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Notices of Rulemaking Intent

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

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

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

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

[OAR Docket #07-1558]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.2. Annual operating fees [AMENDED]

Subchapter 9. Excess Emission Reporting Requirements

252:100-9-1. Purpose [AMENDED]

252:100-9-2. Definitions [AMENDED]

252:100-9-3.1. Excess emission reporting requirements [AMENDED AND RENUMBERED TO 252:100-9-9]

252:100-9-3.3. Demonstration of cause [AMENDED AND RENUMBERED TO 252:100-9-11]

252:100-9-7. Applicability [NEW]

252:100-9-8. [RESERVED]

252:100-9-9. Excess emission reporting requirements [NEW]

252:100-9-10. [RESERVED]

252:100-9-11. Affirmative defenses [NEW]

Subchapter 24. Particulate Matter Emissions from Grain, Feed or Seed Operations

252:100-24-3. Applicability, general requirements [AMENDED]

252:100-24-4. Visible emissions (opacity) limit [AMENDED]

Subchapter 33. Control of Emission of Nitrogen Oxides

252:100-33-1.1. Definitions [AMENDED]

252:100-33-1.2. Applicability [AMENDED]

252:100-33-2. Emission limits [AMENDED]

252:100-33-4. Alternative standard [NEW]

Subchapter 44. Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units

252:100-44-1. Purpose [NEW]

252:100-44-2. [RESERVED]

252:100-44-3. Reference to 40 CFR [NEW]

SUMMARY:

The Department is considering increases in annual operating fees found in OAC 252:100-5-2.2 (b) for both minor facilities and Part 70 sources. Additional income resulting from a fee increase is needed to cover current and anticipated staffing requirements in administering the Department's air pollution control programs.

The Department is proposing to amend OAC 252:100-9 to modify excess emission reporting requirements.

The Department is proposing to amend OAC 252:100-24-3 to correct the reference to OAC 252:100-41 to OAC 252:100-42, Control of Toxic Air Contaminants. The Department is also proposing to clarify the language in OAC 252:100-24-4.

The Department is proposing to revise OAC 252:100-33 to resolve issues regarding emission standards for direct-fired fuel burning equipment, turbines and equipment with technological limitations.

The Department is proposing three possible options for a new Subchapter 44, "Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units." The purpose of this subchapter is to limit emissions of Mercury (Hg) from new and existing coal-fired electric steam generating units. The federal Clean Air Mercury Rule (CAMR) issued in May 2005 may be incorporated by reference for the first option. A second option is the adoption of a state rule incorporating the Maximum Achievable Control Technology (MACT) standard first proposed by EPA on January 30, 2004 (69 FR 4652). The third option is adoption of the model rule issued in November 2005 by the State and Territorial Air Pollution Program Administrators and Association of Local Air Pollution Control Officials (STAPPA/ALAPCO - now called the National Association of Clean Air Agencies (NACAA)). This last option requires greater reductions and shorter timelines than the federal version and prohibits trading of mercury credits. The Department seeks public comment as to which of these plans will be most appropriate for Oklahoma.

AUTHORITY:

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

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 17, 2008. For comments received at least 5 business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting and provide hard copy written responses to the comments to the Council and the public at that Council meeting. Oral comments may be made at the January 17, 2008, hearing and at the February 29, 2008, Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 17, 2008, at the Department of

Notices of Rulemaking Intent

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

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

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

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing at the Air Quality Division of the Department at http://www.deq.state.ok.us/AQDnew/council_mtg/index.htm, or copies may be obtained from the Department by calling Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained by contacting Cheryl E. Bradley at (405) 702-4100.

CONTACT PERSON:

Please send written comments on the proposed rule changes to Cheryl E. Bradley at cheryl.bradley@deq.state.ok.us. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl Bradley. The Air Quality Division FAX is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1558; filed 11-21-07]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 710. WATERWORKS AND WASTEWATER WORKS OPERATOR CERTIFICATION

[OAR Docket #07-1560]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:710-1-12 [AMENDED]

SUMMARY:

The proposed changes to the Waterworks and Wastewater Works Operator Certification rules would increase application 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 and Waterworks and Wastewater Works Advisory Council; 27A O.S. §§ 2-2-101 and 2-2-201; and 59 O.S. § 1101 *et seq.*

COMMENT PERIOD:

Oral comments may be made at the meeting of the Waterworks and Wastewater Works Advisory Council to be held on January 18, 2008, and at the Environmental Quality Board on February 29, 2008. Written comments may be delivered or mailed to the contact person from December 15, 2007, through January 18, 2008.

PUBLIC HEARING:

Before the Waterworks and Wastewater Works Advisory Council at 10:00 a.m. on January 18, 2008, at the offices of the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board at 9:30 a.m. on February 29, 2008, at the offices of the Oklahoma 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 this rule 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 RULE:

The proposed rule may be may be obtained from the contact person or reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102. Additionally, the proposed rules are available on-line at www.deq.state.ok.us/wqdnew/index.html under "what's new".

RULE IMPACT STATEMENT:

The rule impact statement for the proposed rule will be on file at the Department of Environmental Quality and may be requested from the contact person.

CONTACT PERSON:

Contact Donald D. Maisch at don.maisch@deq.state.ok.us or (405) 702-7189 (phone) or 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. The TDD Relay Number is 1-800-522-8506, or 1-800-722-0353, for TDD machine use only.

[OAR Docket #07-1560; filed 11-21-07]

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

[OAR Docket #07-1555]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:75-1-3. Definition of Accredited Oklahoma-Bred [AMENDED]

SUMMARY:

The Oklahoma-Bred Registrar proposes amendments for the rule to be clearer and more workable regarding accreditation and reaccreditation requirements for broodmares.

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., Thursday, January 17, 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 Thursday, January 17, 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 17, 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 17, 2007 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

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

[OAR Docket #07-1555; filed 11-19-07]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS**

[OAR Docket #07-1564]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Contracts and Purchasing Unit
Part 3. Leasing and Space Standards [REVOKED]
340:2-13-15 through 340:2-13-22 [REVOKED]
(Reference APA WF 07-32)

SUMMARY:

The proposed revisions to Subchapter 13 of Chapter 2 revoke obsolete property management rules that largely consist of internal Oklahoma Department of Human Services (OKDHS) procedures.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 250 et seq. of Title 75 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Mary Gail Foster, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-962-1717.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Program Administrator, 405-521-4326.

[OAR Docket #07-1564; filed 11-21-07]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS**

[OAR Docket #07-1565]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Human Resources Management Division (HRMD)

Part 3. Internal Human Resources

340:2-1-33 [REVOKED]

(Reference APA WF 07-31)

SUMMARY:

The proposed revision to Subchapter 1 of Chapter 2 revokes a rule that is internal Oklahoma Department of Human Services (OKDHS) procedure.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 250 et seq. of Title 75 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Cathy Hansen, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-6801.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1565; filed 11-21-07]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS**

[OAR Docket #07-1566]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Finance

Part 13. Electronic Benefit Disbursement

340:2-11-151 [NEW]

(Reference APA WF 07-33)

SUMMARY:

The proposed revisions to Subchapter 11 of Chapter 2 create a new rule to provide an option for retailers to request an adjustment to a food benefit recipient's Electronic Benefit Transfer (EBT) account due to a system outage at the time of purchase.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Parts 272, 273, and 274 of Title 7 of the Code of Federal Regulations.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Jody Smith, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-3782.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1566; filed 11-21-07]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 2. ADMINISTRATIVE COMPONENTS**

[OAR Docket #07-1567]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Fair Hearings
- Part 11. Child Care Facility Licensing
- 340:2-5-112 [AMENDED]
- 340:2-5-119 [AMENDED]

(Reference APA WF 07-14)

SUMMARY:

The proposed revisions to Subchapter 5 of Chapter 2 amend the rules to: (1) expand definitions of "official record" to include a transcript of the hearing and to provide a definition of "clear and convincing evidence." bring policy into line with legal requirements; and (2) conform the standard of proof in child care licensing proceedings to due process requirements.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Due Process of Law, Article II, Section 7 of the Oklahoma Constitution.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Travis Smith, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-6222.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1567; filed 11-21-07]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 5. ADULT PROTECTIVE SERVICES**

[OAR Docket #07-1568]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 340:5-1-4 through 340:5-1-6 [AMENDED]
- Subchapter 3. Reports of Maltreatment of Vulnerable Adults
- 340:5-3-1 [AMENDED]
- 340:5-3-3 [AMENDED]
- Subchapter 5. Investigation of Adult Protective Services Referrals
- 340:5-5-2 through 340:5-5-4 [AMENDED]
- 340:5-5-6 [AMENDED]

(Reference APA WF 07-19 and 07-30)

SUMMARY:

The proposed revisions to Subchapters 1, 3, and 5 of Chapter 5 amend rules to: (1) include an additional ethical consideration for actions of Adult Protective Services (APS) specialists when referring clients for professional services; (2) amend definitions and add new definitions; (3) add clarifying language; (4) remove reference to a form; (5) expand the list of persons who are required to report maltreatment of vulnerable adults; (6) include county director responsibilities regarding reports received by a local human services center alleging maltreatment of vulnerable adults; (7) clarify that time frames for initiating investigations begin with the receipt of the report by any Oklahoma Department of Human Services (OKDHS) staff; (8) change the time frames for completion of investigative reports; (9) redirect or stop the flow of assets into an alleged perpetrators account as a type of protective services that may be provided in exploitation investigations; (10) revise the required annual reporting from quarterly to annually as stated in state statute; (11) add the responsibility of APS specialists to apply for all benefits that a client in guardianship is potentially eligible; (12) add rules for the sale of real and personal property of a vulnerable adult in the temporary guardianship of OKDHS; (13) add rules regarding the enforcement of involuntary court orders; (14) update form numbers; and (15) remove internal procedure regarding follow-up and temporary guardianship responsibilities.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Sections 10-101 through 10-110 of Title 43A of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Laura Brown, Oklahoma Department of

Notices of Rulemaking Intent

Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1568; filed 11-21-07]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 10. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

[OAR Docket #07-1569]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 2. Temporary Assistance for Needy Families (TANF) Work Program

340:10-2-1 [AMENDED]

340:10-2-4 through 340:10-2-6 [AMENDED]

340:10-2-6.1 [NEW]

340:10-2-7 through 340:10-2-8 [AMENDED]

Subchapter 3. Conditions of Eligibility - Need

Part 3. Income

340:10-3-28 [AMENDED]

Part 5. Assistance Payments

340:10-3-57 [AMENDED]

340:10-3-59 [AMENDED]

Part 7. Transitional Benefits

340:10-3-75 [AMENDED]

Subchapter 10. Conditions of Eligibility - Deprivation

340:10-10-7 [AMENDED]

Subchapter 15. Temporary Assistance for Needy Families

(TANF) Citizenship and Alien Status

340:10-15-1 [AMENDED]

Subchapter 20. Diversion Assistance

340:10-20-1 [AMENDED]

(Reference APA WF 07-13, 07-17 and 07-29)

SUMMARY:

The proposed revisions to Subchapters 2, 3, 10, 15, and 20 of Chapter 10: (1) add a formula for determining the average weekly countable work hours for a work-eligible person who is self-employed; (2) remove language that allows short term closures by a facility to count as a holiday in calculating client Temporary Assistance for Needy Families (TANF) Work participation; (3) remove the ability to count excused absences from participation in hour increments; (4) remove community service as a TANF Work activity; (5) remove outdated requirement of passing entrance exam for placing employee in permanent status in State Work Incentive Program; (6) limit job readiness activities; (7) move information about educational services to a new Section for clarity; (8) update client TANF Work reporting responsibilities; (9) add job skills training as a TANF Work activity; (10) change language to clarify proper use of flex funds; (11) reflect the current form numbers and names; (12) update outdated language with current terminology; (13) clarify and update information regarding how income of a fugitive felon is considered; (14) remove age reference regarding payment to minors; (15) add requirement for compliance with Soonercare citizenship and identity verification rules for continued medical; (16) update language regarding distribution of federal and/or state tax intercepts and distribution of payment to client; (17) clarify proper use of Diversion Assistance funds; (18) add a rule citation for current citizenship and alienage requirements; and (19) establish rules regarding the verification of the lawful presence in the United States for persons 14 years of age or older who are applying for state or federal public benefits; and (20) update client TANF Work participation reporting responsibilities.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 230.50, 230.52, 230.62, 230.64, and 230.65 of Title 56 of the Oklahoma Statutes (O.S.); the Deficit Reduction Act of 2005; and Parts 261.2, 261.60, 261.61 and 262.2 of Title 45 of the Code of Federal Regulations (CFR); 56 O.S. § 71; and 74 O.S. § 20j.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1569; filed 11-21-07]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE SERVICES**

[OAR Docket #07-1571]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Initial Application
340:40-3-1 [AMENDED]
- Subchapter 5. Plan of Service
340:40-5-1 [AMENDED]
- Subchapter 7. Eligibility
340:40-7-1 [AMENDED]
340:40-7-5 [AMENDED]
340:40-7-8 through 340:40-7-10 [AMENDED]
340:40-7-13 [AMENDED]
- Subchapter 9. Procedures Relating to Case Changes
340:40-9-1 through 340:40-9-2 [AMENDED]
- Subchapter 10. Electronic Benefit Transfer (EBT) System for Child Care
340:40-10-4 [AMENDED]
- Subchapter 13. Child Care Rates and Provider Issues
340:40-13-3 [AMENDED]
340:40-13-5 [AMENDED]
- Subchapter 15. Overpayments
340:40-15-1 [AMENDED]
- Subchapter 16. Improper Authorization Initiative [NEW]
340:40-16-1 [NEW]

(Reference APA WF 07-28)

SUMMARY:

The proposed revisions to Subchapters 3, 5, 7, 9, 10, 13, 15, and 16 of Chapter 40 amend the rules to: (1) remove an obsolete form; (2) add new forms and change form names and numbers; (3) remove obsolete language; (4) correct a policy cite; (5) remove language allowing a tribal member to receive child care benefits and to receive help from his or her tribe in paying the family share co-payment; (6) add an additional citizenship requirement for children 14 years of age and older; (7) replace outdated language with current terminology; (8) add language to show that child care benefits can be denied when the client is not cooperating in pursuing child support; (9) remove language regarding child support exemption for a child removed from the home by court order; (10) add clarifying language; (11) clarify the review process;

(12) remove language regarding semi-annual benefit reporters as child care clients are now annual reporters; (13) remove the formula for calculating absent day payments; (14) replace outdated language with current terminology; (15) add a requirement that child care providers must provide a copy of Oklahoma State Bureau of Investigation (OSBI) background investigation reports for any person required to provide the report to Oklahoma Child Care Services (OCCS) licensing; (16) remove the requirement that in-home providers must watch a training video before receiving a contract; (17) add a new requirement to the contracting process that when the facility is owned by an out-of-state child care owner, both the owner and the child care provider must view the training ; (18) add the requirement that a child care provider must pass a proficiency test after viewing the training ; (19) remove language that a child care owner who has previously viewed the training does not need to view it again when applying for a contract at a new location; (20) remove language specifying the exact months a contract is effective; (21) provide clarifying and updated information regarding overpayment procedures; and (22) add language regarding the Improper Authorization Initiative process.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law (P.L.) 104-193; the Balanced Budget Act of 1997, P.L. 105-33; and 45 Code of Federal Regulations (CFR) Parts 98 and 99.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

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 Laura Brown at the above address during the period from December 17, 2007 through January 16, 2008.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

Notices of Rulemaking Intent

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1571; filed 11-21-07]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 50. FOOD STAMP PROGRAM**

[OAR Docket #07-1572]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Application Process
 - 340:50-3-1 [AMENDED]
 - 340:50-3-3 [AMENDED]
 - Subchapter 5. Non-Financial Eligibility Criteria
 - Part 3. Special Households
 - 340:50-5-26 through 340:50-5-27 [AMENDED]
 - Part 7. Related Provisions
 - 340:50-5-67 [AMENDED]
 - Part 9. Work Registration
 - 340:50-5-85 [AMENDED]
 - 340:50-5-87 through 340:50-5-88 [AMENDED]
 - Subchapter 7. Financial Eligibility Criteria
 - Part 1. Resources
 - 340:50-7-4 [AMENDED]
 - Part 3. Income
 - 340:50-7-30 [AMENDED]
 - Subchapter 9. Eligibility and Benefit Determination Procedures
 - 340:50-9-1 [AMENDED]
 - 340:50-9-6 [AMENDED]
 - Subchapter 10. Electronic Benefit Transfer (EBT)
 - 340:50-10-7 [REVOKED]
 - Subchapter 11. Special Procedures
 - Part 1. Households Entitled to Expedited Services
 - 340:50-11-5 [AMENDED]
 - Part 3. Simplified Food Stamp Program (SFSP) for Temporary Assistance for Needy Families (TANF) and Companion State Supplemental Payment (SSP) Recipients
 - 340:50-11-27 [AMENDED]
 - Part 5. Restoration of Lost Benefits
 - 340:50-11-46 [AMENDED]
 - Part 12. Categorically Eligible Households [NEW]
 - 340:50-11-111 through 340:50-11-115 [NEW]
 - Subchapter 13. Fair Hearings
 - 340:50-13-1 through 340:50-13-2 [AMENDED]
- (Reference APA WF 07-21 and 07-27)**

SUMMARY:

Proposed revisions to Subchapters 3, 5, 7, 9, 10, 11, and 13 of Chapter 50 amend rules to: (1) update language to reflect current terminology and form numbers; (2) correct rule

citation; (3) add clarifying language; (4) clarify when to use the net income or 50% of the gross for self-employed persons claiming business expenses; (5) add a new Part to define and explain categorically eligible households; and (6) establish rules regarding the verification of the lawful presence in the United States (U.S.) for persons 14 years of age or older who are applying for state or federal public benefits.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and Section 273 of Title 7 of the Code of Federal Regulations (CFR); Section 71 of Title 56 and Section 20j of Title 74 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1572; filed 11-21-07]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES**

[OAR Docket #07-1570]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Eligibility for Benefits
- 340:65-3-1 [AMENDED]
- 340:65-3-6 [AMENDED]
- 340:65-3-6.1 [AMENDED]
- 340:65-3-8 [AMENDED]
- Subchapter 5. Procedures Relating to Case Changes

Part 3. Procedures for Handling Warrants in Special Circumstances

340:65-5-15 through 340:65-5-20 [AMENDED]

340:65-5-21 [REVOKED]

Part 7. Guardianships ~~and~~, Conservatorships, and Substitute Payees

340:65-5-66 [NEW]

Part 9. Protective Payments in TANF [REVOKED]

340:65-5-80 through 340:65-5-81 [REVOKED]

340:65-5-85 [REVOKED]

340:65-5-87 [REVOKED]

Subchapter 9. Overpayments and Fraud in Temporary Assistance for Needy Families and State Supplemental Payment Benefits

340:65-9-1 through 340:65-9-2 [AMENDED]

340:65-9-3 [REVOKED]

340:65-9-4 through 340:65-9-8 [AMENDED]

(Reference APA WF 07-18 and 07-26)

SUMMARY:

The proposed revisions to Subchapters 3, 5, and 9 of Chapter 65 amend rules to: (1) provide current information regarding direct deposit procedures and new debit card procedures for the Temporary Assistance for Needy Families (TANF) and State Supplemental Payment (SSP) Programs; (2) remove TANF from the electronic benefits transfer (EBT) rules; (3) remove TANF and SSP payments from warrant procedures since they are now issued by direct deposit or debit card; (4) show current form numbers and names; (5) detail current procedures used by the Finance Division and the Office of State Finance for handling warrants; (6) change the restriction on the reissuance of a warrant to 36 months following the month of its cancellation rather than three years to match language in the state statute; (7) replace outdated language with current terminology; (8) revoke one Section that only applied to TANF warrants; (9) add a new Section about substitute payees for TANF; (10) revoke rules regarding protective payments in TANF; (11) include information about the new Oklahoma Program Integrity (OPI) system that is now used to complete overpayments; (12) add current responsibilities for who writes and establishes overpayments; (13) revise the name of the Family Support Services Division (FSSD) Section that receives overpayments; (14) remove information about overpayments classified in a court of law as fraud; (15) update the percentage of the client's monthly benefit reduction when an overpayment is due to agency error from 5 percent to 10 percent; (16) revoke a Section regarding procedures for referring overpayments and incorporate still current information into another Section; (17) include current procedures when collection of debt efforts are suspended; (18) establish rules regarding the verification of the lawful presence in the United States for persons 14 years of age or older who are applying for state or federal public benefits; (19) amend form names and numbers to reflect changes made to the application forms to address citizenship requirements; (20) add comprehensive information by program regarding when an interview is required for an application; (21) update form numbers; (22)

add comprehensive information by program regarding when an interview is required for a review/recertification and a signature is required on a review/recertification form; and (23) add clarifying information regarding time frames for when a review/recertification must be completed by program.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Sections 161 et seq., 185, 190, and 191 of Title 56 of the Oklahoma Statutes, Section 41.19 of Title 62 of the Oklahoma Statutes (O.S.); Section 34 of Title 74 of the Oklahoma Statutes; and Section 71 of Title 56; and Section 20j of Title 74 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Laura Brown, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4396.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1570; filed 11-21-07]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 75. CHILD WELFARE

[OAR Docket #07-1562]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

Part 1. Scope and Applicability

340:75-1-16 through 340:75-1-18.1 [AMENDED]

340:75-1-20 [AMENDED]

Subchapter 6. Permanency Planning

Part 8. Role of the Child Welfare Worker

340:75-6-48 [AMENDED]

Part 11. Permanency Planning and Placement Services

Notices of Rulemaking Intent

340:75-6-85 [AMENDED]

Subchapter 7. Foster Home Care

Part 2. Development of Resources

340:75-7-15 [AMENDED]

Subchapter 13. Other Child Welfare Services and Medical Services for Children in Out-of-Home Care

Part 1. Eligibility for Substitute Care Services and Claims for Payment

340:75-13-9 [AMENDED]

Part 2. Title IV-E Eligibility and Reimbursability

340:75-13-13 [AMENDED]

340:75-13-15 [AMENDED]

Subchapter 15. Adoptions

Part 2. Legal Base and Scope of the Adoption Program

340:75-15-5 [AMENDED]

Part 6. Adoption Process

340:75-15-41 [AMENDED]

Part 8. Adoptive Placement Process

340:75-15-61 [AMENDED]

Part 10. Adoptive Family Assessment and Preparation Process

340:75-15-84 [AMENDED]

340:75-15-87 through 340:75-15-88 [AMENDED]

Part 14. Post Adoption Services

340:75-15-128.2 [AMENDED]

(Reference APA WF 07-12, 07-22, 07-34)

SUMMARY:

Children and Family Services Division rules are revised to (1) clarify and state that every effort is made to place a child with a member of the child's family in a safe and appropriate home; (2) clarify and state that during the adoption criteria staffing process, every effort is made to place children with family; (3) require OKDHS to provide to any custodian or other person caring for the child information regarding OKDHS programs available to the child; (4) clarify that the district attorney and attorney for the child may make an objection to the release of a child from the state's custody and clarify the Child Welfare worker's ability to recommend an objection; (5) clarify time frame for filing of written application to review a court order when the order releasing a child from state custody creates a serious risk of danger; (6) repeal OKDHS authority to enter an objection to release of child from state custody; (7) clarify that a right to be heard at all proceedings is provided by the court to the current foster parent of the child, the child's guardian ad litem, and to any preadoptive parent or relative providing care for the child, but such right does not require any foster parent, preadoptive parent, or relative be made a party to such action; (8) clarify that prior written notice of the adjudicatory and dispositional hearings are provided to the current foster parent of the child, any preadoptive parent or relative providing care for the child; (9) require written notice of any further proceedings to any foster or preadoptive parents or relatives providing care for the child; (10) clarify that information regarding the child's independent living plan and in and out-of-state placement options considered for the child should be included in permanency hearing court

reports; (11) require that identification of appropriate in-state and out-of-state placements be made; (12) delete inadvertent requirement for OKDHS to provide notice of hearing to the child's guardian ad litem; (13) the court report should address consideration of in-state or out-of-state placement options; (14) the court shall inquire, or cause inquiry to be made of the child, regarding any proposed independent living plan; (15) ensuring a face-to-face contact with the child in an ICPC placement no less frequently than every 6 months with a report submitted regarding the content of the contact; (16) clarify that the prospective resource parent is not approved without the results of the state-maintained child abuse and neglect registry checks if a registry is maintained in the applicable state; (17) direct that any available information be obtained from the applicable state if no child abuse and neglect registry exists in the applicable state; (18) require fingerprinting and an FBI check of each adoptive applicant and adult household member regardless of length of residence in Oklahoma; (19) authorize an exception to fingerprinting in limited, case-specific circumstances and authorize an alternate procedure for obtaining a national criminal records check for any applicant or adult residing in the home who has a severe condition that precludes such person from being fingerprinted; (20) clarify that when an equivalent records check from another state is required, it must be received prior to placement of the child; (21) correct Department of Public Services to Department of Public Safety (DPS); (22) repeal time frame for kinship applicant's equivalent records check to be received; (23) require OKDHS to request a name based National Crime Information Center (NCIC) criminal history search by local law enforcement after normal business hours or on a holiday for kinship applicants; (24) repeal Court's authority to approve a prospective adoptive parent or long-term placement provider who has convictions for specified felonies; (25) update the procedure for obtaining Oklahoma birth certificates for children in OKDHS custody; (26) clarify that to qualify for IV-E, a child must be a citizen of the United States or have an alien status that qualifies for IV-E; (27) clarifies that Title IV-E, Section 472 of the Social Security Act allows a resource value of \$10,000 for Title IV-E eligibility; (28) clarify that within 15 working days of receipt of the initial court order, the custody specialist makes an initial eligibility determination for Title IV-E and reports the IV-E eligibility determination to the referring Child Welfare worker; (29) clarify that Oklahoma Statutes mandate a Child Abuse and Neglect Information System check for all public agency and private adoptive parent applicants and all other household members 18 years and older; (30) require a search of all applicable out-of-state child abuse and neglect registries for any foster parent applicant or adult household member has not maintained continuous residency in Oklahoma for the past five years; (31) clarify that in-person or telephone contact is made with each personal reference; (32) delete language that allows the court to conditionally approve the home of an adoptive applicant or adult household member with certain criminal convictions; (33) update language to include the term constructive removal; (34) update sentence structure, correct

spelling and grammatical errors, add a subsection tagline; and (35) delete information that is contained in another section of policy.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; SB 553; and SB 469; HB 1927; and Title 10 of the Oklahoma Statutes.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Caprice Tyner, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 918-794-7538.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1562; filed 11-21-07]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION**

[OAR Docket #07-1563]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Administration
 - Part 1. General Administration
 - 340:100-3-1 [AMENDED]
 - 340:100-3-6 [AMENDED]
 - 340:100-3-15 [AMENDED]
 - Part 3. Operations
 - 340:100-3-27 [AMENDED]
 - 340:100-3-27.5 [AMENDED]
 - 340:100-3-28 [AMENDED]
 - 340:100-3-38 through 340:100-3-38.8 [AMENDED]
 - 340:100-3-38.12 [AMENDED]
 - 340:100-3-38.13 [NEW]
 - 340:100-3-40 through 340:100-3-40.1 [AMENDED]

- Subchapter 5. Client Services
 - Part 3. Service Provisions
 - 340:100-5-20 [REVOKED]
 - 340:100-5-22.1 [AMENDED]
 - 340:100-5-26 through 340:100-5-26.1 [AMENDED]
 - 340:100-5-29 [AMENDED]
 - 340:100-5-32 through 340:100-5-33 [AMENDED]
 - Part 5. Individual Planning
 - 340:100-5-51 [AMENDED]
 - 340:100-5-53 [AMENDED]
 - 340:100-5-57 through 340:100-5-57.1 [AMENDED]
 - Subchapter 13. Family Support Programs
 - 340:100-13-1 [AMENDED]
 - Subchapter 17. Employment Services
 - Part 3. State-Funded Employment (Sheltered Workshop) Services
 - 340:100-17-17 [AMENDED]
 - Part 4. Community Integrated Employment Services
 - 340:100-17-25 [AMENDED]
- (Reference APA WF 07-23)**

SUMMARY:

The proposed revisions to Subchapters 3, 5, 13, and 17 of Chapter 100 amend the rules to (1) reflect current OKDHS forms numbering scheme; (2) clarify eligibility criteria for state-funded services through DDS; (3) reflect the current role and function of each Human Rights Committee (HRC); (4) clarify DDS case management visits with the service recipient and possible locations for visits; (5) clarify eligibility criteria for SoonerStart; (6) delineate DDS audit requirements for provider agencies; (7) clarify required training courses; (8) allow for the reduction of annual training hours for contract staff; (9) specify time frames for first aid and cardio-pulmonary resuscitation (CPR) certification and behavior support courses; (10) specify training requirements for staff providing supports in alternative group homes; (11) reflect general requirements for community records; (12) clearly denote the role of DDS staff and community staff when monitoring service recipients who are at risk for dyskinesia; (13) specify current Family Support Assistance Payment Program application and annual review processes; (14) specify community integrated employment (CIE) services available to service recipients 16 years of age or older who meet eligibility criteria; and (15) update terminology and policy references.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and, in part, Section 1408 of Title 10 of the Oklahoma Statutes (10 O.S. § 1408); 56 O.S. § 601 et seq.; 56 O.S. § 1020; 70 O.S. § 13-121 et seq.; and 74 O.S. § 840-3.1; and federal acts, including IDEA.

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Millie Carpenter, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-521-4974.

Notices of Rulemaking Intent

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1563; filed 11-21-07]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 115. OFFICE OF FIELD OPERATIONS DIVISION

[OAR Docket #07-1573]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

Part 1. General Provisions

340:115-1-1 [AMENDED]

340:115-1-3 [AMENDED]

340:115-1-4 through 340:115-1-6 [REVOKED]

Part 3. Voter Registration

340:115-1-21 through 340:115-1-22 [AMENDED]

340:115-1-23 [REVOKED]

340:115-1-24 [AMENDED]

340:115-1-25 through 340:115-1-26 [REVOKED]

340:115-1-27 [AMENDED]

Subchapter 3. Administrative Responsibilities
[REVOKED]

340:115-3-2 through 340:115-3-3 [REVOKED]

Subchapter 5. Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS)

340:115-5-1 [AMENDED]

340:115-5-2 [REVOKED]

340:115-5-3 [AMENDED]

(Reference APA WF 07-25)

SUMMARY:

The proposed revisions to Subchapters 1, 3 and 5 of Chapter 115 amend the rules to: (1) reflect current terms used throughout Field Operations Division (FOD) rules; (2) reflect current practices and procedures for Oklahoma voter registration; (3) reflect current practices and procedures of

Acquired Immune Deficiency Syndrome (AIDS) Coordination and Information Services (ACIS); (4) include school-based services as a program administrated by FOD; and (5) revoke language that is provided through other rule cites.

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; and National Voter Registration Act of 1993 [Public Law 103-31].

COMMENT PERIOD:

Written and oral comments will be accepted December 17, 2007 through January 16, 2008 during regular business hours by contacting Cindy Halpern, Oklahoma Department of Human Services, P.O. Box 25352, Oklahoma City, OK 73125, Telephone 405-522-1595.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., § 303(B)(9), "persons may demand a hearing" by contacting the above listed person no later than January 16, 2008 at 5:00 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available for review by contacting the above listed person.

CONTACT PERSON:

Dena Thayer, Programs Administrator, 405-521-4326.

[OAR Docket #07-1573; filed 11-21-07]

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

[OAR Docket #07-1550]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

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

600:10-1-12. Inactive status - annual fee payment
[AMENDED]

600:10-1-14. Reinstatement of license or certification
[AMENDED]

SUMMARY:

The proposed amendment to rule 600:10-1-8 adds language that assists in compliance with the existing rule. The proposed amendments to rule 600:10-1-12 and 600:10-1-14 add instructions for those applying for reinstatement as required by the Appraiser Qualification Criteria.

AUTHORITY:

Real Estate Appraiser Board, 59 O.S. § 858-706(A).

COMMENT PERIOD:

Persons may submit written or oral comments to Rod Stirman at the offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107 during the period December 17, 2007 to January 25, 2008.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on February 1, 2008, in the offices of the Insurance Commissioner of Oklahoma, the Honorable Kim Holland, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

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 increases in the level of direct 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 Rod Stirman at the above address during the period during the period December 17, 2007 to January 25, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available at the Offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107. Copies of proposed rules may also be obtained by written request to the attention of Rod Stirman, Real Estate Appraiser Board, PO Box 53408, Oklahoma City, OK 73152.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained at the Offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

CONTACT PERSON:

Rod Stirman, Director, (405) 521-6636.

[OAR Docket #07-1550; filed 11-14-07]

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

[OAR Docket #07-1551]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 600:15-1-2. Definitions [AMENDED]
- 600:15-1-4. Grievance procedure [AMENDED]

- 600:15-1-12. Failure to appear [AMENDED]
- 600:15-1-19. Record of hearing [AMENDED]

SUMMARY:

The proposed amendment to rule 600:15-1-2 brings the rule into compliance with case law, as do the amendments to 600:15-1-4. Changes to 600:15-1-2 and 600:15-1-4 make permanent emergency rules adopted by the Board effective November 1, 2007. The proposed amendments to 600:15-1-12 clarify actions to be taken in the case of failure of a party to appear at a disciplinary hearing. The proposed amendment to 600:15-1-19 aligns the rule with requirements of current technology.

AUTHORITY:

Real Estate Appraiser Board, 59 O.S. § 858-706(A).

COMMENT PERIOD:

Persons may submit written or oral comments to Rod Stirman at the offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107 during the period December 17, 2007 to January 25, 2008.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on February 1, 2008, in the offices of the Insurance Commissioner of Oklahoma, the Honorable Kim Holland, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

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 increases in the level of direct 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 Rod Stirman at the above address during the period December 17, 2007 to January 25, 2008.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available at the Offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107. Copies of proposed rules may also be obtained by written request to the attention of Rod Stirman, Real Estate Appraiser Board, PO Box 53408, Oklahoma City, OK 73152.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained at the Offices of the Real Estate Appraiser Board, Oklahoma Insurance Department, at 2401 NW 23rd Street, Suite 28, Oklahoma City, Oklahoma 73107.

CONTACT PERSON:

Rod Stirman, Director, (405) 521-6636.

[OAR Docket #07-1551; filed 11-14-07]

Notices of Rulemaking Intent

TITLE 695. OVERSIGHT COMMITTEE FOR STATE EMPLOYEE CHARITABLE CONTRIBUTIONS CHAPTER 10. OKLAHOMA STATE CHARITABLE CAMPAIGN RULES

[OAR Docket #07-1556]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

695:10-1-1 [AMENDED]

695:10-1-2 [AMENDED]

695:10-1-5 [AMENDED]

695:10-1-6 [AMENDED]

695:10-1-7 [AMENDED]

695:10-1-8 [AMENDED]

695:10-1-9 [AMENDED]

695:10-1-10 [AMENDED]

695:10-1-11 [AMENDED]

695:10-1-13 [AMENDED]

Subchapter 3. Principal Combined Fund Raising Organizations

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

695:10-3-2 [AMENDED]

695:10-3-3 [AMENDED]

695:10-3-4 [AMENDED]

Subchapter 5. Conduct of the Charitable Campaign

695:10-5-2 [AMENDED]

695:10-5-3 [AMENDED]

695:10-5-4 [AMENDED]

Subchapter 7. Pledge Cards, Payroll Authorizations and Mailing Lists

695:10-7-2 [AMENDED]

Subchapter 11. State and Local PCFRO Proceeds and Costs

695:10-11-2 [AMENDED]

Subchapter 13. Notices, Complaints, Appeals and Hearings

695:10-13-2 [AMENDED]

695:10-13-3 [AMENDED]

695:10-13-4 [AMENDED]

695:10-13-5 [AMENDED]

695:10-13-6 [AMENDED]

695:10-13-7 [AMENDED]

SUMMARY:

The amendments to Title 695 reflect the legislatively mandated change to the name of the State Agency Review Committee, which is now named the Oversight Committee for the State Employee Charitable Contributions. The proposed amendments include clarifying language, terms and definitions.

AUTHORITY:

The Oversight Committee for State Charitable Contributions; 74 O.S. § 7005.

COMMENT PERIOD:

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Kara I. Smith, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to kara.smith@opm.ok.gov. The comment period will begin on Friday, December 17, 2007. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Tuesday, January 22, 2008.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at 2:00 p.m., Friday, January 18, 2008, at the State Office of Personnel Management, 2101 N. Lincoln, 5th Floor Conference Room, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained beginning Monday, December 17, 2007, between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 521-2177.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning Friday, December 28, 2007. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

CONTACT PERSON:

Kara I. Smith, General Counsel, (405) 522-1736.

[OAR Docket #07-1556; filed 11-20-07]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD CHAPTER 5. FEES

[OAR Docket #07-1561]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

785:5-1-6. Stream water permit application fees [AMENDED]

785: 5-1-10. Groundwater application fees [AMENDED]

SUMMARY:

The Oklahoma Water Resources Board ("OWRB") proposes to amend this Chapter of the Oklahoma Administrative Code ("OAC") as follows:

The stream water permit application fees are proposed to be increased from the current range (depending on the volume requested) of \$125 to \$2000 to a new range of \$250 not to exceed \$4000. Likewise, the groundwater permit application fees are proposed to be increased from the current range (depending on the volume requested) of \$125 to \$2000 to a new range of \$250 not to exceed \$4000.

The circumstances creating the need for the rule is the lack of appropriated funding to meet the needs of the Planning and Management Division to conduct required studies and proceedings as required by the statutes relating to administration of water rights. In 2006, the Board adopted fee rule changes to impose an annual water rights administration fee for both stream water permits and groundwater permits, but those rules were not approved and did not become effective. The intended purpose of the rule is to make some additional funds available to conduct the required studies and proceedings. This notice of rulemaking intent is provided in addition to a notice of rulemaking intent published on November 15, 2007.

Other amendments may be considered as a result of public comments.

AUTHORITY:

Oklahoma Water Resources Board general authority and duties in 82 O.S. Section 1085.2(9) to determine, charge and receive fees to be collected in advance for the filing and examination of applications for permits; and duty to prepare and change a schedule of reasonable fees for services rendered pursuant to 82 O.S. Section 1085.4

COMMENT PERIOD:

Persons wishing to present data, views, or arguments orally or in writing may do so at 3800 North Classen, Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 16, 2008.

PUBLIC HEARING:

A public hearing is scheduled for January 17, 2008, beginning at 9:30 A.M. in the Board Room of the OWRB's

offices located at 3800 North Classen, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The OWRB requests that any business entities affected by these proposed rules provide to the OWRB, within the Comment Period from December 17, 2007 through January 16, 2008, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Dean Couch at 3800 North Classen, Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 16, 2008.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Water Resources Board, 3800 North Classen Boulevard, Oklahoma City, Oklahoma 73118, upon prepayment of the copying charge, or on the Board's web site, www.owrb.state.ok.us.

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Dean A. Couch, General Counsel, 405-530-8800, or dacouch@owrb.state.ok.us.

[OAR Docket #07-1561; filed 11-21-07]

Continued Hearings/Comment Periods

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

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

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 515. MANAGEMENT OF SOLID WASTE

[OAR Docket #07-1559]

RULEMAKING ACTION:

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

PROPOSED RULES:

- Subchapter 21. Waste Tire Processing, Certifications, Permits and Compensation
 - Part 1. General Provisions
 - 252:515-21-1. [AMENDED]
 - 252:515-21-3. [AMENDED]
 - 252:515-21-5. [AMENDED]
 - Part 3. Waste Tire Facilities
 - 252:515-21-32. [AMENDED]
 - Part 5. Waste Tire Transportation
 - 252:515-21-51. [AMENDED]
 - Part 7. Compensation from the Waste Tire Indemnity Fund
 - 252:515-21-71. [AMENDED]
 - 252:515-21-73. [AMENDED]
 - Part 9. Erosion Control, Riverbank Stabilization and other Conservation Projects
 - 252:515-21-92. [AMENDED]
 - Part 13. Tire Dealer and Motor License Agent Audits
 - [NEW]
 - 252:515-21-131. [NEW]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 24 Ok Reg 2804.

CONTINUED COMMENT PERIOD:

Original comment period:

August 15 through September 20, 2007

Continued to:

December 20, 2007, through January 10, 2008

CONTINUED PUBLIC HEARING:

Original public hearing:

Before the Solid Waste Management Advisory Council at 9:00 a.m. on September 20, 2007, in the Multi-Purpose Room, first floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board at 9:30 a.m. on November 15, 2007, at Southwestern Oklahoma

State University, 800 N. Custer, Student Union Building, Weatherford, Oklahoma 73096.

Continued to:

The Solid Waste Management Advisory Council meeting at 9:00 a.m. on January 10, 2008, in the Multi-Purpose Room, first floor of the Department of Environmental Quality, 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 Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities affected by these proposed rules provide the Department, 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.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review from Ferrella March with the Waste Tire Program in the Land Protection Division of the Department of Environmental Quality at P.O. Box 1677, Oklahoma City, OK 73101-1677, or by e-mail at ferrella.march@deq.state.ok.us. They may also be viewed on the DEQ web site at www.deq.state.ok.us/LPDnew/LPPProprules.htm, or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules will be on file at the Department of Environmental Quality and may be requested from Ferrella March, or may be viewed on the DEQ web site at www.deq.state.ok.us/LPDnew/LPPProprules.htm.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Solid Waste Management Advisory Council and need assistance, please notify Ferrella March three days in advance of the meeting during business hours at 405-702-5100 or by using TDD relay number 1-800-522-8506.

[OAR Docket #07-1559; filed 11-21-07]

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 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 410. WIC**

[OAR Docket #07-1552]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 3. Vendor Management

310:410-3-2 [AMENDED]

310:410-3-3 [AMENDED]

Part 3. WIC Vendor Application and Authorization Process

310:410-3-10 [AMENDED]

310:410-3-12 [AMENDED]

310:410-3-13 [AMENDED]

310:410-3-14 [AMENDED]

Part 7. WIC Vendor Authorization and Responsibilities

310:410-3-33 [AMENDED]

310:410-3-34 [AMENDED]

Part 9. WIC Vendor Compliance and Sanctions

310:410-3-52 [AMENDED]

SUBMITTED TO GOVERNOR:

November 15, 2007

SUBMITTED TO HOUSE:

November 15, 2007

SUBMITTED TO SENATE:

November 15, 2007

[OAR Docket #07-1552; filed 11-15-07]

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

[OAR Docket #07-1557]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

40:30-1-3. Breath alcohol analysis with ~~the enhanced Intoxilyzer Model 5000-D~~ Board approved devices [AMENDED]

AUTHORITY:

47 O.S. §759; Board Of Tests For Alcohol And Drug Influence

DATES:

Adoption:

October 26, 2007

Approved by Governor:

November 13, 2007

Effective:

Immediately upon Governor's approval

Expiration:

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

SUPERSEDED EMERGENCY RULES:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The State of Oklahoma will begin using more than one breath testing device and reference procedure before the next legislative session. The procedures to maintain and operate the new equipment is paramount to the operation. The terminology of the procedure has been confusing. The word "regurgitate" being held equivalent to "burp". The word "vomit" is in common usage to take the technical meaning of "regurgitate" which is to bring solids from the stomach to the mouth. Therefore, the new language serves the purpose to prevent the bringing of solids into the mouth, without confusion. Further, the current rule does not make it clear the deprivation is to continue after the first breath sample

ANALYSIS:

The rule change will define the proper operating and maintenance procedures to be followed with new breath testing devices and nitrogen/ethanol dry gas reference methods and clarify the procedures to be used with existing equipment and procedures.

CONTACT PERSON:

J. Robert Blakeburn, (405) 425-2460 (procedural and legal questions); Jeff Dean, (405) 425-2460 (technical questions).

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. SEC. 253(D):

40:30-1-3.

Breath-alcohol analysis with ~~the enhanced Intoxilyzer Model 5000-D~~ Board approved devices

(a) **Approved method.** Analysis of breath specimens for the determination of the alcohol content therein by means of the Model 5000-D (manufactured by CMI, Inc., Owensboro, Kentucky 42301 or its successors), is hereby approved as a method or technique for analysis of breath specimens for alcohol.

(b) **Operating procedure(s).** Each such analysis shall be performed in compliance with Operating Procedure(s) prescribed and approved by the State Director of Tests for Alcohol and Drug Influence.

(c) **Analysis.** Each such analysis shall include the following steps:

(1) ~~Continuous observation~~ Observation of the subject whose breath is to be tested sufficient to determine that, for a period of at least fifteen (15) minutes prior to the collection of the first breath specimen, and continuing through the second breath specimen, during which observation period the subject shall not have ingested alcohol in any form or alcoholic beverages or any other substance, ~~regurgitated~~, vomited, or smoked. Such observation shall ~~may~~ be carried out by the breath-alcohol analysis Operator or ~~Supervisor~~ Specialist or by any other qualified person.

(2) Analysis for alcohol of two (2) or more specimens of breath consisting substantially of expired alveolar air.

(3) A blank analysis preceding analysis of each breath specimen.

(4) Analysis for alcohol of at least one suitable reference or control sample of known alcohol concentration, such as air equilibrated at a known temperature with a reference solution of known ethyl alcohol content in an alcoholic breath simulator device approved by the ~~this~~ Board. The results of each such control analysis must coincide with the corresponding vapor-alcohol concentration target value within plus or minus one-hundredths gram per two hundred and ten liters ($\pm 0.01\text{g}/210\text{L}$).

(5) The operator performing each such analysis shall properly ~~provide~~ complete a Breath-Alcohol Analysis Record and Report form prescribed and designated by the State Director of Tests for Alcohol and Drug Influence, and shall promptly ~~forwarded~~ forward one (1) copy thereof to the Oklahoma Department of Public Safety, and to other agencies and persons listed on the form.

Emergency Adoptions

(d) **Reporting results.** The results of each such breath-alcohol analysis shall be reported in terms of the concentration of alcohol and in the subject's breath, in grams of alcohol per two hundred and ten liters of breath (g/210 L), truncated to two (2) decimal places. Results of duplicate breath alcohol analyses, on the same subject on the same occasion, which are within three-hundredths grams per two hundred and ten liters of breath ($\pm 0.03\text{g}/210\text{L}$) shall be deemed to be in acceptable agreement and mutually confirmatory and substantiative. ~~All such results~~ Results of analysis of all breath specimens shall be reported, but actions and interpretation of the results of such duplicate analyses shall be based upon the lowest such acceptable breath alcohol result obtained.

(e) **Maintenance.** Maintenance shall be performed as follows on the above listed equipment at least once during each thirty (30) day period and not later than thirty (30) days since the last prior such maintenance, or after the testing of twenty five (25) subjects, whichever occurs first, by a person possessing a valid Breath Alcohol Analysis (Specialist) permit issued by ~~this~~ the Board:

(1) A thorough inspection of the equipment for cleanliness and determination that it is in proper operating condition shall be performed.

(2) The reference ethyl alcohol solution in the alcoholic breath simulator device shall be replaced with new solution and one (1) or more verification analyses performed with the new solution. Each verification analysis shall be performed in accordance with the Operating Procedure(s) prescribed by the State Director of Tests for Alcohol and Drug Influence. The result of each such verification analysis must coincide with the corresponding vapor-alcohol concentration target value within plus or minus one-hundredths gram per two hundred and ten liters ($\pm 0.01\text{g}/210\text{L}$).

(3) The administrative maintenance performed, shall include; results of said verification analyses, date of inspection, and a ~~written~~ record of the inspection will be documented on the log of tests and maintenance record retained by the breath analysis instrument in digital form as ~~entered in the applicable portions of the Intoxilyzer 5000 D Log of Tests and Maintenance Record (or equivalent) form~~ prescribed and designated by the State Director of Tests for Alcohol and Drug Influence.

(f) **Approved method.** Analysis of breath specimens for the determination of the alcohol content therein by means of the Model 8000-D (manufactured by CMI, Inc., Owensboro, Kentucky 42301 or its successors), is hereby approved as a method or technique for analysis of breath specimens for alcohol.

(g) **Operating procedure(s).** Each such analysis shall be performed in compliance with Operating Procedure(s) prescribed and approved by the State Director of Tests for Alcohol and Drug Influence.

(h) **Analysis.** Each such analysis shall include the following steps:

(1) Observation of the subject whose breath is to be tested sufficient to determine that, for a period of at least fifteen (15) minutes prior to the collection of the first breath specimen, and continuing through the second breath specimen, the subject shall not have ingested alcohol in any form or any other substance, vomited, or smoked. Such observation shall be carried out by the breath-alcohol analysis Operator or Specialist or by any other qualified person.

(2) Analysis for alcohol of two (2) or more specimens of breath consisting substantially of expired alveolar air.

(3) A blank analysis preceding analysis of each breath specimen.

(4) Analysis for alcohol of at least one suitable reference or control sample of a known alcohol concentration, such as air equilibrated at a known temperature with a reference solution of known ethyl alcohol content in an alcoholic breath simulator device approved by the Board or a Board approved nitrogen-ethanol dry gas reference method. The results of each such control analysis must coincide with the corresponding vapor-alcohol concentration target value within plus or minus one-hundredths gram per two hundred and ten liters ($\pm 0.01\text{g}/210\text{L}$).

(5) The operator performing each such analysis shall properly complete a Breath-Alcohol Analysis Record and Report form prescribed and designated by the State Director of Tests for Alcohol and Drug Influence, and shall promptly forward one (1) copy thereof to the Oklahoma Department of Public Safety, and to other agencies and persons listed on the form.

(i) **Reporting results.** The results of each such breath-alcohol analysis shall be reported in terms of the concentration of alcohol and in the subject's breath, in grams of alcohol per two hundred and ten liters of breath (g/210 L), truncated to two (2) decimal places. Results of duplicate breath alcohol analyses, on the same subject on the same occasion, which are within three-hundredths grams per two hundred and ten liters of breath ($\pm 0.03\text{g}/210\text{L}$) shall be deemed to be in acceptable agreement and mutually confirmatory and substantiative. Results of analysis of all breath specimens shall be reported, but actions and interpretation of the results of such duplicate analyses shall be based upon the lowest such acceptable breath alcohol result obtained.

(j) **Maintenance.** Maintenance shall be performed on the CMI 8000 Intoxilyzer, equipped with nitrogen-ethanol dry gas mixture, at such time as the regulator of the nitrogen-ethanol pressurized dry gas cannister fails to provide a gas sample for analysis or by the manufacturers stated expiration date, whichever occurs first. Such maintenance shall be performed by Board personnel, according to the procedure(s) prescribed by the State Director of Tests for Alcohol and Drug Influence.

[OAR Docket #07-1557; filed 11-21-07]