; filed 10-29-07]

RULEMAKING ACTION:

Gubernatorial disapproval of permanent rules

Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to final adoption (approval by Governor/Legislature) by notifying the Governor and the Legislature and by publishing a notice in the *Register* of such a withdrawal.

An agency may withdraw proposed EMERGENCY rules prior to approval/disapproval by the Governor by notifying the Governor, the Legislature, and the Office of Administrative Rules. The withdrawal notice is not published in the *Register*, however, unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the EMERGENCY rules.

For additional information on withdrawal of proposed rules, see 75 O.S., Section 308(F) and 253(K) and OAC 655:10-7-33.

**TITLE 765. OKLAHOMA USED MOTOR
VEHICLE AND PARTS COMMISSION
CHAPTER 12. SALVAGE POOLS AND
SALVAGE DISPOSAL SALES**

[OAR Docket #07-1486]

RULEMAKING ACTION:

Withdrawal of EMERGENCY rulemaking

WITHDRAWN RULES:

Subchapter 3. Definitions [NEW]

765:12-3-1 [NEW]

765:12-3-2 [NEW]

Subchapter 5. Permitted Buyers [NEW]

765:12-5-3 [NEW]

DATES:

Adoption:

August 14, 2007

Submitted to Governor:

August 20, 2007

Submitted to House:

August 20, 2007

Submitted to Senate:

August 20, 2007

Withdrawn:

September 21, 2007

[OAR Docket #07-1486; filed 10-31-07]

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 230. STATE ELECTION BOARD CHAPTER 10. THE COUNTY ELECTION BOARD

[OAR Docket #07-1516]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Election Training
Part 1. The County Election Board
230:10-5-1. Statewide and regional workshops [AMENDED]
230:10-5-2. Reimbursement for workshops [AMENDED]
230:10-5-2.1. Training for trainers required [NEW]
Part 3. The Precinct Election Board
230:10-5-12. Precinct Official training [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

October 4, 2007

Approved by Governor:

November 5, 2007

Effective:

Immediately upon the Governor's approval

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interest exists requiring the adoption of emergency rules. The emergency rules in Chapter 10 concern training for County Election Board members and employees and for Precinct Election Officials. The Presidential Preferential Primary Election and the Annual School Election will occur on February 5, 2008. Training is required for County Election Board members and employees and for Precinct Officials prior to that date. The emergency amendments are intended to reflect certain changes that the Secretary wishes to make in the methods of providing the required training as well as changes in the rates of certain travel expense reimbursements which become effective October 1, 2007.

ANALYSIS:

The emergency amendments in Chapter 10 concern training for County Election Board members and employees and for Precinct Election Officials.

An amendment in a Section requiring training for County Election Board members and employees removes language implying that the County Election Board Chairman, Vice Chairman, and the two alternate members attend regional training workshops with the Secretary and office staff. This has not been true for many years. The State Election Board usually provides training for the Chairman, Vice Chairman, and alternate members in their own county. Such training is conducted by State Election Board representatives.

Amendments in a Section concerning reimbursement of expenses for attending training is amended to reflect changes in various rates of reimbursement that will become effective October 1, 2007.

A new Section concerns special training for County Election Board personnel who train Precinct Election Officials. In the past, each County Election Board Secretary and staff was required to conduct training for Precinct Officials using standard materials produced by the State Election Board staff. While many of our County Election Board personnel are excellent trainers, there are a few who have difficulty with this aspect of their jobs. Beginning in 2005, the State Election Board staff began experimenting with a new method of providing training for Precinct Officials. The State Election Board staff conducted a special, voluntary train-the-trainer program for any County Election Board Secretary or employee who wanted to conduct Precinct Official training. Only trainers who have completed this special training for trainers are authorized to train Precinct Officials. Many of the persons who attended this training agreed to travel to other counties to conduct Precinct Official training. From this group of authorized trainers, the State Election Board staff assigns trainers to other counties as needed. Several members of the State Election Board staff also are authorized trainers. The experimental program proved to be both effective and popular. The new Section and an amendment in an existing Section formally institute the program in time for the 2008 Precinct Official training season.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Email: scox@elections.ok.gov Telephone: (405) 521-2391.

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 5. ELECTION TRAINING

PART 1. THE COUNTY ELECTION BOARD

230:10-5-1. Statewide and regional workshops

(a) At least once every two years, the State Election Board will conduct either a statewide or regional workshop for the County Election Board members, Secretary and staffs, employees. Such workshops are designed to acquaint participants with effective office administration techniques and current developments in election administration. The workshops are scheduled at times which are convenient for election officials, and attendance by Secretaries, the Secretary and designated staff personnel, the Assistant Secretary or Chief Clerk is mandatory.

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(b) At least once every four years, the State Election Board will provide training for the County Election Board Chairman and Vice Chairman and for the alternate members. Attendance at such training is mandatory.

230:10-5-2. Reimbursement for workshops

(a) For attendance at statewide or regional workshops, ~~the County Election Board members, Secretary and staff personnel, the Assistant Secretary or Chief Clerk~~ are entitled to be reimbursed for expenses from state funds. [26:3-110] Mileage reimbursement is paid for a round trip from the individual's hometown to the location of the workshop at the rate currently allowed by the Internal Revenue Service for a business expense deduction.

(b) The amount of reimbursement for lodging and meal expenses shall not exceed the amount allowed in the Internal Revenue Code of 1986, as amended. [74:500.9] Expenses for overnight lodging will be reimbursed at a rate not to exceed \$60–\$70 per night. [74:500.9] Reimbursement for meal expenses will be made to persons in authorized overnight travel status at a rate not to exceed \$39 per day. [74:500.8] In Oklahoma County, however, reimbursement for lodging is \$73–\$81 per night and for meals is \$49 per day, and in Creek, Osage, Rogers, and Tulsa Counties, reimbursement for lodging is \$68–\$73 per night and for meals is \$44 per day.

230:10-5-2.1. Training for trainers required

All County Election Board personnel who intend to conduct training for Precinct Officials first shall be required to attend training for trainers provided by the State Election Board. Training for trainers shall be conducted by the State Election Board at least once every two years prior to the state election season. In order to be eligible to participate in training for trainers, personnel must have been employed with the County Election Board for at least two years. However, the Secretary of the State Election Board may approve exceptions to this requirement. In the event that Precinct Official training is required in a county where no County Election Board staff member has attended the required training for trainers, the State Election Board shall provide a qualified trainer.

PART 3. THE PRECINCT ELECTION BOARD

230:10-5-12. Precinct Official training

The County Election Board Secretary ~~conducts~~ provides training for all Precinct Officials in the county before the regularly scheduled statewide elections in even-numbered years. [26:3-111] Each Inspector, Judge, and Clerk must attend training every two years before working in an election. The Secretary also schedules additional training sessions as needed for Precinct Officials appointed to fill vacancies or named as substitutes.

[OAR Docket #07-1516; filed 11-8-07]

TITLE 230. STATE ELECTION BOARD CHAPTER 30. ABSENTEE VOTING

[OAR Docket #07-1517]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Processing Applications

230:30-9-3. Processing applications for absentee ballots [AMENDED]

Subchapter 11. Receiving and processing Absentee Ballots

230:30-11-2. Opening outer envelopes and examining affidavits [AMENDED]

Subchapter 13. Federal Write-In Absentee Ballot

230:30-13-1. Voters permitted to use federal write-in absentee ballots [AMENDED]

230:30-13-2. Receiving and processing federal write-in absentee ballots [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

October 4, 2007

Approved by Governor:

November 5, 2007

Effective:

Immediately upon the Governor's approval

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interest exists requiring the adoption of emergency rules in Chapter 30. The State Election Board staff has redesigned the forms used to apply for absentee ballots. These revised forms will be distributed prior to the Presidential Preferential Primary Election on February 5, 2008. The United States Congress enacted certain changes to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) that affect the use of the federal write-in absentee ballot (FWAB). Because Oklahoma allows use of the FWAB in primary elections, such as the Presidential Preferential Primary Election, it is necessary to provide County Election Board personnel with updated information prior to the time they may receive FWABs for that election.

ANALYSIS:

The State Election Board staff revised the Application for Absentee Ballots forms to clarify some of the information required from applicants and to make it easier for County Election Board personnel to process the completed forms. Minor changes are required in one Section that concerns processing applications so that instructions match the revised form.

In 2005, the United States Congress made changes to the UOCAVA that expanded the use of the federal write-in absentee ballot. The Federal Voting Assistance Program, the federal agency charged with administering the UOCAVA, subsequently made changes to the FWAB materials that they provide to uniformed services members and to overseas civilian voters. Amendments in three Sections concern the expansion of the use of the FWAB and the changes to the FWAB materials.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Email: scox@elections.ok.gov Telephone: (405) 521-2391.

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. PROCESSING APPLICATIONS

230:30-9-3. Processing applications for absentee ballots

Applications from all absentee voters, except uniformed services voters and overseas voters, shall be processed according to the following procedures:

- (1) ~~Indicate on the application form in the "For County Election Board Use" space~~ the date on which the application is received at the County Election Board office.
- (2) Enter the application information into OEMS. When applications from absentee voters, nursing home voters, physically incapacitated voters, voters charged with the care of physically incapacitated persons and emergency incapacitated voters are entered into OEMS, the system automatically verifies the applicant's registration. If an applicant is not registered, see 230:30-9-4.
- (3) If a voter requests absentee ballots for a school district or municipality other than the one to which he or she is assigned, mark the appropriate field on the OEMS screen. OEMS will generate a notice that tells the voter that he or she is assigned to a different school district or municipality than the one for which ballots were requested and that ballots for the assigned district or municipality will be issued. If a voter is not assigned to a school district, the school district field will be empty. In this situation only, enter the appropriate code for the school district indicated by the voter on the absentee ballot application in the school district field. If a voter does not reside in a municipality, the municipality field will contain the word "None." If, however, a voter's municipal assignment cannot be determined, the municipal field will be blank. In this situation only, enter the code for the municipality indicated by the voter on the absentee ballot application.
- (4) If the application must be rejected for any reason, enter the reason for the rejection in the appropriate place on the screen. OEMS will produce a Notice of Rejection of Absentee Ballot Application letter for the voter. However, in the event that an Application for In-Person Absentee Ballot has been rejected, it shall not be entered into OEMS.
- (5) Designate the election or elections for which the voter is requesting ballots in the appropriate place on the screen.
- (6) Write the applicant's voter identification number and registration status (active or inactive) on the application form. ~~Fill in the information required in the shaded "For Election Board Use Only" box in the lower right corner of the form.~~
- (7) File the application form in the appropriate absentee voting materials file. If the applicant is a restricted records status voter, file the application in the restricted records status file.
- (8) If the application is from an in-person absentee voter and ballots were issued by the Absentee Voting Board, enter the date the application was processed by the Absentee Voting Board in the appropriate space on the screen to give the voter credit for voting. See 230:30-7-12.

If the application was rejected, no entry shall be made in OEMS. A rejected Application for In-Person Absentee Ballot shall be retained with other rejected applications.

(9) If ballots are available, immediately prepare the appropriate absentee voter packet with the correct ballots for the voter and mail it. See 230:30-9-1 and 230:30-9-2. If the letter "I" appears in the upper-right corner of the absentee mailing label, the voter is either an inactive voter or a voter unassigned to a school district due to insufficient address information. Enclose an Oklahoma Voter Registration Application form and an Absentee Voter Address Information Requested sheet with the absentee voter packet and ballots.

SUBCHAPTER 11. RECEIVING AND PROCESSING ABSENTEE BALLOTS

230:30-11-2. Opening outer envelopes and examining affidavits

The County Election Board may meet any time after 10 a.m. on the Thursday preceding the election to remove outer envelopes. [26:14-123] Unless the number of absentee ballots is extremely high, this meeting shall be scheduled on the day of the election. Upon meeting, the Board shall unlock each ballot box containing absentee ballots. Each envelope shall be removed from the ballot box. The outer envelopes shall be opened and removed and the affidavit envelopes examined. If an inactive voter has enclosed the Oklahoma Voter Registration Application form inside the outer envelope, set the application aside to be processed later. The examination shall determine whether or not the affidavit is properly executed. The following requirements shall be observed:

- (1) The signature on a pink affidavit submitted by a physically incapacitated voter, a voter charged with the care of a physically incapacitated person or an emergency incapacitated voter must be witnessed by two other persons. [26:14-113.2]
 - (A) No one may witness signatures on more than five of these pink affidavits per election. [26:14-113.2(B)]
 - ~~(B)~~ If someone witnesses signatures on more than five of these pink affidavits, the absentee ballots shall be counted but the witness shall be reported to the District Attorney. See 230:30-23-1.
 - ~~(C)~~ No one who is a candidate for an office on the ballot may witness a pink absentee ballot affidavit. [26:14-113.2]
 - ~~(D)~~ No one who is related within the third degree by consanguinity or affinity to a candidate for an office on the ballot may witness a pink absentee ballot affidavit. [26:14-113.2]
- (2) The signature on a yellow affidavit submitted by an absentee voter must be witnessed by a Notary Public. [26:14-108] Affidavits from states other than Oklahoma may be notarized by a person other than a Notary Public who is authorized to administer oaths.

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- (A) The Notary Public must sign and impress the notarial seal on the affidavit for the attestation to be valid.
- (B) The number and expiration date of a Notary Public in Oklahoma should be included in the attestation. However, the attestation shall be considered valid even if this information is missing.
- (C) No one who is a candidate for an office on the ballot may notarize a yellow absentee ballot affidavit. [26:14-108]
- (D) No one who is the chairman or treasurer of the campaign of a candidate for an office on the ballot may notarize a yellow absentee ballot affidavit. [26:14-108]
- (E) No one who is related to a candidate within the third degree of consanguinity or affinity may notarize a yellow absentee ballot affidavit. [26:14-108]
- (3) The signature on a pink affidavit submitted by a nursing home voter must be witnessed by two members of the nursing home Absentee Voting Board, who shall not be required to show their addresses. [26:14-115]
- (4) Voters using the red and white affidavit need not have their signatures witnessed.
- (5) ~~The outer (mailing) envelope of a federal write-in absentee ballot shall not be opened at this time. The voter's declaration/affirmation on the mailing envelope shall be examined.~~ The Voter's Declaration/Affirmation accompanying a federal write-in absentee ballot shall be examined. The voter's signature need not be witnessed. See 230:30-13-2 for more information about the Voter's Declaration/Affirmation.
- (6) The cover sheet used by uniformed services and overseas voters to return voted ballots by fax must include the voter's signature on the affidavit and must include a waiver of right to secret ballot statement. The voter's signature need not be witnessed.

SUBCHAPTER 13. FEDERAL WRITE-IN ABSENTEE BALLOT

230:30-13-1. Voters permitted to use federal write-in absentee ballots

~~Uniformed Absent uniformed services voters who are stationed outside the territorial limits of the United States~~ and overseas voters, those who are living outside the territorial limits of the United States, shall be permitted to use the federal write-in absentee ballot in Primary, Runoff Primary, Presidential Preferential Primary, and General Elections for federal offices. These absent uniformed services voters and overseas voters may use the federal write-in absentee ballot whether or not they have applied for regular absentee ballots.

230:30-13-2. Receiving and processing federal write-in absentee ballots

Upon receipt of a federal write-in absentee ballot, the Secretary shall ~~observe the following procedures:~~ indicate the received date on the front of the envelope and then shall place the envelope in the absentee ballot box. When the County Election Board meets to open outer envelopes and examine affidavits as described in 230:30-11-2, the Secretary also shall take the following steps.

(1) ~~Do not open the mailing envelope. The voter's federal write-in absentee ballot is sealed in a secrecy envelope inside the mailing envelope. The mailing envelope shall not be opened until the County Election Board is prepared to count the ballot. After opening the outer envelope, attach the Voter's Declaration/Affirmation to the secrecy envelope with a paper clip.~~

(2) ~~Indicate on the front of the mailing envelope the date on which the federal write-in absentee ballot was received by the County Election Board. Determine whether the voter is an overseas voter by examining item 1a on the Voter's Declaration/Affirmation form. If the ballot is from an overseas voter, verify that the voter is located outside the United States by examining the information in item 4a "My Current Address (Where I live now)." This address should be located outside the United States. If this address is located within the United States, this federal write-in absentee ballot cannot be counted.~~

(3) ~~Verify that the federal write-in absentee ballot was submitted from a location outside the United States. Check item 2, "Current Complete Military or Overseas Address," on the Voter's Declaration/Affirmation located on the back of the mailing envelope. (An APO or FPO address is an address outside the United States.) A federal write-in absentee ballot submitted from a location within the United States cannot be counted. If the ballot cannot be counted, note the reason on the front of the mailing envelope and set it aside in a secure place. Examine item 3 "My Voting Residence Address" to determine the voter's correct precinct. Note the precinct number on the Voter's Declaration/Affirmation.~~

(4) ~~Verify the voter's address of residence in the county by checking item 3, "Voting Residence," on the Voter's Declaration/Affirmation. Use this information to determine the voter's correct precinct. Check the absentee information in OEMS to determine whether the voter submitted an application for regular mail absentee ballots.~~

(A) If the voter submitted an application for regular mail absentee ballots, determine whether those ballots have been received.

(i) If the voter's regular absentee ballots have been received, the federal write-in absentee ballot shall not be counted. Note the reason the ballot cannot be counted on the Voter's Declaration/Affirmation and set it and the unopened secrecy envelope aside in a secure place.

(ii) If the voter's regular absentee ballots have not been received by 7 p.m. on election day, the federal write-in absentee ballot shall be counted.

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[OAR Docket #07-1518]

- (B) If the voter did not submit an application for regular mail absentee ballots, the federal write-in absentee ballot shall be counted.
- ~~(5) Check the absentee records in OEMS to see whether an application for regular absentee ballots was received from the voter.~~
- ~~(A) If an application was received, verify that regular absentee ballots have not yet been received from the voter and write the absentee voter identification number from the OEMS screen on the front of the mailing envelope. If regular absentee ballots have been received from the voter, the federal ballot cannot be counted. If the federal ballot cannot be counted, note the reason on the front of the mailing envelope and set it aside in a secure place.~~
- ~~(B) If an application for regular absentee ballots was not received, make a list showing the voter's name and the date the federal write in absentee ballot was received. Make space on this list to show the rejection date in the event that the ballot cannot be counted. In the event that a voter's federal write-in absentee ballot cannot be counted, the Secretary shall notify the voter in writing of the reason the ballot was rejected.~~
- ~~(6) Place the federal write in absentee ballot mailing envelope, unopened, in the absentee ballot box. If a federal write-in absentee ballot is counted for a voter who had previously applied for regular absentee ballots, enter the date the federal write-in absentee ballot was received in the voter's absentee information in OEMS.~~
- ~~(7) When counting absentee ballots, check the voter's application information in OEMS if an application for regular absentee ballots was received from the voter to determine whether the voter's regular ballots have been received since the federal ballot was placed in the ballot box. If the voter's regular absentee ballots are received prior to 7 p.m. on election day, the federal write in absentee ballot will not be counted. Note the reason on the front of the mailing envelope and set it aside with the other uncounted absentee ballots. If an application for regular absentee ballots was not received from the voter, open the mailing envelope and count the ballot.~~
- ~~(8) In the event a voter's federal write in absentee ballot cannot be counted for the reasons outlined in items 3 and 5 of this section, the Secretary immediately shall notify the voter in writing of the rejection and the reason for the rejection.~~
- ~~(9) If a federal write in absentee ballot is counted for a voter who had applied for regular absentee ballots, enter the date on which the federal ballot was received by the County Election Board, as noted on the front of the mailing envelope, in the voter's application information in OEMS. Follow the instructions in 230:30-19-6 to count a federal write-in absentee ballot.~~

[OAR Docket #07-1517; filed 11-8-07]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 3. County Election Board Responsibilities
- Part 1. Before the Filing Period
- 230:35-3-3. Assembling precinct supplies [AMENDED]
- Part 13. After the Polls Close
- 230:35-3-84. Assembly line required for receiving returns and materials from Inspectors [AMENDED]
- 230:35-3-85.1. Election night recounts [AMENDED]
- Part 17. Disposition of Materials
- 230:35-3-98. Disposing of ballots [AMENDED]
- 230:35-3-103. Disposing of supplies [AMENDED]
- Part 19. Verifying and Counting Provisional Ballots
- 230:35-3-131. Opening provisional ballot affidavit envelopes and counting provisional ballots [AMENDED]
- Subchapter 5. Instructions for Precinct Election Officials
- Part 5. Preparations on Election Day
- 230:35-5-31.1. Location and materials for provisional voting [AMENDED]
- Part 15. After the Polls Close
- 230:35-5-75.3. Completing election night tasks [AMENDED]
- Part 21. Voters Listed in Precinct Registry Who Have Problems With Eligibility
- 230:35-5-113.3. Identification Required voter [AMENDED]
- Part 34. Provisional Voting Procedures
- 230:35-5-176. Filling out a Provisional Ballot Voucher [AMENDED]
- 230:35-5-177. Provisional voting procedure [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

October 4, 2007

Approved by Governor:

November 5, 2007

Effective:

January 15, 2008

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that a compelling public interest exists requiring adoption of emergency rules in Chapter 35. The Presidential Preferential Primary Election occurs on February 5, 2008. These emergency rules affect some materials provided for Precinct Officials on election day and also affect procedures for County Election Board personnel on election night. Some of these emergency rules concern the chain of custody of voted ballots and are intended to strengthen it. The Secretary finds that all these changes are necessary prior to the Presidential Preferential Primary Election on February 5, 2008.

ANALYSIS:

The emergency rules change certain procedures followed by County Election Board personnel and by Precinct Officials on election day. Some items that in the past have been bound in the FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet have been removed from that booklet. A separate FORMS FOR USE BY PROVISIONAL VOTING OFFICER booklet has been eliminated. Because of the elimination of the provisional voting FORMS booklet, the Provisional Ballot Voucher form has been redesigned and the instructions for completing it have been changed. Finally, a new item, referred to in these emergency rules as the "short turquoise State Election Board seal" has been created for use by the County Election Board on election night. This new seal is intended to be applied to the ballot transfer box in several situations. First, if the long white State Election Board seal is broken or missing from a ballot transfer box when the box is received

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from the Inspector on election night, the County Election Board members place the turquoise seal on the box immediately. Second, if a ballot transfer box must be opened by the County Election Board on election night to conduct an election night recount, the box is resealed with the turquoise seal at the conclusion of the recount. Third, if the County Election Board must open a ballot transfer box to retrieve an item, such as a Ballot Accounting Form or a Totals Printout sealed inside the box in error, the box is resealed with the turquoise seal. Finally, on Friday following the election, the ballot transfer box containing counted provisional and/or telephone system ballots is sealed with the turquoise seal. The purpose of the new seal is to provide additional documentation of the chain of custody of voted ballots from election night through 5 p.m. Friday following the election.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Email: scox@elections.ok.gov Telephone: (405) 521-2391.

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), WITH A LATER EFFECTIVE DATE OF JANUARY 15, 2008:

SUBCHAPTER 3. COUNTY ELECTION BOARD RESPONSIBILITIES

PART 1. BEFORE THE FILING PERIOD

230:35-3-3. Assembling precinct supplies

(a) Well in advance of any election, the Secretary shall assemble supplies for every precinct and shall pack them in an envelope, a box, a bag, a binder, or another container. The Secretary may use the Supply Envelope and the Supply Box provided by the State Election Board or any other adequate container. Each election supply container shall be labeled for the appropriate precinct. (Some materials cannot be included in the supplies until after ballots are printed.) The Secretary shall prepare and use a Precinct Check List for each precinct to verify that all necessary supplies are included.

(b) The following items shall be included in the election supplies for each precinct. The quantities listed are recommended minimum quantities.

(1) **Publications.** One each of the following publications shall be included in the election supplies for each precinct.

- (A) THE MANUAL FOR PRECINCT ELECTION OFFICIALS
- (B) PRECINCT PROBLEM SOLVER
- (C) VOTING DEVICE HANDBOOK FOR PRECINCT OFFICIALS

(2) **Forms and handouts.** The following forms and handouts shall be included in the election supplies for each precinct.

- (A) Address Information Requested handouts
- (B) Ballot Accounting Form
- (C) FORMS FOR USE BY PRECINCT ELECTION OFFICIALS booklet
- (D) Oklahoma Voter Registration Application forms

(E) Procedure for Watchers

(F) Secrecy folders

(G) Voting Device Report

(H) List of ballot codes

(I) Opening the Polls checklist

(J) Closing the Polls checklist

(K) Packing Supplies checklist

(L) Voter Registration Application checklist

(3) **Envelopes.** One of each of the following envelopes shall be included in the election supplies for each precinct.

(A) Envelope for Totals Printout

(B) Green envelope for mailing Totals Printout to State Election Board (statewide elections only)

(C) Precinct Expense Claim Envelope

(D) Voting Device Key Envelope (and key chain with keys)

(4) **Signs and Maps.** The following signs and maps shall be included in the election supplies for each precinct.

(A) One Attention Voter poster for each voting booth in the precinct

(B) One Oklahoma Election Procedures --- Important Voter Information sign (English)

(C) One Oklahoma Election Procedures --- Important Voter Information sign (Spanish)

(D) One Election Law Violations sign

(E) One Vote Here sign

(F) One Voter Eligibility B Municipal Elections

(G) One Voter Eligibility B School Elections

(H) Precinct Map B municipality

(I) Precinct Map B school districts

(J) Precinct Map B other entity

(5) **Other Supplies.** The following additional supplies shall be included in the election supplies for each precinct.

(A) American flag

(B) Twenty ballot marking pens

(C) Twenty ink pens

(D) One long white State Election Board seal for each ballot transfer box required for the precinct

(E) Official Exit Poll stickers, as needed

(F) Two plastic seals for ballot box sides

(G) Paper clips

(H) Magnifier

(I) Memory pack bag

(J) Rubber bands

(K) Scissors

(L) Tape

(M) Thumbtacks

(6) **Provisional voting supplies.** The following provisional voting supplies shall be included in the election supplies for each precinct.

(A) ~~FORMS FOR USE BY PROVISIONAL VOTING OFFICER~~ booklet

(i) ~~Absentee Voter Affidavit~~

(ii) ~~Voter Assistance Form~~ Checklist for Provisional Voting Officer

(B) Provisional Voting Information handouts

(C) Identification Required information sheet

(D) Provisional Ballot Voucher forms

- (E) Oklahoma Provisional Ballot Affidavit envelopes
- (F) Provisional Ballot Rosters
- (G) Orange Provisional Ballot Bag
- (H) Blue plastic seal for provisional ballot bag
- (7) **Precinct Registry, Voting Device, and ballots.**
The Precinct Registry, voting device, and ballots are issued to the Inspector along with the election supplies for each precinct. See 230:35-3-6, 230:35-3-7, 230:35-3-57, and 230:35-3-68.1.

PART 13. AFTER THE POLLS CLOSE

230:35-3-84. Assembly line required for receiving returns and materials from Inspectors

Before the first Inspector arrives, an assembly line shall be established for receiving the returns. The Chairman and Vice Chairman of the County Election Board, the Secretary or clerical employees of the Board may be involved in reception. When receiving returns, the following procedure shall be observed:

- (1) Representatives of the news media shall be assigned to a separate office or area. If the County Election Board has more than one OEMS terminal, one terminal may be placed in a public area to display precinct results as they are accumulated.
- (2) Appropriate receptacles shall be prepared and arranged for receiving items from Inspectors.
- (3) Inspectors shall form a line as they arrive, and shall be processed one at a time.
- (4) The Envelope for Totals Printout shall be received first. The envelope shall be opened and its contents examined in the following order.
 - (A) The Totals Printout shall be examined. If it appears to be in order, it shall be set aside in a secure place. If, however, the Totals Printout appears to be incorrect in any way, the Secretary and the County Election Board members shall confer to determine whether an election night recount of the ballots cast in the precinct, as outlined in 230:35-3-85.1, is warranted.
 - (B) The Ballot Accounting Form shall be examined.
 - (C) The memory pack shall be given to the person responsible for reading it into the computer.
 - (D) The voting device key envelope shall be examined to be certain that the precinct number is written on it. The key envelope shall be set aside in a secure place.
- (5) The voting device, if returned by the Inspector, shall be received and immediately transferred to secure storage.
- (6) The sealed ballot transfer boxes shall be received and immediately transferred to secure storage.
 - (A) Examine the ballot transfer boxes to ensure that they have been properly sealed. If the long white State Election Board seal is missing or broken, immediately affix a short turquoise State Election Board seal to the

ballot transfer box. The new seal shall be signed by the County Election Board members and the box for "Other" shall be checked. Write the reason the seal is being applied in the space provided.

(B) In the event that the County Election Board must open a ballot transfer box on election night to retrieve an item enclosed in error inside the box by Precinct Officials, the Board members shall affix a short turquoise State Election Board seal to the box. The new seal shall be signed by the County Election Board members and the box for "Other" shall be checked. Write the reason the seal is being applied in the space provided.

- (7) The sealed orange provisional ballot bag shall be received.
 - (A) Remove the Provisional Ballot Roster from the clear plastic pocket on the bag. Make certain that the precinct number is indicated on the Provisional Ballot Roster before separating it from the bag.
 - (B) Place the provisional ballot bag in a secure receptacle. Access to the provisional ballot bags shall be restricted to authorized County Election Board personnel.
 - (C) Paperclip or staple the Provisional Ballot Roster pages together and set aside in a secure location. Access to these forms shall be restricted to authorized County Election Board personnel.
 - ~~(D) Set the Provisional Voting Forms booklet aside in a secure location. Make certain that the precinct number is indicated on the booklet.~~
- (8) The Precinct Registries shall be received and examined.
- (9) The Precinct Expense Claim Envelope and any unclaimed vouchers shall be received and examined.
- (10) The Inspector shall sign the Precinct Expense Claim Envelope and receive his voucher for compensation and mileage if all other vouchers are accounted for.
- (11) The election supply container shall be received and placed in an appropriate receptacle.
- (12) The American flag shall be received and stored.

230:35-3-85.1. Election night recounts

- (a) **Precinct ballots.** The ballots from a precinct may be recounted at the County Election Board office on election night if Precinct Officials are unable to obtain a Totals Printout at the polling place or if an examination of the Totals Printout from the precinct reveals an abnormality that may indicate that the voting device has malfunctioned. Election night recounts are allowed only under the following circumstances.
 - (1) The Ballot Statistics information on the Totals Printout indicates that the number of ballots not counted exceeds 2% of the total ballots cast. [26:7-134.1]
 - (2) The voting device has malfunctioned in such a way that there are no totals on the Totals Printout or the Totals Printout is illegible. [26:7-134.1]
 - (3) Uncounted ballots from the emergency compartment were mixed with counted ballots before the

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uncounted ballots could be processed through the voting device.

(4) Precinct Officials failed to remove and count ballots from the emergency compartment before obtaining the Totals Printout.

(5) An insufficient amount of voting device tape remains on the paper roll to print the first Totals Printout.

(6) The State Election Board staff instructs the County Election Board to conduct an election night recount to resolve a problem not anticipated in this Section.

(b) **Absentee ballots.** Absentee ballots may be recounted on election night only under the circumstances described in (a) of this section.

(c) **Procedure for election night recount.** An election night recount shall be conducted on a voting device especially designated for election night recounts. The recount shall be conducted in public view and in the presence of the County Election Board members and a representative of the County Sheriff. [26:7-134.1] If possible, members of the news media also shall be present. The recount shall be conducted according to the following procedure.

(1) The memory pack from the precinct in question shall be inserted into the designated voting device.

(2) The memory pack shall be initialized and a new Zero Printout shall be printed. Do not tear off the Zero Printout tape.

(3) The ballot transfer case from the precinct shall be opened and the ballots removed.

(4) The Secretary shall designate one person to feed the ballots, one at a time, into the voting device.

(5) After all the ballots have been inserted into the device, a new Totals Printout shall be generated.

(6) When the Totals Printout has finished printing, it shall be torn off and signed by the County Election Board members and also by the person who fed the ballots into the voting device. At least three more copies of the Totals Printout shall be printed.

(7) After the required number of Totals Printouts has been printed, the memory pack shall be removed from the voting device.

(8) The ballots shall be replaced in the ballot transfer case. One copy of the new Totals Printout shall be placed inside the ballot transfer case. The Totals Printout from the polling place also shall be placed in the case.

(9) The ballot transfer case shall be resealed ~~with and a new long white seal~~ short turquoise State Election Board seal shall be affixed to the box. [26:7-134.1] The new seal shall be positioned so that it can be distinguished from the broken precinct seal. The members of the County Election Board and the person who fed the ballots into the voting device all shall sign ~~the new long white short turquoise seal.~~ The Secretary shall note the date and time that the transfer case was resealed—check the "Election Night Recount" box on the seal.

PART 17. DISPOSITION OF MATERIALS

230:35-3-98. Disposing of ballots

Voted ballots for Presidential Electors, U.S. Senator, U.S. Representative and from the Presidential Preferential Primary Election shall be retained for 24 months after the election at which they were cast. Unused ballots for Presidential Electors, U.S. Senator, U.S. Representative and from the Presidential Preferential Primary Election shall be retained for 30 days after the election. Both voted ballots and unused ballots for all other elections shall be retained for 30 days after the election at which they were cast. The ballots shall be maintained in the sealed ballot transfer boxes throughout the ballot retention period unless the court orders the transfer boxes opened for a recount. When the ballot retention period for an election has expired, the ballot transfer boxes ~~shall be opened~~ and the ballots shall be destroyed.

230:35-3-103. Disposing of supplies

The Secretary shall examine all supplies for serviceability. Supplies that can be reused, such as signs and unused forms that are not bound in the FORMS booklet, shall be returned to the inventory. Supplies that cannot be reused shall be discarded. Other supplies, such as ink pens, thumbtacks, rubber bands, ballot marker pens, scissors, paper clips, and tape, shall be replenished as necessary and stored permanently in the election supply container for each precinct. ~~When ballots are destroyed, the Secretary shall examine the ballot transfer boxes. If they are still serviceable, the old seals shall be removed and the boxes shall be retained for future use.~~

PART 19. VERIFYING AND COUNTING PROVISIONAL BALLOTS

230:35-3-131. Opening provisional ballot affidavit envelopes and counting provisional ballots

(a) The County Election Board members shall meet on Friday next following the election at such time as the Secretary may prescribe to open the verified provisional ballot affidavit envelopes and to count the provisional ballots. The Board members shall follow these steps to remove the provisional ballots from the envelopes.

(1) The Board members shall receive the verified provisional ballot affidavit envelopes, sorted by precinct, from the Secretary or a designated County Election Board employee.

(2) The Board members shall open the affidavit envelopes and remove the ballot secrecy envelopes. If an affidavit envelope indicates that the voter received two or more ballots, but that not all the ballots enclosed are to be counted, see (c) of this Section.

(A) Set the affidavit envelope aside.

(B) Place the ballot secrecy envelope in an appropriate container.

(3) When all the affidavit envelopes from a single provisional ballot precinct have been opened, the secrecy envelopes shall be mixed together.

- (4) The Board members shall open the ballot secrecy envelopes and remove the ballots.
 - (A) Set the secrecy envelope aside.
 - (B) Unfold the ballot and place it in the designated container for the precinct.
- (b) When all the verified provisional ballot envelopes for a precinct have been opened, the ballots shall be counted. The following procedure shall be observed.
 - (1) The Secretary shall assign a County Election Board employee to count the provisional ballots. The members of the County Election Board shall observe the counting process.
 - (2) The employee assigned to count the ballots shall take the following steps.
 - (A) The memory pack for the precinct shall be inserted in the voting device.
 - (B) Press the Print Totals key to obtain a Totals Printout. Verify that the totals match exactly the Totals Printout from election night.
 - (C) The polls shall be reopened so that the memory pack can read additional ballots.
 - (D) Insert the ballots, one at a time, into the device. If the device returns a ballot, do not remove the ballot. Use the override key to accept the ballot, then continue inserting ballots.
 - (E) After all the ballots have been counted, generate at least three Totals Printouts.
 - (3) The employee who counted the ballots and the members of the County Election Board each shall sign all the copies of the Totals Printout.
 - (4) The employee shall remove the counted provisional ballots and place them in a ballot transfer case. One signed copy of the Totals Printout shall also be placed in the ballot transfer case. The ballot transfer case shall be sealed with a long white short turquoise State Election Board seal signed by the County Election Board members and the employee who counted the ballots. ~~The seal shall be clearly marked to indicate the box contains counted provisional ballots.~~ The Secretary shall check the "Counted Provisional Ballots" box on the seal.
 - (5) The sealed ballot transfer case shall be given to the Sheriff, who shall provide security for the counted ballots until 5 p.m. on Friday following the election or until the ballots are delivered to the district courtroom for a recount.
 - (6) One copy of the provisional ballots Totals Printout shall be made available for inspection in the County Election Board office after 1 p.m. on Friday following the election.
- (c) If a provisional voter was issued two or more ballots and, upon verification of the voter's information, it is determined that one or more of the ballots cannot be counted, the County Election Board members shall follow these steps when opening the affidavit envelope.
 - (1) Open the affidavit envelope and remove the secrecy envelope.
 - (2) Write "Count (~~TYPE BALLOT CODE OF BALLOT BALLOT TYPE OR CODE~~) ballot only" on the secrecy envelope in red ink.

- (3) Place secrecy envelope in the container with other secrecy envelopes.
- (4) When opening the secrecy envelopes, remove from the marked envelopes only the specific ballot or ballots to be counted. Put the ballots that cannot be counted back in the secrecy envelope and set it aside with the other uncounted provisional ballot materials.

SUBCHAPTER 5. INSTRUCTIONS FOR PRECINCT ELECTION OFFICIALS

PART 5. PREPARATIONS ON ELECTION DAY

230:35-5-31.1. Location and materials for provisional voting

Place the provisional voting supplies and materials on a table separate from the table for the Judge, Clerk, and Inspector. Put these items on the provisional voting table.

- (1) ~~FORMS FOR USE BY PROVISIONAL VOTING OFFICER~~ booklet Checklist for Provisional Voting Officer
- (2) Provisional Voting Information handouts
- (3) Oklahoma Provisional Ballot Affidavit envelopes and secrecy envelopes
- (4) Provisional Ballot Rosters
- (5) Oklahoma Voter Registration Application forms
- (6) Orange Provisional Ballot Bag

PART 15. AFTER THE POLLS CLOSE

230:35-5-75.3. Completing election night tasks

- (a) **Distribution of Totals Printout.** Distribute the Totals Printouts as follows.
 - (1) Put the original Totals Printout, which includes the Zero Printout, all messages, and the first Totals Printout, inside the Envelope for Totals Printout.
 - (2) Put one copy on the polling place door.
 - (3) Put one copy inside a ballot transfer case.
 - (4) If this is a statewide election, put one copy in the green envelope to mail to the State Election Board.
- (b) **Voting Device Report.** The Inspector fills out the Voting Device Report and signs it. The Judge and Clerk also sign it. Put the finished Voting Device Report in the Envelope for Totals Printout.
- (c) **Ballot Accounting Form.** The Clerk fills out the Ballot Accounting Form and signs it. The Inspector and Judge also sign it. Put the finished Ballot Accounting Form in the Envelope for Totals Printout.
- (d) **Packing unused ballots and sealing ballot transfer cases.** Pack all used and unused ballots in ballot transfer cases. If possible, pack unused ballots in a ballot transfer case separate from the voted ballots. Seal each ballot transfer case with a long white State Election Board seal. Indicate on the seal if the case contains voted ballots, unused ballots, or a combination of voted and unused ballots. The Inspector, Judge, and Clerk

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all sign the long white State Election Board seal on each ballot transfer case.

(e) **Sealing the Envelope for Totals Printout.** The Inspector verifies that the following items are inside the Envelope for Totals Printout and then seals the envelope. The Inspector, Judge, and Clerk all sign the envelope flap.

- (1) Original Totals Printout, which includes the Zero Printout, all messages printed during the election, the first Totals Printout, and the signatures of the Inspector, Judge, and Clerk.
- (2) Memory pack in the padded bag.
- (3) Voting device key envelope.
- (4) Ballot Accounting Form.
- (5) Voting Device Report.

(f) **Precinct Expense Claim Envelope.** The Judge and Clerk sign the Precinct Expense Claim Envelope and receive their vouchers from the Inspector. Vouchers may not be distributed under any circumstance until after the polls close. [26:3-105.1(c)]

(g) **Provisional Ballot Bag.** The Inspector or the Provisional Voting Officer shall complete the following steps.

- (1) Put the Provisional Ballot Roster ~~and the Provisional Voting Forms booklet~~ in the large, clear plastic pocket on the orange Provisional Ballot Bag.
- (2) Make certain that all completed Provisional Ballot Affidavit Envelopes are inside the Provisional Ballot Bag.
- (3) Zip the bag and seal it with the blue plastic seal.
- (4) Pack any unused provisional ballot materials and supplies as instructed by the County Election Board Secretary.
- (5) Place the sealed Provisional Ballot Bag, the packed supplies, and any Oklahoma Voter Registration Application forms completed by provisional voters with the other materials that the Inspector returns to the County Election Board office.

PART 21. VOTERS LISTED IN PRECINCT REGISTRY WHO HAVE PROBLEMS WITH ELIGIBILITY

230:35-5-113.3. Identification Required voter

Voters who applied for voter registration by mail on or after January 1, 2003, are required by federal law to present identification the first time they vote in a federal election. If a voter is required to present identification, the words "ID Required" appear in the Precinct Registry in the signature space beside the voter's name. The Judge shall follow these steps.

- (1) Tell the voter:
 - (A) You are required by federal law to present identification the first time you vote in a federal election because you applied by mail for voter registration in this county on or after January 1, 2003. However, you may be asked for identification in more than one federal election this year.
 - (B) The form of identification you present must show your name and address.

(C) You may present any one of the following items as identification:

- (i) a current and valid photo identification;
- (ii) the voter identification card that you received by mail from the County Election Board when your application for voter registration was approved; or
- (iii) a copy of a current utility bill, bank statement, government check, paycheck, or any other government document that shows your name and address.

(D) If you do not have identification with you, you may vote a provisional ballot.

- (2) Ask to see the voter's identification.
- (3) Tell the voter to sign the Precinct Registry, and continue processing the voter routinely.
- (4) If the voter does not have identification, fill out a provisional ballot voucher and tell the voter to take it to the Inspector or Provisional Voting Officer. If the voter requested an absentee ballot, ~~mark the box labeled "Absentee Ballot Requested" on the voucher~~ see 230:35-5-113.

PART 34. PROVISIONAL VOTING PROCEDURES

230:35-5-176. Filling out a Provisional Ballot Voucher

The Judge shall fill out a Provisional Ballot Voucher for every voter who will cast a provisional ballot. Do not send a voter to the Inspector or Provisional Voting Officer without a voucher. ~~Write the following information on the voucher in the spaces provided: the voter's name; the appropriate ballot codes; the school district code, if the voter is eligible to receive a school district ballot; the municipal code, if the voter is eligible to receive a municipal election ballot; and any other necessary information. If the Precinct Registry indicates that the voter has requested absentee ballots, mark the "Absentee Ballot Requested" box. If the voter disputes the political affiliation, school district, or municipality as indicated in the Precinct Registry, write the voter's preferred political affiliation, school district, or municipality on the voucher.~~ the ballots to be issued to the voter on the voucher in the spaces provided.

230:35-5-177. Provisional voting procedure

The Inspector or the Provisional Voting Officer greets the voter and follows these steps to help the voter cast a provisional ballot.

- (1) Take the Provisional Ballot Voucher from the voter. If the voter did not receive a Provisional Ballot Voucher from the Judge, send the voter to the Judge for a Provisional Ballot Voucher.
- (2) Give the voter a copy of the Provisional Voting Information handout.
- (3) Tell the voter that if County Election Board personnel cannot verify the voter's registration in this precinct, the provisional ballot will not be counted.

- (4) Give the voter an Oklahoma Voter Registration Application form and ask the voter to fill it out and sign it. A voter is not required to complete the registration application to receive a provisional ballot but should be encouraged to do so. If the voter completes the application, set it aside in a secure place.
- (5) Fill out an Oklahoma Provisional Ballot Affidavit envelope for the voter.
 - (A) Write the election date, county name, and precinct number in the spaces provided at the top of the affidavit.
 - (B) Ask the voter for the following information and write it on the affidavit in the appropriate spaces.
 - (i) name
 - (ii) residence address
 - (iii) date of birth
 - (iv) Oklahoma driver license number, if available
 - (v) last four digits of Social Security number
 - (vi) political affiliation
 - (C) Place a checkmark beside the appropriate statement of the reason the voter is casting a provisional ballot. Note the following special instructions for some of the listed reasons.
 - (i) **Voter Not in Precinct Registry.** If the voter offers any information about where and when he/she may have registered, last voted, or another name under which he/she may be registered, record the information in the spaces provided. If the voter has a voter identification card, take it and attach it with a paperclip to the voter registration application form.
 - (ii) **Voter without acceptable form of identification.** Ask the voter to read the statement on the affidavit envelope and the oath before signing the affidavit.
 - (iii) **Voter disputes political affiliation indicated in Precinct Registry.** Write the political affiliation claimed by the voter in the space provided.
 - (iv) **Voter disputes school district or municipal assignment in Precinct Registry.** Write the name of the school district or municipality in which the voter claims to reside.
 - (v) **Other.** Record any explanation the voter offers concerning the reason he/she may be eligible to vote.
 - (D) Record the ballot style or styles indicated on the voter's Provisional Ballot Voucher in the spaces provided on the Affidavit.
- (6) Ask the voter to review the information on the affidavit. Tell the voter to read the oath and to sign it. Also ask the voter to write his/her daytime telephone number in the space provided.
- (7) Sign the affidavit in the space provided for the Provisional Voting Officer.
- (8) Print the voter's name on the Provisional Ballot Roster and record the codes for the ballots issued to the

- voter in the space provided. Tell the voter to sign the roster.
- (9) ~~If the voter's Provisional Ballot Voucher indicates that the voter has requested absentee ballots, have the voter sign the Absentee Voter Affidavit.~~
- (10) Issue the appropriate ballots indicated on the voucher. Fold each ballot in half before giving it to the voter. Put the voucher inside the affidavit envelope. Give the voter the affidavit envelope, a secrecy envelope, and the ballot.
 - (A) Fold the ballot in half.
 - (B) Put the folded ballot inside the secrecy envelope and seal the envelope.
 - (C) Put the sealed secrecy envelope inside the affidavit envelope and seal the affidavit envelope.
 - (D) Return to the table with the sealed affidavit envelope.
- (11) If necessary, follow the procedures for spoiled ballots (230:35-5-127) or voter assistance (230:35-5-120.1), using the PRECINCT PROBLEM SOLVER.
- (12) When the voter returns the sealed affidavit envelope, put it in the orange Provisional Ballot Bag immediately.
- (13) Tell the voter that information concerning disposition of the provisional ballot may be obtained from the County Election Board after 5 p.m. on Friday. Make sure the voter takes a copy of the Provisional Voting Information handout.

[OAR Docket #07-1518; filed 11-8-07]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 40. TYPES OF ELECTIONS**

[OAR Docket #07-1519]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 5. Municipal Elections
- Part 17. Special Elections
- 230:40-5-77. Special elections for municipal offices [AMENDED]
- Subchapter 7. School Elections
- Part 5. Filing Period
- 230:40-7-16. Filing period [AMENDED]
- Part 9. Procedures
- 230:40-7-35. Precincts in school elections [AMENDED]

AUTHORITY:

Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:

October 4, 2007

Approved by Governor:

November 5, 2007

Effective:

Immediately upon the Governor's approval

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Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that the following compelling public interest exists requiring the adoption of emergency rules in Chapter 40.

The State Election Board staff recently discovered a Section that was amended in error in 2006. The Section, which concerns special municipal elections, contains incorrect information as a result of the error and it is causing confusion. It is important that this error be corrected as soon as possible since special elections may occur at any time.

Statutory language that permits candidates for the Board of Education in a multi-county school district to file Declarations of Candidacy either with the parent County Election Board or in the affected county in which the candidate lives has never been included in our rules. This inadvertent omission has been confusing for County Election Board personnel and needs to be corrected if possible prior to the Annual School Election filing period in December, 2007.

Finally, a section concerning the procedure for closing split precincts in school district election is amended to further clarify that the procedure cannot be used in an election that is held in conjunction with any state election. It is necessary to make this clarification now because both the Annual School Election and the Presidential Preferential Primary Election are held on February 5, 2008.

ANALYSIS:

In 2005, Title 26, Section 13-101.1 was amended to change the number of days which must be provided between partisan municipal primary and general elections from 45 to 35 days. When we amended our rules to reflect the statutory change, we made an error. We changed every reference to 45 days in 230:40-5-77 to 35 days. However, only the reference in (a)(4) should have been changed. This emergency amendment corrects our error.

In 2004, Title 26, Section 13A-105 was amended to permit candidates for the Board of Education in multi-county school districts to file their Declarations of Candidacy in the county of their residence instead of in the parent county. We recently discovered that we have failed to include this change in our rules. We need to correct this oversight prior to the Annual School Election filing period in December, 2007.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Email: scox@elections.ok.gov Telephone: (405) 521-2391.

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 5. MUNICIPAL ELECTIONS

PART 17. SPECIAL ELECTIONS

230:40-5-77. Special elections for municipal offices

(a) **Special partisan elections.** When a special partisan election must be held to fill a vacancy in an elected municipal office, the resolution of the municipality's governing body shall contain the following information. [11:16-114]

(1) The dates for a three-day filing period which shall begin on a Monday and end on the following Wednesday. [11:16-114] The filing period shall begin not less than 15 days from the date of the resolution. [11:16-114]

(2) The date of the special primary election, which shall be not less than ~~35~~45 days after the close of the filing period. [11:16-114]

(3) The date of the special general election, which shall be not less than ~~35~~45 days after the date of the special primary. [11:16-114]

(4) A home rule charter municipality may schedule primary and general elections on the identified election dates in the months of March and April when there are fewer than 35 days between the election dates. [26:13-101.1]

(b) **Special nonpartisan elections.** When a special nonpartisan election must be held to fill a vacancy in an elected municipal office, the resolution of the municipality's governing body shall contain the following information. [11:16-114]

(1) The dates ~~or of~~ a three-day filing period which shall begin on a Monday and end on the following Wednesday. [11:16-114] The filing period shall begin not less than 15 days from the date of the resolution. [11:16-114]

(2) The date of the special general election, which shall be not less than ~~35~~45 days after the close of the filing period. [11:16-114]

(c) **Time for special election resolution.** A copy of the resolution or order shall be filed with the Secretary of the County Election Board not less than 60 days preceding the date of the special general election. [11:16-114; 26:13-102]

(d) **Dates for special elections.** Special municipal elections may be called only on election dates established by state law. [26:13-101.1]

SUBCHAPTER 7. SCHOOL ELECTIONS

PART 5. FILING PERIOD

230:40-7-16. Filing period

(a) **Filing period.** The filing period for member of the Board of Education shall begin at 8 a.m. on the first Monday in December and shall end at 5 p.m. on the following Wednesday. [26:13A-105]

(b) **Filing with the County Election Board.** ~~A person must file a Declaration of Candidacy with the County Election Board of the county wherein supervision of the school district is located in order to become a candidate for Board of Education. Candidates for member of the Board of Education of every school district or technology center school district shall file Declarations of Candidacy with the Secretary of the County Election Board. [26:13A-105] For multi-county school and technology center school districts, filing may occur either with the parent County Election Board or with the affected County Election Board in the county where the candidate resides. [26:13A-105]~~

(c) **Candidates nonpartisan.** Candidates for member of the Board of Education shall not indicate a party affiliation on their Declarations of Candidacy.

PART 9. PROCEDURES

230:40-7-35. Precincts in school elections

(a) **Precincts in school and technology center district elections.** All precincts totally or partially contained within the geographical boundaries of a school district or a technology center district shall be open for all elections held by the district except as provided in (b) or (c) of this section.

(b) **Closing a split precinct in which no one lives in the district.** A school district or technology center district may close a split precinct by certifying in the resolution that no one resides in the part of the precinct located within the district's boundaries. [26:13A-101(B)] Prior to preparing the resolution, district officials should contact the Secretary of the County Election Board to verify that no registered voters in the precinct are assigned by OEMS to the district and that no voters who are unassigned to a school district in the precinct are believed to be located within the district's boundary. In addition, before including the certification required to close the precinct in the resolution, a district official should visit the area in question to verify that no one resides there. When a split precinct is closed as provided in this subsection, the precinct shall not be included in the district's election; the district shall incur no expenses related to the precinct polling place; neither regular nor absentee ballots shall be printed for the precinct; and the services of neither the nursing home ~~or~~ nor in-person Absentee Voting Board shall be required by the district for the precinct.

(c) **Closing a split precinct with 100 or fewer voters.** A school district or technology center school district may close a split precinct in which there are 100 or fewer registered voters in the district only under the circumstances outlined in 230:40-7-35.1 and by following the procedure outlined in that Section. [26:13A-101(C)] When a split precinct is closed as outlined in 230:40-7-35.1, the district shall not incur any costs or share in Precinct Official compensation, Precinct Registry fees, or polling place rent for the precinct for the election. Regular ballots shall not be printed. However, absentee ballots shall be printed and the services of the in-person Absentee Voting Board and a nursing home Absentee Voting Board, if necessary, shall be required.

(d) **Closing a split precinct in an affected county.** If the split precinct to be closed as outlined in (b) of this section is located in an affected county, the Secretary of the parent County Election Board shall notify the Secretary of the affected County Election Board that the precinct will be closed for the election. If the split precinct to be closed as outlined in (c) of this section and in 230:40-7-35.1 is located in an affected county, the request to close the precinct shall be submitted to the Secretary of the parent County Election Board with the resolution calling the election. The parent county Secretary immediately shall forward the request to the Secretary of the affected County Election Board. The Secretary of the affected County Election Board shall follow the procedure outlined in 230:40-7-35.1 and shall notify both the district officials and the parent County Election Board Secretary of the approval or denial of the request.

(e) **Closing split precinct prohibited on state election dates.** A school district shall not be permitted to close a precinct for any reason in a regular or special election held on the date of the state Primary Election, Runoff Primary Election,

General Election, or Presidential Preferential Primary Election or a special state election.

[OAR Docket #07-1519; filed 11-8-07]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 50. AUTOMATED SYSTEMS**

[OAR Docket #07-1520]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 9. Telephone Voting System
230:50-9-9. Counting telephone voting system ballots [AMENDED]

AUTHORITY:
Title 26 O.S., Section 2-107. Secretary of the State Election Board

DATES:

Adoption:
October 4, 2007

Approved by Governor:
November 5, 2007

Effective:
January 15, 2008

Expiration:
Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATION BY REFERENCE:
n/a

FINDING OF EMERGENCY:

The Secretary of the State Election Board finds that a compelling public interest exists requiring the adoption of emergency rules to be effective prior to the Presidential Preferential Primary Election on February 5, 2008. The emergency amendment concerns counted ballots cast through the telephone voting system. A new item, referred to as the "short turquoise State Election Board seal," is being provided to County Election Boards to use to seal the ballot transfer case that contains counted telephone voting system ballots. The telephone voting system is used only in elections involving federal candidates. It will be used in the Presidential Preferential Primary Election, the Primary Election, the Runoff Primary Election, and the General Election in 2008.

ANALYSIS:

The State Election Board has created a new seal, called the short turquoise State Election Board seal, for the County Election Board to use on election night to affix to a ballot transfer case that has been opened and to use on Friday following the election to seal the ballot transfer case containing counted telephone and/or provisional ballots. The purpose of the new seal is to provide additional documentation of the chain of custody of voted ballots from election night until 5 p.m. on Friday following the election or until the ballots are delivered to the courtroom for a recount.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board. Email: scox@elections.ok.gov Telephone: (405) 521-2391.

**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), WITH A LATER EFFECTIVE DATE
OF JANUARY 15, 2008:**

**SUBCHAPTER 9. TELEPHONE VOTING
SYSTEM**

Emergency Adoptions

230:50-9-9. Counting telephone voting system ballots

Upon receipt from the State Election Board of the ballots marked and printed by the telephone voting system, the Secretary of the County Election Board shall observe the same procedure outlined in 230:30-19-6 and in this Section to count the telephone ballots and to include them in the final election results for the appropriate precincts. These procedures shall be conducted in a public meeting of the County Election Board.

(1) Open the secrecy envelopes containing the faxed telephone ballots one at a time in the presence of the County Election Board members.

(A) The Secretary selects the correct Optech absentee ballot style for each telephone ballot. Use the Ballot Style Listing by Precinct report to select the correct absentee ballot style.

(B) Follow the procedure outlined in 230:30-19-6 to mark the Optech ballot to substitute for the faxed telephone ballot.

(2) Insert the absentee precinct memory pack in the voting device. If there is more than one absentee precinct for the election, be certain that the correct memory pack is used.

(3) Press the Print Totals key to obtain a Totals Printout. Verify that the totals exactly match the totals on the absentee Totals Printout obtained on election night.

(4) Enter the four-digit access code and follow the appropriate instructions to reopen the polls so that the voting device will accept ballots.

(5) Insert all the substitute telephone ballots in the voting device.

(6) After all substitute telephone ballots have been counted, obtain a new Totals Printout. (Set the first new Totals Printout aside in a safe place. Do not put it in a ballot transfer case.) Print at least three more copies of the Totals Printout. The following message will print after each race on the Totals Printout: "Test Results Only. Results Are Not Official!" However, these results are official and this message should be disregarded.

(7) Remove the counted telephone ballots from the ballot box and place them in a ballot transfer case with one signed copy of the Totals Printout. (The telephone ballots may be placed in the same ballot transfer case as the counted provisional ballots.)

(8) Seal the ballot transfer case ~~with a long white and affix to the box a short turquoise~~ State Election Board seal signed by the County Election Board members and the employee ~~who fed the ballots into the voting device. The seal shall be clearly marked to indicate that it contains both counted provisional and telephone voting system ballots~~ Secretary shall check the "Counted Telephone Ballots" box on the seal.

(9) Give the sealed ballot transfer case to the Sheriff, who shall provide security for the counted ballots until 5 p.m. or until the ballots are delivered to the court room for a recount.

(10) One copy of each of the new Totals Printouts shall be made available for public inspection in the County Election Board office.

(11) Follow the appropriate software instructions to read the absentee precinct memory pack into the computer.

(12) Print a Precinct Report for the absentee precinct. Proof the Precinct Report against the Totals Printout.

[OAR Docket #07-1520; filed 11-8-07]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 11. USED MOTOR VEHICLE REBUILDERS

[OAR Docket #07-1485]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. Licensing Qualifications, Procedures and Fees
[AMENDED]

765:11-1-2 [AMENDED]

Subchapter 3. Authority

765:11-3-1 [AMENDED]

765:11-3-2 [AMENDED]

765:11-3-4 [REVOKED]

Subchapter 5. Assessment of Fine or Denial, Suspension, or Revocation of License

765:11-5-1 [AMENDED]

765:11-5-2 [AMENDED]

AUTHORITY:

Oklahoma Used Motor Vehicle and Parts Commission

47 O.S. Section 582(E)(1)

75 O.S. Section 302(A)(1)

75 O.S. Section 307

DATES:

Comment Period:

A comment period was not required or utilized

Public Hearing:

August 14, 2007

Adoption:

August 14, 2007

Approved by Governor:

October 2, 2007

Effective:

November 1, 2007

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The 2007 Legislature enacted HB 2118 which has an effective date of November 1, 2007. The bill substantially modifies the regulatory scheme for rebuilders and salvage disposal sales and thus creates a compelling extraordinary circumstance requiring emergency rules.

ANALYSIS:

Modification of the Rules relating to used motor vehicle rebuilders is required by legislation affecting 47 O.S. S. 591.11. The rules reflect the broadening of authority granted to rebuilders. Rebuilders are now authorized to buy a broader range of wrecked vehicles and to dispose of them in different manners than before.

CONTACT PERSON:

John W. Maile, Executive Director (405)949-2626

**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), WITH A LATER EFFECTIVE DATE OF NOVEMBER 1, 2007:

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:11-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning:

"Class A Buyer's Identification Card", hereinafter Class A-BID Card, means the Buyer's Identification card certificate issued to a rebuilder pursuant to 47 O.S. Section 591.5, as amended.

"Rebuilder" shall be defined as set forth in 47 O.S. Section 581, as amended.

"Rebuilder's certificate" shall be the license granted by the Used Motor Vehicle and Parts Commission to a qualified rebuilder.

"Rebuilding" shall be defined as the process of reconstructing and repairing a repairable motor vehicle to roadworthy condition, including the completion of cosmetic or aesthetic repairs.

"Repairable motor vehicle" shall include damaged vehicles with an original or salvage certificate of title, but shall not include vehicles for which a junked title has been issued; or which meet the statutory definition of a junked vehicle; or which is sold without a certificate of title; or is sold on a bill of sale or Affidavit of Ownership; or other document which indicates the vehicle is being sold for the sole purpose of dismantling the vehicle or for parts only.

SUBCHAPTER 3. AUTHORITY

765:11-3-1. Authority of a rebuilder

(a) A rebuilder who has been issued a rebuilder's certificate and Class A-BID card pursuant to 47 O.S. Section 591.5, shall be authorized to purchase repairable motor vehicles at salvage pools or salvage disposal sales for the purpose of rebuilding those vehicles. A rebuilder shall also be authorized to buy wrecked vehicles for the purpose of using the parts thereof to repair or rebuild the rebuilder's own vehicles.

(b) The holder of a rebuilder's certificate shall not have the authority to act as an automotive dismantler.

(c) The holder of a rebuilder's certificate shall not have the authority to purchase vehicles at salvage pools or salvage disposal sales for the purpose of using the parts to rebuild another vehicle or to purchase vehicles with "junked" branded titles.

(d) The holder of a rebuilder's certificate shall not have the authority to purchase vehicles for another to rebuild or to sell repairable vehicles in an unrepaired condition.

765:11-3-2. Authority of a Class A-BID card holder

(a) A Class A-BID card shall authorize only the holder thereof entry into salvage pools or salvage disposal sales and shall not be used by anyone other than the licensee.

(b) A Class A-BID card holder shall not be required to meet the licensing requirements of 47 O.S. Section 591.1 et seq. or the rules enacted by this Commission relating to automotive dismantler and parts recyclers in order to obtain a Class A-BID card.

765:11-3-4. Verification by salvage pools [REVOKED]

(a) Salvage pools and salvage disposal sales shall be required to verify that a rebuilder has the appropriate Class A-BID card before allowing the rebuilder to enter said pool.

(b) Salvage pools and salvage disposal sales shall be required to monitor their sales in order to insure that Class A-BID card holders bid on and purchase only repairable motor vehicles.

SUBCHAPTER 5. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

765:11-5-1. Grounds

(a) A rebuilder's certificate may be denied, suspended, or revoked for the following reasons:

(1) Any of the grounds enumerated in 47 O.S. Section 584 for which a used motor vehicle dealer's license may be denied, suspended, or revoked.

(2) Committing any of the following acts may be deemed grounds for denial, suspension, or revocation of a rebuilder's certificate or assessment of fines pursuant to 47 O.S. Section 584(6)(d) and/or 47 O.S. Section 584(6)(e):

(A) Failure of the rebuilder to disclose in writing to the purchaser of the vehicle that the vehicle has been rebuilt;

(B) Failure of the rebuilder to disclose in writing to the purchaser of the vehicle that the vehicle has a rebuilt certificate of title;

(C) Selling a rebuilt vehicle on a salvage certificate of title;

(D) Failing to obtain a rebuilt vehicle inspection and/or obtain a rebuilt certificate of title prior to the sale of the rebuilt vehicle.

(E) Selling a wrecked vehicle purchased from a salvage pool or salvage disposal sale prior to it being rebuilt.

(F) Using a wrecked vehicle purchased at a salvage pool or salvage disposal sale for the purpose of using the parts to rebuild another vehicle.

(b) The Commission may in addition to any other sanction or penalty assessed, impose a fine as authorized by law.

Emergency Adoptions

765:11-5-2. Grounds for denial, suspension, or revocation of a ~~Class A-BID Card~~

(a) A ~~Class A-BID card~~ may be denied, suspended or revoked for any reason enumerated in 47 O.S. Section 591.9 or 47 O.S. Section 591.11 except those reasons specifically relating to the operation of an automotive dismantler and parts recycling business.

(b) A ~~Class A-BID card~~ may be denied, suspended, or revoked pursuant to 47 O.S. Section 591.9(6) for operating as an automotive dismantler and parts recycler without a license.

[OAR Docket #07-1485; filed 10-31-07]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 12. SALVAGE POOLS AND SALVAGE DISPOSAL SALES

[OAR Docket #07-1487]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. Licensing Qualifications, Procedures and Fees [NEW]

765:12-1-1 [NEW]

765:12-1-2 [NEW]

765:12-1-3 [NEW]

765:12-1-4 [NEW]

Subchapter 5. Permitted Buyers [NEW]

765:12-5-1 [NEW]

765:12-5-2 [NEW]

Subchapter 7. Reports [NEW]

765:12-7-1 [NEW]

765:12-7-2 [NEW]

765:12-7-3 [NEW]

Subchapter 9. Payments to the Commission [NEW]

765:12-9-1 [NEW]

AUTHORITY:

Oklahoma Used Motor Vehicle and Parts Commission

47 O.S. Section 582(E)(1)

75 O.S. Section 302(A)(1)

75 O.S. Section 307

DATES:

Comment Period:

A comment period was not required or utilized

Public Hearing:

August 14, 2007

Adoption:

August 14, 2007

Approved by Governor:

October 2, 2007

Effective:

November 1, 2007

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The 2007 Legislature enacted HB 2118 which has an effective date of November 1, 2007. The bill substantially modifies the regulatory scheme for rebuilders and salvage disposal sales and thus creates a compelling extraordinary circumstance requiring emergency rules.

ANALYSIS:

A new chapter relating to salvage pools and salvage disposal sales is required by legislation affecting 47 O.S. S. 591.11. A new regulatory scheme

relating to reporting and payment of fees to the Commission requires the Commission to implement the new rules to define what sales of vehicles require pools and disposal sales to pay fees to the Commission, when reports are due and the format for those reports.

CONTACT PERSON:

John W. Maile, Executive Director (405)949-2626

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), WITH A LATER EFFECTIVE DATE OF NOVEMBER 1, 2007:

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES

765:12-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et. seq. and 47 O.S. Section 582 (E). This chapter will provide a description of the qualifications for obtaining a used motor vehicle dealer's license for the purpose of conducting salvage disposal sales and/or sales by salvage pools.

765:12-1-2. Fees

The fees required for an application or renewal of a used motor vehicle dealer's license for the purpose of conducting salvage disposal sales and/or sales by salvage pools shall be the same as those paid by used motor vehicle dealer applicants. An application fee will be returned to the applicant in the event the license is denied.

765:12-1-3. Applicant

Any person or business which regularly conducts a salvage disposal sale or acts as a salvage pool shall be licensed as a used motor vehicle dealer.

765:12-1-4. Bond and insurance

(a) Dealer bond. A salvage pool or salvage disposal sale shall be required to obtain and maintain the used motor vehicle dealer surety bond required for a used motor vehicle auction.

(b) Liability insurance. A salvage pool or salvage disposal sale shall be required to obtain and maintain liability insurance as required for a used motor vehicle dealer.

SUBCHAPTER 5. PERMITTED BUYERS

765:12-5-1. Qualifications

Sales at a salvage pool or salvage disposal sale shall be open only to any person who is a resident of the state of Oklahoma, a company representative of a business that is based

in this state, or any person who may legally purchase salvage vehicles in his or her home state or country.

765:12-5-2. Verification

It shall be the duty of the owner, manager or person in charge of any salvage pool or salvage disposal sale to prohibit bidding by, and refuse to sell to, any person who is not qualified to purchase salvage vehicles as provided by Oklahoma statute or the Rules of this Commission.

SUBCHAPTER 7. REPORTS

765:12-7-1. Reports of salvage vehicle sales transactions

(a) A salvage pool or salvage disposal sale shall provide a register or report to the Commission of all salvage vehicle sales transactions. Said register or report shall be provided to the Commission without cost or charge. The register or report shall be provided by electronic transmission in a form compatible to the Commission so that said report may be accessed and reviewed by Commission personnel without substantial modification or reformatting.

(b) The register or report shall contain the year, make, model, style and vehicle identification number of each vehicle sold in a salvage vehicle sales transaction and the name and addresses of the seller and the purchaser. The register or report shall be in alphabetical order by purchaser. If more than one person purchases vehicles using the name of a company, business or other entity, the register or report shall list the name of the company, business or other entity followed by the name of the individual.

(c) Submission of the information required in said report or register shall not relieve the salvage pools or salvage disposal sales from any of the record keeping requirements of a used motor vehicle dealer or producing said records for Commission personnel as requested.

(d) The report shall be submitted to the Commission within seven (7) working days of the sale of the salvage vehicle sales transaction.

765:12-7-2. Pre-sale information

When offering a vehicle for sale for an insurance company, a salvage pool or salvage disposal sale must provide on its web site the full seventeen-digit vehicle identification number (VIN) of the vehicle and the name of the insurance company selling the vehicle.

765:12-7-3. Post sale information

After completion of bidding on a salvage vehicle offered for sale by an insurance company, the salvage pool or salvage disposal sale shall show the identifying or registration number of the winning bidder on any sale that takes place on the Internet or by on-line bidding.

SUBCHAPTER 9. PAYMENTS TO THE COMMISSION

765:12-9-1. Fees Report

Salvage pools or salvage disposal sales shall remit to the Commission a fee of Two Dollars (\$2.00) for each salvage vehicle sales transaction. Said fee shall be paid by the tenth of each month following the month in which the salvage vehicle sales transaction occurred. A summary report of all salvage vehicle sales transactions for the previous month shall accompany said remittance.

[OAR Docket #07-1487; filed 10-31-07]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 13. TEMPORARY LICENSE PLATES

[OAR Docket #07-1488]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 1. Application [NEW]
765:13-1-1 [NEW]
Subchapter 3. Design [NEW]
765:13-3-1 [NEW]
765:13-3-2 [NEW]
765:13-3-3 [NEW]
765:13-3-4 [NEW]

AUTHORITY:
Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 302(A)(1)
75 O.S. Section 307

DATES:
Comment Period:
A comment period was not required or utilized

Public Hearing:
August 14, 2007

Adoption:
August 14, 2007

Approved by Governor:
October 2, 2007

Effective:
November 1, 2007

Expiration:
Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:
n/a

INCORPORATIONS BY REFERENCE:
n/a

FINDING OF EMERGENCY:
The 2007 Legislature enacted HB 1868 which has an effective date of November 1, 2007. The bill requires the Commission to prescribe the design for temporary license plates and thus creates a compelling extraordinary circumstance requiring emergency rules.

ANALYSIS:
A new chapter of Rules relating to temporary license plates is required because of legislation affecting 47 O.S. S. 1137.1.E. The Commission is charged with approving the type of material for the new temporary license plates and develop requirements to discourage illegal duplication and use of the plates. The rules set forth the information the plates should contain and the relative prominence of various features of the plates.

Emergency Adoptions

CONTACT PERSON:

John W. Maile, Executive Director (405)949-2626

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), WITH A LATER EFFECTIVE DATE OF NOVEMBER 1, 2007:

SUBCHAPTER 1. APPLICATION

765:13-1-1. Application

The rules enacted herein regarding temporary license plates shall apply only to dealers regulated by the Used Motor Vehicle and Parts Commission and shall not apply to dealers in non-motorized vehicles or trailers regulated by another agency.

SUBCHAPTER 3. DESIGN

765:13-3-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et. seq. and 47 O. S. Section 1137.1, as amended. This chapter will provide a description of the design and use of the temporary license plate for used motor vehicle sales.

765:13-3-2. Form and substance of the temporary license plate

(a) The temporary license plate for all used motor vehicles except motorcycles shall be 11 $\frac{1}{2}$ inches in length and 6 inches in height.

(b) A temporary license plate for a motorcycle shall be 7 inches in length and 4 inches in height.

(c) The temporary license plate shall be of a weatherproof non-glare plastic-impregnated white substance with ink absorbing characteristics capable of withstanding continual exposure to the natural elements such as water, mud and wind without loss of form or content for a period in excess of thirty (30) days.

(d) Fastener holes for placing the temporary license plate to the vehicle shall be at an appropriate location for use of the factory installed mounting holes on the vehicle on which the temporary license plate shall be placed.

765:13-3-3. Content of the temporary license plate

(a) There shall be two rectangular shaped blocks for the month, two rectangular shaped blocks for the day of the month, and two rectangular shaped blocks for the year indicating the date of the sale of the vehicle. The blocks shall be of a size of at least 1 3/4 inches in height and 1 $\frac{1}{2}$ inches in width and pale or light toned green in color. The rectangular blocks for the motorcycle temporary license plates shall be 1 inch in height

and 3/4 inch in width. Preprinted below the two blocks on the left shall be the words "SOLD MONTH"; below the middle two blocks shall be the words "SOLD DAY"; and below the two blocks on the right shall be "SOLD YEAR".

(b) Any writing on the temporary license plate not preprinted shall be applied by an instrument using indelible black ink. The ink marker for writing in the date blocks should be capable of making a mark of at least 1/4 inch in width.

(c) The temporary license plate shall have the following preprinted language: The selling dealer's company name, the selling dealer's license number, the word "Oklahoma" or "Okla" , and the words "30 Day Temporary Tag" , and a line with the words "Vehicle Year, Make, Model, below the line.

(d) In addition to the preprinted information recited in paragraphs (a) and (c), the temporary license plate shall have a preprinted unique sequential number of no fewer than six digits approximately one inch in height. The height of the preprinted unique sequential number for a motorcycle temporary license plate shall be no less than $\frac{1}{2}$ inch. The dealer shall record the temporary license plate's unique sequential number on the front of the vehicle's bill of sale in a conspicuous location. A dealer shall not issue more than one unique sequentially numbered temporary license plate for the same vehicle sale.

(e) The name of the purchaser shall be written on the temporary license plate or in lieu of the name of the purchaser the words "see bill of sale" may be used. If the term "see bill of sale" is used, the purchaser shall retain the bill of sale in the vehicle at all times until the vehicle has been registered in the purchaser's name.

765:13-3-4. Location of the temporary license plate

Upon the sale of a used motor vehicle, the temporary license plate shall be placed on the vehicle at the location provided for the permanent license plate.

[OAR Docket #07-1488; filed 10-31-07]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE AND PARTS COMMISSION CHAPTER 30. BUYER'S IDENTIFICATION CARDS

[OAR Docket #07-1489]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. Licensing Qualifications, Procedures and Fees [REVOKED]

765:30-1-1 [REVOKED]

765:30-1-2 [REVOKED]

765:30-1-3 [REVOKED]

765:30-1-4 [REVOKED]

765:30-1-5 [REVOKED]

765:30-1-6 [REVOKED]

765:30-1-7 [REVOKED]

Subchapter 3. Assessment of Fine or Denial, Suspension, or Revocation of Bid Card [REVOKED]

765:30-3-1 [REVOKED]

765:30-3-2 [REVOKED]

Subchapter 5. Reciprocity [REVOKED]

765:30-5-1 [REVOKED]
Subchapter 7. Salvage Pools and Salvage Disposal Sales [REVOKED]
765:30-7-1 [REVOKED]
765:30-7-2 [REVOKED]
765:30-7-3 [REVOKED]

AUTHORITY:

Oklahoma Used Motor Vehicle and Parts Commission
47 O.S. Section 582(E)(1)
75 O.S. Section 302(A)(1)
75 O.S. Section 307

DATES:

Comment Period:

A comment period was not required or utilized.

Public Hearing:

September 14, 2004

Adoption:

September 14, 2004

Approved by Governor:

October 2, 2007

Effective:

November 1, 2007

Expiration:

Effective through July 14, 2008, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The 2007 Legislature enacted HB 2118 which has an effective date of November 1, 2007. The bill substantially modifies the regulatory scheme for rebuilders and salvage disposal sales and thus creates a compelling extraordinary circumstance requiring emergency rules.

ANALYSIS:

Because HB 2118 eliminated buyer's identification cards for all practical purposes, there is no need for rules relating to them.

CONTACT PERSON:

John W. Maile, Executive Director (405)949-2626

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), WITH A LATER EFFECTIVE DATE OF NOVEMBER 1, 2007:

SUBCHAPTER 1. LICENSING QUALIFICATIONS, PROCEDURES AND FEES [REVOKED]

765:30-1-1. Purpose [REVOKED]

The rules of this Chapter have been adopted for the purpose of complying with the provisions of 75 O.S. Section 250 et seq. and 47 O.S. Section 582 (E). This Chapter will provide a description of the qualifications for obtaining a Buyer's Identification Card, the grounds for denial, suspension, or revocation of said Card, terms of reciprocity with other states, the salvage pools and salvage disposal sales, and the duties related to the proper conduct of the salvage pools and disposal sales.

765:30-1-2. Fees [REVOKED]

The fees for a Buyer's Identification card, hereinafter **BID card**, are recited in 47 O.S. Section 591.11.

765:30-1-3. Applicant [REVOKED]

The Commission, in determining the qualifications and eligibility of an applicant for a **BID card**, will base its determination upon the following factors:

- (1) The applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his business history, whether such applicant will devote full or part time to the business, and whether such applicant is a resident of the state in which he is employed.
- (2) A **BID card** will not be issued, renewed, or endorsed until the employing automotive dismantler is licensed and has certified that the applicant for said card is in his employ and a resident of the state of said employment.

765:30-1-4. Issuance of BID card [REVOKED]

(a) **Form.** License numbers and/or identification numbers to bid or buy at salvage pools or salvage disposal sales shall be issued by the Commission on a form prescribed by it which shall include, but not limited to, the name, address driver's license number, physical description and signature of the applicant, and the name and address of the employer of the applicant.

(b) **Limit.** All **BID cards** will be sent to the dismantler for distribution to the respective applicants. There shall be no more than three (3) **BID cards** per business.

(c) **Information.** The **BID card** shall include the name and driver's license number of the applicant, name and address of the employer of the applicant, the signature of the applicant, and the dismantler's number prefixed with **BID**, followed by the current year (**BID 0000 90**).

(d) **Use.** The **BID card** shall be carried upon the cardholder's person and same displayed to owner, manager, or person in charge of any salvage pool or salvage disposal sale. Physical description and signature of cardholder must be compared with cardholder's driver's license for valid identification by owner, manager, or person in charge of any salvage pool or salvage disposal sale. It shall be the duty of the owner, manager, or person in charge of any salvage pool or salvage disposal sale to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid **BID card**.

(e) **Certificate.** A certificate will be issued by the Commission to be retained by the employing dismantler as evidence that its Buyer Identification cardholder is properly licensed. Upon termination of employment, the certificate will be returned by the dismantler to the office of the Oklahoma Used Motor Vehicle and Parts Commission within ten (10) days.

765:30-1-5. Renewal of BID card [REVOKED]

The **BID card** shall be renewable by January 1st of each year, accompanied by the appropriate fees.

765:30-1-6. Changes [REVOKED]

(a) **Notice.** The dismantler will notify the Commission when a Buyer's Identification cardholder's employment is terminated by returning the Buyer's Identification cardholder's certificate as set out above.

Emergency Adoptions

(b) **Card.** Each Buyer's Identification cardholder shall surrender his BID card to the Commission for endorsement of change of employer, before again engaging in business for another dismantler or as a dismantler and recycler.

765:30-1-7. Foreign buyers [REVOKED]

(a) **Definition.** A foreign buyer shall be a Buyer's Identification Cardholder person residing outside the boundaries of the fifty states of the United States and having the authority to engage in the automotive dismantling business legally purchase salvage vehicles in the country of the buyer's residence.

(b) **Application.** All applications for a Buyer's Identification Card shall be submitted in English. All foreign buyer applicants shall submit a copy of a photo identification issued by the governmental authority of the nation in which they reside.

(c) **Limitation.** Buyer's Identification Cards for foreign buyers shall not be issued to an address within the boundaries of the fifty states of the United States.

SUBCHAPTER 3. ASSESSMENT OF FINE OR DENIAL, SUSPENSION, OR REVOCATION OF BID CARD [REVOKED]

765:30-3-1. Grounds [REVOKED]

(a) The BID card may be refused, cancelled, revoked, or a fine assessed for the same reasons's a license under The Automotive Dismantler and Parts Recycler's Act may be refused, cancelled, or revoked, or a fine assessed. Any person whose BID card is refused, cancelled, revoked, or has a fine assessed shall enjoy the same review and appeal procedures as a person whose license is refused, cancelled, revoked, or is assessed a fine.

(b) The Commission is authorized to refuse to issue a BID card to any person, firm, or corporation who does not meet the requirements of 47 O.S. 591.1 et seq., or the requirements of these regulations; to cancel the BID card of any licensee for willful failure to continue to meet such requirements of The Automotive Dismantler and Parts Recycler's Act; is authorized to refuse, cancel, or revoke a BID card for a felony conviction for violation of a state or federal law involving theft or for violation of the Oklahoma Certificate of Title Law or similar laws of other states, by an applicant, a licensee, a partner for the applicant or licensee, or director or manager in the case of a corporate applicant or licensee; and is authorized to assess a fine for any violation of the Automotive Dismantler and Parts Recycler's Act.

765:30-3-2. Procedure [REVOKED]

If the Commission cancels or revokes a BID card or assesses a fine, the holder of such BID card shall be given notice and an opportunity to be heard in the manner as set out in 47 O.S. Section 591.1 et seq. Or these rules and regulations. If the Commission denies a BID card, the applicant shall be given notice and an opportunity to be heard in accordance with the procedures in 47 O.S. Sections 591.9 and 591.10. Where there

is a conflict between the applicable law and the Rules of this Commission, the applicable law shall prevail.

SUBCHAPTER 5. RECIPROCITY [REVOKED]

765:30-5-1. Eligibility [REVOKED]

(a) **License.** Dismantlers licensed in other states shall be permitted to buy at a salvage pool or salvage disposal sale provided that those out of state dismantlers are licensed as dismantlers in states which have a dismantler license law that includes the inspection and control by the respective state of salvage disposal sale records.

(b) **Card.** Nothing herein shall prohibit salvage dealers licensed in other states from buying at a salvage pool or salvage disposal sale, provided that the state in which they are licensed reciprocates in the same manner to salvage dealers licensed under Oklahoma law and provided that they obtain a BID card as required under 47 O.S. Section 591.11.

SUBCHAPTER 7. SALVAGE POOLS AND SALVAGE DISPOSAL SALES [REVOKED]

765:30-7-1. Bidding privileges [REVOKED]

(a) **Limitation.** Sales at a salvage pool or salvage disposal sale shall be opened only to persons possessing a current, legal BID card to buy at a salvage pool or salvage disposal sale. Only Buyers Identification Card holders shall be allowed at salvage pool sales on the date of the sale. Visitors shall not be allowed in the sales areas.

(b) **Verification.** It shall be the duty of the owner, manager, or person in charge of any salvage pool or salvage disposal sale to prohibit the bidding by any person who does not display his BID card, and further, to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid BID card. The BID card shall be carried upon the cardholder's person and same displayed to owner, manager, or person in charge of any salvage pool or salvage disposal sale. Physical description and signature of cardholder must be compared with cardholder's driver's license for valid identification by owner, manager, or person in charge of any salvage pool or salvage disposal sale. It shall be the duty of the person in charge of any salvage pool or salvage disposal sale to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid BID card.

(c) **Internet bidding.** It shall be the duty of the owner, manager or person in charge of any salvage pool or salvage disposal sale to initiate appropriate procedures to comply with paragraph (b) above when the salvage disposal sale is conducted in whole or in part by internet bidding. Identification of a bidder on the internet may include, but not limited to, issuance of a unique identifying number or password to each individual BID cardholder.

(d) **Bidder's responsibility.** It shall be the responsibility of the BID cardholder to secure and maintain the secrecy and

~~integrity of the unique identifying number and password issued to the cardholder by the salvage pool. Use of the unique identifying number or password by any person other than the cardholder shall be deemed an unauthorized use and may be grounds for revocation of the BID card.~~

765:30-7-2. Copies of BID cards [REVOKED]

~~Bids at salvage pools or salvage disposal sales shall be verified as licensed dismantler bids by attaching a copy of the dismantler's BID card or identifying number to each bid sheet accepted for sale of salvage vehicles.~~

765:30-7-3. Sales to foreign buyers [REVOKED]

~~Sales of vehicles to foreign Buyer's Identification Cardholders shall be reported to the Oklahoma Tax Commission, Motor Vehicle Division, on the prescribed form within five (5) calendar days of the sales of said vehicle.~~

[OAR Docket #07-1489; filed 10-31-07]

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

1:2007-46.

EXECUTIVE ORDER 2007-46

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from Friday, November 9, 2007, at 5:00 p.m. until Monday, November 12, 2007, at 8:00 a.m. to honor Private Cody Carver an Oklahoma resident, who died on Tuesday, October 30, 2007, at age 19 while serving in Iraq.

This executive order shall be forwarded to the Director of Central Services 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 9th day of November, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #07-1553; filed 11-19-07]

1:2007-47.

EXECUTIVE ORDER 2007-47

I, Brad Henry, Governor of the State of Oklahoma, in observation of Veterans' Day, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Monday, November 12, 2007, in appreciation for the sacrifices that Oklahoma men and women have made in defense of this great nation in all wars from the First World War to the wars in Korea and Vietnam to those we fight today.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 9th day of November, 2007.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #07-1554; filed 11-19-07]

