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Mary Fallin, Governor
V. Glenn Coffee,
Secretary of State
Peggy Coe, Editor-in-Chief

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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 2. FEES

[OAR Docket #11-1039]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 3. Fee Schedules

35:2-3-2.1 [AMENDED]

35:2-3-2.2 [AMENDED]

35:2-3-2.4 [AMENDED]

35:2-3-2.5 [AMENDED]

35:2-3-2.6 [AMENDED]

SUMMARY:

The proposed rules amend certain fees contained in Subchapter 3 pertaining to laboratory testing in the fields of animal health, feed and fertilizer, microbiological, pesticide, and water and sediment inorganics. These rules allow the Oklahoma Department of Agriculture, Food, and Forestry's Laboratory Services Division to recoup some of the costs associated with conducting the specific tests addressed by the amendments. In some cases fees are lowered due to changes in the Department's costs to conduct the analyses.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. 2001 §§ 2-4(20) and 14-83; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Bennett Abbott at bennett.abbott@ag.ok.gov, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from November 16, 2011 through December 20, 2011.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., December 20, 2011 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to

Bennett Abbott at the above address during the period from November 16, 2011 through December 20, 2011.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Bennett Abbott 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:

Bennett Abbott, (405) 522-5803, e-mail address: at bennett.abbott@ag.ok.gov.

[OAR Docket #11-1039; filed 10-26-11]

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

[OAR Docket #11-1040]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 42. Tuberculosis Eradication in Cervidae

Part 5. Herd Status Requirements

35:15-42-51 [AMENDED]

Subchapter 44. Farmed Cervidae

35:15-44-4 [AMENDED]

35:15-44-6 [AMENDED]

35:15-44-18 [AMENDED]

Subchapter 45. Brucellosis in Cervidae

Part 13. Certified Brucellosis-Free Cervid Herds

35:15-45-132 [AMENDED]

Subchapter 47. Chronic Wasting Disease (CWD) in Cervids

Part 3. Herd Certification Standards

35:15-47-6 [AMENDED]

SUMMARY:

The proposed rule amendments revise the scheduling of recertification visits by the Department, revises the deadline to request a license, adds a "pen addition inspection fee", and expands the types of identification that may be provided by a recipient or consignee may provide to a licensee for the purchase of farmed cervidae.

AUTHORITY:

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

Notices of Rulemaking Intent

COMMENT PERIOD:

Persons may submit written comments to Bennett Abbott at bennett.abbott@ag.ok.gov, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from November 16, 2011 through December 20, 2011.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., December 20, 2011 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Bennett Abbott at the above address during the period from November 16, 2011 through December 20, 2011.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Bennett Abbott 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:

Bennett Abbott, (405) 522-5803, e-mail address: at bennett.abbott@ag.ok.gov.

[OAR Docket #11-1040; filed 10-26-11]

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

[OAR Docket #11-1041]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 15. Plasticulture Program [NEW]

35:40-15-1 [NEW]

35:40-15-2 [NEW]

35:40-15-3 [NEW]

35:40-15-4 [NEW]

35:40-15-5 [NEW]

35:40-15-6 [NEW]

35:40-15-7 [NEW]

SUMMARY:

The proposed new rules establish eligibility requirements, evaluation criteria, application processes, and provide

supplemental program information for the Oklahoma Plasticulture Program.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 3-81 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Bennett Abbott at bennett.abbott@ag.ok.gov, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from November 16, 2011 through December 20, 2011.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m., December 20, 2011 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Bennett Abbott at the above address during the period from November 16, 2011 through December 20, 2011.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Bennett Abbott 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:

Bennett Abbott, (405) 522-5803, e-mail address: at bennett.abbott@ag.ok.gov.

[OAR Docket #11-1041; filed 10-26-11]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #11-1030]

INTENDED RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 3. Records and Inspections

240:1-3-9. Release of confidential information to specific government agencies [AMENDED]

SUMMARY:

This rule is being amended in paragraph 18 to correct a site to the federal statutes.

AUTHORITY:

40 O.S. §§4-302, 4-508 and the Oklahoma Employment Security Commission.

COMMENT PERIOD:

Written and oral comments will be accepted through December 15, 2011, during regular business hours by the contact person listed below.

PUBLIC HEARING:

No public hearing is scheduled at this time, however, pursuant to 75 O.S. §303(B) (9), "persons may demand a hearing" by contacting Melissa Copenhaver no later than 5:00 p.m. on December 15, 2011.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

[OAR Docket #11-1030; filed 10-14-11]

**TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 5. EMPLOYMENT SERVICE**

[OAR Docket #11-1031]

INTENDED RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 240:5-1-3. Registration for work [NEW]

SUMMARY:

This new rule will set out what an individual must do to register for work though the Employment Service in Oklahoma.

AUTHORITY:

40 O.S. §§2-204, 4-302, and the Oklahoma Employment Security Commission.

COMMENT PERIOD:

Written and oral comments will be accepted through December 15, 2011, during regular business hours by the contact person listed below.

PUBLIC HEARING:

No public hearing is scheduled at this time, however, pursuant to 75 O.S. §303(B) (9), "persons may demand a hearing" by contacting Melissa Copenhaver no later than 5:00 p.m. on December 15, 2011.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

[OAR Docket #11-1031; filed 10-14-11]

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

[OAR Docket #11-1032]

INTENDED RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 240:10-1-2. Definitions [AMENDED]
- 240:10-1-4. Electronic signatures [NEW]
- 240:10-1-5. Filing by electronic means [NEW]
- Subchapter 3. Benefits
- Part 5. Eligibility
- 240:10-3-20. Instructions to secure work [AMENDED]

Notices of Rulemaking Intent

240:10-3-23. Claims for total unemployment benefits [AMENDED]

240:10-3-24. Claims for partial unemployment benefits [AMENDED]

Part 9. Disqualification

240:10-3-41. Application of retirement proceeds and severance pay [AMENDED]

240:10-3-45. Cases involving ~~positive~~ drug or alcohol testing tests [AMENDED]

Part 11. Filing Claims - Notice

240:10-3-54. E-mail notification in unemployment benefit claims [NEW]

SUMMARY:

The definition of "temporary layoff" is being amended at the request of federal agencies to help them comply with their furlough requirements. The definition for "week" is being amended to designate the standard week used by the OESC so that certain claimants will not lose weeks at the end of their benefit years. The term "electronic signature" is being defined and a procedure for filing documents through electronic means is being set out. Persons drawing benefits through "shared work plan" will not be required to look for work because they are still attached to their employer. The partial unemployment benefit program is being limited in order to prevent fraud in the program. The rule concerning the application of retirement proceeds to reduce benefits is being clarified. The drug and alcohol testing rule is being modified to conform to statutory amendments to the testing act made in 2011. Amendments will allow e-mail notifications in unemployment benefit claims to claimants and employers who request this type of notification.

AUTHORITY:

40 O. S. §§1-220, 1-224, 2-202, 2-203, 2-204, 2-411, 2-503, 2-504, 4-302; 40 O.S. §551 et seq., and the Oklahoma Employment Security Commission.

COMMENT PERIOD:

Written and oral comments will be accepted through December 15, 2011, during regular business hours by the contact person listed below.

PUBLIC HEARING:

No public hearing is scheduled at this time, however, pursuant to 75 O.S. §303(B) (9), "persons may demand a hearing" by contacting Melissa Copenhaver no later than 5:00 p.m. on December 15, 2011.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

[OAR Docket #11-1032; filed 10-14-11]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 15. BOARD OF REVIEW PROCEDURES

[OAR Docket #11-1033]

INTENDED RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 11. Appeals to District Court

240:15-11-1. Board of Review decision; appeal to district court [AMENDED]

SUMMARY:

This rule is being amended to change the appeal time from the Board of Review to District Court from 10 days to 30 days to comply with statutory amendments made in 2011.

AUTHORITY:

40 O.S. §§2-610, 4-302 and the Oklahoma Employment Security Commission.

COMMENT PERIOD:

Written and oral comments will be accepted through December 15, 2011, during regular business hours by the contact person listed below.

PUBLIC HEARING:

No public hearing is scheduled at this time, however, pursuant to 75 O.S. §303(B) (9), "persons may demand a hearing" by contacting Melissa Copenhaver no later than 5:00 p.m. on December 15, 2011.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

[OAR Docket #11-1033; filed 10-14-11]

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

[OAR Docket #11-1034]

INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 240:21-1-1. Purpose and authority [AMENDED]
 - 240:21-1-2. Definitions [AMENDED]
 - 240:21-1-3. Addresses for appeals [AMENDED]
 - 240:21-1-4. Time computation [NEW]
- Subchapter 3. Denial or Termination of Eligibility of a Training Provider [REVOKED]
 - 240:21-3-1. Reporting - termination [REVOKED]
 - 240:21-3-2. Notice to the training provider [REVOKED]
 - 240:21-3-3. Appeal [REVOKED]
 - 240:21-3-4. Hearing [REVOKED]
 - 240:21-3-5. District court appeal [REVOKED]
 - 240:21-3-6. Administrative record [REVOKED]
- Subchapter 7. Monitoring
 - 240:21-7-1. Monitoring and exit conference [AMENDED]
 - 240:21-7-2. Monitoring report [AMENDED]
 - 240:21-7-3. Monitoring resolution [AMENDED]
 - 240:21-7-5. Appeal [AMENDED]

SUMMARY:

In 2011, it was decided that the monitoring and auditing of most Workforce Investment Act programs would be done by the Oklahoma Department of Commerce instead of the Oklahoma Employment Security Commission (OESC). The OESC was asked to continue monitoring two small workforce grants, the National Emergency Grant and the Senior Community Service Employment Grant (Title V). The amendments to this chapter will modify the rules to meet the new assignment and will make the rules more flexible by deleting reference to the Workforce Investment Act (WIA) and replacing it with a more general term workforce related grants. Rules related to training providers are being revoked

because the OESC will no longer be involved in this process. A new time computation rule is being proposed that would more specifically set out how time periods in these rules are to be calculated.

AUTHORITY:

40 O.S. §§4-302, 4-702, and the Oklahoma Employment Security Commission.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COMMENT PERIOD:

Written and oral comments will be accepted through December 15, 2011, during regular business hours by the contact person listed below.

PUBLIC HEARING:

No public hearing is scheduled at this time, however, pursuant to 75 O.S. §303(B) (9), "persons may demand a hearing" by contacting Melissa Copenhaver no later than 5:00 p.m. on December 15, 2011.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhaver at P. O. Box 53039, Oklahoma City, OK 73152-3039, 405/557-7146, FAX: 405/557-5320, E-Mail: Melissa.Copenhaver@oesc.state.ok.us

[OAR Docket #11-1034; filed 10-14-11]

**TITLE 712. OKLAHOMA COMMISSION FOR TEACHER PREPARATION
CHAPTER 10. TEACHER PREPARATION PROGRAM ACCREDITATION**

[OAR Docket #11-1037]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 5. Teacher Preparation Program Accreditation
 - 712:10-5-1 [AMENDED]
 - 712:10-5-3 [AMENDED]
 - 712:10-5-4 [AMENDED]

Notices of Rulemaking Intent

SUMMARY:

The proposed Teacher Preparation Program Accreditation revisions would align unit accreditation decisions terminology with those of the National Council for Accreditation of Teacher Education (NCATE), and reflect changes in annual reporting requirements as a result of legislation.

AUTHORITY:

Oklahoma Commission for Teacher Preparation; 70 O.S. Supp. 1998, §6-180 et seq. Oklahoma Teacher Preparation Act

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. On December 15, 2011 at the following address: Linda Reid, Oklahoma Commission For Teacher Preparation, 3545 NW 58th Street, Suite 200, Oklahoma City, OK 73112-4725.

PUBLIC HEARING:

A public hearing will be held from 9:00 a.m. to 11:00 a.m. on Wednesday, December 15, 2011 in the Gene Howard Board Room, Landmark Towers, 3545 NW 58th St., Oklahoma City, OK, 73112-4725.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency within the comment period, 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 Ted Gillispie, at the above address, before the close of the comment period.

COPIES OF PROPOSED RULES:

Copies of the proposed rule may be obtained from the Commission for Teacher Preparation, 3545 NW 58th Street, Suite 200, Oklahoma City, OK 73112-4725.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303 (D), a rule impact statement will be prepared and may be obtained from the Commission for Teacher Preparation at the above address beginning on November 30, 2011.

CONTACT PERSON:

Linda Reid, Executive Director, (405) 525-2612

[OAR Docket #11-1037; filed 10-20-11]

TITLE 730. DEPARTMENT OF TRANSPORTATION CHAPTER 35. MAINTENANCE AND CONTROL OF STATE HIGHWAY SYSTEM

[OAR Docket #11-1035]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Highway Advertising Control

730:35-5-3. [AMENDED]

730:35-5-18. [NEW]

SUMMARY:

The proposed rulemaking action is part of a legislative directive, stated in SB 339, requiring the Department to establish a process for outdoor advertising permit holders to conduct vegetation management activities. The proposed rulemaking action establishes the requirement of a fee.

AUTHORITY:

23U.S.C. 131; 49 O.S. § 3117; 69 O.S. §§ 101, 301, 303, 304, 312, 1271, 1275 and 1286; SB339, 2011 O.S.L. c.346 § 1.

COMMENT PERIOD:

Persons may submit written and oral comments to Mike Patterson, Deputy Director, at 200 NE 21st Street, Oklahoma City, OK 73105-3204 during the period from November 18, 2011 to December 20, 2011.

PUBLIC HEARING:

A public hearing will be held at 3:00pm on Friday, February 10, 2012 at the Oklahoma Department of Transportation Commission Room, 200 NE 21st Street, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 3:05pm.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Comments from business entities may be sent to: Oklahoma Department of Transportation, Attn: Brian Bigbie, 200 NE 21st Street, Room 1B7, Oklahoma City, OK 73105 or sent electronically by sending requests to bbigbie@odot.org

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained at the Oklahoma Department of Transportation, 200 NE 21st Street, Room 1B7, Oklahoma City, OK 73105 or sent electronically by sending request to: bbigbie@odot.org

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared prior to November 18, 2011 and may be obtained at the same location listed above for obtaining copies.

CONTACT PERSON:

Brian Bigbie (405)522-6002

[OAR Docket #11-1035; filed 10-19-11]

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 530. OFFICE OF PERSONNEL MANAGEMENT CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

[OAR Docket #11-1038]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 15. Time and Leave

Part 5. Miscellaneous Types of Leave

530:10-15-58 [NEW]

Appendix A. Pay Band Schedule [REVOKED]

Appendix A. Pay Band Schedule [NEW]

AUTHORITY:

The Administrator of the Office of Personnel Management; 74 O.S., §§ 840-1.6A, 2.16 and 2.20

DATES:

Adoption:

July 22, 2011.

Approved by Governor:

August 31, 2011

Effective:

Immediately upon Governor's approval or August 26, 2011, whichever is later.

Expiration:

Effective through July 14, 2012, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTION:

None

INCORPORATIONS BY REFERENCE:

None

FINDING OF EMERGENCY:

The proposed rule, 530:10-15-58, is necessary to incorporate the new leave provision for state employees who are reserve municipal police officers and deputy sheriffs and perform such duties in cases of emergency into the Merit Rules, pursuant to SB 666 (2011 Legislative Session) statutory amendments to Title 74 O.S. §840-2.20. The proposed amendments to the Appendix A. Pay Band Schedule are necessary to so that the schedule is in compliance with the provisions of Title 74 O.S. §840-2.16, which requires the State Employee Minimum Wage Rate to be that of a three-person household as established by the Federal Poverty Guidelines, issued by the United States Department of Health and Human Services. The United States Department of Health and Human Services recently revised the Federal Poverty Guidelines. The proposed amendments to the Pay Band Schedule reflect the revisions of the guidelines.

ANALYSIS:

The proposed rule, 530:10-15-58, is necessary to incorporate the new leave provision for state employees who are reserve municipal police officers and

deputy sheriffs and perform such duties in cases of emergency into the Merit Rules, pursuant to SB 666 (2011 Legislative Session) statutory amendments to Title 74 O.S. §840-2.20. The proposed amendments to the Appendix A. Pay Band Schedule are necessary to so that the schedule is in compliance with the provisions of Title 74 O.S. §840-2.16, which requires the State Employee Minimum Wage Rate to be that of a three-person household as established by the Federal Poverty Guidelines, issued by the United States Department of Health and Human Services. The United States Department of Health and Human Services recently revised the Federal Poverty Guidelines. The proposed amendments to the Pay Band Schedule reflect the revisions of the guidelines.

CONTACT PERSON:

Kara I. Smith, General Counsel, Office of Personnel Management, 2101 N. Lincoln, G-80, Oklahoma City, OK 73105, (405) 522-1736.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 15. TIME AND LEAVE

PART 5. MISCELLANEOUS TYPES OF LEAVE

530:10-15-58. Leave for reserve municipal police officers and reserve deputy sheriffs

(a) Employees who are reserve municipal police officers pursuant to Section 34-401 of Title 11 of the Oklahoma Statutes and employees who are reserve deputy sheriffs pursuant to Section 547 of Title 19 of the Oklahoma Statutes and who miss work in performing their duties in case of emergency shall not have to use any accrued leave or make up any time due to the performance of their reserve duties.

(b) Employees subject to the provisions of subsection (a) may be required, upon the request of the Appointing Authority, to provide appropriate documentation from the applicable law enforcement authority that identifies the nature of the emergency and the period of time of the employee's involvement.

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APPENDIX A. PAY BAND SCHEDULE [REVOKED]

APPENDIX A. PAY BAND SCHEDULE [NEW]

PAY BAND	MINIMUM	MIDPOINT	MAXIMUM
A*	\$18,530	\$18,310	\$22,126
B*	\$18,530	\$18,551	\$23,189
C*	\$18,530	\$19,626	\$24,533
D*	\$18,530	\$21,158	\$26,448
E*	\$18,530	\$23,275	\$29,094
F	\$19,202	\$25,602	\$32,003
G	\$21,122	\$28,163	\$35,204
H	\$23,234	\$30,979	\$38,724
I	\$25,730	\$34,307	\$42,884
J	\$28,288	\$37,717	\$47,146
K	\$30,920	\$41,227	\$51,534
L	\$34,012	\$45,349	\$56,686
M	\$37,752	\$50,336	\$62,920
N	\$41,906	\$55,874	\$69,843
O	\$46,934	\$62,578	\$78,223
P	\$53,056	\$70,714	\$88,393
Q	\$59,930	\$79,907	\$99,884
R	\$67,721	\$90,295	\$112,869

*Minimum revised to reflect state employee minimum wage rate (see 74 O.S. 840-2.16)

[OAR Docket #11-1038; filed 10-20-11]

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

[OAR Docket #11-1036]

RULEMAKING ACTION:

EMERGENCY adoption

PROPOSED RULES:

- Subchapter 1. General Provisions [AMENDED]
- 595:25-1-2. Definitions [AMENDED]
- 595:25-1-3. General policies [AMENDED]
- Subchapter 5. All Wrecker Operators [AMENDED]
- 595:25-5-6. Schedule of ~~rates and fees; indoor storage~~ [AMENDED]
- Subchapter 9. Oklahoma Highway Patrol Rotation Log - Additional Requirements [AMENDED]
- 595:25-9-1. Oklahoma Highway Patrol Rotation Log [AMENDED]

AUTHORITY:

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

DATES:

Adoption:

September 20, 2011

Approved by Governor:

September 28, 2011

Effective:

November 1, 2011

Expiration:

Effective through July 14, 2012, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

These rules are of compelling public interest to comply with and avoid violation of amendments in EHB 1743 (2011) to governing law of the Department of Public Safety as it relates to the authority of the Department to "license, supervise, govern and control wrecker vehicles and wrecker or towing services".

ANALYSIS:

Amendments to this chapter would update the authority of the Department to "license, supervise, govern and control wrecker vehicles and wrecker or towing services".

The proposed action is to amend existing rule.

The circumstance which created the need for this rule was enactment of EHB 1743 (2011).

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

CONTACT PERSON:

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

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON NOVEMBER 1, 2011, AS SET FORTH IN 75 O.S. § 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

595:25-1-2. Definitions

Any reference to "this Act" means 47 O.S. § 951 et seq. unless otherwise specified. The following words and terms,

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

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

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

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

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

"**Department**" means the Department of Public Safety.

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

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

"**Officer**" means any peace officer.

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

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

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

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

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

"**Tow/Towing**" *means the use of a wrecker vehicle to lift, pull, move, haul or otherwise transport any other vehicle by means of: (a) attaching the vehicle to and pulling the vehicle with the wrecker vehicle, or (b) loading the vehicle onto and*

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transporting the vehicle upon the wrecker vehicle". [47 O.S. § 951(3)]

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

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

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

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

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

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

"Wrecker or towing service", "wrecker service", or "towing service" means engaging in the business of or performing the act of towing or offering to tow any vehicle, except: (a) where the operator owns the towed vehicle and displays on both sides of the wrecker vehicle in plainly visible letters not less than two (2) inches in height the words "NOT FOR HIRE", (b) where the service is performed by a transporter as defined in [47 O.S.] section 1-181 of this title, (c) where service is performed in conjunction with the transportation of household goods and property, (d) where the wrecker vehicle is owned or operated by the United States government, the State of Oklahoma, or any department or political subdivision thereof, or (e) where the service is performed by an out-of-state wrecker service at the request of the vehicle owner or operator, and the vehicle is being towed: (1) in either direction across the border between Oklahoma and a neighboring state, or (2) through Oklahoma in transit to another state; provided, the out-of-state wrecker service shall comply with all other requirements regarding interstate commerce as set forth in law. [47 O.S. § 951(6)]

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

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

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

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

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

595:25-1-3. General policies

(a) All operators of wrecker or towing services shall conduct operations in accordance with all applicable laws of the State of Oklahoma and all applicable rules of the Department of Public Safety and rules and orders of the Corporation Commission.

(b) Each operator shall be knowledgeable of the laws of this state, as found in 47 O.S. § 951 et. seq., and the rules of this Chapter and the rules and orders of the Corporation Commission relating to wrecker and towing services and wrecker vehicles. Each operator shall maintain at least one (1) copy of said laws and rules on the premises of the place of business at the address specified on the license and shall require every employee to be knowledgeable of the laws and rules.

(c) All rules in this Chapter are subject to the Administrative Procedures Act 75 O.S. § 309, et. seq., and to 47 O.S. § 951 et. seq., which shall be incorporated herein by reference, as applicable to the Department and all parties governed by this Chapter.

(d) The Department shall be charged with the duty of enforcing the provisions of 47 O.S. § 951 et. seq. except for rates and fees charged by wrecker services, which shall be under the authority of the Corporation Commission. ~~¶~~ The duly appointed officers of the Department shall have authority to make arrests for violation of law and the provisions of the rules of this Chapter.

(e) Any Oklahoma statute now existent or duly enacted in the future shall supersede any conflicting provision of the rules of this Chapter to the extent of such conflict, but shall not affect the remaining provisions herein.

(f) Any violation of the rules of this Chapter may result in license suspension, revocation and/or penalty provisions in accordance with 47 O.S. § 951, et. seq.

(g) Every operator shall cooperate with the Department should it become necessary to review, audit, examine, or investigate any records relating to the operation of the wrecker service. Any operator who fails to cooperate with any review, audit, investigation shall be subject to suspension, revocation or cancellation of his or her wrecker license in accordance with 47 O.S. § 951, et. seq.

SUBCHAPTER 5. ALL WRECKER OPERATORS

595:25-5-6. Schedule of rates and fees; indoor storage

- (a) **Schedule of Posting of schedule of rates and fees.** The operator shall at all times keep a copy of the current schedule of rates and fees, provided by the Department, posted in a conspicuous place, readily accessible to the public.
- (b) **Posting of schedule.** Fees for vehicles towed at the request of any law enforcement agency shall not exceed fees for similar vehicles towed at the request of a driver or owner when said service is provided under the same or similar conditions.
- (c) **Service fees.** The operator shall charge fees based upon the classification of the towed vehicle, as prescribed by the Department [47 O.S. §§ 953.1 and 953.2].
- (d) **Indoor storage.** The operator shall not charge for indoor storage unless indoor storage:
 - (1) Has been specifically requested by the owner or operator of the vehicle,
 - (2) Has been ordered by the law enforcement officer requesting the towing and storage of the vehicle, or
 - (3) Is necessary to prevent further damage to the vehicle and/or property if left outside in inclement weather conditions.
- (e) **After hour release fee.**
 - (1) **Notification.** Whenever the owner, leinholder, or agent of the owner or leinholder requests after hour release of a stored vehicle, the wrecker operator or licensee shall notify the person that after hour release of the vehicle may be more costly than releasing the vehicle during normal business hours on the following day.
 - (2) **Calculating the fee.** The after hour release fee of Fifteen Dollars (\$15.00) per quarter hour [47 O.S., § 953.2(E)(3)] may include, as provided in this subsection, time spent by the wrecker owner or operator during the period of time designated in 47 O.S. § 953.2(E)(2)(a):
 - (A) traveling to the location where the vehicle is stored;
 - (B) waiting for the person to whom the vehicle will be released;
 - (C) processing the vehicle and paperwork for release.
 - (3) **Travel time.** Travel time shall be calculated from the time the wrecker owner or operator receives notification that after hour release of a vehicle is desired until the lesser of the following occurs:
 - (A) thirty (30) minutes has expired, or
 - (B) the person to whom the vehicle is to be released meets the wrecker owner or operator at the location where the vehicle is stored.
 - (4) **Waiting time.** Waiting time shall be calculated from the time the person picking up the vehicle has requested to wrecker owner or operator to meet the person at the location where the vehicle is stored until the lesser of the following occurs:
 - (A) one (1) hour has expired, except as provided in (7) of this subsection, or
 - (B) the person arrives at the location where the vehicle is stored.

- (5) **Processing time.** Processing time shall be calculated from the time the person to whom the vehicle is to be released arrives at the location where the vehicle is stored until such time as the person actually removes the vehicle from that location.
- (6) **No show.** If the person to whom the vehicle is to be released does not present himself or herself at the location where the vehicle is stored at the time requested or agreed upon by that person, the wrecker owner or operator shall charge no more than one (1) hour waiting time.
- (7) **Extension of arrival time.** If the person to whom the vehicle is to be released notifies the wrecker owner or operator of a later arrival time than previously agreed upon, the wrecker owner may extend the charge for waiting time for up to an additional hour, as provided in (4) of this subsection, from the time of notification of the later arrival time. If the previous waiting time has not exceeded one (1) hour, the wrecker owner or operator shall begin a new waiting time upon receiving notification of the later arrival time. Nothing shall prohibit the wrecker owner or operator from charging for waiting time for each such extension of the arrival time.
- (8) **Documentation.** Any and all such times shall be documented on the invoice.

SUBCHAPTER 9. OKLAHOMA HIGHWAY PATROL ROTATION LOG - ADDITIONAL REQUIREMENTS

- 595:25-9-1. Oklahoma Highway Patrol Rotation Log**
- (a) **Official Rotation Log.** The Department of Public Safety maintains two (2) official Oklahoma Highway Patrol Rotation Logs, a Class AA wrecker log and a Class AA-TL wrecker log, each of which shall consist of licensed wrecker services for the performance of services carried out pursuant to the request of or at the direction of any officer of the Department [47 O.S. §952(D)].
 - (b) **Request for placement on the Rotation Log.** A licensed Class AA wrecker service desiring to be placed on the Highway Patrol Rotation Log in the Highway Patrol Troop District in which the place of business and the primary storage facility of the wrecker service is located shall file a written request with the Department, pursuant to (e) of this Section. [47 O.S. §952(D)]
 - (c) **Assignment to the Rotation Log.** If a request for placement on the Rotation Log is approved by the Department, the wrecker service shall be assigned by the Department to the Highway Patrol Troop District specified on the request. Both the Troop Commander of the Troop District and the wrecker service will be notified by the Department of the assignment of the wrecker service to the Rotation Log. [47 O.S. §952(D)]
 - (d) **Geographical areas of rotation.** [47 O.S. §955(B)]
 - (1) The Director of the Wrecker Services Division shall be responsible for establishing geographical areas of rotation within the Troop District to which wrecker services on the District's Rotation Log will be assigned for operation when responding to calls for service from

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the Rotation Log. The Director shall notify each wrecker service of the geographical area of rotation to which it is assigned.

(2) The Director will establish each geographical area of rotation based upon a reasonable radius from the primary storage facility of each wrecker service operating within the geographical area. The reasonable radius will be determined by the Director based upon:

- (A) the estimated time it will take the wrecker service to respond to calls for service,
- (B) the number of wrecker services available on the Rotation Log,
- (C) conformity with 47 O.S. §955(B),
- (D) consideration of the economic impact of the wrecker services rates and fees and charges ~~[see 47 O.S. §953.1 regarding maximum fees and charges for wrecker services]~~, as prescribed by the Corporation Commission, on the owner or lienholder of the vehicle; and
- (E) other factors within the Troop District as deemed appropriate by the Director.

(3) The Director may overlap geographical areas of rotation whenever necessary to ensure adequate response to requests for wrecker services.

(4) The Director may modify geographical areas of rotation for the Troop District at any time and for just cause, but shall notify as soon as practicable each wrecker service affected of such modifications.

(5) The Director may extend any geographical area of rotation by a reasonable radius beyond the boundaries of the Troop District to include on the rotation log of the District a wrecker service:

- (A) which is located outside of but in proximity to the boundary of the District, and
- (B) upon receiving notification from the Department of the approval of the wrecker service for

placement on the rotation log for the District of the Commander.

(6) Nothing in this Section shall prohibit the Troop Commander from using the services of any licensed wrecker service:

- (A) outside of its assigned geographical area of rotation, or
- (B) which has not been assigned to the Rotation Log of the Troop District.

(e) **Forms.** A request for placement on any rotation log shall be filed by the wrecker service with the Department of Public Safety on a form prescribed and provided by the Department [47 O.S. §952(D)]. When requesting placement on a rotation log, the wrecker service shall provide on the request one (1) telephone number to be used for request of services during the day and one (1) telephone number to be used for request of services during the night, specifying the time period of normal use; these numbers shall also be on file with the Wrecker Services Division. Any change in the telephone numbers shall be immediately transmitted to:

- (1) the Troop Commander(s) of the Oklahoma Highway Patrol Troop District(s) on whose Rotation Log the wrecker service has been assigned, and
- (2) the Wrecker Services Division of the Department of Public Safety.

(f) **Request for removal from the Rotation Log.** A licensed Class AA wrecker service desiring to be removed, whether temporarily or permanently, from the Highway Patrol Rotation Log on which it was placed, pursuant to this section, shall file a written request with the Department. The wrecker service shall not contact the Troop Commander(s) of the Troop District(s) for removal from the Rotation Log.

[OAR Docket #11-1036; filed 10-19-11]

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

1:2011-11A.

AMENDED EXECUTIVE ORDER 2011-11

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by 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.

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 appropriated Cabinet Secretary.
2. All audits resulting from a classification grievance shall be exempted 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. However, information technology positions, regardless of the Cabinet area of which the individual is employed, shall be approved or disapproved by the Secretary of Information Technology and Telecommunications. The information technology positions subject to this exception includes, but are not limited to, both classified and unclassified positions in the following functional areas: Applications Programming, EDP Audit, Data Examination, Computer Applications, Computer Data Entry, Computer Networking, Computer Operations, Computer Programming, Computer Security, Computer Software Design, Web Applications, Data Base Analysis, Data Management Analysis, Data Base Development, Data Base Programming, Software Design/Development, Help Desk, Imaging, Systems Analysis, Systems Application Planning, Systems Application, Systems Administration, Systems

Coordination, Systems Integration, Systems Operation, Systems Planning/Development, Systems Programming, Systems Engineering, Systems Services Specialist, Systems Support, Network Administration, Network Management, Network Technical, Operating Systems Specialist, Systems, Program Manager, Telecommunications (Data and Voice), Software Training, and Technology Development/Support.

- 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 Director of the Office of State Finance.
- c. The Cabinet Secretary shall indicate approval in writing of the submitted request for the granting of an exception of this hiring freeze.
- d. All approved requests and approved Cabinet Secretary findings shall be maintained as an official record by the Office of Personnel Management in accordance with Records Management Act. Any agency which does not submit personnel action requests for approval to the Office of Personnel Management shall be responsible for maintaining this documentation.
- e. In the event of a vacancy in a Cabinet Secretary position, the Secretary of State shall act as the approving authority for the hiring freeze exception request.
- f. Effective November 1, 2011, all requests for hiring freeze exceptions for agencies reporting to the Secretary of Human Resources and Administration shall be directed to the Secretary of Finance and Revenue who shall have the authority to review and approve those requests.

5. The Director of the Office of State Finance is 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 request 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.

Executive Orders

Copies of this Executive Order shall be distributed to the Secretary for Finance and Revenue for immediate implementation.

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 26th day of October, 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Assistant Secretary of State

[OAR Docket #11-1046; filed 10-27-11]
