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Mary Fallin, Governor
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Secretary of State
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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 10. OKLAHOMA ACCOUNTANCY BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #13-1204]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

10:1-1-4.1. [AMENDED]

SUMMARY:

The proposed revision to Chapter 1, Administrative Operations, allows for flexibility to accommodate the profession and meet registrants' needs by scheduling earlier or later office hours.

AUTHORITY:

Oklahoma Accountancy Board, 59 O.S. Section 15.5(B)(6)

COMMENT PERIOD:

Written and oral comments will be accepted through close of business November 15, 2013. Comments can be submitted directly through the Oklahoma Accountancy Board (OAB) website at www.ok.gov/oab. Click on the link in the "In the Spotlight" section to submit your comments. Comments can also be submitted to Randy Ross, Executive Director, or LaLisa Semrad, Rules Committee Liaison, Oklahoma Accountancy Board, 201 NW 63rd Street, Suite 210, Oklahoma City, Oklahoma 73116. Telephone: 405-521-2397, E-mail: lsemrad@oab.ok.gov or FAX: 405-521-3118.

PUBLIC HEARING:

A public hearing will be held at 2:00 p.m. on Thursday, November 21, 2013, at the OAB Boardroom located at 201 NW 63rd Street, Suite 210, Oklahoma City, OK 73116. Anyone wishing to speak must sign in at the door by 2:10 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in 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 Randy Ross or LaLisa Semrad at the above address through close of the comment period on November 15, 2013.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the OAB website at www.ok.gov/oab or from the Oklahoma

Accountancy Board, 201 NW 63rd Street, Suite 210, Oklahoma City, OK 73116.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement will be prepared and will be available by October 21, 2013 on the OAB website or from the OAB at the address and contact numbers listed above.

CONTACT PERSONS:

Randy Ross or LaLisa Semrad at 405-521-2397

[OAR Docket #13-1204; filed 9-24-13]

TITLE 10. OKLAHOMA ACCOUNTANCY BOARD CHAPTER 15. LICENSURE AND REGULATION OF ACCOUNTANCY

[OAR Docket #13-1204A]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 24. Return of Certificate or License

10:15-24-1. [AMENDED]

Subchapter 27. Fees

10:15-27-9.1. [REVOKED]

Subchapter 33. Peer Review

10:15-33-2. [AMENDED]

10:15-33-5. [AMENDED]

10:15-33-6. [AMENDED]

10:15-33-7. [AMENDED]

Subchapter 35. Reinstatement

10:15-35-1. [AMENDED]

Subchapter 43. ~~Audits~~ Attest Engagements Performed in accordance with Government Auditing Standards [AMENDED]

10:15-43-1. [AMENDED]

10:15-43-4. [AMENDED]

10:15-43-7. [AMENDED]

SUMMARY:

The proposed revision to Chapter 15, Subchapter 24, Return of Certificate or License, allows a registrant who has voluntarily surrendered his or her CPA certificate, to keep the certificate if the individual has retired from all forms of employment regulated by the Oklahoma Accountancy Board. The proposed revocation of 10:15-27-9.1., in Subchapter 27, Fees, is to remove obsolete language since the proration period for registration has ended. The proposed revisions to Subchapter 33, Peer Review, are to eliminate obsolete

Notices of Rulemaking Intent

language to reflect current peer review reporting after changes within the profession. The proposed revision to Subchapter 35, Reinstatement, is to clarify that both individuals and firms must make application for reinstatement on forms prescribed by the Oklahoma Accountancy Board. The proposed revisions to Subchapter 43 adopt the Board policy that attest engagements include audits *and* agreed upon procedures, and clarify which engagements for government entities require registration on the list maintained by the Board.

AUTHORITY:

Oklahoma Accountancy Board, 59 O.S. Section 15.5(B)(6)

COMMENT PERIOD:

Written and oral comments will be accepted through close of business November 15, 2013. Comments can be submitted directly through the Oklahoma Accountancy Board (OAB) website at www.ok.gov/oab. Click on the link in the "In the Spotlight" section to submit your comments. Comments can also be submitted to Randy Ross, Executive Director, or LaLisa Semrad, Rules Committee Liaison, Oklahoma Accountancy Board, 201 NW 63rd Street, Suite 210, Oklahoma City, Oklahoma 73116. Telephone: 405-521-2397, E-mail: lsemrad@oab.ok.gov or FAX: 405-521-3118. **PUBLIC HEARING:**

A public hearing will be held at 2:00 p.m. on Thursday, November 21, 2013, at the OAB Boardroom located at 201 NW 63rd Street, Suite 210, Oklahoma City, OK 73116. Anyone wishing to speak must sign in at the door by 2:10 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in 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 Randy Ross or LaLisa Semrad at the above address through close of the comment period on November 15, 2013.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the OAB website at www.ok.gov/oab or from the Oklahoma Accountancy Board, 201 NW 63rd Street, Suite 210, Oklahoma City, OK 73116.

RULE IMPACT STATEMENT:

Copies of the Rule Impact Statement will be prepared and will be available by October 21, 2013 on the OAB website or from the OAB at the address and contact numbers listed above.

CONTACT PERSONS:

Randy Ross or LaLisa Semrad at 405-521-2397

[OAR Docket #13-1204A; filed 9-24-13]

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

[OAR Docket #13-1210]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Student Assessment

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

SUMMARY:

The rule implements the provisions of the Achieving Classroom Excellence (ACE) Act established at 70 O.S. § 1210.521 et seq. The rule sets out the student exemptions and exceptions to the ACE requirements and the process of appeal of denials of student diplomas under the ACE requirements per 70 O.S. § 1210.523.

The proposed amendments to the rule are necessary to incorporate amendments to 70 O.S. § 1210.523 made during the 2013 regular legislative session (HB 1756, SB 251, SB 226, and SB 559). The proposed change to the rule implements new legislative amendments directing the State Board of Education to: (1) Establish alternate methods to demonstrate mastery for students with disabilities who have IEPs which require them to be assessed under the Oklahoma Alternate Assessment Program (OAAP); (2) Establish exemptions to End of Instruction exam requirements for students who score ten percent (10%) above the cut scores approved by the State Board of Education on certain alternate tests (ACT/SAT/PSAT/NMSQT/CLEP/IB/ACT WorkKeys); (3) Permit students who have not met EOI requirements to enroll in certain classes in their schools as necessary to provide the students with remediation and/or an opportunity to retake EOI exams in order to graduate; and (4) Declare the Oklahoma School for the Blind and the Oklahoma School for the Deaf to be local education agencies (LEAs) solely for the purposes of purchasing, administering and obtaining EOI test results for the students attending their schools.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 1210.523.

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from October 15, 2013 until 4:30 p.m., Monday, November 18, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Monday, November 18, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1210; filed 9-25-13]

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

[OAR Docket #13-1211]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Student Assessment
210:10-13-22. Implementation of a System of School Improvement and Accountability [AMENDED]

SUMMARY:

The rule implements the provisions of the accountability system established at 70 O.S. § 1210.541 et seq. The rule sets out the formula for calculation of the annual reports of the

Oklahoma School Testing Program (the "A-F" school report cards) required by 70 O.S. § 1210.545.

The proposed change to the rule revises the formula used to calculate the school report card grades. The amendments to the rule are necessary to implement revisions to the formula resulting from amendments to 70 O.S. § 1210.545 during the 2013 regular legislative session (HB 1071 and HB 1658).

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 1210.545.

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from October 15, 2013 until 4:30 p.m., Monday, November 18, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Monday, November 18, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard,

Notices of Rulemaking Intent

Oklahoma City, Oklahoma 73105-4599. Telephone number:
(405) 521-4890

[OAR Docket #13-1211; filed 9-25-13]

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

[OAR Docket #13-1212]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 34. Supplemental Online Course Procedures
210:15-34-1. General provisions [AMENDED]

SUMMARY:

The rule is one of a series of rules in Subchapter 34 implementing the provisions 70 O.S. § 1-111(C), which requires the State Board of Education to establish rules relating to supplemental online instruction in public schools. The rule sets out the general provisions, purpose and scope of the Oklahoma Supplemental Online Course Program ("OSCO").

The proposed change to the rule revises the definition of "educationally appropriate" instruction for purposes of supplemental online course pursuant to the OSCOP. The amendments to the rule are necessary to update the rule to reflect the definition of "educationally appropriate" instruction in 70 O.S. § 1-111(C)(3) which was amended during the 2013 regular legislative session by SB 4719.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. § 1-111.

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from October 15, 2013 until 4:30 p.m., Monday, November 18, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Monday, November 18, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1212; filed 9-25-13]

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

[OAR Docket #13-1213]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 27. Reading Sufficiency Act

210:15-27-2. Good cause exemptions for promotion under the Reading Sufficiency Act [AMENDED]

210:15-27-3. Standards for mid-year promotion of retained third graders [AMENDED]

SUMMARY:

210:15-27-2 sets out the requirements for good cause exemptions from third grade retention under the Reading Sufficiency Act. The proposed amendment to 210:15-27-2(b)(3)(C) reduces the required thirty (30) day waiting period between administrations of approved alternative standardized reading tests. The change is necessary to provide schools and teachers with more flexibility in providing remediation opportunities to students.

210:15-27-3 sets out the standards for mid-year promotion of third graders who have been retained pursuant to provisions of the Reading Sufficiency Act (the "RSA") at 70 O.S. §

1210.508C. The proposed change to the rule is necessary to clarify requirements for demonstrating the proficiency necessary for a mid-year promotion make the language consistent with other RSA rules which were amended in 2013.

The proposed amendments to 210:15-27-3 make non-substantive changes necessary to correct a citation to a subsection of another RSA rule at 210:15-27-2 pertaining to requirements of the student portfolio and to update the language of the rule pertaining to reading teachers to clarify that the student's teacher responsible for selecting work to be included in the student's portfolio is the certified classroom teacher responsible for the student's reading instruction.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. §§ 1210.508C

COMMENT PERIOD:

Written comments on the proposed rules will be accepted from October 15, 2013 until 4:30 p.m., Monday, November 18, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Monday, November 18, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1213; filed 9-25-13]

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

[OAR Docket #13-1214]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 9. Professional Standards: Teacher Education and Certification
- Part 9. Teacher Certification
- 210:20-9-105. Non-traditional certification in special education [NEW]

SUMMARY:

The proposed new rule implements the provisions of new laws established at 70 O.S. §§ 6-122.7, 6-122.8, and amendments to 70 O.S. § 6-187 from the 2013 legislative session. The new and amended statutes pertain to non-traditional certification of special education teachers.

The proposed new rule adds a process whereby individuals who successfully complete a special "boot camp" program approved by the State Department of Education and meet the requirements for non-traditional certification established in 70 O.S. § 6-122.7 may obtain a provisional special education teacher certification in the area of mild/moderate or severe/profound disabilities. The proposed new rule also adds a procedure whereby a teacher with a provisional certificate may renew the provisional certificate and eventually obtain a standard certificate upon completion of additional coursework requirements and the appropriate subject matter competency examination. The proposed new rule also explains requirements for teachers with special education certifications obtained under these provisions to acquire "Highly Qualified" status.

The proposed new rule also clarifies that teachers who have successfully completed (1) a master's degree in special education from an accredited higher education institution; and (2) the appropriate special education subject area competency examination required by 70 O.S. § 6-187 may obtain a standard special education teaching certificate in the area of mild/moderate or severe/profound disabilities upon submission of the required application, certification fees, and criminal background checks.

Notices of Rulemaking Intent

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. §§ 6-122.7, 6-122.8; 6-187.

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from October 15, 2013 until 4:30 p.m., Monday, November 18, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Monday, November 18, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1214; filed 9-25-13]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 30. SCHOOL FACILITIES AND TRANSPORTATION

[OAR Docket #13-1215]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Transportation

210:30-5-8. School bus driver certification [NEW]

SUMMARY:

The proposed rule sets out the requirements for certification of school bus drivers pursuant to 70 O.S. § 3-104(6), which grants authority to the State Board of Education to formulate rules governing the issuance and revocation of certificates for public school bus drivers. The statute also requires adopted regulations to be incorporated into school bus driver contracts. In addition, the rule is necessary to comply with 47 O.S. § 15-109, which requires the State Board of Education to adopt and enforce regulations to govern the design and operation of all school buses used for the transportation of public school children.

The proposed new rule is necessary to protect the public safety of public school children who rely upon public school transportation to travel to and from school and replaces the former language pertaining to school bus driver certification at 210:30-5-1(g), which was revoked in 2013. The new rule includes language necessary to ensure compliance with the Americans with Disabilities Act by creating a procedure whereby school bus drivers who have monocular vision conditions or drivers with diabetes who are dependent upon insulin can demonstrate their ability to safely transport public school children in school buses.

AUTHORITY:

State Board of Education; 70 O.S. § 3-104; 70 O.S. §§ 9-118; 47 O.S. § 15-109

COMMENT PERIOD:

Written comments on the proposed rule will be accepted from October 15, 2013 until 4:30 p.m., Monday, November 18, 2013.

Written comments in electronic form will be accepted during the open public comment period via email at rules@sde.ok.gov or by fax at (405) 521-6256. During the open public comment period, written comments may also be hand delivered to the agency during regular business hours or via regular mail to the individual at the address shown below under "Contact Person."

Oral comments may be submitted for the record at the public hearing at the time, date, and place shown below.

PUBLIC HEARING:

A public hearing is scheduled for 10:00 a.m. on Monday, November 18, 2013, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Persons wishing to speak must

sign in at the door of the State Board Room prior to the start of the hearing. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rule(s) may be obtained for review by the public from the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. Electronic copies of proposed rules are also available for review thirty (30) days prior to the hearing on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

RULE IMPACT STATEMENT:

A Rule Impact Statement will be available for review at the Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma. A copy of the RIS will also be available on the State Department of Education Legal Services website at: <http://ok.gov/sde/administrative-rules>

CONTACT PERSON:

Stephanie Moser Goins, Assistant General Counsel, Office of Legal Services, State Department of Education, Room 1-17, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599. Telephone number: (405) 521-4890

[OAR Docket #13-1215; filed 9-25-13]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 10. OFFICE OF JUVENILE
AFFAIRS**

[OAR Docket #13-1216]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 7. Contract Programs and Services
- Part 1. General Provisions and Foster Care
- 377:10-7-1. Legal authority and purpose [AMENDED]
- 377:10-7-2. General provisions [REVOKED]
- 377:10-7-2.1. Definitions [NEW]
- 377:10-7-3. Foster Care home licensing [AMENDED]
- 377:10-7-3.1. Foster home study [NEW]
- 377:10-7-3.2. Criminal history records searches and disqualifying crimes [NEW]
- 377:10-7-3.3. Foster home physical requirements [NEW]
- 377:10-7-3.4. General foster parent qualifications [NEW]
- 377:10-7-3.5. Foster parent responsibility [NEW]
- 377:10-7-3.6. OJA responsibility [NEW]
- 377:10-7-3.7. Foster home contract [NEW]

- 377:10-7-3.8. Informal and alternate care arrangements [NEW]
- 377:10-7-3.9. Discipline and behavior management requirements [NEW]
- 377:10-7-3.10. Applicable records [NEW]
- 377:10-7-3.11. Applicable rights [NEW]
- 377:10-7-3.12. Foster parent grievance procedure [NEW]
- 377:10-7-4. Therapeutic foster care [AMENDED]
- 377:10-7-5. Specialized community home [AMENDED]
- 377:10-7-7. Kinship foster care [AMENDED]

SUMMARY:

Proposed rule revisions are the results of changes within the Oklahoma State Statutes, as per Senate Bill 200 (2013), effective July 1, 2013, pertaining to the OJA foster care program. The proposed rules are necessary in order to conform to new state agency name designations.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10A O.S., Sections 2-7-101(H)(3), 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from October 16, 2013 through November 15, 2013 at: Office of Juvenile Affairs, Attn: JLynn Hartman, 3812 N. Santa Fe Ave., P.O. Box 268812, Oklahoma City, OK 73126-8812, and e-mail comments may be sent to JLynn.Hartman@oja.ok.gov. During the same time period, oral comments may be made to JLynn Hartman at (405) 530-2866 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on November 19, 2013 at the Centennial Building, 3815 N. Santa Fe Ave., Ste. 170, Oklahoma City, OK. Each person must sign-in at the door to orally present his or her comments.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules, to submit this information in writing during the comment period to JLynn Hartman.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Oklahoma City, OK, as well as on the OJA website. Copies may also be obtained by written request mailed to the Office of Juvenile Affairs, Attn: JLynn Hartman, P.O. Box 268812, Oklahoma City, OK 73126-8812.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303(D), a rule impact statement is being prepared and will be available for review on or before October 14, 2013 at the above address for the Office of Juvenile Affairs, as well as on the OJA website.

Notices of Rulemaking Intent

CONTACT PERSON:

JLynn Hartman, Director of Government Relations, (405)
530-2866.

[OAR Docket #13-1216; filed 9-25-13]

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

[OAR Docket #13-1205]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2. Registration of potential sources of air contaminants [AMENDED]

252:100-5-2.1. Emission Inventory [AMENDED]

252:100-5-3. Confidentiality of proprietary information [AMENDED]

GUBERNATORIAL APPROVAL:

September 10, 2013

[OAR Docket #13-1205; filed 9-24-13]

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

[OAR Docket #13-1206]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 7. Permits for Minor Facilities

Part 9. Permits-By-Rule

252:100-7-60. Permit by rule [AMENDED]

252:100-7-60.5. Oil and natural gas sector [NEW]

GUBERNATORIAL APPROVAL:

September 10, 2013

[OAR Docket #13-1206; filed 9-24-13]

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

[OAR Docket #13-1207]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

GUBERNATORIAL APPROVAL:

September 10, 2013

[OAR Docket #13-1207; filed 9-24-13]

Emergency Adoptions

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

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

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

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

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

[OAR Docket #13-1202]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 45. Scrap metal Dealers [NEW]
- 35:30-45-1. Purpose [NEW]
- 35:30-45-2. Definitions [NEW]
- 35:30-45-3. License required [NEW]
- 35:30-45-4. Initial license application [NEW]
- 35:30-45-5. License renewal application [NEW]
- 35:30-45-6. Fees and charges [NEW]
- 35:30-45-7. Display of license [NEW]
- 35:30-45-8. Changes of information [NEW]
- 35:30-45-9. Purchases, sales and records [NEW]
- 35:30-45-10. Complaints [NEW]
- 35:30-45-11. Inspections [NEW]
- 35:30-45-12. Grounds for denial, suspension, or revocation of a license [NEW]
- 35:30-45-13. Sanctions for misconduct [NEW]
- 35:30-45-14. Other requirements or acts prohibited [NEW]

AUTHORITY:

Oklahoma Constitution, Article 6, Section 31; 2 O.S. § 2-4; and HB 1740, approved by the Governor on 5/13/2013.

DATES:

Adoption:

August 6, 2013.

Approved by Governor:

August 28, 2013

Effective:

Immediately upon Governor's approval.

Expiration:

Effective through September 14, 2014, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

House Bill 1740 directs the State Board of Agriculture to administer and enforce the Oklahoma Scrap Metal Dealers Act beginning November 1, 2013 and to promulgate rules, procedures and forms governing the application and renewal procedures for scrap metal dealer licenses. The State Board of Agriculture has not previously regulated any portion of the scrap metal industry nor previously licensed scrap metal dealers. Currently, the State Board of Agriculture has no rules, procedures or forms necessary to administer and enforce the Oklahoma Scrap Metal Dealers Act. Further, administrative adopted rules through a regular permanent rulemaking would not become effective until July 1, 2014. As prescribed by the Administrative Procedures Act, the State Board of Agriculture finds that an emergency exists and that an

emergency rulemaking is necessary to administer and enforce the Oklahoma Scrap Metal Dealers Act beginning November 1, 2013. The Administrative Procedures Act permits an agency to adopt emergency rules to "comply with deadlines in amendments to an agency's governing law ..." and to "avoid violation of ... state law". 75 O.S. § 253(A)(1)(b) and (c).

ANALYSIS:

The purpose of the proposed emergency rules is to implement the provisions of House Bill 1740 that directs the State Board of Agriculture to license and regulate scrap metal dealers doing business within Oklahoma. These rules are necessary to allow the Department to comply with deadlines in amendments to the Board's governing law and to avoid violation of state law. These rules contain provisions related to licensing requirements, application contents, inspections, fees for licenses, annual reports, renewals, complaints, recordkeeping, and operations of scrap metal dealers. All fees and charges contained within the proposed rules are prescribed by House Bill 1740.

CONTACT PERSON:

Bennett Abbott, (405) 522-5803, bennett.abbott@ag.ok.gov

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 45. SCRAP METAL DEALERS

35:30-45-1. Purpose

These rules establish regulation and licensing requirements for scrap metal dealers doing business in Oklahoma pursuant to the Oklahoma Agricultural Code at 2 O.S. § 2-4(A)(33) and Oklahoma Scrap Metal Dealers Act at 59 O.S. §§ 1421 et seq. The Oklahoma Scrap Metal Dealers Act shall be administered by the Department and the State Board of Agriculture and shall conform to the Administrative Procedures Act, 75 O.S. §§ 250 et seq., to the Oklahoma Agricultural Code 2 O.S. §§ 1-1 et seq., and to the procedural rules promulgated by the State Board of Agriculture found in Title 35 of the Oklahoma Administrative Code.

35:30-45-2. Definitions

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

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry and its employees, officers and divisions.

Emergency Adoptions

"Investigative fee" means the investigative fee of \$100 charged by the Department for conducting an investigation of the applicant upon receipt of an initial application for a license as authorized by 59 O.S. § 1429(C).

"License" means a scrap metal dealers license.

"License fee" means the application fee of \$100 charged by the Department for processing an initial application for a license as authorized by 59 O.S. § 1429(C) and the renewal fee of \$100 charged by the Department for processing an application for the renewal of a license as authorized by 59 O.S. § 1429(H).

"Oklahoma Scrap Metal Dealers Act" means the Oklahoma Scrap Metal Dealers Act, codified at 59 O.S. §§ 1421 et seq. (2013 revision).

"Scrap metal" means any copper material, aluminum material except aluminum beverage cans, or any item listed in Section 1424 of the Oklahoma Scrap Metal Dealers Act, offered for sale or resale or purchased by any person, firm, or corporation.

"Scrap metal dealer" means any person, firm or corporation being an owner, keeper or proprietor of a retail or wholesale business which buys, sells, salvages, processes or otherwise handles scrap metal materials regulated by the provisions of the Oklahoma Scrap Metal Dealers Act.

"Yard" means the place where any scrap metal dealer stores scrap metal materials or keeps such materials for purposes of sale.

35:30-45-3. License required

(a) No person or entity shall act, offer to act, or hold himself or herself out as a scrap metal dealer in this state unless the person holds a license obtained from the Department.

(b) Any person or entity who intends to become a scrap metal dealer shall obtain a license prior to operation.

(c) A separate license shall be required for each yard.

(d) The license shall begin on November 1 or on the date of issuance and shall expire on October 31 of each calendar year.

(e) If the scrap metal dealer is a firm, corporation, or other legal entity; the scrap metal dealer shall designate a scrap metal dealer's representative to act as a contact person for the agency. The scrap metal dealer's representative shall be a natural person with the legal authority to bind the entity in a contract.

(f) Any person or entity who does not meet the definition of a scrap metal dealer but chooses to voluntarily obtain a license shall comply with all rules as though they do meet the definition of a scrap metal dealer.

35:30-45-4. Initial license application

(a) The Department shall issue a license to each person or entity who:

(1) Complies with the requirements of the Oklahoma Scrap Metal Dealers Act;

(2) Applies to the Department using the form prescribed by the Department; and

(3) Pays the license fee, investigative fee, and charges related a national criminal history check.

(b) Each yard shall be licensed separately and shall require the submission of a separate application, along with payment of related fees and charges.

(c) The applicant shall submit a completed license application containing the following information:

(1) If the applicant is an individual: the applicant's full name, telephone and email contact information, and place of residence;

(2) If the applicant is a firm, corporation, or other legal entity;

(A) The scrap metal dealer representative's full name, telephone and email contact information, residential address, and position with the entity, and

(B) The entity's full name as registered with the Oklahoma Secretary of State, any trade names, and the name and mailing address of the entity's registered service agent;

(3) The address of the yard where the applicant conducts or intends to conduct business or, if the yard does not have a physical address, driving directions from the nearest municipality and a legal description of the yard;

(4) Proof of ownership, a contract, or lease agreement that permits the applicant to engage in business as a scrap metal dealer at the yard described in the license application;

(5) Proof of a dedicated telephone line for the yard;

(6) Proof of a general liability insurance policy for the yard verifying insurance in an amount not less than \$500,000;

(7) Proof of a current discharge permit for the yard issued pursuant to the provisions of the Oklahoma Pollutant Discharge Elimination System Act;

(8) The sales tax identification number for the applicant;

(9) Whether the applicant has ever had a license refused, revoked, or suspended;

(10) Whether the applicant has been previously convicted of, or pled guilty or nolo contendere to any felony or misdemeanor, the court or governmental entity in which the matter was adjudicated, a description of the charges, the date of the conviction, and the sentence received;

(11) An Affidavit of Lawful Presence in the United States of America, as provided under 56 O.S. § 71;

(12) A notarized statement swearing that the information submitted on the application is true and correct;

(13) Any other relevant information required by the Department.

(d) In addition to the application, each applicant shall submit a full set of fingerprints and a photograph to the Department. The fingerprints and photograph shall be used for a national criminal history check as provided in 74 O.S. § 150.9. The applicant shall pay for fingerprints, photographs, and the national criminal history records check separately from the license fee and investigative fee charged by the Department.

(e) If the applicant submits an incomplete application or the Department requests additional information, the Department shall notify the applicant that the application is incomplete and

identify the information on the application that is incomplete or needs additional information. The applicant may submit additional information within twenty (20) working days to supplement and complete the application. If the applicant does not respond to the request for additional information in a timely manner, the application shall be denied.

(f) The applicant may withdraw its application from consideration at any time.

(g) An applicant whose application is denied due to insufficient information provided by the applicant or the withdrawal of the application may submit a new application. Any fees and charges paid by the applicant in connection with the denied or withdrawn application shall not be applied to the processing of a new application.

35:30-45-5. License renewal application

(a) A scrap metal dealer may renew a license by:

- (1) Complies with the requirements of the Oklahoma Scrap Metal Dealers Act;
- (2) Applies to the Department using the form prescribed by the Department; and
- (3) Pays the license fee and charges related a national criminal history check.

(b) Any scrap metal dealer who fails to timely apply for a renewal in a manner prescribed by the Department, and whose license has expired, may not engage in activities that require a license.

(c) Not later than sixty (60) days before the expiration of the license, the Department shall send written notice of the impending license expiration to the scrap metal dealer at the last known address according to the records of the Department.

(d) A license shall not be valid after the expiration date. If the scrap metal dealer submits an application for license renewal after the license has expired, the application shall be considered an initial application and shall require the payment of all fees and charges associated with the submission of an initial application.

35:30-45-6. Fees and charges

(a) The Department shall charge the following nonrefundable license fees:

- (1) License fee for an initial application: \$100.00;
- (2) Investigative fee for an initial application: \$100.00;
- (3) License fee for a renewal application: \$100.00; and
- (4) Any expenses by the Department relating to the national criminal history check.

(b) Expenses of the Department relating to the national criminal history check shall be paid by the applicant.

(c) The Department shall not be required to obtain nor the applicant required to pay charges for more than one national criminal history check if the Department is processing several applications or renewals simultaneously for the same applicant and all pertinent information is identical.

(d) If a national criminal history check was conducted for the Department in relation to an initial application or renewal and the resulting report is less than six (6) months old; the Department may use the older report and waive any requirement

that requires the applicant submit to a new national criminal history check as a condition for an initial license or renewal.

35:30-45-7. Display of license

A scrap metal dealer shall prominently display a copy of the license at the yard.

35:30-45-8. Changes of information

A scrap metal dealer shall notify the Department in writing not later than thirty (30) days after the date any change occurs in the address, name, management, substantial control, or ownership of the business or operation.

35:30-45-9. Purchases, sales and records

A scrap metal dealer shall conduct business and maintain records of all business transactions in a manner consistent with the provisions of the Oklahoma Scrap Metal Dealers Act.

35:30-45-10. Complaints

(a) On receipt of a valid written complaint alleging a violation of the Oklahoma Scrap Metal Dealers Act, an authorized agent of the Department, a local law enforcement authority, or an inspector designated by the Department may investigate the alleged violation.

(b) Any person may submit a written and signed complaint to the Department alleging a violation of the Oklahoma Scrap Metal Dealers Act or rules promulgated thereunder.

(c) The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies appropriate to the circumstances.

35:30-45-11. Inspections

The Department may inspect any licensed business location, including but not limited to, the premises and the books and records of the licensed Scrap Metal Dealer.

35:30-45-12. Grounds for denial, suspension, or revocation of a license

The Department may deny, suspend, cancel, revoke, or refuse reissuance of a license of any applicant or scrap metal dealer who:

- (1) Violates the Oklahoma Scrap Metal Dealers Act;
- (2) Violates or fails to follow administrative rules adopted by the Department;
- (3) Engages in fraud or deceit in obtaining or renewing a license;
- (4) Acts as a scrap metal dealer in this state without a valid license;
- (5) Aids or abets another person in acting as a scrap metal dealer without a license;
- (6) Is convicted of a crime involving moral turpitude or dishonesty; or
- (7) Is convicted of a felony punishable under the Oklahoma Racketeer-Influenced and Corrupt Organizations Act.

Emergency Adoptions

35:30-45-13. Sanctions for misconduct

If the Department determines that a scrap metal dealer has violated the Oklahoma Scrap Metal Dealers Act, Department rules, or other applicable legal authorities, the Department may

(1) Refer the matter to the appropriate law enforcement authority for criminal prosecution; and/or

(2) Deny, suspend, cancel, revoke, or refuse reissuance of a license or licenses held by the scrap metal dealer after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.

35:30-45-14. Other requirements or acts prohibited

Scrap metal dealers shall comply with all applicable state and federal laws, municipal ordinances, and other reasonable requirements of the Department.

[OAR Docket #13-1202; filed 9-18-13]

TITLE 165. CORPORATION COMMISSION CHAPTER 30. MOTOR CARRIERS

[OAR Docket #13-1196]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 26. Nonconsensual Wrecker and Towing Services

Part 3. Response to Nonconsensual Towing Rate Complaints

165:30-26-14. Nonconsensual towing rate complaints; audits [NEW]

AUTHORITY:

The Commission's statutory authority is found in 47 O.S. Sections 966 et seq.

DATES:

Public Hearing:

August 15, 2013

Adoption:

August 15, 2013

Approved by Governor:

September 10, 2013

Effective:

September 10, 2013

Expiration:

Effective through September 14, 2014, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Compelling extraordinary circumstances exist which necessitate the promulgation of an emergency rule in that the Corporation Commission has been given regulatory power and authority over nonconsensual tows performed by wrecker operators, yet it does not have a rule in place enabling it to investigate services performed by wreckers and to enforce compliance with an existing agency Order pertaining to rates charged. Without immediate adoption of the proposed emergency rule, the cost of services provided by the wrecker and towing industry and charged to the public, will not be policed by any regulatory agency, which would result in serious prejudice to the public interest.

ANALYSIS:

The Nonconsensual Towing Act of 2011, codified at 47 O.S. Sections 966 et seq. provides that the Corporation Commission will establish rates to be charged a consumer for nonconsensual towing services performed by wrecker operators and will supervise and enforce such rates. A wrecker operator is statutorily prohibited, in 47 O.S. Section 952.D.3., from charging a fee in excess of the rates established by the Corporation Commission.

The Corporation Commission has issued an Order establishing those rates. However, during the last legislative session, a portion of the Corporation Commission's proposed rules for investigating and enforcing the rates was not approved by the Governor, due to erroneous omission of necessary language which has now been inserted in the proposed emergency rule herein. This emergency rule will enable the Corporation Commission to audit the towing services it is charged with overseeing and establish a disciplinary structure to address violations of the Corporation Commission's Orders and Rules.

CONTACT PERSON:

Kathy Nelson, Assistant General Counsel, Office of General Counsel, Oklahoma Corporation Commission, 2101 N. Lincoln Blvd., P.O. Box 52000, Oklahoma City, OK 73152-2000, (405)522-1638.

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

SUBCHAPTER 26. NONCONSENSUAL WRECKER AND TOWING SERVICES

PART 3. RESPONSE TO NONCONSENSUAL TOWING RATE COMPLAINTS

165:30-26-14. Nonconsensual towing rate complaints; audits

(a) The Commission hereby establishes a progressive system of actions to be taken by the Commission, or its designee, to achieve compliance with a Commission Order, statute, rule, or requirement. Violations of a Commission Order, statute, rule, or requirement may be established as a result of a non-consensual towing rate complaint or an audit. Violations established as a result of a complaint:

(1) For the first violation of a provision of the Commission nonconsensual towing rate Order during a twelve month period, the Commission will provide written instructions on the proper rate calculation procedures and may require the repayment of the overcharge to the person taking responsibility for the towing charge. The wrecker service shall comply with the written instructions immediately. If a subsequent violation that has been previously identified in a nonconsensual towing rate audit is discovered during the course of a complaint investigation, that violation will be treated as a second/subsequent violation established as a result of a complaint.

(2) For the second violation of the same provision of the Commission nonconsensual towing rate Order during a twelve month period, the Commission will provide written instructions on the proper rate calculation procedures and may assess a penalty in accordance with (c) of this Section, in addition to requiring repayment of the overcharge to the person taking responsibility for the towing charge. The wrecker service shall comply with the written instructions immediately. The Commission may also recommend that the offending wrecker service be temporarily removed from the Oklahoma Department of Public Safety and/or other political subdivision rotation log.

(3) For the third violation of the same provision of the Commission nonconsensual towing rate Order during a twelve month period, the Commission may recommend wrecker license suspension or revocation to the Oklahoma Department of Public Safety and may assess a penalty in accordance with (c) of this Section, in addition to requiring repayment of the overcharge to the person taking responsibility for the towing charge. The Commission is also authorized to notify any political subdivisions with which the wrecker service maintains a contract to provide non-consensual wrecker or towing services of the violation(s).

(4) For the fourth and any subsequent violations of the same provision of the Commission nonconsensual towing rate Order during a twelve month period, the Commission may recommend wrecker license suspension or revocation to the Oklahoma Department of Public Safety and assess a penalty in accordance with (c) of this Section, in addition to requiring repayment of the overcharge to the person taking responsibility for the towing charge. The Commission is also authorized to notify any political subdivisions with which the wrecker service maintains a contract to provide nonconsensual wrecker or towing services of the violation(s).

(b) Audits of wrecker services may be conducted with or without specific cause. Typically, audits will be conducted as a normal part of rate determination and economic analysis, as a result of a nonconsensual towing rate complaint, as a referral from another political subdivision, or as a follow up to a previously conducted audit. Violations established as a result of an audit:

(1) For the first violation of a provision of the Commission nonconsensual towing rate Order established as a result of an audit, the Commission will provide written instructions on the proper rate calculation procedures. The wrecker service shall comply with the written instructions immediately. If a subsequent violation that has been previously identified in a nonconsensual towing rate complaint is discovered during the course of an audit, that violation will be treated as a second/subsequent violation found as a result of an audit.

(2) For the second violation of the same provision of the Commission nonconsensual towing rate Order established as a result of an audit, the Commission will provide written instructions on the proper rate calculation procedures and may assess a penalty in accordance with (c) of this Section. The wrecker service shall comply with the written instructions immediately. The Commission may also recommend that the offending wrecker service be temporarily removed from the Oklahoma Department of Public Safety and/or other political subdivision rotation log.

(3) For the third violation of the same provision of the Commission nonconsensual towing rate Order established as a result of an audit, the Commission may recommend wrecker license suspension or revocation to the Oklahoma Department of Public Safety and may assess a penalty in accordance with (c) of this Section. The Commission is also authorized to notify any political subdivisions with

which the wrecker service maintains a contract to provide nonconsensual wrecker or towing services of the violation(s).

(4) For the fourth and any subsequent violations of the same provision of the Commission nonconsensual towing rate Order established as a result of an audit, the Commission may assess a penalty in accordance with (c) of this Section. The Commission may recommend that the license of the offending wrecker service be suspended or revoked by the Oklahoma Department of Public Safety. The Commission is also authorized to notify any political subdivisions with which the wrecker service maintains a contract to provide nonconsensual wrecker or towing services of the violation(s).

(c) For violations established as a result of a nonconsensual towing rate complaint or as a result of an audit, the following penalties may be assessed:

(1) A fine in an amount up to \$175.00 for the second violation.

(2) A fine in an amount up to \$375.00 for the third violation.

(3) A fine in an amount up to \$500.00 for the fourth and subsequent violations.

[OAR Docket #13-1196; filed 9-13-13]

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

[OAR Docket #13-1208]

RULEMAKING ACTION: EMERGENCY adoption

RULES:

- Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-2. Registration of potential sources of air contaminants [AMENDED]
252:100-5-2.1. Emission Inventory [AMENDED]
252:100-5-3. Confidentiality of proprietary information [AMENDED]

AUTHORITY:

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

DATES:

Comment period: June 17, 2013 through July 17, 2013

Public hearings:

- July 17, 2013
August 20, 2013

Adoption:

August 20, 2013

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September 10, 2013

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Immediately upon the Governor's approval

Expiration:

Effective through September 14, 2014, unless superseded by another rule or disapproved by the legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

Emergency Adoptions

FINDING OF EMERGENCY:

DEQ staff request that the revisions to Subchapter 5 be recommended for adoption as both permanent and emergency rules with the following justification for the "finding of emergency": 1) An emergency rulemaking would serve the public interest by aligning the permitting and emission inventory requirements for PBR facilities and ensuring there is no ambiguity about the reporting expectations for these sources. 2) An emergency rulemaking would eliminate the possibility of retroactive reporting requirements and ensure all emission inventory reporting requirements are known and effective before the actual reporting period begins for the 2014 calendar year. 3) An emergency rulemaking would reduce the regulatory burden on the subject facilities by specifically exempting them from the requirement to submit a partial year emission inventory for operations during the 2013 calendar year. Partial period data is not necessary, as it would not be adequate to support the Department's program planning efforts. 4) An emergency rulemaking would delay the emission inventory reporting deadline for these newly permitted facilities by one year and allow the Department additional time to prepare for the expected increase in emission inventories from the oil and natural gas sector. 5) An accurate and complete emission inventory for the 2014 reporting year is necessary, as this is expected to be the baseline year for the EPA designations for the 8-hour ozone standard, occurring in 2016.

ANALYSIS:

The Department of Environmental Quality (DEQ) proposes to modify Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, for all minor sources facilities registered under a Permit by Rule (PBR) to change the emission inventory reporting schedule for these facilities. Currently, PBR facilities with actual emissions greater than 5 tons per year (tpy) are required to submit an emission inventory every year, and PBR facilities with actual emissions of 5 tons or less per year are required to submit an emission inventory at the end of every five year period. The proposed changes to OAC 252:100-5-2.1 would require all PBR facilities to submit an emission inventory for the 2014 reporting year or the first calendar year in which the facility is registered, if registered after December 31, 2014. Facilities with actual emissions greater than 5 tpy of any regulated air pollutant will be required to submit an emission inventory every National Emissions Inventory (NEI) Three-Year Cycle Inventory year. Facilities with actual emissions of 5 tpy or less of any regulated air pollutant will be required to submit an emission inventory every second NEI Three-Year Cycle Inventory year, starting with the 2020 reporting year. The DEQ also proposes to modify 252:100-5-2(b) and -2.1(b) to remove unnecessary reporting requirements. The proposed revision to 252:100-5-3 would correct the listed reference to the appropriate Oklahoma Statute.

This proposal is in response to requests received from industry during the development of the Oil and Natural Gas Permit by Rule and will help alleviate the reporting burden imposed on industry. There are no fee changes associated with this proposal.

CONTACT PERSON:

Cheryl E. 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 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

252:100-5-2. Registration of potential sources of air contaminants

(a) **Filing.** In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the Division with information

necessary to evaluate the source's potential for causing air pollution.

(b) **Necessary information.** The following information shall be included for each source:

- (1) Total weight of the contaminant released per ~~day~~ year.
- (2) Period or periods of operation.
- (3) Composition of the contaminant.
- ~~(4) Physical state of the contaminant.~~
- ~~(5) Temperature and moisture content of the air or gas stream at the point where released into the atmosphere.~~
- ~~(6) Efficiency of any control device.~~
- ~~(7) Such other information as may be specifically requested by the Director.~~

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of ~~air contaminants~~ regulated air pollutants shall submit a complete annual emission inventory annually on forms obtained from through DEQ's electronic reporting system or in another manner acceptable by the Division.

(1) **General requirements.** The inventory shall cover operations during a calendar year and shall be submitted ~~prior to on or before~~ April 1 of the following year. Upon receiving a written demonstration of good cause the Director may grant an extension for submittal beyond the April 1 deadline.

(2) **Permit by rule.** The owner or operator of a facility registered under a permit by rule ~~as outlined in Subchapter 7, Part 9, and emitting 5 tons per year or less of each regulated air pollutant is required to submit an emission inventory for that facility once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.~~ shall submit, at a minimum, an annual emission inventory for the 2014 reporting year or the calendar year in which the facility is registered, if the facility is registered after December 31, 2014, and thereafter according to the following schedule:

(A) For a registered facility with actual emissions greater than 5 tons per year of any regulated air pollutant, an annual emission inventory for that facility shall be submitted every National Emissions Inventory (NEI) Three-Year Cycle Inventory year, as defined in 40 CFR Section 51.30(b).

(B) For a registered facility with actual emissions of 5 tons per year or less of any regulated air pollutant, an annual emission inventory for that facility shall be submitted every second National Emissions Inventory (NEI) Three-Year Cycle Inventory year, as defined in 40 CFR Section 51.30(b), beginning with the 2020 NEI reporting year.

(3) **Permit exempt facilities and de minimis facilities.** The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory.

- (4) **Special inventories.** Upon request by the Director, the owner or operator of a facility that emits or has the potential to emit any regulated air pollutant shall file an emission inventory with the Division. The Director is authorized to request this inventory when emission related data is necessary for program planning or compliance with State or Federal rules, regulations, standards, or requirements.
- (b) **Content.** All inventories submitted to the Division shall include, but shall not be limited to, the following:
 - (1) For those emissions subject to a permit, ~~the permit number and~~ the permitted allowable emissions as set forth therein.
 - (2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination. If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or from the previous year's actual by more than 30%, the Department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.
 - (3) For those emissions not the subject of a permit and when requested by the AQD, a list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.
- (c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with OAC 252:100-5-2.1(d) must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.
- (d) **Method of calculation.** The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under OAC 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. Acceptable methods of calculation for determining actual emissions are:
 - (1) Emission factors utilized in the issuance of a currently applicable Oklahoma Air Quality permit(s) for the facility.
 - (2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Division.

- (3) Stack tests using appropriate EPA test methods may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:
 - (A) Tests are performed by persons qualified by training and experience to perform said tests.
 - (B) Copies of the test results and methods are available for review by the Division.
- (4) Continuous emissions monitoring data, when supported by required certification and calibration data.
- (5) Current AP-42 factors or other factors acceptable to the Division.
- (6) Manufacturer's test data, when approved by the Division as reliable.
- (7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Division.
- (8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Division.
- (9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Division.
- (e) **Methods of verification.** Emission inventories determined by the Division to be substantially incomplete or substantially incorrect shall, upon the request of the Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Division.
- (f) **Certification.** The emission inventory shall contain certification by a responsible official of the truth, accuracy, and completeness of the document. This certification shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

252:100-5-3. Confidentiality of proprietary information

[Refer to 27A O.S. §~~Section~~ 2-5-105.4~~17~~.]

[OAR Docket #13-1208; filed 9-24-13]

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

[OAR Docket #13-1209]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 7. Permits for Minor Facilities

Emergency Adoptions

Part 9. Permits-By-Rule

252:100-7-60. Permit by rule [AMENDED]

252:100-7-60.5. Oil and natural gas sector [NEW]

AUTHORITY:

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

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

DEQ received written requests for emergency rulemaking from Devon Energy on February 28, 2013, from the Mid-Continent Oil and Gas Association of Oklahoma (MOGA) on April 12, 2013, and from the Oklahoma Independent Petroleum Association (OIPA) on April 15, 2013. In support of a "finding of emergency," the three requests included similar justifications for adoption of an emergency rule. 1) Adoption of the measure as an emergency rule would reduce the regulatory burden on the affected facilities by streamlining the permitting process during this interim period before the permanent rule becomes effective. This would thereby avoid the potential need to wait for DEQ to issue permits under the current agency process, which could delay or, in some cases, stop oil & gas production projects and result in a negative impact on the State's economy - especially during its current period of extensive growth and development. 2) While, in this case, emergency rulemaking is not necessary to avoid a violation of any federal law or regulation or other state law, an emergency measure would assist affected facilities in complying with or avoiding applicability of some federal NSPS/NESHAP requirements, which will be effective in the fall of 2013, and provide more timely awareness of the requirements. 3) An emergency rulemaking would serve the public interest by allowing DEQ an effective means to permit these sources without unduly burdening the agency's limited resources before the proposed permanent PBR becomes effective. 4) An emergency rule would serve to protect the public interest by helping ensure that Oklahoma continues to attract and retain investments in the oil and gas industry while at the same time protecting public health and welfare. OIPA added that the emergency rulemaking would also allow companies to avoid additional consulting fees associated with a less streamlined permitting process. Permit application fees for the PBR are substantially lower than those for the General Permit currently available to these facilities. The fee for registration under the PBR would be \$350 while the fee for authorization to construct and operate under the General Permit would be \$1000.

ANALYSIS:

The Department of Environmental Quality (DEQ) proposes to modify Subchapter 7, Permits for Minor Facilities, in response to recent changes in federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) that will result in a significant number of minor facilities and area sources in the oil and natural gas (O&NG) sector being required to obtain air quality permits. The DEQ proposes to establish a comprehensive O&NG Permit by Rule (PBR) in new section OAC 252:100-7-60.5 for these minor facilities and area sources that would encompass the applicable requirements contained in, but not limited to, NSPS 40 CFR Part 60, Subparts OOOO, IIII, and JJJJ and NESHAP 40 CFR Part 63, Subparts HH and ZZZZ, as well as the DEQ Air Pollution Control Rules (252:100) Subchapters 5 (emission inventory), 9 (excess emissions), 19 (particulate matter), 25 (visible emissions), 29 (fugitive dust), 31 (sulfur compounds), 33 (nitrogen oxides), 37 and 39 (volatile organic compounds), and 43 (testing, monitoring, and recordkeeping).

The DEQ also proposes to modify 252:100-7-60, which contains requirements that apply to all PBRs. The proposed revision to 252:100-7-60(b)(1) clarifies the meaning of modification in PBRs. The proposed revision to 252:100-7-60(c) makes registration under a PBR effective upon receipt of the registration request by the DEQ and includes a list of acceptable documentation of receipt of the PBR registration.

CONTACT PERSON:

Cheryl E. 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 9. PERMITS BY RULE

252:100-7-60. Permit by rule

(a) **Applicability.** ~~A minor facility may be constructed or operated under this rule and will be exempt from any other permitting requirements in this Chapter if it meets A permit by rule (PBR) may be adopted for an industry(s) to streamline the air quality permitting procedures required by OAC 252:100-7-15 and -18, if there are a sufficient number of facilities that meet the requirements of 400 7 15(b)(1) 252:100-7-15(b)(1) and this Part that have the same or substantially similar operations, emissions, and activities that are subject to the same standards, limitations, and operating and monitoring requirements.~~

(1) A facility may be constructed or operated under this rule and will be exempt from any other permitting requirements in this Chapter if it meets the requirements of 252:100-7-15(b)(1), 252:100-7-60, and the appropriate PBR.

(2) A facility cannot be registered under more than one PBR at the same time or under a PBR and a general or individual permit at the same time. However, the owner or operator may apply for a change in a facility's registration from one PBR to another PBR if the facility meets the criteria of the "new" PBR. The owner or operator may apply for a change in a facility's air quality permit from a general or an individual permit to registration under a PBR for which the facility qualifies.

(b) **General requirements.** No construction under a PBR may commence until the request and application fee are received by the DEQ. Operation under the PBR is not authorized beyond the time limit contained in 252:100-7-18(a) unless a request for operation under the PBR and the application fee are received by the DEQ.

(1) **Application for registration under a PBR.**

(+A) **Construction or operation.** ~~The owner or operator wishing to construct or operate a facility under a permit by rule PBR, the owner or operator~~

~~should~~ must submit a ~~letter to the Division requesting request for registration under the appropriate permit by rule~~ PBR using the form(s) provided by the DEQ for that PBR. The ~~letter request~~ must contain written certification by the owner or operator that the facility will be constructed ~~or and/or~~ operated in compliance with such ~~permit by rule~~ PBR. A construction ~~or and/or~~ operating permit application fee, as specified in 252:100-7-3, must accompany the ~~letter~~ form(s).

(B) **Modification.** A physical change or change in the method of operation to a facility covered by a PBR that would cause the facility to no longer qualify for the PBR is a modification, and will result in a change in permit status as provided by 252:100-7-60(b)(4). Other physical or operational changes are not modifications, and do not require submittal of an amended registration.

~~(2) In accordance with the requirements of Subchapter 5, an emission inventory shall be submitted to the DEQ every year, except that facilities emitting 5 tons per year or less of each regulated pollutant are required to submit an emission inventory once every 5 years. No other reporting requirements shall apply unless required by NSPS in Subchapter 4 or NESHAP in Subchapter 41.~~

(2) **Reporting requirements.** The owner or operator of a facility covered by a PBR must comply with the reporting requirements in 252:100-7-60(b)(2)(A), (B), and (C). No other reporting requirements shall apply.

(A) The owner or operator must submit emission inventories as required by 252:100-5-2.1;

(B) The owner or operator must comply with the excess emission reporting requirements in 252:100-9; and

(C) The owner or operator must comply with reporting requirements contained in any applicable NSPS or NESHAP.

(3) **Compliance inspections.** Compliance inspections will be conducted by the DEQ in response to complaints and ~~on a random basis~~ as necessary to determine compliance.

(4) **Change in permit status.** Any change that would cause a facility to no longer qualify for a permit by rule ~~will require the~~ The owner or operator ~~to~~ shall apply for an individual permit or, if applicable, coverage under a general permit in the event that a change causes a facility to no longer qualify for a PBR.

(c) **Registration.** After receiving the appropriate application fee and certification, the DEQ will acknowledge in writing that the facility is registered to construct or operate under the specified permit by rule. No facility may be constructed or operated under a permit by rule until DEQ issues written acknowledgement of the registration. Registration under a PBR shall constitute compliance with the requirements of 252:100-7-15(a) (for construction permits) or 252:100-7-18(a) (for operating permits).

(1) Registration under the PBR will be effective upon receipt of the requisite form(s) (including the appropriate application fee) by the DEQ.

(2) Acceptable documentation of receipt of the PBR registration is the earliest of:

(A) a legible, dated U.S. Postal Service postmark (private metered postmarks are not acceptable);

(B) a dated receipt from a commercial carrier or the U.S. Postal Service; or

(C) a DEQ date-stamped registration.

(3) After receiving the appropriate PBR registration request and application fee and confirming that the facility is eligible for coverage under the PBR, the DEQ will acknowledge in writing that the facility is registered to construct or operate under the PBR.

252:100-7-60.5. Oil and natural gas sector

(a) **Applicability.** This PBR is issued for minor facilities and area sources in the oil and natural gas (O&NG) sector. This includes but is not limited to facilities subject to federal standards, primarily Subparts IIII, JJJJ, and OOOO of the federal NSPS, 40 CFR Part 60, and Subparts HH and ZZZZ of the federal NESHAP, 40 CFR Part 63, as cited in this PBR and incorporated by reference in OAC 252:100-2 and Appendix Q to Chapter 100. Specifically, this PBR applies to the following:

(1) **Eligible minor facilities and area sources.** New and existing minor facilities and area sources in the O&NG sector are eligible for this PBR, provided they comply with the conditions in (A) through (G) of this paragraph.

(A) The facility has actual emissions of 40 TPY or less of each regulated air pollutant, except HAPs.

(B) The facility has potential emissions of each regulated air pollutant, except HAPs, that are less than the emission levels that require prevention of significant deterioration (PSD), nonattainment new source review (NNSR), and Part 70 permits.

(C) The facility does not emit or have potential emissions of 10 TPY or more of any single HAP or 25 TPY or more of any combination of HAPs.

(D) For the purpose of determining if a facility is eligible for registration under this PBR, the calculation of actual emissions may include emission reductions that will be made enforceable by registration under this PBR.

(E) Only for the purpose of determining if a facility is eligible for registration under this PBR, the calculation of potential emissions shall not include emission reductions resulting from any physical or operational limitation (including capacity limitations, use of air pollution control equipment, and/or restrictions on hours of operation or on the type or amount of material combusted, stored, or processed).

(F) The facility must meet the criteria in 252:100-7-15(b)(1)(C) through (E).

(G) The facility is not otherwise a Part 70 source.

(2) **Equipment and processes.** This PBR covers equipment and processes located at minor facilities and area sources in the O&NG sector that meet the criteria contained in 252:100-7-60.5(a)(1). Covered equipment

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and processes under this PBR include, but are not limited to:

(A) The affected facilities listed in 40 CFR Section 60.5365 of NSPS Subpart OOOO.

(B) Stationary compression ignition internal combustion engines, as specified in 40 CFR Section 60.4200 of NSPS Subpart IIII, which are located at minor facilities in the O&NG sector.

(C) Stationary spark ignition internal combustion engines, as specified in 40 CFR Section 60.4230 of NSPS Subpart JJJJ, which are located at minor facilities in the O&NG sector.

(D) The affected sources listed in 40 CFR Section 63.760(a) and (b)(2) of NESHAP Subpart HH, which are located at area sources.

(E) Stationary reciprocating internal combustion engines (RICE), as specified in 40 CFR Section 63.6585 of NESHAP Subpart ZZZZ, which are located at area sources in the O&NG sector.

(b) **Standards and requirements.**

(1) **NSPS and NESHAP requirements.** The owner or operator shall meet the applicable requirements of the following NSPS and NESHAP subparts for equipment and processes located at minor facilities or area sources in the O&NG sector.

(A) **General provisions.** The owner or operator of minor affected facilities covered by the O&NG PBR shall comply with applicable requirements of 40 CFR 60, Subpart A.

(B) **Crude oil and natural gas production, transmission, and distribution.** The owner or operator of each minor affected facility shall comply with the applicable standards and requirements of 40 CFR Part 60, Subpart OOOO.

(C) **Stationary compression ignition internal combustion engines.** The owner or operator of a stationary compression ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart IIII.

(D) **Stationary spark ignition internal combustion engine.** The owner or operator of a stationary spark ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart JJJJ.

(E) **General provisions.** The owner or operator of an area source covered by the O&NG PBR shall comply with applicable requirements of 40 CFR Part 63, Subpart A.

(F) **Oil and natural gas production facilities.** The owner or operator of an affected source listed in 40 CFR Section 63.760(a) and (b) and located at an area source shall comply with the applicable emission, equipment, and work practice standards

and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart HH.

(G) **Stationary reciprocating internal combustion engines.** The owner or operator of a stationary RICE located at an area source shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart ZZZZ.

(H) **Equipment subject to any other NSPS or NESHAP.** The owner or operator of the facility shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of any other applicable NSPS or NESHAP, including any modification to requirements of an existing applicable NSPS or NESHAP.

(2) **DEQ Air Pollution Control Rules, standards, and requirements.** The owner or operator of an O&NG facility covered by this PBR shall comply with applicable portions of the:

(A) emission inventory requirements and annual fee requirements contained in 252:100-5;

(B) excess emission reporting requirements contained in 252:100-9;

(C) particulate matter emission rates contained in 252:100-19 for fuel-burning equipment;

(D) visible emissions (opacity) limits contained in 252:100-25 for subject emission units;

(E) fugitive dust standards contained in 252:100-29;

(F) standards and requirements for the control of the emission of sulfur compounds contained in 252:100-31 for subject emission units;

(G) standards and requirements for the control of the emission of nitrogen oxides contained in 252:100-33 for subject fuel-burning equipment;

(H) standards and requirements for the control of the emission of VOCs contained in 252:100-37 and 252:100-39 for subject emission units; and

(I) testing, monitoring, and recordkeeping requirements contained in 252:100-43.

(c) **Requested process-specific limitations - storage vessel affected facilities.** An owner or operator shall designate on the PBR registration form(s) that either of the following federally enforceable limits are applicable to a specified storage vessel affected facility. The permittee shall submit a notice of enforceability on forms provided by the DEQ to add or remove the applicability of federally enforceable limits to or from any specific emission unit.

(1) The storage vessel affected facility shall be limited to less than 6 TPY of VOC emissions, 12-month rolling total, unless another time measurement is specified under 40 CFR Part 60, Subpart OOOO. Demonstration of compliance with the VOC emission limit shall be based on records of VOC stored and monthly throughputs. Emissions shall be calculated using current EPA AP-42 methodology for working and breathing emissions or

other methodology acceptable to the DEQ, and using available AQD guidance for flash emissions.

(A) In the demonstration of compliance with the VOC emission limit, a properly installed and operated vapor recovery unit (VRU) is considered to recover 100% of the VOC during the time the VRU is in use.

(B) The permittee shall maintain, for a period of five (5) years, records of VOC stored, monthly throughputs, and emissions calculations used to demonstrate compliance, including records of all periods of uncontrolled venting.

(2) The VOC storage vessel shall be limited to less than 6 TPY of VOC emissions, 12-month rolling total, unless another time measurement is specified under 40 CFR Part 60, Subpart OOOO. For any VOCs not routed through a VRU, the storage vessel affected facility shall be controlled utilizing a flare or enclosed combustion device.

(A) For each flare or enclosed combustion device, the presence of a pilot flame shall be monitored using a thermocouple or any other equivalent device, and records of pilot flame(s) outages and/or flare downtime shall be maintained.

(B) The flare or enclosed combustion device shall be operated according to the manufacturer's specifications.

(C) Demonstration of compliance with the VOC emission limit shall be based on emissions calculated from records of VOC stored and monthly throughputs using current EPA AP-42 methodology for working and breathing emissions or other methodology acceptable to the DEQ, AQD guidance for flash emissions, and a VOC control efficiency as specified.

(i) During periods when records document that the flare or enclosed combustion device was operational, the VOC emissions estimates may be calculated using a VOC destruction efficiency of 95%.

(ii) If the manufacturer of the flare or enclosed combustion device guarantees a VOC destruction efficiency greater than 95%, the VOC emissions estimates may be calculated using the VOC destruction efficiency guaranteed by the manufacturer, up to but not to exceed 99.5% during periods when records document that the control device was operational.

(iii) A properly installed and operated VRU is considered to recover 100% of the VOC during the time the VRU is in use.

(iv) The permittee shall maintain, for a period of five (5) years, records of VOC stored, monthly throughputs, and emissions calculations used to demonstrate compliance, including records of all periods of uncontrolled venting.

[OAR Docket #13-1209; filed 9-24-13]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 40. HEALTH MAINTENANCE
ORGANIZATIONS (HMO)**

[OAR Docket #13-1203]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 5. Life, Accident & Health Division and Consumer Assistance and Claims Division Rules

Part 9. HMO Requirements and Prohibitions

365:40-5-43. Premiums/co-payments [AMENDED]

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 6903(D), 6923

DATES:

Adoption:

August 19, 2013

Approved by Governor:

August 28, 2013

Effective:

Immediately upon approval by the Governor

Expiration:

Effective through September 14, 2014, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY RULES:

n/a

INCORPORATION BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The rule amendment is necessary to protect the public health, safety, and welfare, and to avoid serious prejudice to the public interest because without the emergency rule amendment, Health Maintenance Organizations cannot offer plans that comply with marketplace restrictions that exist outside state law. Without the emergency rule, consumers will not have access to HMO plans.

ANALYSIS:

365:40-5-43 is amended to allow Health Maintenance Organizations more flexibility in their product design and offer products in a greater range of actuarial values. It also gives the Insurance Commissioner discretion to approve a cost-sharing arrangement if he/she finds that it will provide a reduction in premium costs.

CONTACT PERSON:

Buddy Combs, Oklahoma Insurance Department, (405) 521-2746

**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 5. LIFE, ACCIDENT & HEALTH
DIVISION AND CONSUMER ASSISTANCE AND
CLAIMS DIVISION RULES**

**PART 9. HMO REQUIREMENTS AND
PROHIBITIONS**

365:40-5-43. Premiums/co-payments

(a) Each HMO shall provide or arrange basic health care services for a basic health care services payment which:

(1) Is paid on a periodic basis without regard to the dates these services are provided;

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- (2) Is fixed without regard to the frequency, extent, or kind of basic health care services furnished;
- (3) Is fixed under a rating system which generates funds sufficient to meet the HMO's financial plan, and under which the rates are reasonable for the health services provided; and
- (4) May be supplemented by nominal co-payments for specific basic health care services. Each HMO may establish one or more co-payment options calculated on the basis of a rating system.
- (A) An HMO may not impose co-payment charges that exceed fifty (50) percent of the total cost of providing any single service to its enrollees, or in the aggregate more than ~~twenty (20) percent of the total cost of providing all basic health care services.~~
- (i) forty-five (45) percent of the total cost of providing all basic health care services; or
- (ii) the dollar amounts in effect under section 223(c)(2)(A)(ii) of the Internal Revenue Code of 1986 for self-only and family coverage, respectively, for taxable years beginning in 2014.
- (B) An HMO shall not impose on any subscriber or enrollee, in any calendar year, co-payment charges of more than two hundred (200) percent of the annual premium charged for an option with no co-payments.
- (C) Co-payments applied to a service must be equal for all providers unless the unequal co-payments are based on differences in the cost to the HMO for the service.
- (b) Basic health care services shall be provided for an illness or injury covered under a workers' compensation law or an insurance policy. The HMO may charge or authorize the provider to charge:
- (1) The insurance carrier, employer, or other entity which is required to pay for the services; and
- (2) The enrollee, to the extent that the enrollee has been paid under the law or policy for the services.
- (c) An HMO may require payments for supplemental health care services in addition to the payments for basic health care services. Or, an HMO may include supplemental health care services in the basic health care services for a basic health care service payment.
- (1) Supplemental health services payments may be made in any agreed upon manner, such as prepayment or fee-for-service.
- (2) Supplemental health services may be limited as to time and cost.
- (d) The Commissioner has discretion to approve a cost-sharing arrangement which does not satisfy the limitations imposed by this subsection if the Commissioner finds that such cost-sharing arrangement will provide a reduction in premium costs.

[OAR Docket #13-1203; filed 9-18-13]

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE CHAPTER 15. SALE AND OPERATION OF OIL AND GAS LEASES

[OAR Docket #13-1201]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

385:15-1-6 [AMENDED]

AUTHORITY:

Commissioners of the Land Office; 64 O.S. Sections 1001-1095 (2011).

DATES:

Adoption:

August 14, 2013

Approved by Governor:

September 10, 2013

Effective:

Immediately upon Governor's approval

Expiration:

Effective through September 15, 2014, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Due to the recent completion of technological advances at the Commissioners of the Land Office (CLO), an emergency rule amendment permitting electronic bidding at mineral lease auctions is proposed to promote the compelling public welfare interest of maximizing funding to support public education in accordance with 75 O.S. Section 253(A)(1) (2011).

ANALYSIS:

The proposed amendment permits electronic bid submissions at CLO mineral lease auctions, in addition to the existing written bid submission process. Mineral lease bids and rulemaking are permitted pursuant to 64 O.S. Sections 1020, 1062-1063 & 1066 (2011), among others. The technological capability to receive electronic bids was only recently completed. Electronic bidding will potentially increase the number of bids received for school land mineral leases, operating to maximize the funds received to support public education. Further, the rule amendment provides notice to the public of this additional method for bid submission, promoting fairness in the bidding process.

CONTACT PERSON:

Lisa Blodgett (405) 521-4069

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULE IS CONSIDERED PROULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

385:15-1-6. Public bid process

The public bid process for school land oil and gas lease sales shall be as follows:

- (1) **Separate tract requirement.** A separate bid showing the tract number and legal description must be filed on each tract. Each tract will be leased separately to the highest responsible bidder. Drilling contracts or production payments will not be considered, except in a special lease sale.

- (2) **Sealed bid requirement.**

(A) **Written Bids.** Bids must be written and enclosed in one sealed envelope, and placed in another envelope bearing notation on the outside front face

of the envelope "Bids for Oil and Gas Leases" and the date of sale. Such bids must be delivered to the office of the Commissioners of the Land Office, and if sent by mail shall be addressed to the Commissioners of the Land Office's official business residence [See 385:1-1-13]. (No bid will be considered that is not delivered prior to date and time of sale.), or (B) Electronic Bids. Alternatively, the use of electronic bidding shall be permitted subject to the policies, requirements, and procedures contained in the Secretary's Electronic Bidding Procedures as authorized by the Commissioners of Land Office, available online at www.clo.ok.gov or by request.

- (3) **Time of sale.** Bids will be received as provided in the Notice of Sale and are subject to the right of the Commissioners of the Land Office to reject any and all bids. (All bidders are invited to attend opening of bids which is held in the office of the Secretary to the Commissioners of the Land Office.)
- (4) **Minimum bid accepted.** No bid of less than \$5.00 per acre will be considered, except in a special lease sale.
- (5) **Deposit required.** Each bid must be accompanied by a remittance in the sum of 25% of the amount bid, payable to the Commissioners of the Land Office. Upon acceptance of any bid and the awarding of the lease to the bidder, the successful bidder shall be liable for the full amount of the bid. The unsuccessful bidders will have their remittance check returned.
- (6) **Bid forms.** Bid forms are available on the Land Office's official website [See 385:1-1-13]
- (7) **Assignment of bids.** Oil and Gas Lease bids may not be assigned.
- (8) **Special oil and gas lease sales.** The Commission will have a special oil and gas lease sale if they desire to consider bids other than standard lease terms. This notice of sale will be marked "Special Oil and Gas Lease Sale," and the terms and conditions of this sale will be as provided in the notice of said sale.
- (9) **Bids become final.** All bids on mineral leases shall become final at the date and hour for opening bids and no bid may be withdrawn or rejected to correct an error by any bidder.

[OAR Docket #13-1201; filed 9-18-13]

**TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM**

[OAR Docket #13-1200]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:
Subchapter 7. Retirement Benefits
590:10-7-3. Longevity and other annual lump-sum payments [AMENDED]

590:10-7-10. Final benefit [AMENDED]
590:10-7-14. Permanent part-time employment [AMENDED]
Subchapter 9. Survivors and Beneficiaries
590:10-9-4. Probate waivers [AMENDED]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees, pursuant to 74 O.S. §§901, 909 and 909.1

DATES:

Public Hearing:
August 15, 2013

Adoption:
August 15, 2013

Approved by Governor:
August 28, 2013

Effective:
Immediately upon Governor's approval

Expiration:
Effective through September 14, 2014, unless superseded by another rule or disapproved by the legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Agency finds 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, amendment, revision, or revocation of an existing rule. These emergency rules are necessary to implement legislation enacted in 2013 amending the Oklahoma Statutes relating to the Agency.

ANALYSIS:

The amendment to 590:10-7-3 incorporates the calculation of longevity pay into the new definition of "final average compensation" for members whose first participating service occurs on or after July 1, 2013 from the highest three (3) of the last ten (10) years of participating service to the highest five (5) years of the last ten (10) years. The amendment complies with the new provisions contained in Sections 1 and 3 of Enrolled House Bill 1325, amending 74 O.S. §902 and §915, which became effective July 1, 2013.

The amendment to 590:10-7-10 brings the rule setting forth the process for paying a deceased member's final monthly benefit into compliance with new law which allows OPERS to pay a deceased member's named beneficiary before paying the estate. The amendment complies with the new provisions contained in Section 5 of Enrolled House Bill 1325, amending 74 O.S. §917, which became effective July 1, 2013.

The amendment to 590:10-7-14 incorporates the new definition of "final average compensation" for permanent part-time members of the System whose first participating service occurs on or after July 1, 2013 from the highest three (3) of the last ten (10) years of participating service to the highest five (5) years of the last ten (10) years. The amendment complies with the new provisions contained in Sections 1 and 3 of Enrolled House Bill 1325, amending 74 O.S. §902 and §915, which became effective July 1, 2013.

The amendment to 590:10-9-4 sets forth the requirements for waiving the appointment of an administrator or an executor of an estate to pay benefits or unpaid contributions to a member's heirs. This amendment incorporates new law which increases the amount that OPERS can pay using the probate waiver process. The amendment complies with the new provisions contained in Section 4 of Enrolled House Bill 1325, amending 74 O.S. §916.1 which became effective July 1, 2013.

CONTACT PERSON:

Joseph A. Fox (405) 858-6737

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 7. RETIREMENT BENEFITS

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590:10-7-3. Longevity and other annual lump-sum payments

(a) ~~Only The~~ three (3) highest annual longevity payments will be added into the sum of three years of salary (thirty-six months) used in computing the final average compensation for members whose first participating service occurs before July 1, 2013. The five (5) highest annual longevity payments will be added into the sum of five years of salary (sixty months) used in computing the final average compensation for members whose first participating service occurs on or after July 1, 2013. If a retiring member is scheduled to receive a prorated longevity payment at or near the effective date of retirement, the prorated longevity payments will be used only in the amount actually paid and if it is one of the three highest longevity payments for members whose first participating service occurs before July 1, 2013, or one of the five highest longevity payments for members whose first participating service occurs on or after July 1, 2013. The final average salary shall not be reduced if the annual longevity payment causes any one month's salary to exceed the maximum monthly compensation level, provided the annual salary including longevity does not exceed the maximum compensation level.

(b) Other lump-sum annual payments that are included as compensation for retirement purposes shall be averaged over the previous twelve (12) months of salary immediately preceding the month of payment for use in computing the final average compensation. These lump-sum payments include those which are paid on an annual basis at the discretion of the employer such as performance or skill based pay adjustments.

590:10-7-10. Final benefit

The retirement benefit payable for the month of death of a member, joint annuitant or survivor shall be payable to said member, joint annuitant, or surviving spouse. In the event the final benefit is returned to the System or is not otherwise paid, ~~said the benefit will~~ shall be paid to the member's estate-named beneficiary. If there is no named beneficiary or estate, the final monthly benefit payment shall be paid to the first of the following:

- (1) surviving spouse;
- (2) surviving children in equal shares;
- (3) surviving parents in equal shares;
- (4) surviving siblings in equal shares;
- (5) member's estate.

590:10-7-14. Permanent part-time employment

(a) For purposes of this rule, permanent part-time employment is less than full time employment and is defined as employment with a participating employer of the System in a position which is certified by the employer to require, on an on-going basis, less than forty (40) hours of work per week, or 173 hours per calendar month, or 80 hours per bi-weekly payroll period. If a question exists as to whether or not a member's employment is permanent part-time employment, written certification signed by the participating employer or an agent of the participating employer will be required to qualify a member as a permanent part-time employee for the purpose

of computing the member's final average compensation under the provisions of ~~Section 915 C.~~ of Title 74 of the Oklahoma Statutes-74 O.S. §915(D).

(b) The provisions of this rule for the computation of an annualized final average compensation shall not apply to ~~retirees~~ retirees who have returned to work unless they have waived receipt of their benefit and subsequently re-retire with a recomputation of their benefit.

(c) The phrase "last ten (10) years immediately preceding termination or retirement" is defined as the last ten (10) years of participation in the System. Any breaks in participation are not counted as part of the ten (10) years.

(d) Any employee having thirty-six (36) or more months of full-time participation in the last ten (10) years of participation is not considered to be permanent part-time for the purposes of annualization of the final average compensation.

(e) ~~In~~ For members whose first participating service occurs before July 1, 2013, only the salary received during the last ten (10) years of participation in the System shall be considered in the actual calculation of the final average compensation for permanent part-time members, only salary received during the last ten (10) years of participation in the System is considered. Out of these ten (10) years, the System will use the 36 monthly entries of salary at the highest hourly rates received by the member. The gross salaries for each of the 36 months ~~are~~ shall be added together. The number of hours of work reported for each of these 36 months ~~are~~ shall be added together. The total salary will be divided by the total number of hours reported, multiplied by 6,240 hours plus the three (3) highest eligible longevity payments (if any), and divided by three (3) to arrive at the final average compensation.

(f) For members whose first participating service occurs on or after July 1, 2013, only the salary received during the last ten (10) years of participation in the System shall be considered in the actual calculation of the final average compensation for permanent part-time members. Out of these ten (10) years, the System will use the 60 monthly entries of salary at the highest hourly rates received by the member. The gross salaries for each of the 60 months shall be added together. The number of hours of work reported for each of these 60 months shall be added together. The total salary will be divided by the total number of hours reported, multiplied by 10,400 hours plus the five (5) highest eligible longevity payments (if any), and divided by five (5) to arrive at the final average compensation.

SUBCHAPTER 9. SURVIVORS AND BENEFICIARIES

590:10-9-4. Probate waivers

In the event a member dies, leaving no living beneficiary or having designated his Estate as beneficiary, the System may require the judicial appointment of an administrator or executor for the member's estate prior to payment of any benefits or unpaid contributions. This requirement may be waived for payments in an amount of ~~Ten—Twenty Five Thousand Dollars (\$10,000.00)–(\$25,000)~~ or less upon presentation of the member's valid Last Will and Testament, trust documents

or affidavit that a will does not exist, an Affidavit of Heirship naming all heirs to the member's estate, a Hold-Harmless Agreement signed by all heirs, a corroborating affidavit from someone other than an heir who is familiar with the deceased member, and proof of payment of all last debts of the member. These documents shall comply with the provisions of 74 O.S.

~~Section~~ §916.1. If there is any question as to the validity of any document herein required, the judicial appointment shall not be waived.

[OAR Docket #13-1200; filed 9-17-13]

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

1:2013-35.

EXECUTIVE ORDER 2013-35

I, Todd Lamb, Acting 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 upon receipt of this Executive Order on September 17, 2013, until 5:00 p.m. on Friday, September 20, 2013, in memory of those injured and killed in the senseless act of violence perpetrated on the Naval Yard on September 16, 2013.

This executive order shall be forwarded to the Division of Capital Assets Management, who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 17th day of September, 2013.

BY THE ACTING GOVERNOR
OF THE STATE OF OKLAHOMA

Todd Lamb

ATTEST:
Chris Morriss
Assistant Secretary of State

[OAR Docket #13-1199; filed 9-17-13]
