

Volume 27
Number 10
February 1, 2010
Pages 465 - 546

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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ISSN 0030-1728

Table of Contents

Agency/Action/Subject Index	iii
Rules Affected Index	iv
Agency Index (Title numbers assigned)	vii
Notices of Rulemaking Intent	
Agriculture, Food, and Forestry, Oklahoma Department of (Title 35)	465, 466
Athletic Commission, Oklahoma State (Title 92)	466
Consumer Credit, Department of (Title 160)	467, 468
Education, State Department of (Title 210)	469
Horse Racing Commission, Oklahoma (Title 325)	470, 471
Labor, Department of (Title 380)	472, 473
Law Enforcement Education and Training, Council on (Title 390)	473, 474, 475, 476
Medical Licensure and Supervision, State Board of (Title 435)	476, 477
Tax Commission, Oklahoma (Title 710)	477, 478, 480, 481, 482
Cancelled Hearings/Comment Periods	
Medical Licensure and Supervision, State Board of (Title 435)	483
Submissions for Review	
Employment Security Commission, Oklahoma (Title 240)	485
Gubernatorial Approvals	
Agriculture, Food, and Forestry, Oklahoma Department of (Title 35)	487
Environmental Quality, Department of (Title 252)	487, 488
Emergency Adoptions	
Agriculture, Food, and Forestry, Oklahoma Department of (Title 35)	489
Benefits Council, Oklahoma State Employees (Title 87)	490
Consumer Credit, Department of (Title 160)	492
Wildlife Conservation, Department of (Title 800)	534, 539
Executive Orders (Title 1)	541
Miscellaneous	
State Bond Advisor's Office	545

Agency/Action/Subject Index

**AGRICULTURE, Food, and Forestry, Oklahoma
Department of (Title 35)**

Notices of Rulemaking Intent

- Administrative Operations (Chapter 1) 465
- Fuel Alcohol (Chapter 13) 465
- Animal Industry (Chapter 15) 466

Gubernatorial Approvals

- Agricultural Products (Chapter 10) 487
- Consumer Protection (Chapter 30) 487

Emergency Adoptions

- Market Development (Chapter 40) 489

BENEFITS Council, Oklahoma State Employees (Title 87)

Emergency Adoptions

- Flexible Benefits Plan (Chapter 10) 490

STATE Bond Advisor's Office

Miscellaneous

- Notice of State Ceiling Amount for the Calendar Year
2010 545

ATHLETIC Commission, Oklahoma State (Title 92)

Notices of Rulemaking Intent

- Rules for Boxing and Other Activities (Chapter 10) 466

CONSUMER Credit, Department of (Title 160)

Notices of Rulemaking Intent

- Fees (Chapter 5) 467
- Truth in Lending Rules (Chapter 45) 468
- Mortgage Brokers and Mortgage Loan Originators
(Chapter 55) 468

Emergency Adoptions

- Truth in Lending Rules (Chapter 45) 492

EDUCATION, State Department of (Title 210)

Notices of Rulemaking Intent

- School Administration and Instructional Services
(Chapter 10) 469

**EMPLOYMENT Security Commission, Oklahoma
(Title 240)**

Submissions for Review

- Unemployment Insurance Program (Chapter 10) 485
- Trade Act Programs (Chapter 12) 485
- Workforce Investment Act (Chapter 21) 485

ENVIRONMENTAL Quality, Department of (Title 252)

Gubernatorial Approvals

- Emergency Planning and Community Right-To-Know
(Chapter 20) 487
- Hazardous Waste Management (Chapter 205) 487
- General Water Quality (Chapter 611) 487
- Pretreatment for Central Treatment Trusts
(Chapter 623) 487
- Public Water Supply Operation (Chapter 631) 488

GOVERNOR

Executive Orders

- Ordering state agency hiring freeze (10-1) 541

GOVERNOR – continued

Executive Orders – continued

- Declaring state holidays for 2011 (10-2) 542
- Declaring disaster emergency caused by extremely cold
temperatures in Oklahoma and temporarily suspending
certain regulatory requirements as they apply to motor
carriers providing emergency relief (10-3) 542
- Ordering flags at half-staff to honor Private John P. Dion
(10-4) 543

HORSE Racing Commission, Oklahoma (Title 325)

Notices of Rulemaking Intent

- Entries and Declarations (Chapter 25) 470
- Oklahoma-Bred Program (Chapter 75) 470, 471

LABOR, Department of (Title 380)

Notices of Rulemaking Intent

- Protection of Labor (Chapter 30) 472
- Oklahoma Hazard Communication Standard [REVOKED]
(Chapter 45) 473

**LAW Enforcement Education and Training, Council on
(Title 390)**

Notices of Rulemaking Intent

- Peace Officer Certification (Chapter 10) 473
- Basic Peace Officer Certification Training
(Chapter 15) 474
- Reserve Peace Officer Certification and Training
(Chapter 20) 474
- Regulation of Private Security Industry (Chapter 35) 475
- Penalty Assessment Fees (Chapter 50) 476

**MEDICAL Licensure and Supervision, State Board of
(Title 435)**

Notices of Rulemaking Intent

- Physician Assistants (Chapter 15) 476
- Registered Electrologists (Chapter 40) 477

Cancelled Hearings/Comment Periods

- Physician Assistants (Chapter 15) 483
- Registered Electrologists (Chapter 40) 483

TAX Commission, Oklahoma (Title 710)

Notices of Rulemaking Intent

- Income (Chapter 50) 477
- Sales and Use Tax (Chapter 65) 478
- Tobacco, Tobacco Products, and Cigarettes
(Chapter 70) 480
- Various Tax Incentives (Chapter 85) 481
- Miscellaneous Areas of Regulatory and Administrative
Authority (Chapter 95) 482

WILDLIFE Conservation, Department of (Title 800)

Emergency Adoptions

- Sport Fishing Rules (Chapter 10) 534
- Restriction on Aquatic Species Introductions
(Chapter 20) 539

Rules Affected Index

[(E) = Emergency action]

Rule	Register Page	Rule	Register Page
10:15-3-2.....	[AMENDED] (E)..... 6	160:45-13-1.....	[NEW] (E)..... 497
10:15-3-3.....	[AMENDED] (E)..... 6	160:45-13-2.....	[NEW] (E)..... 499
10:15-18-1.....	[AMENDED] (E)..... 6	160:45-13-3.....	[NEW] (E)..... 500
10:15-18-4.....	[AMENDED] (E)..... 7	160:45, App. H.....	[REVOKED] (E)..... 503
10:15-21-1.....	[AMENDED] (E)..... 7	160:45, App. H.....	[NEW] (E)..... 503
10:15-22-1.....	[REVOKED] (E)..... 7	210:40-52-5.....	[AMENDED] (E)..... 107
10:15-23-1.....	[AMENDED] (E)..... 8	317:1-1-8.....	[AMENDED] (E)..... 285
10:15-23-2.....	[AMENDED] (E)..... 9	317:1-1-9.....	[AMENDED] (E)..... 285
10:15-25-1.....	[AMENDED] (E)..... 9	317:1-1-9.1.....	[NEW] (E)..... 285
10:15-25-2.....	[AMENDED] (E)..... 9	317:1-1-10.....	[REVOKED] (E)..... 286
10:15-25-3.....	[AMENDED] (E)..... 9	317:1-1-17.....	[AMENDED] (E)..... 287
10:15-25-4.....	[AMENDED] (E)..... 10	317:1-3-3.1.....	[AMENDED] (E)..... 287
10:15-27-7.1.....	[REVOKED] (E)..... 10	317:1-3-3.2.....	[REVOKED] (E)..... 287
10:15-27-8.....	[AMENDED] (E)..... 10	317:1-3-4.....	[NEW] (E)..... 287
10:15-27-9.....	[AMENDED] (E)..... 10	317:1-5-1.....	[REVOKED] (E)..... 288
10:15-30-5.....	[AMENDED] (E)..... 11	317:1-5-2.....	[REVOKED] (E)..... 288
10:15-32-2.....	[AMENDED] (E)..... 11	317:1-5-3.....	[REVOKED] (E)..... 288
10:15-32-5.....	[AMENDED] (E)..... 11	317:1-5-4.....	[REVOKED] (E)..... 288
35:30-27-9.1.....	[NEW] (E)..... 99	317:1-5-5.....	[REVOKED] (E)..... 289
35:40-11-1.....	[NEW] (E)..... 489	317:1-7-1.....	[REVOKED] (E)..... 289
35:40-11-2.....	[NEW] (E)..... 489	317:1-7-2.....	[REVOKED] (E)..... 289
35:40-11-3.....	[NEW] (E)..... 489	317:1-7-3.....	[REVOKED] (E)..... 290
35:40-11-4.....	[NEW] (E)..... 489	317:1-7-4.....	[REVOKED] (E)..... 290
35:40-11-5.....	[NEW] (E)..... 490	317:1-7-5.....	[REVOKED] (E)..... 291
35:40-11-6.....	[NEW] (E)..... 490	317:1-7-6.....	[REVOKED] (E)..... 291
87:10-24-1.....	[NEW] (E)..... 490	317:1-7-6.1.....	[REVOKED] (E)..... 291
87:10-24-2.....	[NEW] (E)..... 490	317:1-7-7.....	[REVOKED] (E)..... 291
87:10-24-3.....	[NEW] (E)..... 491	317:1-7-8.....	[REVOKED] (E)..... 292
87:10-24-4.....	[NEW] (E)..... 491	317:1-9-1.....	[REVOKED] (E)..... 292
87:10-24-5.....	[NEW] (E)..... 491	317:1-9-2.....	[REVOKED] (E)..... 292
87:10-24-6.....	[NEW] (E)..... 491	317:1-9-3.....	[REVOKED] (E)..... 292
87:10-24-7.....	[NEW] (E)..... 491	317:1-9-4.....	[REVOKED] (E)..... 292
87:10-24-8.....	[NEW] (E)..... 491	317:1-9-5.....	[REVOKED] (E)..... 292
87:10-24-9.....	[NEW] (E)..... 491	317:1-9-6.....	[REVOKED] (E)..... 292
87:10-24-10.....	[NEW] (E)..... 492	317:1-9-9.....	[REVOKED] (E)..... 292
87:10-24-11.....	[NEW] (E)..... 492	317:1-9-10.....	[REVOKED] (E)..... 293
87:10-24-12.....	[NEW] (E)..... 492	317:30-3-24.....	[AMENDED] (E)..... 293
87:10-28-1.....	[NEW] (E)..... 43	317:30-3-59.....	[AMENDED] (E)..... 295
87:10-28-2.....	[NEW] (E)..... 43	317:30-3-60.....	[AMENDED] (E)..... 296
87:10-28-3.....	[NEW] (E)..... 44	317:30-3-61.....	[NEW] (E)..... 449
87:10-28-4.....	[NEW] (E)..... 44	317:30-5-2.....	[AMENDED] (E)..... 297
87:10-28-5.....	[NEW] (E)..... 44	317:30-5-9.....	[AMENDED] (E)..... 301
87:10-28-6.....	[NEW] (E)..... 44	317:30-5-20.....	[AMENDED] (E)..... 302
87:10-28-7.....	[NEW] (E)..... 44	317:30-5-22.....	[AMENDED] (E)..... 109
92:10-1-7.....	[AMENDED] (E)..... 213	317:30-5-42.11.....	[AMENDED] (E)..... 110
135:10-24-1.....	[NEW] (E)..... 281	317:30-5-42.17.....	[AMENDED] (E)..... 302
135:10-24-2.....	[NEW] (E)..... 281	317:30-5-65.....	[AMENDED] (E)..... 304
135:10-24-3.....	[NEW] (E)..... 282	317:30-5-72.1.....	[AMENDED] (E)..... 306
150:65-11-1.....	[NEW] (E)..... 284	317:30-5-95.....	[AMENDED] (E)..... 111
150:65-11-2.....	[NEW] (E)..... 284	317:30-5-137.....	[AMENDED] (E)..... 451
150:65-11-3.....	[NEW] (E)..... 284	317:30-5-137.1.....	[NEW] (E)..... 451
150:65-11-4.....	[NEW] (E)..... 284	317:30-5-137.2.....	[NEW] (E)..... 451
160:45-1-1.....	[AMENDED] (E)..... 492	317:30-5-138.....	[REVOKED] (E)..... 452
160:45-1-2.....	[AMENDED] (E)..... 12	317:30-5-139.....	[REVOKED] (E)..... 452
160:45-1-2.....	[AMENDED] (E)..... 493	317:30-5-210.1.....	[NEW] (E)..... 453
160:45-1-3.....	[AMENDED] (E)..... 495	317:30-5-210.2.....	[NEW] (E)..... 453
160:45-3-1.....	[AMENDED] (E)..... 214	317:30-5-211.1.....	[AMENDED] (E)..... 454
160:45-3-7.....	[AMENDED] (E)..... 215	317:30-5-211.8.....	[REVOKED] (E)..... 454
160:45-5-1.....	[AMENDED] (E)..... 14	317:30-5-211.10.....	[AMENDED] (E)..... 304
160:45-5-1.....	[AMENDED] (E)..... 495	317:30-5-211.13.....	[AMENDED] (E)..... 454
160:45-5-3.....	[AMENDED] (E)..... 16	317:30-5-211.14.....	[AMENDED] (E)..... 455

317:30-5-211.17.	[NEW] (E)	305	365:25-5-54.	[NEW] (E)	170
317:30-5-211.18.	[NEW] (E)	457	365:25-5-55.	[NEW] (E)	170
317:30-5-212.	[REVOKED] (E)	455	365:25-5-56.	[NEW] (E)	170
317:30-5-216.	[AMENDED] (E)	456	365:25-5-57.	[NEW] (E)	170
317:30-5-241.3.	[AMENDED] (E)	303	365:25-5-58.	[NEW] (E)	170
317:35-5-41.2.	[AMENDED] (E)	113	365:25-9-3.	[AMENDED] (E)	170
317:35-5-42.	[AMENDED] (E)	115	365:25, App. C.	[NEW] (E)	172
317:35-10-26.	[AMENDED] (E)	120	365:25, App. M.	[NEW] (E)	174
317:35-13-4.	[AMENDED] (E)	307	365:25, App. X.	[NEW] (E)	175
317:35-15-8.1.	[AMENDED] (E)	308	365:25, App. Y.	[NEW] (E)	176
317:35-15-13.2.	[AMENDED] (E)	309	365:45-1-1.	[NEW] (E)	177
317:35-17-14.	[AMENDED] (E)	312	365:45-1-2.	[NEW] (E)	177
317:40-9-1.	[NEW] (E)	457	365:45-3-1.	[NEW] (E)	177
340:10-2-3.	[AMENDED] (E)	156	365:45-5-1.	[NEW] (E)	178
340:10-2-4.	[AMENDED] (E)	157	530:10-13-3.	[AMENDED] (E)	381
340:10-3-33.	[AMENDED] (E)	160	530:10-15-45.	[AMENDED] (E)	382
340:10-3-56.	[AMENDED] (E)	18	530:10-17-70.	[AMENDED] (E)	383
340:10-15-1.	[AMENDED] (E)	20	530:10-17-75.	[AMENDED] (E)	383
340:25-5-351.	[AMENDED] (E)	162	530:10-17-76.	[NEW] (E)	384
340:40-7-1.	[AMENDED] (E)	21	530:10-17-77.	[AMENDED] (E)	385
340:40-7-1.	[AMENDED] (E)	164	530:15-1-1.	[AMENDED] (E)	386
340:40-7-11.	[AMENDED] (E)	22	530:15-1-2.	[AMENDED] (E)	386
340:40-7-12.	[AMENDED] (E)	24	530:15-1-5.	[AMENDED] (E)	387
340:50-11-20.	[AMENDED] (E)	165	530:15-1-6.	[AMENDED] (E)	387
340:60-1-3.	[AMENDED] (E)	26	530:15-1-7.	[AMENDED] (E)	387
340:75-6-31.4.	[AMENDED] (E)	44	530:15-1-12.	[AMENDED] (E)	388
340:75-15-128.1.	[AMENDED] (E)	45	530:15-3-7.	[AMENDED] (E)	388
340:110-1-4.1.	[AMENDED] (E)	49	530:15-3-7.1.	[AMENDED] (E)	388
340:110-1-6.	[AMENDED] (E)	50	530:15-3-8.	[AMENDED] (E)	389
340:110-1-8.	[AMENDED] (E)	51	530:15-5-8.	[AMENDED] (E)	389
340:110-1-8.1.	[AMENDED] (E)	53	580:15-2-7.	[AMENDED] (E)	179
340:110-1-9.	[AMENDED] (E)	55	580:15-4-13.	[AMENDED] (E)	180
340:110-1-43.1.	[AMENDED] (E)	56	580:15-6-5.	[AMENDED] (E)	181
340:110-1-45.	[AMENDED] (E)	57	580:15-6-6.	[AMENDED] (E)	182
340:110-1-46.	[AMENDED] (E)	58	580:15-6-6.1.	[NEW] (E)	185
340:110-1-47.	[AMENDED] (E)	59	580:15-6-6.2.	[NEW] (E)	185
340:110-1-51.	[AMENDED] (E)	60	580:15-6-10.	[AMENDED] (E)	186
340:110-3-5.	[AMENDED] (E)	61	580:15-6-14.	[AMENDED] (E)	186
340:110-3-5.1.	[AMENDED] (E)	63	580:15-6-21.	[AMENDED] (E)	187
340:110-3-6.	[AMENDED] (E)	63	580:25-5-1.	[AMENDED] (E)	321
340:110-3-7.1.	[AMENDED] (E)	64	595:11-1-21.	[AMENDED] (E)	323
340:110-3-39.	[AMENDED] (E)	68	595:11-1-31.	[AMENDED] (E)	324
340:110-3-40.	[AMENDED] (E)	69	595:11-1-55.	[NEW] (E)	325
340:110-3-41.	[AMENDED] (E)	69	595:11-1-62.	[AMENDED] (E)	325
340:110-3-42.	[AMENDED] (E)	70	595:11-5-4.	[AMENDED] (E)	325
340:110-3-85.	[AMENDED] (E)	72	595:11-5-5.	[AMENDED] (E)	326
340:110-3-88.	[AMENDED] (E)	75	595:11-7-3.	[AMENDED] (E)	327
340:110-3-89.1.	[AMENDED] (E)	76	595:30-3-17.	[AMENDED] (E)	329
340:110-3-153.	[AMENDED] (E)	76	595:30-3-18.	[AMENDED] (E)	331
340:110-3-153.1.	[AMENDED] (E)	77	595:35-1-6.	[AMENDED] (E)	332
340:110-3-168.	[AMENDED] (E)	80	610:25-23-1.	[AMENDED] (E)	334
340:110-3-223.	[AMENDED] (E)	82	610:25-23-2.	[AMENDED] (E)	334
340:110-3-224.	[AMENDED] (E)	83	610:25-23-5.	[AMENDED] (E)	335
340:110-3-225.	[AMENDED] (E)	83	610:25-23-7.	[AMENDED] (E)	336
340:110-3-226.	[AMENDED] (E)	84	612:10-7-163.	[AMENDED] (E)	126
340:110-5-7.	[AMENDED] (E)	88	710:1-3-6.	[AMENDED] (E)	127
340:110-5-8.	[AMENDED] (E)	88	710:60-9-130.	[REVOKED] (E)	128
340:110-5-12.	[AMENDED] (E)	90	710:60-9-130.1.	[NEW] (E)	128
365:10-5-177.	[AMENDED] (E)	316	710:60-9-131.	[AMENDED] (E)	128
365:10-17-4.	[AMENDED] (E)	318	710:60-9-133.	[AMENDED] (E)	128
365:10-25-4.	[AMENDED] (E)	319	710:60-9-134.	[AMENDED] (E)	128
365:10-25-5.	[AMENDED] (E)	319	710:60-9-135.	[REVOKED] (E)	129
365:25-3-14.	[AMENDED] (E)	166	710:60-9-137.	[AMENDED] (E)	129
365:25-5-50.	[NEW] (E)	169	710:65-18-5.	[AMENDED] (E)	129
365:25-5-51.	[NEW] (E)	169	715:10-19-1.	[AMENDED] (E)	131
365:25-5-52.	[NEW] (E)	170	715:10-19-2.	[AMENDED] (E)	132
365:25-5-53.	[NEW] (E)	170	715:10-19-3.	[AMENDED] (E)	132

Rules Affected Index – *continued*

715:10-19-4. [AMENDED] (E)	132	748:1-1-3. [NEW] (E)	461
715:10-19-5. [AMENDED] (E)	133	748:1-1-4. [NEW] (E)	461
715:10-19-7. [AMENDED] (E)	135	765:37-6-1. [NEW] (E)	139
715:10-19-8. [AMENDED] (E)	135	765:37-7-1. [AMENDED] (E)	140
715:10-19-9. [AMENDED] (E)	137	765:37-7-2. [AMENDED] (E)	140
715:10-19-11. [AMENDED] (E)	138	800:10-1-5. [AMENDED] (E)	534
715:10-19-12. [AMENDED] (E)	138	800:10-3-5. [AMENDED] (E)	535
715:10-19-13. [AMENDED] (E)	139	800:10-5-4. [AMENDED] (E)	539
748:1-1-1. [NEW] (E)	461	800:20-1-2. [AMENDED] (E)	539
748:1-1-2. [NEW] (E)	461		

Agency/Title Index

[Assigned as of 2-1-10]

Agency	Title	Agency	Title
Oklahoma ABSTRACTORS Board	5	Oklahoma FUNERAL Board (<i>Formerly</i> : Oklahoma State Board of	
Oklahoma ACCOUNTANCY Board	10	EMBALMERS and Funeral Directors)	235
State ACCREDITING Agency	15	Oklahoma Department of EMERGENCY Management	
AD Valorem Task Force (<i>abolished 7-1-93</i>)	20	(<i>Formerly</i> : Department of CIVIL Emergency Management) -	
Oklahoma AERONAUTICS Commission	25	<i>See</i> Title 145	
Board of Regents for the Oklahoma AGRICULTURAL and Mechanical		Oklahoma EMPLOYMENT Security Commission	240
Colleges	30	Oklahoma ENERGY Resources Board	243
Oklahoma Department of AGRICULTURE , Food, and Forestry	35	State Board of Licensure for Professional ENGINEERS and Land	
Oklahoma Board of Licensed ALCOHOL and Drug Counselors	38	Surveyors (<i>Formerly</i> : State Board of Registration for Professional	
Board of Tests for ALCOHOL and Drug Influence	40	ENGINEERS and Land Surveyors)	245
ALCOHOLIC Beverage Laws Enforcement Commission	45	Board of Trustees for the ENID Higher	
ANATOMICAL Board of the State of Oklahoma	50	Education Program	250
Board of Governors of the Licensed ARCHITECTS , Landscape		Department of ENVIRONMENTAL Quality	252
Architects and Registered Interior Designers of Oklahoma	55	State Board of EQUALIZATION	255
ARCHIVES and Records Commission	60	ETHICS Commission (<i>Title revoked</i>)	257
Board of Trustees for the ARDMORE Higher		ETHICS Commission	258
Education Program	65	Office of State FINANCE	260
Oklahoma ARTS Council	70	State FIRE Marshal Commission	265
Oklahoma State ATHLETIC Commission (<i>Formerly</i> : Oklahoma		Oklahoma Council on FIREFIGHTER Training	268
Professional BOXING Commission) - <i>See</i> Title 92		Oklahoma FIREFIGHTERS Pension and Retirement System	270
ATTORNEY General	75	[RESERVED]	275
State AUDITOR and Inspector	80	FORENSIC Review Board	277
State BANKING Department	85	State Board of Registration for FORESTERS	280
Oklahoma State Employees BENEFITS Council	87	FOSTER Care Review Advisory Board	285
Council of BOND Oversight	90	Oklahoma FUNERAL Board (<i>Formerly</i> : Oklahoma State Board of	
Oklahoma State ATHLETIC Commission (<i>Formerly</i> : Oklahoma		Embalmers and Funeral Directors) - <i>See</i> Title 235	
Professional BOXING Commission)	92	Oklahoma FUTURES	290
State BURIAL Board (<i>abolished 7-1-92</i>)	95	GOVERNOR	295
[RESERVED]	100	GRAND River Dam Authority	300
Oklahoma CAPITAL Investment Board	105	Group Self-Insurance Association GUARANTY Fund Board	302
Oklahoma CAPITOL Improvement Authority	110	Individual Self-Insured GUARANTY Fund Board	303
State CAPITOL Preservation Commission	115	STATE Use Committee (<i>Formerly</i> : Committee on Purchases of Products	
CAPITOL-MEDICAL Center Improvement and Zoning		and Services of the Severely HANDICAPPED)	304
Commission	120	Office of DISABILITY Concerns (<i>Formerly</i> : Office of	
Oklahoma Department of CAREER and Technology Education		HANDICAPPED Concerns)	305
(<i>Formerly</i> : Oklahoma Department of VOCATIONAL and		Oklahoma State Department of HEALTH	310
Technical Education) - <i>See</i> Title 780		Oklahoma Basic HEALTH Benefits Board (<i>abolished 11-1-97</i>)	315
Board of Regents of CARL Albert State College	125	Oklahoma HEALTH Care Authority	317
Department of CENTRAL Services (<i>Formerly</i> : Office of PUBLIC		HIGHWAY Construction Materials Technician Certification	
Affairs) - <i>See</i> Title 580		Board	318
CEREBRAL Palsy Commission	130	Oklahoma HISTORICAL Society	320
Commission on CHILDREN and Youth	135	Oklahoma HORSE Racing Commission	325
Board of CHIROPRACTIC Examiners	140	Oklahoma HOUSING Finance Agency	330
Oklahoma Department of EMERGENCY Management		Oklahoma HUMAN Rights Commission	335
(<i>Formerly</i> : Department of CIVIL Emergency Management)	145	Department of HUMAN Services	340
Oklahoma Department of COMMERCE	150	Committee for INCENTIVE Awards for State Employees	345
COMMUNITY Hospitals Authority	152	Oklahoma INDIAN Affairs Commission	350
COMPSOURCE Oklahoma (<i>Formerly</i> : State INSURANCE		Oklahoma INDIGENT Defense System	352
Fund) - <i>See</i> Title 370		Oklahoma INDUSTRIAL Finance Authority	355
Oklahoma CONSERVATION Commission	155	INJURY Review Board	357
CONSTRUCTION Industries Board	158	Oklahoma State and Education Employees Group INSURANCE	
Department of CONSUMER Credit	160	Board	360
CORPORATION Commission	165	INSURANCE Department	365
Department of CORRECTIONS	170	COMPSOURCE Oklahoma	
State Board of COSMETOLOGY	175	(<i>Formerly</i> : State INSURANCE Fund)	370
Oklahoma State CREDIT Union Board	180	Oklahoma State Bureau of INVESTIGATION	375
CRIME Victims Compensation Board	185	Council on JUDICIAL Complaints	376
Joint CRIMINAL Justice System Task Force Committee	190	Office of JUVENILE Affairs	377
Board of DENTISTRY	195	Department of LABOR	380
Oklahoma DEVELOPMENT Finance Authority	200	Department of the Commissioners of the LAND Office	385
Office of DISABILITY Concerns (<i>Formerly</i> : Office of		Council on LAW Enforcement Education and Training	390
HANDICAPPED Concerns) - <i>See</i> Title 305		Oklahoma LAW Enforcement Retirement System	395
Board of Regents of EASTERN Oklahoma State College	205	Board on LEGISLATIVE Compensation	400
EDGE Fund Policy Board	208	Oklahoma Department of LIBRARIES	405
State Department of EDUCATION	210	LIEUTENANT Governor	410
EDUCATION Oversight Board	215	Oklahoma LINKED Deposit Review Board	415
Oklahoma EDUCATIONAL Television Authority	220	Oklahoma LIQUEFIED Petroleum Gas Board	420
[RESERVED]	225	Oklahoma LIQUEFIED Petroleum Gas Research, Marketing and Safety	
State ELECTION Board	230	Commission	422

Agency/Title Index – *continued*

Agency	Title	Agency	Title
LITERACY Initiatives Commission	425	Oklahoma Commission on SCHOOL and County Funds Management	635
LONG-RANGE Capital Planning Commission	428	Advisory Task Force on the Sale of SCHOOL Lands (<i>functions concluded 2-92</i>)	640
Oklahoma State Board of Examiners for LONG-TERM Care Administrators (<i>Formerly: Oklahoma State Board of Examiners for NURSING Home Administrators</i>) - See Title 490		The Oklahoma School of SCIENCE and Mathematics	645
LOTTERY Commission, Oklahoma	429	Oklahoma Center for the Advancement of SCIENCE and Technology	650
Board of Trustees for the MCCURTAIN County Higher Education Program	430	SECRETARY of State	655
Commission on MARGINALLY Producing Oil and Gas Wells	432	Department of SECURITIES	660
State Board of MEDICAL Licensure and Supervision	435	Board of Regents of SEMINOLE State College	665
MEDICAL Technology and Research Authority of Oklahoma	440	SHEEP and Wool Commission	670
Board of MEDICOLEGAL Investigations	445	State Board of Licensed SOCIAL Workers	675
Department of MENTAL Health and Substance Abuse Services	450	SOUTHERN Growth Policies Board	680
MERIT Protection Commission	455	Oklahoma SOYBEAN Commission (<i>abolished 7-1-97</i>)	685
MILITARY Planning Commission, Oklahoma Strategic	457	Board of Examiners for SPEECH-LANGUAGE Pathology and Audiology	690
Department of MINES	460	STATE Employee Charitable Contributions, Oversight Committee for (<i>Formerly: STATE Agency Review Committee</i>)	695
Oklahoma MOTOR Vehicle Commission	465	STATE Use Committee (<i>Formerly: Committee on Purchases of Products and Services of the Severely HANDICAPPED</i>) – See Title 304	
Board of Regents of MURRAY State College	470	Oklahoma STUDENT Loan Authority	700
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs Control	475	TASK Force 2000	705
Board of Regents of NORTHERN Oklahoma College	480	Oklahoma TAX Commission	710
Oklahoma Board of NURSING	485	Oklahoma Commission for TEACHER Preparation	712
Oklahoma State Board of Examiners for LONG-TERM Care Administrators (<i>Formerly: Oklahoma State Board of Examiners for NURSING Home Administrators</i>)	490	TEACHERS' Retirement System	715
Board of Regents of OKLAHOMA City Community College	495	State TEXTBOOK Committee	720
Board of Regents of OKLAHOMA Colleges	500	TOBACCO Settlement Endowment Trust Fund	723
Board of Examiners in OPTOMETRY	505	Oklahoma TOURISM and Recreation Department	725
State Board of OSTEOPATHIC Examiners	510	Department of TRANSPORTATION	730
PARDON and Parole Board	515	Oklahoma TRANSPORTATION Authority (<i>Name changed to Oklahoma TURNPIKE Authority 11-1-05</i>) - See Title 731	
Oklahoma PEANUT Commission	520	Oklahoma TURNPIKE Authority (<i>Formerly: Oklahoma TRANSPORTATION Authority AND Oklahoma TURNPIKE Authority</i>) - See also Title 745	731
Oklahoma State PENSION Commission	525	State TREASURER	735
State Board of Examiners of PERFUSIONISTS	527	Board of Regents of TULSA Community College	740
Office of PERSONNEL Management	530	Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma TRANSPORTATION Authority 11-1-99 - no rules enacted in this Title - See Title 731</i>)	745
Oklahoma State Board of PHARMACY	535	Oklahoma UNIFORM Building Code Commission	748
PHYSICIAN Manpower Training Commission	540	Board of Trustees for the UNIVERSITY Center at Tulsa	750
Board of PODIATRIC Medical Examiners	545	UNIVERSITY Hospitals Authority	752
Oklahoma POLICE Pension and Retirement System	550	UNIVERSITY Hospitals Trust	753
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	Board of Regents of the UNIVERSITY of Oklahoma	755
POLYGRAPH Examiners Board	560	Board of Regents of the UNIVERSITY of Science and Arts of Oklahoma	760
Oklahoma Board of PRIVATE Vocational Schools	565	Oklahoma USED Motor Vehicle and Parts Commission	765
State Board for PROPERTY and Casualty Rates (<i>abolished 7-1-06; see also Title 365</i>)	570	Oklahoma Department of VETERANS Affairs	770
State Board of Examiners of PSYCHOLOGISTS	575	Board of VETERINARY Medical Examiners	775
Department of CENTRAL Services (<i>Formerly: Office of PUBLIC Affairs</i>)	580	Oklahoma Department of CAREER and Technology Education (<i>Formerly: Oklahoma Department of VOCATIONAL and Technical Education</i>)	780
PUBLIC Employees Relations Board	585	Oklahoma WATER Resources Board	785
Oklahoma PUBLIC Employees Retirement System	590	Board of Regents of WESTERN Oklahoma State College	790
Department of PUBLIC Safety	595	Oklahoma WHEAT Commission	795
REAL Estate Appraiser Board	600	Department of WILDLIFE Conservation	800
Oklahoma REAL Estate Commission	605	WILL Rogers and J.M. Davis Memorials Commission	805
Board of Regents of REDLANDS Community College	607		
State REGENTS for Higher Education	610		
State Department of REHABILITATION Services	612		
Board of Regents of ROGERS State College	615		
Board of Regents of ROSE State College	620		
Oklahoma SAVINGS and Loan Board (<i>abolished 7-1-93</i>)	625		
SCENIC Rivers Commission	630		

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 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #10-25]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 3. Organization and Operation [AMENDED]
- Subchapter 5. Declaratory Ruling Procedures [AMENDED]
- Subchapter 9. Individual Procedures [AMENDED]
- Subchapter 10. Requirements for Department Programs [NEW]
- Subchapter 11. Licensing Procedures [AMENDED]

SUMMARY:

The proposed rules may add procedures for audits of out of state companies, political activity of agriculture investigators, procedures for stop-sale hearings, unilateral administrative orders, service of process for administrative hearings, declaratory rulings, and licensing procedures.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written to Teena Gunter at teena.gunter@oda.state.ok.us, or 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 1, 2010 through March 3, 2010.

PUBLIC HEARING:

A public hearing will be held at 1:30 p.m., March 3, 2010, in the Board 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 February 1, 2010 through March 3, 2010.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

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 #10-25; filed 1-7-10]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 13. FUEL ALCOHOL

[OAR Docket #10-26]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

35:13-1-6. [NEW]

SUMMARY:

The proposed rule incorporates the fees for obtaining fuel alcohol permits from the Department into the program rules. No fee changes result from this rule. The fees already exist in the statute and the fee rules of the Department.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 1, 2010 through March 3, 2010.

PUBLIC HEARING:

A public hearing will be held at 2:30 p.m., March 3, 2010, in the Board 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

Notices of Rulemaking Intent

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 February 1, 2010 through March 3, 2010.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

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 #10-26; filed 1-7-10]

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

[OAR Docket #10-27]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 9. Livestock Dealers and Livestock Special Sales [AMENDED]
- Subchapter 11. Importation of Livestock, Poultry, and Pets [AMENDED]
- Subchapter 13. Testing and Inspection for Disease and Release of Livestock at Auction Markets [AMENDED]
- Subchapter 15. Equine Infectious Anemia (EIA) [AMENDED]
- Subchapter 22. Swine Pseudorabies [AMENDED]
- Subchapter 24. Swine Brucellosis [AMENDED]
- Subchapter 34. Feral Swine [AMENDED]

SUMMARY:

The proposed rules provide cleanup to those listed above. Many of the changes are to reflect new terminology for official identification definitions, and others are corrections to the rule text. In addition, some federal program requirements have changed that require rule revisions to keep the Department programs in line with the federal requirements. Finally, obsolete language is stricken.

AUTHORITY:

State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804

during the period from February 1, 2010 through March 3, 2010.

PUBLIC HEARING:

A public hearing will be held at 2:00 p.m., March 3, 2010, in the Board 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 February 1, 2010 through March 3, 2010.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

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 #10-27; filed 1-7-10]

TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES

[OAR Docket #10-24]

RULEMAKING ACTION:

Notice of Proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 92:10-1-4 [AMENDED]
- 92:10-1-7 [AMENDED]

SUMMARY:

The purpose of the proposed rulemaking action is to update requirements for Boxers, Kickboxers, and Mixed Martial Arts participants in Oklahoma. The proposed actions will update requirements relating to fighters and establish uniform health and safety standards in regards to the health and safety of the participants as well as officials and spectators. The current regulatory scheme impairs the Commission's ability to protect participants, officials and the public from exposure to bloodborne diseases and puts Oklahoma in line with the considerable majority of Commissions. This proposal amends license requirements for fighters and gives the Commission the

ability to deny a fighter to compete when his health and safety may be in jeopardy.

AUTHORITY:

Oklahoma State Athletic Commission; 3A O.S. §§ 601, et seq. 75 O.S. §§ 303.1.

COMMENT PERIOD:

February 1, 2010, through March 3, 2010. Interested persons may informally discuss the proposed rules with Joe Miller, Director, Oklahoma State Athletic Commission; or may, before March 3, 2010, submit written comment to Joe Miller, Director, Oklahoma State Athletic Commission, 1000 N.E. 10th Street, Room 1213, Oklahoma City, OK 73117-1299; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. § 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on March 3, 2010, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1299, in room 314 from 1:30 p.m. until 5:00 p.m. At the discretion of the presiding official, the meeting may continue beyond 5:00 p.m. if it is necessary to receive all comments from the public. Interested persons may attend for the purpose of submitting data, views or arguments, orally or in writing, about the rule proposal described and summarized in this Notice.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in 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 before March 3, 2010, to Joe Miller, Director, Oklahoma State Athletic Commission, Oklahoma State Department of Health, 1000 N.E. 10th Street, Room 1213, Oklahoma City, OK 73117-1299, or by e-mail to joe@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Oklahoma State Athletic Commission, Oklahoma State Department of Health, 1000 N.E. 10th Street, Room 1213, Oklahoma City, OK 73117-1299 or via electronic mail request to joe@health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be prepared and will be available at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Joe Miller, Director, Oklahoma State Athletic Commission, (405) 271-2694.

[OAR Docket #10-24; filed 1-7-10]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 5. FEES**

[OAR Docket #10-31]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

160:5-1-2 [AMENDED]

SUMMARY:

The proposed rule amendment indicates the correct license fees for supervised lenders, pawnshops, precious metal and gem dealers and precious metal and gem dealer employees. The license fees are set forth in the Uniform Consumer Credit Code, the Oklahoma Pawnshop Act and the Precious Metal and Gem Dealer Licensure Act. The licenses fees were adjusted by the Oklahoma legislature, effective July 1, 2009. The amendment updates the rule to reflect the correct statutory license fees.

AUTHORITY:

Administrator of Consumer Credit; 14A O.S., §6-104(1)(e), 59 O.S. § 1512(A).

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the public hearing on March 3, 2010 at the Department of Consumer Credit. Written comments may be mailed or emailed to the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105, Attn: Roy John Martin, rmartin@okdocc.state.ok.us.

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 rule: 1:30 p.m., Wednesday, March 3, 2010, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule 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 rule. Business entities may submit this information in writing by the conclusion of the comment period and public hearing on March 3, 2010 at the Department of Consumer Credit at the above address.

COPIES OF PROPOSED RULES:

Interested persons may inspect the proposed rules at the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105. Copies of the proposed rules may be obtained at a cost of \$0.25 per page copying charge from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105, or they may be printed from the Department's web page at www.ok.gov/okdocc.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available on and after February 16, 2010, at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Boulevard, Suite 164, Oklahoma City, OK 73105, 405-521-3653, rmartin@okdocc.state.ok.us.

[OAR Docket #10-31; filed 1-8-10]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT CHAPTER 45. TRUTH IN LENDING RULES

[OAR Docket #10-32]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

160:45-1-1 [AMENDED]

160:45-1-2 [AMENDED]

160:45-1-3 [AMENDED]

Subchapter 3. Open-End Credit

160:45-3-1 [AMENDED]

160:45-3-7 [AMENDED]

Subchapter 5. Closed-End Credit

160:45-5-1 [AMENDED]

160:45-5-3 [AMENDED]

Subchapter 9. Special Rules for Certain Home Mortgage Transactions

160:45-9-2 [AMENDED]

160:45-9-7 [NEW]

Subchapter 13. Special Rules for Private Education Loans [NEW]

160:45-13-1 [NEW]

160:45-13-2 [NEW]

160:45-13-3 [NEW]

Appendix H. Closed-end Model Forms and Clauses [REVOKED]

Appendix H. Closed-end Model Forms and Clauses [NEW]

SUMMARY:

The proposed rules incorporate federal changes to maintain Oklahoma's exemption from federal regulation.

AUTHORITY:

Administrator of Consumer Credit; 14A O.S., §6-104(1)(e) and (2)

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the public hearing on March 3, 2010 at the Department of Consumer Credit. Written comments may be emailed or mailed to the Department of Consumer Credit, 4545

N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105, Attn: Roy John Martin, rmartin@okdocc.state.ok.us.

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: 1:30 p.m., Wednesday, March 3, 2010, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the 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 the conclusion of the comment period and public hearing on March 3, 2010 at the Department of Consumer Credit at the above address.

COPIES OF PROPOSED RULES:

Interested persons may inspect the proposed rules at the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105. Copies of the proposed rules may be obtained at a cost of \$0.25 per page copying charge from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105, or the proposed rules may be printed from the Department's web page at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available on and after February 16, 2010, at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Boulevard, Suite 164, Oklahoma City, OK 73105, 405-521-3653, rmartin@okdocc.state.ok.us.

[OAR Docket #10-32; filed 1-8-10]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT CHAPTER 55. MORTGAGE BROKERS AND MORTGAGE LOAN ORIGINATORS

[OAR Docket #10-33]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

160:55-1-2 [AMENDED]

Subchapter 3. Licensing

160:55-3-1.1 [AMENDED]

- 160:55-3-1.2 [REVOKED]
- 160:55-3-1.3 [REVOKED]
- 160:55-3-1.4 [REVOKED]
- 160:55-3-3 [REVOKED]
- 160:55-3-3.1 [AMENDED]
- 160:55-3-4 [AMENDED]
- 160:55-3-8 [AMENDED]
- 160:55-3-9 [REVOKED]
- 160:55-3-9.1 [AMENDED]
- 160:55-3-10.1 [REVOKED]
- 160:55-3-12 [NEW]
- 160:55-3-13 [NEW]
- Subchapter 5. Advisory Committee [REVOKED]
- 160:55-5-1 [REVOKED]
- 160:55-5-2 [REVOKED]
- 160:55-5-3 [REVOKED]
- Subchapter 7. Records
- 160:55-7-1 [AMENDED]
- Subchapter 9. Enforcement
- 160:55-9-10 [AMENDED]

SUMMARY:

The proposed rule amendments implement the licensing requirements of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act). The proposed rule amendments include procedures for obtaining licenses, required information for license applications, procedures for denying licenses, procedures for license changes, standards for determining financial responsibility, a process for challenging information entered into the Nationwide Mortgage Licensing System and Registry and record keeping requirements. The proposed rule amendments also revoke existing rules that conflict with the requirements of the SAFE Act and amend rules that include incorrect statutory citations.

AUTHORITY:

Administrator of Consumer Credit; 59 O.S., §§2095.1, 2095.5 and 2095.14.

COMMENT PERIOD:

Written and oral comments will be accepted until the conclusion of the public hearing on March 3, 2010 at the Department of Consumer Credit. Written comments may be emailed or mailed to the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105, Attention: Roy John Martin, General Counsel, rmartin@okdocc.state.ok.us.

PUBLIC HEARING:

A public hearing will be held for persons to offer comments regarding the proposed rules. The public hearing will be held on March 3, 2010 at 1:30 pm. The public hearing will be held at the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

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 the conclusion of the comment period and public hearing on March 3, 2010 at the Department of Consumer Credit at the above address.

COPIES OF PROPOSED RULES:

Interested persons may inspect the proposed rules at the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105. Copies of the proposed rules may be obtained at a cost of \$0.25 per page copying charge from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105, or they may be printed from the Department's web page at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available on and after February 16, 2010, at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105, 405-521-3563, rmartin@okdocc.state.ok.us.

[OAR Docket #10-33; filed 1-8-10]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION
AND INSTRUCTIONAL SERVICES**

[OAR Docket #10-35]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Student Assessment
210:10-13-16. Student exceptions and exemptions related to graduation requirements for end-of-instruction exams [AMENDED]

SUMMARY:

The proposed rule change will clarify the exceptions and exemptions by which students may meet the graduation requirements for end-of-instruction exams to comply with the requirements set forth in 70 O. S. § 1210.523.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., March 24, 2010, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

Notices of Rulemaking Intent

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m. on Thursday, March 25, 2010, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 1:05 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 70 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on February 15, 2010.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #10-35; filed 1-8-10]

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

[OAR Docket #10-01]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:25-1-30. Jockey mount fees [AMENDED]

SUMMARY:

At its February 19, 2009 meeting, the Commission named an Ad Hoc Committee on Jockey Mount Fees to review national trends in increasing jockey mount fees and discuss the possibility of recommending a permanent rule amendment to Rule 325:25-1-30. The Ad Hoc Committee included three Commissioners, a representative of the national Jockeys' Guild, a representative from each of the two horsemen's representative organizations [the Oklahoma Quarter Horse Racing Association and the Thoroughbred Racing Association of Oklahoma] and the Commission Executive Director. The Committee forwarded its recommended rule amendments [for an increase in the fees in the absence of a contract or special agreement to be the greater of the appropriate percentage of the purse or \$75.00] for consideration at the Commission's November 19, 2009 meeting.

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, March 8, 2010, 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, March 8, 2010, 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 March 8, 2010.

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 February 1, 2010 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Rulemaking Liaison, (405) 943-6472.

[OAR Docket #10-01; filed 1-4-10]

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

[OAR Docket #10-02]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULE:

325:75-1-16. Disposition of ~~or~~ unexpended Oklahoma-Bred funds generated at a race meeting [AMENDED]

SUMMARY:

The Oklahoma Quarter Horse Racing Association [OQHRA] advised the Commission in a November 6, 2009 e-mail that it was submitting proposed rule amendments to Rule 325: 75-1-16, Disposition of Unexpended

Oklahoma-Bred Funds Generated at a Race Meeting, with the goal " for Oklahoma-Bred money accrued for use during a calendar year for each participating breed be distributed as completely as possible to those participating owners, breeders, and stallion owners. No Owner, breeder or stallion owner gets benefits intended by the Act when the money is allowed the [sic] grow in the state coffers and is not distributed to the participants in a timely manner."

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, March 8, 2010, 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, March 8, 2010, 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 March 8, 2010.

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 February 1, 2010 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Rulemaking Liaison, (405) 943-6472.

[OAR Docket #10-02; filed 1-4-10]

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

[OAR Docket #10-23]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- 325:75-1-12. Application requirements, categories and fees for Quarter Horses, Appaloosas or Paints [AMENDED]
- 325:75-1-12.1. Application requirements, categories and fees for Thoroughbreds, beginning with an effective date of January 1, 2010 [AMENDED]
- 325:75-1-13.1. Dual breed application categories and fees [AMENDED]

SUMMARY:

The Commission named an Ad Hoc Committee on Oklahoma-Bred Rule Revisions at its May 15, 2008 meeting, chaired by Commissioner John Smicklas. The Ad Hoc Committee membership included two other Commissioners [Mr. Melvin Bollenbach and Mr. Patrick Grimmett], Ms. Debbie Schauf, Executive Director of the Oklahoma Quarter Horse Racing Association [representing the Quarter Horses, Paints and Appaloosas], Mr. R.D. Logan, Executive Director of the Oklahoma Thoroughbred Association [representing the Thoroughbreds], Mr. Constantin Rieger, Commission Executive Director, and Ms. Tara Teel, Oklahoma-Bred Registrar.

The charge to the Ad Hoc Committee was to review the current Oklahoma-Bred rules to: (1) match changes already in place in the national breed registries for Quarter Horses, Paints, Appaloosas and Thoroughbreds; (2) consider new fees as well as increasing the ownership transfer fee; (3) clarify the horse certificate forms to be inspected by the Oklahoma-Bred Registering Agency, (4) expand the list of defined terms, and (5) make consistent the use of terms such as 'accredit' rather than the current use of interchanging the terms 'accredit' and 'register.' The Ad Hoc Committee then met a number of times and presented its proposed rule amendments to 12 current rules and 4 proposed new rules to the Commission at its January 22, 2009 meeting.

The Commission adopted the Ad Hoc Committee's recommendations at its March 26, 2009 meeting. Gubernatorial approval was made on May 4, 2009. Legislature inactive approval occurred on May 21, 2009, making the amendments and new rules finally adopted on that date. The effective date of the amendments and new rules was June 25, 2009.

In late November, 2009, Ms. Tara Teel, Oklahoma-Bred Registrar, found that two fees, properly established in substantive Commission rules when the Commission adopted the Ad Hoc Committee's recommendations, were either omitted or incorrectly stated in rules containing laundry lists of all fees, adopted at the same time.

Notices of Rulemaking Intent

Mr. Neal Leader, Senior Assistant Attorney General and Commission Legal Counsel, has advised that in his judgment, if there is a conflict between the rule establishing a fee and a rule adopted at the same time which purports to contain a laundry list of all fees, which either misstates the fee established or omits an established fee from the list, the substantive provision establishing the fee controls. Nevertheless, Mr. Leader would recommend that action be taken to correct these discrepancies by adoption of amendments to the three rules which purport to set forth a correct laundry list of fees established in the rules.

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, March 8, 2010, 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, March 8, 2010, 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 March 8, 2010.

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 February 1, 2010 and may be obtained from the Oklahoma Horse Racing Commission at the above address.

CONTACT PERSON:

Bonnie Morris, Rulemaking Liaison, (405) 943-6472.

[OAR Docket #10-23; filed 1-7-10]

TITLE 380. DEPARTMENT OF LABOR CHAPTER 30. PROTECTION OF LABOR

[OAR Docket #10-07]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Wage Claim Procedures

380:30-3-4 [AMENDED]

380:30-3-8 [AMENDED]

SUMMARY:

The purpose of the proposed amendments to Subchapter 3 is to clarify inconsistencies between the two sections. Currently, OAC 380:30-3-4 requires all motions and briefs to be filed thirty (30) days before the hearing and allows discovery to be conducted until ten (10) days before the hearing. However, OAC 380:30-3-8 requires the parties to complete all discovery and file all motions and briefs no later than the date of the pre-hearing conference. The past practice of the Oklahoma Department of Labor is to require all discovery to be completed by the pre-hearing conference because all exhibits must be filed by that date. These amendments will require all discovery to be completed by the pre-hearing conference date and eliminate the requirement that all motions and briefs be filed by the pre-hearing conference date.

AUTHORITY:

Department of Labor; 40 O.S. §165.7, Protection of Labor

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 5:00 p.m., March 11, 2010, at the Oklahoma Department of Labor, Office of the General Counsel, 3017 N. Stiles, Suite 100, Oklahoma City, OK 73105.

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: 10:00 a.m., March 11, 2010, at the Oklahoma Department of Labor, 3017 N. Stiles, Suite 100, Oklahoma City, OK 73105.

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 5:00 p.m., March 11, 2010, at the Oklahoma Department of Labor, Office of the General Counsel, 3017 N. Stiles, Suite 100, Oklahoma City, OK 73105.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available at the Oklahoma Department of Labor, Office of the General Counsel, 3017 N. Stiles, Suite 100, Oklahoma City, OK 73105 or online at www.ok.gov/odol.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning February 15, 2010 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Tiffany J. Wythe, Assistant General Counsel, (405) 521-6186 or tiffany.wythe@labor.ok.gov.

[OAR Docket #10-07; filed 1-6-10]

**TITLE 380. DEPARTMENT OF LABOR
CHAPTER 45. OKLAHOMA HAZARD
COMMUNICATION STANDARD [REVOKED]**

[OAR Docket #10-06]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 45. Oklahoma Hazard Communication Standard [REVOKED]

SUMMARY:

Effective July 1, 2009, the Oklahoma Department of Labor adopted the Hazard Communication Standard in 29 CFR 1910.1200, subject to the exception that the information and training required under 29 CFR 1910.1200(h) is required annually. Therefore, the Oklahoma Hazard Communication Standard in Chapter 45 is no longer effective.

AUTHORITY:

Department of Labor; 40 O.S. §407, Oklahoma Occupational Health and Safety Standards Act

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 5:00 p.m., March 9, 2010, at the Oklahoma Department of Labor, Office of the General Counsel, 3017 N. Stiles, Suite 100, Oklahoma City, OK 73105.

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: 10:00 a.m., March 9, 2010, at the Oklahoma Department of Labor, 3017 N. Stiles, Suite 100, Oklahoma City, OK 73105.

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 5:00 p.m., March 9, 2010, at the Oklahoma Department of Labor, Office of the General Counsel, 3017 N. Stiles, Suite 100, Oklahoma City, OK 73105.

COPIES OF PROPOSED RULES:

Copies of proposed rules are available at the Oklahoma Department of Labor, 3017 N. Stiles, Suite 100, Oklahoma City, OK 73105 or online at www.ok.gov/odol.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning February 15, 2010 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Tiffany J. Wythe, Assistant General Counsel, (405) 521-6186 or tiffany.wythe@labor.ok.gov or Diana Jones, Director of Occupational Safety and Health Division, (405) 521-6139 or diana.jones@labor.ok.gov.

[OAR Docket #10-06; filed 1-6-10]

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

[OAR Docket #10-22]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

390:10-1-5 [AMENDED]

SUMMARY:

Amendments are non-substantial and necessary to clarify the certification process.

AUTHORITY:

Council on Law Enforcement Education and Training; 70 O.S., Section 3311(B)(2) and 70 O.S., Section 3311, et seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 9, 2010, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 9, 2010, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Kimberly Richey, at the above

Notices of Rulemaking Intent

address, before the close of the comment period on March 9, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Kimberly Richey at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, (405) 239-5114, or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 2, 2010, at the CLEET offices and web address listed above.

CONTACT PERSON:

Kimberly Richey, Attorney, (405) 239-5114.

[OAR Docket #10-22; filed 1-7-10]

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

[OAR Docket #10-21]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Basic Academy Programs

390:15-1-2 [AMENDED]

390:15-1-6 [AMENDED]

390:15-1-11 [REVOKED]

390:15-1-12 [REVOKED]

390:15-1-13 [AMENDED]

390:15-1-14 [REVOKED]

390:15-1-15 [REVOKED]

390:15-1-16 [REVOKED]

390:15-1-17 [REVOKED]

SUMMARY:

Amendments will allow Curriculum Review Board, which was statutorily created to establish curriculum, to adjust curriculum through the implementation of internal policy directives. Amended rule reflects recent statutory changes, which nullify the physical testing requirement set forth in this rule. The current rules are confusing and the amendments would simplify and clarify the testing process and procedure. The rules in this section relate to personal trainee conduct, trainee dress code requirements, academic study assignments, academy training hours, general academy equipment, and academy clothing requirements. All of these polices, which are being revoked, would be implemented as internal academy policy to provide CLEET the flexibility to modify and adjust academy requirements in a thorough and responsive manner.

AUTHORITY:

Council on Law Enforcement Education and Training; 70 O.S., Section 3311.5(B)(16), 70 O.S., Section 3311 (A), 70 O.S., Section 3311(B)(2), and 70 O.S., Section 3311, et seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 9, 2010, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 9, 2010, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Kimberly Richey, at the above address, before the close of the comment period on March 9, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Kimberly Richey at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, (405) 239-5114, or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 2, 2010, at the CLEET offices and web address listed above.

CONTACT PERSON:

Kimberly Richey, Attorney, (405) 239-5114.

[OAR Docket #10-21; filed 1-7-10]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING CHAPTER 20. RESERVE PEACE OFFICER CERTIFICATION AND TRAINING

[OAR Docket #10-20]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

390:20-1-3 [AMENDED]

390:20-1-4 [AMENDED]

390:20-1-8 [AMENDED]

390:20-1-11 [AMENDED]

390:20-1-12 [AMENDED]

SUMMARY:

Language would be amended to correct a conflict in the rules relating to peace officer employment. Amendments

would enable CLEET to schedule Reserve Academies more efficiently and effectively. Changes were made to reflect current CLEET procedure and policy.

AUTHORITY:

Council on Law Enforcement Education and Training; 11 O.S. , Section 34-101, 70 O. S., Section 3311 (A), 70 O.S., Section (E)(2)(6), and 70 O.S., Section 3311, et seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 9, 2010, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 9, 2010, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Janet Ingram, at the above address, before the close of the comment period on March 9, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Kimberly Richey at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, (405) 239-5114, or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 2, 2010, at the CLEET offices and web address listed above.

CONTACT PERSON:

Kimberly Richey, Attorney, (405) 239-5114.

[OAR Docket #10-20; filed 1-7-10]

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

[OAR Docket #10-19]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. License Requirements

390:35-5-13 [AMENDED]

Subchapter 9. Violations and Investigations

390:35-9-4 [AMENDED]

Subchapter 15. Training Standards and Requirements

Appendix A. Disqualifying Convictions [AMENDED]

SUMMARY:

Amendment clarifies that private security guards and private investigators must notify CLEET of any name change and submit documentation which reflects the change of name. For example, when a licensee marries or otherwise legally changes their name, the agency must update license records and issue an updated license. Amendments would require licensees to report whether a Victim's Protective Order (VPO) has been initiated against the licensee. Amendment would also clarify that all criminal proceedings must be reported upon the discover of the filing or upon arrest. Amendment would reclassify an existing potential disqualifying conviction and adds an additional crime that may disqualify a person from obtaining or holding an armed or unarmed security guard license pursuant to 59 O.S. Section 1750.1, et seq.

AUTHORITY:

Council on Law Enforcement Education and Training; 59 O.S., Section 1750.3(B)(1); 59 O.S., Section 1750.1 et seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 9, 2010, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 9, 2010, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Kimberly Richey, at the above address, before the close of the comment period on March 9, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Kimberly Richey at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, (405) 239-5114, or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 2, 2010, at the CLEET offices and web address listed above.

Notices of Rulemaking Intent

CONTACT PERSON:

Kimberly Richey, Attorney, (405) 239-5114.

[OAR Docket #10-19; filed 1-7-10]

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

[OAR Docket #10-18]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

390:50-1-5 [AMENDED]

SUMMARY:

This amendment is non-substantial and would clarify current conflicting rules relating to penalty adjustments.

AUTHORITY:

Council on Law Enforcement Education and Training; 20 O.S., Section 1313.2, 70 O.S. 3311 et seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 9, 2010, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 9, 2010, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services 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 Janet Ingram, at the above address, before the close of the comment period on March 9, 2010.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Kimberly Richey at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, (405) 239-5114, or from the CLEET web site at www.ok.gov/cleet.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 2, 2010, at the CLEET offices and web address listed above.

CONTACT PERSON:

Kimberly Richey, Attorney, (405) 239-5114.

[OAR Docket #10-18; filed 1-7-10]

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

[OAR Docket #10-38]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Licensure of Physician Assistants

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

SUMMARY:

The proposed rule amendments simplify the late renewal requirements for Physician Assistant licensure.

AUTHORITY:

State Board of Medical Licensure and Supervision, 59 O.S., §519.3, §519.8

COMMENT PERIOD:

The comment period will run from February 1, 2010 to March 5, 2010. 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 March 11, 2010, 9:00 a.m. at the office of the Board, 101 NE 51st Street, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than March 5, 2010.

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, 101 NE 51st, Oklahoma City, Oklahoma. The proposed rules are also available on the Board's web site at www.okmedicalboard.org.

RULE IMPACT STATEMENT:

A rule impact statement has been prepared and is available at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Kathy Plant, Executive Secretary (405) 962-1400, ext. 122

[OAR Docket #10-38; filed 1-8-10]

**TITLE 435. STATE BOARD OF MEDICAL
LICENSURE AND SUPERVISION
CHAPTER 40. REGISTERED
ELECTROLOGISTS**

[OAR Docket #10-36]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

435:40-1-5. Academic requirements for examination and licensure [AMENDED]

SUMMARY:

The proposed rule amendments simplify the language of educational requirements remove the specification of certain courses for those with a bachelor's degree in allied health or biological-life sciences as those courses are covered by the degree requirements.

AUTHORITY:

State Board of Medical Licensure and Supervision, 59 O.S. § 536.4.

COMMENT PERIOD:

The comment period will run from February 1, 2010 to March 5, 2010. 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 March 11, 2010, 9:00 a.m. at the office of the Board, 101 NE 51st Street, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than March 5, 2010.

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, 101 NE 51st, Oklahoma City, Oklahoma. The proposed rules are also available on the Board's web site at www.okmedicalboard.org.

RULE IMPACT STATEMENT:

A rule impact statement has been prepared and is available at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Kathy Plant, Executive Secretary (405) 962-1400, ext. 122

[OAR Docket #10-36; filed 1-8-10]

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 50. INCOME**

[OAR Docket #10-40]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Chapter 50. Income [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing rules have been made to clarify policy, improve readability, correct scrivener's errors, update statutory citation, insure accurate internal cross-reference and comply with statutory changes. All legislative references are to the First Regular Session of the 52nd Legislature (2009).

Section 710:50-3-45 has been amended to provide procedures for verification of signatures on returns which are filed electronically.

Section 710:50-3-46 has been amended to conform to current Oklahoma statutory law requiring any tax return preparer who prepared more than fifty (50) Oklahoma tax returns for the previous tax year to file Oklahoma income tax returns prepared for the current year by electronic means.

[68:2385]

Section 710:50-9-3 has been amended to implement the provisions of Senate Bill 11 which amends the amount of time the Oklahoma Tax Commission has to issue income tax refunds before being required to pay interest on those refunds.

[68:217]

Sections 710:50-11-6 through 710:50-11-11 have been amended to implement the provisions of House Bill 1800 to include unpaid fines and cost due to a municipal court in the claims that may be made against a state income tax refund.

[68:205.2]

New Section 710:50-15-35 has been added to implement the provisions of Senate Bill 721 which exempts payments from the Department of Defense, as a result of death in a designated combat zone, from Oklahoma income tax. **[68:2358.1A]**

New Section 710:50-15-47 has been added to implement the provisions of Senate Bill 881 which modifies the Oklahoma military pay deduction. **[68:2358(E)(5)]**

Section 710:50-15-50 has been amended to implement the provisions of Senate Bill 318 which does not allow for certain qualified motor vehicle taxes to be deducted for Oklahoma income tax purposes. **[68:2358]**

Section 710:50-15-53 has been amended to implement the provisions of Senate Bill 318 which modifies the net operating loss carryback provisions.

New Section 710:50-15-68 has been added to implement the provisions of Senate Bill 318 which taxes unemployment compensation exempt from federal income taxation. **[68:2358]**

Notices of Rulemaking Intent

New Section 710:50-15-69 has been added to implement the provisions of Senate Bill 318 which modifies the Section 179 expensing amounts. [68:2358]

Section 710:50-15-74 has been amended to implement the provisions of Senate Bill 938 regarding the 21st Century Quality Jobs Incentive Act and House Bill 2067 regarding the Oklahoma Community Development Finance Act.

Section 710:50-15-81 has been amended to implement the provisions of House Bill 1949 which extends the sunset provisions of the clean-burning motor vehicle fuel property conversion credit to December 31, 2014. [68:2357.22]

Section 710:50-15-83 has been amended to implement the provisions of Senate Bill 938 which enacted the 21st Century Quality Jobs Incentive Act. [68:3919]

Sections 710:50-15-86 and 710:50-15-87 have been amended to clarify the carryover provisions for the Oklahoma Small Business Venture credits and the Oklahoma Rural Small Business Venture credits. [68:2357.62, 2357.63, 2357.73, 2357.74]

Sections 710:50-15-86.1 and 710:50-15-87.1 have been amended to clarify policy regarding private letter rulings issued pursuant to the Small Business Capital Formation Incentive Act and the Rural Venture Capital Formation Incentive Act.

New Sections 710:50-15-86.2 and 710:50-15-87.2 have been added to comply with current statutory authority regarding the allocation of Oklahoma Small Business Venture credits and the Oklahoma Rural Small Business Venture credits. [68:2357.62, 2357.63, 2357.73, 2357.74]

Section 710:50-17-51 has been amended to implement the provisions of Senate Bill 318 which decouples Oklahoma from the federal bonus depreciation for corporations as well as modifies the net operating loss carryback provisions and the Section 179 expensing amounts. [68:2358]

Section 710:50-17-71 has been amended to clarify policy and comply with current statutory authority that income received from the sale of services when the seller performs services in one state and the purchaser is located in another state should be sourced on a market basis. [68:2358]

AUTHORITY:

68 O.S. §§203; 205.2(G); 2357.22(I); 2357.63D; 2357.74D; 2358; 3917; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., March 4, 2010, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: March 9, 2010, 10:00 a.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the

building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with 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:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after February 16, 2010, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #10-40; filed 1-8-10]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 65. SALES AND USE TAX

[OAR Docket #10-41]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking
PROPOSED RULES:

Chapter 65. Sales and Use Tax [AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing Sales Tax rules have been made to implement recent legislation. All

legislative references are to the First Regular Session of the 52nd Legislature (2009) unless otherwise indicated.

Section 710:65-7-13 has been amended to clarify the properly completed documentation that a vendor is required to obtain when making sales to subcontractors claiming a sales tax exemption provided for in the Oklahoma Sales Tax Code in order for the vendor to be relieved of liability for the sales tax.

New Section 710:65-7-21 has been adopted to provide for the Streamlined Sales and Use Tax Exemption Certificate for vendor relief of liability purposes.

Section 710:65-11-1 has been amended to clarify policy regarding the process of filing claims for refunds of sales tax.

Section 710:65-13-130 has been amended to reflect the current provisions of the GSA SmartPay[®] 2 program.

Section 710:65-13-157, relating to the sales tax exemption for persons engaged in the extraction and manufacturing of crushed stone and sand has been amended in accordance with Laws 2006, 2nd Ex. Sess., c.44 §8.

Section 710:65-13-173 has been amended to reflect current Commission policy regarding the treatment of tens units worn on the body as prosthetic devices for purposes of Section 1357(22) of Title 68 and to clarify the sales tax refund claim procedure for medical appliances, medical devices and other medical equipment furnished to medicare/medicaid program recipients.

Section 710:65-13-200 has been amended to add the Streamlined Sales and Use Tax Exemption Certificate as accepted certification of the sale for resale sales tax exemption.

Sections 710:65-13-337 and 710:65-13-338 have been amended consistent with Laws 2000, c.6 § 15 and to update the sales tax exemption application process.

Section 710:65-13-340 has been amended to correct a scrivener's error.

New Section 710:65-13-362 has been adopted to set forth the sales tax exemption afforded certain Boys and Girls Club affiliates and to set forth the application process for sales tax exemption qualification purposes.

Section 710:65-18-5 has been amended to reflect the Streamlined Sales and Use Tax Administration Act which provides for the sale of an ancillary telecommunication service to be sourced to the customer's place of business.

Section 710:65-19-52 has been amended to include definitions relating to software maintenance contracts for purposes of compliance with the Streamlined Sales and Use Tax Agreement.

Section 710:65-19-156 has been amended to set forth Commission policy regarding the sales taxability of digital goods transferred electronically.

Section 710:65-19-242 has been amended to reflect Commission policy regarding the sales tax treatment of tangible personal property e.g., sand, mud, nitrogen, and carbon dioxide, sold in conjunction with oil and gas well fracturing and other services and losses of tools [down hole] when compensation for such losses is covered by contractual agreement.

Section 710:65-19-329(c) has been amended to eliminate the exemption for labor charges for the construction, installation, movement, servicing repair or maintenance of any equipment such as antennas or dishes that have a connection with the transmission of a message or image from cellular towers that are used for the transmission of telecommunications in accordance with Laws 2007, c. 155 §5.

Sections 710:65-13-33, 710:65-13-40, 710:65-13-55, 710:65-13-80, 710:65-13-133, 710:65-13-172, 710:65-13-174, 710:65-13-175, 710:65-13-177, 710:65-13-194, 710:65-13-210, 710:65-13-220, 710:65-13-334, 710:65-13-335, 710:65-13-336, 710:65-13-339, 710:65-13-340, 710:65-13-341, 710:65-13-342, 710:65-13-343, 710:65-13-344, 710:65-13-345, 710:65-13-346, 710:65-13-348, 710:65-13-350, 710:65-13-351, 710:65-13-352, 710:65-13-353, 710:65-354, 710:65-13-355, 710:65-13-357, 710:65-13-359, 710:65-13-550, 710:65-13-357, 710:65-13-359 and 710:65-13-360 have been amended to update the application process for sales tax exemption qualification purposes.

In addition, other rule changes may be made to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update statutory citation, and insure accurate internal cross-references.

AUTHORITY:

68 O.S. §§ 203, 1354.18; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m. March 4, 2010 to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing is as follows: March 9, 2010 at 1:00 p.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat Mc Donald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

Notices of Rulemaking Intent

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that any business entity affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with 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:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be reviewed online at www.oktax.state.ok.us.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after February 16, 2010 from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #10-41; filed 1-8-10]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 70. TOBACCO, TOBACCO PRODUCTS, AND CIGARETTES

[OAR Docket #10-42]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 70. Tobacco, Tobacco Products, and Cigarettes
[AMENDED]

SUMMARY:

As part of the Commission's ongoing review of its rules, many proposed amendments to the existing rules have been made to clarify policy, improve readability, correct scrivener's errors, update statutory citation, insure accurate internal cross-reference and comply with statutory changes. All legislative references are to the First Regular Session of the 52nd Legislature (2009).

Section 710:70-2-3 has been amended to implement the provisions of Senate Bill 608 which adds the requirement that wholesalers can only purchase cigarettes from a manufacturer who holds an Oklahoma license. **[68:304]**

Section 710:70-2-4 has been amended to implement the provisions of Senate Bill 608 that the applicant for a cigarette license shall not have been convicted of a crime

relating to stolen or counterfeit cigarettes, or receiving stolen or counterfeit cigarettes or have been convicted of or have entered a plea of guilty or nolo contendere to any felony. **[68:304(E)(3)]**

Section 710:70-2-8 has been amended to implement the provisions of Senate Bill 608 regarding fines and penalties for failure to comply with cigarette laws. **[68:316]**

Section 710:70-2-9 has been amended to correct a scrivener's error.

Section 710:70-2-9.1 has been amended to implement the provisions of Senate Bill 608 regarding the license fee for a vehicle if tobacco products are sold from the vehicle. **[68:415]**

New Section 710:70-2-14 has been added to implement the provisions of Senate Bill 608 which prohibits retail to retail sale of cigarettes.

Section 710:70-5-4 has been amended to reflect internal changes within the Tax Commission.

New Section 710:70-5-14 has been added to implement the provisions of Senate Bill 608 which requires wholesalers, retailers and distributors of tobacco products to obtain an annual license from the Tax Commission. **[68:304]**

Section 710:70-7-7 has been revoked to implement the provisions of Senate Bill 608 which strikes language contained in subsections 426(A) and (B) of Title 68.

New Section 710:70-7-10 has been added to implement the provisions of Senate Bill 608 for calculation of the probable demand for noncompacting federally recognized Indian tribes or nations. **[68:349.1]**

Sections 710:70-2-11, 710:70-5-2, 710:70-5-3, 710:70-5-6, 710:70-5-8, 710:70-5-9, 710:70-5-10, 710:70-5-13, 710:70-7-4, 710:70-7-5, 710:70-7-8 and 710:70-7-9 have been amended to delete obsolete references and comply with statutory language changes implemented in Senate Bill 608.

AUTHORITY:

Oklahoma Tax Commission; 68 O.S. §§ 203, 304, 322, 415 and 420

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., March 4, 2010, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: March 9, 2010, 2:00 p.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th

floor hearing room, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with 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:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after February 16, 2010, at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #10-42; filed 1-8-10]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 85. VARIOUS TAX INCENTIVES**

[OAR Docket #10-43]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

- Subchapter 1. Oklahoma Quality Jobs Program
710:85-1-8 [AMENDED]
- 710:85-1-11 [REVOKED]
- Subchapter 5. Small Employer Quality Jobs Program
710:85-5-9 [AMENDED]
- 710:85-5-14 [REVOKED]
- Subchapter 11. 21st Century Quality Jobs Program [NEW]
710:85-11-1 through 710:85-11-10 [NEW]

SUMMARY:

As part of the Commission's ongoing review of its rules, proposed amendments to the existing rules have been made to clarify policy, improve readability, correct scrivener's errors, update statutory citation, insure accurate internal cross-reference and comply with statutory changes.

Sections 710:85-1-8 and 710:85-5-9 have been amended to clarify policy and procedure regarding record retention and the treatment of separated baseline employees. **[68:3606]**

Sections 710:85-1-11 and 710:85-5-14 have been revoked because they are contrary to current Commission practice and procedures regarding Quality Jobs participants who become delinquent in paying or reporting taxes other than payroll withholding.

Subchapter 11 - 21st Century Quality Jobs Program has been added to implement the provisions of the 21st Century Quality Jobs Incentive Act, Senate Bill 938, First Regular Session of the 52nd Legislature (2009), and provides the incentive claim filing process, the criteria for receiving incentive payments, and the limitations for receiving incentive payments.

AUTHORITY:

68 O.S. § 203, 3608, 3907 and 3917; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., March 4, 2010, to the Oklahoma Tax Commission, Tax Policy and Research Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133.

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing are as follows: March 9, 2010, 9:30.a.m. in the office of the Oklahoma Tax Commission, 2501 Lincoln Blvd., 4th Floor, Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat McDonald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors' building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although it has been determined that the promulgation of these rules is not expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that business

Notices of Rulemaking Intent

entities affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with 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:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after February 16, 2010, from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa Haws, Tax Policy Analyst, Phone: 405-521-3133, FAX 405-522-0063, Email: LHaws@oktax.state.ok.us

[OAR Docket #10-43; filed 1-8-10]

TITLE 710. OKLAHOMA TAX COMMISSION CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

[OAR Docket #10-44]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Subchapter 15. Wire Transmitter Fee [NEW]

SUMMARY:

The rule changes reflect the provisions of House Bill 2250, 52nd Legislature, First Regular Session, which levies a fee on each money transmission transaction by any licensee of a money transmission, transmitter or wire transmitter business. The new rules include definitions, the amount of the fee, who must collect the fee, when and on what form the fee must be remitted, and penalty for failure to comply.

AUTHORITY:

Oklahoma Tax Commission; 68 O.S § 203

COMMENT PERIOD:

Persons wishing to make written submissions may do so by 4:30 p.m., March 4, 2010, to the Oklahoma Tax Commission, Tax Policy Division, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma 73194. Those wishing

to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date, by calling Pat McDonald at (405) 521-3133

PUBLIC HEARING:

A public hearing will be held to provide an additional means by which suggestions may be offered on the content of the proposed rules. Time, Date and Place of the hearing is as follows: March 9, 2010 at 3:00 p.m. in the 4th floor hearing room at the Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, Oklahoma. In order to facilitate entry into the building, those wishing to appear should contact Pat Mc Donald at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. Entry to the M.C. Connors building must be made through the doors located on the east side of the building. In order to gain access to the 4th floor hearing room, attendees must register at the information desk in the lobby by presenting a driver's license or other photo identification. A name badge and floor access card will be issued once registration is completed.

Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Although nothing in this rulemaking action is expected to adversely impact small business, the Oklahoma Tax Commission (OTC) requests that any business entity affected by these rules provide the OTC, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with 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:

Interested persons may inspect proposed rules at the offices of the Oklahoma Tax Commission, Tax Policy Division, 5th floor, M. C. Connors Building, 2501 North Lincoln Boulevard, Oklahoma City, Oklahoma. Copies of proposed rules may be viewed online at www.oktax.state.ok.us.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared and will be available for review from and after February 16, 2010 from the same source listed above for obtaining copies of proposed rules.

CONTACT PERSON:

Lisa R. Haws, Liaison. Phone: 405-521-3133; FAX: 405-522-0063; Email: lhaws@oktax.state.ok.us

[OAR Docket #10-44; filed 1-8-10]

Cancelled Hearings/Comment Periods

If an agency cancels a hearing or comment period announced in a published Notice of Rulemaking Intent, the agency must submit a notice of such cancellation to the Office of Administrative Rules (OAR). The OAR publishes the cancellation notice in the next possible issue of the *Register*.

For additional information on cancelled hearings and comment periods, see OAC 655:10-7-27.

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

[OAR Docket #10-39]

RULEMAKING ACTION:

Cancelled comment period and public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

Subchapter 3. Licensure of Physician Assistants

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

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 27 Ok Reg 263

CANCELLED COMMENT PERIOD:

December 15, 2009 to March 12, 2010.

CANCELLED PUBLIC HEARING:

9:00 a.m., March 26, 2010, office of the Board, 101 NE 51st Street, Oklahoma City, OK

ADDITIONAL INFORMATION:

The public hearing has been rescheduled for March 11, 2010, at 9:00 a.m. at the office of the Board, 101 NE 51st Street, Oklahoma City, Ok

[OAR Docket #10-39; filed 1-8-10]

TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 40. REGISTERED ELECTROLOGISTS

[OAR Docket #10-37]

RULEMAKING ACTION:

Cancelled comment period and public hearing relating to a proposed PERMANENT rulemaking action

PROPOSED RULES:

435:40-1-5. Academic requirements for examination and licensure [AMENDED]

REGISTER PUBLICATION OF NOTICE:

The Notice of Rulemaking Intent for this action was published at 27 Ok Reg 263

CANCELLED COMMENT PERIOD:

December 15, 2009 to March 12, 2010.

CANCELLED PUBLIC HEARING:

9:00 a.m., March 26, 2010, office of the Board, 101 NE 51st Street, Oklahoma City, OK

ADDITIONAL INFORMATION:

The public hearing has been rescheduled for March 11, 2010, at 9:00 a.m. at the office of the Board, 101 NE 51st Street, Oklahoma City, Ok

[OAR Docket #10-37; filed 1-8-10]

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 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #10-08]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 1. General Provisions
- 240:10-1-2. Definitions [AMENDED]
- 240:10-1-3. Time computation [AMENDED]
- Subchapter 3. Benefits
- Part 3. Computations
- 240:10-3-10. Approved training [AMENDED]
- 240:10-3-12. Payment of benefits [AMENDED]
- Part 5. Eligibility
- 240:10-3-23. Claims for total unemployment benefits [AMENDED]
- Part 11. Filing Claims - Notice
- 240:10-3-51. Information to be posted [AMENDED]
- Subchapter 5. Contributions
- Part 3. Rates
- 240:10-5-18. Tax rate information-third party administrators [NEW]
- Part 19. Maintenance and Production of Work Records
- 240:10-5-90. Records [AMENDED]
- 240:10-5-91. Reports [AMENDED]
- Subchapter 11. Assessment Board Procedures
- Part 1. General Provisions
- 240:10-11-5. Jurisdiction [AMENDED]
- Part 5. Hearings
- 240:10-11-22. Conduct of hearings [AMENDED]
- 240:10-11-24. Good cause [AMENDED]
- 240:10-11-25. Motion to reopen after failure to appear [AMENDED]
- Subchapter 13. Appeal Tribunal Procedures
- Part 5. Hearings
- 240:10-13-37. Good Cause [AMENDED]
- 240:10-13-40. Reopen [AMENDED]
- 240:10-13-42. Conduct of hearings [AMENDED]

SUBMITTED TO GOVERNOR:

January 6, 2010

SUBMITTED TO HOUSE:

January 6, 2010

SUBMITTED TO SENATE:

January 6, 2010

[OAR Docket #10-08; filed 1-6-10]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 12. TRADE ACT PROGRAMS

[OAR Docket #10-09]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 1. General Provisions
- 240:12-1-2. Definitions [AMENDED]

SUBMITTED TO GOVERNOR:

January 6, 2010

SUBMITTED TO HOUSE:

January 6, 2010

SUBMITTED TO SENATE:

January 6, 2010

[OAR Docket #10-09; filed 1-6-10]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 21. WORKFORCE INVESTMENT ACT

[OAR Docket #10-10]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 1. General Provisions
- 240:21-1-1. Purpose and authority [AMENDED]
- 240:21-1-2. Definitions [AMENDED]
- Subchapter 5. Denial of Request for Designation as a Local Workforce Investment Area [REVOKED]
- 240:21-5-1. Appeal [REVOKED]
- 240:21-5-2. Appeal time [REVOKED]
- 240:21-5-3. Hearing [REVOKED]
- 240:21-5-4. Decision [REVOKED]
- 240:21-5-5. Appeal of decision [REVOKED]
- Subchapter 7. Monitoring
- 240:21-7-1. Monitoring and exit conference [AMENDED]
- 240:21-7-2. Monitoring report [AMENDED]
- 240:21-7-3. Monitoring resolution [AMENDED]
- 240:21-7-4. Final ~~monitoring~~ determination [AMENDED]
- 240:21-7-5. Appeal [AMENDED]
- 240:21-7-6. Hearing [AMENDED]

SUBMITTED TO GOVERNOR:

January 6, 2010

Submissions for Review

SUBMITTED TO HOUSE:

January 6, 2010

SUBMITTED TO SENATE:

January 6, 2010

[OAR Docket #10-10; filed 1-6-10]

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

[OAR Docket #10-29]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

35:10-1-3 [AMENDED]

GUBERNATORIAL APPROVAL:

December 18, 2009

[OAR Docket #10-29; filed 1-7-10]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #10-30]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 17. Combined Pesticide

Part 11. Standards for Application of Pesticide

35:30-17-27 [REVOKED]

GUBERNATORIAL APPROVAL:

December 18, 2009

[OAR Docket #10-30; filed 1-7-10]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 20. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW

[OAR Docket #10-11]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Chapter 20. Emergency Planning and Community

Right-to-Know [AMENDED]

GUBERNATORIAL APPROVAL:

12-29-09

[OAR Docket #10-11; filed 1-6-10]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 205. HAZARDOUS WASTE MANAGEMENT

[OAR Docket #10-12]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Chapter 205. Hazardous Waste Management [AMENDED]

GUBERNATORIAL APPROVAL:

12-29-09

[OAR Docket #10-12; filed 1-6-10]

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

[OAR Docket #10-13]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

252:611-1-3. Adoption and incorporation by reference

[AMENDED]

GUBERNATORIAL APPROVAL:

12-29-09

[OAR Docket #10-13; filed 1-6-10]

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

[OAR Docket #10-14]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

252:623-1-7. Incorporation by reference [AMENDED]

Gubernatorial Approvals

GUBERNATORIAL APPROVAL:

12-29-09

[OAR Docket #10-14; filed 1-6-10]

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

[OAR Docket #10-15]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. Introduction

252:631-1-3. Adoption of U.S. EPA regulations by
reference [AMENDED]

GUBERNATORIAL APPROVAL:

12-29-09

[OAR Docket #10-15; filed 1-6-10]

Emergency Adoptions

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

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

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

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

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 40. MARKET DEVELOPMENT

[OAR Docket #10-28]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 11. Oilseed Commission Initial Election Procedures [NEW]
35:40-11-1 through 35:40-11-6 [NEW]

AUTHORITY:

Oklahoma Constitution, Article 6, § 31; and the Oklahoma Agricultural Code, 2 O.S. §§ 2-4(2) and (29); and 18-274

DATES:

Adoption:

November 18, 2009

Approved by Governor:

December 18, 2009

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010 unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The proposed emergency rules are a one time set of procedures for conducting the initial election of commissioners to the Oilseed Commission pursuant to the Oklahoma Oilseed Resources Act. Due to the statutory mandate for the Department to conduct the initial election, a compelling public interest exists requiring the passage of this rule.

ANALYSIS:

The proposed emergency rules are a one time set of procedures for conducting the initial election of commissioners to the Oilseed Commission pursuant to the Oklahoma Oilseed Resources Act. These rules prescribe additional procedures as required by the Act. These rules will not be replaced by permanent rules because the newly elected Oilseed Commission will be responsible for promulgating rules for future elections.

CONTACT PERSON:

Teena Gunter, (405) 522-4576

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 11. OILSEED COMMISSION INITIAL ELECTION PROCEDURES

35:40-11-1. Purpose

The purpose of these rules is to establish the membership of the first Oklahoma Oilseed Commission by providing rules for the election pursuant to the Oklahoma Oilseed Resources Act. These rules are in addition to the requirements of the Oklahoma Oilseed Resources Act and shall only be read in conjunction with the act.

35:40-11-2. Instructions to voters

(a) The ballot shall contain instructions to the voters that include, but are not limited to the following:

- (1) The purpose of the ballot specific to each district;
- (2) Voter eligibility information;
- (3) Verification of voter eligibility;
- (4) Identification of candidates; and
- (5) Write-in candidate information.

(b) Ballots shall bear the signature and address of the voter to be considered valid.

35:40-11-3. Conduct of elections

(a) The election shall be conducted by mail-in ballots delivered to the Oklahoma Department of Agriculture, Food, and Forestry at the address specified on the ballot; hand delivery of ballots to the physical location of the Department at 2800 N. Lincoln Boulevard, Oklahoma City, Oklahoma, shall also be accepted during regular working hours for state offices.

(b) No ballot shall be valid if received after the end date and time for voting, regardless of postmark date.

(c) The election shall begin on a date designated by the ballot and shall end no sooner than fourteen (14) days after the date designated.

35:40-11-4. Absentee ballots

Absentee ballots shall not be accepted and are not necessary for the conduct of the election due to the duration of the election.

Emergency Adoptions

35:40-11-5. Write-in candidates

- (a) Each ballot shall contain a location for voters to submit a write-in candidate.
- (b) Write-in candidates shall meet all candidate eligibility requirements and reside and farm in the district.
- (c) To submit a write-in candidate, the voter shall include the name, county, and complete mailing address of the write-in candidate.

35:40-11-6. Canvassing and reporting of returns

- (a) All eligible votes shall be counted by the appointed election committee.
- (b) The Commissioner shall ratify the results of the election, or may require a recount of the ballots with a newly appointed committee.
- (c) Results of the elections shall be posted to the Oklahoma Department of Agriculture, Food, and Forestry's website.
- (d) Elections that result in no candidates by petition or write-in shall result in the President naming a provisional member to serve until the next valid election cycle.

[OAR Docket #10-28; filed 1-7-10]

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

[OAR Docket #09-1596]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 24. Health Savings Account [NEW]
- 87:10-24-1. Health Savings Account [NEW]
- 87:10-24-2. Definitions [NEW]
- 87:10-24-3. Requirements for eligibility [NEW]
- 87:10-24-4. Amount of benefits available [NEW]
- 87:10-24-5. Internal Revenue Code and regulations [NEW]
- 87:10-24-6. Mid-year changes of benefits [NEW]
- 87:10-24-7. Health Savings Account option [NEW]
- 87:10-24-8. Claims for reimbursement [NEW]
- 87:10-24-9. Forfeiture of unused benefits [NEW]
- 87:10-24-10. Other governing provisions [NEW]
- 87:10-24-11. Benefit changes [NEW]
- 87:10-24-12. Report to participants [NEW]

AUTHORITY:

Oklahoma State Employees Benefits Council; 74 O.S.2001 §1366(B)

DATES:

Adoption:

November 17, 2009

Approved by Governor:

December 18, 2009

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

A compelling public interest exists for these emergency administrative rules as they will enable the Oklahoma State Employees Benefits Council to provide a new, optional benefit to active state employees in accordance

with statutory mandates, which include (74 O.S. §1362(6)) providing state employees with tax sheltered income deferral plans; (74 O.S. §1362(9)) to provide for the coordination and design, in accordance with applicable law, of all employee benefits offered to state employees so as to increase the efficient delivery and effectiveness of those benefits; and (74 O.S. §1362(10)) to enable the state to attract and retain qualified employees by providing employee benefits which are competitive with those provided [by] private industry.

ANALYSIS:

These emergency administrative rules add a new Subchapter, twenty-four (24), to Chapter 10 of Title 87 of the Oklahoma Administrative Code. Chapter 10 serves as the "Plan Document" for the administration of the flexible benefits plan for active Oklahoma state employees. This new Subchapter defines important terms, rules, guidelines, and procedures necessary for the effective administration of a new, optional benefit, which will be offered to active state employees beginning in Plan Year 2010 (January 1, 2010, through December 31, 2010), that will enable employees participating in Health Savings Accounts to make contributions to the same on a pre-tax basis.

CONTACT PERSON:

Craig A. Cates, Executive Manager, Agency and Regulatory Affairs, (405) 609-3440

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 24. HEALTH SAVINGS ACCOUNT

87:10-24-1. Health Savings Account

(a) This is an optional benefit within the State Employees Flexible Benefits Plan. This option is qualified under Section 223 of the Internal Revenue Code (IRC) and is, therefore, included as part of the cafeteria plan described in OAC 87:10-1-1.

(b) The Plan Administrator shall, at all times, administer this option in a manner consistent with the terms and provisions hereof in a uniform and nondiscriminatory manner and in accordance with the prevailing Internal Revenue Codes and applicable regulations promulgated thereunder.

87:10-24-2. Definitions

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

"Dependent" means an individual who qualifies as a dependent under Section 125 of the Internal Revenue Code, taking into account Section 105(b) of the Internal Revenue Code.

"Health Savings Account (HSA)" means the book-keeping account maintained by the HSA Administrator/Trustee/Custodian used for crediting contributions and accounting for benefit payments.

"HSA Administrator/Trustee/Custodian" Insured banks and credit unions are automatically qualified to handle HSAs. Any bank, credit union or any other entity that currently meets the IRS standards for being a trustee or custodian for an IRA or Archer Medical Savings Account (MSA) can be an HSA trustee or custodian. The law also allows insurance companies to be HSA trustees or custodians.

87:10-24-3. Requirements for eligibility

(a) Upon submission of the election through an authorized procedure as prescribed by the Plan Administrator, an employee eligible to participate under the Flexible Benefits Plan who has elected a qualified high deductible health care option shall be eligible to participate in the Health Savings Account option, provided they have not attained the age of 65 years and become Medicare eligible.

(b) Additionally, an employee enrolled in a high deductible health plan may not enroll in a Health Reimbursement account.

87:10-24-4. Amount of benefits available

(a) Subject to the limitations imposed by federal law, the maximum benefit which a participant may receive in any Plan Year for a Health Savings Account shall be subject to the annual maximums set by the IRC 223. The maximum is indexed and is set each year. Individuals age 55 and older can also make additional "catch-up" contributions. An employee may also elect catch up benefits as directed by IRC 223 and the catch up provision is also indexed annually.

(b) The monthly or biweekly amount taken on this pre tax method will be based on the following deduction schedule as directed by the IRC Notice 2004-2. The maximum annual contribution to an HSA is the sum of the limits determined separately for each month, based on status, eligibility and health plan coverage as of the first day of the month. This will be calculated as the maximum annual limit plus catch up, if applicable, divided by 12 then multiplied by the number of monthly periods remaining in the Plan Year. If biweekly, this will be calculated as the maximum annual limit plus catch up, if applicable, divided by 26 then multiplied by the number of biweekly periods remaining in the Plan Year.

(c) Contributions to the HSA may be made pre-tax under a Section 125 Cafeteria Plan. Individual contributions are deducted pre-tax via payroll deduction. The employee, the employer, or both may make contributions to the HSA account.

(d) The non-discrimination rules applicable to a Cafeteria Plan are applicable to HSA contributions made under a Cafeteria Plan. This includes both employer and employee contributions. The following Cafeteria Plan rules do not apply to HSAs:

- (1) The prohibition against a benefit that defers compensation by permitting employees to carry over unused elective contributions or plan benefits from one Plan Year to another (the Use-It-Or-Lose-It rule).
- (2) The mandatory 12-month period of coverage.
- (3) Change-in-status rules.

87:10-24-5. Internal Revenue Code and regulations

The Health Savings Account option, the benefits provided thereunder, or contributions made pursuant to it, shall be in compliance with all provisions of this Plan and all applicable Internal Revenue Codes.

87:10-24-6. Mid-year changes of benefits

Section 125 plans (also known as "salary reduction" or "cafeteria" plans) must meet a different set of rules. Under

these plans, contributions (both from employer and/or employee) must meet "non-discrimination" rules. These rules require the employer to ensure that contributions do not favor higher compensated employees. The Plan Administrator shall reduce amounts of benefits payable to a participant to assure that the Health Savings Account option is nondiscriminatory and in compliance with any provision of the Internal Revenue Code or other applicable law or regulation. Any such reduction of benefits shall be made by the Plan Administrator on a reasonable and nondiscriminatory basis. Enrollees may change their salary reduction amounts, prospectively, on a monthly basis. An ineligible participant will be allowed to revoke their election, prospectively.

87:10-24-7. Health Savings Account option

The Plan Administrator shall establish for each participant a Health Savings Account for each period of coverage. Each Health Savings Account shall initially contain zero dollars (\$0.00). A participant's Health Savings Account for a period of coverage shall be increased by the portion of the participant's salary adjustment dollars that may be accrued from month to month for that period of coverage that he or she has elected to apply toward medical care expenses. A participant's Health Savings Account for a period of coverage shall be reduced by the amount of any Health Savings Account transferred to the HSA Custodian per the employees signed enrollment form. The HSA Custodian will provide the employee all annual statements except for W2. The Custodian also will account for prior year payments and properly account for catch up contributions and any distributions to the employee. The Employees Benefits Council expressly disclaims any fiduciary obligation to manage the member's HSA funds or accounts. HSA account information concerning contributions, IRS determinations, withdrawals, or any matters regarding the HSA is the sole responsibility of the HSA Trustee/Custodian chosen by the member.

87:10-24-8. Claims for reimbursement

A participant who has elected to participate in the Health Savings Account option shall make application to their respective HSA Custodian for reimbursement of health care expenses incurred by the participant during the Plan Year. The Employees Benefits Council expressly disclaims any fiduciary obligation to manage the member's HSA funds or accounts. HSA account information concerning contributions, IRS determinations, withdrawals, or any matters regarding the HSA is the sole responsibility of the HSA Trustee/Custodian chosen by the member.

87:10-24-9. Forfeiture of unused benefits

The Employees Benefits Council will forward all contributions to the designated HSA Custodian on a monthly basis as determined by the Council. No contributions will remain with the Employees Benefits Council and, as such, there cannot be any forfeiture (See 87:10-24-8).

Emergency Adoptions

87:10-24-10. Other governing provisions

The Health Savings Account option shall be administered under the terms of this subchapter and Title.

87:10-24-11. Benefit changes

(a) A participant shall be entitled to modify the Health Savings Account election after a period of coverage has commenced for which the election applies or make a new election, subject to acceptance by the Plan Administrator, with respect to the remainder of the current period of coverage, if the modification or new election is on account of and corresponds with a permitted elections as provided in IRC 223.

(b) The participant shall furnish the Plan Administrator with information and documentation relative to a request for a change in enrollment. The Plan Administrator shall determine whether a change in benefit election meets the criteria thereunder and is permitted by the Internal Revenue Code and regulations promulgated thereunder and is allowed by the Plan.

(c) The employee must provide a request to make a change via the authorized submission procedure as defined by the Plan Administrator.

87:10-24-12. Report to participants

Statements reflecting account balances will be accessible to participants via the Employees Benefits Council, Benefits Administration System (BAS) and shall satisfy the notification requirement reflecting contributions and transmittals to Custodians during such periods. The State will also accumulate and report on the annual W-2 statement all IRC Section 223 deductions based on the tax year the deduction was made.

[OAR Docket #09-1596; filed 12-29-09]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT CHAPTER 45. TRUTH IN LENDING RULES

[OAR Docket #10-34]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions
160:45-1-1 [AMENDED]
160:45-1-2 [AMENDED]
160:45-1-3 [AMENDED]
Subchapter 5. Closed-End Credit
160:45-5-1 [AMENDED]
Subchapter 13. Special Rules for Private Education Loans [NEW]
160:45-13-1 through 160:45-13-3 [NEW]
Appendix H. Closed-end Model Forms and Clauses [REVOKED]
Appendix H. Closed-end Model Forms and Clauses [NEW]

AUTHORITY:

Administrator of Consumer Credit; 14A O.S., §6-104(1)(e) and (2)

DATES:

Adoption:

November 18, 2009

Approved by Governor:

December 18, 2009

Effective:

Immediately upon Governor's approval or February 14, 2010, whichever is later

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 1. General Provisions
160:45-1-2 [AMENDED]
Subchapter 5. Closed-End Credit
160:45-5-1 [AMENDED]

Gubernatorial approval:

August 6, 2009

Register publication:

27 Ok Reg 12

Docket number:

09-1238

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Administrator of Consumer Credit finds that there is a compelling public interest requiring emergency amendments to existing rules. The Federal Reserve Board approved final rules that revise the disclosure requirements for private education loans. The compelling public interest is maintaining Oklahoma's exemption from federal regulation.

ANALYSIS:

The amended rules incorporate federal changes that revise the disclosure requirements for private education loans.

CONTACT PERSON:

Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Boulevard, Suite 164, Oklahoma City, OK 73105, 405-521-3653.

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 FEBRUARY 14, 2010:

SUBCHAPTER 1. GENERAL PROVISIONS

160:45-1-1. Authority, purpose, coverage, organization, enforcement and liability

(a) **Authority.** This chapter, known as Regulation Z, conforms to the regulations issued by the Board to implement the federal Truth In Lending Act, which is contained in title I of the Consumer Credit Protection Act, as amended (15 USC 1601 et seq.). This chapter does not contain fair credit billing provisions, because Oklahoma does not have an exemption from Chapter 4, Credit Billing, of the federal Truth In Lending Act, and Oklahoma does not have a Fair Credit Billing Act; thus, creditors in Oklahoma should recognize that regulation of fair credit billing requirements lies with federal authorities; as a convenience, the pertinent sections of the Code of Federal Regulations, 12 CFR 226, have been referenced.

(b) **Purpose.** The purpose of this chapter is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The chapter also gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling—and, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes. The chapter does not govern charges

for consumer credit. The chapter requires a maximum interest rate to be stated in variable-rate contracts secured by the consumer's dwelling. It also imposes limitations on home-equity plans that are subject to the requirements of 160:45-3-3 and mortgages that are subject to the requirements of 160:45-9-2. The chapter prohibits certain acts or practices in connection with credit secured by a consumer's principal dwelling. The chapter also regulates certain practices of creditors who extend private education loans as defined in 160:45-13-1(b)(5).

(c) **Coverage.**

(1) In general, this chapter applies to each individual or business that offers or extends credit when four conditions are met:

- (A) the credit is offered or extended to consumers;
- (B) the offering or extension of credit is done regularly; **1/**
- (C) the credit is subject to a finance charge or is payable by a written agreement in more than four installments; and
- (D) the credit is primarily for personal, family or household purposes.

(2) If a credit card is involved, however, certain provisions apply even if the credit is not subject to a finance charge, or is not payable by a written agreement in more than four installments, or if the credit card is to be used for business purposes.

(3) In addition, certain requirements of 160:45-3-3 apply to persons who are not creditors but who provide applications for home-equity plans to consumers.

(d) **Organization.** The chapter is divided into subchapters and appendices as follows:

(1) Subchapter 1 contains general information. It sets forth:

- (A) the authority, purpose, coverage, and organization of the chapter;
- (B) the definitions of basic terms;
- (C) the transactions that are exempt from coverage; and
- (D) the method of determining the finance charge.

(2) Subchapter 3 contains the rules for open-end credit. It requires that initial disclosures and periodic statements be provided, as well as additional disclosures for credit and charge card applications and solicitations and for home-equity plans subject to the requirements of 160:45-3-2 and 160:45-3-3, respectively.

(3) Subchapter 5 relates to closed-end credit. It contains rules on disclosures, treatment of credit balances, annual percentage rate calculations, rescission requirements, and advertising.

(4) Subchapter 7 contains rules on oral disclosures, language of disclosures, record retention, and rate limitations.

(5) Subchapter 9 contains special rules for mortgage transactions. 160:45-9-2 requires certain disclosures and provides limitations for loans that have rates and fees above specified amounts. 160:45-9-3 requires disclosures, including the total annual loan cost rate, for reverse mortgage transactions. 160:45-9-4 prohibits specific acts and practices in connection with mortgage transactions

that are subject to 160:45-9-2. 160:45-9-5 prohibits specific acts and practices in connection with higher-priced mortgage loans, as defined in 160:45-9-5(a). 160:45-9-6 prohibits specific acts and practices in connection with credit secured by a consumer's principal dwelling.

~~(6) Subchapter 11 relates to electronic communication. Subchapter 13 relates to private education loans. It contains rules on disclosures, limitations on changes in terms after approval, the right to cancel the loan, and limitations on co-branding in the marketing of private education loans.~~

(7) Several appendices contain information such as special rules for certain kinds of credit plans, and the rules for computing annual percentage rates in closed-end credit transactions and total-annual-loan-cost rates for reverse mortgage transactions.

(e) **Enforcement and Liability.** Article 6 of the Code contains the administrative enforcement provisions. Sections 5-202, 5-203, 5-301 and 5-302 of the Code contain provisions relating to liability for failure to comply with the requirements of the Code and this chapter.

1/ The meaning of "regularly" is explained in the definition of "creditor" in 160:45-1-2(a).

160:45-1-2. Definitions and rules of construction

(a) **Definition.** For purposes of this chapter, the following definitions apply:

- (1) **"Administrator"** means the Administrator of the Department.
- (2) **"Advertisement"** means a commercial message in any medium that promotes, directly or indirectly, a credit transaction.
- (3) **"Billing cycle"** or **"cycle"** means the interval between the days or dates of regular periodic statements. These intervals shall be equal and no longer than a quarter of a year. An interval will be considered equal if the number of days in the cycle does not vary more than four days from the regular day or date of the periodic statement.
- (4) **"Board"** means the Board of Governors of the Federal Reserve System.
- (5) **"Business day"** means a day on which the creditor's offices are open to the public for carrying on substantially all of its business functions. However, for purposes of rescission under 160:45-3-13 and 160:45-5-7, and for purposes of 160:45-5-3(a)(1)(ii), 160:45-5-3(a)(2), and 160:45-9-1, and 160:45-13-1(d)(4), the term means all calendar days except Sundays and the legal public holidays specified in 5 USC 6103(a), such as New Year's Day, the Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.
- (6) **"Card issuer"** means a person that issues a credit card or that person's agent with respect to the card.
- (7) **"Cardholder"** means a natural person to whom a credit card is issued for consumer credit purposes, or a natural person who has agreed with the card issuer to pay

Emergency Adoptions

consumer credit obligations arising from the issuance of a credit card to another natural person.

(8) **"Cash price"** means the price at which a creditor, in the ordinary course of business, offers to sell for cash the property or service that is the subject of the transaction. At the creditor's option, the term may include the price of accessories, services related to the sale, service contracts and taxes and fees for license, title, and registration. The term does not include any finance charge.

(9) **"Closed-end credit"** means consumer credit other than "open-end credit" as defined in this section.

(10) **"Code"** means the Uniform Consumer Credit Code beginning at §1-101 of Title 14A of the Oklahoma Statutes.

(11) **"Consumer"** means a cardholder or a natural person to whom consumer credit is offered or extended. However, for purposes of rescission under 160:45-3-13 and 160:45-5-7, the term also includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person's ownership interest in the dwelling is or will be subject to the security interest.

(12) **"Consumer credit"** means credit offered or extended to a consumer primarily for personal, family, or household purposes.

(13) **"Consummation"** means the time that a consumer becomes contractually obligated on a credit transaction.

(14) **"Credit"** means the right to defer payment of debt or to incur debt and defer its payment.

(15) **"Credit card"** means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit. **"Charge card"** means a credit card on an account for which no periodic rate is used to compute a finance charge.

(16) **"Credit sale"** means a sale in which the seller is a creditor. The term includes a bailment or lease (unless terminable without penalty at any time by the consumer) under which the consumer -

(A) Agrees to pay as compensation for use a sum substantially equivalent to, or in excess of, the total value of the property and services involved; and

(B) Will become (or has the option to become), for no additional consideration or for nominal consideration, the owner of the property upon compliance with the agreement.

(17) **"Creditor"** means:

(A) A person

(i) who regularly extends consumer credit **3** that is subject to a finance charge or is payable by written agreement in more than four installments (not including a downpayment), and

(ii) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.

(B) For purposes of 160:45-1-4(c)(8) (Discounts) and 160:45-3-7(d) (Finance charge imposed at time of transaction), a person that honors a credit card.

(C) For purposes of subchapter 3, any card issuer that extends either open-end credit or credit that is

not subject to a finance charge and is not payable by written agreement in more than four installments.

(D) For purposes of subchapter 3 (except for the credit and charge card disclosures contained in 160:45-3-2 and 160:45-3-7(e) and (f), the finance-charge disclosures contained in 160:45-3-4(1) and 160:45-3-5(4) through (7) and the right of rescission set forth in 160:45-3-13) and subchapter 5, any card issuer that extends closed-end credit that is subject to a finance charge or is payable by written agreement in more than four installments.

(18) **"Department"** means the Oklahoma State Department of Consumer Credit.

(19) **"Downpayment"** means an amount, including the value of any property used as a trade-in, paid to a seller to reduce the cash price of goods or services purchased in a credit sale transaction. A deferred portion of a downpayment may be treated as part of the downpayment if it is payable not later than the due date of the second otherwise regularly scheduled payment and is not subject to a finance charge.

(20) **"Dwelling"** means a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.

(21) **"Open-end credit"** means consumer credit extended by a creditor under a plan in which -

(A) the creditor reasonably contemplates repeated transactions;

(B) the creditor may impose a finance charge from time to time on an outstanding unpaid balance; and

(C) the amount of credit that may be extended to the consumer during the term of the plan (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

(22) **"Periodic rate"** means a rate of finance charge that is or may be imposed by a creditor on a balance for a day, week, month, or other subdivision of a year.

(23) **"Person"** means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit.

(24) **"Prepaid finance charge"** means any finance charge paid separately in cash or by check before or at consummation of a transaction, or withheld from the proceeds of the credit at any time.

(25) **"Residential mortgage transaction"** means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in the consumer's principal dwelling to finance the acquisition or initial construction of that dwelling.

(26) **"Security interest"** means an interest in property that secures performance of a consumer credit obligation and that is recognized by state or federal law. It does not include incidental interests such as interests in proceeds, accessions, additions, fixtures, insurance proceeds

(whether or not the creditor is a loss payee or beneficiary), premium rebates, or interests in after-acquired property. For purposes of disclosure under 160:45-3-4 and 160:45-5-2, the term does not include an interest that arises solely by operation of law. However, for purposes of the right of rescission under 160:45-3-13 and 160:45-5-7, the term does include interests that arise solely by operation of law.

(27) **"State"** means any state, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(b) **Rules of construction.** For purposes of this chapter, the following rules of construction apply:

- (1) Where appropriate, the singular form of a word includes the plural form and plural includes singular.
- (2) Where the words "obligation" and "transaction" are used in this chapter, they refer to a consumer credit obligation or transaction, depending upon the context. Where the word "credit" is used in this chapter, it means "consumer credit" unless the context clearly indicates otherwise.
- (3) Unless defined in this chapter, the words used have the meanings given to them by state law or contract.
- (4) Footnotes have the same legal effect as the text of the chapter.
- (5) Where the word "amount" is used in this chapter to describe disclosure requirements, it refers to a numerical number.

2/ Reserved

3/ A person regularly extends consumer credit only if it extended credit (other than credit subject to the requirements of 160:45-9-2) more than 25 times (or more than 5 times for transactions secured by a dwelling) in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year. A person regularly extends consumer credit if, in any 12-month period, the person originates more than one credit extension that is subject to the requirements of 160:45-9-2 or one or more such credit extensions through a mortgage broker.

160:45-1-3. Exempt transactions

This chapter does not apply to the following: 4/

- (1) **Business, commercial, agricultural or organizational credit.**
 - (A) An extension of credit primarily for a business, commercial or agricultural purpose.
 - (B) An extension of credit to other than a natural person, including credit to government agencies or instrumentalities.
- (2) **Credit over \$45,000 not secured by real property or a dwelling.** An extension of credit not secured by real property, or by personal property used or expected to be used as the principal dwelling of the consumer, in which the amount financed exceeds \$45,000 or in which there is an express written commitment to extend credit in excess of \$45,000, unless the extension of credit is:

(A) Secured by real property, or by personal property used or expected to be used as the principal dwelling of the consumer; or

(B) A private education loan as defined in 160:45-13-1(b)(5).

(3) **Public utility credit.** An extension of credit that involves public utility services provided through pipe, wire, other connected facilities, or radio or similar transmission (including extensions of such facilities), if the charges for service, delayed payment, or any discounts for prompt payment are filed with or regulated by any government unit. The financing of durable goods or home improvements by a public utility is not exempt.

(4) **Securities or commodities accounts.** Transaction in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(5) **Home fuel budget plans.** An installment agreement for the purchase of home fuels in which no finance charge is imposed.

(6) **Pawnbrokers.** An extension of credit by a pawnbroker engaging in pawn transactions as defined in the Oklahoma Pawnshop Act beginning at §1501 of Title 59 of the Oklahoma Statutes.

(7) **Student loan programs.** Loans made, insured, or guaranteed pursuant to a program authorized by Title IV of the Higher Education Act of 1965 (20 USC 1070 et seq.) or comparable Oklahoma law.

4/ Reserved

SUBCHAPTER 5. CLOSED-END CREDIT

160:45-5-1. General disclosure requirements

(a) **Form of disclosures.**

(1) The creditor shall make the disclosures required by this subchapter clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures required by this subchapter may be provided to the consumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. § 7001 *et seq.*). The disclosures required by 160:45-5-1(g), 160:45-5-3(b), and 160:45-5-8 may be provided to the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections. The disclosures shall be grouped together, shall be segregated from everything else, and shall not contain any information not directly related 37/ to the disclosures required under 160:45-5-2 or 160:45-13-2. 38/ The itemization of the amount financed under 160:45-5-2(3)(A) must be separate from the other disclosures under 160:45-5-2, except for private education loan disclosures made in compliance with 160:45-13-2.

(2) ~~The~~ Except for private education loan disclosures made in compliance with 160:45-13-2, the terms "finance

Emergency Adoptions

charge" and "annual percentage rate," when required to be disclosed under 160:45-5-2(4) and (5) together with a corresponding amount or percentage rate, shall be more conspicuous than any other disclosure, except the creditor's identity under 160:45-5-2(1). For private education loan disclosures made in compliance with 160:45-13-2, the term "annual percentage rate," and the corresponding percentage rate must be less conspicuous than the term "finance charge" and corresponding amount under 160:45-5-2(4), the interest rate under 160:45-13-2(b)(1)(A) and (c)(1), and the notice of the right to cancel under 160:45-13-2(c)(4).

(b) **Time of disclosures.** The creditor shall make disclosures before consummation of the transaction. In certain residential mortgage transactions, special timing requirements are set forth in 160:45-5-3(a). In certain variable-rate transactions, special timing requirements for variable-rate disclosures are set forth in 160:45-5-3(b) and 160:45-5-4(c). For private education loan disclosures made in compliance with 160:45-13-2, special timing requirements are set forth in 160:45-13-1(d). In certain transactions involving mail or telephone orders or a series of sales, the timing of the disclosures may be delayed in accordance with paragraphs (g) and (h) of this section.

(c) **Basis of disclosures and use of estimates.**

(1) The disclosures shall reflect the terms of the legal obligation between the parties.

(2) **Estimates and per-diem interest.**

(A) If any information necessary for an accurate disclosure is unknown to the creditor, the creditor shall make the disclosure based on the best information reasonably available at the time the disclosure is provided to the consumer, and shall state clearly that the disclosure is an estimate.

(B) For a transaction in which a portion of the interest is determined on a per-diem basis and collected at consummation, any disclosure affected by the per-diem interest shall be considered accurate if the disclosure is based on the information known to the creditor at the time that the disclosure documents are prepared for consummation of the transaction.

(3) The creditor may disregard the effects of the following in making calculations and disclosures.

(A) That payments must be collected in whole cents.

(B) That dates of scheduled payments and advances may be changed because the scheduled date is not a business day.

(C) That months have different numbers of days.

(D) The occurrence of leap year.

(4) In making calculations and disclosures, the creditor may disregard any irregularity in the first period that falls within the limits described below and any payment schedule irregularity that results from the irregular first period:

(A) For transactions in which the term is less than 1 year, a first period not more than 6 days shorter or 13 days longer than a regular period;

(B) For transactions in which the term is at least 1 year and less than 10 years, a first period not more than 11 days shorter or 21 days longer than a regular period; and

(C) For transactions in which the term is at least 10 years, a first period shorter than or not more than 32 days longer than a regular period.

(5) If an obligation is payable on demand, the creditor shall make the disclosures based on an assumed maturity of 1 year. If an alternate maturity date is stated in the legal obligation between the parties, the disclosures shall be based on that date.

(6) **Multiple advances.**

(A) A series of advances under an agreement to extend credit up to a certain amount may be considered as one transaction.

(B) When a multiple-advance loan to finance the construction of a dwelling may be permanently financed by the same creditor, the construction phase and the permanent phase may be treated as either one transaction or more than one transaction.

(d) **Multiple creditors; multiple consumers.** If a transaction involves more than one creditor, only one set of disclosures shall be given and the creditors shall agree among themselves which creditor must comply with the requirements that this chapter imposes on any or all of them. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the obligation. If the transaction is rescindable under 160:45-5-7, however, the disclosures shall be made to each consumer who has the right to rescind.

(e) **Effect of subsequent events.** If a disclosure becomes inaccurate because of an event that occurs after the creditor delivers the required disclosures, the inaccuracy is not a violation of this chapter although new disclosures may be required under paragraph (f) of this section, 160:45-5-3, or 160:45-5-4, or 160:45-13-3(c)(4).

(f) **Early disclosures.** ~~Except for private education loan disclosures made in compliance with 160:45-13-2, if disclosures required by this subchapter are given before the date of consummation of a transaction and a subsequent event makes them inaccurate, the creditor shall disclose before consummation (except that, for certain mortgage transactions, 160:45-5-3(a)(2) permits redisclosure no later than consummation or settlement, whichever is later)-(subject to the provisions of 160:45-5-3(a)(2) and 160:45-5-3(a)(5)(C):~~ **39/**

(1) Any changed term unless the term was based on an estimate in accordance with 160:45-5-1(c)(2) and was labeled an estimate;

(2) All changed terms, if the annual percentage rate at the time of consummation varies from the annual percentage rate disclosed earlier by more than 1/8 of 1 percentage point in a regular transaction, or more than 1/4 of 1 percentage point in an irregular transaction, as defined in 160:45-5-6(a).

(g) **Mail or telephone orders - delay in disclosures.** ~~Except for private education loan disclosures made in compliance with 160:45-13-2, if a creditor receives a purchase order or a request for an extension of credit by mail, telephone,~~

or facsimile machine without face-to-face or direct telephone solicitation, the creditor may delay the disclosures until the due date of the first payment, if the following information for representative amounts or ranges of credit is made available in written form or in electronic form to the consumer or to the public before the actual purchase order or request:

- (1) The cash price or the principal loan amount.
- (2) The total sale price.
- (3) The finance charge.
- (4) The annual percentage rate, and if the rate may increase after consummation, the following disclosures:
 - (A) The circumstances under which the rate may increase.
 - (B) Any limitations on the increase.
 - (C) The effect of an increase.
- (5) The terms of repayment.

(h) **Series of sales - delay in disclosures.** If a credit sale is one of a series made under an agreement providing that subsequent sales may be added to an outstanding balance, the creditor may delay the required disclosures until the due date of the first payment for the current sale, if the following two conditions are met:

- (1) The consumer has approved in writing the annual percentage rate or rates, the range of balances to which they apply, and the method of treating any unearned finance charge on an existing balance.
- (2) The creditor retains no security interest in any property after the creditor has received payments equal to the cash price and any finance charge attributable to the sale of that property. For purposes of this provision, in the case of items purchased on different dates, the first purchased is deemed the first item paid for; in the case of items purchased on the same date, the lowest priced is deemed the first item paid for.

(i) **Interim student credit extensions.** For ~~each transaction~~ transactions involving an interim credit extension under a student credit program for which an application is received prior to February 14, 2010, the creditor need not make the following disclosures: the finance charge under 160:45-5-2(4), the payment schedule under 160:45-5-2(7), the total of payments under 160:45-5-2(8), or the total sale price under 160:45-5-2(10) at the time the credit is actually extended. The creditor must make complete disclosures at the time the creditor and consumer agree upon the repayment schedule for the total obligation. At that time, a new set of disclosures must be made of all applicable items under 160:45-5-2.

37/ The disclosures may include an acknowledgment of receipt, the date of the transaction, and the consumer's name, address, and account number.

38/ The following disclosures may be made together with or separately from other required disclosures: the creditor's identity under 160:45-5-2(1), the variable-rate example under 160:45-5-2(6)(A)(iv), insurance or debt cancellation under 160:45-5-2(14), and certain security interest-charges under 160:45-5-2(15).

39/ ~~For certain residential mortgage transactions, 160:45-5-3(a)(2) permits redisclosure no later than consummation or settlement, whichever is later.~~ Reserved

SUBCHAPTER 13. SPECIAL RULES FOR PRIVATE EDUCATION LOANS

160:45-13-1. Special disclosure requirements for private education loans

(a) Coverage.

(1) The requirements of this subchapter apply to private education loans as defined in 160:45-13-1(b)(5). A creditor may, at its option, comply with the requirements of this subchapter for an extension of credit subject to 160:45-5-1 and 160:45-5-2 that is extended to a consumer for expenses incurred after graduation from a law, medical, dental, veterinary, or other graduate school and related to relocation, study for a bar or other examination, participation in an internship or residency program, or similar purposes.

(2) **Relation to other subchapters in this chapter.** Except as otherwise specifically provided, the requirements and limitations of this subchapter are in addition to and not in lieu of those contained in other subchapters of this chapter.

(b) Definitions. For purposes of this subchapter, the following definitions apply:

(1) **"Covered educational institution"** means:

(A) An educational institution that meets the definition of an institution of higher education, as defined in paragraph (b)(2) of this section, without regard to the institution's accreditation status; and

(B) Includes an agent, officer, or employee of the institution of higher education. An agent means an institution-affiliated organization as defined by section 151 of the Higher Education Act of 1965 (20 U.S.C. 1019) or an officer or employee of an institution-affiliated organization.

(2) **"Institution of higher education"** has the same meaning as in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001-1002) and the implementing regulations published by the U.S. Department of Education.

(3) **"Postsecondary educational expenses"** means any of the expenses that are listed as part of the cost of attendance, as defined under section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711), of a student at a covered educational institution. These expenses include tuition and fees, books, supplies, miscellaneous personal expenses, room and board, and an allowance for any loan fee, origination fee, or insurance premium charged to a student or parent for a loan incurred to cover the cost of the student's attendance.

(4) **"Preferred lender arrangement"** has the same meaning as in section 151 of the Higher Education Act of 1965 (20 U.S.C. 1019).

(5) **"Private education loan"** means an extension of credit that:

(A) Is not made, insured, or guaranteed under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.*);

Emergency Adoptions

- (B) Is extended to a consumer expressly, in whole or in part, for postsecondary educational expenses, regardless of whether the loan is provided by the educational institution that the student attends;
- (C) Does not include open-end credit any loan that is secured by real property or a dwelling; and
- (D) Does not include an extension of credit in which the covered educational institution is the creditor if:
- (i) The term of the extension of credit is 90 days or less; or
 - (ii) An interest rate will not be applied to the credit balance and the term of the extension of credit is one year or less, even if the credit is payable in more than four installments.
- (c) **Form of disclosures.**
- (1) **Clear and conspicuous.** The disclosures required by this subchapter shall be made clearly and conspicuously.
 - (2) **Transaction disclosures.**
 - (A) The disclosures required under 160:45-13-2(b) and (c) shall be made in writing, in a form that the consumer may keep. The disclosures shall be grouped together, shall be segregated from everything else, and shall not contain any information not directly related to the disclosures required under 160:45-13-2(b) and (c), which include the disclosures required under 160:45-5-2.
 - (B) The disclosures may include an acknowledgment of receipt, the date of the transaction, and the consumer's name, address, and account number. The following disclosures may be made together with or separately from other required disclosures: the creditor's identity under 160:45-5-2(a), insurance or debt cancellation under 160:45-5-2(n), and certain security interest charges under 160:45-5-2(o).
 - (C) The term "finance charge" and corresponding amount, when required to be disclosed under 160:45-4-2(d), and the interest rate required to be disclosed under 160:45-13-2(b)(1)(A) and (c)(1), shall be more conspicuous than any other disclosure, except the creditor's identity under 160:45-5-2(a).
 - (3) **Electronic disclosures.** The disclosures required under 160:45-13-2(b) and (c) may be provided to the consumer in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 et seq.). The disclosures required by 160:45-13-2(a) may be provided to the consumer in electronic form on or with an application or solicitation that is accessed by the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act. The form required to be received under 160:45-13-3(e) may be accepted by the creditor in electronic form as provided for in that section.
- (d) **Timing of disclosures.**
- (1) **Application or solicitation disclosures.**
 - (A) The disclosures required by 160:45-13-2(a) shall be provided on or with any application or solicitation. For purposes of this subchapter, the term solicitation means an offer of credit that does not require the consumer to complete an application. A "firm offer of credit" as defined in section 603(l) of the Fair Credit Reporting Act (15 U.S.C. 1681a(l)) is a solicitation for purposes of this section.
 - (B) The creditor may, at its option, disclose orally the information in 160:45-13-2(a) in a telephone application or solicitation. Alternatively, if the creditor does not disclose orally the information in 160:45-13-2(a), the creditor must provide the disclosures or place them in the mail no later than three business days after the consumer has applied for the credit, except that, if the creditor either denies the consumer's application or provides or places in the mail the disclosures in 160:45-13-2(b) no later than three business days after the consumer requests the credit, the creditor need not also provide the 160:45-13-2(a) disclosures.
 - (C) Notwithstanding paragraph (d)(1)(A), for a loan that the consumer may use for multiple purposes including, but not limited to, postsecondary educational expenses, the creditor need not provide the disclosures required by 160:45-13-2(a).
 - (2) **Approval disclosures.** The creditor shall provide the disclosures required by 160:45-13-2(b) before consummation on or with any notice of approval provided to the consumer. If the creditor mails notice of approval, the disclosures must be mailed with the notice. If the creditor communicates notice of approval by telephone, the creditor must mail the disclosures within three business days of providing the notice of approval. If the creditor communicates notice of approval electronically, the creditor may provide the disclosures in electronic form in accordance with 160:45-13-1(d)(3); otherwise the creditor must mail the disclosures within three business days of communicating the notice of approval. If the creditor communicates approval in person, the creditor must provide the disclosures to the consumer at that time.
 - (3) **Final disclosures.** The disclosures required by 160:45-13-2(c) shall be provided after the consumer accepts the loan in accordance with 160:45-13-3(c)(1).
 - (4) **Receipt of mailed disclosures.** If the disclosures under paragraphs (d)(1), (d)(2) or (d)(3), are mailed to the consumer, the consumer is considered to have received them three business days after they are mailed.
- (e) **Basis of disclosures and use of estimates.**
- (1) **Legal obligation.** Disclosures shall reflect the terms of the legal obligation between the parties.
 - (2) **Estimates.** If any information necessary for an accurate disclosure is unknown to the creditor, the creditor shall make the disclosure based on the best information reasonably available at the time the disclosure is provided, and shall state clearly that the disclosure is an estimate.

(f) **Multiple creditors; multiple consumers.** If a transaction involves more than one creditor, only one set of disclosures shall be given and the creditors shall agree among themselves which creditor will comply with the requirements that this chapter imposes on any or all of them. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the obligation.

(g) **Effect of subsequent events.**

(1) **Approval disclosures.** If a disclosure under 160:45-13-2(b) becomes inaccurate because of an event that occurs after the creditor delivers the required disclosures, the inaccuracy is not a violation of this chapter, although new disclosures may be required under 160:45-13-3(c).

(2) **Final disclosures.** If a disclosure under 160:45-13-2(c) becomes inaccurate because of an event that occurs after the creditor delivers the required disclosures, the inaccuracy is not a violation of this chapter.

160:45-13-2. Content of disclosures

(a) **Application or solicitation disclosures.** A creditor shall provide the disclosures required under paragraph (a) of this section on or with a solicitation or an application for a private education loan.

(1) **Interest Rates.**

(A) The interest rate or range of interest rates applicable to the loan and actually offered by the creditor at the time of application or solicitation. If the rate will depend, in part, on a later determination of the consumer's creditworthiness or other factors, a statement that the rate for which the consumer may qualify will depend on the consumer's creditworthiness and other factors, if applicable.

(B) Whether the interest rates applicable to the loan are fixed or variable.

(C) If the interest rate may increase after consummation of the transaction, any limitations on the interest rate adjustments, or lack thereof; a statement that the consumer's actual rate could be higher or lower than the rates disclosed under paragraph (a)(1)(A) of this section, if applicable; and, if the limitation is determined by applicable law, that fact.

(D) Whether the applicable interest rates typically will be higher if the loan is not co-signed or guaranteed.

(2) **Fees and default or late payment costs.**

(A) An itemization of the fees or range of fees required to obtain the private education loan.

(B) Any fees, changes to the interest rate, and adjustments to principal based on the consumer's defaults or late payments.

(3) **Repayment terms.**

(A) The term of the loan, which is the period during which regularly scheduled payments of principal and interest will be due.

(B) A description of any payment deferral options, or, if the consumer does not have the option to defer payments, that fact.

(C) For each payment deferral option applicable while the student is enrolled at a covered educational institution:

(i) Whether interest will accrue during the deferral period; and

(ii) If interest accrues, whether payment of interest may be deferred and added to the principal balance.

(D) A statement that if the consumer files for bankruptcy, the consumer may still be required to pay back the loan.

(4) **Cost estimates.** An example of the total cost of the loan calculated as the total of payments over the term of the loan:

(A) Using the highest rate of interest disclosed under paragraph (a)(1) of this section and including all finance charges applicable to loans at that rate;

(B) Using an amount financed of \$10,000, or \$5000 if the creditor only offers loans of this type for less than \$10,000; and

(C) Calculated for each payment option.

(5) **Eligibility.** Any age or school enrollment eligibility requirements relating to the consumer or co-signer.

(6) **Alternatives to private education loans.**

(A) A statement that the consumer may qualify for Federal student financial assistance through a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(B) The interest rates available under each program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) and whether the rates are fixed or variable.

(C) A statement that the consumer may obtain additional information concerning Federal student financial assistance from the institution of higher education that the student attends, or at the Web site of the U.S. Department of Education, including an appropriate Web site address.

(D) A statement that a covered educational institution may have school-specific education loan benefits and terms not detailed on the disclosure form.

(7) **Rights of the consumer.** A statement that if the loan is approved, the terms of the loan will be available and will not change for 30 days except as a result of adjustments to the interest rate and other changes permitted by law.

(8) **Self-certification information.** A statement that, before the loan may be consummated, the consumer must complete the self-certification form and that the form may be obtained from the institution of higher education that the student attends.

(b) **Approval disclosures.** On or with any notice of approval provided to the consumer, the creditor shall disclose the information required under 160:45-5-2 and the following information:

(1) **Interest rate.**

(A) The interest rate applicable to the loan.

(B) Whether the interest rate is fixed or variable.

Emergency Adoptions

- (C) If the interest rate may increase after consummation of the transaction, any limitations on the rate adjustments, or lack thereof.
- (2) **Fees and default or late payment costs.**
- (A) An itemization of the fees or range of fees required to obtain the private education loan.
- (B) Any fees, changes to the interest rate, and adjustments to principal based on the consumer's defaults or late payments.
- (3) **Repayment terms.**
- (A) The principal amount of the loan for which the consumer has been approved.
- (B) The term of the loan, which is the period during which regularly scheduled payments of principal and interest will be due.
- (C) A description of the payment deferral option chosen by the consumer, if applicable, and any other payment deferral options that the consumer may elect at a later time.
- (D) Any payments required while the student is enrolled at a covered educational institution, based on the deferral option chosen by the consumer.
- (E) The amount of any unpaid interest that will accrue while the student is enrolled at a covered educational institution, based on the deferral option chosen by the consumer.
- (F) A statement that if the consumer files for bankruptcy, the consumer may still be required to pay back the loan.
- (G) An estimate of the total amount of payments calculated based on:
- (i) The interest rate applicable to the loan. Compliance with 160:45-5-2(h) constitutes compliance with this requirement.
- (ii) The maximum possible rate of interest for the loan or, if a maximum rate cannot be determined, a rate of 25%.
- (iii) If a maximum rate cannot be determined, the estimate of the total amount for repayment must include a statement that there is no maximum rate and that the total amount for repayment disclosed under paragraph (b)(3)(G)(ii) of this section is an estimate and will be higher if the applicable interest rate increases.
- (H) The maximum monthly payment based on the maximum rate of interest for the loan or, if a maximum rate cannot be determined, a rate of 25%. If a maximum cannot be determined, a statement that there is no maximum rate and that the monthly payment amount disclosed is an estimate and will be higher if the applicable interest rate increases.
- (4) **Alternatives to private education loans.**
- (A) A statement that the consumer may qualify for Federal student financial assistance through a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).
- (B) The interest rates available under each program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and whether the rates are fixed or variable.
- (C) A statement that the consumer may obtain additional information concerning Federal student financial assistance from the institution of higher education that the student attends, or at the Web site of the U.S. Department of Education, including an appropriate Web site address.
- (5) **Rights of the consumer.**
- (A) A statement that the consumer may accept the terms of the loan until the acceptance period under 160:45-13-3(c)(1) has expired. The statement must include the specific date on which the acceptance period expires, based on the date upon which the consumer receives the disclosures required under this subsection for the loan. The disclosure must also specify the method or methods by which the consumer may communicate acceptance.
- (B) A statement that, except for changes to the interest rate and other changes permitted by law, the rates and terms of the loan may not be changed by the creditor during the period described in paragraph (b)(5)(A) of this section.
- (c) **Final disclosures.** After the consumer has accepted the loan in accordance with 160:45-13-3(c)(1), the creditor shall disclose to the consumer the information required by 160:45-5-2 and the following information:
- (1) **Interest rate.** Information required to be disclosed under 160:45-13-2(b)(1).
- (2) **Fees and default or late payment costs.** Information required to be disclosed under 160:45-13-2(b)(2).
- (3) **Repayment terms.** Information required to be disclosed under 160:45-13-2(b)(3).
- (4) **Cancellation right.** A statement that:
- (A) The consumer has the right to cancel the loan, without penalty, at any time before the cancellation period under 160:45-13-3(d) expires, and
- (B) Loan proceeds will not be disbursed until after the cancellation period under 160:45-13-3(d) expires. The statement must include the specific date on which the cancellation period expires and state that the consumer may cancel by that date. The statement must also specify the method or methods by which the consumer may cancel. If the creditor permits cancellation by mail, the statement must specify that the consumer's mailed request will be deemed timely if placed in the mail not later than the cancellation date specified on the disclosure. The disclosures required by this paragraph (c)(4) must be made more conspicuous than any other disclosure required under this section, except for the finance charge, the interest rate, and the creditor's identity, which must be disclosed in accordance with the requirements of 160:45-13-1(c)(2)(C).
- 160:45-13-3. Limitations on private education loans**
- (a) **Co-branding prohibited.**

(1) Except as provided in paragraph (b) of this section, a creditor, other than the covered educational institution itself, shall not use the name, emblem, mascot, or logo of a covered educational institution, or other words, pictures, or symbols identified with a covered educational institution, in the marketing of private education loans in a way that implies that the covered education institution endorses the creditor's loans.

(2) A creditor's marketing of private education loans does not imply that the covered education institution endorses the creditor's loans if the marketing includes a clear and conspicuous disclosure that is equally prominent and closely proximate to the reference to the covered educational institution that the covered educational institution does not endorse the creditor's loans and that the creditor is not affiliated with the covered educational institution.

(b) **Endorsed lender arrangements.** If a creditor and a covered educational institution have entered into an arrangement where the covered educational institution agrees to endorse the creditor's private education loans, and such arrangement is not prohibited by other applicable law or regulation, paragraph (a)(1) of this section does not apply if the private education loan marketing includes a clear and conspicuous disclosure that is equally prominent and closely proximate to the reference to the covered educational institution that the creditor's loans are not offered or made by the covered educational institution, but are made by the creditor.

(c) **Consumer's right to accept.**

(1) The consumer has the right to accept the terms of a private education loan at any time within 30 calendar days following the date on which the consumer receives the disclosures required under 160:45-13-2(b).

(2) Except for changes permitted under paragraphs (c)(3) and (c)(4), the rate and terms of the private education loan that are required to be disclosed under 160:45-13-2(b) and (c) may not be changed by the creditor prior to the earlier of:

(A) The date of disbursement of the loan; or

(B) The expiration of the 30 calendar day period described in paragraph (c)(1) of this section if the consumer has not accepted the loan within that time.

(3) **Exceptions not requiring re-disclosure.**

(A) Notwithstanding paragraph (c)(2) of this section, nothing in this section prevents the creditor from:

(i) Withdrawing an offer before consummation of the transaction if the extension of credit would be prohibited by law or if the creditor has reason to believe that the consumer has committed fraud in connection with the loan application;

(ii) Changing the interest rate based on adjustments to the index used for a loan;

(iii) Changing the interest rate and terms if the change will unequivocally benefit the consumer;
or

(iv) Reducing the loan amount based upon a certification or other information received from the

covered educational institution, or from the consumer, indicating that the student's cost of attendance has decreased or the consumer's other financial aid has increased. A creditor may make corresponding changes to the rate and other terms only to the extent that the consumer would have received the terms if the consumer had applied for the reduced loan amount.

(B) If the creditor changes the rate or terms of the loan under this paragraph (c)(3), the creditor need not provide the disclosures required under 160:45-13-2(b) for the new loan terms, nor need the creditor provide an additional 30-day period to the consumer to accept the new terms of the loan under paragraph (c)(1) of this section.

(4) **Exceptions requiring re-disclosure.**

(A) Notwithstanding paragraphs (c)(2) or (c)(3) of this section, nothing in this section prevents the creditor, at its option, from changing the rate or terms of the loan to accommodate a specific request by the consumer. For example, if the consumer requests a different repayment option, the creditor may, but need not, offer to provide the requested repayment option and make any other changes to the rate and terms.

(B) If the creditor changes the rate or terms of the loan under this paragraph (c)(4), the creditor shall provide the disclosures required under 160:45-13-2(b) and shall provide the consumer the 30-day period to accept the loan under paragraph (c)(1) of this section. The creditor shall not make further changes to the rates and terms of the loan, except as specified in paragraphs (c)(3) and (4) of this section. Except as permitted under 160:45-13-3(c)(3), unless the consumer accepts the loan offered by the creditor in response to the consumer's request, the creditor may not withdraw or change the rates or terms of the loan for which the consumer was approved prior to the consumer's request for a change in loan terms.

(d) **Consumer's right to cancel.** The consumer may cancel a private education loan, without penalty, until midnight of the third business day following the date on which the consumer receives the disclosures required by 160:45-13-2(c). No funds may be disbursed for a private education loan until the three-business day period has expired.

(e) **Self-certification form.** For a private education loan intended to be used for the postsecondary educational expenses of a student while the student is attending an institution of higher education, the creditor shall obtain from the consumer or the institution of higher education the form developed by the Secretary of Education under section 155 of the Higher Education Act of 1965, signed by the consumer, in written or electronic form, before consummating the private education loan.

(f) **Provision of information by preferred lenders.** A creditor that has a preferred lender arrangement with a covered educational institution shall provide to the covered educational institution the information required under 160:45-13-2(a)(1) through (5), for each type of private education loan that the

Emergency Adoptions

lender plans to offer to consumers for students attending the covered educational institution for the period beginning July 1 of the current year and ending June 30 of the following year. The creditor shall provide the information annually by the

later of the 1st day of April, or within 30 days after entering into, or learning the creditor is a party to, a preferred lender arrangement.

APPENDIX H. CLOSED-END MODEL FORMS AND CLAUSES [REVOKED]

APPENDIX H. CLOSED-END MODEL FORMS AND CLAUSES [NEW]

H-1	Credit Sale Model Form (160:45-5-2)
H-2	Loan Model Form (160:45-5-2)
H-3	Amount Financed Itemization Model Form (160:45-5-2(3))
H-4(A)	Variable-Rate Model Clauses (160:45-5-2(6)(A))
H-4(B)	Variable-Rate Model Clauses (160:45-5-2(6)(B))
H-4(C)	Variable-Rate Model Clauses (160:45-5-3(b))
H-4(D)	Variable-Rate Model Clauses (160:45-5-4(c))
H-5	Demand Feature Model Clauses (160:45-5-2(9))
H-6	Assumption Policy Model Clause (160:45-5-2(17))
H-7	Required Deposit Model Clause (160:45-5-2(18))
H-8	Rescission Model Form (General) (160:45-5-7)
H-9	Rescission Model Form (Refinancing with Original Creditor) (160:45-5-7)
H-10	Credit Sale Sample
H-11	Installment Loan Sample
H-12	Refinancing Sample
H-13	Mortgage with Demand Feature Sample
H-14	Variable-Rate Mortgage Sample (160:45-5-3(b))
H-15	Graduated-Payment Mortgage Sample
H-16	Mortgage Sample (160:45-9-2)
H-18	Private Education Loan Application and Solicitation Model Form
H-19	Private Education Loan Approval Model Form

Emergency Adoptions

- H-20 Private Education Loan Final Model Form
- H-21 Private Education Loan Application and Solicitation Sample
- H-22 Private Education Loan Approval Sample
- H-23 Private Education Loan Final Sample

H-1—Credit Sale Model Form

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. %	FINANCE CHARGE The dollar amount the credit will cost you. \$	Amount Financed The amount of credit provided to you or on your behalf. \$	Total of Payments The amount you will have paid after you have made all payments as scheduled. \$	Total Sale Price The total cost of your purchase on credit, including your downpayment of \$ _____ \$
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You have the right to receive at this time an itemization of the Amount Financed.
 I want an itemization. I do not want an itemization.

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Insurance

Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. _____ Signature
Credit Disability		I want credit disability insurance. _____ Signature
Credit Life and Disability		I want credit life and disability insurance. _____ Signature

You may obtain property insurance from anyone you want that is acceptable to _____ (creditor). If you get the insurance from _____ (creditor), you will pay \$ _____.

Security: You are giving a security interest in:

- the goods or property being purchased.
- (brief description of other property).

Filing fees \$ _____ Non-filing insurance \$ _____

Late Charge: If a payment is late, you will be charged \$ _____ / _____ % of the payment.

Prepayment: If you pay off early, you

- may will not have to pay a penalty.
- may will not be entitled to a refund of part of the finance charge.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

_____ e means an estimate

Emergency Adoptions

H-2—Loan Model Form

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	Amount Financed The amount of credit provided to you or on your behalf	Total of Payments The amount you will have paid after you have made all payments as scheduled.
%	\$	\$	\$

You have the right to receive at this time an itemization of the Amount Financed.

I want an itemization. I do not want an itemization.

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Insurance
Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. _____ Signature
Credit Disability		I want credit disability insurance. _____ Signature
Credit Life and Disability		I want credit life and disability insurance. _____ Signature

You may obtain property insurance from anyone you want that is acceptable to _____ (creditor). If you get the insurance from _____ (creditor), you will pay \$_____.

Security: You are giving a security interest in:

the goods or property being purchased.

(brief description of other property): _____

Filing fees \$ _____ Non-filing insurance \$ _____

Late Charge: If a payment is late, you will be charged \$ _____ / _____ % of the payment.

Prepayment: If you pay off early, you

may will not have to pay a penalty.

may will not be entitled to a refund of part of the finance charge.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

_____ e means an estimate

H-3—Amount Financed Itemization Model Form

Itemization of the Amount Financed of \$ _____

\$ _____ Amount given to you directly

\$ _____ Amount paid on your account

Amount paid to others on your behalf

\$ _____ to [public officials] [credit bureau] [appraiser] [insurance company]

\$ _____ to (name of another creditor)

\$ _____ to (other)

\$ _____ Prepaid finance charge

H-4(A)—Variable-Rate Model Clauses

The annual percentage rate may increase during the term of this transaction if:

- [the prime interest rate of (creditor) increases.]
- [the balance in your deposit account falls below \$_____.]
- [you terminate your employment with (employer) .]

- [The interest rate will not increase above _____%.]
- [The maximum interest rate increase at one time will be _____%.]
- [The rate will not increase more than once every (time period) .]

Any increase will take the form of:

- [higher payment amounts.]
- [more payments of the same amount.]
- [a larger amount due at maturity.]

Example based on the specific transaction

- [If the interest rate increases by _____% in (time period),
- [your regular payments will increase to \$_____.]
- [you will have to make _____ additional payments.]
- [your final payment will increase to \$_____..]

Example based on a typical transaction

- [If your loan were for \$_____ at _____% for (term) and the rate increased to _____% in (time period),
- [your regular payments would increase by \$_____.]
- [you would have to make _____ additional payments.]
- [your final payment would increase by \$_____..]

H-4(B)—Variable-Rate Model Clauses

Your loan contains a variable-rate feature. Disclosures about the variable-rate feature have been provided to you earlier.

H-4(C) Variable-Rate Model Clauses

This disclosure describes the features of the adjustable-rate mortgage (ARM) program you are considering. Information on other ARM programs is available upon request.

How Your Interest Rate and Payment Are Determined

- Your interest rate will be based on [an index plus a margin] [a formula].
- Your payment will be based on the interest rate, loan balance, and loan term.
 - [The interest rate will be based on (identification of index) plus our margin. Ask for our current interest rate and margin.]
 - [The interest rate will be based on (identification of formula). Ask us for our current interest rate.
 - Information about the index [formula for rate adjustments] is published [can be found] _____.
 - [The initial interest rate is not based on the (index) (formula) used to make later adjustments. Ask us for the amount of current interest-rate discounts.]

How Your Interest Rate Can Change

- Your interest rate can change (frequency).
- [Your interest rate cannot increase or decrease more than _____ percentage points at each adjustment.]
- Your interest rate cannot increase [or decrease] more than _____ percentage points over the term of the loan.

How Your Payment Can Change

- Your payment can change (frequency) based on changes in the interest rate.
- [Your payment cannot increase more than (amount or percentage) at each adjustment.]
- You will be notified in writing _____ days before the due date of a payment at a new level. This notice will contain information about your interest rates, payment amount, and loan balance.
- [You will be notified once each year during which interest-rate adjustments, but no payment adjustments, have been made to your loan. This notice will contain information about your interest rates, payment amount, and loan balance.]
- For example, on a \$10,000 [term] loan with an initial interest rate of _____ [(the rate shown in the interest-rate column below for the year 19 _____)] [in effect (month) (year)], the maximum amount that the interest rate can rise under this program is _____ percentage points, to _____ %, and the monthly payment can rise from a first-year payment of \$ _____ to a maximum of \$ _____ in the _____ year. To see what your payments would be, divide your mortgage amount by \$10,000; then multiply the monthly payment by that amount. (For example, the monthly payment for a mortgage amount of \$60,000 would be: $\$60,000 \div \$10,000 = 6$; $6 \times \text{_____} = \_____ per month.)]

[Example

Emergency Adoptions

The example below shows how your payments would have changed under this ARM program based on actual changes in the index from 1982 to 1996. This does not necessarily indicate how your index will change in the future.

The example is based on the following assumptions:

Amount	\$10,000	Caps	_____ [periodic interest-rate cap]
Term	_____		_____ lifetime interest-rate cap
Change date	_____		_____ [payment cap]
Payment adjustment	(frequency)	[Interest-rate carryover]	
Interest adjustment	(frequency)	[Negative amortization]	
[Margin]*	_____	[Interest-rate discount]**	
		Index	(identification of index or formula)

Year	Index (%)	Margin (percentage points)	Interest Rate (%)	Monthly Payment (\$)	Remaining Balance (\$)
1982					
1983					
1984					
1985					
1986					
1987					
1988					
1989					
1990					
1991					
1992					
1993					
1994					
1995					
1996					

To see what your payments would have been during that period, divide your mortgage amount by \$10,000; then multiply the monthly payment by that amount. (For example, in 1996 the monthly payment for a mortgage amount of \$60,000 taken out in 1992 would be: $\$60,000 \div \$10,000 = 6$; $6 \times \text{_____} = \_____ per month.)

*This is a margin we have used recently, your margin may be different.

**This is the amount of a discount we have provided recently; your loan may be discounted by a different amount.]

H-4(D)—Variable-Rate Model Clauses

Your new interest rate will be _____%, which is based on an index value of _____%.
Your previous interest rate was _____%, which was based on an index value of _____%.
[The new interest rate does not reflect a change of _____ percentage point in the index value which was not added because of _____.]
[The new payment will be \$_____.]
[Your new loan balance is \$_____.]
[Your (new) (existing) payment will not be sufficient to cover the interest due and the difference will be added to the loan amount. The payment amount needed to pay your loan in full by the end of the term at the new interest rate is \$_____.]
[The following interest rate adjustments have been implemented this year without changing your payment: _____.
These interest rates were based on the following index values: _____.]

H-5—Demand Feature Model Clauses

This obligation [is payable on demand.]
[has a demand feature.]
[All disclosures are based on an assumed maturity of one year.]

H-6—Assumption Policy Model Clause

Assumption: Someone buying your house [may, subject to conditions, be allowed to] [cannot] assume the remainder of the mortgage on the original terms.

H-7—Required Deposit Model Clause

The annual percentage rate does not take into account your required deposit.

H-9 Rescission Model Form (Refinancing with Original Creditor)

NOTICE OF RIGHT TO CANCEL

Your Right to Cancel

You are entering into a new transaction to increase the amount of credit previously provided to you. Your home is the security for this new transaction. You have a legal right under federal law and the law of this state to cancel this new transaction, without cost, within three business days from whichever of the following events occurs last:

- (1) the date of this new transaction, which is _____; or
- (2) the date you received your new Truth in Lending disclosures; or
- (3) the date you received this notice of your right to cancel.

If you cancel this new transaction, it will not affect the amount that you presently owe. Your home is the security for that amount. Within 20 calendar days after we receive your notice of cancellation of this new transaction, we must take the steps necessary to reflect the fact that your home does not secure the increase of credit. We must also return any money you have given to us or anyone else in connection with this new transaction.

You may keep any money we have given you in this new transaction until we have done the things mentioned above, but you must then offer to return the money at the address below. If we do not take possession of the money within 20 calendar days of your offer, you may keep it without further obligation.

How to Cancel

If you decide to cancel this new transaction, you may do so by notifying us in writing, at
(creditor's name and business address).

You may use any written statement that is signed and dated by you and states your intention to cancel, or may use this notice by dating and signing below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice no later than midnight of
(date)

(or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel some other way, it must be delivered to the above address no later than that time.

I WISH TO CANCEL.

Consumer's Signature

Date

Emergency Adoptions

H-10—Credit Sale Sample

Big Wheel Auto		Alice Green		
ANNUAL PERCENTAGE RATE <small>The cost of your credit as a yearly rate.</small> 14.84 %	FINANCE CHARGE <small>The dollar amount the credit will cost you.</small> \$1496.80	Amount Financed <small>The amount of credit provided to you or on your behalf.</small> \$6107.50	Total of Payments <small>The amount you will have paid after you have made all payments as scheduled.</small> \$7604.30	Total Sale Price <small>The total cost of your purchase on credit, including your downpayment of</small> \$ 1500 - \$ 9129.30

You have the right to receive at this time an itemization of the Amount Financed.
 I want an itemization. I do not want an itemization.

Your payment schedule will be.

Number of Payments	Amount of Payments	When Payments Are Due
36	\$211.23	Monthly beginning 6-1-81

Insurance
 Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life	\$120 -	I want credit life insurance. <u>Alice Green</u> <small>Signature</small>
Credit Disability		I want credit disability insurance. _____ <small>Signature</small>
Credit Life and Disability		I want credit life and disability insurance. _____ <small>Signature</small>

Security: You are giving a security interest in:
 the goods being purchased.

Filing fees \$ 12.50 Non-filing insurance \$ _____

Late Charge: If a payment is late, you will be charged \$10.

Prepayment: If you pay off early, you
 may will not have to pay a penalty.
 may will not be entitled to a refund of part of the finance charge.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

I have received a copy of this statement.
Alice Green 5-1-81
Signature Date

e means an estimate

H-11—Installment Loan Sample

Friendly Bank & Trust Co. 700 East Street Little Creek, USA		Lisa Stone 22-4859-22 300 Maple Avenue Little Creek, USA	
ANNUAL PERCENTAGE RATE <small>The cost of your credit as a yearly rate.</small> <div style="font-size: 1.2em; text-align: center;">12 %</div>	FINANCE CHARGE <small>The dollar amount the credit will cost you.</small> <div style="font-size: 1.2em; text-align: center;">\$ 675.31</div>	Amount Financed <small>The amount of credit provided to you or on your behalf</small> <div style="font-size: 1.2em; text-align: center;">\$ 5000-</div>	Total of Payments <small>The amount you will have paid after you have made all payments as scheduled</small> <div style="font-size: 1.2em; text-align: center;">\$ 5675.31</div>
You have the right to receive at this time an itemization of the Amount Financed. <input type="checkbox"/> I want an itemization. <input checked="" type="checkbox"/> I do not want an itemization.			
Your payment schedule will be:			
Number of Payments	Amount of Payments	When Payments Are Due	
1	\$262.03 ^e	6/1/81	
23	\$235.36	Monthly beginning 7/1/81	
Late Charge: If a payment is late, you will be charged \$5 or 10% of the payment, whichever is less.			
Prepayment: If you pay off early, you <input checked="" type="checkbox"/> may <input type="checkbox"/> will not have to pay a penalty.			
Required Deposit: The annual percentage rate does not take into account your required deposit.			
See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.			
_____ e means an estimate			

Emergency Adoptions

H-12—Refinancing Sample

Everyone's Credit Union Date: April 1, 1981

ANNUAL PERCENTAGE RATE <small>The cost of your credit as a yearly rate.</small>	FINANCE CHARGE <small>The dollar amount the credit will cost you.</small>	Amount Financed <small>The amount of credit provided to you or on your behalf.</small>	Total of Payments <small>The amount you will have paid after you have made all payments as scheduled.</small>
15 %	\$ 1285.06	\$ 5177.73	\$ 6462.79

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due
35	\$ 179.53	monthly starting 5-1-81
1	\$ 179.24	4-1-84

Insurance
Credit life insurance and credit disability insurance are not required to obtain credit, and will not be provided unless you sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. _____ <small>Signature</small>
Credit Disability	\$ 177.73	I want credit disability insurance. <u>Joseph Day</u> <small>Signature</small>

Security: You are giving a security interest in: the goods or property being purchased.
 your automobile.

Late Charge: If a payment is late, you will be charged 20% of the interest due with a minimum charge of \$0.05.

Prepayment: If you pay off early, you will not have to pay a penalty.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

e means an estimate

Itemization of the Amount Financed of \$ 5177.73

\$ 1000- Amount given to you directly
 \$ 3000- Amount paid on your account

Amount paid to others on your behalf

\$ _____ to public officials
 \$ 500- to Coop Credit Union
 \$ 500- to Acme Finance Co.
 \$ 177.73 to Pan-Galactic Ins. Co.
 \$ _____ for credit report

\$ _____ Prepaid finance charge

H-13—Mortgage with Demand Feature Sample

Mortgage Savings and Loan Assoc. Date: April 15, 1981		Glenn Jones 700 Oak Drive Little Creek, USA							
ANNUAL PERCENTAGE RATE <small>The cost of your credit as a yearly rate</small> 14.85 %	FINANCE CHARGE <small>The dollar amount the credit will cost you</small> \$156,551.54	Amount Financed <small>The amount of credit provided to you or on your behalf</small> \$44,605.66	Total of Payments <small>The amount you will have paid after you have made all payments as scheduled</small> \$201,157.20						
Your payment schedule will be:									
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">Number of Payments</th> <th style="width: 33%;">Amount of Payments</th> <th style="width: 33%;">When Payments Are Due</th> </tr> </thead> <tbody> <tr> <td style="text-align: center; padding: 5px;">360</td> <td style="text-align: center; padding: 5px;">\$558.77</td> <td style="padding: 5px;">Monthly beginning 6/1/81</td> </tr> </tbody> </table>	Number of Payments	Amount of Payments	When Payments Are Due	360	\$558.77	Monthly beginning 6/1/81			
Number of Payments	Amount of Payments	When Payments Are Due							
360	\$558.77	Monthly beginning 6/1/81							
This obligation has a demand feature.									
You may obtain property insurance from anyone you want that is acceptable to Mortgage Savings and Loan Assoc. If you get the insurance from Mortgage Savings and Loan Assoc. you will pay \$ <u>150/year</u>									
Security: You are giving a security interest in: <input checked="" type="checkbox"/> the goods or property being purchased. <input type="checkbox"/> _____									
Late Charge: If a payment is late, you will be charged \$ <u>N/A</u> <u>5</u> % of the payment.									
Prepayment: If you pay off early, you may have to pay a penalty.									
Assumption: Someone buying your house may, subject to conditions, be allowed to assume the remainder of the mortgage on the original terms.									
See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.									
e means an estimate									

Emergency Adoptions

H-14 Variable-Rate Mortgage Sample

This disclosure describes the features of the adjustable-rate mortgage (ARM) program you are considering. Information on other ARM programs is available upon request.

How Your Interest Rate and Payment Are Determined

- Your interest rate will be based on an index rate plus a margin.
- Your payment will be based on the interest rate, loan balance, and loan term.
 - The interest rate will be based on the weekly average yield on United States Treasury securities adjusted to a constant maturity of 1 year (your index), plus our margin. Ask us for our current interest rate and margin.
 - Information about the index rate is published weekly in the Wall Street Journal.
- Your interest rate will equal the index rate plus our margin unless your interest rate "caps" limit the amount of change in the interest rate.

How Your Interest Rate Can Change

- Your interest rate can change yearly.
- Your interest rate cannot increase or decrease more than 2 percentage points per year.
- Your interest rate cannot increase or decrease more than 5 percentage points over the term of the loan.

How Your Monthly Payment Can Change

- Your monthly payment can increase or decrease substantially based on annual changes in the interest rate.
- [For example, on a \$10,000, 30-year loan with an initial interest rate of 12.41 percent in effect in July 1996, the maximum amount that the interest rate can rise under this program is 5 percentage points, to 17.41 percent, and the monthly payment can rise from a first-year payment of \$106.03 to a maximum of \$145.34 in the fourth year. To see what your payment is, divide your mortgage amount by \$10,000; then multiply the monthly payment by that amount. (For example, the monthly payment for a mortgage amount of \$60,000 would be $\$60,000 \div \$10,000 = 6$; $6 \times 106.03 = \$636.18$ per month.)
- You will be notified in writing 25 days before the annual payment adjustment may be made. This notice will contain information about your interest rates, payment amount, and loan balance.]

[Example

The example below shows how your payments would have changed under this ARM program based on actual changes in the index from 1982 to 1996. This does not necessarily indicate how your index will change in the future. The example is based on the following assumptions.

Amount	\$10,000	Caps	2 percentage points annual interest rate
Term	30 years		5 percentage points lifetime interest rate
Payment adjustment	1 year	Index	Weekly average yield on U.S.
Interest adjustment	1 year		Treasury securities adjusted to a constant
Margin	3 percentage points		maturity of one year

Year	Interest	Monthly	Remaining
------	----------	---------	-----------

(as of the 1st week ending in July)	Index (%)	Margin (percentage points)	Rate (%)	Payment (\$)	Balance (\$)
1982	14.41	3	17.41	145.90	9,989.37
1983	9.78	3	15.41**	129.81	9,969.66
1984	12.17	3	15.17	127.91	9,945.51
1985	7.66	3	13.17**	112.43	9,903.70
1986	6.36	3	12.41***	106.73	9,848.94
1987	6.71	3	12.41***	106.73	9,786.98
1988	7.52	3	12.41***	106.73	9,716.88
1989	7.97	3	12.41***	106.73	9,637.56
1990	8.06	3	12.41***	106.73	9,547.83
1991	6.40	3	12.41***	106.73	9,446.29
1992	3.96	3	12.41***	106.73	9,331.56
1993	3.42	3	12.41***	106.73	9,201.61
1994	5.47	3	12.41***	106.73	9,054.72
1995	5.53	3	12.41***	106.73	8,888.52
1996	5.82	3	12.41***	106.73	8,700.37

*This is a margin we have used recently; your margin may be different.

**This interest rate reflects a 2 percentage point annual interest-rate cap.

***This interest rate reflects a 5 percentage point annual interest-rate cap.

To see what your payments would have been during that period, divide your mortgage amount by \$10,000; then multiply the monthly payment by that amount. (For example, in 1996 the monthly payment for a mortgage amount of \$60,000 taken out in 1982 would be: $\$60,000 \div \$10,000 = 6$; $6 \times \$106.73 = \640.38 .)

- You will be notified in writing 25 days before the annual payment adjustment may be made. This notice will contain information about your interest rates, payment amount, and loan balance.]

Emergency Adoptions

H-15—Graduated Payment Mortgage Sample

Convenient Savings and Loan Account number: 4862-88

Michael Jones
500 Walnut Court, Little Creek USA

ANNUAL PERCENTAGE RATE <small>The cost of your credit as a yearly rate.</small>	FINANCE CHARGE <small>The dollar amount the credit will cost you</small>	Amount Financed <small>The amount of credit provided to you or on your behalf</small>	Total of Payments <small>The amount you will have paid after you have made all payments as scheduled</small>
15.37 %	\$177,970.44	\$43,777	\$221,548.44

Your payment schedule will be

Number of Payments	Amount of Payments	When Payments Are Due	
12	\$446.62	monthly beginning	6/1/81
12	\$479.67	" "	6/1/82
12	\$515.11	" "	6/1/83
12	\$553.13	" "	6/1/84
12	\$593.91	" "	6/1/85
300	} varying from \$637.68 to \$627.37	" "	6/1/86

Security: You are giving a security interest in the property being purchased.

Late Charge: If a payment is late, you will be charged 5% of the payment.

Prepayment: if you pay off early, you
 may will not have to pay a penalty
 may will not be entitled to a refund of part of the finance charge.

Assumption: Someone buying your home cannot assume the remainder of the mortgage on the original terms.

See your contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

e means an estimate

H-16—Mortgage Sample

You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application.

If you obtain this loan, the lender will have a mortgage on your home.

YOU COULD LOSE YOUR HOME, AND ANY MONEY YOU HAVE PUT INTO IT, IF YOU DO NOT MEET YOUR OBLIGATIONS UNDER THE LOAN.

You are borrowing \$ _____ (optional credit insurance is is not included in this amount).

The annual percentage rate on your loan will be: _____%.

Your regular [frequency] payment will be: \$ _____.
[At the end of your loan, you will still owe us: \$ [balloon amount].]

[Your interest rate may increase. Increases in the interest rate could increase your payment. The highest amount your payment could increase is to \$ _____.]

H-18 Private Education Loan Application and Solicitation Model Form

Page 1 of 2

[Creditor Name]
[Creditor Address]
[Creditor Phone Number]

Loan Interest Rate & Fees

Your **starting interest rate** will be between

%	and	%
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After the starting rate is set, your rate will then vary with the market

Your Starting Interest Rate (upon approval)

The starting interest rate you pay will be determined after you apply. [Description of how starting rate is determined]. If approved, we will notify you of the rate you qualify for within the stated range.

Your Interest Rate during the life of the loan

Your rate is variable. This means that your rate could move lower or higher than the rates on this form. The variable rate is based upon the [Index] Rate (as published in the [source of index]). For more information on this rate, see the reference notes.

[Indication of **maximum rate** or **lack thereof**]

Loan Fees

[Itemization of fees]

Loan Cost Examples

The total amount you will pay for this loan will vary depending upon when you start to repay it. This example provides estimates based upon [number of repayment options] repayment options available to you while enrolled in school.

Repayment Option (while enrolled in school)	Amount Provided (amount provided directly to you or your school)	Interest Rate (highest possible starting rate)	Loan Term (how long you have to pay off the loan)	Total Paid over [term of loan] (includes associated fees)
1. [REPAYMENT OPTION] [Description]	\$10,000	[Rate]	[Loan Term] (description of when repayment begins)	[Total Cost]
2. [REPAYMENT OPTION] [Description]	\$10,000	[Rate]	[Loan Term] (description of when repayment begins)	[Total Cost]
3. [REPAYMENT OPTION] [Description]	\$10,000	[Rate]	[Loan Term] (description of when repayment begins)	[Total Cost]

About this example

[Description of example assumptions]

[Description of other loan terms, if applicable]

Federal Loan Alternatives

Loan program	Current Interest Rates by Program Type	
PERKINS for Students	[Rate] fixed	
STAFFORD for Students	[Rate] fixed	Undergraduate subsidized
	[Rate] fixed	Undergraduate unsubsidized & Graduate
PLUS for Parents and Graduate / Professional Students	[Rate] fixed	Federal Family Education Loan
	[Rate] fixed	Federal Direct Loan

You may qualify for Federal education loans.

For additional information, **contact your school's financial aid office or the Department of Education at:**

www.federalstudentaid.ed.gov

Next Steps

1. Find Out About Other Loan Options.

Some schools have school-specific student loan benefits and terms not detailed on this form. Contact your school's financial aid office or visit the Department of Education's web site at: www.federalstudentaid.ed.gov for more information about other loans.

2. To Apply for this Loan, Complete the Application and the Self-Certification Form.

You may get the certification form from your school's financial aid office. If you are approved for this loan, the loan terms will be available for 30 days (terms will not change during this period, except as permitted by law and the variable interest rate may change based on the market).

REFERENCE NOTES

Variable Interest Rate

- [Variable interest rate information, if applicable]

Eligibility Criteria

- [Description of eligibility criteria]

Bankruptcy Limitations

- If you file for bankruptcy you may still be required to pay back this loan.

More information about loan eligibility and repayment deferral or forbearance options is available in your loan application and loan agreement.

H-19 Private Education Loan Approval Model Form

Page 1 of 2

BORROWER:

[Borrower Name]
[Borrower Address]

CREDITOR:

[Creditor Name]
[Creditor Address]

Loan Rates & Estimated Total Costs

Total Loan Amount	Interest Rate	Finance Charge	Total of Payments
The total amount you are borrowing.	Your current interest rate.	The estimated dollar amount the credit will cost you.	The estimated amount you will have paid when you have made all payments.

ITEMIZATION OF AMOUNT FINANCED

Amount paid to you	[Amount]
Amount paid to others on your Behalf:	+ [Amount]
• [Institution Name]	
Amount Financed [Description]	= [Amount]
Initial finance charges (total)	+ [Amount]
• [Charge Type], [Amount]	
• [Charge Type], [Amount]	
Total Loan Amount	= [Amount]

ABOUT YOUR INTEREST RATE

- **Your rate is variable.** This means that your actual rate varies with the market and could be lower or higher than the rate on this form. The variable rate is based upon the [Index] Rate (as published in the [source of index]). For more information on this rate, see reference notes.
- Although your rate will vary, **it will never exceed [maximum interest rate]** (the maximum allowable [by law] for this loan).
- Your **Annual Percentage Rate (APR) is [Rate]**. The APR is typically different than the Interest Rate since it considers fees and reflects the cost of your loan as a yearly rate. For more information about the APR, see reference notes.

FEES

- [Itemization of Fees, if applicable]

Estimated Repayment Schedule & Terms

[LOAN TERM]	[PAYMENT PERIOD, e.g. MONTHLY PAYMENTS]		◀ The estimated Total of Payments at the Maximum Rate of Interest would be [Total Payment Amount].
	at [Interest Rate]% the current interest rate of your loan	at [Maximum Rate]% the maximum interest rate possible for your loan	
[Dates of Deferment Period, if applicable] deferment period	No payment required (Amount of accrued interest) interest will accrue during this time	No payment required (Interest will accrue during this time)	
[Payment Due Dates] (number of monthly payments) monthly payments	[Payment Amount]	[Payment Amount]	
[Payment Due Dates] (number of monthly payments) monthly payments	[Payment Amount]	[Payment Amount]	

Federal Loan Alternatives

Loan program	Current Interest Rates by Program Type	
PERKINS for Students	[Rate] fixed	
STAFFORD for Students	[Rate] fixed	Undergraduate subsidized
	[Rate] fixed	Undergraduate unsubsidized & Graduate
PLUS for Parents and Graduate / Professional Students	[Rate] fixed	Federal Family Education Loan
	[Rate] fixed	Federal Direct Loan

You may qualify for Federal education loans.

For additional information, **contact your school's financial aid office or the Department of Education at:**

www.federalstudentaid.ed.gov

Next Steps & Terms of Acceptance

This offer is good until:

[Date of Acceptance Deadline]

1. Find Out About Other Loan Options.

Contact your school's financial aid office for more information.

2. You Have Until [Date of Acceptance Deadline] to Accept this Offer

The terms of this offer will not change except as permitted by law and the variable interest rate may change based on the market.

To Accept the Terms of this loan,

[Description of method of acceptance]

REFERENCE NOTES

Variable Interest Rate:

- Your loan has a variable Interest Rate that is based on a publicly available index, the [Index Name], which is currently [Rate]. Your rate is calculated each month by adding a margin of [Margin Rate] to the [Index].
- The Interest Rate may be higher or lower than your Annual Percentage Rate (APR) because the APR considers certain fees you pay to obtain this loan, the Interest Rate, and whether you defer (postpone) payments while in school.
- [Description of effect of an increase]

Bankruptcy Limitations

- If you file for bankruptcy you may still be required to pay back this loan.

Repayment Options:

- [Description of deferment options, if applicable]

Prepayments:

- [Prepayment disclosure]

Security

- You are giving a security interest in [description, if applicable]

See your loan agreement for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

H-20 Private Education Loan Final Model Form

Page 1 of 2

BORROWER:

[Borrower Name]
[Borrower Address]

CREDITOR:

[Creditor Name]
[Creditor Address]

RIGHT TO CANCEL

You have a right to cancel this transaction, without penalty, by midnight on [deadline for cancellation]. No funds will be disbursed to you or to your school until after this time. You may cancel by calling us at [Creditor Phone Number].

Loan Rates & Estimated Total Costs

Total Loan Amount

The total amount you are borrowing.

Interest Rate

Your current interest rate.

Finance Charge

The estimated dollar amount the credit will cost you.

Total of Payments

The estimated amount you will have paid when you have made all payments.

ITEMIZATION OF AMOUNT FINANCED

Amount paid to you	[Amount]
Amount paid to others on your Behalf:	+ [Amount]
• [Institution Name]	
Amount Financed [Description]	= [Amount]
Initial finance charges (total)	+ [Amount]
• [Charge Type], [Amount]	
• [Charge Type], [Amount]	
Total Loan Amount	= [Amount]

ABOUT YOUR INTEREST RATE

• **Your rate is variable.** This means that your actual rate varies with the market and could be lower or higher than the rate on this form. The variable rate is based upon the [Index] Rate (as published in the [source of index]). For more information on this rate, see reference notes.

• **There is no limit on the amount the interest rate can increase.**

• Your **Annual Percentage Rate (APR) is [Rate]**. The APR is typically different than the Interest Rate since it considers fees and reflects the cost of your loan as a yearly rate. For more information about the APR, see reference notes.

FEES

• [Itemization of Fees, if applicable]

Estimated Repayment Schedule & Terms

[LOAN TERM]	[PAYMENT PERIOD, e.g. MONTHLY PAYMENTS]		
	at [Interest Rate]% the current interest rate of your loan	No Maximum Rate example at 25%	
[Dates of Deferment Period, if applicable] [deferment period]	No payment required ([Amount of accrued interest] interest will accrue during this time)	No payment required (Interest will accrue during this time)	◀ Though your loan does not have a maximum interest rate, an example rate of 25% has been used for comparative purposes.
[Payment Due Dates] [number of monthly payments] monthly payments	[Payment Amount]	[Payment Amount] (your payments will be higher if the rate increases above 25%)	The estimated Total of Payments if your rate rises to 25% would be [Total Payment Amount] . Your Total of Payments will be higher if rate increases above 25%.
[Payment Due Dates] [number of monthly payments] monthly payments	[Payment Amount]	[Payment Amount] (your payments will be higher if the rate increases above 25%)	

REFERENCE NOTES

Variable Interest Rate:

- Your loan has a variable Interest Rate that is based on a publicly available index, the [Index Name], which is currently [Rate]. Your rate is calculated each month by adding a margin of [Margin Rate] to the [Index].
- The Interest Rate may be higher or lower than your Annual Percentage Rate (APR) because the APR considers certain fees you pay to obtain this loan, the Interest Rate, and whether you defer (postpone) payments while in school.
- [Description of effect of an increase]

Bankruptcy Limitations

- If you file for bankruptcy you may still be required to pay back this loan.

Repayment Options:

- [Description of deferment options, if applicable]

Prepayments:

- [Prepayment disclosure]

Security

- You are giving a security interest in [description, if applicable]

See your loan agreement for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

First ABC Bank
 12345 1st St.
 Anytown, CA 93120
 (800) 555 - 5555

Loan Interest Rate & Fees

Your **starting interest rate** will be between

7.375% and **17.375%**

After the starting rate is set, your rate will then vary with the market

Your Starting Interest Rate (upon approval)

The starting interest rate you pay will be determined after you apply. It will be based upon your credit history and other factors (co-signer credit, school type, etc). If approved, we will notify you of the rate you qualify for within the stated range.

Your Interest Rate during the life of the loan

Your rate is variable. This means that your rate could move lower or higher than the rates on this form. The variable rate is based upon the LIBOR Rate (as published in the *Wall Street Journal*). For more information on this rate, see the reference notes.

Although the rate will vary after you are approved, it will **never exceed 25%** (the maximum allowable for this loan).

Loan Fees

Application Fee: \$15. **Origination Fee:** The fees that we charge to make this loan range from 0% to 3% of total loan amount. **Loan Guarantee Fee:** 0% to 3% of total loan amount. **Repayment Fee:** The fees we charge when you begin repayment range from 0% to 3.5% of the total loan amount. **Late Charge:** 5% of the amount of the past due payment, or \$25, whichever is greater. **Returned check charge:** up to \$25.

Loan Cost Examples

The total amount you will pay for this loan will vary depending upon when you start to repay it. This example provides estimates based upon three (3) different repayment options available to you while enrolled in school.

Repayment Option (while enrolled in school)	Amount Provided (amount provided directly to you or your school)	Interest Rate (highest possible starting rate)	Loan Term (how long you have to pay off the loan)	Total Paid over 20 years (includes associated fees)
1. DEFER PAYMENTS Make no payments while enrolled in school. Interest will be charged and added to your loan	\$10,000	17.375%	20 years starting <u>after</u> the deferment period	\$81,084
2. PAY ONLY THE INTEREST Make interest payments but defer payments on the principal amount while enrolled in school.	\$10,000	17.375%	20 years starting <u>after</u> the deferment period	\$50,707
3. MAKE FULL PAYMENTS Pay both the principal and interest amounts while enrolled in school.	\$10,000	17.375%	20 years starting after your first payment	\$38,180

About this example

The repayment example assumes that you remain in school for 4 years and have a 6 month grace period before beginning repayment. It is based on the **highest starting rate currently charged** and associated fees. For loan amounts **up to \$20,000**, repayment will last 20 years, starting once the initial principal payment is made. For loan amounts **more than \$20,000** repayment will last 30 years, starting once the initial principal payment is made.

Federal Loan Alternatives

Loan program	Current Interest Rates by Program Type	
PERKINS for Students	5% fixed	
STAFFORD for Students	5.6% fixed	Undergraduate subsidized
	6.8% fixed	Undergraduate unsubsidized & Graduate
PLUS for Parents and Graduate / Professional Students	8.5% fixed	Federal Family Education Loan
	7.9% fixed	Federal Direct Loan

You may qualify for Federal education loans.

For additional information, **contact your school's financial aid office or the Department of Education at:**

www.federalstudentaid.ed.gov

Next Steps

1. Find Out About Other Loan Options.

Some schools have school-specific student loan benefits and terms not detailed on this form. Contact your school's financial aid office or visit the Department of Education's web site at: www.federalstudentaid.ed.gov for more information about other loans.

2. To Apply for this Loan, Complete the Application and the Self-Certification Form.

You may get the certification form from your school's financial aid office. If you are approved for this loan, the loan terms will be available for 30 days (terms will not change during this period, except as permitted by law and the variable interest rate may change based on the market).

REFERENCE NOTES

Variable Interest Rate

- This loan has a variable interest rate, that is based on a publicly available index, the London Interbank Offered Rate (LIBOR). Your rate will be calculated each month by adding a margin between 3% and 13% to the LIBOR.
- The rate will not increase more than once a month, but there is no limit on the amount that the rate could increase at one time.

Eligibility Criteria

Borrower

- Must be enrolled at an eligible school at least half-time.
- Must be 18 years or older at the time you apply.

Co-signers

- Rates are typically higher without a co-signer.
- Must be 18 years or older at the time of loan application.

Bankruptcy Limitations

- If you file for bankruptcy you may still be required to pay back this loan.

More information about loan eligibility and repayment deferral or forbearance options is available in your loan application and loan agreement.

H-22 Private Education Loan Approval Sample

Page 1 of 2

BORROWER:
Christopher Smith Jr.
1492 Columbus Way
Plymouth, MA 02360

CREDITOR:
First ABC Bank
12345 1st St
Anytown, CA 93120

Loan Rates & Estimated Total Costs

Total Loan Amount	Interest Rate	Finance Charge	Total of Payments
\$10,600.00	7.375%	\$18,541.24	\$ 28,541.24
The total amount you are borrowing.	Your current interest rate.	The estimated dollar amount the credit will cost you.	The estimated amount you will have paid when you have made all payments.

ITEMIZATION OF AMOUNT FINANCED

Amount paid to you	\$0.00
Amount paid to others on your Behalf:	+ \$10,000
• ABC State University	
Amount Financed (total amount provided)	= \$10,000
Initial finance charges (total)	+ \$600
• Origination Fee (\$300)	
• Loan Guarantee Fee (\$300)	
Total Loan Amount	= \$10,600

ABOUT YOUR INTEREST RATE

- **Your rate is variable.** This means that your actual rate varies with the market and could be lower or higher than the rate on this form. The variable rate is based upon the LIBOR Rate (as published in the *Wall Street Journal*). For more information on this rate, see reference notes.
- Although your rate will vary, **it will never exceed 25%** (the maximum allowable for this loan).
- Your **Annual Percentage Rate (APR) is 8.23%**. The APR is typically different than the Interest Rate since it considers fees and reflects the cost of your loan as a yearly rate. For more information about the APR, see reference notes.

FEEES

- **Late Charge:** 5% of the amount of the past due payment, or \$25, whichever is greater.
- **Returned check charge:** up to \$25.
- **Fee when you begin repaying the loan:** 3.5% of loan balance.

Estimated Repayment Schedule & Terms

20 YEAR LOAN TERM	MONTHLY PAYMENTS		◀ The estimated Total of Payments at the Maximum Rate of Interest would be \$154,928.
	at 7.375% the current interest rate of your loan	at 25% the maximum interest rate possible for your loan	
Sept. 1, 2009 - Oct. 31, 2013 deferment period	No payment required (\$3,799.67 in interest will accrue during this time)	No payment required (Interest will accrue during this time)	
Nov. 1, 2013 - Sept. 30, 2033 239 monthly payments	\$118.93	\$645.41	
Oct. 1, 2033 1 monthly payment	\$116.97	\$674.63	

Federal Loan Alternatives

Loan program	Current Interest Rates by Program Type	
PERKINS for Students	5% fixed	
STAFFORD for Students	5.6% fixed	Undergraduate subsidized
	6.8% fixed	Undergraduate unsubsidized & Graduate
PLUS for Parents and Graduate / Professional Students	8.5% fixed	Federal Family Education Loan
	7.9% fixed	Federal Direct Loan

You may qualify for Federal education loans.

For additional information, **contact your school's financial aid office or the Department of Education at:**

www.federalstudentaid.ed.gov

Next Steps & Terms of Acceptance

This offer is good until:

August 1, 2009

1. Find Out About Other Loan Options.

Contact your school's financial aid office for more information.

2. You Have Until August 1, 2009 to Accept this Offer

The terms of this offer will not change except as permitted by law and the variable interest may change based on the market.

To Accept the Terms of this loan, contact us at

First ABC Bank
12345 1st St.
Anytown, CA 93120
(800) 555 - 5555

REFERENCE NOTES

Variable Interest Rate:

- Your loan has a variable Interest Rate that is based on a publicly available index, the London Interbank Offered Rate (LIBOR), which is currently 4.375%. Your rate is calculated each month by adding a margin of 3% to the LIBOR.
- The Interest Rate may be higher or lower than your Annual Percentage Rate (APR) because the APR considers certain fees you pay to obtain this loan, the Interest Rate, and whether you defer (postpone) payments while in school.
- The rate will not increase more than once a month, but there is no limit on the amount that the rate could increase at one time. Your rate will never exceed 25%.
- If the Interest Rate increases your monthly payments will be higher.

Bankruptcy Limitations

- If you file for bankruptcy you may still be required to pay back this loan.

Repayment Options:

- Although you elected to postpone payments, you can still make payments while you are in school. You can also choose to change your deferment choice to: Pay Interest Only or Make Full Payments. More information about repayment deferral or forbearance options is available in your loan agreement.

Prepayments:

- If you pay the loan off early, you will not have to pay a penalty. You will not be entitled to a refund of part of the finance charge.

See your loan agreement for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

H-23 Private Education Loan Final Sample

Page 1 of 2

BORROWER:

Christopher Smith Jr.
1492 Columbus Way
Plymouth, MA 02360

CREDITOR:

First ABC Bank
12345 1st St
Anytown, CA 93120
(800) 555 - 5555

RIGHT TO CANCEL

You have a right to cancel this transaction, without penalty, by midnight on August 4, 2009. No funds will be disbursed to you or to your school until after this time. You may cancel by calling us at 800-555-5555.

Loan Rates & Estimated Total Costs

Total Loan Amount	Interest Rate	Finance Charge	Total of Payments
\$10,600.00	7.375%	\$18,541.24	\$ 28,541.24
The total amount you are borrowing.	Your current interest rate.	The estimated dollar amount the credit will cost you.	The estimated amount you will have paid when you have made all payments.

ITEMIZATION OF AMOUNT FINANCED

Amount paid to you	\$0.00
Amount paid to others on your Behalf:	+ \$10,000
• ABC State University	
Amount Financed (total amount provided)	= \$10,000
Initial finance charges (total)	+ \$600
• Origination Fee (\$300)	
• Loan Guarantee Fee (\$300)	
Total Loan Amount	= \$10,600

ABOUT YOUR INTEREST RATE

- **Your rate is variable.** This means that your actual rate varies with the market and could be lower or higher than the rate on this form. The variable rate is based upon the LIBOR Rate (as published in the *Wall Street Journal*). For more information on this rate, see reference notes.

- **There is no limit on the amount the interest rate can increase.**

- **Your Annual Percentage Rate (APR) is 8.23%.** The APR is typically different than the Interest Rate since it considers fees and reflects the cost of your loan as a yearly rate. For more information about the APR, see reference notes.

FEES

- **Late Charge:** 5% of the amount of the past due payment, or \$25, whichever is greater.
- **Returned check charge:** up to \$25.
- **Fee when you begin repaying the loan:** 3.5% of loan balance.

Estimated Repayment Schedule & Terms

20 YEAR LOAN TERM	MONTHLY PAYMENTS		◀ Though your loan does not have a maximum interest rate, an example rate of 25% has been used for comparative purposes. The estimated Total of Payments if your rate rises to 25% would be \$154,928 . Your Total of Payments will be higher if rate increases above 25%.
	at 7.375% the current interest rate of your loan	No Maximum Rate example at 25%	
Sept. 1, 2009 - Oct. 31, 2013 deferment period	No payment required (\$3,799.67 in interest will accrue during this time)	No payment required (Interest will accrue during this time)	
Nov. 1, 2013 - Sept. 30, 2033 239 monthly payments	\$118.93	\$645.41 (your payments will be higher if the rate increases above 25%)	
Oct. 1, 2033 1 monthly payment	\$116.97	\$674.63 (your payments will be higher if the rate increases above 25%)	

REFERENCE NOTES

Variable Interest Rate:

- Your loan has a variable Interest Rate that is based on a publicly available index, the London Interbank Offered Rate (LIBOR), which is currently 4.375%. Your rate is calculated each month by adding a margin of 3% to the LIBOR.
- The Interest Rate may be higher or lower than your Annual Percentage Rate (APR) because the APR considers certain fees you pay to obtain this loan, the Interest Rate, and whether you defer (postpone) payments while in school.
- The rate will not increase more than once a month, but there is no limit on the amount that the rate could increase at one time. Your rate will never exceed 25%.
- If the Interest Rate increases your monthly payments will be higher.

Bankruptcy Limitations

- If you file for bankruptcy you may still be required to pay back this loan.

Repayment Options:

- Although you elected to postpone payments, you can still make payments while you are in school. You can also choose to change your deferment choice to: Pay Interest Only or Make Full Payments. More information about repayment deferral or forbearance options is available in your loan agreement.

Prepayments:

- If you pay the loan off early, you will not have to pay a penalty. You will not be entitled to a refund of part of the finance charge.

See your loan agreement for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

[OAR Docket #10-34; filed 1-8-10]

Emergency Adoptions

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

[OAR Docket #10-16]

RULEMAKING ACTION:

EMERGENCY adoption

RULE:

Subchapter 1. Harvest and Possession limits
800:10-1-5. Bag limits on Fish [AMENDED]
Subchapter 3. Methods of Taking
800:10-3-5. Use of bow and arrow, grabhooks, gigs, spears, and spearguns, snagging, noodling and netting [AMENDED]
Subchapter 5. Area Restrictions and Special Fees
800:10-5-4. Fish sanctuaries [AMENDED]

STATUTORY AUTHORITY:

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

DATES:

Adoption:

November 2, 2009

Approved by Governor:

November 10, 2009

Effective:

January 1, 2010

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTION:

n/a

INCORPORATED BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Data collected by Oklahoma Department of Wildlife Conservation personnel indicate existing paddlefish rules are too liberal. These rules, as part of an ongoing management plan will protect against over-harvest of the resource while providing ample angling opportunity.

CONTACT PERSON:

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

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE JANUARY 1, 2010 UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. HARVEST AND POSSESSION LIMITS

800:10-1-5. Bag limits on fish

No person shall, during any one day, take, attempt to take, kill, or harvest more than:

(1) Six (6) largemouth or smallmouth bass or six in aggregate, except at Lake Hefner where the limit on smallmouth bass is one (1) fish 18 inches or longer, in "Close To Home" fishing water where all largemouth bass caught must be returned to the water unharmed immediately after being taken (no harvest allowed), at Texoma Reservoir where the limit is five (5), largemouth, smallmouth or spotted bass or five in aggregate, at Lake Konawa, McGee Creek Lake, Lake Nanih Waiya, Dripping Springs Lake,

Lake Raymond Gary and Crowder Lake (Washita County) where the limit is six (6) of which only one (1) may be twenty-two (22) inches or longer at Baron Fork Creek, Flint Creek, Illinois River upstream from the Horseshoe Bend boat ramp, Lee Creek, and Little Lee Creek where the limit is six (6) largemouth, smallmouth or spotted bass or six in aggregate, of which only one (1) smallmouth bass may be twelve (12) inches or longer, in Glover River from the confluence with Little River upstream to the "Forks of the Glover River" where the limit is six (6) largemouth, smallmouth, or spotted bass or six in aggregate of which only three (3) may be smallmouth bass, and at the Blue River Public Fishing Area where the limit is six (6) largemouth, smallmouth or spotted bass or six in aggregate.

(2) Fifteen (15) channel and/or blue catfish, or fifteen (15) in aggregate, of which only one (1) blue catfish may be 30 inches in length or larger; except at all U.S. Forest Service and State Park lakes (not including Lake Murray) and Department of Wildlife Management Area ponds and all Department of Wildlife Conservation fishing areas, in "Close To Home" fishing waters and all waters within the Wichita Mountains National Wildlife Refuge, where the limit is six (6). For scuba divers with spearguns, the limit is three (3) per day or three (3) in aggregate from May 1 through August 31, annually.

(3) Thirty-seven (37) crappie (*Pomoxis* sp.) except at Blue River Public Fishing and Hunting Area where the limit is six (6) and at lakes Arbuckle, Tenkiller, Hudson, Ft. Gibson including all tributaries and upstream to Markham Ferry Dam and Grand Lake including all tributaries to state line where the limit is fifteen (15).

(4) Six (6) rainbow trout - possession limit of twelve (12) after first day, except in the lower Mountain Fork River trout stream from the Lost Creek water control structure downstream to the first Highway 259 Scenic bridge, including Evening Hole and the Lost Creek stream channel, and from the State Park Dam downstream to the mouth of Rough Branch Creek, and in the lower Illinois River trout stream from the USGS stream gauge downstream to the gravel pit county road where the limit is one (1) rainbow trout per day twenty (20) inches or longer in total length (no culling); and in the Blue River from its entry onto the Plaster Wildlife Management Unit/Landrum Wilderness downstream approximately 2 mile to a marker cable where all trout caught must be released immediately from November 1 to March 1 (thereafter, statewide trout bag limit applies).

(5) Six (6) brown trout, except in the lower Mountain Fork River trout stream below Broken Bow dam downstream to the U. S. Highway 70 bridge, and in the lower Illinois River trout stream from Tenkiller Dam downstream to US Highway 64 bridge where the limit is one (1) fish per day twenty (20) inches or longer in total length.

(6) Five (5) walleye, sauger and/or saugeye, or five (5) in aggregate.

(7) Fifteen (15) striped bass of which only five (5) may be twenty (20) inches or longer, except in the discharge

area of Sooner Reservoir where the daily bag limit is five (5) (no culling).

(8) Ten (10) striped bass and/or striped bass hybrids or ten (10) in aggregate of which only two (2) may be twenty (20) inches or longer in Texoma Reservoir and five (5) striped bass and/or striped bass hybrids or five (5) in aggregate in the Red River below Denison Dam (no culling). This paragraph shall become effective September 1, 1996.

(9) Ten (10) flathead catfish, except in Lake Texoma where the daily limit is five (5), and for noodlers and scuba divers the daily limit is three (3) from May 1 through August 31, annually.

(10) Twenty (20) striped bass hybrids and/or white bass, or twenty (20) in aggregate, of which only five (5) may be twenty (20) inches or longer in lakes Altus-Lugert, Birch, Canton (Canton Lake boundaries are from State Highway 281 to one thousand (1,000) feet below Canton Dam), Carl Blackwell, Foss, Ft. Cobb, Konawa, Tom Steed, Sooner and Waurika, including tailwaters and Grand including all tributaries to stateline and below Grand River Dam (Pensacola Dam) downstream to State Highway 82 bridge and Oologah Lake including upstream on all tributaries to stateline and downstream below the dam to the mouth of the Caney River.

(11) Five (5) striped bass hybrids of which only two (2) may be 20 inches or longer in Skiatook Lake.

(12) Five (5) striped bass hybrids in Lake Carl Etling.

(13) Five (5) striped bass hybrid and/or white bass in the discharge area of Sooner Reservoir.

(14) Twenty-five (25) white bass in Lake Texoma.

(15) One (1) paddlefish (*Polydon spathula*) per day on Sunday, Tuesday, Wednesday, Thursday, and Saturday, statewide. Catch and release of paddlefish only (no harvest) is permitted on Monday and Friday, statewide. Possession of paddlefish in the field is prohibited on Monday and Friday, statewide. The catch and release of paddlefish is permitted year round by use of rod and reel, trotline and throwlines. Paddlefish must be released immediately unless kept for the daily limit. Paddlefish taken by bow and arrow, gigs, spears or spearguns shall not be released. Paddlefish caught and placed on a stringer or otherwise held in possession must be tagged immediately and cannot be released (no culling). Each person must keep their own paddlefish distinctly separate from paddlefish taken by other fishermen. Each cleaned paddlefish, or its meat, eggs, or carcass, must also be tagged and kept separate from all other cleaned paddlefish or its parts. Tagged means plainly labeled with the taker's paddlefish permit number. Paddlefish or their parts must remain tagged until the person in possession of the paddlefish or paddlefish parts has reached their residence. All paddlefish must have all viscera (internal organs) removed from the paddlefish before leaving the state. Persons fishing trotlines or throwlines must release all paddlefish on their lines, except the one (1) paddlefish held in possession for their daily limit, before leaving the trotline or throwline. Fishermen must cease snagging when they have taken their daily limit of paddlefish into possession.

(16) It shall be unlawful for any person, regardless of residency, age or disability, to fish for paddlefish or be in possession of paddlefish parts without having first secured from the Department of Wildlife Conservation or its authorized ~~agency~~ agent, an annual paddlefish permit.

Immediately upon taking possession of a paddlefish with the intent of harvesting said fish, the angler must record the date and time of harvest on the paddlefish permit. This permit must be carried on their person while fishing and/or in possession of paddlefish or parts and be produced for inspection upon the demand of any Oklahoma citizen or game warden.

(17) Release of striped bass and/or striped bass hybrids caught and placed on a stringer, in a live well or otherwise held in possession is prohibited statewide (no culling).

(18) One (1) alligator gar (*Atractosteus spatula*) per day, statewide, except during the period of May 1 through May 31 when angling for alligator gar by all angling methods is prohibited on Lake Texoma between the Highway 99 bridge upstream to the I-35 bridge. The catch and release of alligator gar is permitted year round, except during the closure referenced above, by use of rod and reel, trotline and throwlines. Alligator gar must be released immediately unless kept for the daily limit. Persons fishing trotlines or throwlines must release all alligator gar on their lines except the one alligator gar held in possession for their daily limit, before leaving the trotline or throwline. Alligator gar taken by bow and arrow, gigs, spears or spearguns shall not be released. Alligator gar caught and placed on a stringer or otherwise held in possession cannot be released (no culling). Anglers must cease snagging when they have taken their daily limit of alligator gar into possession.

(19) Other fish do not have bag or possession limits.

SUBCHAPTER 3. METHOD OF TAKING

800:10-3-5. Use of bow and arrow, grabhooks, gigs, spears, and spearguns, snagging, noodling and netting

(a) **Bow and arrow.** The use of bow and arrows in bowfishing shall be lawful for taking nongame fish only in all waters of the state throughout the year, except:

(1) Illinois River and its tributaries shall be closed at all times to such fishing except, those portions above the Horseshoe Bend boat ramp on Tenkiller Reservoir which is open from December 1 through March 31 annually. Tenkiller Reservoir below Horseshoe Bend boat ramp is open to bowfishing.

(2) Black Fork Creek is closed except that portion from the old Heavener Fish Hatchery Dam downstream to the confluence with Poteau River shall be open during the period beginning December 1 and continuing through May 15 of the following year.

(3) Reservoir tailwaters, other than Eufaula, Keystone, Wister, Fort Gibson, Thunderbird and Hudson (Markham Ferry) shall be closed to fishing with bow and arrows

Emergency Adoptions

- throughout the year. This does not alter provisions of 29 O.S., Section 7-101, which designates a safety zone of the first 150 feet immediately below the dam on all reservoirs except Tenkiller, Canton, Salt Plains, and Fort Supply.
- (4) All waters defined as "Designated Trout Areas" during open season for taking trout are closed.
- (5) All waters within the boundaries of the Wichita Mountains Wildlife Refuge are closed.
- (6) Only that section of the Caney River from Hulah Dam downstream approximately 1,200 feet to the re-regulation dam is closed. Fishing with a bow and arrow is lawful in the Caney River below the re-regulation dam.
- (7) The following portions of Grand River:
- (A) The main river channel of Grand River below the turbine outlets of Grand River Dam downstream to the State Park Bridge is closed throughout the year.
- (B) The Grand River occurring below the spillway outlets of Grand River Dam downstream to the highline crossing (approximately 2 mile) is closed throughout the year with the next 2 mile downstream from the highline crossing closed during periods when the spillway gates are open and discharging water and for seven (7) days following closure of the spillway gates.
- (8) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.
- (9) "Close To Home" fishing waters and Lakes Pickets, Carl Albert and Taft and all ponds and lakes in the Ouachita National Forest are closed.
- (10) The taking of paddlefish by bow and arrow is prohibited from May 16 through March 14 of the following year, statewide.
- (11) Bowfishing may be used at Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper throughout the year during daylight hours only.
- (12) The Salt Fork of the Arkansas River from the spillway of Great Salt Plains Reservoir downstream to the State Highway 38 Bridge is closed.
- (b) **Grabhooks.** Taking fish by use of a grabhook is prohibited in all state waters except, within waters of Delaware and Mayes Counties (excluding reservoir tailwaters which are closed) divers equipped with scuba gear may use a grabhook for taking nongame fish only from June 15 through July 31.
- (c) **Gigs, spears and spearguns.** The use of gigs, spears and spearguns containing not more than three (3) points with no more than two (2) barbs on each point shall be lawful for taking nongame fish only, except white bass may be taken by use of a gig. These methods are lawful in all:
- (1) Rivers and streams from December 1 through March 31, except:
- (A) The taking of paddlefish by use of gig, spear or speargun is prohibited from May 16 through March 14 of the following year, statewide.
- (B) The Poteau and Fourche Maline Rivers and all their tributaries within LeFlore County are closed throughout the year.
- (C) All waters designated as "Designated Trout Areas" during the open season for taking trout are closed.
- (D) The Canadian River from Eufaula Dam downstream for a distance of one (1) mile to be so designated by buoy or other appropriate marker is closed throughout the year.
- (E) The Caney River from Hulah Dam downstream to the confluence of the old and new river channels is closed.
- (F) The following portions of Grand River:
- (i) The main river channel of the Grand River below the turbine outlets of Grand River Dam downstream to State Park Bridge is closed throughout the year.
- (ii) The Grand River occurring below the spillway outlets of Grand River Dam downstream for a distance of one (1) mile is closed throughout the year.
- (G) Rivers and streams in Delaware and Mayes counties are open to the use of gigs throughout the year, unless specifically closed in other sections of this chapter.
- (H) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.
- (2) Lakes and reservoirs throughout the year, except:
- (A) Waters within the boundaries of the Wichita Mountains Wildlife Refuge other than that portion of Lake Elmer Thomas are closed.
- (B) Tenkiller Reservoir, below the Horseshoe Bend boat ramp, is closed throughout the year except by speargunning when used with a self-contained underwater breathing apparatus which is closed from June 15 through July 15 annually to the taking of flathead catfish only.
- (C) All Department Fishing Areas, all "Close To Home" fishing waters and Lakes Carl Albert, Sooner, Lone Chimney and Taft and all ponds and lakes in the Ouachita National Forest are closed. Konawa is closed to gigging.
- (D) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.
- (3) Reservoir tailwaters other than Hudson (Markham Ferry) shall be closed to fishing with gigs, spears and spearguns throughout the year. This does not alter provisions of 29 O.S., Section 7-101, which designates a safety zone of the first 150 feet immediately below the dam on all reservoirs except Tenkiller, Canton, Salt Plains, and Fort Supply.
- (d) **Snagging.** Snagging for nongame fish only shall be lawful in all waters of the State throughout the year, except:
- (1) Reservoir tailwaters other than Fort Gibson which is open 24 hours a day, and Wister and Hudson (Markham Ferry) which are open from 10 p.m. to 6 a.m.; shall be closed to fishing by snagging throughout the year. This does not alter provisions of 29 O.S., Section 7-101, which designates a safety zone of the first 150 feet immediately

below the dam on all reservoirs except Tenkiller, Canton, Salt Plains, and Fort Supply.

(2) The following rivers, lakes, and streams:

(A) The Illinois River and its tributaries above the Horseshoe Bend boat ramp on Tenkiller Reservoir and below the dam shall be closed at all times to such fishing.

(B) All waters designated as "Designated Trout Areas" during the open season for taking trout are closed.

(C) All waters within the boundaries of the Wichita Mountains Wildlife Refuge are closed.

(D) The Canadian River from Eufaula Dam tailwater Downstream for a distance of one (1) mile to be so designated by buoy or other appropriate marker is closed throughout the year.

(E) The Caney River from the Hulah Dam downstream to the confluence of the old and new river channels is closed.

(F) The following portions of the Grand River:

(i) The main river channel of Grand River below the turbine outlets of Grand River Dam downstream to the State Park Bridge is closed throughout the year.

(ii) That portion of the Grand River occurring below the spillway outlets of Grand River Dam downstream to the highline crossing (a distance of approximately 2 mile) is closed throughout the year with the next 2 mile downstream from the highline crossing closed during periods when the spillway gates are closed.

(iii) That portion of the Grand River occurring from the Markham Ferry Dam (Lake Hudson Dam) downstream to the Highway 412 bridge from 10 p.m. to 6 a.m. year-round.

(G) The Arkansas River from the tailwaters below Keystone Dam downstream to the Interstate 44 (Skelly Drive) Bridge at Tulsa shall be closed at all times to such fishing.

(H) The Black Fork Creek within the boundaries of LeFlore County is closed throughout the year, except during the period from April 15 through May 15 each year when snagging shall be lawful.

(I) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.

(J) All Department Fishing Areas, all "Close To Home" fishing waters and Lakes Pickens, Carl Albert, Sooner and Konawa and all ponds and lakes in the Ouachita National Forest are closed.

(K) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.

(3) When snagging for paddlefish the hook must have the barbs removed or completely closed.

(e) **Noodling.** Possession of hooks, gaffs, spears, poles with hooks attached and/or ropes with hooks attached while in the act of noodling, shall be proof of violation of the "hands only"

noodling law. Noodling shall be lawful for nongame fish only throughout the year in all:

(1) Rivers and streams of the state, except:

(A) The Illinois River and its tributaries above Horseshoe Bend boat ramp on Tenkiller Reservoir and below the dam shall be closed at all times to such fishing.

(B) All waters designated as "Designated Trout Areas" during the open season for taking trout are closed.

(C) Kiamichi River from Hugo Dam downstream to the first railroad bridge is closed.

(D) The following portions of the Grand River:

(i) The main river channel of Grand River below the turbine outlets of Grand River Dam downstream to the State Park Bridge is closed throughout the year.

(ii) The Grand River occurring below the spillway outlets of Grand River Dam downstream to the highline crossing is closed throughout the year except the day of and two (2) days following closure of the spillway gates when noodling will be legal.

(E) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.

(2) Corps of Engineers and Bureau of Reclamation Reservoirs, Grand and Hudson Lakes.

(3) All waters within the boundaries of the Wichita Mountains Wildlife Refuge are closed.

(4) All Department Fishing Areas, all "Close To Home" fishing waters (except noodling is allowed in the North Canadian River from the NW 10th St. bridge downstream to the MacArthur St. bridge in Oklahoma City) and Lakes Pickens, Carl Albert, Taft, and Lone Chimney, and all ponds and lakes in the Ouachita National Forest are closed.

(5) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.

(f) **Netting (noncommercial).** Only nets defined as gill nets, trammel nets, hoop nets or haul seines may be used, provided:

(1) Hoop nets shall be no longer than ten (10) feet in length with mesh size no smaller than three (3) inch square, constructed of nonmetallic mesh only, having no more than seven (7) hoops three (3) feet in diameter or smaller.

(2) Mesh size for gill nets and trammel nets, or seines shall be no smaller than four (4) inch square mesh.

(3) All nets must be attended once every twenty-four (24) hours.

(4) Each license holder shall be limited to a maximum of three hundred (300) feet of net or a total of four (4) hoop nets in the water at any time.

(5) Each net shall have the name and address of the owner attached thereto, if the net is to be left unattended.

(6) It shall be unlawful to sell, barter, or trade, ship or transport from the State of Oklahoma any fish taken under the noncommercial netting provisions.

Emergency Adoptions

- (7) Noncommercial netting is prohibited statewide during April and May annually.
- (8) Only nongame fish may be taken in waters that are open for noncommercial netting.
- (9) The following lakes and reservoirs are closed to all such netting for game and/or nongame fish except under commercial fishing license:
- (A) Canton;
 - (B) Wister;
 - (C) Fort Gibson;
 - (D) Lugert;
 - (E) Oologah;
 - (F) Grand Lake;
 - (G) Wash Hudson;
 - (H) Eufaula;
 - (I) Texoma;
 - (J) Arbuckle;
 - (K) Carl Blackwell;
 - (L) Fort Cobb;
 - (M) Fort Supply;
 - (N) Foss;
 - (O) Greenleaf;
 - (P) Heyburn;
 - (Q) Hulah;
 - (R) Keystone;
 - (S) Murray;
 - (T) Salt Plains;
 - (U) Tenkiller;
 - (V) Thunderbird;
 - (W) Broken Bow;
 - (X) Pine Creek;
 - (Y) Robert S. Kerr;
 - (Z) Webbers Falls;
 - (AA) W.D. Mayo;
 - (BB) Chouteau;
 - (CC) Kaw;
 - (DD) Newt Graham;
 - (EE) Carl Albert;
 - (FF) Hugo;
 - (GG) Sooner;
 - (HH) Konawa;
 - (II) Ellsworth;
 - (JJ) Lawtonka;
 - (KK) Copan;
 - (LL) Sardis;
 - (MM) Optima;
 - (NN) Atoka;
 - (OO) Clayton State Park Lake;
 - (PP) Eucha;
 - (QQ) Spavinaw;
 - (RR) Arcadia;
 - (SS) McGee Creek;
 - (TT) all Department Fishing Areas and all ponds and lakes in the Ouachita National Forest;
 - (UU) all waters within the boundaries of the Wichita Mountains Wildlife Refuge; and
 - (VV) all new Federal Reservoirs.
- (WW) all "Close To Home" fishing waters are closed.
- (XX) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.
- (10) The following rivers and streams are closed to all such netting for game and/or nongame fish except under commercial fishing license:
- (A) Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland Co.;
 - (B) Kiamichi River above Hugo Lake and from Hugo Dam downstream to the Red River;
 - (C) Caney River;
 - (D) Little River upstream from Highway 98 Bridge;
 - (E) Glover River upstream from State Highway 7;
 - (F) Mountain Fork River upstream from U.S. Highway 70 Bridge;
 - (G) Washita River upstream to U.S. Highway 77 Bridge, south of Davis;
 - (H) Red River from the Choctaw/Bryan County line upstream to Interstate 35 Bridge;
 - (I) Blue River;
 - (J) Illinois River;
 - (K) Barren Fork River;
 - (L) Pennington Creek;
 - (M) Lukfata Creek;
 - (N) Black Fork Creek;
 - (O) Lee Creek;
 - (P) Deep Fork River upstream from Lake Eufaula to Arcadia Reservoir dam;
 - (Q) Poteau and Fourche Maline Rivers in LeFlore County;
 - (R) McGee Creek;
 - (S) Sans Bois tributary of R.S. Kerr Reservoir;
 - (T) all cutoffs, oxbows, side channels and tributaries of the streams and rivers named in (A) through (S);
 - (U) All the old oxbows and cutoffs of the Arkansas River in LeFlore and Sequoyah Counties;
 - (V) Arkansas River;
 - (W) Cimarron River and its tributaries;
 - (X) Salt Creek in Osage County;
 - (Y) Salt Fork River;
 - (Z) the Canadian River from Eufaula Dam downstream to the confluence with Robert S. Kerr Reservoir;
 - (AA) the Neosho River from the Kansas border downstream to the confluence with Webbers Falls Reservoir;
 - (BB) Verdigris River; and
 - (CC) Spring River.
- (g) **Collecting Bait for personal use.** Cast netting, trawl netting, dip netting, minnow traps and seining non-game fish commonly used for bait for personal use is lawful in all waters of this state unless specifically closed under 800:10-5-2, 800:10-5-3 and/or 800:10-5-6. Cast nets and dip nets shall have a mesh size no greater than three-eighths (3/8) inch square

mesh. Seines shall not exceed twenty (20) feet in length, and the mesh shall be no larger than one-half (2) inch square unless seining for minnows then the mesh shall not exceed one-fourth (1/4) inch. Minnow traps shall have a mesh size no greater than one-half (2) inch, shall not be longer than three (3) feet, shall not exceed eighteen (18) inches in diameter on round traps or eighteen (18) inches on a side on square or rectangular traps. The trap entrance (throat) cannot exceed two (2) inches across the opening. No person shall fish with more than 3 minnow traps. All minnow traps must have the owner's name and address attached and the traps must be attended once every 24 hours. All game fish and non-game fish not commonly used for bait must be released immediately. Minnow traps cannot be made with glass.

SUBCHAPTER 5. AREA RESTRICTIONS AND SPECIAL FEES

800:10-5-4. Fish sanctuaries

Certain fishing areas have been designated as fish sanctuaries and the following rules shall apply: ~~Currently, the Department does not maintain any designated fish sanctuaries, but reserves the right to implement sanctuaries through the administrative procedures process as deemed necessary. The Spring River is closed to paddlefish angling by any and all methods year-round from the Highway 60 bridge upstream to Kansas state line.~~

[OAR Docket #10-16; filed 1-6-10]

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

[OAR Docket #10-17]

RULEMAKING ACTION:
EMERGENCY adoption

RULE:
Subchapter 1. Restricted Exotic Fish
800:20-1-2. List of restricted exotic species [AMENDED]

STATUTORY AUTHORITY:
Title 29 O.S., Section 3-103, 5-401, 7-503 and Section 1 of the Constitution of Oklahoma; Department of Wildlife Conservation.

DATES:
Adoption:
November 2, 2009

Effective:
January 2, 2010

Approved by Governor:
November 10, 2009

Expiration:
Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTION:
n/a

INCORPORATED BY REFERENCE:
n/a

FINDING OF EMERGENCY:

This rule should provide needed protection against invasion of aquatic nuisance species with less impact on the aquaculture industry in Oklahoma.

CONTACT PERSON:

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

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE JANUARY 2, 2010 UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. RESTRICTED EXOTIC FISH

800:20-1-2. List of restricted exotic species

(a) Until such time as is necessary for the Department of Wildlife Conservation to obtain adequate information for the determination of other harmful or potentially harmful exotic species, the importation into the State and/or the possession of the following exotic fish or their eggs is prohibited:

- (1) Walking Catfish: The Walking Catfish, (*Clarius batrachus*) and other members of the exotic catfish family Claridae, including but not limited to species of the genera *Clarias*, *Heteropneustes*, *Gymnallables*, *Channallabes*, and *Heterobranchus* are prohibited. Any live specimens of Walking Catfish or other Claridae species within the boundaries of the State of Oklahoma are contraband and subject to seizure by the Department of Wildlife Conservation.
- (2) Grass carp: Release of grass carp (diploid and/or triploid), also known as white amur or Chinese carp (*Ctenopharyngodon idella*) or their hybrids into public waters is prohibited in accordance with 29 O.S., Section 6-504. Only triploid grass carp or their hybrids may be imported, possessed, or introduced for the purpose of stocking private waters. Possession and transportation of diploid grass carp is permitted for the control of vegetation on licensed aquaculture facilities, the export to states allowing use of diploid grass carp and for production for sale to the human food market.
- (3) Boney-tongue group: *Osteoglossum* spp., and *Arapaima* spp.
- (4) Piranha group: *Serrasalmus* spp., *Pygocentrus* spp., *Rooseveltiella* spp., *Catoptrion* spp., *Hydrocynus* spp., and *Salminus* spp.
- (5) Electric Eel (*Electrophorus electricus*).
- (6) Electric catfish (*Malapterus electricus*).
- (7) Gar-pike topminnow (*Belonesox belizanus*).
- (8) Snakehead groups: *Opicephalus* spp., and *Channa* spp.
- (9) Pavon or Peacock Bass (*Chichla temensis* and *Chichia ocellaris*).
- (10) Parasitic South American Catfish group (*Candiru*), genera & species of the *Trichomycteridae* family. *Vandellia* spp., *Tridens* spp., and *Pygidium* spp.

Emergency Adoptions

- (11) Freshwater Stingray group: Paratrygon spp., Poto-
 - motrygon spp., and Disceus spp.
 - (12) Hourii (from South America): Macrodon spp., and
 - Hoplias spp.
 - (13) Rudd and rudd hybrids (Scardinius spp.).
 - (14) Bighead carp (*Hypophthalmichthys molitrix*).
 - (15) Silver carp (*Aristichthys nobilis*).
 - (16) Black carp (*Mylopharyngodon piceus*).
 - (17) Alewives (*Alosa pseudoharengus*).
 - (18) Rainbow smelt (*Osmerus mordax*).
 - (19) Blueback herring (*Alosa aestivalis*).
- (b) Tilapia:

- (1) The sale and use of all Tilapia species as bait is pro-
- hibited.
- (2) The stocking of all Tilapia species in any
- heated-water reservoir including Sooner, Konawa and
- Boomer Reservoirs is prohibited.
- (3) This shall not interfere with the sale of dead and/or
- processed Tilapia for human food or the sale or transport
- of Tilapia species for the purpose of aquatic vegetation
- control in privately owned ponds.

[OAR Docket #10-17; filed 1-6-10]

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

1:2010-1.

EXECUTIVE ORDER 2010-1

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by law, so that the status quo shall be maintained, and pursuant to the provisions of Subsection D of Section 840-2.14 of Title 74 of the Oklahoma Statutes, hereby order a state agency hiring freeze.

For purposes of this hiring freeze, each statewide elected official shall perform the duties of a Cabinet Secretary in approving or disapproving exemptions to this hiring freeze. These duties shall be accomplished in the same manner as other official actions by the elected officials.

Subject to written approval by the Governor, the Secretary of Human Resources and Administration may delegate specific agencies to a Deputy Secretary for purposes of complying with this Order.

This hiring freeze shall be implemented by all agencies in accordance with the following guidelines:

1. It is my direction that no audits of classified positions or reallocation of unclassified positions shall be initiated or conducted at the request of any agency unless specifically approved by the appropriate Cabinet Secretary.
2. All audits resulting from a classification grievance shall be exempt from the provisions of this Executive Order.
3. Except as specifically provided and authorized by this order, all affected state agencies are prohibited from hiring, reinstating, or promoting employees and from accepting a transferred employee from another agency.
4. Exceptions to this hiring freeze may be granted pursuant to special conditions as declared by the Chief Administrative Officer of any agency and approved by the appropriate Cabinet Secretary for that agency.
 - a. A Chief Administrative Officer shall submit a written request to the appropriate Cabinet Secretary stating the special conditions requiring the submission of the request.

b. Such requests may be on forms provided by the Office of Personnel Management. If an agency has an internal form regularly used by that agency which provides all the necessary information, that form may be used in lieu of the Office of Personnel Management forms if approved by the Administrator of the Office of Personnel Management.

c. The Cabinet Secretary shall indicate approval in writing of the submitted request for the granting of an exception to this hiring freeze.

d. All approved requests and approved Cabinet Secretary findings shall be maintained as an official record by the Office of Personnel Management in accordance with Records Management Act. Any agency which does not submit personnel action requests for approval to the Office of Personnel Management shall be responsible for maintaining this documentation.

e. In the event of a vacancy in a Cabinet Secretary position, the Secretary of State shall act as the approving authority for the hiring freeze exception requests.

5. The Administrator of the Office of Personnel Management and the Director of the Office of State Finance are hereby directed to develop and implement procedures necessary to carry out the provisions of this Executive Order.

6. The Director of the Office of State Finance is authorized to require Cabinet Secretaries to provide him with periodic accountings of their approvals and disapprovals of written requests for exemptions to this hiring freeze. These reports shall be provided to the Governor.

7. The Oklahoma Military Department shall not be required to comply with this order for hiring personnel and contracts for which the department receives total federal government reimbursement.

Copies of this Executive Order shall be distributed to the Secretary for Human Resources and Administration for immediate implementation.

The provisions of this Executive Order shall be effective from January 1, 2010, and shall terminate December 31, 2010.

Executive Orders

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 4th day of January, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #10-03; filed 1-5-10]

1:2010-2.

EXECUTIVE ORDER 2010-2

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the powers vested in me by the Oklahoma Statutes in 25 O.S. Section 82.1, hereby order the following dates be observed as holidays by the State of Oklahoma in 2011:

Friday	December 31, 2010	New Year's Day
Monday	January 17, 2011	Martin Luther King, Jr. Day
Monday	February 21, 2011	President's Day
Monday	May 30, 2011	Memorial Day
Monday	July 4, 2011	Independence Day
Monday	September 5, 2011	Labor Day
Friday	November 11, 2011	Veterans Day
Thursday & Friday	November 24 & 25, 2011	Thanksgiving
Monday	December 26, 2011	Christmas

This Executive Order shall be forwarded to the Director of the Office of Personnel Management 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 4th day of January, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #10-04; filed 1-5-10]

1:2010-3.

EXECUTIVE ORDER 2010-3

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

1. All of the 77 counties in Oklahoma are currently subjected to extremely cold temperatures with forecasts of continued extremely cold temperatures, effective today, January 7, 2010, and continuing. The entire State is being affected.
2. The uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene and liquefied petroleum gas (LPG) to residential and commercial establishments is an essential need of the public during the wintertime and any interruption threatens the public welfare. The continued period of cold weather has increased the demand for these fuels to residential and commercial customers. There continues to be a shortage of the above referenced fuels.
3. There is hereby declared a disaster emergency caused by the extremely cold temperatures and the necessity to deliver heating fuels to residential and commercial customers in the entire State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety.
4. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this executive order without regard to limitations or bidding requirements on such acquisitions.
5. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

- 6. The Federal Motor Carrier Safety Regulations, 49 CFR 390, et seq., limit the hours of operation for motor carriers or drivers operating a commercial motor vehicle. 49 CFR 390.23 allows the Governor to suspend these rules and regulations for up to 30 days if the Governor determines that an emergency condition exists.
- 7. Pursuant to 49 CFR 390.23, the driver's hours of service, regulated by Part 395 of Title 49 of the Code of Federal Regulations, are hereby suspended for motor carriers providing emergency relief in the transportation of the above referenced fuels.
- 8. This Executive Order shall terminate at the end of thirty (30) days.

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

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 7th day of January, 2010

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #10-45; filed 1-11-10]

1:2010-4.

EXECUTIVE ORDER 2010-4

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 8:00 a.m. until 5:00 p.m. on Saturday, January 16, 2010, to honor Private John P. Dion, an Oklahoma resident, who died on Sunday, January 3, 2010, at age 19 while on active duty supporting Operation Enduring Freedom in Ashoque, Afghanistan.

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 12th day of January, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #10-54; filed 1-13-10]

STATE BOND ADVISOR'S OFFICE NOTICE OF STATE CEILING AMOUNT FOR THE CALENDAR YEAR 2009

In accordance with Section 695.25, Title 62 O.S., the maximum total volume (also referred to as "Volume Cap" or "State Ceiling Amount") of Private Activity Bonds that may be issued pursuant to federal law by the State of Oklahoma during calendar year 2010 is \$331,834,500. From the first business day of 2010 through September 1, 2010, the Volume Cap is subdivided into the following categories ("Pools") and amounts: (1) Qualified Small Issue Pool, \$39,820,140; (2) Exempt Facility Pool, \$8,295,862; (3) Beginning Agricultural Producer Pool, \$3,318,345; (4) Student Loan Pool,

\$51,434,348; (5) Economic Development Pool, \$39,820,140; (6) Oklahoma Housing Finance Agency Pool, \$49,775,175; (7) State Issuer Pool, \$13,273,380; (8) Metropolitan Area Housing Pool, \$41,479,314; (9) Rural Area Housing Pool, \$26,546,760; and (10) Local Issuer Single Family Pool, \$58,071,036. From September 2, 2010, to 9:00 a.m., December 20, 2010, any amount remaining to be allocated from these pools is combined and managed from the Consolidated Pool. On or after 9:00 a.m. on December 20, 2010, certain Private Activity Bond issuing authorities may apply to the State Bond Advisor to carry forward a portion of any remaining State Ceiling Amount.

[OAR Docket #10-05; filed 1-5-10]

