

Volume 28
Number 8
January 3, 2011
Pages 285 - 320

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules



Brad Henry, Governor
M. Susan Savage,
Secretary of State
Peggy Coe, Editor-in-Chief

THE OKLAHOMA REGISTER is an official publication of the State of Oklahoma. It is published semi-monthly on the first working day of the month and on the first working day following the 14th day of the month under the authority of 75 O.S., Sections 250 et seq. and OAC 655:10-15-1. The rules of the State of Oklahoma are codified and published in the *Oklahoma Administrative Code*.

The *Oklahoma Register* and the documents accepted for publication are **AVAILABLE FOR PUBLIC INSPECTION** at the Office of Administrative Rules pursuant to the Oklahoma Open Records Act. Copies of the *Register* are also available for public inspection at many County Clerks' offices in Oklahoma, the Jan Eric Cartwright Memorial Law Library in the State Capitol, and the following depository libraries:

Ada - East Central University, Linscheid Library

Alva - Northwestern Oklahoma State University,
J.W. Martin Library

Bartlesville - Bartlesville Public Library

Clinton - Clinton Public Library

Durant - Southeastern Oklahoma State University, H.G.
Bennett Memorial Library

Edmond - University of Central Oklahoma, Chambers Library

Enid - Public Library of Enid and Garfield County

Goodwell - Oklahoma Panhandle State University

Lawton - Lawton Public Library

McAlester - McAlester Public Library

Norman - University of Oklahoma, Bizzell Memorial
Library

Oklahoma City - Metropolitan Library System

Oklahoma City - Oklahoma Department of Libraries

Stillwater - Oklahoma State University, Edmon Low
Library

Tahlequah - Northeastern State University, John
Vaughan Library

Tulsa - Tulsa City-County Library System

Tulsa - University of Tulsa, McFarlin Library

Weatherford - Southwestern Oklahoma State
University, Al Harris Library

CITE MATERIAL PUBLISHED IN THE OKLAHOMA REGISTER by the volume and the beginning page number of the document in the *Register*. For example: 28 Ok Reg 256.

SUBSCRIPTION RATES for the *Register* are \$500.00 per year for the printed issues and \$300.00 per year for the CD-ROM issues, payable in advance. When available, individual printed issues may be purchased for \$20.00 plus the cost of postage, payable in advance. Make checks payable to "Secretary of State." Send subscription requests, change of address notices, and undelivered copies to: Secretary of State, Office of Administrative Rules, P.O. Box 53390, Oklahoma City, OK 73152-3390.

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

This publication is issued and printed by the Secretary of State as authorized by 75 O.S., Section 255. 59 copies have been prepared and distributed at a cost of \$193.67. Copies have been deposited with the Oklahoma Department of Libraries, Publications Clearinghouse.

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)	285, 286, 287
Health, Oklahoma State Department of (Title 310)	287, 288, 292, 293
Lottery Commission, Oklahoma (Title 429)	295
Rehabilitation Services, State Department of (Title 612)	295, 296, 299
Emergency Adoptions	
Public Safety, Department of (Title 595)	301, 302, 303, 306, 308
Real Estate Appraiser Board (Title 600)	308, 312
Executive Orders (Title 1)	319

Agency/Action/Subject Index

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

Notices of Rulemaking Intent

Fuel Alcohol (Chapter 13) 285
 Animal Industry (Chapter 15) 285, 286
 Consumer Protection (Chapter 30) 286
 Agriculture Pollutant Discharge Elimination System
 (Chapter 44) 287

GOVERNOR

Executive Orders

Ordering flags at half-staff in recognition of Pearl Harbor
 Remembrance Day (10-47) 319

HEALTH, Oklahoma State Department of (Title 310)

Notices of Rulemaking Intent

Alarm and Locksmith Industry (Chapter 205) 287
 Food Service Establishments (Chapter 257) 288
 Smoking in Public Places and Indoor Workplaces
 (Chapter 355) 292
 Nursing and Specialized Facilities (Chapter 675) 293

LOTTERY Commission, Oklahoma (Title 429)

Notices of Rulemaking Intent

Retailer Provisions (Chapter 10) 295

PUBLIC Safety, Department of (Title 595)

Emergency Adoptions

General Rules of the Department of Public Safety
 (Chapter 1) 301
 Commercial Driver Licenses (Chapter 11) 302
 Wreckers and Towing Services (Chapter 25) 303
 Tabs, Tags, Signs and Insignias (Chapter 50) 306
 Safety Devices (Chapter 55) 308

REAL Estate Appraiser Board (Title 600)

Emergency Adoptions

Appraisal Management Company Registration
 (Chapter 30) 308
Appraisal Management Company Enforcement
 (Chapter 35) 312

**REHABILITATION Services, State Department of
(Title 612)**

Notices of Rulemaking Intent

Administrative Operations (Chapter 1) 295
 Vocational Rehabilitation and Visual Services
 (Chapter 10) 296
 Oklahoma Library for the Blind and Physically Handicapped
 (OLBPH) (Chapter 15) 299

Rules Affected Index

[(E) = Emergency action]

Rule	Register Page	Rule	Register Page
25:30-1-1.	[NEW] (E) 77	252:220-5-8.	[REVOKED] (E) 86
25:30-1-2.	[NEW] (E) 77	252:220-5-9.	[REVOKED] (E) 86
25:30-1-3.	[NEW] (E) 78	252:220-7-1.	[REVOKED] (E) 86
25:30-1-4.	[NEW] (E) 78	252:220-7-2.	[REVOKED] (E) 86
25:30-1-5.	[NEW] (E) 79	252:220-7-3.	[REVOKED] (E) 86
25:30-3-1.	[NEW] (E) 79	252:220-9-1.	[REVOKED] (E) 86
25:30-3-2.	[NEW] (E) 79	252:220-9-2.	[REVOKED] (E) 86
25:30-3-3.	[NEW] (E) 79	252:220-11-1.	[REVOKED] (E) 87
25:30-3-4.	[NEW] (E) 79	252:220-11-2.	[REVOKED] (E) 87
25:30-5-1.	[NEW] (E) 80	252:220-11-3.	[REVOKED] (E) 87
25:30-5-2.	[NEW] (E) 80	252:220-11-4.	[REVOKED] (E) 87
25:30-7-1.	[NEW] (E) 80	252:220-11-5.	[REVOKED] (E) 88
25:30-7-2.	[NEW] (E) 80	252:220-11-6.	[REVOKED] (E) 88
25:30-7-3.	[NEW] (E) 80	252:220-11-7.	[REVOKED] (E) 88
25:30-7-4.	[NEW] (E) 81	252:220-11-8.	[REVOKED] (E) 88
25:30-7-5.	[NEW] (E) 81	252:220-11-9.	[REVOKED] (E) 88
25:30-7-6.	[NEW] (E) 81	252:220-11-10.	[REVOKED] (E) 88
25:30-9-1.	[NEW] (E) 81	252:221-1-1.	[NEW] (E) 89
25:30-9-2.	[NEW] (E) 81	252:221-1-2.	[NEW] (E) 90
25:30-9-3.	[NEW] (E) 81	252:221-1-3.	[NEW] (E) 90
25:30-11-1.	[NEW] (E) 81	252:221-1-4.	[NEW] (E) 90
25:30, App. A.	[NEW] (E) 83	252:221-1-5.	[NEW] (E) 90
35:15-22-33.	[AMENDED] (E) 119	252:221-1-6.	[NEW] (E) 90
35:37-13-7.	[NEW] (E) 120	252:221-1-7.	[NEW] (E) 90
160:5-1-2.	[AMENDED] (E) 63	252:221-1-8.	[NEW] (E) 90
210:15-13-7.	[NEW] (E) 213	252:221-3-1.	[NEW] (E) 90
210:20-15-1.	[NEW] (E) 214	252:221-3-2.	[NEW] (E) 90
230:10-3-3.	[AMENDED] (E) 255	252:221-3-3.	[NEW] (E) 91
230:10-3-8.	[AMENDED] (E) 256	252:221-3-4.	[NEW] (E) 91
230:15-11-3.	[AMENDED] (E) 257	252:221-3-5.	[NEW] (E) 91
230:15-11-4.	[AMENDED] (E) 257	252:221-3-6.	[NEW] (E) 92
230:15-11-6.1.	[AMENDED] (E) 257	252:221-3-7.	[NEW] (E) 92
230:15-11-19.	[AMENDED] (E) 257	252:221-3-8.	[NEW] (E) 92
230:30-13-1.	[AMENDED] (E) 121	252:221-3-9.	[NEW] (E) 92
230:30-13-3.	[AMENDED] (E) 121	252:221-3-10.	[NEW] (E) 92
230:30-15-1.	[AMENDED] (E) 121	252:221-3-11.	[NEW] (E) 92
230:30-15-3.	[AMENDED] (E) 121	252:221-3-12.	[NEW] (E) 92
230:30-15-4.	[AMENDED] (E) 122	252:221-5-1.	[NEW] (E) 92
230:30-15-5.	[AMENDED] (E) 122	252:221-5-2.	[NEW] (E) 93
230:30-15-6.	[AMENDED] (E) 122	252:221-7-1.	[NEW] (E) 93
230:30-15-7.	[AMENDED] (E) 122	252:221-7-2.	[NEW] (E) 93
230:30-15-9.	[AMENDED] (E) 122	252:221-7-3.	[NEW] (E) 93
230:35-5-39.	[AMENDED] (E) 258	252:221-7-4.	[NEW] (E) 93
230:35-5-144.	[AMENDED] (E) 259	252:221-7-5.	[NEW] (E) 93
252:4-7-61.	[REVOKED] (E) 84	252:221-7-6.	[NEW] (E) 94
252:4-7-62.	[REVOKED] (E) 84	252:221-7-7.	[NEW] (E) 94
252:4-7-63.	[REVOKED] (E) 84	252:221-7-8.	[NEW] (E) 94
252:220-1-1.	[REVOKED] (E) 85	252:221-7-9.	[NEW] (E) 94
252:220-1-2.	[REVOKED] (E) 85	252:221-7-10.	[NEW] (E) 95
252:220-1-3.	[REVOKED] (E) 85	252:221-7-11.	[NEW] (E) 95
252:220-1-4.	[REVOKED] (E) 85	252:221-7-12.	[NEW] (E) 95
252:220-1-5.	[REVOKED] (E) 85	252:221-7-13.	[NEW] (E) 95
252:220-3-1.	[REVOKED] (E) 85	317:2-1-2.	[AMENDED] (E) 7
252:220-3-2.	[REVOKED] (E) 85	317:2-1-2.	[AMENDED] (E) 260
252:220-5-1.	[REVOKED] (E) 85	317:2-1-5.	[AMENDED] (E) 261
252:220-5-2.	[AMENDED] (E) 86	317:2-1-6.	[AMENDED] (E) 262
252:220-5-3.	[REVOKED] (E) 86	317:2-1-7.	[AMENDED] (E) 262
252:220-5-4.	[REVOKED] (E) 86	317:2-1-13.	[AMENDED] (E) 263
252:220-5-5.	[REVOKED] (E) 86	317:25-7-7.	[NEW] (E) 9
252:220-5-6.	[REVOKED] (E) 86	317:30-3-5.	[AMENDED] (E) 10
252:220-5-7.	[REVOKED] (E) 86	317:30-3-28.	[NEW] (E) 264

317:30-5-72.1.	[AMENDED] (E)	266	340:25-5-351.	[AMENDED] (E)	49
317:30-5-77.	[AMENDED] (E)	267	340:100-18-1.	[NEW] (E)	51
317:30-5-78.	[AMENDED] (E)	267	365:25-3-1.	[AMENDED] (E)	215
317:30-5-78.1.	[AMENDED] (E)	268	365:25-3-14.	[AMENDED] (E)	219
317:30-5-211.5.	[AMENDED] (E)	11	365:25-23-1.	[NEW] (E)	222
317:30-5-293.	[NEW] (E)	13	365:25-23-2.	[NEW] (E)	222
317:30-5-299.	[NEW] (E)	13	365:25-23-3.	[NEW] (E)	222
317:30-5-555.	[AMENDED] (E)	14	365:25-23-4.	[NEW] (E)	222
317:30-5-556.	[AMENDED] (E)	14	365:25-23-5.	[NEW] (E)	223
317:30-5-557.	[AMENDED] (E)	14	365:25-23-6.	[NEW] (E)	223
317:30-5-558.	[AMENDED] (E)	15	365:25-23-7.	[NEW] (E)	223
317:30-5-559.	[AMENDED] (E)	15	365:25-23-8.	[NEW] (E)	223
317:30-5-560.	[AMENDED] (E)	15	365:25-23-9.	[NEW] (E)	223
317:30-5-560.1.	[AMENDED] (E)	15	435:70-1-1.	[NEW] (E)	278
317:30-5-660.1.	[AMENDED] (E)	123	435:70-1-2.	[NEW] (E)	278
317:30-5-660.3.	[AMENDED] (E)	123	435:70-1-3.	[NEW] (E)	278
317:30-5-660.4.	[AMENDED] (E)	124	435:70-1-4.	[NEW] (E)	279
317:30-5-661.1.	[AMENDED] (E)	124	435:70-1-5.	[NEW] (E)	280
317:30-5-661.5.	[AMENDED] (E)	124	435:70-3-1.	[NEW] (E)	280
317:30-5-661.7.	[AMENDED] (E)	124	435:70-3-2.	[NEW] (E)	280
317:30-5-664.5.	[AMENDED] (E)	125	435:70-3-3.	[NEW] (E)	280
317:30-5-664.7.	[AMENDED] (E)	125	435:70-3-4.	[NEW] (E)	281
317:30-5-664.10.	[AMENDED] (E)	126	435:70-3-5.	[NEW] (E)	281
317:30-5-664.11.	[REVOKED] (E)	126	435:70-3-6.	[NEW] (E)	281
317:30-5-680.	[NEW] (E)	13	435:70-5-1.	[NEW] (E)	281
317:30-5-1091.	[AMENDED] (E)	16	435:70-5-2.	[NEW] (E)	281
317:30-5-1098.	[AMENDED] (E)	17	435:70-5-3.	[NEW] (E)	281
317:35-5-25.	[AMENDED] (E)	269	435:70-5-4.	[NEW] (E)	282
317:35-23-2.	[AMENDED] (E)	273	435:70-5-5.	[NEW] (E)	282
317:45-3-3.	[NEW] (E)	274	435:70-5-6.	[NEW] (E)	282
317:45-5-3.	[NEW] (E)	274	435:70-7-1.	[NEW] (E)	283
317:45-13-1.	[NEW] (E)	127	435:70-7-2.	[NEW] (E)	283
317:50-3-1.	[NEW] (E)	127	435:70-7-3.	[NEW] (E)	283
317:50-3-2.	[NEW] (E)	127	530:10-13-3.	[AMENDED] (E)	169
317:50-3-3.	[NEW] (E)	129	530:10-13-12.	[AMENDED] (E)	169
317:50-3-4.	[NEW] (E)	131	530:10-13-32.	[AMENDED] (E)	169
317:50-3-5.	[NEW] (E)	131	590:10-3-13.	[AMENDED] (E)	96
317:50-3-6.	[NEW] (E)	132	590:10-7-18.	[AMENDED] (E)	96
317:50-3-7.	[NEW] (E)	137	590:10-9-2.	[AMENDED] (E)	97
317:50-3-8.	[NEW] (E)	137	590:10-17-10.	[NEW] (E)	97
317:50-3-9.	[NEW] (E)	137	590:10-21-1.	[NEW] (E)	97
317:50-3-10.	[NEW] (E)	138	590:10-21-2.	[NEW] (E)	98
317:50-3-11.	[NEW] (E)	138	590:10-21-3.	[NEW] (E)	98
317:50-3-12.	[NEW] (E)	138	590:10-21-4.	[NEW] (E)	98
317:50-3-13.	[NEW] (E)	140	590:10-21-5.	[NEW] (E)	98
317:50-3-14.	[NEW] (E)	140	590:10-21-6.	[NEW] (E)	98
317:50-3-15.	[NEW] (E)	147	590:10-21-7.	[NEW] (E)	99
317:50-3-16.	[NEW] (E)	148	590:10-21-8.	[NEW] (E)	99
317:50-5-1.	[NEW] (E)	148	590:10-21-9.	[NEW] (E)	100
317:50-5-2.	[NEW] (E)	148	590:10-21-10.	[NEW] (E)	100
317:50-5-3.	[NEW] (E)	150	590:10-21-11.	[NEW] (E)	100
317:50-5-4.	[NEW] (E)	151	590:10-21-12.	[NEW] (E)	100
317:50-5-5.	[NEW] (E)	152	590:10-21-13.	[NEW] (E)	100
317:50-5-6.	[NEW] (E)	152	590:15-5-1.	[NEW] (E)	101
317:50-5-7.	[NEW] (E)	158	590:15-5-2.	[NEW] (E)	101
317:50-5-8.	[NEW] (E)	158	590:15-5-3.	[NEW] (E)	102
317:50-5-9.	[NEW] (E)	158	590:15-5-4.	[NEW] (E)	102
317:50-5-10.	[NEW] (E)	159	590:15-5-5.	[NEW] (E)	102
317:50-5-11.	[NEW] (E)	159	590:15-5-6.	[NEW] (E)	102
317:50-5-12.	[NEW] (E)	159	590:15-5-7.	[NEW] (E)	102
317:50-5-13.	[NEW] (E)	160	590:15-5-8.	[NEW] (E)	103
317:50-5-14.	[NEW] (E)	160	590:15-5-9.	[NEW] (E)	103
317:50-5-15.	[NEW] (E)	168	590:15-5-10.	[NEW] (E)	103
317:50-5-16.	[NEW] (E)	168	590:15-5-11.	[NEW] (E)	103
340:5-1-5.	[AMENDED] (E)	275	590:15-5-12.	[NEW] (E)	103
340:5-1-6.	[AMENDED] (E)	275	590:15-5-13.	[NEW] (E)	104
340:5-5-8.	[AMENDED] (E)	278	595:1-17-1.	[NEW] (E)	301

Rules Affected Index – *continued*

595:1-17-2. [NEW] (E)	301	600:35-1-13. [NEW] (E)	314
595:11-9-5. [AMENDED] (E)	302	600:35-1-14. [NEW] (E)	315
595:11-9-6. [AMENDED] (E)	302	600:35-1-15. [NEW] (E)	315
595:11-9-9. [AMENDED] (E)	302	600:35-1-16. [NEW] (E)	316
595:25-1-2. [AMENDED] (E)	303	600:35-1-17. [NEW] (E)	316
595:25-5-2. [AMENDED] (E)	304	600:35-1-18. [NEW] (E)	316
595:50-3-2. [AMENDED] (E)	307	600:35-1-19. [NEW] (E)	316
595:50-3-3. [AMENDED] (E)	307	600:35-1-20. [NEW] (E)	316
595:50-3-4. [AMENDED] (E)	307	710:50-15-74. [AMENDED] (E)	18
595:50-3-6. [AMENDED] (E)	307	710:50-15-76. [AMENDED] (E)	20
595:55-1-1. [AMENDED] (E)	308	710:50-15-81. [AMENDED] (E)	21
595:55-5-1. [NEW] (E)	308	710:50-15-84. [AMENDED] (E)	21
595:55-5-2. [NEW] (E)	308	710:50-15-85. [AMENDED] (E)	21
600:30-1-1. [NEW] (E)	309	710:50-15-86. [AMENDED] (E)	22
600:30-1-2. [NEW] (E)	309	710:50-15-87. [AMENDED] (E)	24
600:30-1-3. [NEW] (E)	310	710:50-15-91. [AMENDED] (E)	25
600:30-1-4. [NEW] (E)	310	710:50-15-92. [AMENDED] (E)	25
600:30-1-5. [NEW] (E)	310	710:50-15-95. [AMENDED] (E)	26
600:30-1-6. [NEW] (E)	310	710:50-15-97. [AMENDED] (E)	26
600:30-1-7. [NEW] (E)	311	710:50-15-98. [AMENDED] (E)	27
600:30-1-8. [NEW] (E)	311	710:50-15-99. [AMENDED] (E)	28
600:30-1-9. [NEW] (E)	311	710:50-15-101. [AMENDED] (E)	28
600:30-1-10. [NEW] (E)	311	710:50-15-103. [AMENDED] (E)	29
600:30-1-11. [NEW] (E)	311	710:50-15-104. [AMENDED] (E)	30
600:35-1-1. [NEW] (E)	312	710:50-15-105. [AMENDED] (E)	31
600:35-1-2. [NEW] (E)	312	710:50-15-106. [AMENDED] (E)	31
600:35-1-3. [NEW] (E)	313	710:50-15-107. [AMENDED] (E)	32
600:35-1-4. [NEW] (E)	313	710:50-15-108. [AMENDED] (E)	33
600:35-1-5. [NEW] (E)	313	710:50-15-109. [AMENDED] (E)	34
600:35-1-6. [NEW] (E)	313	710:50-15-110. [NEW] (E)	35
600:35-1-7. [NEW] (E)	313	710:65-21-8. [NEW] (E)	104
600:35-1-8. [NEW] (E)	314	775:10-11-1. [NEW] (E)	37
600:35-1-9. [NEW] (E)	314	775:10-12-1. [NEW] (E)	37
600:35-1-10. [NEW] (E)	314	775:10-12-2. [NEW] (E)	54
600:35-1-11. [NEW] (E)	314	775:10-12-3. [NEW] (E)	54
600:35-1-12. [NEW] (E)	314		

Agency/Title Index

[Assigned as of 1-3-11]

Agency	Title	Agency	Title
Oklahoma ABSTRACTORS Board	5	EDGE Fund Policy Board	208
Oklahoma ACCOUNTANCY Board	10	State Department of EDUCATION	210
State ACCREDITING Agency	15	EDUCATION Oversight Board	215
AD Valorem Task Force (<i>abolished 7-1-93</i>)	20	Oklahoma EDUCATIONAL Television Authority	220
Oklahoma AERONAUTICS Commission	25	[RESERVED]	225
Board of Regents for the Oklahoma AGRICULTURAL and Mechanical Colleges (<i>exempted 11-1-98</i>)	30	State ELECTION Board	230
Oklahoma Department of AGRICULTURE , Food, and Forestry	35	Oklahoma FUNERAL Board (<i>Formerly:</i> Oklahoma State Board of EMBALMERS and Funeral Directors)	235
Oklahoma Board of Licensed ALCOHOL and Drug Counselors	38	Oklahoma Department of EMERGENCY Management (<i>Formerly:</i> Department of CIVIL Emergency Management) - <i>See</i> Title 145	
Board of Tests for ALCOHOL and Drug Influence	40	Oklahoma EMPLOYMENT Security Commission	240
ALCOHOLIC Beverage Laws Enforcement Commission	45	Oklahoma ENERGY Resources Board	243
ANATOMICAL Board of the State of Oklahoma	50	State Board of Licensure for Professional ENGINEERS and Land Surveyors (<i>Formerly:</i> State Board of Registration for Professional ENGINEERS and Land Surveyors)	245
Board of Governors of the Licensed ARCHITECTS , Landscape Architects and Registered Interior Designers of Oklahoma (<i>Formerly:</i> Board of Governors of the Licensed ARCHITECTS and Landscape Architects of Oklahoma; and Board of Governors of the Licensed ARCHITECTS , Landscape Architects and Interior Designers of Oklahoma)	55	Board of Trustees for the END Higher Education Program (<i>exempted 11-1-98</i>)	250
ARCHIVES and Records Commission	60	Department of ENVIRONMENTAL Quality	252
Board of Trustees for the ARDMORE Higher Education Program (<i>exempted 11-1-98</i>)	65	State Board of EQUALIZATION	255
Oklahoma ARTS Council	70	ETHICS Commission (<i>Title revoked</i>)	257
Oklahoma State ATHLETIC Commission (<i>Formerly:</i> Oklahoma Professional BOXING Commission) - <i>See</i> Title 92		ETHICS Commission	258
ATTORNEY General	75	Office of State FINANCE	260
State AUDITOR and Inspector	80	State FIRE Marshal Commission	265
State BANKING Department	85	Oklahoma Council on FIREFIGHTER Training	268
Oklahoma State Employees BENEFITS Council	87	Oklahoma FIREFIGHTERS Pension and Retirement System	270
Council of BOND Oversight	90	[RESERVED]	275
Oklahoma State ATHLETIC Commission (<i>Formerly:</i> Oklahoma Professional BOXING Commission)	92	FORENSIC Review Board	277
State BURIAL Board (<i>abolished 7-1-92</i>)	95	State Board of Registration for FORESTERS	280
[RESERVED]	100	FOSTER Care Review Advisory Board	285
Oklahoma CAPITAL Investment Board	105	Oklahoma FUNERAL Board (<i>Formerly:</i> Oklahoma State Board of Embalmers and Funeral Directors) - <i>See</i> Title 235	
Oklahoma CAPITOL Improvement Authority	110	Oklahoma FUTURES	290
State CAPITOL Preservation Commission	115	GOVERNOR (<i>See also</i> Title 1, Executive Orders)	295
CAPITOL-MEDICAL Center Improvement and Zoning Commission	120	GRAND River Dam Authority	300
Oklahoma Department of CAREER and Technology Education (<i>Formerly:</i> Oklahoma Department of VOCATIONAL and Technical Education) - <i>See</i> Title 780		Group Self-Insurance Association GUARANTY Fund Board	302
Board of Regents of CARL Albert State College (<i>exempted</i> <i>11-1-98</i>)	125	Individual Self-Insured GUARANTY Fund Board	303
Department of CENTRAL Services (<i>Formerly:</i> Office of PUBLIC Affairs) - <i>See</i> Title 580		STATE Use Committee (<i>Formerly:</i> Committee on Purchases of Products and Services of the Severely HANDICAPPED)	304
CEREBRAL Palsy Commission	130	Office of DISABILITY Concerns (<i>Formerly:</i> Office of HANDICAPPED Concerns)	305
Commission on CHILDREN and Youth	135	Oklahoma State Department of HEALTH	310
Board of CHIROPRACTIC Examiners	140	Oklahoma Basic HEALTH Benefits Board (<i>abolished 11-1-97</i>)	315
Oklahoma Department of EMERGENCY Management (<i>Formerly:</i> Department of CIVIL Emergency Management)	145	Oklahoma HEALTH Care Authority	317
Oklahoma Department of COMMERCE	150	HIGHWAY Construction Materials Technician Certification Board	318
COMMUNITY Hospitals Authority	152	Oklahoma HISTORICAL Society	320
COMPSOURCE Oklahoma (<i>Formerly:</i> State INSURANCE Fund) - <i>See</i> Title 370		Oklahoma HORSE Racing Commission	325
Oklahoma CONSERVATION Commission	155	Oklahoma HOUSING Finance Agency	330
CONSTRUCTION Industries Board	158	Oklahoma HUMAN Rights Commission	335
Department of CONSUMER Credit	160	Department of HUMAN Services	340
CORPORATION Commission	165	Committee for INCENTIVE Awards for State Employees	345
Department of CORRECTIONS	170	Oklahoma INDIAN Affairs Commission	350
State Board of COSMETOLOGY	175	Oklahoma INDIGENT Defense System	352
Oklahoma State CREDIT Union Board	180	Oklahoma INDUSTRIAL Finance Authority	355
CRIME Victims Compensation Board	185	INJURY Review Board	357
Joint CRIMINAL Justice System Task Force Committee	190	Oklahoma State and Education Employees Group INSURANCE Board	360
Board of DENTISTRY	195	INSURANCE Department	365
Oklahoma DEVELOPMENT Finance Authority	200	COMPSOURCE Oklahoma (<i>Formerly:</i> State INSURANCE Fund)	370
Office of DISABILITY Concerns (<i>Formerly:</i> Office of HANDICAPPED Concerns) - <i>See</i> Title 305		Oklahoma State Bureau of INVESTIGATION	375
Board of Regents of EASTERN Oklahoma State College (<i>exempted</i> <i>11-1-98</i>)	205	Council on JUDICIAL Complaints	376
		Office of JUVENILE Affairs	377
		Department of LABOR	380
		Department of the Commissioners of the LAND Office	385
		Council on LAW Enforcement Education and Training	390
		Oklahoma LAW Enforcement Retirement System	395
		Board on LEGISLATIVE Compensation	400

Agency/Title Index – continued

Agency	Title	Agency	Title
Oklahoma Department of LIBRARIES	405	Oklahoma SAVINGS and Loan Board (<i>abolished 7-1-93</i>)	625
LIEUTENANT Governor	410	SCENIC Rivers Commission	630
Oklahoma LINKED Deposit Review Board	415	Oklahoma Commission on SCHOOL and County Funds Management	635
Oklahoma LIQUEFIED Petroleum Gas Board	420	Advisory Task Force on the Sale of SCHOOL Lands (<i>functions concluded 2-92</i>)	640
Oklahoma LIQUEFIED Petroleum Gas Research, Marketing and Safety Commission	422	The Oklahoma School of SCIENCE and Mathematics	645
LITERACY Initiatives Commission	425	Oklahoma Center for the Advancement of SCIENCE and Technology	650
LONG-RANGE Capital Planning Commission	428	SECRETARY of State	655
Oklahoma State Board of Examiners for LONG-TERM Care Administrators (<i>Formerly: Oklahoma State Board of Examiners for NURSING Home Administrators</i>) - <i>See</i> Title 490	429	Department of SECURITIES	660
LOTTERY Commission, Oklahoma	429	Board of Regents of SEMINOLE State College (<i>exempted 11-1-98</i>)	665
Board of Trustees for the MCCURTAIN County Higher Education Program (<i>exempted 11-1-98</i>)	430	SHEEP and Wool Commission	670
Commission on MARGINALLY Producing Oil and Gas Wells	432	State Board of Licensed SOCIAL Workers	675
State Board of MEDICAL Licensure and Supervision	435	SOUTHERN Growth Policies Board	680
MEDICAL Technology and Research Authority of Oklahoma	440	Oklahoma SOYBEAN Commission (<i>abolished 7-1-97</i>)	685
Board of MEDICOLEGAL Investigations	445	Board of Examiners for SPEECH-LANGUAGE Pathology and Audiology (<i>Formerly: Board of Examiners for SPEECH Pathology and Audiology</i>)	690
Department of MENTAL Health and Substance Abuse Services	450	STATE Employee Charitable Contributions, Oversight Committee for (<i>Formerly: STATE Agency Review Committee</i>)	695
MERIT Protection Commission	455	STATE Use Committee (<i>Formerly: Committee on Purchases of Products and Services of the Severely HANDICAPPED</i>) – <i>See</i> Title 304	700
MILITARY Planning Commission, Oklahoma Strategic	457	Oklahoma STUDENT Loan Authority	705
Department of MINES	460	TASK Force 2000	710
Oklahoma MOTOR Vehicle Commission	465	Oklahoma TAX Commission	712
Board of Regents of MURRAY State College (<i>exempted 11-1-98</i>)	470	Oklahoma Commission for TEACHER Preparation	715
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs Control	475	TEACHERS' Retirement System	720
Board of Regents of NORTHERN Oklahoma College (<i>exempted 11-1-98</i>)	480	State TEXTBOOK Committee	723
Oklahoma Board of NURSING	485	TOBACCO Settlement Endowment Trust Fund	725
Oklahoma State Board of Examiners for LONG-TERM Care Administrators (<i>Formerly: Oklahoma State Board of Examiners for NURSING Home Administrators</i>)	490	Oklahoma TOURISM and Recreation Department	730
Board of Regents of OKLAHOMA City Community College (<i>exempted 11-1-98</i>)	495	Department of TRANSPORTATION	731
Board of Regents of OKLAHOMA Colleges (<i>exempted 11-1-98</i>)	500	Oklahoma TRANSPORTATION Authority (<i>Name changed to Oklahoma TURNPIKE Authority 11-1-05</i>) - <i>See</i> Title 731	735
Board of Examiners in OPTOMETRY	505	Oklahoma TURNPIKE Authority (<i>Formerly: Oklahoma TRANSPORTATION Authority AND Oklahoma TURNPIKE Authority</i>) - <i>See</i> also Title 745	740
State Board of OSTEOPATHIC Examiners	510	State TREASURER	745
PARDON and Parole Board	515	Board of Regents of TULSA Community College (<i>exempted 11-1-98</i>)	748
Oklahoma PEANUT Commission	520	Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma TRANSPORTATION Authority 11-1-99 - no rules enacted in this Title - See</i> Title 731)	750
Oklahoma State PENSION Commission	525	Oklahoma UNIFORM Building Code Commission	752
State Board of Examiners of PERFUSIONISTS	527	Board of Trustees for the UNIVERSITY Center at Tulsa (<i>exempted 11-1-98</i>)	755
Board of Commercial PET Breeders	532	UNIVERSITY Hospitals Authority	760
Office of PERSONNEL Management	530	UNIVERSITY Hospitals Trust	765
Oklahoma State Board of PHARMACY	535	Board of Regents of the UNIVERSITY of Oklahoma (<i>exempted 11-1-98</i>)	770
PHYSICIAN Manpower Training Commission	540	Board of Regents of the UNIVERSITY of Oklahoma (<i>exempted 11-1-98</i>)	775
Board of PODIATRIC Medical Examiners	545	Board of Regents of the UNIVERSITY of Science and Arts of Oklahoma (<i>exempted 11-1-98</i>)	780
Oklahoma POLICE Pension and Retirement System	550	Oklahoma USED Motor Vehicle and Parts Commission	785
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	Oklahoma Department of VETERANS Affairs	790
POLYGRAPH Examiners Board	560	Board of VETERINARY Medical Examiners	795
Oklahoma Board of PRIVATE Vocational Schools	565	Oklahoma Department of CAREER and Technology Education (<i>Formerly: Oklahoma Department of VOCATIONAL and Technical Education</i>)	800
State Board for PROPERTY and Casualty Rates (<i>abolished 7-1-06; see also Title 365</i>)	570	Oklahoma WATER Resources Board	805
State Board of Examiners of PSYCHOLOGISTS	575	Board of Regents of WESTERN Oklahoma State College (<i>exempted 11-1-98</i>)	810
Department of CENTRAL Services (<i>Formerly: Office of PUBLIC Affairs</i>)	580	Oklahoma WHEAT Commission	815
PUBLIC Employees Relations Board	585	Department of WILDLIFE Conservation	820
Oklahoma PUBLIC Employees Retirement System	590	WILL Rogers and J.M. Davis Memorials Commission	825
Department of PUBLIC Safety	595		
REAL Estate Appraiser Board	600		
Oklahoma REAL Estate Commission	605		
Board of Regents of REDLANDS Community College (<i>exempted 11-1-98</i>)	607		
State REGENTS for Higher Education	610		
State Department of REHABILITATION Services	612		
Board of Regents of ROGERS State College (<i>exempted 11-1-98</i>)	615		
Board of Regents of ROSE State College (<i>exempted 11-1-98</i>)	620		

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 13. FUEL ALCOHOL

[OAR Docket #10-1367]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

35:13-1-1. [AMENDED]

35:13-1-2. [AMENDED]

SUMMARY:

The proposed amendments incorporate the date for the most recent version of the Code of Federal Regulations for the Fuel Alcohol program.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4, 2-18, 11-20 et seq.; 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 January 3, 2011 through February 2, 2011.

PUBLIC HEARING:

A public hearing will be held at 10:30 a.m., February 2, 2011, 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 January 3, 2011 through February 2, 2011.

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 #10-1367; filed 12-09-10]

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

[OAR Docket #10-1370]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 16. Contagious Equine Metritis

35:15-16-1 [AMENDED]

Subchapter 36. Scrapie

35:15-36-1 [AMENDED]

35:15-36-2 [AMENDED]

SUMMARY:

The proposed amendments update the incorporation by reference of the Code of Federal Regulations for Contagious Equine Metritis and Scrapie.

AUTHORITY:

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4, 6-2, 6-131, 6-124, and 6-152; 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 January 3, 2011 through February 2, 2011.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m., February 2, 2011, 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

Notices of Rulemaking Intent

to Teena Gunter at the above address during the period from January 3, 2011 through February 2, 2011.

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 #10-1370; filed 12-09-10]

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

[OAR Docket #10-1371]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 9. Livestock Dealers and Livestock Special Sales [REVOKED]

SUMMARY:

The proposed revocations of rules are for the purpose of complying with House Bill 3203 of the 2010 Oklahoma Legislature session. HB 3203 revoked all but a statutory record keeping requirement.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4 (A) (2); and House Bill 3203 of the 2009 legislative session.

COMMENT PERIOD:

Persons may submit written comments 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 January 3, 2011 to February 2, 2011.

PUBLIC HEARING:

A public hearing will be held at 11:00 a.m., February 2, 2011, 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 rule revocations 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 January 3, 2011 to February 2, 2011.

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 #10-1371; filed 12-09-10]

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

[OAR Docket #10-1368]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 17. Combined Pesticide

Part 6. Pesticidal Product Producing Establishments

35:30-17-13 [AMENDED]

Part 21. Standards for Disposal of Pesticide and Pesticide Containers

35:30-17-89.1 [AMENDED]

SUMMARY:

The proposed amendments incorporate the date for the most recent version of the Code of Federal Regulations.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 3-81 et seq.; 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 January 3, 2011 through February 2, 2011.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., February 2, 2011, 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 January 3, 2011 through February 2, 2011.

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 #10-1368; filed 12-09-10]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 44. AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM**

[OAR Docket #10-1369]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 1. Agriculture Environmental Permitting and AGPDES

Part 1. General Provisions

35:44-1-3 [AMENDED]

Subchapter 3. Permit Conditions and Requirements

35:44-3-3 [AMENDED]

SUMMARY:

These amendments update the Code of Federal Regulations date for the incorporation by reference of the permitting requirements for Agriculture Pollutant Discharge Elimination System.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 2-18.2, 2A-1 et seq., and 2A-21 et seq.; 27A O.S. § 1-3-101(D); and Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written and oral 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 January 3, 2011 through February 2, 2011.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., February 2, 2011, 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 January 3, 2011 through February 2, 2011.

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 #10-1369; filed 12-09-10]

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 205. ALARM AND LOCKSMITH INDUSTRY**

[OAR Docket #10-1363]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 3. License Requirements

310:205-3-2 [AMENDED]

Subchapter 5. Special Provision

310:205-5-3 [NEW]

SUMMARY:

The following sections are proposed for amendment:

310:205-3-2. The current rule provides for license renewal. The proposed change creates a provision for an individual to receive a license with an inactive status while not currently employed by a licensed company. This change was requested by the industry to address the problem of licensed individuals performing work within the industry but in violation of the regulations by not being employed by a licensed company, or performing work as an independent contractor. The active status will be reinstated upon verification of employment with a licensed company.

310:205-5-3. This new section of rule establishes a residential alarm system tagging requirements. The tag will allow ready identification of the contractor, applicable version of the National Fire Protection Association Code used in the installation, date of installation, and the installer's name and license number.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 59 O.S. Section 1800 et seq.

COMMENT PERIOD:

January 3, 2011, through February 4, 2011. Interested persons may informally discuss the proposed rules with

Notices of Rulemaking Intent

Vernon Bolz, Chief, Consumer Health Service Division; or may, before February 4, 2011, submit written comment to Vernon Bolz, Chief, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, via email at vernonb@health.ok.gov; 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 February 4, 2011, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 from 11:00 a.m. until 1:00 p.m. At the discretion of the presiding official, the meeting may continue beyond 1:00 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 concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

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 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 February 4, 2011, to Vernon Bolz, Chief, Consumer Protection Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, or by e-mail to vernonb@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Occupational Licensing Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, via electronic mail request to vernonb@health.ok.gov, or via agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Vernon Bolz, Chief, Consumer Protection Division, phone (405) 271-5779, e-mail vernonb@health.ok.gov.

[OAR Docket #10-1363; filed 12-09-10]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 257. FOOD SERVICE ESTABLISHMENTS

[OAR Docket #10-1364]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 257. Food Service Establishments [AMENDED]

SUMMARY:

The current Rule sets forth definitions and parameters to safeguard public health and provide to consumers food that is safe, unadulterated and honestly presented.

The United States Food and Drug Administration (FDA) developed its model Food Code to assist and promote consistent implementation of national food safety regulatory policy among the local, State, and tribal governmental agencies that have primary responsibility for the regulation or oversight of retail level food operations. The Food Code, 2009 Recommendations of the United States Public Health Service (hereinafter called the 2009 Food Code) provides a scientifically sound technical and legal basis for regulating the retail segment of the food industry. These amendments align Oklahoma food service establishment rules with the 2009 Food Code. Oklahoma's current rules mirror the model code adopted in 2001. Nationwide adoption of the model FDA Food Code is an important step toward the agency's goal for consistent, scientifically sound, and risk-based food safety standards and practices. The 2009 Food Code adopted by the FDA is the first full-edition to publish since the 2005 edition. The 2009 Food Code is available on line at: <http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/FoodCode2009/default.htm>.

The following significant amendments are proposed to the rules:

- Each provision in the FDA Food Code would be designated as a "Priority Item," a "Priority Foundation Item," or a "Core Item" to assist the industry and regulatory community in prioritizing their food safety interventions and their inspections. These designations are based on a qualitative risk assessment and replace the use of "Critical" and "Non-Critical" designations in previous editions of the FDA Food Code.

- Cut leafy greens will be specifically listed as foods that require time and temperature control for safety.

- Requirements are proposed to improve food worker awareness of food allergen concerns in the food service and retail setting.

- Serving hamburgers and other ground meats in an undercooked form upon a consumer's request would no longer be an option for items offered on a children's menu.

- A new definition and criteria are proposed for the non-continuous cooking of foods comprised of raw animal products to address the safety of this cooking method.

- Several requirements related to the effective cleaning and sanitizing of equipment and surfaces are proposed for enhancement and clarification.

The following provides background to the significant amendments.

Reporting of illnesses: Simplify required employer and employee reporting of illnesses to enhance the food service establishment's ability to avoid potential transmission of infectious disease and food borne illness. The 2009 Food

Code, at Annex 3, Section 2-201.11, provided the following public health reasons for this amendment:

"Proper management of a food establishment operation begins with employing healthy people and instituting a system of identifying employees who present a risk of transmitting foodborne pathogens to food or to other employees. The person in charge is responsible for ensuring all food employees and conditional employees are knowledgeable and understand their responsibility to report listed symptoms, diagnosis with an illness from a listed pathogen, or exposure to a listed pathogen to the person in charge. The person in charge is also responsible for reporting to the regulatory official if a food employee reports a diagnosis with a listed pathogen."

For a full discussion of the public health reasons for this amendment, see Annex 3, Section 2-201.11, *Responsibility of the Person in Charge, Food Employees, and Conditional Employees, Food Code, 2009 Recommendations of the United States Public Health Service*, Food and Drug Administration, U.S. Department of Health and Human Services; www..

Food allergy awareness: Incorporates employee training in food allergy awareness and labeling for food allergens. The 2009 Food Code, at Annex 3, Section 2-103.11, provided the following public health reasons for this amendment:

"Food allergy is an increasing food safety and public health issue, affecting approximately 4% of the U.S. population, or twelve million Americans. Restaurant and retail food service managers need to be aware of the serious nature of food allergies, including allergic reactions, anaphylaxis, and death; to know the eight major food allergens; to understand food allergen ingredient identities and labeling; and to avoid cross-contact during food preparation and service. The 2008 Conference of Food Protection (CFP) passed Issue 2008-III-006 which provided that food allergy awareness should be a food safety training duty of the Person in Charge." The 'Person in Charge' duties are amended to assure the food safety training of employees includes food allergy awareness in order for them to safely perform duties related to food allergies.

For a full discussion of the public health reasons for this amendment see Annex 3, Section 2-201.11, *Responsibility of the Person in Charge, Food Employees, and Conditional Employees, and Section 3-602.11, Food Labels, Food Code, 2009 Recommendations of the United States Public Health Service*, Food and Drug Administration, U.S. Department of Health and Human Services.

Cut leafy greens: Add temperature control requirements on cut leafy greens to reduce foodborne illnesses associated with these products. The 2009 Food Code, at Annex 2-References, Supporting Documents, provides a summary of the Retail Food Protection Program Information Manual: Recommendations to Food Establishments for Serving or Selling Cut Leafy Greens, which includes the following public health reasons for this amendment:

"Following 24 multi-state outbreaks between 1998 and 2008, cut leafy greens was added to the definition of potentially hazardous food requiring time-temperature control for safety (TCS). The term used in the definition includes a variety of

cut lettuces and leafy greens. Raw agricultural commodities (RACs) that are not processed or cut on-site are excluded from the definition of cut leafy greens. Herbs such as cilantro or parsley are also not considered cut leafy greens. The pH, water activity, available moisture and nutrients of cut leafy greens supports the growth of foodborne pathogens and refrigeration at 41°F (5°C) or less inhibits growth and promotes general die off in some pathogens such as *E. coli* O157:H7, *Salmonella*, *E. coli* O157:H7 and *Listeria monocytogenes*, once attached to the surface or internalized into cut surfaces of leafy greens, are only marginally affected by chemical sanitizers."

For a full discussion of the public health reasons for this amendment see Annex 3, Section 1-201.10, *Statement of Application and Listing of Terms, Food Code, 2009 Recommendations of the United States Public Health Service*, and Section 1-201.10(B) Table B, Interaction of pH and a_w for control of vegetative cells and spores in food not heat-treated but not packaged.

Further discussion can be found in the FDA Program Information Manual, Retail Food Protection Storage and Handling of Tomatoes, dated October 5, 2007, and Recommendations to Food Establishments for Serving or Selling Cut Leafy Greens or the "Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables," October 26, 1998; Food and Drug Administration, U.S. Department of Health and Human Services.

Partially cooked foods: Include parameters for food establishments to properly protect foods that are partially cooked thereby avoiding food borne illness. The 2009 Food Code, at Annex 3, Section 3-401.14, provided the following public health reasons for this amendment:

"Close attention must be paid to control of biological hazards when a food establishment cooks raw animal foods using a process in which the food is partially cooked then cooled with the expectation of fully cooking the food at a later date or time. [This amendment] requires that establishments wishing to use a non-continuous process for the cooking of raw animal foods establish and follow a written plan that ensures each stage of the process is completed within time and temperature parameters that adequately prevent pathogen survival and growth. [The amendment] also requires that establishments take special precautions to ensure that raw animal foods that have only been initially heated to temperatures that are not lethal to the pathogens of concern are clearly identified so that they will not be inadvertently sold or served to the consumer in a partially cooked state. ... Requiring that food establishments obtain prior approval by the [Department] before employing non-continuous cooking processes will help to ensure that the establishment has the proper procedures in place, as well as the necessary facilities and capacity to monitor the appropriate cooling, cooking, separation and product identification of the foods."

For a full discussion of the public health reasons for this amendment see Annex 3, Section 3-401.14 *Non-Continuous Cooking of Raw Animal Food, Food Code, 2009 Recommendations of the United States Public Health*

Notices of Rulemaking Intent

Service, Food and Drug Administration, U.S. Department of Health and Human Services. Developed with consideration of the United States Department of Agriculture/Food Safety and Inspection Service (USDA/FSIS) *Performance Standards for Partially Cooked and Char-Marked Meat Patties and Partially Cooked Poultry Breakfast Strips* found in 9 CFR 318.23 and 9 CFR 381.150.

Restricting undercooked, comminuted meat from children's menus: A new provision is added a new provision to prohibit undercooked, comminuted meat (fish or meat products that are reduced in size and restructured or reformulated such as gefilte fish, gyros, ground beef, and sausage; and a mixture of 2 or more types of meat that have been reduced in size and combined, such as sausages made from 2 or more meats) from being served or offered for service on a children's menu. The 2009 Food Code, at Annex 3, Section 3-401.11, in the discussion of child menus, provided the following public health reasons for this amendment:

"The current rule allows operators to serve raw or partially cooked animal food items on their customer's request, as long as the establishment does not serve a "Highly Susceptible Population" and the customer is informed of the risks associated with consuming undercooked items. The definition of "Highly Susceptible Population" however, only includes young children who are of pre-school age and who obtain food under custodial care (as from a child daycare center). This definition does not address pre-school and older children eating in retail food establishments (such as restaurants), where it is common practice to offer menu items intended for children (e.g. "Kids Menu")."

"... The amendment seeks to increase current protection of children and establish needed safeguards in all retail food establishments. The importance of this issue can be demonstrated for numerous combinations of raw animal foods and associated pathogens. The greatest impact on children however, is undercooked ground beef, where the specific organism of concern is *Escherichia coli* O157:H7."

"Children are at relatively high risk for infection with *E.coli* O157:H7. It is possibly the leading cause of acute kidney failure and Hemolytic Uremic Syndrome (HUS) in children. Infection with *E. coli* O157:H7 can result with mild to severe symptoms such as: non-bloody or bloody diarrhea to HUS, which is a condition that includes destruction of red blood cells, problems with blood clotting and kidney failure. About 2% to 20% of patients that are infected with *E. coli* O157:H7 develop HUS. The risk of illness from *E. coli* O157:H7 in ground beef has been shown to be about 2.5 times higher for preschool children and infants than for the rest of the population. The CDC has reported the following *E. coli* O157:H7 infection rates per 100,000 by age range: 8.2 for young children 1-9 years old and 3.0 for older children 10-20 years of age."

"Precluding undercooked foods from being offered on a children's menu may result in increased protection to children from foodborne illness, particularly *E. coli* O157:H7, which can result in severe consequences in children."

This discussion of the public health reasons for this amendment comes from Annex 3, Section 3-401.11, *Raw Animal Foods, Children's Menu, Food Code, 2009 Recommendations of the United States Public Health Service*, Food and Drug Administration, U.S. Department of Health and Human Services.

Reduced Oxygen Packaging (ROP) provisions: Update Reduced Oxygen Packaging (ROP) provisions to lessen the risk of food borne illness caused by *Clostridium botulinum* and *Listeria monocytogenes*. The 2009 Food Code, at Annex 3, Section 3-502.12, provided the following public health reasons for this amendment:

"Reduced oxygen packaging encompasses a large variety of packaging methods where the internal environment of the package contains less than the normal ambient oxygen level (typically 21% at sea level), including vacuum packaging (VP), modified atmosphere packaging (MAP), controlled atmosphere packaging (CAP), cook chill processing (CC), and sous vide (SV). Using ROP methods in food establishments has the advantage of providing extended shelf life to many foods because it inhibits spoilage organisms that are typically aerobic."

For a full discussion of the public health reasons for these amendments see Annex 3, Section 3-502.12, *Reduced Oxygen Packaging Without a Variance, Criteria, Food Code, 2009 Recommendations of the United States Public Health Service*, Food and Drug Administration, U.S. Department of Health and Human Services.

Bare hand contact: Improve provisions on bare hand contact to promote reduced frequency of bare hand contact with ready to eat food to lessen the risk of foodborne illness caused from food workers not properly washing hands. The 2009 Food Code, at Annex 3, Section 2-301.11, provided the following public health reasons for this amendment:

"The hands are particularly important in transmitting foodborne pathogens. Food employees with dirty hands and/or fingernails may contaminate the food being prepared. Therefore, any activity which may contaminate the hands must be followed by thorough handwashing in accordance with the procedures outlined in the Code. Even seemingly healthy employees may serve as reservoirs for pathogenic microorganisms that are transmissible through food. *Staphylococci*, for example, can be found on the skin and in the mouth, throat, and nose of many employees. The hands of employees can be contaminated by touching their nose or other body parts."

For a full discussion of the public health reasons for these amendments see Annex 3, Section 2-301.11 *Clean Condition, Food Code, 2009 Recommendations of the United States Public Health Service*, Food and Drug Administration, U.S. Department of Health and Human Services.

Hand drying devices: Allow for use of new technology in hand drying devices. The 2009 Food Code, at Annex 3, Section 6-301.12, provided the following public health reasons for this amendment:

"It is known that wet hands transfer bacteria more readily than dry hands. The residual moisture found on the hands after washing allows for bacterial and viral transfer to food or solid surfaces by touch. The method in which hands are dried is a critical factor in reducing chances of cross-contamination by hands to food and environmental surfaces. With regard to the addition of air knife technology for hand drying, data reviewed by FDA scientists at the FDA's National Center for Food Safety Technology demonstrates that the use of this technology in hand dryers has been found to be equivalent to the hand drying treatment in existing heated-air devices."

For a full discussion of the public health reasons for these amendments see Annex 3, Section 6-301.12 *Hand Drying Provision, Food Code, 2009 Recommendations of the United States Public Health Service*, Food and Drug Administration, U.S. Department of Health and Human Services.

Fruit and vegetable washing: Allow for use of new technology in fruit and vegetable washing and sanitizing. The 2009 Food Code, at Annex 3, Section 6-301.12, provided the following public health reasons for this amendment:

"Pathogenic microorganisms, such as *Salmonella* spp., and chemicals such as pesticides, may be present on the exterior surfaces of raw fruits and vegetables. It has been assumed that washing removes the majority of organisms and/or chemicals present, however, more recent studies have demonstrated washing to fall short of their complete removal. Biofilm development by *Salmonella* allows bacterial cells to survive under adverse environmental conditions and also reduces the ability to remove pathogens by washing, even with antimicrobial agents."

For a full discussion of the public health reasons for these amendments see Annex 3, Section 3-302.15, *Washing Fruits and Vegetables, Food Code, 2009 Recommendations of the United States Public Health Service*, Food and Drug Administration, U.S. Department of Health and Human Services.

Mobile food establishment (MFE) operations: Clarify mobile food establishment operations and requirements to provide consistent and safe food operations. The introduction to the *Recommended Guidance For Mobile Food Establishments*, issued in 2006 by The Conference for Food Protection, provides the following comprehensive discussion of the issues and rationale for the proposed changes in mobile food establishment regulation:

"MFEs present some unique challenges to the [Department]—mainly because most of the MFE units truly are mobile units and travel from location to location. Many MFEs do not have set hours or days that they are in operation. MFEs are difficult to track down and access to inspect. Identifying the source of food used by the MFE and the food preparation practices that are used on the MFE unit and at its servicing area can be difficult. It is important, then, that the food operations on the MFEs and their servicing area are clearly identified and in agreement with the Department's requirements before they begin their operations."

"MFEs include a wide range of units from push-carts to all types of four-wheeled vehicles and trailers. It is essential that the requirements for MFE units are based upon a menu review of the items to be transported, prepared, cooked, held, and served. Many of these MFE units are high risk operations engaging in the preparation of raw ingredients and in processes that include the cooking, hot and cold holding, cooling, and reheating of potentially hazardous food that is time/temperature controlled for safety (PHF/TCS). According to data from the Centers for Disease Control and Prevention (CDC), the most commonly reported risk factors that contribute to food borne disease are: improper holding temperature; inadequate cooking of food; poor personal hygiene; contaminated equipment; and foods from unsafe sources. Regardless of whether food is prepared outdoors or indoors, or at permanent, seasonal, or temporary sites, or on mobile food establishment units, these risk factors must be controlled in order to ensure the safety of the foods being consumed."

"MFE units can be operated safely when they are in compliance with well-defined regulatory standards that are established to control and minimize the contributing risk factors of food borne disease. The rule changes set forth in this document for preparing and serving food using MFE units are extracted from, or consistent with, the requirements of the current version of the U.S. Public Health Service, Food and Drug Administration's Food Code (hereafter referred to as the Food Code). These guidelines provide the basis on which [the Department] can evaluate and permit MFEs."

The guidance for regulation of MFE's is taken from *Recommended Guidance For Mobile Food Establishments*, 2006, The Conference for Food Protection. The Conference for Food Protection brings together representatives from the food industry, government, academia, and consumer organizations to identify and address emerging problems of food safety and to formulate recommendations. The Conference seeks to balance the interests of regulatory and industry people while providing a forum for the consideration of ideas from any source. The Conference meets at least biennially to provide this forum. Though the Conference has no formal regulatory authority, the organization influences model laws and regulations among all government agencies and minimizes disparate interpretations and implementation.

Non-continuous cooking of raw animal foods: Added a new section on non-continuous cooking of raw animal foods that specifies the criteria for using a non-continuous cooking process. The 2009 Food Code, at Annex 3, Section 401.14, provided the following public health reasons for this amendment:

"Close attention must be paid to control of biological hazards when a food establishment cooks raw animal foods using a process in which the food is partially cooked then cooled with the expectation of fully cooking the food at a later date or time. [The amendment] requires that establishments wishing to use a non-continuous process for the cooking of raw animal foods establish and follow a written plan

Notices of Rulemaking Intent

that ensures each stage of the process is completed within time and temperature parameters that adequately prevent pathogen survival and growth. [The amendment] also requires that establishments take special precautions to ensure that raw animal foods that have only been initially heated to temperatures that are not lethal to the pathogens of concern are clearly identified so that they will not be inadvertently sold or served to the consumer in a partially cooked state. The criteria were developed with consideration of the United States Department of Agriculture/Food Safety and Inspection Service (USDA/FSIS) Performance Standards for Partially Cooked and Char-Marked Meat Patties and Partially Cooked Poultry Breakfast Strips found in 9 CFR 318.23 and 9 CFR 381.150."

"Requiring that food establishments obtain prior approval by the regulatory authority before employing non-continuous cooking processes will help to ensure that the establishment has the proper procedures in place, as well as the necessary facilities and capacity to monitor the appropriate cooling, cooking, separation and product identification of the foods."

For a full discussion of the public health reasons for these amendments see Annex 3, Section 3-401.14, *Non-Continuous Cooking of Raw Animal Foods, Food Code, 2009 Recommendations of the United States Public Health Service*, Food and Drug Administration, U.S. Department of Health and Human Services.

Rinsing Equipment and Utensils after Sanitizing: Added a new section to allow the application of a post-sanitizing rinse restricted to commercial warewashing machines and the circumstances under which it may be allowed. The 2009 Food Code, at Annex 3, Section 4-904.14, provided the following public health reasons for this amendment:

"The rinsing of cleaned and sanitized utensils and equipment in a manner that may contaminate the surfaces before they are used, such as running them under a faucet or by dipping them in a vessel of water, is prohibited. The application of a post-sanitizing rinse is restricted to warewashing machines because there will be little opportunity for contamination of the potable water rinse if applied within the confines of a compliant warewashing machine. Provided the sanitization is achieved before the rinse is applied and as long as any chemical sanitizers are used in accordance with an EPA-registered label, the sanitary state of utensils and equipment should not be altered by applying a potable water rinse after the required final sanitizing rinse within a warewashing machine." Annex 3, Section 4-904.14 *Rinsing Equipment and Utensils after Cleaning and Sanitizing, Food Code, 2009 Recommendations of the United States Public Health Service*, Food and Drug Administration, U.S. Department of Health and Human Services.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. Section 1-104 et seq., Section 1-1101 et seq., and Section 1-1118 et seq.

COMMENT PERIOD:

January 3, 2011 through February 4, 2011. Interested persons may discuss informally the proposed rules with staff of Consumer Protection; or before February 4, 2011 submit

written comment to Vernon Bolz, Chief, Consumer Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, via email at vernonb@health.ok.gov; 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 February 4, 2011, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 from 11:00 a.m. until 1:00 p.m. At the discretion of the presiding official, the meeting may continue beyond 1:00 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 concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

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 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 February 4, 2011, to Vernon Bolz, Chief, Consumer Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to vernonb@health.ok.gov.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the agency website at www.health.ok.gov or from Consumer Health Services at the above address or by electronic mail request to vernonb@health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement has been prepared and is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Vernon Bolz, Chief, Consumer Health Services, Protective Health Services, (405) 271-5243, email vernonb@health.ok.gov.

[OAR Docket #10-1364; filed 12-09-10]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 355. SMOKING IN PUBLIC
PLACES AND INDOOR WORKPLACES**

[OAR Docket #10-1365]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

- 310:355-1-1. Purpose and scope [AMENDED]
- Subchapter 23. Rebate Program for the Clean Air In Restaurants Act [NEW]
- 310:355-23-1. Definitions [NEW]
- 310:355-23-2. Eligibility [NEW]
- 310:355-23-3. Application [NEW]
- 310:355-23-4. Rebate [NEW]
- 310:355-23-5. Waiver [NEW]

SUMMARY:

The proposed rule modifications would implement the Clean Air In Restaurants Act, which became effective November 1, 2010. The proposed rule modifications, if adopted, would allow restaurants that meet eligibility requirements, who constructed smoking rooms pursuant to 63 O.S. § 1-1523, a rebate of a portion of the amount paid to construct said smoking room if said smoking room is removed from service and the restaurant is completely smoke free by January 1, 2013. The rebate would be paid from Tobacco Prevention and Cessation Revolving Fund.

AUTHORITY:

Oklahoma State Board of Health, Title 63 O.S. Section 1-104; and Title 63 O.S. Section 1-1515.

COMMENT PERIOD:

January 3, 2011, through February 4, 2011. Interested persons may informally discuss the proposed rules with Mark Newman, Director- Office of State and Federal Policy, via telephone at (405) 271-3242,; or may, before February 4, 2011, submit written comment to Mark Newman, Director- Office of State and Federal Policy, Oklahoma State Department of Health, 1000 N.E. 10th Street, Room 305, Oklahoma City, OK 73117-1207, or via email at marksn@health.ok.gov; 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 February 4, 2011, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 from 11:00 a.m. until 1:00 p.m. At the discretion of the presiding official, the meeting may continue beyond 1:00 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 concerns, orally or in writing, about the rule proposal described and summarized in this Notice.

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 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 February 4, 2011, to Mark Newman, Director- Office of State and Federal Policy, Oklahoma State Department of Health, 1000 N.E. 10th Street, Room 305, Oklahoma City, OK 73117-1207, or via email at marksn@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Mark Newman, Director- Office of State and Federal Policy, Oklahoma State Department of Health, 1000 N.E. 10th Street, Room 305, Oklahoma City, OK 73117-1207, or via email at marksn@health.ok.gov; or via agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Mark Newman, Director- Office of State and Federal Policy, Oklahoma State Department of Health, 1000 N.E. 10th Street, Room 305, Oklahoma City, OK 73117-1207, or via email at marksn@health.ok.gov.

[OAR Docket #10-1365; filed 12-09-10]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 675. NURSING AND SPECIALIZED FACILITIES

[OAR Docket #10-1366]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 310:675-1-6. [NEW]
- Subchapter 5. Physical Plant
- 310:675-5-21. [AMENDED]
- Subchapter 9. Resident Care Services
- 310:675-9-9.1. [AMENDED]

SUMMARY:

Section 310:675-1-6, Waiver. This proposal promulgates rules in accordance with 63 O.S. Section 1-1900.2 affecting nursing facilities that house no more than twelve (12) individuals. This proposal establishes the procedures and terms for which a facility shall comply with in submitting an application requesting a waiver of a provision of the Nursing Home Care Act and any rules promulgated pursuant thereto. The proposal will foster the development of resident autonomy, individualization, and culture change in nursing facilities through support of a de-institutional model that restores individuals to a self-contained residence in the community that is designed like a private home.

Section 310:675-5-21(4), Nurses' Call System. The current Rule addresses notification system requirements for general resident areas in contacting nursing staff. This proposal establishes alternative means of communication systems for residents to directly contact nursing staff through either audible or visual signals, electronic systems, and may include "wireless systems". This change is necessary because current Rule requires resident areas to be served by at least

Notices of Rulemaking Intent

one calling station and each bed shall be provided with a call button. The proposal will foster culture change through opportunities to improve resident quality of life by the use of electronic systems or wireless systems as alternative means of communication with nursing staff and through promoting a home like environment by eliminating medical models such as nursing stations.

Section 310:675-9-9.1(a)(1), Storage. The current Rule addresses approved locations in which medications shall be stored. This proposal removes the requirement for medication storage areas to be in a location that is convenient to the nursing station. The proposal will foster culture change by providing alternatives to the physical environment of a facility to promote the creation of a home like environment providing residents with an optimal quality of life. A potential effect of the Rule change will be the movement away from traditional medical models such as nursing stations.

Section 310:675-9-9.1(a)(8), Storage. The current Rule addresses the requirement that medication areas shall have a work counter. This proposal removes the requirement for work counters. The effect of the rule change will be the elimination of an unnecessary requirement and the promotion of culture change in the creation of home-like environment.

Section 310:675-9-9.1(a)(10), Storage. The current Rule provides for the procedures and terms for the submittal of policies and procedures for safe and appropriate storage and application of powdered over-the-counter medications to the Department of Health for approval prior to implementation. This proposal removes the requirement for facilities to submit policies and procedures for safe and appropriate storage of powdered over-the-counter medications to the Department of Health for approval. The effect of the Rule change will be the elimination of an unnecessary regulatory procedure and a more efficient process in the development and implementation of a facility's policies and procedures.

Section 310:675-9-9.1(e)(1), Medication destruction. The current Rule provides for the procedures and terms for the destruction of medications prescribed to residents who have died and medications which have been discontinued. Currently all medications must be destroyed by the Director of Nursing and the consultant pharmacist. This proposal establishes an alternative means for non-controlled medications to be destroyed by both the Director of Nursing and another licensed nurse. Controlled medication shall be destroyed by a licensed pharmacist and the Director of Nursing. The effect of the Rule change will be the elimination of an unnecessary directive requiring the utilization of a consultant pharmacist for the destruction of all medications.

Section 310:675-9-9.1(e)(3), Medication destruction. The current Rule addresses the development of policies and procedures for the destruction of discontinued or other unused medications. The Rule further requires that the destruction of medications shall be carried out in the facility jointly by the Director of Nursing and the licensed pharmacist who shall sign a record of destruction that is to be retained in the facility. This

proposal removes the requirement that the Director of Nursing and a licensed pharmacist jointly destroy all medications but retains the requirement that a signed record of destruction be retained in the facility. The effect of the Rule change will be the elimination of an unnecessary regulatory procedure and will allow for a more efficient process in the destruction of medications.

Section 310:675-9-9.1(h), Emergency pharmacist. The current Rule sets forth the requirement that a facility shall have a contract, or letter of agreement, with a licensed pharmacist or a hospital pharmacy, that agrees to serve as the emergency pharmacist. The Rule further requires the licensed pharmacist shall practice in licensed pharmacy within a ten (10) mile radius if appropriate. This proposal allows a facility to contract or have a letter of agreement with a licensed pharmacy to serve as the emergency pharmacy and further removes the ten (10) mile radius requirement. The effect of the Rule change will be the ability of a facility to contract with a licensed pharmacy to provide emergency services twenty-four (24) hours a day to meet residents' care needs.

AUTHORITY:

Oklahoma State Board of Health; Title 63 O.S. § 1-104; Title 63 O.S. § 1-1900.2, and Title 63 O.S. § 1-1901 et seq.

COMMENT PERIOD:

January 3, 2011, through February 4, 2011. Interested persons may informally discuss the proposed rules with James Buck, Assistant Chief, Long Term Care Service; or may, before February 4, 2011, submit written comment to James Buck, Assistant Chief, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, via email at jimob@health.ok.gov; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

Pursuant to 75 O.S. Section 303 (A), the public hearing for the proposed rulemaking in this chapter shall be on February 4, 2011, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, OK 73117-1207, in room 1102 from 11:00 a.m. until 1:00 p.m. At the discretion of the presiding official, the meeting may continue beyond 1:00 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.

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 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 February 4, 2011, to James Buck, Assistant Chief, Long Term Care Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, or by e-mail to jimob@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Long Term Care Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1207, via electronic mail request to jimob@health.ok.gov or via the Long Term Care Service website at <http://ltc.health.ok.gov>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

James Buck, Assistant Chief, Long Term Care Service, (405) 271-6868, via email at jimob@health.ok.gov.

[OAR Docket #10-1366; filed 12-09-10]

**TITLE 429. OKLAHOMA LOTTERY COMMISSION
CHAPTER 10. RETAILER PROVISIONS**

[OAR Docket #10-1362]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

RULES:

- 429:10-1-3 [AMENDED]
- 429:10-1-10 [AMENDED]

SUMMARY:

The proposed rule amendment in 10-1-3 modifies the bonus payment to retailers for selling certain winning Powerball or Hot Lotto tickets. Currently, payments range from \$1,000 to \$25,000. The change modifies this process by removing reference to specific bonus payment amounts and the change authorizes the Executive Director to establish bonus payment programs designed to improve sales, and for the Oklahoma Lottery Commission Board of Trustees to approve the programs prior to implementation. In reference to the second proposed change, currently a retailer is invoiced for instant game tickets when 80% of the low-tier prizes in the pack have been validated, or no later than 45 days after the pack of tickets was activated for sale. The proposed change to rule 10-1-10 shortens the number of days to 30 days after activation.

AUTHORITY:

Oklahoma Lottery Commission, 3A O.S., Section 710.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so before 5:00 p.m. on Thursday, February 3, 2011 at the following address: Rollo Redburn, Oklahoma Lottery Commission, 3817 N. Santa Fe, Oklahoma City, OK 73118. Comments may be emailed to: Rollo.Redburn@lottery.ok.gov.

PUBLIC HEARING:

A public hearing will be held at the Oklahoma Lottery Commission, 3817 N. Santa Fe, Oklahoma City, OK, on

Friday, November 4, 2011 at 10:00 a.m. Anyone who wishes to speak must sign in by 9:45 a.m. on that day.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Commission 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 from January 3, 2011 until 5:00 on February 3, 2011 at the Oklahoma Lottery Commission, 3817 N. Santa Fe, Oklahoma City, OK 73118, Attn.: Rollo Redburn.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by contacting Rollo Redburn at the Oklahoma Lottery Commission, 3817 N. Santa Fe, Oklahoma City, OK 73118, (405) 522-7700, or they can be obtained on the Oklahoma Lottery Commission web site at www.lottery.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be available on and after January 18, 2011, at the Oklahoma Lottery Commission, 3817 N. Santa Fe, Oklahoma City, OK 73118.

CONTACT PERSON:

Rollo Redburn, Administrative Rules Liaison, 522-7700.

[OAR Docket #10-1362; filed 12-08-10]

**TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #10-1351]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 9. Compliance with Section 504 of the Rehabilitation Act of 1973
612:1-9-3. Required statement on DRS printed documents [AMENDED]
- Subchapter 11. Compliance with the Americans with Disabilities Act of 1990
Part 3. Reasonable Accommodation
612:1-11-16. Providing reasonable accommodations [AMENDED]
- Subchapter 13. Civil Rights and Nondiscrimination on Basis of Race, Color, National Origin, Sex, Age or Disability
612:1-13-5. Awareness [AMENDED]
- Subchapter 15. Department Manual, Rules, and Declaratory Rulings
612:1-15-2. Availability of manual [AMENDED]

Notices of Rulemaking Intent

612:1-15-4. Relationship of DRS manual to Oklahoma Administrative Code [REVOKED]

SUMMARY:

The agency is undertaking a major modification of policy to remove extraneous language and procedures that have no effect on our clients or the public. The agency is also striving to become a paperless agency by removing signature requirements where a signature is not absolutely necessary.

AUTHORITY:

Commission for Rehabilitation Services; 74 O.S. § 166.2

COMMENT PERIOD:

Written and oral comments will be accepted January 03, 2011 through February 9, 2011 during regular business hours by contacting Ray Leard, Department of Rehabilitation Services, 3535 NW 58th Suite 500, Oklahoma City, Oklahoma 73112, Telephone 405-951-3406.

PUBLIC HEARING:

Monday, February 7, 2011,
4:00 P.M. - 6:00 P.M.,
Department of Rehabilitation Services
2nd Floor Conference Room,
3535 N.W. 58th
Oklahoma City, Oklahoma

Tuesday, February 8, 2011,
1:00 P.M. - 3:00 P.M.,
Total Source for Hearing loss and Access
8740 E. 11th, Conference Room
Tulsa, Oklahoma

Wednesday, February 9, 2011,
1:00 P.M. - 3:00 P.M.,
Great Plains Technical Center
4500 S.W. Lee Blvd., Bldg 300, Room 301A
Lawton, Oklahoma

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department of Rehabilitation Services (DRS) requests that business entities affected by these rules provide the DRS, 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:

Copies of the proposed rules may be obtained from: the DRS Web Site www.okdrs.gov by e-mail policycomment@okdrs.gov by letter to the Policy Development Unit, attention Ray Leard, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, Oklahoma 73112 or by calling (405) 951-3406 - Toll free 1-800-845-8476.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available after January 03, 2011, at

the Department of Rehabilitation Services office at the above address.

CONTACT PERSON:

Ray Leard, Rulemaking Liaison, (405) 951-3406

[OAR Docket #10-1351; filed 12-3-10]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 10. VOCATIONAL REHABILITATION AND VISUAL SERVICES

[OAR Docket #10-1352]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
612:10-1-1. Purpose [AMENDED]
612:10-1-1.1. Legal Authority [NEW]
612:10-1-2. Definitions [AMENDED]
612:10-1-3. Basic purpose and philosophy of rehabilitation programs [AMENDED]
612:10-1-3.1. Procedural exceptions [NEW]
612:10-1-3.2. Pilot projects [NEW]
612:10-1-4. Consultants (medical, dental, and psychological) [AMENDED]
Subchapter 3. Client Participation in Cost of Services
612:10-3-1. Guidelines for determining client participation in service costs [REVOKED]
612:10-3-3. Client participation in service costs and financial status determination [AMENDED]
612:10-3-5. Basic living requirements [AMENDED]
612:10-3-6. Income, Assets and Liabilities [AMENDED]
612:10-3-7. Liabilities [REVOKED]
Subchapter 7. Vocational Rehabilitation and Visual Services
Part 1. Scope of Vocational Rehabilitation and Visual Services
612:10-7-1. Overview of Vocational Rehabilitation and Visual Services [AMENDED]
612:10-7-4. Basic eligibility requirements for vocational rehabilitation services [REVOKED]
612:10-7-5. Factors affecting eligibility [REVOKED]
612:10-7-6. Assessment for determining eligibility [REVOKED]
612:10-7-7. Evidence of ineligibility [REVOKED]
612:10-7-8. Order of selection [REVOKED]
612:10-7-11. Counseling and guidance [REVOKED]
Part 3. Case Processing Requirements
612:10-7-21. Processing incoming referrals [NEW]
612:10-7-21.1. Information and referral system [NEW]
612:10-7-22.1. Application [NEW]
612:10-7-23. General health checklist [REVOKED]

612:10-7-24.1 Basic eligibility requirements for vocational rehabilitation services [NEW]
 612:10-7-24.2. Assessment for determining eligibility [NEW]
 612:10-7-24.3. Trial Work Experience and Extended Evaluation [NEW]
 612:10-7-24.4. Ineligibility procedures [NEW]
 612:10-7-24.5. Closed - Not Accepted for Services [NEW]
 612:10-7-25.1. Order of selection [NEW]
 612:10-7-26. Evaluation [REVOKED]
 612:10-7-31. Transfer of cases [AMENDED]
 612:10-7-34. Case finding and referrals [REVOKED]
 612:10-7-35. Processing of referrals and the information and referral system [REVOKED]
 Part 5. Case Status and Classification System
 612:10-7-45. Case statuses and case flow [AMENDED]
 612:10-7-47. Application Status [REVOKED]
 612:10-7-48. Trial Work Experience and Extended Evaluation [REVOKED]
 612:10-7-49. Closed AMENDED Not Accepted for Services [REVOKED]
 612:10-7-50. Eligibility Status—~~accepted for services and IPE under development~~ [AMENDED]
 612:10-7-50.1. Assessment for determining rehabilitation needs [NEW]
 612:10-7-51. Individualized Plan for Employment [AMENDED]
 612:10-7-52. Provision of Services [AMENDED]
 612:10-7-55. Job Ready [AMENDED]
 612:10-7-56. Employment [AMENDED]
 612:10-7-58. Closed Rehabilitated [AMENDED]
 612:10-7-61. Ineligibility reviews [REVOKED]
 612:10-7-62. Post-Employment services [AMENDED]
 612:10-7-63. Post-Employment services completed [AMENDED]
 Part 9. Actions Requiring Review and Approval
 612:10-7-87. Actions requiring supervisor's approval [AMENDED]
 Part 11. Physical and Mental Restoration Services
 612:10-7-98. General guidelines for physical and mental restoration services [AMENDED]
 612:10-7-99. Braces [REVOKED]
 612:10-7-100. Chiropractic treatment [REVOKED]
 612:10-7-102. Dental services [REVOKED]
 612:10-7-103. Dialysis or treatment of end-stage renal disease [REVOKED]
 612:10-7-104. Drugs and supplies [REVOKED]
 612:10-7-105. Hearing aids [REVOKED]
 612:10-7-106. Hospitalization [REVOKED]
 612:10-7-107. Intercurrent illnesses [REVOKED]
 612:10-7-108. Laboratory work and X-rays [REVOKED]
 612:10-7-109. Low vision services [REVOKED]
 612:10-7-110. Medical examinations [REVOKED]
 612:10-7-112. Nursing services [REVOKED]
 612:10-7-113. Physical therapy [REVOKED]

612:10-7-114. Post-operative care of cataract patients [REVOKED]
 612:10-7-115. Prosthetic eyes, glasses and other optical aids [REVOKED]
 612:10-7-116. Prosthetic limbs [REVOKED]
 612:10-7-117. Psychiatric and psychological treatment [REVOKED]
 612:10-7-118. Speech therapy/training [REVOKED]
 612:10-7-119. Surgery and medical treatment [REVOKED]
 612:10-7-120. Wheelchairs and other durable medical equipment [REVOKED]
 Part 13. Supportive Services
 612:10-7-131. Transportation [AMENDED]
 Part 15. Training
 612:10-7-142. General guidelines for training services [AMENDED]
 612:10-7-144. Training to meet individual needs [REVOKED]
 612:10-7-145. Counseling activities during training program [REVOKED]
 612:10-7-146. Training progress reports [REVOKED]
 612:10-7-148. Types of training [REVOKED]
 612:10-7-149. College and university training [AMENDED]
 612:10-7-150. Continued eligibility for college or university training [AMENDED]
 612:10-7-151. Duration of college and university training [REVOKED]
 612:10-7-152. Payment of tuition and fees at colleges and universities [AMENDED]
 612:10-7-153. Textbook allowance for college and university students [REVOKED]
 612:10-7-157. Out-of-state training [AMENDED]
 612:10-7-158. Training for individuals in custody of the Department of Corrections [AMENDED]
 612:10-7-159. Privately owned business and trade schools [REVOKED]
 612:10-7-160. Payment of tuition and fees at privately owned business and trade schools [REVOKED]
 612:10-7-161. Public and private vocational schools [AMENDED]
 612:10-7-162. ~~Supplies and training tools for business, vocational and trade schools~~ Textbooks, supplies, training tools and equipment [AMENDED]
 612:10-7-164. Personal and work adjustment training [AMENDED]
 612:10-7-166. Tutorial training [AMENDED]
 Part 17. Supported Employment Services
 612:10-7-179. Overview of Supported Employment Services [AMENDED]
 612:10-7-181. Integrated settings [AMENDED]
 612:10-7-182. Competitive employment for supported employment clients [AMENDED]
 612:10-7-183. Ongoing support services [AMENDED]
 612:10-7-184. Extended services [AMENDED]

Notices of Rulemaking Intent

612:10-7-185. Provision of supported employment services [AMENDED]

Part 18. Employment and Retention Services

612: 10-7-186. Overview of Employment and Retention Services [AMENDED]

612:10-7-188. Provision of employment and retention services [AMENDED]

612:10-7-189. Competitive employment for Employment and Retention [NEW]

Part 19. Special Services for Individuals who are Blind, Deaf, or have other Significant Disabilities

612:10-7-195. Personal assistance services [AMENDED]

612:10-7-199. Reader/recording services [AMENDED]

612:10-7-200. Library for the Blind and Physically Handicapped [REVOKED]

612:10-7-202. Merchandising services [REVOKED]

612:10-7-204. Specialist on aging [REVOKED]

612:10-7-206. ~~Rehabilitation~~ Assistive technology—and prescribed adaptive aids and devices services for individuals with visual impairments [AMENDED]

Part 21. Purchase of Equipment, Occupational Licenses and Certificates

612:10-7-220. Vehicle modification services [AMENDED]

612:10-7-221. Housing Modification [AMENDED]

612:10-7-222. Rehabilitation technology and prescribed adaptive aids and devices [NEW]

Part 23. Self-Employment Programs and Other Services

612:10-7-231. Services to groups of persons with disabilities [REVOKED]

612:10-7-232. Placement [AMENDED]

612:10-7-234. Computers and high tech electronic equipment [AMENDED]

612:10-7-235. Support Services for Employment [NEW]

Part 25. Transition from School to Work Program

612:10-7-244. Overview of transition from school to work services [AMENDED]

612:10-7-245. Definitions [AMENDED]

612:10-7-246. Cooperative agreements for transition services [AMENDED]

612:10-7-248. Coordination of Individualized Education Program and Individualized Plan for Employment [AMENDED]

612:10-7-249. Counselor responsibilities in the Transition from School to Work Program [REVOKED]

Subchapter 9. Rehabilitation Teaching Services

Part 1. General Provisions

612:10-9-2. Consumer rights [AMENDED]

612:10-9-3. ~~Rehabilitation of—the—Blind Specialist's~~ teacher's role [AMENDED]

Part 3. Case Processing and Recording

612:10-9-13. Case recording ~~standards~~ [AMENDED]

612:10-9-15. Case status [AMENDED]

612:10-9-17. Application Status [AMENDED]

612:10-9-18. Closure from Application [AMENDED]

612:10-9-19. Eligibility Status [AMENDED]

612:10-9-20. Service Status [AMENDED]

612:10-9-25. Post-Employment Service Status [AMENDED]

Part 5. Services

612:10-9-32. Diagnosis and evaluation for homemaker cases [AMENDED]

612:10-9-33. Communication [AMENDED]

612:10-9-34. Personal management [AMENDED]

612:10-9-34.1. Visual efficiency [NEW]

612:10-9-34.2. Indoor mobility [NEW]

612:10-9-34.3. Other adaptive skills [NEW]

612:10-9-35. Home management [AMENDED]

612:10-9-36. Counseling and guidance [AMENDED]

612:10-9-37. Referral for Support Services [AMENDED]

612:10-9-38. Vocational rehabilitation [AMENDED]

Subchapter 11. Independent Living Services for Older Individuals Who are Blind

Part 1. Scope of Services

612:10-11-1. Purpose [AMENDED]

612:10-11-2. Basic eligibility requirements [AMENDED]

612:10-11-6. Client participation in cost of OB services [AMENDED]

Part 3. Case Processing

612:10-11-17. Case processing [AMENDED]

612:10-11-19. Application Status [REVOKED]

612:10-11-20. Closure from Application Status [REVOKED]

612:10-11-21. Eligibility Status [REVOKED]

612:10-11-22. Service Status [AMENDED]

612:10-11-24. Successful Closure Status [AMENDED]

612:10-11-25. Unsuccessful Closure Status [AMENDED]

612:10-11-26. Previously closed cases [AMENDED]

612:10-11-27. Inter-program transfers [AMENDED]

612:10-11-29. Post OB Closure Status [REVOKED]

Part 5. Provision of Services

612:10-11-37.1. Assessment [NEW]

612:10-11-42. Interpreter services [AMENDED]

Subchapter 13. Special Services for the Deaf and Hard of Hearing

Part 1. Service Programs

612:10-13-1. Mission of the program [AMENDED]

612:10-13-4. Special services and devices for individuals who are deaf, hard of hearing, deaf-blind or have communicative disorders [AMENDED]

Part 3. Certification of Interpreters

612:10-13-15. Certification levels [AMENDED]

612:10-13-16. Evaluation [AMENDED]

612:10-13-17. Evaluation team [AMENDED]

612:10-13-18. Fees [AMENDED]

612:10-13-20. Certification maintenance [AMENDED]

612:10-13-21. ~~Code of ethics~~ Ethical standards [AMENDED]

SUMMARY:

The agency is undertaking a major modification of policy to remove extraneous language and procedures that have no effect on our clients or the public. The agency is also striving to become a paperless agency by removing signature

requirements where a signature is not absolutely necessary. The agency is also updating policy, reducing duplication, removing excess verbiage, putting policy in a more appropriate sequence and context, consolidating policy and restructuring for easier understanding and use by staff and consumers.

AUTHORITY:

Commission for Rehabilitation Services; 74 O.S. § 166.2

COMMENT PERIOD:

Written and oral comments will be accepted January 03, 2011 through February 9, 2011 during regular business hours by contacting Ray Leard, Department of Rehabilitation Services, 3535 NW 58th Suite 500, Oklahoma City, Oklahoma 73112, Telephone 405-951-3406.

PUBLIC HEARING:

Monday, February 7, 2011,
4:00 P.M. - 6:00 P.M.,
Department of Rehabilitation Services
2nd Floor Conference Room,
3535 N.W. 58th
Oklahoma City, Oklahoma

Tuesday, February 8, 2011,
1:00 P.M. - 3:00 P.M.,
Total Source for Hearing loss and Access
8740 E. 11th, Conference Room
Tulsa, Oklahoma

Wednesday, February 9, 2011,
1:00 P.M. - 3:00 P.M.,
Great Plains Technical Center
4500 S.W. Lee Blvd., Bldg 300, Room 301A
Lawton, Oklahoma

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department of Rehabilitation Services (DRS) requests that business entities affected by these rules provide the DRS, 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:

Copies of the proposed rules may be obtained from: the DRS Web Site www.okdrs.gov by e-mail policycomment@okdrs.gov by letter to the Policy Development Unit, attention Ray Leard, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, Oklahoma 73112 or by calling (405) 951-3406 - Toll free 1-800-845-8476.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available after January 03, 2011, at the Department of Rehabilitation Services office at the above address.

CONTACT PERSON:

Ray Leard, Rulemaking Liaison, (405) 951-3406

[OAR Docket #10-1352; filed 12-3-10]

**TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES
CHAPTER 15. OKLAHOMA LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED (OLBPH)**

[OAR Docket #10-1353]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 612:15-1-2. Definitions [AMENDED]
 - 612:15-1-3. Library functions and legal basis [AMENDED]
- Subchapter 3. OLBPH Services
 - 612:15-3-2. Application and certification [AMENDED]
 - 612:15-3-3. Reading materials [AMENDED]
 - 612:15-3-4. Volunteer services [AMENDED]
 - 612:15-3-5. Services for students [REVOKED]
 - 612:15-3-6. Descriptive video service [REVOKED]
- Subchapter 5. Library Loan Policy
 - 612:15-5-1. Loan policies and procedures; responsibilities of borrower [AMENDED]

SUMMARY:

The agency is undertaking a major modification of policy to remove extraneous language and procedures that have no effect on our clients or the public. The agency is also striving to become a paperless agency by removing signature requirements where a signature is not absolutely necessary. The agency is also updating policy, reducing duplication, removing excess verbiage, putting policy in a more appropriate sequence and context, consolidating policy and restructuring for easier understanding and use by staff and consumers.

AUTHORITY:

Commission for Rehabilitation Services; 74 O.S. § 166.2

COMMENT PERIOD:

Written and oral comments will be accepted January 03, 2011 through February 9, 2011 during regular business hours by contacting Ray Leard, Department of Rehabilitation Services, 3535 NW 58th Suite 500, Oklahoma City, Oklahoma 73112, Telephone 405-951-3406.

PUBLIC HEARING:

Monday, February 7, 2011,
4:00 P.M. - 6:00 P.M.,
Department of Rehabilitation Services
2nd Floor Conference Room,
3535 N.W. 58th
Oklahoma City, Oklahoma

Tuesday, February 8, 2011,

Notices of Rulemaking Intent

1:00 P.M. - 3:00 P.M.,
Total Source for Hearing loss and Access
8740 E. 11th, Conference Room
Tulsa, Oklahoma

Wednesday, February 9, 2011,
1:00 P.M. - 3:00 P.M.,
Great Plains Technical Center
4500 S.W. Lee Blvd., Bldg 300, Room 301A
Lawton, Oklahoma

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department of Rehabilitation Services (DRS) requests that business entities affected by these rules provide the DRS, 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:

Copies of the proposed rules may be obtained from: the DRS Web Site www.okdrs.gov by e-mail policycomment@okdrs.gov by letter to the Policy Development Unit, attention Ray Leard, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, Oklahoma 73112 or by calling (405) 951-3406 - Toll free 1-800-845-8476.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available after January 04, 2010, at the Department of Rehabilitation Services office at the above address.

CONTACT PERSON:

Ray Leard, Rulemaking Liaison, (405) 951-3406

[OAR Docket #10-1353; filed 12-3-10]

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 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 1. GENERAL RULES OF THE DEPARTMENT OF PUBLIC SAFETY

[OAR Docket #10-1356]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 17. Advisory Committee for Motorcycle Safety and Education [NEW]

595:1-17-1. Creation of Committee [NEW]

595:1-17-2. Motorcycle Safety and Education Program Revolving Fund [NEW]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 2-110.

DATES:

Adoption:

September 13, 2010

Approved by Governor:

October 19, 2010

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

These rules are of compelling public interest due to the passage of EHB 2264 which creates a revenue stream for the Revolving Fund.

ANALYSIS:

The addition of 595:1-17 stipulates how monies from the Motorcycle Safety and Education Program Revolving Fund will be applied for and expended.

The proposed action is the creation of new rules.

The circumstance which created the need for these rules is the passage of EHB 2264 which creates a revenue stream for the Revolving Fund.

The intended effect of this rule is to allow the Department of Public Safety to perform its duties as required or authorized by law and to ensure the safety of the motoring public.

CONTACT PERSON:

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 419-2043. E-mail: dbeatty@dps.state.ok.us

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. § 253(D):

SUBCHAPTER 17. ADVISORY COMMITTEE FOR MOTORCYCLE SAFETY AND EDUCATION

595:1-17-1. Creation of Committee

The Advisory Committee for Motorcycle Safety and Education is created in 47 O.S., § 40-122. Membership and duties of the committee is also prescribed in this law, including the duty to advise and assist the Commissioner in the development, administration and operation of the Motorcycle Safety and Education Program and the setting of goals, objectives and priorities for the Program [47 O.S., 40-122, D].

595:1-17-2. Motorcycle Safety and Education Program Revolving Fund

(a) **Creation, purpose and use.** The Motorcycle Safety and Education Program Revolving Fund is created for the Department of Public Safety in 47 O.S., § 40-123. The purpose and use of the revolving fund is also prescribed in this law, including that all monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Commissioner of Public Safety for the purpose of operating the Motorcycle Safety and Education Program [47 O.S., § 40-123].

(b) **Administration of the revolving fund.** The revolving fund shall be administered by the Oklahoma Highway Safety Office, in consultation with the Advisory Committee for Motorcycle Safety and Education, for the purpose of awarding grants in order to improve motorcycle safety in Oklahoma. Monies from the revolving fund may also be used by the Oklahoma Highway Safety Office for administrative costs or program support costs of the Motorcycle Safety and Education Program. The Department shall create accounts, sub-accounts, tracking procedures, transfer procedures, and payment procedures, as are appropriate to implement this section. Travel reimbursements will be in accordance with the State Travel Reimbursement Act.

(c) **Application for and awarding of grants.** Agencies and entities interested in motorcycle safety may apply to the Oklahoma Highway Safety Office for grants from the revolving fund for the purpose of improving motorcycle safety in accordance with the Motorcycle Safety and Education Program.

Emergency Adoptions

Grants shall be awarded in accordance with procedures developed by the Oklahoma Highway Safety Office.

[OAR Docket #10-1356; filed 12-07-10]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 11. COMMERCIAL DRIVER LICENSES

[OAR Docket #10-1357]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Driver Status Notification System

595:11-9-5. Requirements for enrolling drivers by subscribing employers [AMENDED]

595:11-9-6. Renewing enrolled drivers [AMENDED]

595:11-9-9. Fee schedule and payment [AMENDED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 6-101 et seq.

DATES:

Adoption:

September 13, 2010

Approved by Governor:

October 19, 2010

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

These rules are of compelling public interest due to the passage of ESB 1556 (2010) which increased the cost of a Motor Vehicle Report from \$10 to \$25.

ANALYSIS:

Amendments to 595:11-9-5, 11-9-6 and 11-9-9 clarify the cost of a Motor Vehicle Report for participants in the Driver Status Notification System.

The proposed actions are amendments to existing rules.

The circumstance which created the need for these rules is the passage of ESB 1556 (2010) which increased the cost of a Motor Vehicle Report from \$10 to \$25.

The intended effect of this rule is to allow the Department of Public Safety to perform its duties as required or authorized by law.

CONTACT PERSON:

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N.M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 419-2043. E-mail: dbeatty@dps.state.ok.us

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. § 253(D):

SUBCHAPTER 9. DRIVER STATUS NOTIFICATION SYSTEM

595:11-9-5. Requirements for enrolling drivers by subscribing employers

(a) A subscribing employer may enroll a driver into the system if:

- (1) The driver is an Oklahoma resident;
- (2) The driver has an Oklahoma commercial driver license;
- (3) The employer notifies the driver, in writing, of its participation in the system and the impending enrollment of the driver; and
- (4) Maintains on file a signed release from the driver to obtain driving record information.

(b) An enrolled driver shall be maintained by the Department in the Driver Status Notification System until removed by the employer.

(c) The annual fee for each enrolled driver shall be ~~Fifteen Dollars (\$15.00)~~ Five Dollars (\$5.00) plus the fee for a Motor Vehicle Report as prescribed in 47 O.S. § 6-117, payable immediately upon enrollment.

(d) The employer shall receive from the Department a notification, via e-mail, to log in to the Driver Status Notification System and receive a current Motor Vehicle Report for the newly enrolled driver. The Motor Vehicle Report shall meet the federal requirement of the employer to obtain an annual driving record for the driver.

(e) Enrollment of a driver entitles the employer to receive:

- (1) one copy of a Motor Vehicle Report for the driver, as provided in (d), and
- (2) unlimited electronic notifications, via e-mail, related to the driver as described in OAC 595:11-9-8.

595:11-9-6. Renewing enrolled drivers

(a) The enrollment of each enrolled driver of the subscribing employer shall be automatically renewed by the Department at the beginning of each calendar year.

(b) An enrolled driver shall be maintained by the Department in the Driver Status Notification System until removed by the employer.

(c) The annual fee for each renewal of an enrolled driver shall be ~~Fifteen Dollars (\$15.00)~~ Five Dollars (\$5.00) plus the fee for a Motor Vehicle Report as prescribed in 47 O.S. § 6-117, payable immediately upon enrollment.

(d) The employer shall receive from the Department a notification, via e-mail, to log in to the Driver Status Notification System and receive a current Motor Vehicle Report for the renewed driver. The Motor Vehicle Report shall meet the federal requirement of the employer to obtain an annual driving record for the driver.

(e) Renewal of the enrollment of a driver entitles the employer to receive:

- (1) one copy of a Motor Vehicle Report for the driver, as provided in (d), and
- (2) unlimited electronic notifications, via e-mail, related to the driver as described in OAC 595:11-9-8.

595:11-9-9. Fee schedule and payment

(a) The fee schedule shall be:

- (1) The fee for an original application for subscription by an employer shall be Fifty Dollars (\$50.00).
 - (2) The fee for a renewal subscription of an employer shall be Fifty Dollars (\$50.00).
 - (3) The fee for an original enrollment of a driver by an employer shall be ~~\$15~~ Five Dollars (\$5.00) plus the fee for a Motor Vehicle Report as prescribed in 47 O.S. § 6-117.
 - (4) The fee for a renewal enrollment of a driver by an employer shall be ~~\$15~~ Five Dollars (\$5.00) plus the fee for a Motor Vehicle Report as prescribed in 47 O.S. § 6-117.
- (b) All fees are due and payable immediately application, enrollment, or renewal, as appropriate.
- (c) No fee shall be subject to refund or to prorating.
- (d) Payment shall be made to the Department by a nationally-recognized credit card. A credit card convenience fees shall apply.

[OAR Docket #10-1357; filed 12-07-10]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 25. WRECKERS AND TOWING SERVICES**

[OAR Docket #10-1358]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions
595:25-1-2. Definitions [AMENDED]
Subchapter 5. All Wrecker Operators
595:25-5-2. Equipment requirements for all vehicles [AMENDED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 952.

DATES:

Adoption:

September 13, 2010

Approved by Governor:

October 19, 2010

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

These rules are of compelling public interest due to the passage of EHB 2969 (2010) which amended certain laws related to wrecker vehicles.

ANALYSIS:

Amendments to 595:25-1-12 clarify the definition of a General Class wrecker. Amendments to 25-5-2 update statutory reference relating to lighting equipment on wrecker vehicles.

The proposed actions are amendments to existing rules.

The circumstance which created the need for these rules is the passage of EHB 2969 (2010) which amended certain laws related to wrecker vehicles.

The intended effect of this rule is to allow the Department of Public Safety to perform its duties as required or authorized by law, to ensure the safety of the motoring public, and to provide guidance to wrecker services.

CONTACT PERSON:

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N.M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 419-2043. E-mail: dbeatty@dps.state.ok.us

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. § 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

595:25-1-2. Definitions

Any reference to "this Act" means 47 O.S. § 951 et seq. unless otherwise specified. The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Call" means each request for service of an operator resulting in an operator being able to receive compensation for these services.

"Class AA wrecker operator" means any wrecker operator who also meets all the requirements of 47 O.S. § 952(D) for towing for law enforcement agencies.

"Class AA truck wrecker operator" means any wrecker operator who also meets all the requirements of 47 O.S. § 952(D) for towing for law enforcement agencies.

"Commissioner" means the Commissioner of Public Safety, as defined by 47 O.S. § 1-109 and as described in 47 O.S. § 2-102.

"Department" means the Department of Public Safety.

"Junk vehicle" means a vehicle which is ten (10) years old or older and worth less than three hundred dollars (\$300.00) [42 O.S. § 91].

"Law enforcement tow" means a tow of a vehicle made by an operator when a law enforcement officer compels a vehicle be towed or makes a request for a tow using a law enforcement rotation log and to which the rate fees as prescribed in 47 O.S. § 953.1 shall apply.

"Officer" means any peace officer.

"Operator" means any person or legal entity owning or operating a licensed wrecker vehicle or a licensed wrecker or towing service and any employee thereof.

"Owner request tow" means a tow of vehicle made by an operator at the request of the owner, or authorized agent of the owner and which is not compelled or required by a law enforcement officer.

"Place of business" means a permanent structure, not mounted on wheels, occupied by the wrecker operator at the physical address of the wrecker service, as shown on the wrecker license, with phone service and functioning utilities including but not limited to electricity and water, where normal business is transacted and all wrecker records are maintained. Effective January 1, 2005, the place of business shall be located in Oklahoma.

"Private Property Tow" means a tow of a vehicle which is made from private property by an operator at the request of the owner, legal possessor, or authorized agent in control of the real property, which shall be towed under the provisions of 47 O.S. § 954A and to which the rate fees as prescribed in 47 O.S. § 953.1 shall apply.

Emergency Adoptions

"Rotation log" means a list for each Highway Patrol Troop of the Department of current Class AA wrecker operators whose places of business are within the geographical boundaries of the Troop and who have requested and been approved by the Department to be on the list. This list governs the alternation among approved Class AA wrecker operators meeting the qualification of various categories of Class AA wrecker services except Class AA-TL wrecker vehicles.

"Tow/Towing" means the use of a wrecker vehicle to lift, pull, move, haul or otherwise transport any other vehicle by means of: (a) attaching the vehicle to and pulling the vehicle with the wrecker vehicle, or (b) loading the vehicle onto and transporting the vehicle upon the wrecker vehicle". [47 O.S. § 951(3)]

"Traffic tie-up" means any situation in which any officer deems it necessary to control the orderly flow of traffic.

"Truck wreckers" means every motor vehicle properly designed and equipped according to Department of Public Safety specifications with wrecker body and winch or lifting apparatus suitably designed to safely move, pull or tow wrecked, damaged or disabled trucks, truck-tractors, road tractors, trailers, semi-trailers, buses and/or other vehicles and conveyances that use the highways of the state of Oklahoma. The designation as a truck wrecker shall be used for Class AA-TL wrecker vehicles only.

"Truck wrecker rotation log" means a list for each Highway Patrol Troop of the Department of current Class AA wrecker operators, meeting the qualifications of Class AA truck wrecker services, whose places of business are within the geographical boundaries of the Troop and who have requested and been approved by the Department to be on the list. This list governs the alternation among approved Class AA-TL truck wrecker operators only.

"Wrecker dolly" means a wheeled device which is used to support one end of a motor vehicle for towing.

"Wrecker license" means the wrecker license as provided by 47 O.S. § 951, et. seq.

"Wrecker operator" means any operator who is licensed under this Chapter and the laws of this state and who meets all requirements of the rules of this Chapter, pertaining to wrecker vehicles as defined in this Chapter.

"Wrecker or towing service", "wrecker service", or "towing service" means engaging in the business of or performing the act of towing or offering to tow any vehicle, except: (a) where the operator owns the towed vehicle and displays on both sides of the wrecker vehicle in plainly visible letters not less than two (2) inches in height the words "NOT FOR HIRE", (b) where the service is performed by a transporter as defined in [47 O.S.] section 1-181 of this title, (c) where service is performed in conjunction with the transportation of household goods and property, (d) where the wrecker vehicle is owned or operated by the United States government, the State of Oklahoma, or any department or political subdivision thereof, or (e) where the service is performed by an out-of-state wrecker service at the request of the vehicle owner or operator, and the vehicle is being towed: (1) in either direction across the border between Oklahoma and a neighboring state, or (2) through Oklahoma in transit to another state; provided,

the out-of-state wrecker service shall comply with all other requirements regarding interstate commerce as set forth in law. [47 O.S. § 951(6)]

"Wrecker" or "wrecker vehicle", as defined by 47 O.S. § 951, et. seq., means any vehicle, other than a transport as defined in 47 O.S. § 1-181, equipped with a winch, cable or other device designed to lift, pull or move a disabled vehicle incapable of self-propulsion. (Does not include a vehicle with a push bumper only.)

(A) Class AA -- Any wrecker vehicle not less than nine thousand pounds (9,000 lbs.) GVWR and meeting minimum requirements as established for Class AA Wreckers in this Chapter.

(B) Class AA-TM -- Any wrecker vehicle not less than twenty-four thousand pounds (24,000 lbs.) GVWR and meeting minimum requirements as established for Class AA-TM Wreckers in this Chapter.

(C) Class AA-TL -- Any wrecker vehicle not less than forty-four thousand pounds (44,000 lbs.) GVWR and meeting minimum requirements as established for Class AA-TL Wreckers in this Chapter.

(D) Class General -- All other wrecker vehicles as defined by 47 O.S. § 951, et. seq., provided a Class General wrecker shall also be considered a wrecker support vehicle for the purposes of 47 O.S. § 12-218.1.

SUBCHAPTER 5. ALL WRECKER OPERATORS

595:25-5-2. Equipment requirements for all vehicles

(a) **All wrecker vehicles.** Each wrecker which is used by an operator in the performance of a wrecker or towing service shall be equipped with the following:

(1) **Fire extinguisher.** One (1) or more dry chemical, B.C. rating, fire extinguisher having a minimum of ten pounds (10 lbs.) total capacity, which shall be mounted and readily accessible.

(2) **Flashing light.** At least one (1) amber rotating or flashing light, visible from 360 degrees or on a lightbar, and approved by an officer of the Department. The amber rotating light is for use only at the scene of an emergency or where a traffic hazard exists and there is the necessity to warn approaching vehicles, such as at a routine vehicle pickup [47 O.S. ~~§12-227(C)~~ § 12-218.1]. Wreckers presently approved will not be required to have lights of another color replaced with an amber light until such time as the present lights become defective to the point of needing replacement, at which time it shall be replaced with an amber light. Any wrecker service approved after April 27, 1990, shall be required to have the amber light. Any wrecker vehicle approved after July 15, 2004, shall be required to have the amber rotating or flashing light or light bar permanently mounted on each wrecker. In addition to the required amber rotating light, the wrecker may be equipped with a red or blue flashing light, or a combination of red and blue flashing lights, for use only at the scene of an emergency [47 O.S. ~~§12-227(C)~~ § 12-218.1];

provided, on any wrecker vehicle approved after July 15, 2005, the red or blue light, or the combination of red and blue flashing lights, shall be on a separate switch from the amber light. Under no circumstances are any of the rotating or flashing red or blue lights intended for use when traveling on the streets or highways [47 O.S. §12-227(C) § 12-218.1]. White rotating lights are not authorized under Oklahoma statutes.

(3) **Chains.** Two (2) chains of sufficient grade to assist in securing the towed vehicle.

(4) **Broom.** One (1) push-type broom, suitable for clearing debris from the road.

(5) **Shovel.** One (1) shovel, suitable for clearing debris from the road.

(6) **Tire chains.** One (1) set of tire chains, mud and snow tires or other device to assist wrecker to maintain traction in mud, snow or ice.

(7) **Warning devices.** Warning devices, applicable to trucks as required in 47 O.S. § 12-407, capable of protecting the scene of a collision by day or night.

(8) **Lighting for towed vehicle.** Wreckers must be equipped to operate a towed vehicle's stop, turn and clearance lights (if applicable), or be equipped with a light bar or other lighting equipment to provide the highway lighting requirements for vehicles. When used, the light bar or tow lights shall be affixed securely to the towed vehicle to assure a minimum of movement while traveling on the highway and to prevent any damage to the towed vehicle.

(9) **Safety chains or straps.** Two (2) safety chains or wheel straps of sufficient capacity to keep the towed vehicle attached to the wrecker in the event of disengagement.

(10) **Additional equipment.** Each operator of a roll back wrecker shall secure towed vehicles with four-point tie downs. Operators of other wrecker vehicle types shall secure towed vehicles in accordance with wrecker vehicle chassis recommendations.

(11) When a wrecker dolly is used as the lift or towing device, both the wrecker dolly and the wrecker shall first be approved and licensed as a unit by the Department. In addition to the requirements in (a) of this Section for all wreckers, a wrecker dolly towing vehicle shall also be equipped at a minimum with the following:

(A) A ball or pintle hook of sufficient size and capacity to safely control the wrecker dolly, securely fastened to the appropriate frame member of the wrecker.

(B) Two safety chains of sufficient capacity to keep the wrecker dolly attached to the wrecker in the event of hitch failure.

(b) **Class AA wrecker vehicles.** Each Class AA wrecker vehicle, in addition to the equipment required by subsection (a), shall be equipped with the following:

(1) **Scotch blocks.** Two (2) scotch blocks, or similar devices, capable of adding stability to the wrecker during winching. Scotch blocks shall be constructed of steel plate with a chain or cable of sufficient grade and quality to

attach to the frame or body of the wrecker. Hydraulic stabilizing equipment shall be approved. (NOTE: Roll-back wrecker vehicles are exempt from this requirement.)

(2) **Dollies.** Dollies for the purpose of providing a method of towing a disabled vehicle which is otherwise incapable of being towed safely on either axle. (NOTE: Roll-back wrecker vehicles are exempt from this requirement.)

(3) **Axe.** One (1) axe.

(4) **Pry-bar.** One (1) pry-bar or wrecking bar capable of prying open doors.

(5) **Sling and stay-bar.** One (1) sling and stay-bar, wheel lift device, or other type of device capable of safely loading and protecting the disabled vehicle while being towed.

(6) **Dual rear wheels.** At least one (1) set of dual rear wheels for stability in towing another vehicle.

(7) **Winch.** A winch or winches with a minimum factory rated capacity of eight thousand pounds (8,000 lbs.) and equipped with a cable to be compatible with manufacturer's specifications.

(8) **Absorbent.** An adequate supply of an absorbent capable of absorbing liquid spills from vehicles (not including cargo spills); provided, the wrecker service or wrecker operator shall not be required to pick up or dispose of the used absorbent. The Department recommends keeping at least four (4) gallons of absorbent on each wrecker vehicle.

(c) **Class AA-TM wrecker vehicles.** Each Class AA-TM wrecker (medium truck wrecker), in addition to the equipment required by subsection (a), shall be equipped with the following:

(1) **Minimum vehicle requirements.**

(A) **Air brakes.** Factory or certified installed full air brakes with a full tractor package (hand control, in line foot valve, air hoses and trailer emergency valve) capable of releasing the air brakes on a tractor-trailer and capable of operating the brakes of the towed vehicle with the same application as the towing vehicle.

(B) **Parking brake.** Air-activated spring parking brake.

(C) **GVWR compatibility.** Wrecker body and equipment shall be compatible with the chassis GVWR in size and shall be suitable by design to operate under emergency conditions.

(i) Vehicle body must be capable of safely anchoring scotch blocks.

(ii) Vehicle must be designed to adequately anchor snatch blocks.

(2) **Equipment requirements.**

(A) **Winch.** A winch or winches with a minimum factory rated capacity of thirty thousand pounds (30,000 lbs.) and be equipped with a cable to be compatible with manufacturer's specifications.

(B) **Boom.** A boom or booms constructed so as to be compatible with winch rating.

Emergency Adoptions

- (C) **Snatch blocks.** A minimum of two (2) snatch blocks compatible with winch cable size and cable rating.
- (D) **Axe.** One (1) axe.
- (E) **Pry-bar.** One (1) pry-bar or wrecking bar capable of prying open doors.
- (F) **Sling and stay-bar.** One (1) sling and stay-bar, wheel lift device, or other type of device capable of safely loading and protecting the disabled vehicle while being towed.
- (d) **Class AA-TL wrecker vehicles.** Each Class AA-TL wrecker (large truck wrecker), in addition to the equipment required by subsection (a), shall be equipped with the following:
- (1) **Minimum vehicle requirements.**
 - (A) **Air brakes.** Factory-installed or certified installed full air brakes with a full tractor package (hand control, in-line foot valve, air hoses, and trailer emergency valve) capable of releasing the air brakes on a tractor-trailer and capable of operating the brakes of the towed vehicle with the same application as the wrecker.
 - (B) **Parking brake.** Air-activated spring parking brake.
 - (C) **Axle and suspension.**
 - (i) Minimum front axle and suspension of twelve thousand pounds (12,000 lbs.). (Note: GVWR ratings are altered or affected by tires, springs and axles.)
 - (ii) Minimum rear axle and suspension combination of thirty-two thousand pounds (32,000 lbs.).
 - (iii) Be equipped with full-driven tandem axle (NOTE: A drag axle or pusher axle is not acceptable).
 - (D) **Wheel base.** Minimum wheel base of two hundred inches (200").
 - (E) **GVWR compatibility.** Wrecker body and equipment shall be compatible with chassis GVWR and size and shall be suitable by design to operate under emergency conditions.
 - (i) Body must be capable of safely anchoring scotch blocks.
 - (ii) Must be designed to adequately anchor snatch blocks.
 - (2) **Equipment requirements.**
 - (A) Winch(s) must have a factory rated capacity of at least forty thousand pounds (40,000 lbs.) and must be equipped with a cable to be compatible with manufacturer's specifications.
 - (B) Boom(s) must be constructed as to be compatible with winch rating and must be capable of being adjusted to accomplish proper weight distribution.
 - (C) **Pry-bar.** One (1) pry-bar or wrecking bar capable of prying open doors.

[OAR Docket #10-1358; filed 12-07-10]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 50. TABS, TAGS, SIGNS AND INSIGNIAS

[OAR Docket #10-1359]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 3. ~~Handicap~~ Parking Placards for Physically Disabled Persons [AMENDED]

595:50-3-2. ~~Handicap~~ Physically disabled parking placards [AMENDED]

595:50-3-3. Applications for ~~handicap~~ physically disabled parking placards [AMENDED]

595:50-3-4. Organizations that may apply for ~~handicap~~ physically disabled parking placards [AMENDED]

595:50-3-6. Duplication of ~~handicap~~ physically disabled parking placards; replacement of a lost stolen, or defective ~~handicap~~ physically disabled parking placard [AMENDED]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. §2-108.

DATES:

Adoption:

September 13, 2010

Approved by Governor:

October 19, 2010

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

These rules are of compelling public interest due to the passage of EHB 2567 (2010) which replaced references to "handicap" and "handicapped" with "physically disabled".

ANALYSIS:

Amendments to 595:50-3-2 through 595:50-3-6 remove references to "handicap" and "handicapped" in reference to physically disabled parking permits.

The circumstance which created the need for these rules is the passage of EHB 2567 (2010) which replaced references to "handicap" and "handicapped" with "physically disabled".

The intended effect of this rule is to allow the Department of Public Safety to perform its duties as required or authorized by law.

CONTACT PERSON:

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 419-2043. E-mail: dbeatty@dps.state.ok.us

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. § 253(D):

SUBCHAPTER 3. ~~HANDICAP~~ PARKING PLACARDS FOR PHYSICALLY DISABLED PERSONS

595:50-3-2. Handicap Physically disabled parking placards

(a) **Issuance of placards.** A handicap physically disabled parking placard will be issued only by the Department of Public Safety. The Department shall only consider an application submitted within sixty (60) days of the date of the physician's signature. The Department shall, upon approval of the application, issue a detachable handicap parking placard to the applicant.

(b) **Types of placards.** The type of placard issued shall be dependent upon the length of disability of the applicant as designated on the application by the physician. Types of ~~insignia~~ placard are as follows:

- (1) **Permanent physical disability.**
 - (A) The placard will be blue and white in color and display the International Handicap Symbol of Access and have an expiration date of five (5) years from the date of issuance.
 - (B) The placard will only be issued to individuals with permanent physical disabilities as certified by a physician.
 - (C) Each placard shall have a unique identification number.

- (2) **Temporary physical disability.**
 - (A) The placard will be red and white in color, bear the word "TEMPORARY", and display the International Handicap Symbol of Access.
 - (B) The placard will be issued to individuals whose physical disability is not permanent and for the of six (6) months or less as indicated by the physician on the application.
 - (C) The placard may be renewed, if necessary, by submitting a new application to the Department of Public Safety.

(c) **Display of placard.** The placard shall be displayed:

- (1) by hanging it from the rear view mirror of the vehicle, or
- (2) if the vehicle is not equipped with a rear view mirror, on the dashboard on the driver's side of the vehicle.

595:50-3-3. Applications for handicap physically disabled parking placards

(a) **Where to submit applications.** The application shall be submitted to the Department either:

- (1) in person at the Department of Public Safety, 3600 Martin Luther King Avenue, Oklahoma City, or
- (2) by mail to Department of Public Safety, Handicap Physically Disabled Parking Placards, P.O. Box 11415, Oklahoma City, OK, 73136-0415.

(b) **Contents of the application.** The applicant and his or her physician shall complete the application before submitting it to the Department. Applications for a placard shall contain:

- (1) Information about the applicant including:
 - (A) Name,
 - (B) Address,
 - (C) Driver license number, if any, and

(D) Other information, as determined by the Department.

(2) A statement made by a physician about the applicant, who must be a patient of the physician, which includes:

- (A) The patient's name,
- (B) The patient's physical disability as defined in 47 O.S. § 15-112 A(2) and OAC 595:30-3-1,
- (C) The physical disability causing difficulty for the patient to walk,
- (D) Diagnosis,
- (E) Ability to safely operate a motor vehicle,
- (F) The length of physical disability if not of permanent nature,
- (G) Physician's name,
- (H) Physician's signature,
- (I) Physician's address, and
- (J) Physician's telephone number.

(3) Space for use by the Department to record information regarding the ~~insignia~~ placard issued.

(c) The original application may be referred for review to the Medical Advisory Committee of the Department [47 O.S. § ~~6-118~~ 6-118 et seq.], ~~but and shall be destroyed after the Department has recorded pertinent information on the permanent file of the applicant~~ remain confidential as provided in 47 O.S. 6-117.D.

595:50-3-4. Organizations that may apply for handicap physically disabled parking placards

To ensure each qualified physically disabled person in Oklahoma receives the special parking privileges, the Department may issue applications for a handicap physically disabled parking placard to organizations who inherently transport such persons. Upon submission and approval of an application, the Department shall issue a placard to the organization. Upon issuance of such placard, the organization shall be subject to the law for unauthorized use of such placard. The Department reserves the right to approve or disapprove any organization's application.

595:50-3-6. Duplication of handicap physically disabled parking placards; replacement of a lost stolen, or defective handicap physically disabled parking placard

- (a) A handicap physically disabled parking placard may not be photocopied or duplicated.
- (b) Individuals or organizations who report the loss or theft of a handicap physically disabled parking placard may apply in writing to the Department for a replacement placard, which the Department shall issue, upon approval of the request issue, with the same expiration date as the original ~~insignia~~ placard.

[OAR Docket #10-1359; filed 12-07-10]

Emergency Adoptions

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 55. SAFETY DEVICES

[OAR Docket #10-1360]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. Protective Devices
- 595:55-1-1. Purpose [AMENDED]
- Subchapter 5. Child Passenger Restraint Systems [NEW]
- 595:55-5-1. Child passenger restraint system education [NEW]
- 595:55-5-2. Funding of child passenger restraint system education [NEW]

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 2-108.

DATES:

Adoption:

September 13, 2010

Approved by Governor:

October 19, 2010

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

These rules are of compelling public interest due to the passage of EHB 1603 (2009) which creates a revenue stream for the Department of Public Safety Revolving Fund.

ANALYSIS:

Amendments to 595:55-1-1 clarifies the purpose of subchapter 1 of this Chapter. The addition of 595:55-5 stipulates how monies from the Department of Public Safety Revolving Fund to promote the use of child passenger restraint systems will be applied for and expended.

The proposed action is the creation of new rules.

The circumstance which created the need for these rules is the passage of EHB 1603 (2009) which creates a revenue stream for the Revolving Fund.

The intended effect of this rule is to allow the Department of Public Safety to perform its duties as required or authorized by law and to ensure the safety of the motoring public.

CONTACT PERSON:

David W. Beatty, Administrative Rules, Department of Public Safety, 3600 N. M.L. King Ave., P.O. Box 11415, Oklahoma City, OK 73136-0415. Phone: (405) 425-2024. Fax: (405) 425-2258. E-mail: dbeatty@dps.state.ok.us

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. § 253(D):

SUBCHAPTER 1. PROTECTIVE DEVICES

595:55-1-1. Purpose

This Chapter subchapter is for the purpose of establishing standards for protective devices used as required by Title 47, O.S. §40-105.

SUBCHAPTER 5. CHILD PASSENGER RESTRAINT SYSTEMS

595:55-5-1. Child passenger restraint system education

The Oklahoma Highway Safety Office of the Department of Public Safety is statutorily required to develop a program of public education to promote the use of child passenger restraint systems [47 O.S. § 11-1113]. Any person convicted of violating subsection A or B of this section shall be punished by a fine of Fifty Dollars (\$50.00) and shall pay all court costs thereof. Revenue from such fine shall be apportioned to the Department of Public Safety Revolving Fund and used by the Oklahoma Highway Safety Office to promote the use of child passenger restraint systems as provided in 47 O.S., § 11-1113.

595:55-5-2. Funding of child passenger restraint system education

(a) Source of funding. The source of funding for child passenger restraint system education is from the fine assessed for a conviction of a violation of 47 O.S. § 11-1112, failure to protect a child by through the use of a child passenger restraint system. The fine shall be apportioned to the Department of Public Safety Revolving Fund and used by the Oklahoma Highway Safety Office to promote the use of child passenger restraint systems [47 O.S. § 11-1112].

(b) Administration of funds. The funds from the revolving fund shall be administered by the Oklahoma Highway Safety Office for the purpose of awarding grants in for the purpose of promoting the use of child passenger restraint systems. The funds from the revolving fund may also be used by the Oklahoma Highway Safety Office for administrative costs or program support costs of the child passenger restraint system education program in Oklahoma. The Department shall create accounts, sub-accounts, tracking procedures, transfer procedures, and payment procedures, as are appropriate to implement this section. Travel reimbursements will be in accordance with the State Travel Reimbursement Act.

(c) Application for and awarding of grants. Agencies and entities interested in child passenger restraint system education may apply to the Oklahoma Highway Safety Office for grants from the funds in the revolving fund for the purpose of promoting the use of child passenger restraint systems. Grants shall be awarded in accordance with procedures developed by the Oklahoma Highway Safety Office.

[OAR Docket #10-1360; filed 12-7-10]

TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 30. APPRAISAL MANAGEMENT COMPANY REGISTRATION

[OAR Docket #10-1354]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- 600:30-1-1. Purpose [NEW]
- 600:30-1-2. Definitions [NEW]
- 600:30-1-3. Certificate of Registration [NEW]

- 600:30-1-4. Application process [NEW]
- 600:30-1-5. Renewal process [NEW]
- 600:30-1-6. Fee schedule [NEW]
- 600:30-1-7. Change of information [NEW]
- 600:30-1-8. Background investigations [NEW]
- 600:30-1-9. Business entities [NEW]
- 600:30-1-10. Recordkeeping [NEW]
- 600:30-1-11. Severability provision [NEW]

AUTHORITY:

Oklahoma Appraisal Management Company Regulation Act; 59 O.S. § 858-829; Real Estate Appraiser Board

DATES:

Adoption:

October 8, 2010

Approved by Governor:

November 15, 2010

Effective:

January 1, 2011

Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

It is the finding of the Real Estate Appraiser Board that a compelling public interest requires this emergency rule due to passage of the Oklahoma Appraisal Management Company Regulation Act added by Laws 2010, effective January 1, 2011. Actions required by this Act include promulgation of rules required for implementation of its provisions.

ANALYSIS:

The purpose of this regulatory language is to provide Appraisal Management Companies the means of registering with the Oklahoma Real Estate Appraiser Board and the Oklahoma Real Estate Appraiser Board with the means to register Appraisal Management Companies. Registration of appraisal management companies with state appraiser boards is a requirement imposed by the FIRREA Act of 1989 as it was recently amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203.

CONTACT PERSON:

George R. Stirman III, Director, Real Estate Appraiser Board, Oklahoma Insurance Department, 5 Corporate Plaza, 3625 NW 56th St, Ste. 100, Oklahoma City, OK 73112

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2011:

600:30-1-1. Purpose

The purpose of this chapter is to define the prerequisites necessary to obtain an Appraisal Management Company registration and requirements to maintain the license or certification.

600:30-1-2. Definitions

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

"Applicant" means an entity or controlling person who has applied for a Certificate of Registration as an appraisal management company.

"Appraisal Management Company" or "AMC" means an entity that is required by the Oklahoma Appraisal Management Company Regulation Act, 59 O.S. § 858-801 et seq., to register with the Oklahoma Real Estate Appraiser Board.

"Appraisal management services" means, directly or indirectly, to perform or attempt to perform any one or more of the following functions on behalf of a lender, financial institution, client or any other person:

- (A) administer an appraiser panel;
- (B) recruit, qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel;
- (C) receive an order for an appraisal from one entity, and deliver the order for appraisal services for the appraisal services to an appraiser for completion;
- (D) track and determine the status of orders for appraisers;
- (E) conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person who ordered the appraisal; or
- (F) provide a completed appraisal performed by an appraiser to one or more clients.

"Appraisal Subcommittee" or "ASC" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

"Appraiser" means an individual person who holds a credential as a Trainee Appraiser, State Licensed Real Estate Appraiser, State Certified Residential Real Estate Appraiser, or State Certified General Real Estate Appraiser; or a valid temporary practice permit issued by the Board entitling that individual person to perform an appraisal of real property in the State of Oklahoma consistent with the scope of practice identified in the Real Property Appraiser Qualification Criteria promulgated by the Appraiser Qualifications Board of The Appraisal Foundation.

"Board" or "OK REAB" means the Oklahoma Real Estate Appraiser Board.

"Certificate of Registration" means a certificate issued by the Board verifying the registration of a person or entity as being approved to conduct business in the State of Oklahoma as an AMC.

"Controlling Person" means one or more of the following:

- (A) an owner, officer, manager, or director of a corporation, partnership, firm, association, limited liability company, or other business entity seeking to offer appraisal management services in this state,
- (B) an individual employed, appointed, or authorized by an AMC that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals, or
- (C) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an AMC.

"Department" means the Oklahoma Insurance Department.

Emergency Adoptions

"Designated Officer" means a Controlling Person authorized by the governing structure of the AMC in the manner contemplated by 59 O.S. § 858-810 (A) to act on its behalf in the manner contemplated by 59 O.S. § 858-810 (A) for purposes of application for, and compliance with, a Certificate of Registration to operate as an Appraisal Management Company pursuant to Oklahoma law. The Designated Officer shall be responsible for supervision and control of activities conducted on behalf of the AMC by its officers and employees as necessary to secure full compliance with the provisions of 59 O.S. § 858-801 et seq., including contract services provided to the AMC for the performance of appraisal activities for which an Oklahoma Real Estate Appraiser Board credential is required.

"Director" means the Director of the Oklahoma Real Estate Appraiser Board or his or her designee.

"FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73, and any amendments thereto.

"Registrant" means a person or entity authorized to conduct business as an AMC in Oklahoma memorialized by issuance of a Certificate of Registration by the Board.

"Registration" means the procedures and requirements with which a person or entity shall comply in order to qualify to conduct business as an AMC in the State of Oklahoma.

"TILA" means the Truth in Lending Act of 1968 (15 USC 1631 et seq.) and any amendments thereto.

600:30-1-3. Certificate of Registration

(a) Each Certificate of Registration shall show on its face in clear and concise language the following information:

- (1) The name of the holder;
- (2) The Certificate of Registration number;
- (3) The dates of issuance and registration of the document; and
- (4) Shall bear the signatures or facsimile signatures of the members of the Board.

(b) Each Certificate of Registration shall be valid for the term set forth on the face of the Certificate unless otherwise ordered by the Board.

Each Certificate of Registration shall remain the property of the OK REAB and shall be surrendered to the Director upon order of the Board.

(c) Every Certificate of Registration shall be valid for a period of one (1) year unless otherwise ordered by the Board.

(d) An AMC shall not be registered, nor may it be placed on the national registry if such entity, in whole or in part, directly or indirectly, is owned by any person who has had an appraiser credential refused, denied, cancelled, surrendered in lieu of revocation, or revoked by any appraiser credentialing jurisdiction.

600:30-1-4. Application process

(a) Applications for Certificates of Registration for an AMC and for Controlling Persons and Designated Officers shall be submitted to the Board on forms approved by the Board and shall be subject to approval by the Board.

(b) Applicants for a Certificate of Registration shall apply by submitting an Appraisal Management Company Certificate of Registration Application form, REA-AMC-01.

(c) Applications for Certificates of Registration for AMCs shall be supported by a separate application for each Controlling Person and Designated Officer which shall be submitted on Controlling Person Application Form, REA-AMC-02.

(d) Appraisal Management Company Certificate of Registration forms and Controlling Person Application forms shall be supported by an irrevocable Uniform Consent to Service of Process.

600:30-1-5. Renewal Process

(a) Certificates of Registration may be renewed for a period of one (1) year.

(b) Applications for renewal of a Certificate of Registration shall be submitted to the Board on forms which shall be prescribed by the Board.

(c) Registrants applying for renewal of a Certificate of Registration shall apply by submitting a Certificate of Registration Renewal Form, REA-AMC-03.

(d) Registrants may renew expired Certificates of Registration up to ninety (90) calendar days following expiration of the Certificate by submitting a Certificate of Registration Renewal Form, remitting all required fees plus a late fee.

(e) After a Certificate of Registration has been expired for a period of time in excess of ninety (90) calendar days, the Certificates of Registration may not be renewed. In order to acquire a Certificate of Registration, an AMC shall reapply as set forth in OAC 600:30-1-4.

600:30-1-6. Fee Schedule

(a) It is the finding of the Board that the sum of the fees paid by all AMCs registering or renewing a registration under the Oklahoma Appraisal Management Company Regulation Act that would be sufficient for the administration of the Act requires that an annual fee of one thousand dollars (\$1,000.00) be imposed.

(b) The Department shall charge and collect fees as follows:

- (1) Certificate of Registration (original and renewal) \$1,000.00
- (2) Late Fee \$100.00
- (3) Dishonored Check Fee Costs of collection plus \$25.00

(c) In addition, the Department shall charge and collect a National Registry Fee in such amount as may be assessed by the Appraisal Subcommittee for all AMCs holding a Certificate of Registration. Said fees shall be transmitted by the Department to the Appraisal Subcommittee.

(d) Notwithstanding any other provision, a Certificate of Registration shall be suspended instanter should payment of any fees be dishonored by the issuing institution for any reason. In such case, the Director shall take immediate steps to provide notification to the Appraisal Subcommittee for inclusion on the National Registry, and to notify the registrant that the Certificate of Registration has been suspended by certified mail, return receipt requested.

600:30-1-7. Change of Information

(a) All applicants for and holders of a Certificate of Registration or approval as a Controlling Person or Designated Officer for an AMC shall submit written notice to the Board of any change to any of the following within ten (10) days following the change:

- (1) Name,
- (2) Residence telephone number,
- (3) Residence address,
- (4) Business name,
- (5) Business address,
- (6) Business telephone number, or
- (7) Mailing address.

(b) Registrants shall report any changes of a Designated Officer or Controlling Person, including any changes to percentage of ownership within ten (10) days of the effective date of any such change.

(c) The business name, address and telephone number shall be considered the applicant's or registrant's address and telephone number of record for all purposes unless otherwise requested in writing by the applicant or registrant and shall be considered a matter of public record. If no business address is provided, the mailing address shall be the address of record.

600:30-1-8. Background investigations

(a) In order to comply with the provisions of FIRREA and qualify each registrant for inclusion on the national registry, each person who owns more than ten percent of an AMC, and each Designated Officer of an AMC shall be of good moral character, as determined by the Board, and shall submit to a background investigation carried out by the Board.

(b) Background investigations shall be accomplished by use of a form approved by the Board.

(c) Background investigations shall be conducted by a vendor selected by the applicant from the list of vendors set forth by the National Association of Insurance Commissioners, shall be conducted at the applicant's expense, and shall be transmitted directly from such vendor to the Board.

600:30-1-9. Business entities

If the registrant is other than a natural person, it shall provide supporting documents to the Board as part of both the registration and renewal process, proof that the entity is formed under the laws of this state or another state, district, territory, or possession of the United States by submitting the following:

- (1) Articles of Incorporation, Articles of Organization, or Articles of Partnership as appropriate to the registrant, certified by the Secretary of State of Oklahoma.
- (2) Certificate from the Secretary of State of Oklahoma certifying registrant's authority to conduct business within the State of Oklahoma

600:30-1-10. Recordkeeping

(a) Each registrant shall maintain records as follows:

- (1) a detailed record of each service request that it receives for appraisal of real property located in Oklahoma, which shall include, but is not limited to, the following:

(A) a copy of the letter of engagement between the registrant and the appraiser,

(B) a copy of each appraisal report received from an appraiser, including the original report, any revised reports, and any addenda or other materials furnished subsequent to the delivery of the original report,

(C) copies of all correspondence between the appraiser and the registrant and any other entity involved in the transaction,

(D) a copy of the letter of engagement engaging another appraiser for the purpose of reviewing the appraisal,

(E) a copy of any review of the appraisal performed, including the original review report, subsequent correspondence between the reviewer and registrant, and each subsequent revised review report,

(F) a copy of the request received from the registrant's client, all documentation supplied to that client, all correspondence between client and registrant, and

(G) a record of fees disbursed to contracted appraisers and the fee received by the registrant from the registrant's client.

(2) copies of all appraiser fee schedules maintained and used by the registrant for the purpose of compliance with the provisions of TILA relating to reasonable and customary fees, which shall include evidence for such fees required by TILA. Such fee schedules shall include the beginning and ending effective dates for the document.

(3) copies of rosters of appraiser fee panels used for assignments in Oklahoma including the name of the appraiser, each appraiser's Oklahoma credential number, the date the appraiser was placed on the panel and the date and reason an appraiser was removed from the panel.

(b) Registrants shall maintain the records set forth above for a period of five (5) years. This five (5) year period shall commence on the date of final action for each individual transaction, or if the registrant is notified that the transaction in involved in litigation or is the subject of administrative action by the Board, or on the date of final disposition of such action,

(c) Registrants shall produce for inspection and copying by the Board, any record herein required to be maintained on receipt of reasonable notice by registrant. Reasonable notice shall be taken to mean not later than seven (7) calendar days following receipt of any such request by a Designated Officer.

600:30-1-11. Severability provision

If any provision of this chapter, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the chapter, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[OAR Docket #10-1354; filed 12-06-10]

Emergency Adoptions

TITLE 600. REAL ESTATE APPRAISER BOARD CHAPTER 35. APPRAISAL MANAGEMENT COMPANY ENFORCEMENT

[OAR Docket #10-1355]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- 600:35-1-1. Purpose [NEW]
- 600:35-1-2. Definitions [NEW]
- 600:35-1-3. Conduct [NEW]
- 600:35-1-4. Complaints [NEW]
- 600:35-1-5. Complaint procedures [NEW]
- 600:35-1-6. Formal complaint [NEW]
- 600:35-1-7. Notice of disciplinary proceedings [NEW]
- 600:35-1-8. Pre-hearing matters [NEW]
- 600:35-1-9. Subpoenas and subpoenas duces tecum [NEW]
- 600:35-1-10. Disciplinary proceedings [NEW]
- 600:35-1-11. Burden of proof, standard of proof [NEW]
- 600:35-1-12. Right to counsel [NEW]
- 600:35-1-13. Rules of evidence [NEW]
- 600:35-1-14. Failure to appear [NEW]
- 600:35-1-15. Oral argument before the Board [NEW]
- 600:35-1-16. Rehearing, reopening or reconsideration of Board decision [NEW]
- 600:35-1-17. Record of hearing [NEW]
- 600:35-1-18. Request for declaratory ruling [NEW]
- 600:35-1-19. Request for rule adoption, amendment or repeal [NEW]
- 600:35-1-20. Severability provision [NEW]

AUTHORITY:

Oklahoma Appraisal Management Company Regulation Act; 59 O.S. § 858-829; Real Estate Appraiser Board

DATES:

Adoption:

October 8, 2010

Approved by Governor:

November 15, 2010

Effective:

January 1, 2011

Expiration:

Effective through July 14, 2011, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

It is the finding of the Real Estate Appraiser Board that a compelling public interest requires this emergency rule due to passage of the Oklahoma Appraisal Management Company Regulation Act added by Laws 2010, effective January 1, 2011. Actions required by this Act include promulgation of rules required for implementation of its provisions.

ANALYSIS:

The purpose of this regulatory language is to provide Appraisal Management Companies the means of registering with the Oklahoma Real Estate Appraiser Board and the Oklahoma Real Estate Appraiser Board with the means to register Appraisal Management Companies. Registration of appraisal management companies with state appraiser boards is a requirement imposed by the FIRREA Act of 1989 as it was recently amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203.

CONTACT PERSON:

George R. Stirman III, Director, Real Estate Appraiser Board, Oklahoma Insurance Department, 5 Corporate Plaza, 3625 NW 56th St, Ste. 100, Oklahoma City, OK 73112

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S.,

SECTION 253(D), WITH A LATER EFFECTIVE DATE OF JANUARY 1, 2011:

600:35-1-1. Purpose

The purpose of this chapter is to set forth the administrative procedures for disciplinary proceedings conducted pursuant to the Oklahoma Appraisal Management Regulation Act and the Oklahoma Administrative Procedures Act, 75 O.S. § 250 et seq.

600:35-1-2. Definitions

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

"Appraisal Management Company" or "AMC" means an entity that is required by the Oklahoma Appraisal Management Company Regulation Act, 59 O.S. § 858-801 et seq., to register with the Oklahoma Real Estate Appraiser Board.

"Appraisal Subcommittee" or "ASC" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

"Appraiser" means an individual person who holds a credential as a Trainee Appraiser, State Licensed Appraiser, State Certified Residential Appraiser, or State Certified General Appraiser; or a valid temporary practice permit issued by the Board entitling that individual person to perform an appraisal of real property in the State of Oklahoma consistent with the scope of practice identified in the Real Property Appraiser Qualification Criteria promulgated by the Appraiser Qualification Criteria promulgated by the Appraiser Qualification Board of The Appraisal Foundation.

"Board" or "OK REAB" means the Oklahoma Real Estate Appraiser Board.

"Controlling Person" means one or more of the following:

(A) an owner, officer, manager, or director of a corporation, partnership, firm, association, limited liability company, or other business entity seeking to offer appraisal management services in this state.

(B) an individual employed, appointed, or authorized by an AMC that has the authority to enter into a contractual relationship with other persons for the performance of appraisal management services and has the authority to enter into agreements with appraisers for the performance of appraisals, or

(C) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an AMC.

"Designated Officer" means a Controlling Person authorized by the governing structure of the AMC in the manner contemplated by 59 O.S. § 858-810 (A) to act on its behalf in the manner contemplated by 59 O.S. § 858-810 for purposes of application for, and compliance with, a Certificate of Registration to operate as an Appraisal Management Company pursuant to Oklahoma law. The Designated Officer shall be responsible for supervision and control of activities conducted on behalf of the AMC by its officers and employees as necessary to secure full

compliance with the provisions of the Oklahoma AMC Regulation Act (59 O.S. § 858-801 et seq.), including contract services provided to the AMC for the performance of appraisal activities for which an Oklahoma Real Estate Appraiser Board credential is required.

"Director" means the Director of the Oklahoma Real Estate Appraiser Board or his or her designee.

"FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73, and any amendments thereto.

"Hearing Examiner" means an individual appointed as such by a Board order. Hearing examiners shall be individuals who are duly licensed to practice law by the Supreme Court of Oklahoma.

"Probable Cause Committee" means the Probable Cause Committee set forth by 600:15-1-2.

"Registrant" means a person or entity authorized to conduct business as an AMC in Oklahoma memorialized by issuance of a Certificate of Registration by the Board.

"RESPA" means the federal Real Estate Settlement Procedures Act codified in 12 U.S.C and any amendments thereto.

"Respondent" means a Registrant, Controlling Person, or Designated Officer against whom a complaint has been received or a complaint filed and not finally resolved.

"TILA" means the Truth in Lending Act of 1968 (15 USC 1631 et seq.) and any amendments thereto.

600:35-1-3. Conduct

(a) It is the finding and declaration of the Oklahoma Real Estate Appraiser Board that registered Appraisal Management Companies are vested with a relationship of trust and confidence with respect to their relationships with their clients, lending institutions, both public and private guarantors or insurers of funds in real estate related transactions, and to the public interest; and that accordingly, the qualifications of honesty, candor, integrity, and trustworthiness are directly and substantially related to and indispensable to the conduct of their business operations.

(b) Every holder of an Appraisal Management Company registration, every Controlling Person, and every Designated Officer shall demonstrate by his or her conduct that he or she possesses the qualifications of honesty, candor, integrity, and trustworthiness.

(c) Every registered Appraisal Management Company, its Controlling Persons, and Designated Officer shall comply fully with the Oklahoma Appraisal Management Company Regulation Act, the rules promulgated thereunder, and with all other applicable federal and state statutes including but not limited to FIRREA, TILA and RESPA.

600:35-1-4. Complaints

A complaint may be filed with the Board against an Appraisal Management Company, a Controlling Person, or a Designated Officer on a form approved by the Board or by other means of transmitting such allegations and supporting documents by any aggrieved person. Such complaints must be in writing and must be signed by the complainant. In addition,

where reasonable cause exists, a complaint may be brought directly by the Board.

600:35-1-5. Complaint procedure

(a) Upon receipt of a complaint against an AMC, a Designated Officer, or a Controlling Person, the Director shall cause a complete copy of such complaint to be forwarded to the applicable Designated Officer by Certified Mail, Return Receipt Requested. The copy of the complaint shall be transmitted by a letter giving the Respondent ten (10) calendar days following receipt of the complaint to respond to the allegations contained therein.

(b) The Probable Cause Committee shall meet as required by the volume of complaints received and shall prepare and present a recommendation to the Board summarizing each complaint received and making a recommendation to the Board as to disposition of the complaint.

(c) The Probable Cause Committee may cause such investigation to be conducted as it may require in the preparation of its recommendation.

(d) The Director shall cause records of meeting attendance and summaries of complaints including individual votes to be prepared and furnished to the Board for consideration and action at the next subsequent Board meeting.

600:35-1-6. Formal complaint

(a) If, in the determination of the Board, the complaint set forth in the summary and recommendation of the Probable Cause Committee appears to warrant such action, the Board shall adopt a formal complaint and the Director shall transmit the complaint to a Prosecuting Attorney.

(b) The Prosecuting Attorney may select one or more members of the Board's Standards and Disciplinary Procedures Committee or a person designated by the Director to assist in preparation of a Notice of Disciplinary Proceedings and presentation of the matter at any such proceeding or in any negotiations for an agreed settlement.

600:35-1-7. Notice of Disciplinary Proceedings

(a) The Prosecuting Attorney shall prepare a Notice of Disciplinary Proceedings and transmit said notice to the Director. The Director shall set the date, time, and place for the proceedings and shall cause such notice to be served on the Respondent's Designated Officer at the last address reported to the Board by certified mail, return receipt requested.

(b) The Notice of Disciplinary Hearing shall include, but is not limited to, the following:

- (1) a statement of the time, place and nature of the hearing,
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be conducted,
- (3) a statement of the allegations,
- (4) a reference to the particular sections of statutes or rules involved, and
- (5) the identity of the Hearing Examiner appointed to hear the complaint.

Emergency Adoptions

(c) Service of the Notice of Disciplinary Proceedings shall be made by not less than thirty (30) days prior to the date and time of the proceedings.

(d) The hearing may be rescheduled by the Director at a different time, date or location with proper written notice of such change given to all parties. Motions for continuance must be filed in the administrative office of the Board by not less than ten (10) days prior to the date and time of the proceeding.

600:35-1-8. Pre-hearing matters

The Board may utilize counsel to the Board as a hearing officer to hear prehearing matters specified by the Board.

(1) The duties assigned to Board counsel may include, but are not limited to, any of the following:

(A) to hear and rule on pretrial discovery disputes;

(B) to hear and rule on Motions in Limine;

(C) to review Motions to Dismiss in order to advise the Board on questions of law arising therein;

(D) to hear and rule on Motions for Continuance of a hearing;

(E) to hear and rule on other preliminary motions;

(F) to hear and rule on motions to have a Hearing Examiner recused from a hearing;

(G) to mark, identify, and admit or deny exhibits; and

(H) to rule upon objections made during the hearing.

(b) Any pretrial motions, including discovery motions, motions to dismiss, and motions for continuance, shall be filed at the administrative office of the Board no less than ten (10) days before the date that any hearing in the proceeding is scheduled.

600:35-1-9. Subpoenas and subpoenas duces tecum

(a) In all cases where a party desires to have subpoenas or subpoenas duces tecum issued to compel the attendance of witnesses, or production of documents, a written request shall be filed with the administrative office of the Board by such party or his attorney, and directed to the Director or the Director's designee. The request shall specify the witness by name and address; and shall identify any documents to be subpoenaed. The request shall acknowledge that any expense associated with the subpoena process shall be paid by the party requesting the subpoena, including travel expense and daily attendance fees, in the amount as set by statute for other civil matters, at the time of the service of such subpoena.

(b) The Director shall cause such subpoenas to be issued and mailed in conformity with said written requests; provided, that in said subpoena the witnesses named therein shall be advised that they may demand their travel fees and daily attendance fees from the party, or his representative; and that neither the Board nor the State of Oklahoma shall be responsible for any traveling fees, daily attendance fees, or other expenses incurred by such witness in attending any proceeding.

(c) All requests for subpoenas and subpoenas duces tecum shall be filed with the Director or the Director's designee, by mail or otherwise, no later than ten (10) days prior to the date

of the proceeding at which the presence of any such witness or documents would be required.

(d) A party requesting issuance of subpoenas and subpoenas duces tecum shall be responsible for obtaining service and for the cost of that service.

600:35-1-10. Disciplinary proceedings

(a) Disciplinary proceedings shall be conducted by a Hearing Examiner who shall be appointed by Board order and assigned to an individual matter by the Director.

(b) When the record is closed and submitted for a proposed decision, the Hearing Examiner shall issue proposed Findings of Fact, Conclusions of Law and Disciplinary Recommendations to the Board for its consideration and final order. Interested parties shall receive copies of the Hearing Examiner's proposed decision by certified mail. The Findings of Fact, Conclusions of Law and Disciplinary Recommendations shall include a statement of facts, the issues and contentions, conclusions based on the findings of fact and applicable law, and recommendation to the Board for issuance of the final order.

(c) Upon request of the parties, the Hearing Examiner may permit the parties to submit proposed Findings of Fact, Conclusions of Law and Disciplinary Recommendations which may be adopted by the Examiner.

(d) Disciplinary proceedings shall be open to the public. Witnesses may be excluded upon proper invocation of the witness exclusion rule by any party or the Hearing Examiner.

600:35-1-11. Burden of proof, standard of proof

(a) The burden of proof shall be upon the Board in all disciplinary proceedings.

(b) The standard of proof shall be by clear and convincing evidence.

600:35-1-12. Right to counsel

(a) At all times during a disciplinary proceeding any party shall have the right to counsel provided that such counsel must be duly licensed to practice law by the Supreme Court of Oklahoma, and provided further that such counsel shall have the right to appear and act for and on behalf of the party he represents.

(b) In order to be recognized as counsel for respondent, such counsel shall file a written entry of appearance with the Director.

600:35-1-13. Rules of evidence

(a) The Hearing Examiner shall admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs.

(1) The Hearing Examiner shall give effect to the rules of privilege recognized by law in respect to:

(A) self-incrimination;

(B) confidential communications between husband and wife during the subsistence of the marriage relation;

(C) communication between attorney and client, made in that relation;

(D) confessions made to a clergyman or priest in his professional capacity in the course of discipline enjoined by the church to which he belongs;

(E) communications made by a patient to a licensed practitioner of one of the healing arts with reference to any physical or supposed physical disease or of knowledge gained by such practitioner through a physical examination of a patient in a professional capacity;

(F) records and files of any official or agency of any state or of the United States which, by any statute of such state or of the United States are made confidential and privileged.

(2) No greater exclusionary effect shall be given any such rule or privilege than would obtain in action in court. The Hearing Examiner may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(b) Documentary evidence may be received in the form of copies, if the original is not readily available, or excerpts if such originals contain voluminous, irrelevant or extraneous material. Upon request, parties shall be given an opportunity to compare the copy with the original.

(c) A party may conduct cross-examinations required for a full and true disclosure of the facts.

(d) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Hearing Examiner's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Hearing Examiner's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

600:35-1-14. Failure to appear

If either the Respondent or the Board fails or refuses to appear without good cause, the Hearing Examiner may, if no continuance is granted, either enter a default decision or proceed with the formal hearing and determine the matter in the absence of the party.

(1) Default decision.

(A) Any party may move for default against a party who has failed to appear after proper service.

(B) As a consequence of the default, the allegations against a non-appearing Respondent may be deemed admitted and an appropriate sanction recommended, within the Hearing Examiner's discretion. If the non-appearing Party is the Board, the Hearing Examiner may recommend that the complaint be dismissed with prejudice.

(C) A motion to vacate a default decision may be filed with the Board along with or in lieu of a request for oral argument before the Board within the time period specified for requests for oral argument in Board Rule 600:35-1-15.

(D) Timely filed motions to vacate shall be granted only for good cause shown. The burden of proof shall be on the moving party.

(E) "Good cause" for the purpose of this rule means lack of notice in accordance with the Administrative Procedures Act, the Oklahoma Appraisal Management Company Regulation Act, or the rules promulgated pursuant thereto, excusable neglect or unavoidable casualty.

(F) A decision by the Board denying a motion to vacate and the Board's ground(s) therefore shall be included with its final order on the merits issued in accordance with 600:15-1-17 and is subject to review in accordance with the Administrative Procedures Act and Oklahoma Certified Real Estate Appraisers Act and the rules promulgated pursuant thereto.

(2) If the Hearing Examiner decides to proceed with the formal hearing in the absence of any party, the Hearing Examiner shall render a recommendation based upon presentation and consideration of evidence and argument on all issues involved, and any such recommendation shall not be considered a default decision.

(3) In lieu of personally appearing, a Respondent, unless issued a subpoena to appear at the hearing, may submit a written statement, subject to the following requirements:

(A) The statement shall be filed in the administrative office of the Board at least (7) days prior to the hearing date;

(B) The statement shall be notarized;

(C) The Respondent shall acknowledge in the statement that Respondent received notice of the hearing and, that by not personally appearing, the Respondent is waiving the right to cross-examine witnesses, rehabilitate his or her statement, or present further evidence on his or her own behalf.

600:35-1-15. Oral argument before the Board

(a) Within fifteen (15) days following mailing of the Proposed Findings of Fact, Conclusions of Law and Recommendations of the Hearing Examiner, the aggrieved party may file an application for oral argument before the Board. Oral argument shall be limited to the Recommended Discipline of the Hearing Examiner.

(b) If such application for oral argument is received, the Director shall set a date, time and place for the hearing and notice shall be given to each side by certified mail no less than thirty (30) days prior to the hearing. Respondent's typewritten brief shall be submitted to the Board no less than twenty (20) days prior to such hearing. Petitioner's typewritten brief shall be submitted to the Board no less than ten (10) days prior to the hearing. Deadlines may be extended by the Director upon good

Emergency Adoptions

cause shown. If the respondent fails to apply for oral argument or file a brief in a timely manner, the Board may consider respondent to have waived the opportunity for oral argument. Time limits for oral arguments will be set by the Board at the time of the hearing.

(c) The Board shall issue the final order in each case whether or not application for oral argument is made. The Board may, in its discretion, vacate, modify, or affirm, in part or whole, the proposed decision of the Hearing Examiner.

(d) In the event no request for oral argument is made by the Respondent within the fifteen (15) day period, a final order consistent with the Hearing Examiner's findings, conclusions and recommendations shall be presented to the Board for approval, or in its discretion, vacation or modification; and following approval, copies will be mailed to the Respondent. The Board may, on its own motion, require oral argument before the Board.

600:35-1-16. Rehearing, reopening or reconsideration of Board decision

(a) An order issued by the Board shall be subject to rehearing, reopening or reconsideration by the Board within ten (10) days of the date of its entry. The grounds for such action shall be either:

- (1) newly discovered or newly available evidence, relevant to the issues;
- (2) need for additional evidence adequately to develop the facts essential for a proper decision;
- (3) probable error committed by the Hearing Examiner or the Board in the proceeding or in its decision that would be grounds for reversal on judicial review of the order;
- (4) need for further consideration of the issues and the evidence in the public interest; or
- (5) a showing that issues not previously considered should be examined in order to properly dispose of the matter.

(b) The order of the Board granting rehearing, reconsideration or review, or the petition of a party therefore, shall set forth the grounds which justify such action. Nothing in the chapter shall prevent rehearing, reopening or reconsideration of a matter by the Board in accordance with other statutory provisions applicable to the Board, or, at any time, on the grounds of fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence. On reconsideration, reopening or rehearing, the matter may be heard by the Board, or it may be remanded to the Hearing Examiner. Any such hearing shall be confined to those grounds upon which the reconsideration, reopening or rehearing was ordered. If an application for rehearing is timely filed, the period within which judicial review, under the applicable statute, must be sought, shall run from the final disposition of such application.

600:35-1-17. Record of hearing

(a) A record by means of electronic recording of the hearing shall be made of all disciplinary hearings.

(b) A person affected by the hearing may cause, at such person's expense, a transcript of the proceedings to be prepared or

a full stenographic record of the proceedings to be made by a competent court reporter.

(c) If transcribed, such transcript shall be part of the record of the hearing and a copy shall be furnished to any third party having a direct interest therein at the request and expense of such party.

(d) The record of the hearing and the file containing the pleadings shall be maintained in a place designated by the Board. The electronic recording of the proceedings shall be maintained until the time for appealing the final Board order has run.

- (e) The record of an individual proceeding shall include:
- (1) all pleadings, motions and intermediate rulings;
 - (2) evidence received or considered;
 - (3) a statement of matters officially noticed;
 - (4) questions and offers of proof, objections, and rulings thereon;
 - (5) proposed findings and exceptions;
 - (6) any decision, opinion, or report by the Hearing Examiner presiding at the hearing;
 - (7) all disciplinary procedures, memoranda or data submitted to the Hearing Examiner or members of the Board in connection with their consideration of the case.

600:35-1-18. Request for declaratory ruling

Any person who may be affected by the existence of any of these public rules set forth by this chapter may request in writing an interpretation or ruling regarding the application of such rule to the facts furnished with the inquiry. Any such request shall state fully the facts concerning the rule which may apply, and the particular rules about which the question exists. The request or inquiry will be assigned to the Board for review. Thereafter, the Board shall make a final determination of the interpretation or ruling. The Board's interpretation of the rule shall be furnished in writing to the person making the request, within a reasonable time.

600:35-1-19. Request for rule adoption, amendment or repeal

All interested persons may ask the Board to promulgate, amend or repeal a rule; such requests will be in writing and filed with the Department. The request shall specify reasons for its submission, the alleged need or necessity for the change, whether or not the proposed change will conflict with any existing rule, and what, if any, statutory provisions are involved. If the Board approves the proposed change, notice shall be given that such proposal will be formally considered for adoption. If, however, the Board determines that the proposal or request is not appropriate, the change shall be denied and the decision reflected in the records of the Board. A copy will be sent to the interested person who submitted the request.

600:35-1-20. Severability provision

If any provision of this chapter, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the chapter, and the application of such provision

to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[OAR Docket #10-1355; filed 12-6-10]

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

1:2010-47.

EXECUTIVE ORDER 2010-47

I, Brad Henry, Governor of the State of Oklahoma, in recognition of Pearl Harbor Remembrance Day, direct that appropriate steps be taken to fly all American flags and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Tuesday, December 7, 2010, to honor the many Oklahoma and United States citizens who perished on December 7, 1941, as a result of the infamous attack by the Japanese on Pearl Harbor, Hawaii and in recognition of the dedication of a Memorial to their sacrifice.

On that day, 2,403 service people were killed, including 429 aboard the USS Oklahoma. Eight of the 429 aboard the USS Oklahoma were Oklahoma citizens. The loss of those people was a heavy burden for all Americans to bear. The flying of

these flags at half staff is a symbol from Oklahomans that demonstrates our remembrance of those killed and sympathy for their families.

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 6th day of December, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
Michelle Waddell
Secretary of State Acting Assistant

[OAR Docket #10-1361; filed 12-07-10]

