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Notices of Rulemaking Intent

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

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

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

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

[OAR Docket #11-43]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 45. Brucellosis in Cervidae

Part 11. Animal Movement

35:15-45-111 [AMENDED]

SUMMARY:

The proposed amendment removes testing requirements for intrastate movement of cervidae. Testing is still required for interstate movement of cervidae.

AUTHORITY:

State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4 and 6-501; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 1, 2011 through March 3, 2011.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m., March 3, 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 February 1, 2011 through March 3, 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 #11-43; filed 1-7-11]

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

[OAR Docket #11-44]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 44. Farmed Cervidae [AMENDED]

SUMMARY:

The proposed amendments implement the changes provided to the Farmed Cervidae Act in House Bill 2295 of the 2010 Legislative Session.

AUTHORITY:

State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4 and 6-501; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from February 1, 2011 through March 3, 2011.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., March 3, 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 February 1, 2011 through March 3, 2011.

Notices of Rulemaking Intent

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 #11-44; filed 1-7-11]

**TITLE 38. OKLAHOMA BOARD OF
LICENSED ALCOHOL AND DRUG
COUNSELORS
CHAPTER 10. LICENSURE AND
CERTIFICATION OF ALCOHOL AND
DRUG COUNSELORS**

[OAR Docket #10-1481]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Supervision
38:10-9-5. [AMENDED]

SUMMARY:

The proposed rule change to Subchapter 9 is to clarify wording of Supervisor Responsibilities to correct a mathematical error in number of sessions allowed by video means to coincide with 1/8 time.

AUTHORITY:

Oklahoma Board of Licensed Alcohol and Drug Counselors; 59 O.S., § 43B-1875-1

COMMENT PERIOD:

Persons may submit written and oral comments to Richard D. Pierson at 101 N.E. 51st Street, Oklahoma City, Oklahoma 73105, or PO Box 54388, Oklahoma City, OK 73154 from February 2, 2011 to March 4, 2011.

PUBLIC HEARING:

A public hearing will be held at the Oklahoma Board of Licensed Alcohol and Drug Counselors, 101 N.E. 51st Street, Oklahoma City, OK, on March 21, 2011 at 9:00 am to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door by 9:05 am on March 21, 2011.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Board of Licensed Alcohol and Drug Counselors, 101 N. E. 51st Street, Oklahoma City, OK 73105 or by going to our website at www.okdrugcounselors.org under Laws and Regulations.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. , §303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Board of Licensed Alcohol and Drug Counselors at the above address beginning February 3, 2011.

CONTACT PERSON:

Richard D. Pierson, Executive Director, (405) 521-0779.

[OAR Docket #10-1481; filed 12-30-10]

**TITLE 158. CONSTRUCTION INDUSTRIES
BOARD
CHAPTER 30. PLUMBING INDUSTRY
REGULATIONS**

[OAR Docket #11-30]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Procedures of the Committee and Hearing Board
158:30-3-2. Procedures of the Hearing Board
[AMENDED]

SUMMARY:

Per the authority of 59 O.S. § 1010(A), 158:30-3-2 allows the Construction Industries Board to designate a designee representative to the Plumbing Hearing Board other than the Administrator.

AUTHORITY:

The Construction Industries Board has the general power to adopt, amend, repeal and promulgate rules as may be necessary to regulate the plumbing trade. 59 O.S. § 1000.4(A)(1). The Construction Industries Board has the specific authority to promulgate and amend rules pertaining to the licensing and registration of plumbers. 59 O.S. § 1002. This rule is specifically authorized by 59 O.S. § 1010.

COMMENT PERIOD:

Written and oral comments will be accepted between February 1st through March 3, 2011, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 9, 2011, at a regular meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative

fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 3, 2011.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #11-30; filed 1-7-11]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS**

[OAR Docket #11-31]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 158:50-1-2. Definitions [AMENDED]
- 158:50-1-3. License requirement and exemptions [AMENDED]
- 158:50-1-4. Adopted references and standard of workmanship [AMENDED]
- Subchapter 5. License Types, Limitations of Licenses, Contractor Special requirements and Display of License Number and Firm Name
- 158:50-5-1. License types [AMENDED]
- 158:50-5-2. Limitations of licenses [AMENDED]
- Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration
- 158:50-9-1. Qualifications for mechanical licensure [AMENDED]
- 158:50-9-2. License and registration fees and renewals [AMENDED]
- 158:50-9-7. Continuing Education [AMENDED]

SUMMARY:

158:50-1-2 defines "Health care facility", "Medical gas piping work", "Medical gas journeyman", for purposes of regulatory compliance. "Mechanical work", "Process piping", "Refrigeration system", and "Variance" have been

modified for regulatory clarification. 158:50-1-3(c), (d), (e), (f) and (g) provide uniformity between the Mechanical Licensing Act and the Mechanical Industry Regulations and establish the requirements for the installation, replacement, modification, or repair of mechanical systems. 158:50-1-4 acknowledges approved code documents by the Oklahoma Uniform Building Code Commission as the minimum standard for mechanical work in Oklahoma. 158:50-5-1(b)(9) creates the mechanical license category and license type for medical gas journeyman. 158:50-5-2(b)(10) clarifies the authorized activities and limitations of a medical gas journeyman licensee. 158:50-9-1(b)(1)(A)(B)(C) and (D) and 158:50-9-1(b)(2) set forth the qualification requirements for persons applying for a license and require proof of the minimum number of hours of verifiable experience and education necessary to receive a license. 158:50-9-1(c) sets requirements for certification by examination for the Medical Gas license category. 158:50-9-2 is clean up language which corrects a misspellings and typographical errors. 158:50-9-7(l) and (m) eliminate continuing education requirements for ground source piping category licensees and medical gas category licensees.

AUTHORITY:

The Construction Industries Board has the general power to adopt, amend, repeal and promulgate rules as may be necessary to regulate the mechanical trade. 59 O.S. § 1000.4(A)(1). The Construction Industries Board has the specific authority to promulgate and amend rules pertaining to the licensing and registration of mechanical tradesmen. 59 O.S. § 1850.3.

COMMENT PERIOD:

Written and oral comments will be accepted between February 1st through March 3, 2011, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 9, 2011, at a special meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Constructions Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 3, 2011.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #11-31; filed 1-7-11]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD

CHAPTER 80. ROOFING CONTRACTOR REGISTRATION

[OAR Docket #11-32]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Application for Registration of Roofing Contractors [NEW]

158:80-3-1. Application for registration [NEW]

158:80-3-2. Information and documentation required for registration [NEW]

158:80-3-3. Fees [NEW]

158:80-3-4. Action on initial application [NEW]

158:80-3-5. Grounds for refusal to grant registration [NEW]

158:80-3-6. Disclosure of felony convictions [NEW]

SUMMARY:

These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has emergency rules in place which regulate the Roofing Contractor Industry and these proposed permanent rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry. Subchapter 3 establishes rules for the initial application for the registration of roofing contractors. 158:80-3-1 sets forth the administrative requirements and procedures to obtain roofing contractor registration. 158:80-3-2 itemizes the information and documentation required to obtain roofing contractor registration. 158:80-3-3 establishes the fees for registration and related administrative functions. 158:80-3-4 establishes the procedures for processing applications for registration. 158:80-3-5 enumerates the grounds for refusal to grant registrations. 158:80-3-6 lists the requirements for an applicant's disclosure of felony convictions.

AUTHORITY:

These rules implement the Roofing Contractor Registration Act, Title 59 O.S. §§ 1151.1-1151.20 (the "Act"), as set for the

in Subchapter 1 at 158:80-1-1. 158:80-1-2 defines essential terms for administration and implementation of the Act by the Construction Industries Board ("CIB").

COMMENT PERIOD:

Written and oral comments will be accepted February 1, 2011 through March 3, 2011, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 9, 2011, at a regular meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 3, 2011.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #11-32; filed 1-7-11]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD

CHAPTER 80. ROOFING CONTRACTOR REGISTRATION

[OAR Docket #11-32A]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [NEW]

158:80-1-1. Purpose [NEW]

158:80-1-2. Definitions [NEW]

SUMMARY:

These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has emergency rules in place which regulate the Roofing Contractor Industry and these proposed permanent rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry.

AUTHORITY:

These rules implement the Roofing Contractor Registration Act, Title 59 O.S. §§ 1151.1-1151.20 (the "Act"), as set for the in Subchapter 1 at 158:80-1-1. 158:80-1-2 defines essential terms for administration and implementation of the Act by the Construction Industries Board ("CIB").

COMMENT PERIOD:

Written and oral comments will be accepted February 1, 2011 through March 3, 2011, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 9, 2011, at a regular meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 3, 2011

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #11-32A; filed 1-7-11]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 80. ROOFING CONTRACTOR REGISTRATION**

[OAR Docket #11-33]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Roofing contractor registration [NEW]
- 158:80-5-1. Roofing contractor registration certificate [NEW]
- 158:80-5-2. Contents of registration certificate and registration card [NEW]
- 158:80-5-3. Registration number [NEW]
- 158:80-5-4. Term of registration [NEW]
- 158:80-5-5. Notification of changes in application information required [NEW]
- 158:80-5-6. Surrender of certificate of registration or registration card [NEW]
- 158:80-5-7. Business entities required to file with secretary of state [NEW]
- 158:80-5-8. Registration sharing prohibited; Separate joint venture registration required [NEW]

SUMMARY:

These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has emergency rules in place which regulate the Roofing Contractor Industry and these proposed permanent rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry. Subchapter 5 establishes administrative rules which govern the granting of the certificate of registration and registrant credentials. 158:80-5-1 establishes the administrative requirements for the certificate of registration. 158:80-5-2 sets forth the required contents for the certificate and credentials issued by the CIB. 158:80-5-3 establishes the requirements for the roofing contractor registration number. 158:80-5-4 provides the term of registration. 158:80-5-5 requires registrants to notify the CIB of registration information changes which have occurred since registration. 158:80-5-6 requires registrants to surrender certificates and credentials upon suspension or revocation. 158:80-5-7 establishes that any registration granted shall only be valid if the registrant is in good standing with the Oklahoma Secretary of State.

AUTHORITY:

These rules implement the Roofing Contractor Registration Act, Title 59 O.S. §§ 1151.1-1151.20 (the "Act"), as set for the in Subchapter 1 at 158:80-1-1. 158:80-1-2 defines essential terms for administration and implementation of the Act by the Construction Industries Board ("CIB").

Notices of Rulemaking Intent

COMMENT PERIOD:

Written and oral comments will be accepted February 1, 2011 through March 3, 2011, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 9, 2011, at a regular meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 3, 2011.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #11-33; filed 1-7-11]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 80. ROOFING CONTRACTOR REGISTRATION

[OAR Docket #11-34]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Registration Renewal [NEW]

158:80-7-1. Renewal of registration, fees and time restrictions [NEW]

158:80-7-2. Registration renewal requirements [NEW]

158:80-7-3. Action on renewal application [NEW]

SUMMARY:

These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which

mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has emergency rules in place which regulate the Roofing Contractor Industry and these proposed permanent rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry. Subchapter 7 establishes rules for contractor registration renewal. 158:80-7-1 sets forth the fees and time restrictions for renewal. 158:80-7-2 sets forth the information and documentation requirements for registration renewal. 158:80-7-3 establishes the procedures for processing renewal applications.

AUTHORITY:

These rules implement the Roofing Contractor Registration Act, Title 59 O.S. §§ 1151.1-1151.20 (the "Act"), as set for the in Subchapter 1 at 158:80-1-1. 158:80-1-2 defines essential terms for administration and implementation of the Act by the Construction Industries Board ("CIB").

COMMENT PERIOD:

Written and oral comments will be accepted February 1, 2011 through March 3, 2011, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 9, 2011, at a regular meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #11-34; filed 1-7-11]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 80. ROOFING CONTRACTOR REGISTRATION

[OAR Docket #11-35]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Appeal Procedure for Denied Application for Registration or Registration Renewal [NEW]

158:80-9-1. Appeal procedures for denial of initial application or application for renewal [NEW]

SUMMARY:

These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has emergency rules in place which regulate the Roofing Contractor Industry and these proposed permanent rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry. Subchapter 9 establishes the appeal procedures for denied applications for registration. 158:80-9-1 establishes the procedure, time for appeal and processing protocol for processing appeals.

AUTHORITY:

These rules implement the Roofing Contractor Registration Act, Title 59 O.S. §§ 1151.1-1151.20 (the "Act"), as set for the in Subchapter 1 at 158:80-1-1. 158:80-1-2 defines essential terms for administration and implementation of the Act by the Construction Industries Board ("CIB").

COMMENT PERIOD:

Written and oral comments will be accepted February 1, 2011 through March 3, 2011, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 9, 2011, at a regular meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 3, 2011.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #11-35; filed 1-7-11]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 80. ROOFING CONTRACTOR REGISTRATION**

[OAR Docket #11-36]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 11. Registry and Cassification [NEW]
- 158:80-11-1. Registry of roofing contractors [NEW]
- 158:80-11-2. Status classification of registered roofing contractors [NEW]
- 158:80-11-3. Status classification of "Not in Good Standing" [NEW]
- 158:80-11-4. Appeal of status classification [NEW]

SUMMARY:

These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has emergency rules in place which regulate the Roofing Contractor Industry and these proposed permanent rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry. Subchapter 11 establishes the requirements for the Oklahoma Registry of Roofing Contractors and classifications for registrants. 158:80-11-1 sets forth the contents of the registry. 158:80-11-2 enumerates the statuses for registered contractors. 158:80-11-3 details the criteria used to classify a registrant as "not in good standing." 158:80-11-4 sets forth the appeal process for disputed status classifications

AUTHORITY:

These rules implement the Roofing Contractor Registration Act, Title 59 O.S. §§ 1151.1-1151.20 (the "Act"), as set for the in Subchapter 1 at 158:80-1-1. 158:80-1-2 defines essential terms for administration and implementation of the Act by the Construction Industries Board ("CIB").

COMMENT PERIOD:

Written and oral comments will be accepted February 1, 2011 through March 3, 2011, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 9, 2011, at a regular meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 3, 2011.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #11-36; filed 1-7-11]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 80. ROOFING CONTRACTOR REGISTRATION

[OAR Docket #11-37]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Complaints [NEW]

158:80-13-1. Complaint and response forms [NEW]

158:80-13-2. Receiving and processing complaints [NEW]

SUMMARY:

These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has emergency rules in place which regulate the Roofing Contractor Industry and these proposed permanent rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry. Subchapter 13 establishes rules for the filing and processing of complaints against registered roofing contractors. 158:80-13-1 sets forth the forms to be used for complaint processing. 158:80-13-2 requires that all complaints must be made and processed according to the Act.

AUTHORITY:

These rules implement the Roofing Contractor Registration Act, Title 59 O.S. §§ 1151.1-1151.20 (the "Act"), as set for the in Subchapter 1 at 158:80-1-1. 158:80-1-2 defines essential terms for administration and implementation of the Act by the Construction Industries Board ("CIB").

COMMENT PERIOD:

Written and oral comments will be accepted February 1, 2011 through March 3, 2011, during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 P.M. on March 9, 2011, at a regular meeting of the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to Jeanne Britt at the above address, before the close of the comment period on March 3, 2011.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement has been prepared and is available from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #11-37; filed 1-7-11]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT CHAPTER 1. ORGANIZATION

[OAR Docket #10-1455]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

160:1-1-1.2 [AMENDED]

160:1-1-7 [NEW]

SUMMARY:

The proposed amendment to 160:1-1-1.2 clarifies that the Administrator of Consumer Credit is responsible for the administration and enforcement of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act). The proposed new rule at 160:1-1-7 establishes a process for the Commission on Consumer Credit to appoint members to the Consumer Credit Advisory Committee.

AUTHORITY:

Administrator of Consumer Credit; 14A O.S. §6-104(1)(e); Commission on Consumer Credit; 14A O.S. § 6-501(d)(i).

COMMENT PERIOD:

Written and oral comments will be accepted during the period of February 1, 2011 to March 3, 2011. Comments may be submitted to Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or via email at rmartin@okdocc.ok.gov.

PUBLIC HEARING:

A public hearing regarding the proposed rules will be held at 1:30 p.m. on Thursday, March 3, 2011 at the Department of Consumer Credit conference room, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing during the period from February 1, 2011 to March 3, 2011 at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or the Department of Consumer Credit Internet website at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available on and after February 16, 2011 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

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

[OAR Docket #10-1455; filed 12-28-10]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 3. PROCEDURE**

[OAR Docket #10-1456]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

160:3-1-4 [NEW]

SUMMARY:

The proposed new rule describes procedures and requirements for references of parties, entries of appearance, continuances, subpoenas and Consent Orders for individual proceedings at the Department of Consumer Credit.

AUTHORITY:

Administrator of Consumer Credit; 14A O.S., §6-104(1)(e), 75 O.S. § 302(A).

COMMENT PERIOD:

Written and oral comments will be accepted during the period of February 1, 2011 to March 3, 2011. Comments may be submitted to Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or via email at rmartin@okdocc.ok.gov.

PUBLIC HEARING:

A public hearing regarding the proposed rules will be held at 1:30 p.m. on Thursday, March 3, 2011 at the Department of Consumer Credit conference room, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing during the period from February 1, 2011 to March 3, 2011 at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or the Department of Consumer Credit Internet website at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available on and after February 16, 2011 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Boulevard,

Notices of Rulemaking Intent

Suite 164, Oklahoma City, OK 73105, 405-521-3653,
rmartin@okdocc.ok.gov.

[OAR Docket #10-1456; filed 12-28-10]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT CHAPTER 5. FEES

[OAR Docket #10-1457]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

160:5-1-2 [AMENDED]

SUMMARY:

The proposed rule amendments establish on a permanent basis all fees authorized by the Uniform Consumer Credit Code, the Credit Services Organization Act, the Oklahoma Pawnshop Act, the Precious Metal and Gem Dealer Licensing Act, the Oklahoma Rental-Purchase Act, the Oklahoma Health Spa Act, the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act and the Deferred Deposit Lending Act.

The proposed rule amendments incorporate the current license and examination fees established by emergency rule on August 19, 2010 as permanent rules. The proposed rule amendments establish the following fees: Supervised lenders: Late license renewal fee \$10 per day for 30 days, examination fee \$500, amended license fee \$25, duplicate license fee \$25, returned check fee \$25, late annual report fee \$50, investigation fee \$425; Notification filings: Annual filing fee \$120 per business location, late filing renewal fee \$10 per day for 30 days; Credit service organizations: License fee \$200, late license renewal fee \$10 per day for 30 days, examination fee \$400, amended license fee \$25, duplicate license fee \$25, returned check fee \$25, investigation fee \$300; Pawnbrokers: License fee \$240, examination fee \$400, late license renewal fee \$10 per day for 30 days, amended license fee \$25, duplicate license fee \$25, returned check fee \$25, investigation fee \$325; Precious metal and gem dealers: License fee \$300, late license renewal fee \$10 per day for 30 days, amended license fee \$25, returned check fee \$25, duplicate license fee \$25, investigation fee \$425; Precious metal employees: License fee \$200, late license renewal fee, \$10 per day for 30 days, amended license fee \$25, returned check fee \$25, duplicate license fee \$25; Rental purchase dealers: License fee \$200, examination fee \$400, amended license fee \$25, returned check fee \$25, duplicate license fee \$25, contract reviewal fee \$100, investigation fee \$200; Health spas: Registration fee \$300, late registration fee \$10 per day for 30 days, amended registration fee \$25, returned check fee \$25, duplicate registration fee \$25, contract reviewal fee \$100, investigation fee \$200; Mortgage brokers and mortgage

loan originators: License fee \$200, branch office license fee \$150, late license renewal fee \$10 per day for 30 days, inactive status fee \$150, amended license fee \$25, duplicate license fee \$25, returned check fee \$25, recovery fund payment \$10, mortgage broker examination fee \$500, mortgage loan originator examination fee \$50, mortgage broker application fee \$950, mortgage loan originator application fee \$200; Deferred deposit lenders: License fee \$350, late license fee \$10 per day for 30 days, examination fee \$500, late annual report fee \$50, amended license fee \$25, returned check fee \$25, duplicate license fee \$25, investigation fee \$700.

AUTHORITY:

Commission on Consumer Credit; 14A O.S. § 6-302.

COMMENT PERIOD:

Written and oral comments will be accepted during the period of February 1, 2011 to March 3, 2011. Comments may be submitted to Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or via email at rmartin@okdocc.ok.gov.

PUBLIC HEARING:

A public hearing regarding the proposed rules will be held at 1:30 p.m. on Thursday, March 3, 2011 at the Department of Consumer Credit conference room, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing during the period from February 1, 2011 to March 3, 2011 at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or the Department of Consumer Credit Internet website at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available on and after February 16, 2011 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

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

[OAR Docket #10-1457; filed 12-28-10]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 15. PAWN TRANSACTIONS**

[OAR Docket #10-1458]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Records
160:15-3-1.1 [AMENDED]

SUMMARY:

The proposed rule amendment removes the requirement that examinations shall be conducted annually.

AUTHORITY:

Administrator of Consumer Credit; 59 O.S. § 1512(A).

COMMENT PERIOD:

Written and oral comments will be accepted during the period of February 1, 2011 to March 3, 2011. Comments may be submitted to Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or via email at rmartin@okdocc.ok.gov.

PUBLIC HEARING:

A public hearing regarding the proposed rule will be held at 1:30 p.m. on Thursday, March 3, 2011 at the Department of Consumer Credit conference room, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing during the period from February 1, 2011 to March 3, 2011 at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or the Department of Consumer Credit Internet website at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available on and after February 16, 2011 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

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

[OAR Docket #10-1458; filed 12-28-10]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 30. CREDIT SERVICES ORGANIZATION**

[OAR Docket #10-1459]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Records
160:30-9-2. [AMENDED]

SUMMARY:

The proposed amendment to 160:30-9-2 removes the requirement that examinations shall be conducted annually.

AUTHORITY:

Department of Consumer Credit; 24 O.S. § 140.

COMMENT PERIOD:

Written and oral comments will be accepted during the period of February 1, 2011 to March 3, 2011. Comments may be submitted to Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or via email at rmartin@okdocc.ok.gov.

PUBLIC HEARING:

A public hearing regarding the proposed rule will be held at 1:30 p.m. on Thursday, March 3, 2011 at the Department of Consumer Credit conference room, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing during the period from February 1, 2011 to March 3, 2011 at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or the Department of Consumer Credit Internet website at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available on and after February 16, 2011 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Boulevard,

Notices of Rulemaking Intent

Suite 164, Oklahoma City, OK 73105, 405-521-3653,
rmartin@okdocc.ok.gov.

[OAR Docket #10-1459; filed 12-28-10]

TITLE 160. DEPARTMENT OF CONSUMER CREDIT CHAPTER 35. OKLAHOMA RENTAL-PURCHASE ACT

[OAR Docket #10-1460]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Records
160:35-5-2. [AMENDED]

SUMMARY:

The proposed amendment to 160:35-5-2 removes the requirement that examinations shall be conducted annually.

AUTHORITY:

Administrator of Consumer Credit; 59 O.S. § 1955(C).

COMMENT PERIOD:

Written and oral comments will be accepted during the period of February 1, 2011 to March 3, 2011. Comments may be submitted to Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or via email at rmartin@okdocc.ok.gov.

PUBLIC HEARING:

A public hearing regarding the proposed rule will be held at 1:30 p.m. on Thursday, March 3, 2011 at the Department of Consumer Credit conference room, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing during the period from February 1, 2011 to March 3, 2011 at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or the Department of Consumer Credit Internet website at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available on and after February 16, 2011 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

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

[OAR Docket #10-1460; filed 12-28-10]

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

[OAR Docket #10-1461]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Special Rules for Certain Home Mortgage Transactions
160:45-9-2. [AMENDED]
160:45-9-6. [AMENDED]

SUMMARY:

The proposed amendment to 160:45-9-2 changes the annual dollar amount of total points and fees that triggers additional disclosure requirements for subsection 10 mortgages in the State of Oklahoma. The Board of Governors of the Federal Reserve System recently adjusted the dollar amount based on the annual percentage change in the Consumer Price Index in effect June 1, 2010.

The proposed amendments to 160:45-9-6 concern loan originator compensation. The proposed amendments to 160:45-9-6 prohibits payments to loan originators that are based on the terms or conditions of a consumer credit transaction secured by a dwelling. The proposed amendments to 160:45-9-6 prohibits a loan originator from being compensated by any other person if the loan originator is compensated by a consumer in a consumer credit transaction secured by a dwelling. The proposed amendments to 160:45-9-6 also restricts a loan originator from steering consumers to consummate certain transactions secured by a dwelling.

The Board of Governors of the Federal Reserve System announced the finalization of rules on August 16, 2010 that amends federal Regulation Z by prohibiting certain loan originator compensation practices deemed to be unfair or deceptive. The Administrator of Consumer Credit is required to prohibit by regulation or order acts or practices in connection with mortgage loans the Board of Governors of the Federal Reserve System has found to be unfair or deceptive. The proposed amendments to 160:45-9-6 prohibits acts or practices in connection with mortgage loans the Board of Governors of the Federal Reserve System has found to be unfair or deceptive.

AUTHORITY:

Administrator of Consumer Credit; 14A O.S. §§ 3-309.4(11)(b) and 6-104(2).

COMMENT PERIOD:

Written and oral comments will be accepted during the period of February 1, 2011 to March 3, 2011. Comments may be submitted to Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or via email at rmartin@okdocc.ok.gov.

PUBLIC HEARING:

A public hearing regarding the proposed rules will be held at 1:30 p.m. on Thursday, March 3, 2011 at the Department of Consumer Credit conference room, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing during the period from February 1, 2011 to March 3, 2011 at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or the Department of Consumer Credit Internet website at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available on and after February 16, 2011 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

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

[OAR Docket #10-1461; filed 12-28-10]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 65. SUPERVISED LENDERS**

[OAR Docket #10-1462]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Records
160:65-7-2. [AMENDED]

SUMMARY:

The proposed amendment to 160:65-7-2 removes the requirement that examinations shall be conducted annually.

AUTHORITY:

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

COMMENT PERIOD:

Written and oral comments will be accepted during the period of February 1, 2011 to March 3, 2011. Comments may be submitted to Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or via email at rmartin@okdocc.ok.gov.

PUBLIC HEARING:

A public hearing regarding the proposed rule will be held at 1:30 p.m. on Thursday, March 3, 2011 at the Department of Consumer Credit conference room, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing during the period from February 1, 2011 to March 3, 2011 at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or the Department of Consumer Credit Internet website at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available on and after February 16, 2011 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

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

[OAR Docket #10-1462; filed 12-28-10]

**TITLE 160. DEPARTMENT OF CONSUMER CREDIT
CHAPTER 70. DEFERRED DEPOSIT LENDERS**

[OAR Docket #10-1463]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Records
160:70-7-2. [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

The proposed amendment to 160:70-7-2 removes the requirement that examinations shall be conducted annually.

AUTHORITY:

Administrator of Consumer Credit; 59 O.S. § 3116(A)(5).

COMMENT PERIOD:

Written and oral comments will be accepted during the period of February 1, 2011 to March 3, 2011. Comments may be submitted to Roy John Martin, General Counsel, Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or via email at rmartin@okdocc.ok.gov.

PUBLIC HEARING:

A public hearing regarding the proposed rule will be held at 1:30 p.m. on Thursday, March 3, 2011 at the Department of Consumer Credit conference room, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by the proposed rule are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rule. Business entities may submit this information in writing during the period from February 1, 2011 to March 3, 2011 at the above address.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Consumer Credit, 4545 N. Lincoln Blvd., Suite 164, Oklahoma City, OK 73105 or the Department of Consumer Credit Internet website at www.ok.gov/okdocc.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available on and after February 16, 2011 at the same locations listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

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

[OAR Docket #10-1463; filed 12-28-10]

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

[OAR Docket #11-38]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Priority Academic Student Skills

Part 23. Instructional Technology

210:15-3-183. Overview [AMENDED]

210:15-3-183.1. Definitions [AMENDED]

SUMMARY:

The proposed rule amendments will bring the Instructional Technology *Priority Academic Student Skills (PASS)* up-to-date to address the new challenges and opportunities of educational technology.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., March 23, 2011, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, March 24, 2011, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 75 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on February 11, 2011.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #11-38; filed 1-7-11]

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

[OAR Docket #11-39]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 4. Common Core State Standards [NEW]

210:15-4-1. Purpose [NEW]

210:15-4-2. Definitions [NEW]

210:15-4-3. Adoption and implementation [NEW]

SUMMARY:

The proposed new rules explain the purpose, provide definitions, and describe adoption and implementation procedures for the Common Core State Standards. The rules direct that the Common Core State Standards for English Language Arts, Literacy in History/Social Studies and Science, and Mathematics shall be adopted and implemented. The rules also provide a process for reviewing, revising, and supplementing the Common Core State Standards.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., March 23, 2011, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, March 24, 2011, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 75 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on February 11, 2011.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #11-39; filed 1-7-11]

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

[OAR Docket #11-40]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Special Education
210:15-13-7. Lindsey Nicole Henry Scholarship for Students with Disabilities Program [NEW]

SUMMARY:

The proposed rule will clarify scholarship requests, payments, private school eligibility, the amount of the scholarship, and tracking of students receiving the scholarship.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., March 23, 2011, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, March 24, 2011, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 75 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on February 11, 2011.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #11-40; filed 1-7-11]

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

[OAR Docket #11-41]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Residency Program
210:20-15-1. Rules and regulations [NEW]

SUMMARY:

The proposed rule is necessary to implement the new bill, House Bill 3029, effective July 1, 2010. The law states the State Department of Education shall exempt all school districts from convening and participating in residency committees for the fiscal years 2011 and 2012.

Notices of Rulemaking Intent

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., March 23, 2011, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, March 24, 2011, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 75 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on February 11, 2011.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #11-41; filed 1-7-11]

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

[OAR Docket #11-42]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 21. Alternative Instructional Delivery Systems
210:35-21-2. Alternative instructional delivery systems
[AMENDED]

SUMMARY:

The proposed rule amendments provide guidelines and requirements for alternative testing locations to districts providing an online course or program to students not located in the district of residence.

AUTHORITY:

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

COMMENT PERIOD:

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., March 23, 2011, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m. on Thursday, March 24, 2011, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

A Rule Impact Statement has been prepared, according to 75 O.S. §303(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on February 11, 2011.

CONTACT PERSON:

Connie Holland, 405-521-3308

[OAR Docket #11-42; filed 1-7-11]

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

[OAR Docket #11-12]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Election Personnel [AMENDED]
Subchapter 7. General Administration of the County Election Board [AMENDED]

SUMMARY:

Amendments proposed in this Chapter are needed to implement provisions of SB 1910 and to reflect changes in the election administration software used by the County Election Boards.

In Subchapter 3, one Section will be amended to incorporate a provision of SB 1910 which permits the state central committees of political parties to nominate persons for membership on the County Election Board either when there is no county central committee for the party or when the county central committee fails to submit nominees.

Another Section is amended to incorporate a new provision created by SB 1910 permitting the County Election Board Secretary to receive compensation from the county, in addition to the salary set by statute. Such additional compensation is not considered part of the Secretary's salary and is not reimbursed by the State Election Board.

In addition to accommodating these new statutory provisions, several Sections are amended to change references to the election administration software used by the County Election Board from OEMS, the old software system, to MESA the new software system currently being developed by the State Election Board and implemented statewide.

AUTHORITY:

Title 26 O.S. Supp. 2011, Section 2-107. Secretary of the State Election Board.

COMMENT PERIOD:

Written comments will be accepted until the conclusion of the public hearing on Friday, March 4, 2011. Written comments may be delivered to the State Election Board office or may be mailed. Comments also may be presented orally during the hearing. Mailing Address: State Election Board, P. O. Box 53156, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held Friday, March 4, 2011, at 10 a.m., in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed amendments are available in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available in the State Election Board office on and after February 15, 2011.

CONTACT PERSON:

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

ADDITIONAL INFORMATION:

n/a

[OAR Docket #11-12; filed 1-6-11]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 15. VOTER REGISTRATION**

[OAR Docket #11-13]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

Subchapter 3. Voter Outreach [AMENDED]

Subchapter 5. Application for Voter Registration [AMENDED]

Subchapter 9. Receiving and Processing Voter Registration Applications [AMENDED]

Subchapter 11. Voter Registration List Maintenance [AMENDED]

SUMMARY:

Amendments proposed in this Chapter are needed to implement various provisions of SB 1910, to change references to the election administration software used by the County Election Board, and to clarify certain policies. Several amendments also concern the new "proof of identity" requirement enacted by the approval of State Question 746.

Senate Bill 1910 included language that permits, but does not require, veteran center administrators and licensed funeral directors to notify the County Election Board of the names of county residents who have died and that subsequently authorizes the County Election Board to cancel the voter registrations of the deceased persons. Another provision that affects cancellation of the voter registrations of deceased voters allows the next of kin of deceased voters to request cancellation of the deceased voters' registrations in writing and to have such request be witnessed by two persons who provide their names and addresses. In the past, such written requests could only be notarized. Another provision included in SB 1910 allows the County Election Board to accept a certified copy of a death certificate to cancel a deceased voter's registration. Other amendments concern the reasons voters may be selected to receive an address confirmation mailing and the printing specifications for the Oklahoma Voter Registration Application forms. Many Sections in the Chapter are amended to make a simple change regarding the name of the election administration software used by the County Election Boards. The old software known as OEMS (for Oklahoma Election Management System) is being replaced by new-generation software called MESA (Modern Election Support Application) which is being developed and implemented by the State Election Board. All the voter registration administration functions of OEMS are expected to be transferred to the MESA system before June 1, 2011.

The law enacted by State Question 746 regarding proof of identity for voting purposes becomes effective July 1, 2011. Sections are amended to revoke the now-obsolete language and to incorporate some new language based on the new law. Forms of identification that meet the requirements of the new law are listed.

The address of the State Election Board's website has changed. Several Sections are amended to update the website address.

Several Sections concerning the Oklahoma Voter Registration Application form are amended. The form will be redesigned to incorporate new elements of information and to revise the form's instructions. These changes are required as a result of law enacted by State Question 746. Sections concerning printing and distribution of the Oklahoma Voter

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Registration Application form also are amended to make reproduction of the form easier.

AUTHORITY:

Title 26 O.S. Supp. 2011, Section 2-107. Secretary of the State Election Board.

COMMENT PERIOD:

Written comments will be accepted until the conclusion of the public hearing on Friday, March 4, 2011. Written comments may be delivered to the State Election Board office or may be mailed. Comments also may be presented orally during the hearing. Mailing Address: State Election Board, P. O. Box 53156, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held Friday, March 4, 2011, at 10 a.m. in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed amendments are available in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available in the State Election Board office on and after February 15, 2011.

CONTACT PERSON:

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

ADDITIONAL INFORMATION:

n/a

[OAR Docket #11-13; filed 1-6-11]

TITLE 230. STATE ELECTION BOARD CHAPTER 20. CANDIDATE FILING

[OAR Docket #11-14]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Filing for State and County Office [AMENDED]

SUMMARY:

Senate Bill 3261 repealed Title 26, Section 5-113, which required the County Election Board to refund candidate filing fees to candidates under certain circumstances. As a result of the repeal of this statute, the County Election Board will retain candidate filing fees from candidates for county office. The proposed amendments revoke all Sections that concerned the refund of candidate filing fees.

AUTHORITY:

Title 26 O.S. Supp. 2011, Section 2-107. Secretary of the State Election Board.

COMMENT PERIOD:

Written comments will be accepted until the conclusion of the public hearing on Friday, March 4, 2011. Written comments may be delivered to the State Election Board office or may be mailed. Comments also may be presented orally during the hearing. Mailing Address: State Election Board, P. O. Box 53156, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held Friday, March 4, 2011, at 10 a.m. in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed amendments are available in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available in the State Election Board office on and after February 15, 2011.

CONTACT PERSON:

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

ADDITIONAL INFORMATION:

n/a

[OAR Docket #11-14; filed 1-6-11]

TITLE 230. STATE ELECTION BOARD CHAPTER 30. ABSENTEE VOTING

[OAR Docket #11-15]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

Subchapter 5. Applications for Absentee Ballots [AMENDED]

Subchapter 7. Absentee Voting Boards [AMENDED]

Subchapter 9. Processing Applications [AMENDED]

Subchapter 11. Receiving and Processing Absentee Ballots [AMENDED]

Subchapter 13. Federal Write-In Absentee Ballot [AMENDED]

Subchapter 15. State Write-In Absentee Ballots [AMENDED]

Subchapter 19. Counting the Ballots [AMENDED]

SUMMARY:

The majority of the proposed amendments in this Chapter are minor changes relating to the name of the election administration software used by the County Election Boards. The State Election Board is in the process of developing and implementing statewide new generation software system called MESA (Modern Election Support Application). MESA replaces the old software/hardware system known as OEMS (Oklahoma Election Management System). Many Sections are amended to change references from OEMS to MESA.

Upon implementation of the absentee processing functions of the MESA software, election officials will begin processing Federal Post Card Applications for absentee ballots received from uniformed services and overseas voters as not only requests for absentee ballots but also as requests for voter registration. State law permits uniformed services and overseas voters to vote by absentee ballot without being registered, and this will not change. However, the functionality of the new software and the updated voter registration database will allow these voters to be registered voters in the state and to receive credit for voting by absentee ballot that will be attached to their voter registration histories. The old OEMS software and database were not designed to allow that.

Several Sections concerning provisional ballots are amended to include a new reason for casting a provisional ballot during in-person absentee voting, also known as early voting. Because of new functionality available in the MESA software, it is now possible to give credit for voting during in-person immediately and to see if a voter has already received credit for absentee voting, either by returning a mail absentee ballot or by voting on an earlier day of in-person absentee voting. Amendments permit a voter who appears to have received credit for absentee voting in the election to cast a provisional ballot if the voter denies having already voted.

Provisions of SB 2142 permit users of the special state write-in absentee ballot to vote for statewide offices in addition to federal offices. Amendments are proposed in Subchapters 13 and 15 to incorporate statewide offices into the instructions for using and counting both state and federal write-in absentee ballot. These special write-in absentee ballots are considered fail-safe voting methods for uniformed services and overseas voters and the spouses and dependents both groups.

Several amendments concern the law enacted by State Question 746 requiring in-person absentee voters to show proof of identity before voting.

AUTHORITY:

Title 26 O.S. Supp. 2011, Section 2-107. Secretary of the State Election Board.

COMMENT PERIOD:

Written comments will be accepted until the conclusion of the public hearing on Friday, March 4, 2011. Written comments may be delivered to the State Election Board office or may be mailed. Comments also may be presented orally during the hearing. Mailing Address: State Election Board, P. O. Box 53156, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held Friday, March 4, 2011, at 10 a.m. in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed amendments are available in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available in the State Election Board office on and after February 15, 2011.

CONTACT PERSON:

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

ADDITIONAL INFORMATION:

n/a

[OAR Docket #11-15; filed 1-6-11]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 35. ELECTION CONDUCT**

[OAR Docket #11-16]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

Subchapter 3. County Election Board Responsibilities [AMENDED]

Subchapter 5. Instructions for Precinct Election Officials [AMENDED]

Subchapter 11. Election Law Violations [NEW]

SUMMARY:

In order to implement the requirements of the law enacted by the approval of State Question 746, amendments are proposed in several Sections to include the new "proof of identity" language and to list documents that meet the requirements of the new law as proof of identity as well as to remove references to the former voter identification requirements that were repealed by State Question 746.

An amendment is proposed to include language from SB 1921 concerning the change in the fine for conviction of a misdemeanor from \$1,000 to \$10,000.

Amendments proposed in several Sections are needed to change the name of the election administration software used by the County Election Boards. The State Election Board is currently developing and implementing a new-generation election administration software system, known as MESA (Modern Election Support Application), to replace the

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hardware and software system known as OEMS (Oklahoma Election Management System).

Also included in State Question 746 is language that lengthens from 24 days to 90 days the amount of time a uniformed services member or a person who has been living and working overseas has after returning home to vote in person at his or her polling place without being registered.

Several Sections concerning provisional ballots are amended to include a new reason for casting a provisional ballot during in-person absentee voting, also known as early voting. Because of new functionality in the MESA software, it is possible now to give credit for voting to in-person absentee voters immediately and also to see that a voter already has received credit for voting by absentee ballots in the election, either by returning a mail absentee ballot or voting on an earlier day of in-person absentee voting. Amendments allow an in-person absentee voter who appears to have credit for voting by absentee ballot to cast a provisional ballot if the voter denies having already voted. The amended Sections provide guidance for investigating such claims and deciding whether to count such a provisional ballot.

A new Subchapter is proposed to include information on the election law violations listed in Title 26 of the Oklahoma Statutes, as well as penalties upon conviction for those violations.

AUTHORITY:

Title 26 O.S. Supp. 2011, Section 2-107. Secretary of the State Election Board.

COMMENT PERIOD:

Written comments will be accepted until the conclusion of the public hearing on Friday, March 4, 2011. Written comments may be delivered to the State Election Board office or may be mailed. Comments also may be presented orally during the hearing. Mailing Address: State Election Board, P. O. Box 53156, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held Friday, March 4, 2011, at 10 a.m. in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed amendments are available in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available in the State Election Board office on and after February 15, 2011.

CONTACT PERSON:

Suzanne Cox, Publications Editor, State Election Board.
(405)521-2391 scox@election.ok.gov

ADDITIONAL INFORMATION:

n/a

[OAR Docket #11-16; filed 1-6-11]

TITLE 230. STATE ELECTION BOARD CHAPTER 40. TYPES OF ELECTIONS

[OAR Docket #11-17]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Special Elections [AMENDED]

Subchapter 7. School Elections [AMENDED]

SUMMARY:

An amendment is proposed in one Section in Subchapter 3 to correct a long-standing error. The section incorrectly states that the Governor is authorized to call a special election to fill a vacancies in "state offices." This is not correct. Most vacancies in state offices are filled by appointment. The Governor is authorized to call special elections to fill vacancies in the State Senate or State House of Representatives.

Amendments are proposed to the procedure set out in Subchapter 7 for school districts to close split precincts within their boundaries under certain narrow circumstances. When this procedure was originally drafted several years ago, the addresses of many voters were still not assigned to school districts in the County Election Board's Street Guide software. In the ensuing years, much has been accomplished in this area and in most counties the majority of voters are assigned to school districts. The procedure is amended to allow the superintendent to skip the step of reviewing voter registration lists for unassigned voters who may live within the school district if all voters in the precinct have been assigned to school districts. This step is still required if any unassigned voters in the precinct may live within the school district's boundaries.

AUTHORITY:

Title 26 O.S. Supp. 2011, Section 2-107. Secretary of the State Election Board.

COMMENT PERIOD:

Written comments will be accepted until the conclusion of the public hearing on March 4, 2011. Written comments may be delivered to the State Election Board office or may be mailed. Comments also may be presented orally during the hearing. Mailing Address: State Election Board, P. O. Box 53156, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held March 4, 2011, at 10 a.m. in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed amendments are available in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available in the State Election Board office on and after February 15, 2011.

CONTACT PERSON:

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

ADDITIONAL INFORMATION:

n/a

[OAR Docket #11-17; filed 1-6-11]

**TITLE 230. STATE ELECTION BOARD
CHAPTER 50. AUTOMATED SYSTEMS**

[OAR Docket #11-18]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 3. Voting Devices and Data Processing [AMENDED]
- Subchapter 9. Telephone Voting System [REVOKED]

SUMMARY:

Amendments are proposed to update the Purpose and Definitions Sections of this Chapter. The original Purpose Section was written as the Oklahoma Election Management System was being put in place in the early 1990s. OEMS is a unified system of specific hardware and software for the administration and conduct of elections in this state. The State Election Board is in the process of developing and implementing a new generation software system to replace OEMS. The new system is called MESA (Modern Election Support Application). The State Election Board is also in the process of purchasing a new, modern voting device system to replace the Optech IIIP-E system that has been in continuous use since 1992.

Amendments proposed in Subchapter 3 will revoke the rules in Part 9 and Part 11, effective January 1, 2012. These rules deal specifically with the programming and testing of the Optech IIIP-E voting devices. New rules will be promulgated to cover these activities with the new voting device system, and they will be codified in new Subchapters.

The rules in Subchapter 9, which concern the use of the telephone voting system are being revoked, effective January 1, 2012. The telephone voting system, which has been used in Oklahoma for several years to meet the accessibility requirements of the federal Help America Vote Act of 2002, will be replaced with an integrated component of the new

optical scan voting device system currently being purchased for deployment statewide in 2012.

AUTHORITY:

Title 26 O.S. Supp. 2011, Section 2-107. Secretary of the State Election Board.

COMMENT PERIOD:

Written comments will be accepted until the conclusion of the public hearing on March 4, 2011. Written comments may be delivered to the State Election Board office or may be mailed. Comments also may be presented orally during the hearing. Mailing Address: State Election Board, P. O. Box 53156, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held March 4, 2011, at 10 a.m. in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed amendments are available in the office of the State Election Board, Room B6, State Capitol Building, Oklahoma City.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available in the State Election Board office on and after February 15, 2011.

CONTACT PERSON:

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

ADDITIONAL INFORMATION:

n/a

[OAR Docket #11-18; filed 1-6-11]

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

[OAR Docket #11-19]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 390:10-1-2 [AMENDED]
- 390:10-1-3 [AMENDED]
- 390:10-1-5 [AMENDED]
- 390:10-1-7 [AMENDED]

SUMMARY:

Amendments are necessary to clarify statutory certification and employment procedures and to state CLEET certification procedures relating to inactive officers. Amendments also clarify disciplinary procedures relating to officers who work while under administrative suspension.

Notices of Rulemaking Intent

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kimberly Richey, at the above address, before the close of the comment period on March 10, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 3, 2011, at the CLEET offices and web address listed above.

CONTACT PERSON:

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

[OAR Docket #11-19; filed 1-6-11]

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

[OAR Docket #11-20]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Basic Academy Programs

390:15-1-2 [AMENDED]

390:15-1-9 [AMENDED]

390:15-1-13 [AMENDED]

Subchapter 3. Collegiate Officer Program

390:15-3-1 [AMENDED]

390:15-3-6 [AMENDED]

390:15-3-8 [AMENDED]

390:15-3-10 [AMENDED]

SUMMARY:

Amendments are non-substantial and necessary to correct and clarify current academy and collegiate officer program procedures. Amendments also state and clarify statutory certification requirements and clarify cadet attendance policies.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kimberly Richey, at the above address, before the close of the comment period on March 10, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 3, 2011, at the CLEET offices and web address listed above.

CONTACT PERSON:

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

[OAR Docket #11-20; filed 1-6-11]

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

[OAR Docket #11-21]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 390:20-1-2 [AMENDED]
- 390:20-1-3 [AMENDED]
- 390:20-1-3.1 [AMENDED]

SUMMARY:

Amendments are necessary to address recent statutory changes and state current CLEET procedure and policy relating to academic performance and academy procedures. Amendments provide CLEET more flexibility in appointing academy coordinators and

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kimberly Richey, at the above address, before the close of the comment period on March 10, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 3, 2011, at the CLEET offices and web address listed above.

CONTACT PERSON:

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

[OAR Docket #11-21; filed 1-6-11]

**TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING
CHAPTER 25. CONTINUING LAW ENFORCEMENT EDUCATION**

[OAR Docket #11-22]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 390:25-1-3 [AMENDED]
- 390:25-1-4 [AMENDED]
- 390:25-1-9 [AMENDED]
- 390:25-1-14 [AMENDED]
- 390:25-1-19 [AMENDED]

SUMMARY:

Amendments are non-substantive and necessary to clarify enrollment procedures and correct inaccurate statutory references. Changes also relate to instructor development, and correct CLEET specialized instructor development certification subject areas. Lastly, amendments clarify grounds for disciplinary actions involving individuals with instructor certifications.

AUTHORITY:

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

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kimberly Richey, at the above address, before the close of the comment period on March 10, 2011.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 3, 2011, at the CLEET offices and web address listed above.

CONTACT PERSON:

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

[OAR Docket #11-22; filed 1-6-11]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING CHAPTER 27. POLICE OFFICER ANNUAL FIREARMS REQUALIFICATION

[OAR Docket #11-23]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

390:27-1-2 [AMENDED]

SUMMARY:

Amendment is necessary to clarify instructor qualification.

AUTHORITY:

Council on Law Enforcement Education and Training; 70 O.S., Section 3311 (B)(14), and 70 O.S., Section 3311, et seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kimberly Richey, at the above address, before the close of the comment period on March 10, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 3, 2011, at the CLEET offices and web address listed above.

CONTACT PERSON:

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

[OAR Docket #11-23; filed 1-6-11]

TITLE 390. COUNCIL ON LAW ENFORCEMENT EDUCATION AND TRAINING CHAPTER 30. CDS DETECTOR DOG CERTIFICATION

[OAR Docket #11-24]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

390:30-1-5 [AMENDED]

390:30-1-6 [AMENDED]

SUMMARY:

Amendment are non-substantial and necessary to update rules to reflect current licensing process. Amendment will allow CLEET to address minimum standards as required by 70 O.S. 3311(L)(2).

AUTHORITY:

Council on Law Enforcement Education and Training; 20 O. S., Section 1313.2, 70 O.S., Section 3311 (B)(9), 70 O.S., Section 3311(L)(2), and 70 O.S., Section 3311, et seq.

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this

information in writing to Kimberly Richey, at the above address, before the close of the comment period on March 10, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 3, 2011, at the CLEET offices and web address listed above.

CONTACT PERSON:

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

[OAR Docket #11-24; filed 1-6-11]

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

[OAR Docket #11-25]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. License Requirements
 - 390:35-5-2 [AMENDED]
 - 390:35-5-3 [AMENDED]
 - 390:35-5-11 [AMENDED]
- Subchapter 7. Application Procedure
 - 390:35-7-6 [AMENDED]
 - 390:35-7-7 [AMENDED]
- Subchapter 13. Use of Firearms
 - 390:35-13-1 [AMENDED]
- Subchapter 15. Training and Standards Requirements
 - 390:35-15-7 [AMENDED]

SUMMARY:

Amendments reflect recent statutory changes to private security licensing fee structure and licensing periods. (Fees increased pursuant to 2010 amendments to 59 O.S., Section 1750.6) Changes address disciplinary action involving licensees who continue to work following suspension and extend period of temporary license. Amendments also clarify the types of firearms permissible under CLEET rules. Remaining changes are non-substantial and necessary to reflect current CLEET licensing procedures.

AUTHORITY:

Council on Law Enforcement Education and Training; 59 O.S., Section 1750.3(B)(1); 59 O.S., Section 1750.1 et seq., and 70 O.S., Section 3311(A).

COMMENT PERIOD:

Persons wishing to make written or oral comments may do so by 4:00 p.m. on March 10, 2011, at CLEET, 2401 Egypt

Road, Ada, Oklahoma 74820-0669, Attn: Kimberly Richey, or by e-mail to rules@cleet.state.ok.us.

PUBLIC HEARING:

Public hearings will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held at 10:00 a.m. on March 10, 2011, at CLEET, 2401 Egypt Road, Ada, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

CLEET requests that business entities affected by these proposed rule changes provide CLEET, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as labor, reporting, professional services or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Kimberly Richey, at the above address, before the close of the comment period on March 10, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be issued and made available on February 3, 2011, at the CLEET offices and web address listed above.

CONTACT PERSON:

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

[OAR Docket #11-25; filed 1-6-11]

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 12. ALLIED PROFESSION PEER ASSISTANCE PROGRAM**

[OAR Docket #11-29]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 435:12-1-1. Purpose [NEW]
- 435:12-1-2. Definitions [NEW]
- 435:12-1-3. Allied Pe r Assistance Program [NEW]
- 435:12-1-4. Allied Professional Peer Assistance Committee(s) [NEW]
- 435:12-1-5. Duties of Program Coordinator(s) [NEW]
- 435:12-1-6. Eligibility for Acceptance into the Program [NEW]
- 435:12-1-7. Requirements of Participants [NEW]
- 435:12-1-8. Discharge from Program [NEW]

Notices of Rulemaking Intent

SUMMARY:

The proposed rules are proposed to comply with a new law in Title 59 O.S., 518.1, the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act. The Allied Professional Peer Assistance Program is being created to aide in the rehabilitation allied medical professionals whose competency may be compromised because of the abuse of drugs or alcohol.

AUTHORITY:

Title 59 O.S., Section 518.1 (D), State Board of Medical Licensure and Supervision

COMMENT PERIOD:

The comment period will run from February 1, 2011 to March 4, 2011. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on March 10, 2011, 9:00 a.m. at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than March 4, 2011.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available after February 1, 2011 at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, 73015.

CONTACT PERSON:

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

[OAR Docket #11-29; filed 1-7-11]

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

[OAR Docket #11-49]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Continuing education [AMENDED]

SUMMARY:

The proposed amendments clarify the types of continuing education that may be submitted and update the procedures for submitting continuing education for approval for Physical Therapists and Physical Therapist Assistants.

AUTHORITY:

TITLE 59 O.S., §§ 887.4, 887.5, 887.12, State Board of Medical Licensure and Supervision

COMMENT PERIOD:

The comment period will run from February 1, 2011 to March 4, 2011. Written comments may be sent to the office of the Board, PO Box 18256, Oklahoma City, OK 73154-0256.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on March 10, 2011, 9:00 a.m. at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma. Written notice of intent to make oral comment must be received by this office no later than March 4, 2011.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and available after February 1, 2011 at the office of the Board, 101 N.E. 51st Street, Oklahoma City, Oklahoma, 73105.

CONTACT PERSON:

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

[OAR Docket #11-49; filed 1-12-11]

TITLE 460. DEPARTMENT OF MINES CHAPTER 10. NON-COAL RULES AND REGULATIONS

[OAR Docket #11-06]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Non-Coal Rules and Regulations
[AMENDED]

SUMMARY:

Due to a previously unreported fatality by a mining company, the Department is amending this Chapter ensure that whenever the loss of life or serious injury occurs in or about a non-coal mine it shall be the duty of the operator to report such accident without delay so that the Department can investigate the accident and determine the safety of the mine. This change will ensure that the operator knows there will be a consequence for waiting or for not reporting a serious injury or loss of life to the state in a timely manner.

AUTHORITY:

45 O.S. Sections 1.5, 418, 435, and 732, et seq., 75 O.S. Section 302 et seq., Oklahoma Mining Commission.

COMMENT PERIOD:

From February 1, 2011 through March 5, 2011, the public may present their views, either orally or in writing, to the contact person listed below.

PUBLIC HEARING:

Public Hearings will be held on March 8, 2011, at the Kiamichi Vo-Tech, McAlester, Ok, 301 Kiamichi Drive, in the Heating and Air classroom, starting at 6:30 p.m. and at the Department of Mines, 2915 N. Classen Blvd., Ste. 213, Oklahoma City, OK, beginning at 2:30 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by this proposed amendment are requested to provide the agency with information, in dollars if possible, about the increase in the level of the direct costs, indirect costs, or other costs expected to be incurred by that business entity due to compliance with the proposed change. Business entities may submit this information in writing from February 1, 2011, through March 5, 2011, to the contact person listed below.

COPIES OF THE PROSED RULES:

Copies of the proposed rules may be obtained from the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person listed below.

CONTACT PERSON:

Cathy Frank, Legal officer, Oklahoma Department of Mines, Wagoner Field Office, 1102 W. Cherokee, Ste D., Wagoner, OK 74467, (918) 485-3999.

[OAR Docket #11-06; filed 1-5-11]

**TITLE 460. DEPARTMENT OF MINES
CHAPTER 15. UNDERGROUND COAL AND ASPHALT**

[OAR Docket #11-07]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSEED RULE:

Chapter 15. Underground Coal And Asphalt [AMENDED]

SUMMARY:

This amendment is being proposed ensure that a blaster's certification is valid for two years but that after the two years to obtain a renewal a current OSBI background check must be submitted prior to the re-issuance. A blaster certification or re-certification shall not be granted to any persons with a felony conviction.

AUTHORITY:

45 O.S. Sections 1.5 et seq.; 75 O.S. Sections 302 et seq., Oklahoma Mining Commission.

COMMENT PERIOD:

From February 1, 2011, through March 5, 2011, the public may present their views, either orally or in writing, to the contact person listed below.

PUBLIC HEARING:

Public Hearings will be held on March 8, 2011, at the Kiamichi Vo-Tech, McAlester, Ok, 301 Kiamichi Drive, in the Heating and Air classroom, 6:15 p.m. and at the Department of Mines, 2915 N. Classen Blvd., Ste 213, Oklahoma City, OK, starting at 2:15 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed changes are requested to provide the agency with information, in the dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be occurred by that business entity due to compliance with these propped changes. Business entities may submit this information in writing from February 1, 2011, through March 5, 2011 to the below listed contact person.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the below listed contact person:

CONTACT PERSON:

Cathy Frank, Legal officer, Oklahoma Department of Mines, Wagoner Field Office, 1102 W. Cherokee, Ste D., Wagoner, OK 74467, (918) 485-3999.

[OAR Docket #11-07; filed 1-5-11]

**TITLE 460. DEPARTMENT OF MINES
CHAPTER 25. OKLAHOMA EXPLOSIVES AND BLASTING REGULATIONS**

[OAR Docket #11-08]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 25. Oklahoma Explosives And Blasting Regulations [AMENDED]

SUMMARY:

This change is being proposed to ensure that a blaster's certification has a valid time period of two years and that after the two years, upon renewal, a current OSBI background check must be submitted prior to re-issuance. A blaster certification certificate or re-certification certificate shall not be granted to any person with a felony conviction.

AUTHORITY:

63 O.S. Section 123.1 et seq., 45 O.S. Section 1.5, Oklahoma Mining Commission

Notices of Rulemaking Intent

COMMENT PERIOD:

From February 1, 2011 through March 5, 2011, the public may present their views, either orally or in writing, to the contact person listed below.

PUBLIC HEARINGS:

Public Hearings will be held on March 8, 2011, at the Kiamichi Vo-Tech, 301 Kiamichi Drive, McAlester, Ok, in the Heating and Air classroom, starting at 6:00 p.m. and at the Oklahoma Department of Mines, 2915 N. Classen, Ste 213, Oklahoma City, OK 73106, beginning at 2:00 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by this proposed change 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 that business entity due to compliance with the proposed change. Business entities may submit this information in writing from February 1, 2011 through March 5, 2011, to the contact person listed below.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the below listed contact person.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person listed below.

CONTACT PERSON:

Cathy Frank, Legal officer, Oklahoma Department of Mines, Wagoner Field Office, 1102 W. Cherokee, Ste D., Wagoner, OK 74467, (918) 485-3999.

[OAR Docket #11-08; filed 1-5-11]

TITLE 460. DEPARTMENT OF MINES CHAPTER 30. COAL COMBUSTION BY-PRODUCT STANDARDS

[OAR Docket #11-09]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 30. Coal Combustion By-Product Standards
[AMENDED]

SUMMARY:

Pursuant to 45 O.S. Section 940, The Oklahoma Legislature provided that all fly ash, bottom ash, or any other such material produced by coal combustion, power generating facilities and kiln dust generated from cement producing entities, and the placement of these by-products be constructively reutilized, or disposed of in any active or inactive coal or noncoal mining operations, regulated by the Department of Mines for permitting, bonding, performance standards, inspection and enforcement procedures for the health, safety, and welfare of the citizens and the environment. The permitting and disposal

standards were promulgated in 2003 and the Department is now initiating new standards to complete the regulation process. These new Subchapters include Bonding, State Inspections, State Enforcements, Civil Penalties, Individual Civil Penalties and Alternative Enforcement Also, included are additional parameters for monitoring water and water wells and CCB placement to ensure that proper environmental data is gathered prior to, during, and after placement on the sites. This monitoring is to ensure the beneficial use of the land following complete reclamation.

AUTHORITY:

45 O.S. Sections 1.5, 732, 789, and 940; Oklahoma Mining Commission.

COMMENT PERIOD:

From February 1, 2011 through March 5, 2011, the public may present their views, either orally or in writing, to the contact person listed below.

PUBLIC HEARING:

Public hearings will be held on March 8, 2011, at the Kiamichi Vo-Tech, McAlester, Ok, 301 Kiamichi Drive, in the Heating and Air classroom, starting at 6:45 p.m. and at the Department of Mines, 2915 N. Classen Blvd., Ste 213, Oklahoma City, Ok, starting at 2:45 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed changes are requested to provide the agency with information, in the dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by that business entity due to compliance with these proposed changes. Business entities may submit this information in writing from February 1, 2011, through March 5, 2011, to the contact person listed below.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person listed below.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement may be obtained from the contact person listed below.

CONTACT PERSON:

Cathy Frank, Legal officer, Oklahoma Department of Mines, Wagoner Field Office, 1102 W. Cherokee, Ste D., Wagoner, OK 74467, (918) 485-3999.

[OAR Docket #11-09; filed 1-5-11]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #11-45]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Fees
535:1-11-1. Annual licenses, permits and renewals
[AMENDED]

SUMMARY:

The revision in 535:1-11-1 increases the fee for pharmacist renewal from \$75 to \$100, as authorized in Title 59 O.S. Section 353.11. This fee is lower than the Texas [\$305/2 yrs], less than MO [\$220/2 yrs], Kansas and Arkansas [\$150/yr] and Colorado [\$151/yr].

Non-resident pharmacies will be required to pay the inspection fee to cover the cost of record inspection. This is not a change in the fee but equal enforcement for in and out of state.

After 12/31/2011, will be the first year that preceptor will become an annual fee and renew with the pharmacist license and the first year than training areas will become an annual fee and renew with the pharmacy license. By processing these two together on line it will save about \$3.25 per registrant in online licensing costs. It will additionally eliminate the risk of these entities not keeping their preceptor and training area permit current by mistake.

AUTHORITY:

Oklahoma State Board of Pharmacy is the regulatory authority under Title 59 O.S., Sec. 353.3, 353.5 - 353.7, 353.9, 353.11, 353.18; 353.20, 353.22, 353.24 - 353.26, 353.29, 353.30; Title 75 O.S., Section 302, 305, 307, and 309; Title 63 O.S., Sec 2-201, 2-208 and 2-210; and Title 51 Sec. 24 A.5 (3).

COMMENT PERIOD:

The comment period will run from February 1, 2011 through March 3, 2011, at 12:01 p.m. Written comments may be sent to the offices of the Board, 4545 N Lincoln Boulevard, Suite 112, Oklahoma City, OK 73105-3488.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views on March 3, 2011, at 12:01 p.m. in our office at 4545 Lincoln Boulevard, Suite 112, Oklahoma City, OK 73105-3488. Written notice of intent to make oral comment must be received by this office no later than March 3, 2011, at 8:00 a.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Board, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees and indirect costs such as record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with the proposed rule(s).

COPIES OF PROPOSED RULES:

Proposed rules are available for review in our office at 4545 N Lincoln Blvd, Suite 112, Oklahoma City, OK 73105-3488. Copies may be provided at a cost of 25 cents per page.

RULE IMPACT STATEMENT:

A rule impact statement will be prepared and will be available on and after February 1, 2011, at the location listed

above for copies of the proposed rules. It may be reviewed in our office or copies may be obtained for 25 cents per page.

CONTACT PERSON:

Mr. John A. Foust, Executive Director, Oklahoma State Board of Pharmacy located at 4545 Lincoln Boulevard, Suite 112, Oklahoma City, OK 73105-3488. The Board phone number is (405) 521-3815 and the FAX number is (405) 521-3758.

[OAR Docket #11-45; filed 1-7-11]

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

[OAR Docket #10-1471]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Organization of the Department of Public Safety
 - 595:1-1-3. Function of each division which deals directly with and affects the public [AMENDED]
- Subchapter 9. Inspection and Copying of Final Orders, Decisions, Opinions and Open Records
 - 595:1-9-1. Purpose [AMENDED]
 - 595:1-9-3. Records of the Department of Public Safety [AMENDED]
 - 595:1-9-4. Fees established by the Department pursuant to law [AMENDED]
 - 595:1-9-5. Obtaining open records [AMENDED]
 - 595:1-9-6. Summary of driving record [AMENDED]
- 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]

SUMMARY:

Amendments to 595:1-1 and 1-9 would update information related to the organization of the Department and records of the Department. 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 actions are amendments to existing rules and creation of new rules.

The circumstances which created the need for these rules are the need to update information related to the organization of the Department and records of the Department and the passage of EHB 2264 (2010) which creates a revenue stream for the Revolving Fund.

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

Notices of Rulemaking Intent

AUTHORITY:

Commissioner of Public Safety; 27A O.S., § 1-1-203; 51 O.S., §§ 24A.1 et seq.; 47 O.S., §§ 2-108, 2-123, 2-126, 6-117, and 754; 74 O.S., § 500.6A(C); 75 O.S., §§ 302, 305, and 307

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Thursday, March 3, 2011.

PUBLIC HEARING:

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Thursday, March 3, 2011, in accordance with 75 O.S. § 303(C).

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. §303(D), and may be obtained from the contact person.

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

[OAR Docket #10-1471; filed 12-29-10]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 10. CLASS D DRIVER LICENSES AND IDENTIFICATION CARDS AND MOTOR LICENSE AGENT PROCEDURES

[OAR Docket #10-1472]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Procedures for Obtaining and Maintaining a Driver License or Identification Card

Part 1. Purpose

595:10-1-1. Purpose [AMENDED]

Part 2. Application for Initial Driver License

595:10-1-3. Procedures for obtaining an initial driver license [AMENDED]

595:10-1-5. Graduated driver license; persons under eighteen (18) years of age [AMENDED]

Part 3. Driver License Renewal

595:10-1-11. ~~Where no notice received or license expired~~
Notice of pending expiration of driver license or identification card [NEW]

595:10-1-12. Oklahoma licensee temporarily residing out of the state [AMENDED]

Part 5. Driver License Replacement

595:10-1-19. Oklahoma licensee temporarily residing out of the state [REVOKED]

Part 7. Identification Cards

595:10-1-25. Procedure for obtaining an identification card [AMENDED]

595:10-1-28. Oklahoma identification card holder temporarily residing out of the state [AMENDED]

Part 13. Motor License Agents

595:10-1-50. Identification required [AMENDED]

595:10-1-51. Operational procedures [AMENDED]

595:10-1-56. Renewal of driver license or identification cards [AMENDED]

595:10-1-57. Replacement of driver license or identification card [AMENDED]

595:10-1-62. Free driver licenses and identification cards ~~for certain veterans~~ [AMENDED]

595:10-1-63. Corrections [AMENDED]

Part 19. Driver License and Identification Card Content

595:10-1-92. Driving restriction codes [AMENDED]

Subchapter 3. Examination

595:10-3-9. Skills examination [AMENDED]

Subchapter 13. Parent-taught Driver Education

595:10-13-4. Requirements and application for certification as a parent-taught driver education course; certification renewal [AMENDED]

595:10-13-5. Requirements for parents and students [AMENDED]

595:10-13-8. Prescribed forms [AMENDED]

595:10-13-9. Termination, cancellation, or denial of certification or acceptance [AMENDED]

SUMMARY:

Amendments to this chapter would update procedures relating to the issuance of driver licenses and identification cards, motor license agent activities, and parent-taught driver education.

The proposed actions are amendments to existing rules.

The circumstances which created the need for these rules are update information related to the issuance of driver licenses and identification cards, motor license agent activities, and parent-taught driver education and to comply with ESB 1908 (2010).

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

AUTHORITY:

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

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted up to the close of the public hearing.

PUBLIC HEARING:

A public hearing regarding these proposed rules will be held at 1:30 p.m., Wednesday, March 23, 2011, in the Classroom E in the basement of the Robert Lester Training Center, 3600 N. Martin Luther King, Oklahoma City, OK. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

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

[OAR Docket #10-1472; filed 12-29-10]

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

[OAR Docket #10-1473]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Commercial Driver Licensing
- Part 2. Application for Initial Commercial Driver License
- 595:11-1-14. Adoption by reference [AMENDED]
- 595:11-1-15. Applicability, substitutions, limitations, and additions to federal regulations adopted by reference [AMENDED]

Part 3. Commercial Driver License Renewal - in Person
595:11-1-21. Procedure for obtaining a renewal commercial driver license in person [AMENDED]

Part 9. Commercial Driver License Card Content
595:11-1-61. Information displayed on commercial driver licenses [AMENDED]

595:11-1-62. Driving restriction codes [AMENDED]

Subchapter 3. Examination

595:11-3-1. Purpose [AMENDED]

595:11-3-2. Study guide [AMENDED]

595:11-3-6. Written examination [AMENDED]

595:11-3-7. Pre-trip inspection examination of commercial motor vehicles [AMENDED]

595:11-3-8. Skills examination [AMENDED]

SUMMARY:

Amendments to this chapter would update procedures relating to the issuance of commercial driver licenses.

The proposed actions are amendments to existing rules.

The circumstances which created the need for these rules are update information related to the issuance of commercial driver licenses.

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

AUTHORITY:

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

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted up to the close of the public hearing.

PUBLIC HEARING:

A public hearing regarding these proposed rules will be held at 1:30 p.m., Wednesday, March 23, 2011, in the Classroom E in the basement of the Robert Lester Training Center, 3600 N. Martin Luther King, Oklahoma City, OK. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

Notices of Rulemaking Intent

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

[OAR Docket #10-1473; filed 12-29-10]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 15. FINANCIAL RESPONSIBILITY

[OAR Docket #10-1474]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Vehicle Liability Insurance Cancellation [REVOKED]

Subchapter 3. Oklahoma Compulsory Insurance Verification System [NEW]

SUMMARY:

Amendments to this subchapter would implement the provisions of HB 3115 (2006).

The proposed actions are amendments to existing rules and creation of new rules.

The circumstance which created the need for these rules is the passage and approval of HB 3115 (2006) and the subsequent creation of the Oklahoma Compulsory Insurance Verification System.

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

AUTHORITY:

Commissioner of Public Safety; 47 O.S. §§ 7-101, 7-600.2, 7-608, and 7-609.

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Thursday, March 3, 2011.

PUBLIC HEARING:

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Thursday, March 3, 2011, in accordance with 75 O.S. § 303(C).

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor,

professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

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

[OAR Docket #10-1474; filed 12-29-10]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 20. INSPECTION AND EQUIPMENT FOR MOTOR VEHICLES [REVOKED]

[OAR Docket #10-1474A]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. General Provisions [REVOKED]

Subchapter 3. Emission and Mechanical Inspection of Vehicles [REVOKED]

Subchapter 5. Inspection Procedures [REVOKED]

Subchapter 7. Inspection Stickers and Monthly Tab Inserts for Windshield and Trailer/motorcycle [REVOKED]

Subchapter 9. Class AE Inspection Station, Vehicle Emission Anti-Tampering Inspection [REVOKED]

Subchapter 11. Annual Motor Vehicle Inspection and Emission Anti-Tampering Inspection Records and Reports [REVOKED]

Appendix EE. Tulsa Emission Control Area [REVOKED]

Appendix FF. Oklahoma City Emission Control Area [REVOKED]

SUMMARY:

Amendments to this subchapter would implement the provisions of HB 1081 (2001) which repealed the vehicle inspection laws.

The proposed actions are amendments to existing rules.

The circumstance which created the need for these rules is the passage and approval of HB 1081 (2001) which repealed the vehicle inspection laws.

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

AUTHORITY:

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

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Thursday, March 3, 2011.

PUBLIC HEARING:

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Thursday, March 3, 2011, in accordance with 75 O.S. § 303(C).

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

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

[OAR Docket #10-1474A; filed 12-29-10]

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

[OAR Docket #10-1475]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED 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]

SUMMARY:

Amendments to 595:25-1-12 clarify the definition of a General Class wrecker. Amendments to 25-5-2 update the 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.

AUTHORITY:

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

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Thursday, March 3, 2011.

PUBLIC HEARING:

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Thursday, March 3, 2011, in accordance with 75 O.S. § 303(C).

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

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

[OAR Docket #10-1475; filed 12-29-10]

Notices of Rulemaking Intent

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 30. SIZE AND WEIGHT PERMITS

[OAR Docket #10-1476]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

595:30-1-1. Purpose [AMENDED]

595:30-1-2. Applicability; adoption by reference [AMENDED]

Subchapter 3. Size and Weight Permit Load

595:30-3-2. A permit is a legal document; permit types [AMENDED]

595:30-3-3. Requesting, obtaining, and paying for a permit [AMENDED]

595:30-3-4. Conditions and restrictions [AMENDED]

595:30-3-5. Method of placing permit in suspension where conditions exist beyond the control of the permit holder [AMENDED]

595:30-3-8. Provisional permit book [AMENDED]

595:30-3-13. Governmental agencies [AMENDED]

595:30-3-16. "Oversize Load" sign and warning flags [AMENDED]

595:30-3-17. Requirements for escort vehicles and escort vehicle operators [AMENDED]

595:30-3-17.1. Certification of operators of escort vehicles for hire [AMENDED]

595:30-3-18. Oversize vehicles and loads [AMENDED]

595:30-3-19. Manufactured homes and industrialized housing [AMENDED]

595:30-3-22. Agriculture permits [AMENDED]

Subchapter 5. Special Combination Vehicles

595:30-5-2. Issuance of permits [AMENDED]

SUMMARY:

Amendments to this subchapter would update and clarify requirements for issuance of size and weight permits.

The proposed actions are amendments to existing rules.

The circumstance which created the need for these rules is to ensure reliable service to motor carriers doing business in Oklahoma, ensure the safety of the motoring public in Oklahoma as it relates to the movement of oversize and overweight loads on the highways, to comply with state laws and rules of the Oklahoma Department of Transportation.

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

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 14-101 et seq.

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below.

Comments will be accepted up to the close of the public hearing.

PUBLIC HEARING:

A public hearing regarding these proposed rules will be held at 1:30 p.m., Tuesday, March 22, 2011, in the Classroom E in the basement of the Robert Lester Training Center, 3600 N. Martin Luther King, Oklahoma City, OK. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

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

[OAR Docket #10-1476; filed 12-29-10]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY CHAPTER 35. ENFORCEMENT OF OKLAHOMA MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS TRANSPORTATION ACT

[OAR Docket #10-1477]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

595:35-1-4. Adoption by reference [AMENDED]

SUMMARY:

Amendments to this chapter would adopt federal regulations by reference.

The proposed actions are amendments to existing rules.

The circumstance which created the need for these rules is to update adoptions by reference of federal regulations which the Department enforces.

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

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 230.4(1) and (2); 75 O.S., § 250.4(A)(8)

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Thursday, March 3, 2011.

PUBLIC HEARING:

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Thursday, March 3, 2011, in accordance with 75 O.S. § 303(C).

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

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

[OAR Docket #10-1477; filed 12-29-10]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 40. DRIVER TRAINING AND IMPROVEMENT**

[OAR Docket #10-1478]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking
PROPOSED RULES:

Subchapter 1. Driver Education Instruction

595:40-1-3. Driver education instructor permit/license [AMENDED]

595:40-1-4. Qualifications for instructors [AMENDED]

595:40-1-12. Insurance [AMENDED]

SUMMARY:

Amendments to this subchapter would clarify requirements for driver training schools and instructors, and motor vehicle accident prevention courses.

The proposed actions are amendments to existing rules.

The circumstance which created the need for these rules is to ensure reliable service to the citizens of Oklahoma.

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

AUTHORITY:

Commissioner of Public Safety; 47 O.S. §§ 6-105 and 802.

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted up to the close of the public hearing.

PUBLIC HEARING:

A public hearing regarding these proposed rules will be held at 2:30 p.m., Wednesday, March 23, 2011, in the Classroom E in the basement of the Robert Lester Training Center, 3600 N. Martin Luther King, Oklahoma City, OK. Anyone who wishes to speak must sign in at the door by 2:35 p.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

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

[OAR Docket #10-1478; filed 12-29-10]

Notices of Rulemaking Intent

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

[OAR Docket #10-1479]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED 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]

SUMMARY:

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.

AUTHORITY:

Commissioner of Public Safety; 47 O.S. § 2-108.47 O.S., §§ 2-108, 15-112(G), and 1113(A)

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Thursday, March 3, 2011.

PUBLIC HEARING:

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Thursday, March 3, 2011, in accordance with 75 O.S. § 303(C).

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

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

[OAR Docket #10-1479; filed 12-29-10]

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

[OAR Docket #10-1480]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED 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]

SUMMARY:

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.

AUTHORITY:

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

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Thursday, March 3, 2011.

PUBLIC HEARING:

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written

request is received by the contact person no later than 4:30 p.m., Thursday, March 3, 2011, in accordance with 75 O.S. §303(C).

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

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

[OAR Docket #10-1480; filed 12-29-10]

**TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 65. OKLAHOMA TRAFFIC COLLISION REPORT**

[OAR Docket #11-11]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Chapter 65. Oklahoma Traffic Collision Report [NEW]

SUMMARY:

Creation of this chapter would establish procedures relating to the reporting of traffic collisions to be used by all law enforcement agencies in Oklahoma.

The proposed actions are the creation of new rules.

The circumstance which created the need for these rules is to provide consistency and clarity in the reporting of traffic collisions.

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

AUTHORITY:

Commissioner of Public Safety; 47 O.S. §§ 2-108 and 40-101.

COMMENT PERIOD:

Interested persons may present their views regarding these rules in writing to the contact person referenced below. Comments will be accepted until 4:30 p.m., Thursday, March 3, 2011.

PUBLIC HEARING:

A public hearing regarding these proposed rules has not been scheduled. A public hearing will be scheduled if written request is received by the contact person no later than 4:30 p.m., Thursday, March 3, 2011, in accordance with 75 O.S. § 303(C).

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person and within the comment period or at the public hearing, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the Department's website <http://www.dps.state.ok.us/rules/> or from the contact person.

RULE IMPACT STATEMENT:

A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and may be obtained from the contact person.

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

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

**TITLE 605. OKLAHOMA REAL ESTATE COMMISSION
CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES**

[OAR Docket #11-10]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

- Subchapter 3. Education and Examination Requirements
 - 605:10-3-3. [AMENDED]
 - 605:10-3-7. [AMENDED]
- Subchapter 5. Instructor and Entity Requirements and Standards
 - 605:10-5-1. [AMENDED]
 - 605:10-5-1.1. [AMENDED]
 - 605:10-5-2. [AMENDED]
 - 605:10-5-3. [AMENDED]

Notices of Rulemaking Intent

Subchapter 7. Licensing Procedures and Options

605:10-7-2. [AMENDED]

605:10-7-8. [AMENDED]

605:10-7-8.1. [AMENDED]

605:10-7-8.2. [AMENDED]

605:10-7-8.3. [NEW]

605:10-7-10. [AMENDED]

Subchapter 9. Broker's Operational Procedures

605:10-9-1. [AMENDED]

605:10-9-4. [AMENDED]

605:10-9-5. [AMENDED]

SUMMARY:

Permanent revisions to the Rules and Regulations are proposed as described herein. These proposed amendments affect real estate licensees, school entities and instructors, and the general public, and if promulgated will have an effective date of July 1, 2011. Proposed revisions are summarized as follows:

605:10-3-3. Proceedings upon application for a license Streamlining the application process by requiring all applications to be complete prior to scheduling and applicant for an examination.

605:10-3-7. Provisional sales associate postlicense education requirement Deleting unnecessary language and allowing for equivalent course content.

605:10-5-1. Approval of prelicense course offerings Adding additional requirement options for instructors to maintain their approved status as an instructor.

605:10-5-1.1. Approval of postlicense course offerings Amending language for further clarification; and eliminating the requirement for a postlicense instructor to instruct a postlicense course every 36 months in order to remain approved.

605:10-5-2. Approval of continuing education offerings Amending language for clarification; setting a time period for which an instructor approval is valid; and eliminating obsolete language.

605:10-5-3. Standards for Commission approved real estate courses Increasing the number of end-of-course examination questions that are administered by the entity (sales and postlicense course questions from 130 to 150 and broker course questions from 150 to 180); and increasing the entity's minimum pass rate for real estate students from 75% to 80%.

605:10-7-2. License terms and fees; renewals; reinstatements Amending language for clarification; adding language that makes reference to the requirement of a national criminal history check; adding language to clarify reinstatement requirements for an automatically revoked license due to nonpayment of an administrative fine; and amending remaining language for further clarification.

605:10-7-8. Corporation licensing procedures and requirements of good standing Amending an incorrect rule reference.

605:10-7-8.1. Partnership licensing procedures and requirements of good standing Amending an incorrect rule reference.

605:10-7-8.2. Association licensing procedures and requirements of good standing Amending an incorrect rule reference.

605:10-7-8.3. Sole Proprietor licensing procedures Adding a rule that describes the procedures for sole proprietor licensing.

605:10-7-10. Resident applicants currently or previously licensed in other jurisdictions Amending language to match other sections within the rule.

605:10-9-1. Place of business and broker requirements Requiring that each broker register for each place of business a physical business address and office telephone number so they can be located and/or contacted by the consumer.

605:10-9-4. Advertising Amending language for further clarification.

605:10-9-5. Broker change of address Amending heading to include "or office telephone number"; requiring the broker to notify the Commission when they add or delete the office telephone number; and indicating that there is no charge to add or delete a telephone number.

AUTHORITY:

Oklahoma Real Estate Commission; 59 O.S., Section 858-208

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:00 p.m. on March 4, 2011 at the following address:

Oklahoma Real Estate Commission
Shepherd Mall
2401 N. W. 23rd St., Suite 18
Oklahoma City, Oklahoma 73107-2431

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door.

Date, time and place of public hearing:

March 9, 2011 - 10:30 a.m.
Shepherd Mall
2401 N.W. 23rd St., Suite 18
Oklahoma City, Oklahoma 73107-2431

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review by the public between 8:00 a.m. and 4:30 p.m., Monday through Friday, (with the exception of legal holidays) at the following location:

Oklahoma Real Estate Commission
2401 N. W. 23rd St., Suite 18
Oklahoma City, Oklahoma 73107-2431

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303 (D), a rule impact statement will be prepared and available on January 28,

2011 at the Oklahoma Real Estate Commission (address and phone number listed above).

CONTACT PERSON:

Anne M. Woody, Executive Director - (405) 521-3387

[OAR Docket #11-10; filed 1-5-11]

Gubernatorial Approvals

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

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

**TITLE 150. OKLAHOMA DEPARTMENT OF
COMMERCE
CHAPTER 105. OKLAHOMA LOCAL
DEVELOPMENT AND ENTERPRISE ZONE
INCENTIVE LEVERAGE ACT**

[OAR Docket #11-05]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

150:105-1-2 [AMENDED]

150:105-1-4 [AMENDED]

GUBERNATORIAL APPROVAL:

December 27, 2010

[OAR Docket #11-05; filed 1-5-11]

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

[OAR Docket #11-28]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. Incorporation by Reference

252:205-3-1. [AMENDED]

GUBERNATORIAL APPROVAL:

December 27, 2010

[OAR Docket #11-28; filed 1-6-11]

**TITLE 770. OKLAHOMA DEPARTMENT OF
VETERANS AFFAIRS
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #10-1483]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. Organizational Structure

770:1-3-1. Program description [AMENDED]

Subchapter 5. Open Records Act

770:1-5-5. Access to records [AMENDED]

GUBERNATORIAL APPROVAL:

December 27, 2010

[OAR Docket #10-1483; filed 12-30-10]

**TITLE 770. OKLAHOMA DEPARTMENT OF
VETERANS AFFAIRS
CHAPTER 10. CENTER DIVISION
PROGRAM**

[OAR Docket #10-1484]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 1. General Provisions

770:10-1-1 [AMENDED]

770:10-1-2 [AMENDED]

770:10-1-3 [AMENDED]

770:10-1-4 [AMENDED]

770:10-1-5 [REVOKED]

770:10-1-6 [REVOKED]

770:10-1-7 [REVOKED]

GUBERNATORIAL APPROVAL:

December 27, 2010

[OAR Docket #10-1484; filed 12-30-10]

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

[OAR Docket #11-04]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions
87:10-1-2. Definitions [AMENDED]
Subchapter 13. Eligibility Requirements
87:10-13-3. Termination of participation [AMENDED]

AUTHORITY:

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

DATES:

Adoption:

November 16, 2010

Approved by Governor:

December 27, 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 emergency administrative rules are necessary to bring the administrative rules that govern the administration of the State's flexible benefits plan into compliance with the Patient Protection and Affordable Care Act, Public Law 111-148, enacted March 23, 2010, and the Health Care and Education Reconciliation Act, Public Law 111-152, enacted March 30, 2010, as implemented at 26 CFR 54.9815-2714, 29 CFR 2590.715-2714, 45 CFR 147.120, as published on May 13, 2010, in Volume 75, Number 92, Federal Register, 27122.

ANALYSIS:

These emergency administrative rules revise Subchapters 1 and 13 of Chapter 10 of Title 87 of the Oklahoma Administrative Code. Chapter 10 serves as the "Plan Document" for the administration of the flexible benefits plan for active Oklahoma state employees. These revisions are necessary to prevent the "Plan Document" from being in violation of federal law referenced above. Said revisions are limited to changes to the definition of "dependent" and striking a reference to "student status," which is no longer applicable.

CONTACT PERSON:

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

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING EMERGENCY RULES ARE
CONSIDERED PROMULGATED AND EFFECTIVE**

**UPON APPROVAL BY THE GOVERNOR AS SET
FORTH IN 75 O.S., SECTION 253(D):**

SUBCHAPTER 1. GENERAL PROVISIONS

87:10-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise, and wherever appropriate, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include the other gender.

"**Account**" means a record keeping account established on the books of the Plan Administrator.

"**Act**" means the Oklahoma State Employees Benefits Act, 74 O.S. Supp 1992, Section 1361 et seq.

"**Authorized Submission Procedure**" means an acceptable method of submitting enrollment and/or change documents which may include submission via electronic transmissions to the Plan Administrator.

"**Board**" means the Oklahoma State and Education Employees Group Insurance Board.

"**Cafeteria plan**" means an employer-maintained benefit plan under which participants are employees and the participants may choose between cash and nontaxable benefits, as defined in Internal Revenue Code Section 125(d) and regulations promulgated thereunder.

"**Change in Status**" means a change that a participant may be allowed to make during a Plan Year provided that the change is based on prevailing IRS guidance, is allowed by the Plan Administrator, and complies with all eligibility rules and consistency requirements.

"**COBRA**" means the Consolidated Omnibus Budget Reconciliation Act of 1985 as it applies to an employee's right to continue certain coverage under the Flexible Benefits Plan.

"**Dependent**" means the primary member's spouse (if not legally separated), including common law. Dependents also include a member's unmarried or married natural born child, a step child, an adopted child, or a foster child up to the child's ~~twenty fifth~~ [25th] ~~twenty-sixth~~ [26th] birthday, regardless of residence, provided that the member is primarily responsible for the child's support or a child under legal guardianship. This includes a stepchild or child who lives with the member in a regular parent-child relationship, or a child living with

Emergency Adoptions

~~the member in a normal parent-child relationship where the member has adopted the child, or has been appointed guardian by a court. It also includes a stepchild who does not live with the member, when the primary member's spouse is covered by the Plan and has been ordered by a court to provide health insurance for his/her children, regardless of residence. A child may also be covered regardless of age if the child is incapable of self-support because of mental or physical incapacity that existed prior to reaching age ~~twenty five~~ [25] ~~twenty-six~~ [26]. Coverage is not automatic and must be approved with a review of medical information. A disabled dependent deemed disabled by Social Security does not automatically mean that this disabled dependent will meet the Plan requirements. [74 O.S.Supp.2006, §1303(13)].~~

"Effective date of the plan" means January 1, 1990 or as restated.

"Employer" or **"Employing agency"** has the same meaning as **"Participating employer"** as defined in Section 1363(14) of Title 74.

"Enrollment period" means the period of time, as determined and announced by the Plan Administrator each Plan Year during which eligible employees shall make an election of benefits. The period of time shall end no later than thirty (30) days before the beginning of the Plan Year for which the elections are to be effective.

"Entry date" means the first day of the Plan Year except for an employee who first satisfies the requirements for eligibility during the Plan Year (including rehired employees), in which case the entry date shall be the first day of the month next following the satisfaction of the application requirements for eligibility, in accordance with 87:10-3-1.

"FMLA" means the Family and Medical Leave Act of 1993.

"Flexible Benefits Plan" means the Flexible Benefits Plan authorized pursuant to the State Employees Flexible Benefits Act as modified by the provisions under the State Employees Benefits Act.

"Flexible Benefits Plan Rules" means the rules promulgated by the Plan Administrator to implement and administer the State Employees Flexible Benefits Plan.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996.

"Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, 26 USC, I et seq. as amended from time to time.

"Irrevocability Rule" means the rule that requires an enrollment election in any Plan benefit to remain in force throughout the entire Plan Year.

"Period of coverage" means the Plan Year during which coverage of benefits under the Flexible Benefits Plan is available to a participant. An employee who becomes eligible to participate during a Plan Year may participate for a period lasting until the end of that Plan Year. In this case, the interval commencing on the employee's entry date and ending as of the last day of eligibility for that Plan Year.

"Permitted Exception" means an exception allowed to the Irrevocability Rule by the Plan. Any changes based on

these exceptions must be on account of and correspond with the underlying event.

"Plan Administrator" means the Oklahoma State Employees Benefits Council.

"QMCSO" means a Qualified Medical Child Support Order.

"Statutory nontaxable benefit" means a benefit provided to a participant under the Flexible Benefits Plan, the value of which is not included in the participant's gross income by a specific provision in the Internal Revenue Code and is permissible under the Flexible Benefits Plan in accordance with Section 125 of the Internal Revenue Code.

"USERRA" refers to the Uniformed Services Employment and Reemployment Rights Act of 1994.

SUBCHAPTER 13. ELIGIBILITY REQUIREMENTS

87:10-13-3. Termination of participation

(a) A participant will cease participation in the Flexible Benefits Plan as of the earliest of the following events:

- (1) The last day of the month of termination of employment with the employer; or
- (2) The last day of the month the participant ceases to be eligible to participate in the Flexible Benefits Plan; or
- (3) The date of termination of the Flexible Benefits Plan.

(b) Benefit plan coverage shall terminate as follows:

- (1) For termination as a result of voluntary election, the coverage shall terminate on the last day of the month of receipt and approval of a valid change form at the offices of the Plan Administrator.
- (2) For termination of coverage as a result of ineligibility ~~other than the loss of student status~~, the coverage shall terminate on the last day of the month of the event causing the loss of eligibility.

(c) No vendor, including the Board, shall terminate coverage on any participant unless authorized by the Plan Administrator.

[OAR Docket #11-04; filed 1-4-11]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 80. ROOFING CONTRACTOR REGISTRATION

[OAR Docket #10-1464]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

158:80-1-1. Purpose [NEW]

158:80-1-2. Definitions [NEW]

AUTHORITY:

Roofing Contractor Registration Act, Title 59 O.S. §1151.1 et seq.; Oklahoma Construction Industries Board

DATES:

Comment Period:

October 13, 2010

Public Hearing:

October 13, 2010

Adoption:

October 13, 2010

Approved by Governor:

November 15, 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:

The Construction Industries Board finds that compelling, exigent and extraordinary circumstances exist which require the emergency adoption of rules requiring all roofers, as defined in the Roofing Contractor Registration Act, to be registered and regulated by the Construction Industries Board pursuant to legislation enacted by the Oklahoma Legislature and signed by the Governor on June 10, 2010. These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has no rules in place which regulate the Roofing Contractor Industry and these emergency rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry.

ANALYSIS:

These rules implement the Roofing Contractor Registration Act, Title 59 O.S. §§ 1151.1-1151.20 (the "Act"), as set for the in Subchapter 1 at 158:80-1-1. 158:80-1-2 defines essential terms for administration and implementation of the Act by the Construction Industries Board ("CIB").

CONTACT PERSON:

Jeanne Britt, Executive Assistant, Construction Industries Board, 2401 N.W. 23rd Street, Suite 5, Oklahoma City, Oklahoma, 73107 telephone: (405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.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):

158:80-1-1. Purpose

The rules in this chapter, which shall take effect no earlier than November 1, 2010, implement the Roofing Contractor Registration Act, Title 59 O.S. §§ 1151.1 et seq.

158:80-1-2. Definitions

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

"Act" means the Roofing Contractor Registration Act, Title 59 O.S. §§ 1151.1 - 1151.20.

"Administrator" means the Administrator of the Construction Industries Board of the State of Oklahoma.

"Applicant" means a person who has submitted an application for Registration to the Board.

"Board" means the Construction Industries Board of the State of Oklahoma.

"Commercial or residential roofing services" means the construction, installation, renovations, repair, maintenance, alteration, and waterproofing of roofs, including but not limited to: asphalt shingle roofs; copper roofs; corrugated metal roofs; galvanized iron roofs; low slope roofs; roll roofing roofs; roof membrane roofs; roof painting, spraying, or coating; built-up tar and gravel roofs; shake and shingle roofs; sheet metal roofs; roof solar reflecting coating; steep slope roofs; and treating roofs (by spraying, painting or coating).

"Individual" means a sole proprietor or unincorporated business person who does not utilize a business entity to conduct his or her affairs as roofing contractor.

"Joint Venture" means any group of individual roofing contractors or corporate roofing contractors joined together to offer or contract to perform roofing. For purposes of this definition, corporate roofing contractor shall include partnerships, firms, associations, corporations, limited liability companies and limited liability partnership and any other business or professional group recognized under law.

"Person" means individual, firm, partnership, association, corporation and limited liability company, but shall only mean an individual for the purposes of the issuance of a certificate of registration.

"Registrant" means a roofing contractor registered as roofing contractor pursuant to the Act and these rules.

"Registration Certificate" means a certificate issued to a person by the Construction Industries Board pursuant to the Oklahoma Roofing Contractor Registration Act which signifies that the person is a registered roofing contractor in the State of Oklahoma.

"Roofing Contractor" means a person, corporation, partnership, limited liability company, joint venture or any other non-governmental entity, engaged in the business of commercial or residential roofing services for a fee, or who offers to engage in or solicits roofing related services, including construction, installation, renovation, repair, maintenance, alteration, and waterproofing. Roofing contractor shall not mean a person engaged in the demolition of a structure or the cleanup of construction waste and debris that contains roofing material nor a person working under the direct supervision of the roofing contractor who is hired as an employee, day laborer or contract laborer.

"Roofing Contractor Registrar" means the Administrator of the Construction Industries Board of the State of Oklahoma.

[OAR Docket #10-1464; filed 12-28-10]

**TITLE 58. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 80. ROOFING CONTRACTOR REGISTRATION**

[OAR Docket #10-1465]

RULEMAKING ACTION:
EMERGENCY adoption

Emergency Adoptions

RULES:

- Subchapter 3. Application for registration of roofing contractors [NEW]
- 158:80-3-1. Application for registration [NEW]
- 158:80-3-2. Information and documentation required for registration [NEW]
- 158:80-3-3. Fees [NEW]
- 158:80-3-4. Action on initial application [NEW]
- 158:80-3-5. Grounds for refusal to grant registration [NEW]
- 158:80-3-6. Disclosure of felony convictions [NEW]

AUTHORITY:

Roofing Contractor Registration Act, Title 59 O.S. §1151.1 et seq.; Oklahoma Construction Industries Board

DATES:

Comment Period:

October 13, 2010

Public Hearing:

October 13, 2010

Adoption:

October 13, 2010

Approved by Governor:

November 15, 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:

The Construction Industries Board finds that compelling, exigent and extraordinary circumstances exist which require the emergency adoption of rules requiring all roofing contractors, as defined in the Roofing Contractor Registration Act, to be registered and regulated by the Construction Industries Board pursuant to legislation enacted by the Oklahoma Legislature and signed by the Governor on June 10, 2010. These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has no rules in place which regulate the Roofing Contractor Industry and these emergency rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry.

ANALYSIS:

Subchapter 3 establishes rules for the initial application for the registration of roofing contractors. 158:80-3-1 sets forth the administrative requirements and procedures to obtain roofing contractor registration. 158:80-3-2 itemizes the information and documentation required to obtain roofing contractor registration. 158-3-3 establishes the fees for registration and related administrative functions. 158:803-4 establishes the procedures for processing applications for registration. 158:80-3-5 enumerates the grounds for refusal to grant registrations. 158:80-3-6 lists the requirements for an applicant's disclosure of felony convictions.

CONTACT PERSON:

Jeanne Britt, Executive Assistant, Construction Industries Board, 2401 N.W. 23rd Street, Suite 5, Oklahoma City, Oklahoma, 73107 telephone: (405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.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. APPLICATION FOR REGISTRATION OF ROOFING CONTRACTORS

158:80-3-1. Application for registration

All applications shall be made under oath on a printed form furnished by the Board. In case there is not sufficient room on the form to present all of the information requested, the applicant shall set forth the additional information on additional sheets.

158:80-3-2. Information and documentation required for registration

(a) The following information shall be required of all roofing contractors seeking registration:

- (1) Full legal name;
- (2) Residential address;
- (3) Telephone numbers;
- (4) Email address;
- (5) Age;
- (6) Disclosure of State of residence applicant;
- (7) Disclosure of whether registered contractor is a resident or non-resident;
- (8) Name address and telephone number of any business entity used to engage in business as a roofing contractor;
- (9) Name and address of registered service agent in the State of Oklahoma for any business entity listed;
- (10) Disclosure of all felony offenses of which applicant has been charged in this or any state; and,
- (11) Disclosure of any citations, fines, suspensions, revocations or other disciplinary actions taken against applicant as a roofing contractor in Oklahoma or any other state.

(b) The following documentation shall be required of all roofing contractors seeking registration:

- (1) Two (2) passport style photographs;
- (2) Proof of lawful presence in the United States;
- (3) Proof that applicant is at least eighteen years of age;
- (4) Valid certificate of general liability insurance within prescribed limits set by the Act;
- (5) Proof of adequate workers compensation insurance coverage;
- (6) Certificate of good standing from the Oklahoma Secretary State if applicant is registering a domestic business entity.

(c) Additional information may be required by the Registrar on a case by case basis, including, but not limited to, the following:

- (1) Fingerprints taken by a law enforcement agency, if a criminal history records check is deemed necessary by the Registrar.
- (2) Supporting documentation that one or more felony offenses were dismissed;
- (3) The providing of a valid certificate of adequate workers' compensation insurance coverage will normally be accepted as proof of workers' compensation insurance. However, should a question arise as to the validity of coverage or the adequacy of coverage, then the Registrar may require other evidentiary documents or information; and/or
- (4) Other information required by the Registrar.

158:80-3-3. Fees

- (a) Payable when. All registration fees shall be paid at the time that the application is filed.
- (b) Initial Registration Fee. The fee for registration as a Registered Roofing Contractor shall be Three Hundred Dollars (\$ 300.00).
- (c) Renewal Registration Fee. The fee for a renewal registration as a Registered Roofing Contractor shall be Three Hundred Dollars (\$ 300.00).
- (d) Fees for Replacement Certificate of Registration or Card. The fee for a replacement Certificate of Registration shall be Twenty Five Dollars (\$ 25.00). The fee for the replacement of a registration card shall be Fifty Dollars (\$ 50.00).
- (e) Change of registry information fee. The fee for the change of information of a registered roofing contractor in the Oklahoma Registry of Roofing Contractors shall be Twenty Five Dollars (\$ 25.00). This fee shall be applicable when an applicant or registrant submits a change of information notification form required by 158:80-5-5 or submits a late application for registration renewal pursuant to 158:80-7-1(d) or (e).

158:80-3-4. Action on initial application

- (a) When the Registrar, after due consideration of an application and information related thereto, is satisfied that the applicant is eligible for registration, the applicant shall be approved for registration. The applicant will be notified of approval by the Registrar in writing. According to the Act, the Registrar shall make a decision regarding registration within twenty-five (25) calendar days of the date of application. However, if additional information from the applicant is required to process the application, including the requirement of a national criminal history records check pursuant to 158:80-3-6, the twenty-five (day) period may be suspended, at the discretion of the Registrar, until such information is obtained and a decision can be made.
- (b) The Registrar shall provide written notice of any denial to register to the applicant. The Applicant shall have ten (10) days from the date of the written notice of denial in which to cure the defect causing the denial. If the defect is not cured within ten (10) days of the written notice of denial, the denial of application shall be final.
- (c) A final denial of application may be appealed pursuant to 158:80-9-1.
- (d) An applicant receiving a final denial of application which is not reversed on appeal pursuant to these rules may reapply for registration after ninety (90) days from the date of final denial of application.

158:80-3-5. Grounds for refusal to grant registration

An applicant may be denied registration for any of the following:

- (1) An applicant's application contains false, misleading or incomplete information;
- (2) An applicant refuses to provide information requested by the application form or additional information requested by the Registrar;

- (3) An applicant fails or refuses to pay the required fees;
- (4) An applicant is currently a registrant whose Roofing Contractor Registration has been suspended or revoked pursuant to the Act;
- (5) An applicant is a registered or licensed roofing contractor in a state other than Oklahoma and said license or registration has been suspended or revoked by said other state(s); or,
- (6) Applicant has failed, neglected or refused to pay taxes currently due in the State of Oklahoma.

158:80-3-6. Disclosure of felony convictions

- (a) An applicant shall fully disclose all felony convictions on the application for registration.
- (b) The Registrar shall not deny an application for registration for failure to disclose a felony conviction until applicant is provided ten (10) days written notice of denial is provided to applicant. Applicant shall have an additional ten (10) days in which to provide the Registrar a written response showing cause why the application should not be denied.
- (c) The Registrar shall require a national criminal history records check, at applicant's expense, for any applicant who:
 - (1) If, after inquiry or the receipt of information by the Registrar, the Registrar determines that the applicant has failed to disclose a felony conviction on the application for registration;
 - (2) Discloses more than one (1) felony conviction rendered within ten (10) years of the date of application for registration;
 - (3) Is required to register as a sex offender; or,
 - (4) Discloses any felony conviction which, at the determination of the Registrar, indicates applicant may have a history of defrauding consumers or intentionally inflicting injury or damage to persons or property.

[OAR Docket #10-1465; filed 12-28-10]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 80. ROOFING CONTRACTOR REGISTRATION**

[OAR Docket #10-1466]

**RULEMAKING ACTION:
EMERGENCY adoption**

RULES:

- Subchapter 5. Roofing contractor registration [NEW]
- 158:80-5-1. Roofing contractor registration certificate [NEW]
- 158:80-5-2. Contents of registration certificate and registration card [NEW]
- 158:80-5-3. Registration number [NEW]
- 158:80-5-4. Term of registration [NEW]
- 158:80-5-5. Notification of changes in application information required [NEW]
- 158:80-5-6. Surrender of certificate of registration or registration card [NEW]
- 158:80-5-7. Business entities required to file with Secretary of State [NEW]

Emergency Adoptions

158:80-5-8. Registration sharing prohibited; Separate joint venture registration required [NEW]

AUTHORITY:

Roofing Contractor Registration Act, Title 59 O.S. §1151.1 et seq.; Oklahoma Construction Industries Board

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

FINDING OF EMERGENCY:

The Construction Industries Board finds that compelling, exigent and extraordinary circumstances exist which require the emergency adoption of rules requiring all roofing contractors, as defined in the Roofing Contractor Registration Act, to be registered and regulated by the Construction Industries Board pursuant to legislation enacted by the Oklahoma Legislature and signed by the Governor on June 10, 2010. These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has no rules in place which regulate the Roofing Contractor Industry and these emergency rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry.

ANALYSIS:

Subchapter 5 establishes administrative rules which govern the granting of the certificate of registration and registrant credentials. 158:80-5-1 establishes the administrative requirements for the certificate of registration. 158:80-5-2 sets forth the required contents for the certificate and credentials issued by the CIB. 158:80-5-3 establishes the requirements for the roofing contractor registration number. 158:80-5-4 provides the term of registration. 158:80-5-5 requires registrants to notify the CIB of registration information changes which have occurred since registration. 158:80-5-6 requires registrants to surrender certificates and credentials upon suspension or revocation. 158:80-5-7 establishes that any registration granted shall only be valid if the registrant is in good standing with the Oklahoma Secretary of State.

CONTACT PERSON:

Jeanne Britt, Executive Assistant, Construction Industries Board, 2401 N.W. 23rd Street, Suite 5, Oklahoma City, Oklahoma, 73107 telephone: (405) 271-2771; facsimile: (405) 271-5254; electronic mail: jeanneb@cib.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 5. ROOFING CONTRACTOR REGISTRATION

158:80-5-1. Roofing contractor registration certificate

(a) As soon as possible after the approval of an application and payment of fees, a registration certificate signed by the

Registrar and bearing the Seal of the Board shall be issued to the applicant.

(b) Each applicant, after approval and payment of fees, shall also be issued a Registration Card, which shall be designated by the Registrar as identifying the holder as a Registered Roofing Contractor. Cards and certificates shall be mailed to the applicant's address on file with the Board.

(c) A new certificate of registration or registration card to replace any certificate and/or card which is lost, destroyed, or mutilated will be issued to any registrant on his Application for Replacement Certificate or Card, accompanied by the appropriate fee to reimburse the Board for expense involved in the issuance thereof.

158:80-5-2. Contents of registration certificate and registration card

A Registration Certificate and Registration Card shall be issued to persons meeting all requirements of the Act and the Rules of the Board. The Registration Certificate shall identify the individual by name, business entity, registration number, designate an effective date, and acknowledge the registrant's right to perform roofing services in the State of Oklahoma. The Registration Card shall bear the same information.

158:80-5-3. Registration number

Registration numbers will be issued consecutively, in the order in which the applications are approved by the Registrar. The applicant will be advised of this registration number in the notice of registration approval sent to the applicant by the Board. A registration number which has once been issued to a registrant will become inactive in event of revocation, death, failure to renew or nonpayment of fees. If a former registrant is reinstated, the registrant will be re-issued his original number. Registration numbers, which have become inactive will not be re-issued to any registrant other than the original holder thereof.

158:80-5-4. Term of registration

Except as otherwise provided by the Act, registration shall be valid for a period of one (1) year, subject to meeting of all requirements of renewal, and subject to the Registrar's powers of suspension, revocation or refusal to renew, vested in the Registrar by Order of a court or the Act.

158:80-5-5. Notification of changes in application information required

A Registered Roofing Contractor shall notify the Registrar within thirty (30) days of any and all changes that affect the Certificate of Registration. Such changes include, but are not limited to, changes of applicant or entity name, address, telephone number, registered agent or registered agent address, criminal history, insurance or workers compensation coverage, corporate status or principal information, state of residence and the like. Notification shall be on the Board's form, signed by the appropriate individual, business owner principal, partner, director, officer, shareholder or, for a limited liability company,

a manager or member of the registered entity, notarized and accompanied by the appropriate fee set forth in 158:803-3. Failure to properly and promptly notify the Board of these changes shall be cause for the placement of the registration in an inactive status and is grounds for refusal to renew the Certificate of Registration, as set forth in the Act.

158:80-5-6. Surrender of certificate of registration or registration card

Upon notice of the Board, Certificates of Registration and accompanying Registration Cards which have been lawfully suspended, refused to renew or revoked shall be surrendered to the Registrar immediately in the manner prescribed by that notice.

158:80-5-7. Business entities required to file with Secretary of State

(a) Limited partnerships, limited liability companies, limited liability partnerships and foreign and domestic corporations are required by law to file for a certificate of incorporation or domestication and maintain same with the Secretary of State.

(b) Failure of an Entity to properly file or register with the Oklahoma Secretary of State and maintain said Entity in good standing with the Oklahoma Secretary of State pursuant to the Act and may result in the suspension or revocation of the Certificate of Registration of Roofing Contractor in accordance with these rules.

158:80-5-8. Registration sharing prohibited; Separate joint venture registration required

(a) Pursuant to 59 O.S. § 1151.7(3), a Certificate of Registration may not be shared between one or more registered or unregistered contractors.

(b) A combination of contractors may be collectively registered as a joint venture for use by designated contractors acting as agents for the joint venture so long as the application for registration contains sufficient information on each member of the joint venture, all of the requirements for registration set forth in the Act and these rules are met and the joint venture is registered prior to the addition of any designated contractor as a member of the joint venture.

[OAR Docket #10-1466; filed 12-28-10]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 80. ROOFING CONTRACTOR REGISTRATION**

[OAR Docket #10-1467]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 7. Registration renewal [NEW]

- 158:80-7-1. Renewal of registration, fees and time restrictions [NEW]
- 158:80-7-2. Registration renewal requirements [NEW]
- 158:80-7-3. Action on renewal application [NEW]

AUTHORITY:

Roofing Contractor Registration Act, Title 59 O.S. §1151.1 et seq.; Oklahoma Construction Industries Board

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

FINDING OF EMERGENCY:

The Construction Industries Board finds that compelling, exigent and extraordinary circumstances exist which require the emergency adoption of rules requiring all roofing contractors, as defined in the Roofing Contractor Registration Act, to be registered and regulated by the Construction Industries Board pursuant to legislation enacted by the Oklahoma Legislature and signed by the Governor on June 10, 2010. These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has no rules in place which regulate the Roofing Contractor Industry and these emergency rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry.

ANALYSIS:

Subchapter 7 establishes rules for contractor registration renewal. 158:80-7-1 sets forth the fees and time restrictions for renewal. 158:80-7-2 sets forth the information and documentation requirements for registration renewal. 158:80-7-3 establishes the procedures for processing renewal applications.

CONTACT PERSON:

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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 7. REGISTRATION RENEWAL

158:80-7-1. Renewal of registration, fees and time restrictions

(a) **Renewal Registration Fee.** The fee for a renewal registration as a Registered Roofing Contractor shall be Three Hundred Dollars (\$ 300.00).

(b) **Expiration.** Each Registration Certificate and Registration Card issued shall expire on June 30 following the year of its issuance or renewal.

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(c) **Late Fee.** Applications for renewal received on and after July 31st shall be subject to a late renewal fee of one hundred dollars (\$100).

(d) **Automatic Suspension after August 30th.** Beginning August 31st following expiration, a registration which is not renewed shall be automatically suspended and subject to a renewal fee of Six Hundred Dollars (\$600) plus a change of registry information fee of Twenty Five Dollars (\$ 25.00) for a total of Six Hundred Twenty-Five Dollars (\$ 625.00).

(e) **Automatic Revocation after January 1st.** Beginning January 1st following expiration, a registration which is not renewed shall be automatically revoked and subject to a re-statement fee of Six Hundred Dollars (\$600) plus a change of registry information fee of Twenty Five Dollars (\$ 25.00) for a total of Six Hundred Twenty-Five Dollars (\$ 625.00). Additionally, applicants desiring reinstatement due to automatic revocation must submit all forms required for initial registration.

158:80-7-2. Registration renewal requirements

(a) All applications for renewal shall be made under oath on a printed form furnished by the Board. In case there is not sufficient room on the form to present all of the information requested, the applicant shall set forth the additional information on additional sheets.

(b) The following information shall be required of all roofing contractors seeking registration renewal:

- (1) Disclosure of all felony convictions rendered since last registration;
- (2) Disclosure of all violations of the Act since applicant's initial registration or renewal;
- (3) Disclosure of any license or registration suspensions, revocations, citations or disciplinary actions with regard to applicants license or registration in a state other than Oklahoma;
- (4) An updated and valid certificate of general liability insurance within prescribed limits set by the Act;
- (5) Updated proof of workers compensation insurance coverage;
- (6) An updated certificate of good standing from the Oklahoma Secretary State if applicant is registering a domestic business entity; and,
- (7) Acknowledgement that all Oklahoma employment and income taxes due and owing are paid.

158:80-7-3. Action on renewal application

(a) When the Registrar, after due consideration of an application for renewal and information related thereto, is satisfied that the applicant is eligible for registration renewal, the applicant shall be approved for registration. The applicant will be notified of approval by the Registrar in writing.

(b) The Registrar shall provide written notice of any denial to register to the applicant. The Applicant shall have ten (10) days from the date of the written notice of denial in which to cure the defect causing the denial. If the defect is not cured within ten (10) days of the written notice of denial, the denial of application for renewal shall be final.

(c) A final denial of application may be appealed pursuant to 158:80-9-1.

(d) An applicant receiving a final denial of application which is not reversed on appeal pursuant to these rules may reapply for registration after ninety (90) days from the date of final denial of application.

[OAR Docket #10-1467; filed 12-28-10]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD

CHAPTER 80. ROOFING CONTRACTOR REGISTRATION

[OAR Docket #10-1468]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 9. Appeal Procedure for Denied Application for Registration or Registration Renewal [NEW]

158:80-9-1. Appeal Procedures for Denial of Initial Application or Application for Renewal [NEW]

AUTHORITY:

Roofing Contractor Registration Act, Title 59 O.S. §1151.1 et seq.; Oklahoma Construction Industries Board

DATES:

Comment Period:
October 13, 2010

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SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

FINDING OF EMERGENCY:

The Construction Industries Board finds that compelling, exigent and extraordinary circumstances exist which require the emergency adoption of rules requiring all roofing contractors, as defined in the Roofing Contractor Registration Act, to be registered and regulated by the Construction Industries Board pursuant to legislation enacted by the Oklahoma Legislature and signed by the Governor on June 10, 2010. These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has no rules in place which regulate the Roofing Contractor Industry and these emergency rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry.

ANALYSIS:

Subchapter 9 establishes the appeal procedures for denied applications for registration. 158:80-9-1 establishes the procedure, time for appeal and processing protocol for processing appeals.

CONTACT PERSON:

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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. APPEAL PROCEDURE FOR DENIED APPLICATION FOR REGISTRATION OR REGISTRATION RENEWAL

158:80-9-1. Appeal procedures for denial of initial application or application for renewal

A final decision of the Registrar which refuses to register an applicant pursuant to 158:80-3-4 or 158:80-7-3 shall be appealable as follows:

- (1) An applicant for initial or renewal registration shall have ten (10) business days from the receipt of notice of registration denial in which to submit a written request for appeal of a final denial of registration to the Registrar.
- (2) Said written request for appeal shall set forth the reasons supporting the applicant's assertion that the final denial of registration is in error.
- (3) The Registrar shall schedule for hearing all timely requests for appeal before an administrative law judge within thirty (30) days of receiving said requests.
- (4) The administrative law judge shall conduct a hearing in accordance with the Administrative Procedures Act and Oklahoma Administrative Code 158:1-5-4 through 1-5-12.
- (5) The administrative law judge shall make findings of fact and conclusions of law based on the evidence and testimony presented and memorialize same in a written order.
- (6) If the administrative law judge's order is adverse to the applicant, the order of the administrative law judge shall be submitted for consideration for approval of the Construction Industries Board as the final administrative order in the matter pursuant to 75 O.S. § 312. Said consideration for approval shall occur at the earliest available meeting of the Construction Industries Board subsequent to the administrative law judge hearing.
- (7) An applicant may dismiss an appeal at any time

[OAR Docket #10-1468; filed 12-28-10]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 80. ROOFING CONTRACTOR REGISTRATION**

[OAR Docket #10-1469]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 11. Registry and classification [NEW]
158:80-11-1. Registry of roofing contractors [NEW]

- 158:80-11-2. Status classification of registered roofing contractors [NEW]
- 158:80-11-3. Status classification of "Not in Good Standing" [NEW]
- 158:80-11-4. Appeal of status classification [NEW]

AUTHORITY:

Roofing Contractor Registration Act, Title 59 O.S. §1151.1 et seq.; Oklahoma Construction Industries Board

DATES:

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November 15, 2010

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SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

FINDING OF EMERGENCY:

The Construction Industries Board finds that compelling, exigent and extraordinary circumstances exist which require the emergency adoption of rules requiring all roofers, as defined in the Roofing Contractor Registration Act, to be registered and regulated by the Construction Industries Board pursuant to legislation enacted by the Oklahoma Legislature and signed by the Governor on June 10, 2010. These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has no rules in place which regulate the Roofing Contractor Industry and these emergency rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry.

ANALYSIS:

Subchapter 11 establishes the requirements for the Oklahoma Registry of Roofing Contractors and classifications for registrants. 158:11-1-1 sets forth the contents of the registry. 158:80-11-2 enumerates the statuses for registered contractors. 158:80-11-3 details the criteria used to classify a registrant as "not in good standing." 158:80-11-4 sets forth the appeal process for disputed status classifications.

CONTACT PERSON:

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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 11. REGISTRY AND CLASSIFICATION

158:80-11-1. Registry of roofing contractors

(a) A roofing contractor properly registered pursuant to the Act and these rules shall be added to the Oklahoma Registry of Roofing Contractors.

(b) The Oklahoma Registry of Roofing Contractors shall be updated annually and provide the following information:

- (1) Entity name;
- (2) Principal applicant's name;

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- (3) Current status and date status obtained;
- (4) Number of felony convictions disclosed or of record;
- (5) Requirement to register as sex offender;
- (6) Resident or non-resident;
- (7) Number of RCRA complaints of record;
- (8) Number of RCRA complaints to which registrant has filed a written response.
- (9) Number of RCRA adjudications against registrant; and,
- (10) Authorized representatives of record.

(c) Paper copies of the most current Oklahoma Registry of Roofing Contractors shall be available to the public for the cost of ten dollars (\$10) per copy.

(d) The Registrar shall also provide verbal and electronic registration verification services to the public.

158:80-11-2. Status classification of registered roofing contractors

All registered roofing contractors shall at all times be designated one status, as follows:

- (1) Good Standing (Active and Valid);
- (2) Not in Good Standing;
- (3) Registration Denied;
- (4) Registration Suspended; or,
- (5) Registration Revoked.

158:80-11-3. Status classification of "Not in Good Standing"

(a) A registrant may be designated the status of "Not in Good Standing" if the Registrar determines any of the following to be true:

- (1) Failure to maintain liability insurance.
- (2) Failure to maintain workers compensation coverage.
- (3) Failure to file, renew, or amend any fictitious name certificate with the Oklahoma Secretary of State.
- (4) Failure to maintain active corporate, limited liability company or partnership status with the Oklahoma Secretary of State.
- (5) Failure to file or renew trade name registration with the Oklahoma Secretary of State, if applicable.
- (6) Failure to maintain or renew a roofing contractor registration as provided in the RCRA.
- (7) Failure to maintain a license or registration in another state while registered as a non-resident roofing contractor in this state.
- (8) Failure to pay Oklahoma employment, income or taxes.

(b) A registrant designated the status of "Not in Good Standing" shall be provided written notice of such status on the date such status is issued.

158:80-11-4. Appeal of status classification

A registrant may appeal a status classification in the same manner as the appeal of a denial of registration as set forth in 158:80-9-1. For purposes of such appeal, the registrant shall

have ten (10) days from the date of status, as published in the Oklahoma Registry of Roofing Contractors, in which to submit a written request for appeal in accordance with 158:80-9-1(a).

[OAR Docket #10-1469; filed 12-28-10]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 80. ROOFING CONTRACTOR REGISTRATION

[OAR Docket #10-1470]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 13. Complaints [NEW]

158:80-13-1. Complaint and response forms [NEW]

158:80-13-2. Receiving and processing complaints [NEW]

AUTHORITY:

Roofing Contractor Registration Act, Title 59 O.S. §1151.1 et seq.; Oklahoma Construction Industries Board

DATES:

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October 13, 2010

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November 15, 2010

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SUPERSEDED EMERGENCY ACTIONS:

"n/a"

INCORPORATIONS BY REFERENCE:

"n/a"

FINDING OF EMERGENCY:

The Construction Industries Board finds that compelling, exigent and extraordinary circumstances exist which require the emergency adoption of rules requiring all roofing contractors, as defined in the Roofing Contractor Registration Act, to be registered and regulated by the Construction Industries Board pursuant to legislation enacted by the Oklahoma Legislature and signed by the Governor on June 10, 2010. These rules were developed in accordance with the Oklahoma Legislature's enactment of SB 2180, which mandates that the Construction Industries Board regulate the Roofing Contractor Industry, effective November 1, 2010. The Construction Industries Board currently has no rules in place which regulate the Roofing Contractor Industry and these emergency rules are necessary to maintain continuity in the regulation of the Roofing Contractor Industry.

ANALYSIS:

Subchapter 13 establishes rules for the filing and processing of complaints against registered roofing contractors. 158:80-13-1 sets forth the forms to be used for complaint processing. 158:80-13-2 requires that all complaints must be made and processed according to the Act.

CONTACT PERSON:

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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 13. COMPLAINTS

158:80-13-1. Complaint and response forms
Complaints and responses to complaints shall be made to the Registrar on forms prescribed by the Board.

158:80-13-2. Receiving and processing complaints
Complaints against roofing contractors must be made and processed in accordance with 59 O.S. § 1151.14.

[OAR Docket #10-1470; filed 12-28-10]

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

[OAR Docket #11-27]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions
- 252:100-1-3. Definitions [AMENDED]
- Subchapter 8. Permits for Part 70 Sources
- Part 5. Permits for Part 70 Sources
- 252:100-8-2. Definitions [AMENDED]
- Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas
- 252:100-8-31. Definitions [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201, and 2-5-101, *et seq.*

DATES:

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September 20, 2010 through October 27, 2010
 November 16, 2010

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October 27, 2010
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November 16, 2010

Approved by Governor:

December 27, 2010

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SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

FINDING OF EMERGENCY:

The Department finds that a compelling public interest necessitates the seeking of emergency certification of the rule being adopted today. The emergency adoption of this rule will allow the Department to comply with deadlines in amendments to the governing, federal regulations in 40 CFR § 51.166 and 40 CFR Part 70 and to avoid serious prejudice to the public interest. When the new light-duty vehicle Greenhouse Gas (GHG) emission standards (40 CFR § 86.1818-12) become effective on January 2, 2011, a huge number of GHG sources will become subject to the PSD and Part 70 permit programs. In the preamble to the GHG Tailoring Rule (75 FR 31514)

EPA expressed their belief that the number will be so large that permitting authorities will be unable to deal with this huge number in a timely fashion and permits might be delayed by several years. To prevent this, EPA promulgated the GHG Tailoring Rule which was published in the *Federal Register* on June 3, 2010. The Tailoring Rule deferred the applicability thresholds for the PSD and Part 70 programs of 100 tons per year or 250 tons per year until GHG emissions exceed 100,000 tons per year of CO₂ equivalent (CO₂e) emissions by declaring that GHGs are not subject to regulation until emissions exceed the new, higher thresholds. The proposed modifications to Subchapter 1 and to Subchapter 8 are based on the GHG Tailoring Rule and do not require any source to obtain either a PSD or a Part 70 permit. Instead, the modifications exempt a large number of smaller GHG emission sources from these two programs, providing regulatory relief to both the owners and operators of these sources and to the Department. The Federal modification to the applicability of these permitting thresholds is not directly reflected in the Department's current rules. Consequently, the general public and many smaller sources not familiar with the interdependence of State Clean Air Act requirements and federal Clean Air Act requirements may interpret the lower PSD and Part 70 applicability thresholds set forth in the Department's rules to apply to sources emitting low levels of GHG. Many of these sources are not otherwise subject to the Department's permitting requirements. EPA proposed the GHG Tailoring Rule in the *Federal Register* (74 FR 55292) on October 27, 2009 and promulgated the final rule in the *Federal Register* on June 3, 2010, making it impossible under the State's rulemaking procedures for the Department to promulgate a permanent modification that clarifies EPA's deferring of the PSD and Part 70 applicability thresholds for GHG before the January 2, 2011 deadline. Because of this, a large number of smaller sources of GHG that will be excluded by the federal GHG Tailoring Rule could interpret current Department rules to subject them to the lower thresholds of the PSD and Part 70 programs contained in the current State rule, thus negating the relief from the overwhelming permitting burden afforded by the GHG Tailoring Rule. This interpretation could be costly to the small sources that prepare and submit these permit applications and to the Department which must process and respond to these permit applications. Such an interpretation would also mean that the State's PSD and Part 70 permitting programs would be more stringent than the corresponding federal programs until the proposed modifications become effective as permanent changes. For these reasons, the Department is asking that these proposed changes to Subchapter 1 and Subchapter 8 be approved as emergency rule changes.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. § 253(D).

SUBCHAPTER 1. GENERAL PROVISIONS

252:100-1-3. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise or unless defined specifically for a Subchapter, section, or subsection in the Subchapter, section, or subsection.

"Act" means the Federal Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

"Administrator" means, unless specifically defined otherwise, the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

"Air contaminant source" means any and all sources of emission of air contaminants (pollutants), whether privately or publicly owned or operated, or person contributing to emission

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of air contaminants. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops and stores, heating and power plants or stations, buildings and other structures of all types.

"Air pollution abatement operation" means any operation which has as its essential purpose a significant reduction in:

- (A) the emission of air contaminants, or
- (B) the effect of such emission.

"Air pollution episode" means high levels of air pollution existing for an extended period (24 hours or more) of time which may cause acute harmful health effects during periods of atmospheric stagnation, without vertical or horizontal ventilation. This occurs when there is a high pressure air mass over an area, a low wind speed and there is a temperature inversion. Other factors such as humidity may also affect the episode conditions.

"Ambient air standards" or **"Ambient air quality standards"** means levels of air quality as codified in OAC 252:100-3.

"Atmosphere" means the air that envelops or surrounds the earth.

"Best available control technology" or **"BACT"** means the best control technology that is currently available as determined by the Division Director on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs of alternative control systems.

"Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

"Catalytic cracking unit" means a unit composed of a reactor, regenerator and fractionating towers which is used to convert certain petroleum fractions into more valuable products by passing the material through or commingled with a bed of catalyst in the reactor. Coke deposits produced on the catalyst during cracking are removed by burning off in the regenerator.

"Combustible materials" means any substance which will readily burn and shall include those substances which, although generally considered incombustible, are or may be included in the mass of the material burned or to be burned.

"Commence" means, unless specifically defined otherwise, that the owner or operator of a facility to which neither a NSPS or NESHAP applies has begun the construction or installation of the emitting units on a pad or in the final location at the facility.

"Complete" means in reference to an application for a permit, the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude

the Director from requesting or accepting any additional information.

"Construction" means, unless specifically defined otherwise, fabrication, erection, or installation of a source.

"Crude oil" means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

"Direct fired" means that the hot gasses produced by the flame or heat source come into direct contact with the material being processed or heated.

"Division" means Air Quality Division, Oklahoma State Department of Environmental Quality.

"Dust" means solid particulate matter released into or carried in the air by natural forces, by any fuel-burning, combustion, process equipment or device, construction work, mechanical or industrial processes.

"EPA" means the United States Environmental Protection Agency.

"Excess emissions" means the emission of regulated air pollutants in excess of an applicable limitation or requirement as specified in the applicable limiting Subchapter, permit, or order of the DEQ. This term does not include fugitive VOC emissions covered by an existing leak detection and repair program that is required by a federal or state regulation.

"Existing source" means, unless specifically defined otherwise, an air contaminant source which is in being on the effective date of the appropriate Subchapter, section, or paragraph of these rules.

"Facility" means all of the pollutant-emitting activities that meet all the following conditions:

- (A) Are under common control.
- (B) Are located on one or more contiguous or adjacent properties.
- (C) Have the same two-digit primary SIC Code (as described in the Standard Industrial Classification Manual, 1987).

"Federally enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

"Fuel-burning equipment" means any one or more of boilers, furnaces, gas turbines or other combustion devices and all appurtenances thereto used to convert fuel or waste to usable heat or power.

"Fugitive dust" means solid airborne particulate matter emitted from any source other than a stack or chimney.

"Fugitive emissions" means, unless specifically defined otherwise, those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Fume" means minute solid particles generated by the condensation of vapors to solid matter after volatilization from

the molten state, or generated by sublimation, distillation, calcination, or chemical reaction when these processes create airborne particles.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

"Greenhouse gas" or "GHG" means the air pollutant defined in 40 CFR § 86.1818-12(a) as the aggregate group of six greenhouse gases: carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆).

"Gross particulate matter" or "GPM" means particulate matter with an aerodynamic diameter greater than 10 micrometers.

"In being" means as used in the definitions of New Installation and Existing Source that an owner or operator has undertaken a continuous program of construction or modification or the owner or operator has entered into a binding agreement or contractual obligation to undertake and complete within a reasonable time a continuous program of construction or modification prior to the compliance date for installation as specified by the applicable regulation.

"Incinerator" means a combustion device specifically designed for the destruction, by high temperature burning, of solid, semi-solid, liquid, or gaseous combustible wastes and from which the solid residues contain little or no combustible material.

"Indirect fired" means that the hot gasses produced by the flame or heat source do not come into direct contact with the material, excluding air, being processed or heated.

"Installation" means an identifiable piece of process equipment.

"Lowest achievable emissions rate" or "LAER" means, for any source, the more stringent rate of emissions based on paragraphs (A) and (B) of this definition. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of LAER allow a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable standard of performance for the new source.

(A) LAER means the most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable, or

(B) LAER means the most stringent emissions limitation which is achieved in practice by such class or category of stationary sources.

"Major source" means any new or modified stationary source which directly emits or has the capability at maximum design capacity and, if appropriately permitted, authority to emit 100 tons per year or more of a given pollutant. (OAC 252:100-8, Part 3)

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or

usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

"Mist" means a suspension of any finely divided liquid in any gas or atmosphere excepting uncombined water.

"Modification" means any physical change in, or change in the method of operation of, a source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted, except that:

(A) routine maintenance, repair and replacement shall not be considered physical changes; and,

(B) the following shall not be considered a change in the method of operation:

(i) any increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(ii) an increase in hours of operation;

(iii) use of alternative fuel or raw material if, prior to the date any standard under this part becomes applicable to such source the affected facility is designed to accommodate such alternative use.

"National Emission Standards for Hazardous Air Pollutants" or "NESHAP" means those standards found in 40 CFR Parts 61 and 63.

"New installation", "New source", or "New equipment" means an air contaminant source which is not in being on the effective date of these regulations and any existing source which is modified, replaced, or reconstructed after the effective date of the regulations such that the amount of air contaminant emissions is increased.

"New Source Performance Standards" or "NSPS" means those standards found in 40 CFR Part 60.

"Nonmethane organic compounds" or "NMOC" means nonmethane organic compounds, as defined in 40 CFR 60.754.

"Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

"Open burning" means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

"Organic compound" means any chemical compound containing the element carbon.

"Owner or operator" means any person who owns, leases, operates, controls or supervises a source.

"Part 70 permit" means (unless the context suggests otherwise) any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"Part 70 program" means a program approved by the Administrator under 40 CFR Part 70.

"Part 70 source" means any source subject to the permitting requirements of Part 5 of Subchapter 8, as provided in OAC 252:100-8-3(a) and (b).

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"PM-10 emissions" means particulate matter emitted to the ambient air with an aerodynamic diameter of 10 micrometers or less as measured by applicable reference methods, or an equivalent or alternative method.

"PM-10" means particulate matter with an aerodynamic diameter of 10 micrometers or less.

"PM-2.5" means particulate matter with an aerodynamic diameter of 2.5 micrometers or less.

"Particulate matter" or **"PM"** means any material that exists in a finely divided form as a liquid or a solid.

"Particulate matter emissions" means particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method.

"Potential to emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

"Prevention of significant deterioration" or **"PSD"** means increments for the protection of attainment areas as codified in OAC 252:100-3.

"Process equipment" means any equipment, device or contrivance for changing any materials or for storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants into the open air, but not including that equipment specifically defined as fuel-burning equipment, or refuse-burning equipment.

"Process weight" means the weight of all materials introduced in a source operation, including solid fuels, but excluding liquids and gases used solely as fuels, and excluding air introduced for the purposes of combustion. Process weight rate means a rate established as follows:

(A) for continuous or long-run, steady-state, operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(B) for cyclical or batch source operations, the total process weight for a period which covers a complete or an integral number of cycles, divided by the hours of actual process operation during such period.

(C) where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, that interpretation which results in the minimum value for allowable emission shall apply.

"Reasonably available control technology" or **"RACT"** means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

(A) The necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;

(B) The social, environmental, and economic impact of such controls; and

(C) Alternative means of providing for attainment and maintenance of such standard.

"Reconstruction" means:

(A) the replacement of components of an existing source to the extent that will be determined by the Executive Director based on:

(i) the fixed capital cost (the capital needed to provide all the depreciable components of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new source);

(ii) the estimated life of the source after the replacements is comparable to the life of an entirely new source; and,

(iii) the extent to which the components being replaced cause or contribute to the emissions from the source.

(B) a reconstructed source will be treated as a new source for purposes of OAC 252:100-8, Part 9.

"Refinery" means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

"Refuse" means, unless specifically defined otherwise, the inclusive term for solid, liquid or gaseous waste products which are composed wholly or partly of such materials as garbage, sweepings, cleanings, trash, rubbish, litter, industrial, commercial and domestic solid, liquid or gaseous waste; trees or shrubs; tree or shrub trimmings; grass clippings; brick, plaster, lumber or other waste resulting from the demolition, alteration or construction of buildings or structures; accumulated waste material, cans, containers, tires, junk or other such substances.

"Refuse-burning equipment" means any equipment, device, or contrivance, and all appurtenances thereto, used for the destruction of combustible refuse or other combustible wastes by burning.

"Regulated air pollutant" means any substance or group of substances listed in Appendix P of this Chapter, or any substance regulated as an air pollutant under any federal regulation for which the Department has been given authority, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit.

"Responsible official" means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

- (ii) The delegation of authority to such representatives is approved in advance by the DEQ;
- (B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;
- (C) For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Chapter, a principal executive officer or installation commander of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
- (D) For affected sources:
 - (i) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
 - (ii) The designated representative for any other purposes under this Chapter.

"Shutdown" means the cessation of operation of any process, process equipment, or air pollution control equipment.

"Smoke" means small gas-borne or air-borne particles resulting from combustion operations and consisting of carbon, ash, and other matter any or all of which is present in sufficient quantity to be observable.

"Source operation" means the last operation preceding the emission of an air contaminant, which operation:

- (A) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel; and,
- (B) is not an air pollution abatement operation.

"Stack" means, unless specifically defined otherwise, any chimney, flue, duct, conduit, exhaust, pipe, vent or opening, excluding flares, designed or specifically intended to conduct emissions to the atmosphere.

"Standard conditions" means a gas temperature of 68 degrees Fahrenheit (20° Centigrade) and a gas pressure of 14.7 pounds per square inch absolute.

"Startup" means the setting into operation of any process, process equipment, or air pollution control equipment.

"Stationary source" means, unless specifically defined otherwise, any building, structure, facility, or installation either fixed or portable, whose design and intended use is at a fixed location and emits or may emit an air pollutant subject to OAC 252:100.

"Total Suspended Particulates" or "TSP" means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50.

"Temperature inversion" means a phenomenon in which the temperature in a layer of air increases with height and the cool heavy air below is trapped by the warmer air above and cannot rise.

"Visible emission" means any air contaminant, vapor or gas stream which contains or may contain an air contaminant

which is passed into the atmosphere and which is perceptible to the human eye.

"Volatile organic compound" or "VOC" means any organic compound that participates in atmospheric photochemical reactions resulting in the formation of tropospheric ozone. Carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, ammonium carbonates, tert-butyl acetate and compounds listed in 40 CFR 51.100(s)(1) are presumed to have negligible photochemical reactivity and are not considered to be VOC.

SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this Section, terms used in this Part retain the meaning accorded them under the applicable requirements of the Act.

"Administratively complete" means an application that provides:

- (A) All information required under OAC 252:100-8-5(c), (d), or (e);
- (B) A landowner affidavit as required by OAC 252:2-15-20(b)(3);
- (C) The appropriate application fees as required by OAC 252:100-8-1.7; and
- (D) Certification by the responsible official as required by OAC 252:100-8-5(f).

"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Affected states" means:

- (A) all states:
 - (i) That are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and
 - (ii) That in the judgment of the DEQ may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or
- (B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

- (A) Any standard or other requirements provided for in the applicable implementation plan approved or

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promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;

(C) Any standard or other requirement under section 111 of the Act, including section 111(d);

(D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

"Begin actual construction" means for purposes of this Part, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

"Designated representative" means with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft permit" means the version of a permit for which the DEQ offers public participation under 27A O.S. §§ 2-14-101 through 2-14-401 and OAC 252:4-7 or affected State review under OAC 252:100-8-8.

"Emergency" means, when used in OAC 252:100-8-6(a)(3)(C)(iii)(I) and (e), any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission

limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

"Final permit" means the version of a part 70 permit issued by the DEQ that has completed all review procedures required by OAC 252:100-8-7 through 252:100-8-7.5 and OAC 252:100-8-8.

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of OAC 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) and (B) of this definition. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year (TPY) of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAPs, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in subparagraph (A), (B), or (C) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987.

(A) A major source under section 112 of the Act, which is defined as:

- (i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 TPY or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 TPY or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or.
- (ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 TPY or more of any ~~regulated~~ air pollutant (except gross particulate matter) subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants (not including ethanol production facilities that produce ethanol

by natural fermentation included in NAICS codes 325193 or 312140);

- (xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories which, as of August 7, 1980, are being regulated by a standard promulgated under section 111 or 112 of the Act.

(C) A major stationary source as defined in part D of Title I of the Act, including:

- (i) For ozone non-attainment areas, sources with the potential to emit 100 TPY or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 TPY or more in areas classified as "serious," 25 TPY or more in areas classified as "severe," and 10 TPY or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 TPY of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
- (ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 TPY or more of volatile organic compounds;
- (iii) For carbon monoxide non-attainment areas:
 - (I) that are classified as "serious"; and
 - (II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 TPY or more of carbon monoxide; and
- (iv) For particulate matter (PM-10) non-attainment areas classified as "serious," sources with the potential to emit 70 TPY or more of PM-10.

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

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"**Permit**" means (unless the context suggests otherwise) any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

"**Permit modification**" means a revision to a Part 70 construction or operating permit that meets the requirements of OAC 252:100-8-7.2(b).

"**Permit program costs**" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in OAC 252:100-5-2.2 (whether such costs are incurred by the DEQ or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"**Permit revision**" means any permit modification or administrative permit amendment.

"**Potential to emit**" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"**Proposed permit**" means the version of a permit that the DEQ proposes to issue and forwards to the Administrator for review in compliance with OAC 252:100-8-8.

"**Regulated air pollutant**" means the following:

(A) Nitrogen oxides or any volatile organic compound (VOC), including those substances defined in OAC 252:100-1-3, 252:100-37-2, and 252:100-39-2, except those specifically excluded in the EPA definition of VOC in 40 CFR 51.100(s);

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"**Renewal**" means the process by which a permit is reissued at the end of its term.

"**Section 502(b)(10) changes**" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"**Small unit**" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"**State-only requirement**" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. §§ 2-5-101 through 2-5-118, as amended) that is not contained in the State Implementation Plan (SIP).

"**State program**" means a program approved by the Administrator under 40 CFR Part 70.

"**Stationary source**" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act as it existed on January 2, 2006.

"**Subject to regulation**" means, for any air pollutant, that the pollutant is subject to either a provision in the federal Clean Air Act, or a nationally-applicable regulation codified by the EPA Administrator in subchapter C of Chapter I of 40 CFR, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(A) Greenhouse gases (GHG) shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 TPY CO₂ equivalent emissions (CO₂e) and are otherwise subject to regulation as previously described in this definition.

(B) The term TPY CO₂ equivalent emissions (CO₂e) shall represent an amount of GHG emitted, and shall be computed by multiplying the mass amount of emissions (in TPY) for each of the six greenhouse gases in the pollutant GHG by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR Part 98 B Global Warming Potentials and summing the resultant value for each to compute a TPY CO₂e.

(C) If federal legislation or a federal court stays, invalidates, delays the effective date, or otherwise renders unenforceable by the U.S. EPA, in whole or in part, the EPA's tailoring rule (75 FR 31514, June 3, 2010), endangerment finding (74 FR 66496, December 15, 2009), or light-duty vehicle greenhouse gas

emission standard (75 FR 25686, May 7, 2010), this definition shall be enforceable only to the extent that it is enforceable by the U.S. EPA.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J.

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise. All terms used in this Part that are not defined in this Section shall have the meaning given to them in OAC 252:100-1-3, 252:100-8-1.1, or in the Oklahoma Clean Air Act.

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (A) through (C) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under OAC 252:100-8-38. Instead, the definitions of "projected actual emissions" and "baseline actual emissions" shall apply for those purposes.

(A) In general, actual emissions as of a particular date shall equal the average rate in TPY at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(B) The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- (A) the applicable standards as set forth in 40 CFR Parts 60 and 61;
 - (B) the applicable State rule allowable emissions;
- or,

(C) the emissions rate specified as an enforceable permit condition.

"Baseline actual emissions" means the rate of emissions, in TPY, of a regulated NSR pollutant, as determined in accordance with paragraphs (A) through (E) of this definition.

(A) The baseline actual emissions shall be based on current emissions data and the unit's utilization during the period chosen. Current emission data means the most current and accurate emission factors available and could include emissions used in the source's latest permit or permit application, the most recent CEM data, stack test data, manufacturer's data, mass balance, engineering calculations, and other emission factors.

(B) For any existing electric utility steam generating unit (EUSGU), baseline actual emissions means the average rate, in TPY, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit application is received by the Director for a permit required under OAC 252:100-8. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with start-ups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units affected by the project. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in TPY, and for adjusting this amount if required by (B)(ii) of this definition.

(C) For an existing emissions unit (other than an EUSGU), baseline actual emissions means the average rate in TPY, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required either under this Part or under a plan approved by the Administrator, whichever is earlier,

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except that the 10 year period shall not include any period earlier than November 15, 1990.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a MACT standard that the Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if DEQ has taken credit for such emissions reduction in an attainment demonstration or maintenance plan consistent with requirements of 40 CFR 51.165(a)(3)(ii)(G).

(iv) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(v) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in TPY, and for adjusting this amount if required by (C)(ii) and (iii) of this definition.

(D) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(E) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing EUSGU in accordance with the procedures contained in paragraph (B) of this definition, for other existing emissions units in accordance with the procedures contained in Paragraph (C) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (D) of this definition.

"Baseline area" means any intrastate areas (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 $\mu\text{g}/\text{m}^3$ (annual average) of

the pollutant for which the minor source baseline date is established.

(A) Area redesignations under section 107(d)(1)(D) or (E) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(i) establishes a minor source baseline date; or
(ii) is subject to 40 CFR 52.21 or OAC 252:100-8, Part 7, and would be constructed in the same State as the State proposing the redesignation.

(B) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that such baseline area shall not remain in effect if the Director rescinds the corresponding minor source baseline date in accordance with paragraph (D) of the definition of "baseline date".

"Baseline concentration" means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major stationary source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

"Baseline date" means:

(A) Major source baseline date means:

(i) in the case of particulate matter and sulfur dioxide, January 6, 1975, and
(ii) in the case of nitrogen dioxide, February 8, 1988.

(B) Minor source baseline date means the earliest date after the trigger date on which a major stationary source or major modification (subject to 40 CFR 52.21 or OAC 252:100-8, Part 7) submits a complete application. The trigger date is:

(i) in the case of particulate matter and sulfur dioxide, August 7, 1977, and
(ii) in the case of nitrogen dioxide, February 8, 1988.

(C) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

- (i) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i)(D) or (E) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under OAC 252:100-8, Part 7; and
- (ii) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(D) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that the Director may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Director, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions.

"Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature.

(A) Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.

(B) With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

"Best available control technology" or **"BACT"** means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of

such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The Federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

"Commence" means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

"Continuous emissions monitoring system" or **"CEMS"** means all of the equipment that may be required to meet the data acquisition and availability requirements to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system" or **"CERMS"** means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system" or **"CPMS"** means all of the equipment necessary to meet the data acquisition and availability requirements to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂, or CO₂ concentrations), and to record average operational parameter value(s) on a continuous basis.

"Electric utility steam generating unit" or **"EUSGU"** means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce

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electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an EUSGU. There are two types of emissions units as described in paragraphs (A) and (B) of this definition.

(A) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(B) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (A) of this definition. A replacement unit is an existing emissions unit.

"Federal Land Manager" means with respect to any lands in the United States, the Secretary of the department with authority over such lands.

"High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Low terrain" means any area other than high terrain.

"Major modification" means:

(A) Any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source is a major modification.

(i) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for VOC or NO_x shall be considered significant for ozone.

(ii) A physical change or change in the method of operation shall not include:

(I) routine maintenance, repair and replacement;

(II) use of an alternative fuel or raw material by reason of any order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(III) use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(IV) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(V) use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before January 6,

1975, (unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975) or the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 252:100-8;

(VI) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975;

(VII) any change in source ownership;

(VIII) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided the project complies with OAC 252:100 and other requirements necessary to attain and maintain the NAAQS during the project and after it is terminated;

(IX) the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant (on a pollutant-by-pollutant basis) emitted by the unit; or

(X) the reactivation of a very clean coal-fired EUSGU.

(B) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under OAC 252:100-8-38 for a PAL for that pollutant. Instead, the definition of "PAL major modification" at 40 CFR 51.166(w)(2)(viii) shall apply.

"Major stationary source" means

(A) A major stationary source is:

(i) any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 TPY or more of a regulated NSR pollutant:

(I) carbon black plants (furnace process),

(II) charcoal production plants,

(III) chemical process plants, (not including ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140),

(IV) coal cleaning plants (with thermal dryers),

(V) coke oven batteries,

(VI) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,

(VII) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,

(VIII) fuel conversion plants,

(IX) glass fiber processing plants,

(X) hydrofluoric, sulfuric or nitric acid plants,

- (XI) iron and steel mill plants,
- (XII) kraft pulp mills,
- (XIII) lime plants,
- (XIV) municipal incinerators capable of charging more than 50 tons of refuse per day,
- (XV) petroleum refineries,
- (XVI) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- (XVII) phosphate rock processing plants,
- (XVIII) portland cement plants,
- (XIX) primary aluminum ore reduction plants,
- (XX) primary copper smelters,
- (XXI) primary lead smelters,
- (XXII) primary zinc smelters,
- (XXIII) secondary metal production plants,
- (XXIV) sintering plants,
- (XXV) sulfur recovery plants, or
- (XXVI) taconite ore processing plants;
- (ii) any other stationary source not on the list in (A)(i) of this definition which emits, or has the potential to emit, 250 TPY or more of a regulated NSR pollutant;
- (iii) any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source under this definition if the change would constitute a major stationary source by itself.
- (B) A major source that is major for VOC or NO_x shall be considered major for ozone.
- (C) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Part whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:
 - (i) the stationary sources listed in (A)(i) of this definition;
 - (ii) any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

"Necessary preconstruction approvals or permits" means those permits or approvals required under all applicable air quality control laws and rules.

"Net emissions increase" means:

- (A) with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:
 - (i) the increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to OAC 252:100-8-30(b); and,
 - (ii) any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under (A)(ii) of this definition shall be determined

as provided in the definition of "baseline actual emissions", except that (B)(iii) and (C)(iv) of that definition shall not apply.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if:

- (i) it is contemporaneous; and
- (ii) the Director has not relied on it in issuing a permit for the source under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that it meets all the conditions in (F)(i) through (iii) of this definition.

(i) It is creditable if the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.

(ii) It is creditable if it is enforceable as a practical matter at and after the time that actual construction on the particular change begins.

(iii) It is creditable if it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(H) Paragraph (A) of the definition of "actual emissions" shall not apply for determining creditable increases and decreases.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

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"Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂, or CO₂ concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

"Prevention of Significant Deterioration (PSD) program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR 51.166, or the program in 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

"Project" means a physical change in, or change in method of operation of, an existing major stationary source.

"Projected actual emissions" means

(A) Projected actual emissions means the maximum annual rate, in TPY, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant, and full utilization of the unit would result in a significant emissions increase, or a significant net emissions increase at the major stationary source.

(B) In determining the projected actual emissions under paragraph (A) of this definition (before beginning actual construction), the owner or operator of the major stationary source:

(i) shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under the approved plan; and

(ii) shall include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions; and

(iii) shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(iv) in lieu of using the method set out in (B)(i) through (iii) of this definition, may elect to use the emissions unit's potential to emit, in TPY.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement

of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(A) has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the Department's emissions inventory at the time of enactment;

(B) was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;

(C) is equipped with low-NO_x burners prior to the time of commencement of operations following reactivation; and

(D) is otherwise in compliance with the requirements of the Act.

"Regulated NSR pollutant" means

(A) A regulated NSR pollutant is:

(i) any pollutant for which a NAAQS has been promulgated and any constituents or precursors for such pollutants identified by the Administrator (e.g., VOC and NO_x are precursors for ozone)

(ii) any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or

(iv) any pollutant that otherwise is "subject to regulation" under the Act.—as defined in OAC 252:100-8-31;

(B) Regulated NSR pollutant does not include:

(i) any or all HAP either listed in section 112 of the Act or added to the list pursuant to section 112(b)(2) of the Act, which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed HAP is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act; or

(ii) any pollutant that is regulated under section 112(r) of the Act, provided that such pollutant is not otherwise regulated under the Act.

"Replacement unit" means an emissions unit for which all the criteria listed in paragraphs (A) through (D) of this definition are met. No creditable emission reduction shall be generated from shutting down the existing emissions unit that is replaced.

(A) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(C) The replacement unit does not alter the basic design parameter(s) of the process unit.

(D) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from

operating by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Repowering" means

(A) Repowering shall mean the replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(B) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(C) The Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under section 409 of the Act.

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, ~~significant means~~ a rate of emissions that would equal or exceed any of the following rates:

- (i) carbon monoxide: 100TPY,
- (ii) nitrogen oxides: 40 TPY,
- (iii) sulfur dioxide: 40 TPY,
- (iv) particulate matter: 25 TPY of particulate matter emissions or 15 TPY of PM-10 emissions,
- (v) ozone: 40 TPY of VOC or NO_x,
- (vi) lead: 0.6 TPY,
- (vii) fluorides: 3 TPY,
- (viii) sulfuric acid mist: 7 TPY,
- (ix) hydrogen sulfide (H₂S): 10 TPY,
- (x) total reduced sulfur (including H₂S): 10 TPY,
- (xi) reduced sulfur compounds (including H₂S): 10 TPY,
- (xii) municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.5 x 10⁻⁶ TPY,
- (xiii) municipal waste combustor metals (measured as particulate matter): 15 TPY,
- (xiv) municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 40 TPY,
- (xv) municipal solid waste landfill emissions (measured as nonmethane organic compounds): 50 TPY.

(B) Notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 µg/m³ (24-hour average).

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

"Significant net emissions increase" means a significant emissions increase and a net increase.

"Stationary source" means any building, structure, facility or installation which emits or may emit a regulated NSR pollutant.

"Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the federal Clean Air Act, or a nationally-applicable regulation codified by the EPA Administrator in subchapter C of chapter I of 40 CFR, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(A) Greenhouse gases (GHG) shall not be subject to regulation except as provided in (D) through (E) of this definition.

(B) For purposes of (C) through (E) of this definition, the term TPY CO₂ equivalent emissions (CO₂e) shall represent an amount of GHG emitted, and shall be computed as follows:

- (i) Multiplying the mass amount of emissions (TPY), for each of the six greenhouse gases in the pollutant GHG, by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR 98--Global Warming Potentials.
- (ii) Summing the resultant value from (B)(i) of this definition for each gas to compute a TPY CO₂e.

(C) The term emissions increase as used in paragraphs (D) through (E) of this definition shall mean that both a significant emissions increase (as calculated using the procedures in OAC 252:8-30(b)(1) through (5)) and a significant net emissions increase (as defined in the definitions of "net emissions increase" and "significant" in OAC 252:100-8-31) occur. For the pollutant GHG, an emissions increase shall be based on TPY CO₂e, and shall be calculated assuming the pollutant GHG is a regulated NSR pollutant, and "significant" is defined as 75,000 TPY CO₂e and are otherwise subject to regulation as previously described in this definition.

(D) Beginning January 2, 2011, the pollutant GHG is subject to regulation if it meets the other requirements of this definition and if:

- (i) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHG, and also will emit or will have the potential to emit 75,000 TPY CO₂e or more; or

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(ii) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHG, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 TPY CO₂e or more;

(E) Beginning July 1, 2011, in addition to the provisions in paragraph (D) of this definition, the pollutant GHG shall also be subject to regulation:

(i) At a new stationary source that will emit or have the potential to emit 100,000 TPY CO₂e; or

(ii) At an existing stationary source that emits or has the potential to emit 100,000 TPY CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 TPY CO₂e or more.

(F) If federal legislation or a federal court stays, invalidates, delays the effective date, or otherwise renders unenforceable by the U.S. EPA, in whole or in part, the EPA's tailoring rule (75 FR 31514, June 3, 2010), endangerment finding (74 FR 66496, December 15, 2009), or light-duty vehicle greenhouse gas emission standard (75 FR 25686, May 7, 2010), this definition shall be enforceable only to the extent that it is enforceable by the U.S. EPA

"**Temporary clean coal technology demonstration project**" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Oklahoma Air Pollution Control Rules in OAC 252:100 and other requirements necessary to attain and/or maintain the NAAQS during and after the project is terminated.

[OAR Docket #11-27; filed 1-6-11]

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

[OAR Docket #11-26]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

252:100-7-2.1. Minor permits for greenhouse gas-emitting facilities

[NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201, and 2-5-101, *et seq.*

DATES:

Comment period:

September 20, 2010 through October 27, 2010

November 16, 2010

Public hearings:

October 27, 2010

November 16, 2010

Adoption:

November 16, 2010

Approved by Governor:

December 27, 2010

Effective:

Effective immediately upon the Governor's approval

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

FINDING OF EMERGENCY:

The Department finds that a compelling public interest necessitates the seeking of emergency certification of the rule being adopted today. The emergency adoption of this rule will allow the Department to comply with deadlines in amendments to 40 CFR ' 51.166 and to avoid serious prejudice to the public interest. When the new light-duty vehicle Greenhouse Gas (GHG) emission standards become effective on January 2, 2011, GHG will become subject to regulation as an air pollutant. As a result an overwhelming number of GHG sources would become subject to the State's air permitting programs. This could include industrial and commercial/residential sources that emit or have the potential to emit more than 40 tons of GHG per year and have not previously been subject to the air permitting programs. The federal Clean Air Act does not require that minor source programs apply to GHG. The Department is proposing to add a new section to Subchapter 7 to clarify that GHG is excluded from the minor facility permitting program, except if necessary to set enforceable limits to keep GHG emission levels at a facility below the applicability threshold levels for the PSD construction permit program and/or the Part 70 operating permit program. However, this modification cannot be effective as a permanent rule change under the State's rulemaking process until after January 2, 2011. Therefore, a large number of smaller sources of GHG could possibly interpret the Department's current rules to subject them to the minor facility permit program contained in Subchapter 7. This would be costly to the small sources that must prepare and submit these permit applications, and to the Department which must process and respond to the applications. Such an interpretation could mean that the State's permitting program would be more stringent than the Federal programs from January 2, 2011 until the proposed modification becomes effective. Therefore, the Department is proposing that this modification be approved as an emergency rule. It was not until EPA's GHG Tailoring Rule was published in the *Federal Register* (75 FR 31514) on June 3, 2010, that the Department had the information necessary to amend its air quality permitting programs to clarify the effect that the federal GHG programs will have on the State's air permitting programs, making it impossible to appropriately revise the minor facility permitting program permanent rule prior to the January 2, 2011 deadline.

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D).

SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

PART 1. GENERAL PROVISIONS

252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities

Greenhouse gas (GHG) emissions shall not be included in a minor facility permit nor cause a facility to be subject to minor facility permitting requirements contained in OAC 252:100-7, unless the owner or operator of that facility requests

that GHG emission limits and/or physical or operational limitations be included in a minor permit for the facility to set enforceable limits to keep potential GHG emission levels below the applicability threshold levels for the PSD construction permit program and/or the Part 70 operating permit program. Physical or operational limitations may include, but are not limited to, air pollution control equipment, restrictions on hours of operation, and/or restrictions on the type or amount of material combusted, stored, or processed.

[OAR Docket #11-26; filed 1-6-11]

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

[OAR Docket #11-03]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-241.2. [AMENDED]
(Reference APA WF # 10-53)

AUTHORITY:

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

DATES:

Adoption:

November 18, 2010

Approved by Governor:

December 27, 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:

Superseded rules:

Subchapter 5. Individual Providers and Specialties
Part 21. Outpatient Behavioral Health Services
317:30-5-241.2 [AMENDED]

Gubernatorial approval:

July 20, 2010

Register publication:

27 Ok Reg 2753

Docket number:

10-1142

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Agency has determined necessity in the promulgation of emergency rules to avoid serious prejudice to the public interest and requests emergency approval of rule revisions to the Agency's outpatient behavioral health program. Outpatient Behavioral Health rules are revised to add Partial Hospitalization Program (PHP) and Day Treatment as covered services for children. Policy revisions are needed to broaden community services which focus on alternative lower levels of treatment services that function as either a diversion from Psychiatric Residential Treatment Facilities (PRTF) or as a step down from inpatient services. The availability of PHP and Day Treatment will produce budget savings with more children going into community based services rather than PRTF levels of care. Following collaboration with the outpatient behavioral health provider community, the Agency determined PHP services are essential to public interest. After presenting the rate at a public hearing and then subsequently submitting to the Centers of Medicaid and Medicare Services (CMS), providers began to create partial hospitalization

programs reasonably relying on the Agency's rate approval. Not granting emergency approval will delay reimbursing providers for PHP services and will cause serious prejudice to the public interest. The emergency situation necessitating this rule change was not caused by Agency inaction or delay but rather budget restrictions and the need for community placement.

ANALYSIS:

Outpatient Behavioral Health Rules are revised to add Partial Hospitalization Programs (PHP) and Day Treatment as SoonerCare covered services for children. PHP and Day Treatment consist of a package of therapeutically intensive clinical services offered in community and family based programs. PHP and Day Treatment services are components of the behavioral health residential treatment center (RTC) diversion project, which focuses on alternative levels of treatment services aimed at stepping individuals down from inpatient facilities and into clinically appropriate settings offering lower levels of care. Emergency rule revisions are necessary to avoid serious prejudice to the public interest.

CONTACT PERSON:

Tywanda Cox at (405)522-7153

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

**SUBCHAPTER 5. INDIVIDUAL PROVIDERS
AND SPECIALTIES**

**PART 21. OUTPATIENT BEHAVIORAL HEALTH
SERVICES**

317:30-5-241.2. Psychotherapy

(a) Individual/Interactive Psychotherapy.

- (1) **Definition.** Individual Psychotherapy is a face-to-face treatment for mental illnesses and behavioral disturbances, in which the clinician, through definitive therapeutic communication, attempts to alleviate the emotional disturbances, reverse or change maladaptive patterns of behavior and encourage growth and development. Insight oriented, behavior modifying and/or supportive psychotherapy refers to the development of insight of affective understanding, the use of behavior modification techniques, the use of supportive interactions, the use of cognitive discussion of reality, or any combination of these items to provide therapeutic change.
- (2) **Definition.** Interactive Psychotherapy is individual psychotherapy that involves the use of play therapy equipment, physical aids/devices, language interpreter, or other mechanisms of nonverbal communication to overcome barriers to the therapeutic interaction between the clinician and the member who has not yet developed or who has lost the expressive language communication skills to explain his/her symptoms and response to treatment, requires the use of a mechanical device in order to progress in treatment, or the receptive communication skills to understand the clinician. The service may be used for adults who are hearing impaired and require the use of language interpreter.

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- (3) **Qualified professionals.** With the exception of a qualified interpreter if needed, only the member and the ~~LBHP Licensed Behavioral Health Professional (LBHP) or AODTP-Certified Alcohol and Drug Counselor (CADC), for substance abuse (SA) only,~~ should be present and the setting must protect and assure confidentiality. Ongoing assessment of the member's status and response to treatment as well as psycho-educational intervention are appropriate components of individual counseling. The counseling must be goal directed, utilizing techniques appropriate to the service plan and the member's developmental and cognitive abilities. Individual/Interactive counseling must be provided by a LBHP ~~or CADC when treatment is for a mental illness and by an AODTP when treatment is for an alcohol or other drug disorder only.~~
- (4) **Limitations.** A maximum of 6 units per day per member is compensable.
- (b) **Group Psychotherapy.**
- (1) **Definition.** Group psychotherapy is a method of treating behavioral disorders using the interaction between the LBHP ~~or the CADC when treating mental illness or the AODTP when treating~~ alcohol and other drug disorders only, and two or more individuals to promote positive emotional or behavioral change. The focus of the group must be directly related to the goals and objectives in the individual member's current service plan. This service does not include social or daily living skills development as described under ~~Psychiatric social Rehabilitation Services~~ Behavioral Health Rehabilitation Services.
- (2) **Group sizes.** Group Psychotherapy is limited to a total of eight adult (18 and over) individuals except when the individuals are residents of an ICF/MR where the maximum group size is six. For all children under the age of 18, the total group size is limited to six.
- (3) **Multi-family and conjoint family therapy.** Sessions are limited to a maximum of eight families/units. Billing is allowed once per family unit, though units may be divided amongst family members.
- (4) **Qualified professionals.** Group psychotherapy will be provided by a LBHP ~~or CADC when treatment is for a mental illness and by an AODTP when treatment is for~~ an alcohol or other drug disorder only. Group Psychotherapy must take place in a confidential setting limited to the LBHP ~~or the AODTP~~ CADC conducting the service, an assistant or co-therapist, if desired, and the group psychotherapy participants.
- (5) **Limitations.** A maximum of 12 units per day per member is compensable.
- (c) **Family Psychotherapy.**
- (1) **Definition.** Family Psychotherapy is a face-to-face psychotherapeutic interaction between a LBHP ~~or an AODTP~~ CADC and the member's family, guardian, and/or support system. It is typically inclusive of the identified member, but may be performed if indicated without the member's presence. When the member is an adult, his/her permission must be obtained in writing. Family psychotherapy must be provided for the direct benefit of the
- SoonerCare member to assist him/her in achieving his/her established treatment goals and objectives and it must take place in a confidential setting. This service may include the Evidence Based Practice titled Family Psychoeducation.
- (2) **Qualified professionals.** Family Psychotherapy must be provided by a LBHP ~~or CADC when treatment is for a mental illness and by an AODTP when treatment is for~~ an alcohol or other drug disorder only.
- (3) **Limitations.** A maximum of 12 units per day per member/family unit is compensable.
- (d) **Multi-Systemic Therapy (MST).**
- (1) **Definition.** MST intensive outpatient program services are limited to children within an ~~OJA Office of Juvenile Affairs (OJA)~~ MST treatment program which provides an intensive, family and community-based treatment targeting specific BH disorders in children with SED who exhibit chronic, aggressive, antisocial, and/or substance abusing behaviors, and are at risk for out of home placement. Case loads are kept low due to the intensity of the services provided.
- (2) **Qualified professionals.** Masters level professionals who work with a team that may include bachelor level staff.
- (e) **Children/Adolescent Partial Hospitalization Program (PHP).**
- (1) **Definition.** Partial hospitalization is an intermediary, stabilizing step for youth that have had inpatient psychiatric hospitalization prior to returning to school and community supports or as a less restrictive alternative for children, adolescents, and their families when inpatient treatment may not be indicated. Treatment is time limited and therapeutically intensive clinical services are provided.
- (2) **Qualified professionals.** All services in the PHP are provided by a team, which must be composed of one or more of the following participants: physician, registered nurse, licensed behavioral health professional (LBHP), a case manager, or other certified Behavioral Health/Substance Abuse paraprofessional staff. Refer to OHCA BH Provider Manual for further requirements. The treatment plan is directed under the supervision of a physician.
- (3) **Qualified providers.** Provider agencies for PHP must be accredited by one of the national accrediting bodies: The Joint Commission (TJC), Commission on Accreditation of Rehabilitation Facilities (CARF) or The Council on Accreditation (COA) for partial hospitalization and enrolled in SoonerCare. Staff providing these services are employees or contractors of the enrolled agency.
- (4) **Limitations.** Services are limited to children 0-20 only. Services must be offered at a minimum of 3 hours per day, 5 days per week. Therapeutic services are limited to 4 billable hours per day and must be prior authorized. PHP services are all inclusive with the exception of physician services and drugs that cannot be self-administered, those services are separately billable. Refer to OHCA BH Provider Billing Manual for further definition.

(5) **Reporting.** Reporting requirements must be followed as outlined in the OHCA BH Provider Billing Manual.

(f) **Children/Adolescent Day Treatment Program.**

(1) **Definition.** Day Treatment Programs are for the stabilization of children and adolescents with severe emotional and/or behavioral disturbances. Treatment is designed for children who have difficulty functioning in mainstream community settings such as classrooms, and who need a higher intensity of services than outpatient counseling provides. Treatment is time limited and includes therapeutically intensive clinical services geared towards reintegration to the home, school, and community.

(2) **Qualified professionals.** All services in Day Treatment are provided by a team, which must be composed of one or more of the following participants: physician, registered nurse, licensed behavioral health professional (LBHP), a case manager, or other certified Behavioral Health/Substance Abuse paraprofessional staff. Refer to OHCA BH Provider Billing Manual for further requirements. Services are directed by an LBHP.

(3) **Qualified providers.** Provider agencies for Day Treatment must be accredited by one of the national accrediting bodies; The Joint Commission (TJC), Commission on Accreditation of Rehabilitation Facilities (CARF) or The Council on Accreditation (COA).

(4) **Limitations.** Services must be offered at a minimum of 4 days per week at least 3 hours per day. Refer to OHCA BH Provider Billing Manual for further requirements.

[OAR Docket #11-03; filed 1-4-11]

**TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #10-1482]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 11. Retailer Compliance Initiative [NEW]

710:1-11-1 [NEW]

710:1-11-2 [RESERVED]

710:1-11-3 [NEW]

710:1-11-4 [RESERVED]

710:1-11-5 [NEW]

AUTHORITY:

68 O.S. §§ 203 and 1407.2; Oklahoma Tax Commission

DATES:

Adoption:

November 16, 2010 (Commission Order No. 2010-11-16-02)

Approved by Governor:

December 27, 2010

Effective:

Immediately upon Governor's approval

Expiration:

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

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency adoption of amendments to the existing rules is necessary because the Tax Commission is mandated pursuant to subsection F of Section 3 of House Bill 2359 (52nd Legislature, 2nd Regular Session) to promulgate rules detailing the terms and other conditions of the program and certain relief under the program is only available to eligible retailers that register with Oklahoma for vendor use tax purposes before July 1, 2011 which is about the same time 2011 permanent rulemaking would be effective.

ANALYSIS:

The rule changes reflect the provisions of House Bill 2359 (52nd Legislature, 2nd Regular Session) detailing terms and other conditions of the Retailer Compliance Initiative.

CONTACT PERSON:

Lisa Haws, OBA #12695, Tax Policy Analyst; (405) 521-3133.

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

SUBCHAPTER 11. RETAILER COMPLIANCE INITIATIVE

710:1-11-1. Purpose

In order to encourage the voluntary registration, collection, and remittance of use taxes owed to the State the Legislature has authorized the Oklahoma Tax Commission to establish a Retailer Compliance Initiative for out-of-state retailers.

710:1-11-2. [RESERVED]

710:1-11-3. Definitions

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

"Commission" means the Oklahoma Tax Commission.

"Eligible retailers" Out-of-state retailers that were not registered for use tax collection purposes in Oklahoma during the twelve month period preceding July 1, 2010 are eligible for the relief granted pursuant to the Retailer Compliance Initiative.

"Retailer Compliance Initiative" means a program available to certain out-of-state retailers not registered in this state for the twelve month period preceding July 1, 2010 which provides for the forbearance of collection and assessment of uncollected use taxes including penalty and interest for the period the retailer was not registered in this state provided the out-of-state retailer registers for purposes of collecting Oklahoma vendor use tax prior to July 1, 2011.

"Retailer Compliance Initiative period" means the period commencing on July 1, 2010 and ending June 30, 2011.

710:1-11-4. [RESERVED]

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710:1-11-5. Retailer Compliance Initiative

(a) Relief granted under Initiative. The Tax Commission will not assess or seek payment of uncollected use taxes together with interest and penalty from qualifying out-of-state retailers for sales made during the period the retailer was not registered in this State.

(1) **Qualification.** To qualify for the relief granted under the Initiative the eligible out-of-state retailer must register to collect and remit Oklahoma use taxes prior to July 1, 2011.

(2) **Exceptions.** The relief provided under the Initiative is not available to a retailer with respect to:

(A) Any matter or matters for which the retailer received notice of the commencement of an audit and which the audit is not yet finally resolved including any related administrative and judicial processes;

(B) Use taxes already paid or remitted to the state;

(C) Use taxes collected but not remitted by the retailer.

(3) **Applicability.** The relief provided pursuant to the Initiative applies only to use taxes due from a retailer in

its capacity as a vendor and not to use taxes due from a retailer in its capacity as a buyer.

(4) **Duration.** The relief provided pursuant to the Initiative is fully effective absent the retailer's fraud or intentional misrepresentation of a material fact, as long as the retailer continues registration and continues collection and remittance of applicable use taxes for a period of at least thirty-six (36) months.

(5) **Statute of limitations.** The statute of limitations applicable to the Tax Commission asserting a tax liability during the referenced thirty-six (36) month period in (4) of this subsection is tolled.

(b) **Report and payment discount.** Out-of-state retailers registering under the Retailer Compliance Initiative receive a discount for timely reporting and remitting use taxes in accordance with Section 1410.1 of Title 68 of the Oklahoma Statutes.

[OAR Docket #10-1482; filed 12-30-10]

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

1:2010-48.

EXECUTIVE ORDER 2010-48

I, Brad Henry, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Friday, December 31, 2010, to honor former State Senator Ralph "Butch" Choate, an Oklahoma resident, who died on Friday, December 24, 2010 at age 63.

Senator Choate served in the Oklahoma State Senate from 1982 to 1990 and served in the House of Representatives from 1980 to 1982. Senator Choate was a dedicated public servant and a faithful representative to his constituents. Throughout his life, Senator Choate made great contributions to the State of Oklahoma.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 28th day of December, 2010.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #11-01; filed 1-3-11]

1:2011-1.

EXECUTIVE ORDER 2011-1

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by law, so that the status quo shall be maintained, and pursuant to the provisions of Subsection D of Section 840-2.14 of Title 74 of the Oklahoma Statutes, hereby order a state agency hiring freeze.

For purposes of this hiring freeze, each statewide elected official shall perform the duties of a Cabinet Secretary in approving or disapproving exemptions to this hiring freeze. These duties shall be accomplished in the same manner as other official actions by the elected officials.

Subject to written approval by the Governor, the Secretary of Human Resources and Administration may delegate specific agencies to a Deputy Secretary for purposes of complying with this Order.

This hiring freeze shall be implemented by all agencies in accordance with the following guidelines:

1. It is my direction that no audits of classified positions or reallocation of unclassified positions shall be initiated or conducted at the request of any agency unless specifically approved by the appropriate Cabinet Secretary.
2. All audits resulting from a classification grievance shall be exempt from the provisions of this Executive Order.
3. Except as specifically provided and authorized by this order, all affected state agencies are prohibited from hiring, reinstating, or promoting employees and from accepting a transferred employee from another agency.
4. Exceptions to this hiring freeze may be granted pursuant to special conditions as declared by the Chief Administrative Officer of any agency and approved by the appropriate Cabinet Secretary for that agency.
 - a. A Chief Administrative Officer shall submit a written request to the appropriate Cabinet Secretary stating the special conditions requiring the submission of the request.
 - b. Such requests may be on forms provided by the Office of Personnel Management. If an agency has an internal form regularly used by that agency which provides all the necessary information, that form may be used in lieu of the Office of Personnel Management forms if approved by the Administrator of the Office of Personnel Management.
 - c. The Cabinet Secretary shall indicate approval in writing of the submitted request for the granting of an exception to this hiring freeze.
 - d. All approved requests and approved Cabinet Secretary findings shall be maintained as an official record by the Office of Personnel Management in accordance with Records Management Act. Any agency which does not submit personnel action requests for approval to the

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Office of Personnel Management shall be responsible for maintaining this documentation.

e. In the event of a vacancy in a Cabinet Secretary position, the Secretary of State shall act as the approving authority for the hiring freeze exception requests.

5. The Administrator of the Office of Personnel Management and the Director of the Office of State Finance are hereby directed to develop and implement procedures necessary to carry out the provisions of this Executive Order.

6. The Director of the Office of State Finance is authorized to require Cabinet Secretaries to provide him with periodic accountings of their approvals and disapprovals of written requests for exemptions to this hiring freeze. These reports shall be provided to the Governor.

7. The Oklahoma Military Department shall not be required to comply with this order for hiring personnel and contracts for which the department receives total federal government reimbursement.

Copies of this Executive Order shall be distributed to the Secretary for Human Resources and Administration for immediate implementation.

The provisions of this Executive Order shall be effective from January 1, 2011, and shall terminate December 31, 2011.

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 1st day of January, 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

Michelle Waddell

Acting Assistant Secretary of State

[OAR Docket #11-02; filed 1-3-11]

1:2011-2.

EXECUTIVE ORDER 2011-2

I, Brad Henry, Governor of the State of Oklahoma, as a mark of respect for the victims of the senseless acts of violence perpetrated on Saturday, January 8, 2011, in Tucson, Arizona, direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from January 9, 2011 until January 14, 2011, in accordance with President Barack Obama's proclamation issued on January 9, 2011.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 9th day of January, 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage

Secretary of State

[OAR Docket #11-46; filed 1-10-11]

STATE BOND ADVISOR'S OFFICE NOTICE OF STATE CEILING AMOUNT FOR THE CALENDAR YEAR 2011

In accordance with Title 62 O.S., Section 695.25, the maximum total volume (also referred to as "Volume Cap" or "State Ceiling Amount") of Private Activity Bonds that may be issued pursuant to federal law by the State of Oklahoma during calendar year 2011 is \$356,378,345. From the first business day of 2011 through September 1, 2011, the Volume Cap is subdivided into the following categories ("Pools") and amounts: (1) Qualified Small Issue Pool, \$42,765,401; (2) Exempt Facility Pool, \$8,909,459; (3) Beginning Agricultural Producer Pool, \$3,563,783; (4) Student Loan Pool,

\$55,238,643; (5) Economic Development Pool, \$42,765,401; (6) Oklahoma Housing Finance Agency Pool, \$53,456,752; (7) State Issuer Pool, \$14,255,134; (8) Metropolitan Area Housing Pool, \$44,547,294; (9) Rural Area Housing Pool, \$28,510,268; and (10) Local Issuer Single Family Pool, \$62,366,210. From September 2, 2011, to 9:00 a.m., December 20, 2011, any amount remaining to be allocated from these pools is combined and managed from the Consolidated Pool. On or after 9:00 a.m. on December 20, 2011, certain Private Activity Bond issuing authorities may apply to the State Bond Advisor to carry forward a portion of any remaining State Ceiling Amount.

[OAR Docket #10-1454; filed 12-27-10]

