

ENGROSSED HOUSE  
BILL NO. 1404

By: Gray of the House  
and  
Cain of the Senate

( statutes and reports - amending 12 sections in Title 75 -  
Administrative Procedures Act - codification - effective  
dates - emergency )

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 75 O.S. 1991, Section 250, is  
amended to read as follows:

Section 250. A. Sections 250.1 through 323 of this title shall  
be known and may be cited as the "Administrative Procedures Act".

B. All statutes hereinafter enacted and codified as part of the  
Administrative Procedures Act shall be considered and deemed part of  
the Administrative Procedures Act.

SECTION 2. AMENDATORY 75 O.S. 1991, Section 250.1, is  
amended to read as follows:

Section 250.1 A. The Administrative Procedures Act shall be  
composed of two Articles. Article I relating to agency filing and  
publication requirements for rules shall consist of Sections ~~250.3~~  
250.2 through 308.2 of this title. Article II relating to agency  
notice and hearing requirements for individual proceedings shall  
consist of Sections ~~309~~ 308a through 323 of Title 75 of the Oklahoma  
Statutes.

B. Except as otherwise specifically provided in Section 250.4 of this title, all agencies shall comply with the provisions of Article I and Article II of the Administrative Procedures Act.

SECTION 3. AMENDATORY 75 O.S. 1991, Section 250.4, as last amended by Section 1, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Section 250.4), is amended to read as follows:

Section 250.4 A. 1. Except as is otherwise specifically provided in this subsection, each agency is required to comply with Article I of the Administrative Procedures Act, ~~Section 250.3 of this title.~~

2. The Corporation Commission shall be required to comply with the provisions of Article I of the Administrative Procedures Act except for subsections A, B, C and ~~F~~ E of Section 303 of this title and Section 306 of this title. To the extent of any conflict or inconsistency with Article I of the Administrative Procedures Act, pursuant to Section 35 of Article IX of the Oklahoma Constitution, it is expressly declared that Article I of the Administrative Procedures Act is an amendment to and alteration of Sections 18 through 34 of Article IX of the Oklahoma Constitution.

3. ~~The~~ Except as otherwise provided by this subsection, the Oklahoma Military Department shall be exempt from the provisions of ~~Article I of the Administrative Procedures Act~~ Sections 253, 303.1, 304, 308 and 308.1 of this title to the extent it exercises its responsibility for military affairs.

4. The Oklahoma Ordnance Works Authority shall be exempt from Article I of the Administrative Procedures Act.

5. ~~The~~ Except as otherwise provided by this subsection, the Oklahoma Transportation Commission and the Oklahoma Department of Transportation shall be exempt from ~~Article I of the Administrative Procedures Act~~ Sections 253, 303.1, 304, 308 and 308.1 of this title to the extent they exercise their authority in adopting standard specifications, special provisions, plans, design standards, testing

procedures, federally imposed requirements and generally recognized standards, project planning and programming, and the operation and control of the State Highway System.

6. ~~The~~ Except as otherwise provided by this subsection, the Oklahoma State Regents for Higher Education shall be exempt from ~~Article I of the Administrative Procedures Act~~ Sections 253, 303.1, 304, 308 and 308.1 of this title with respect to:

- a. prescribing standards of higher education,
- b. prescribing functions and courses of study in each institution to conform to the standards,
- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. a. The Commissioner of Public Safety shall be exempt from ~~Section 253, subsections C and D of Section 303 and~~ Sections 303.1, 304, 308 and 308.1 of this title insofar as it is necessary to ~~adopt~~ promulgate rules ~~under~~ pursuant to the Oklahoma Hazardous Materials Transportation and Motor Carrier Act, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations for which the Commissioner has no discretion when the state is mandated to ~~adopt~~ promulgate rules identical to federal rules and regulations.

b. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in The Oklahoma Register. Such publication need not set forth the full text of the rule but may incorporate the federal rules and regulations by reference. ~~Provided, for~~

c. Such copies of promulgated rules shall be filed with the Secretary as required by Section 251 of this title.

d. For any rules for which the Commissioner has discretion to allow variances, tolerances or modifications from the federal rules and regulations, the Commissioner shall fully comply with Article I of the Administrative Procedures Act.

8. Any agency exempt from Sections 253, 303.1, 304, 308 and 308.1 of this title pursuant to this section shall submit any adopted agency rules to the Secretary for filing and publishing such rules pursuant to Sections 251 through 256 of this title.

B. As specified, the following agencies or classes of agency activities are not required to comply with the provisions of Article II of the Administrative Procedures Act:

1. The Oklahoma Tax Commission;
2. The Commission for Human Services;
3. The Oklahoma Ordnance Works Authority;
4. The Oklahoma Corporation Commission;
5. The Pardon and Parole Board;
6. The Midwestern Oklahoma Development Authority;
7. The Grand River Dam Authority;

8. The supervisory or administrative agency of any penal, mental, medical or eleemosynary institution, only with respect to the institutional supervision, custody, control, care or treatment of inmates, prisoners or patients therein; provided, that the provisions of Article II shall apply to and govern all administrative actions of the Oklahoma Alcohol Prevention, Training, Treatment and Rehabilitation Authority;

9. The Board of Regents or employees of any university, college, or other institution of higher learning, except with respect to expulsion of any student for disciplinary reasons;

provided, that upon any alleged infraction by a student of rules of such institutions, with a lesser penalty than expulsion, such student shall be entitled to such due process, including notice and hearing, as may be otherwise required by law, and the following grounds of misconduct, if properly alleged in disciplinary proceedings against a student, shall be cause to be barred from the campus and be removed from any college or university-owned housing, upon conviction in a court of law:

- a. participation in a riot as defined by the penal code,
- b. possession or sale of any drugs or narcotics prohibited by the penal code, or
- c. willful destruction of or willful damage to state property;

10. The Oklahoma Horse Racing Commission, its employees or agents only with respect to hearing and notice requirements on the following classes of violations which are an imminent peril to the public health, safety and welfare:

- a. any rule regarding the running of a race,
- b. any violation of medication laws and rules,
- c. any suspension or revocation of an occupation license by any racing jurisdiction recognized by the Commission,
- d. any assault or other destructive acts within Commission-licensed premises,
- e. any violation of prohibited devices, laws and rules,
- f. any filing of false information;

11. The Commissioner of Public Safety only with respect to drivers' license hearings and hearings conducted pursuant to the provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

12. The Administrator of the Department of Securities only with respect to hearings conducted pursuant to provisions of the Oklahoma Take-over Disclosure Act of 1985;

13. Hearings conducted by a public agency pursuant to Section 962 of Title 47 of the Oklahoma Statutes;

14. The Oklahoma Military Department;

15. ~~The Oklahoma Transportation Commission and the Oklahoma Department of Transportation until January 1, 1990; and~~

~~16. The University Hospitals Authority, including all hospitals or other institutions operated by the University Hospitals Authority; and~~

16. The Oklahoma Health Care Authority Board and the Administrator of the Oklahoma Health Care Authority.

SECTION 4. AMENDATORY 75 O.S. 1991, Section 250.6, as amended by Section 2, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Section 250.6), is amended to read as follows:

Section 250.6 A. 1. The Commission for Human Services as the rulemaking authority for the Department of Human Services and the Oklahoma Health Care Authority Board as the rulemaking authority of the Oklahoma Health Care Authority, may promulgate a preemptive rule pursuant to the provisions of this section:

- a. when the Commission for Human Services or the Oklahoma Health Care Authority Board is required by federal law, federal rules, a state law enacted pursuant to federal law or federal rule, or order of a court of competent jurisdiction to adopt a rule, or an amendment, revision or revocation of an existing rule, and
- b. which if such rule is not immediately adopted would result in the imposition of a financial penalty, or a reduction, withholding or loss of federal funds, and
- c. such preemptive rule has been certified by the Governor pursuant to this section.

2. The conditions specified in this subsection for the promulgation of a preemptive rule shall be the only conditions

authorized for promulgation of such rule by the ~~Commission for Human Services~~ rulemaking authority.

B. 1. Upon the adoption of such preemptive rule by the ~~Commission~~ rulemaking authority, the Director of the Department of Human Services, or the Administrator of the Oklahoma Health Care Authority, as applicable, shall request the Governor to certify that such rules are required to comply with a federal law, federal rule, a state law enacted pursuant to federal law or rule, or order of a court of competent jurisdiction and which if such rules are not immediately adopted would result in a financial penalty, or a reduction, withholding or loss of federal funds.

2. Upon the filing of the request for certification of a preemptive rule, the Governor shall review such rule and decide as to whether such rule should be certified. Prior to approval of a preemptive rule, the Governor shall submit the preemptive rule to the Office of the Secretary of State for review of proper formatting unless the preemptive rule has been reviewed by the Office prior to agency submission to the Governor. Failure of the Governor to certify such rule within fourteen (14) calendar days shall constitute denial of the rule as a preemptive rule.

3. Upon certification of a preemptive rule, the Governor shall immediately notify the ~~Commission~~ rulemaking authority. Upon receipt of notice of the certification of the preemptive rule, the ~~Commission~~ rulemaking authority shall file the number of copies specified by the Secretary of the certification certificate issued by the Governor and the number of copies specified by the Secretary of the preemptive rule with the Office pursuant to Section 251 of this title.

4. The Governor's certification and the preemptive rule shall be published in accordance with the provisions of Section 255 of this title in the next publication of The Oklahoma Register following adoption of the preemptive rule.

5. For informational purposes only, a copy of the Governor's certification and the preemptive rule shall be submitted by the Commission to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within ten (10) days of the certification of the preemptive rule by the Governor.

6. Upon certification by the Governor, the rule shall be considered promulgated and shall be in force immediately or unless a later date is required by statute or specified in the rule, the later date is the effective date.

C. A preemptive rule shall be considered to be a permanent rule and shall remain in full force and effect unless and until specifically disapproved during the first thirty (30) calendar days of the next regular legislative session following promulgation of such preemptive rule or unless an earlier expiration date is specified by the Commission. The Legislature may disapprove such rule pursuant to Section 308 of this title. Any resolution introduced for the purpose of disapproving such rule shall not be subject to regular legislative cut off dates.

D. Except as otherwise provided by this section, preemptive rules shall be promulgated and published in compliance with Article I of the Administrative Procedures Act. Preemptive rules promulgated pursuant to the provisions of this section shall be exempt from the provisions of Sections 253, 303, 304, 307.2, 308 and 308.1 of this title.

SECTION 5. AMENDATORY 75 O.S. 1991, Section 250.9, is amended to read as follows:

Section 250.9 ~~A. Effective July 1, 1991, all of the powers, duties and responsibilities of the Director of the Department of Libraries and the Department of Libraries relating to the publication of The Oklahoma Register and the Administrative Code are hereby transferred to the Office of the Secretary of State together with all unexpended funds, property, records, current agency rules,~~

~~personnel and any outstanding financial obligations or encumbrances, exclusively or principally pertaining to such publications.~~

~~B. The Director of State Finance is hereby directed to coordinate the transfer of funds, allotments, purchase orders, outstanding financial obligations or encumbrances provided for in this section.~~

~~C. Any rules promulgated by the Director of the Department of Libraries shall be and remain in effect until amended or new rules are promulgated by the Secretary.~~

~~D. Any rules adopted by the Director of the Department of Libraries related to the administration of the Administrative Procedures Act and subject to review by the Legislature during the 1991 regular session of the Legislature may be finally adopted and promulgated by the Secretary of State pursuant to the Administrative Procedures Act.~~

~~E. Until January 1, 1992, the Director of the Department of Libraries shall provide, as specified by the Secretary, direct assistance and resources to the Secretary and the Office of Administrative Rules for the compilation and completion of the preparation necessary for the publication of the Oklahoma Administrative Code and for the publication of The Oklahoma Register. Such assistance and resources shall be provided at the same level as was provided for such compilation and preparation of the Code and publication of The Oklahoma Register within the last half of the 1991 fiscal year.~~

~~F. There is hereby established an Office of Administrative Rules within the Office of the Secretary of State. The Office of Administrative Rules shall have the primary responsibility for publishing The Oklahoma Register and the Oklahoma Administrative Code and otherwise implementing the provisions of Article I of the Administrative Procedures Act. The Secretary of State shall provide~~

for the adequate staffing of the Office to implement the provisions of this section including but not limited to an editor-in-chief.

SECTION 6. AMENDATORY 75 O.S. 1991, Section 253, as last amended by Section 5, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Section 253), is amended to read as follows:

Section 253. A. If an agency finds that an imminent peril to the preservation of the public health, safety, welfare, or other compelling extraordinary circumstance requires an emergency rule, amendment, revision, or revocation of an existing rule, an agency may promulgate, at any time, any such rule, provided the Governor first approves such rule pursuant to the provisions of this section.

B. An emergency rule adopted by an agency shall:

1. Be prepared in the format required by Section 251 of this title;

2. Include an impact statement which meets the requirements contained in Section 303 of this title unless such impact statement is, with the consent of the Governor, waived specifically by the agency to the extent an agency for good cause finds the preparation of a rule impact statement or the specified contents thereof are unnecessary, impracticable or contrary to the public interest in the process of promulgating an emergency rule;

3. Be transmitted to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Senate, including the information required by this subsection within ten (10) days after the rule is adopted; and

4. One copy to be transmitted on the same day that filing occurs with the Governor to the Oklahoma Advisory Committee on Intergovernmental Relations if the emergency rule would have an impact on political subdivisions as determined by the agency in the rule impact statement. The filing shall include all information supplied to the Governor regarding such emergency rule pursuant to ~~Sections~~ Section 251 and ~~253~~ of this title and this section.

C. 1. Upon the filing of an adopted emergency rule by an agency with the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Senate, under the provisions of subsection B of this section, the Governor shall review such rule and shall decide as to whether or not such emergency rule should be approved. Prior to approval of emergency rules, the Governor shall submit the emergency rule to the Secretary of State for review of proper formatting.

2. If the Governor disapproves the adopted emergency rule, the Governor shall return the entire document to the agency with reasons for the disapproval. If the agency elects to modify such rule, the agency shall make such modifications and resubmit the rule to the Governor for approval.

3. Emergency rules adopted by an agency or approved by the Governor shall be subject to review pursuant to the provisions of Section 306 of this title.

D. 1. Upon approval by the Governor, an emergency rule shall be considered promulgated and shall be in force immediately, or on such later date as specified therein.

2. The Governor shall have forty-five (45) calendar days to review the emergency rule. Within the forty-five-calendar day period, the Governor may approve the emergency rule or disapprove the emergency rule. Failure of the Governor to approve an emergency rule within the specified period shall constitute disapproval of the emergency rule. The agency submitting the emergency rule to the Governor shall notify, in writing, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Office of Administrative Rules of any disapproval of an emergency rule by the Governor.

E. 1. Upon approval of an emergency rule, the Governor shall immediately notify the agency and file the number of copies required

by the Secretary of the written approval and the number of copies required by the Secretary of the emergency rule with the Director.

2. A copy of the Governor's approval shall be submitted by the Governor to the Speaker of the House of Representatives and the President Pro Tempore of the Senate when the rulemaking agency is notified of approval.

3. The Governor's approval and the emergency rule shall be published in accordance with the provisions of Section 255 of this title in the next publication of The Oklahoma Register following the approval by the Governor.

F. An emergency rule may be promulgated when the Legislature is not in session provided such emergency rule shall be effective from the date of approval by the Governor or a later date as specified in the approved emergency rule through the first day of the next succeeding Regular Session of the Oklahoma Legislature, after the promulgation of such emergency rule, and shall be in full force and effect through July 14 following such session unless it is made ineffective pursuant to subsection H of this section.

G. An emergency rule may be promulgated when the Legislature is in session provided such emergency rule shall be effective from the date of approval of the emergency rule by the Governor or a later date as specified in the approved emergency rule, unless otherwise specifically provided by the Legislature through the first day of the next succeeding Regular Session of the Oklahoma Legislature, after the promulgation of such emergency rule, and shall be in full force and effect through July 14 following such session unless it is made ineffective pursuant to subsection H of this section.

H. 1. If an emergency rule is of a continuing nature, the agency promulgating such emergency rule shall initiate proceedings for promulgation of a permanent rule pursuant to Sections 303 through 308.2 of this title.

2. Any promulgated emergency rule shall be made ineffective if:

- a. disapproved by the Legislature,
  - b. superceded by the promulgation of permanent rules,
  - c. any adopted rules based upon such emergency rules are subsequently disapproved pursuant to Section 308 of this title, or
  - d. an earlier expiration date is specified by the agency in the rules.
3. a. Emergency rules in effect on the first day of the session shall be null and void on July 15 immediately following sine die adjournment of the Legislature unless otherwise specifically provided by the Legislature.
- b. An agency shall not adopt any emergency rule, which has become null and void pursuant to subparagraph a of this paragraph, as a new emergency rule or adopt any emergency rules of similar scope or intent as the emergency rules which became null and void pursuant to subparagraph a of this paragraph.

I. Emergency rules shall not become effective unless approved by the Governor pursuant to the provisions of this section.

J. 1. The requirements of Section 303 of this title relating to notice and hearing shall not be applicable to emergency rules promulgated pursuant to the provisions of this section. Provided this shall not be construed to prevent an abbreviated notice and hearing process determined to be necessary by an agency.

2. The rule report required pursuant to Sections 303.1 and 308 of this title shall not be applicable to emergency rules promulgated pursuant to the provisions of this section. Provided this shall not be construed to prevent an agency from complying with such requirements at the discretion of such agency.

3. The statement of submission required by Sections 303.1 and 308 of this title shall not be applicable to emergency rules promulgated pursuant to the provisions of this section.

K. Prior to approval or disapproval of an emergency rule by the Governor, an agency may withdraw from review an emergency rule submitted pursuant to the provisions of this section. Notice of such withdrawal shall be given to the Governor, the Speaker of the House of Representatives ~~and~~, the President Pro Tempore of the Senate, and the Office of Administrative Rules. In order to be promulgated as emergency rules, any replacement rules shall be resubmitted pursuant to the provisions of this section.

SECTION 7. AMENDATORY 75 O.S. 1991, Section 255, is amended to read as follows:

Section 255. A. 1. The Secretary is hereby authorized, directed, and empowered to publish The Oklahoma Register not less than monthly for the publication of proposed rules, new rules, any amendment, revision or revocation of an existing rule, emergency rules, any notices of such rulemaking process and Executive Orders as are required by law to be published in The Oklahoma Register. Said rules or amendments, revisions, or revocations of existing rules shall be published in the first issue of The Oklahoma Register published pursuant to Sections 251, 253, 256, 303, 303.1 and 308 of this title after the date of acceptance by the Secretary.

2. The Secretary shall cause a copy of each publication of The Oklahoma Register to be sent to every county clerk in this state, to members of the Legislature upon request, and to such other agencies, libraries, and officials ~~he~~ as the Secretary may select. The Secretary may charge recipients of the publication a cost sufficient to defray the cost of publication and mailing.

3. The Secretary shall cause a copy of all rules, all new rules, and all amendments, revisions, or revocations of existing

rules to be on file and available for public examination in the Office during normal office hours.

4. The county clerks shall also maintain or cause to be maintained files of these publications for public examination during normal office hours.

5. The Secretary shall promulgate rules to systematize the designations of rules. To establish said system or to preserve uniformity of designations, the Secretary may require the agency to change the title or numbering of any rule or any amendment, revision, or revocation thereof.

B. The Secretary is authorized to provide for the publication of rules in summary form when the rules are of such length that publication of the full text would be too costly. The summary shall be prepared by the agency submitting the rules and shall state where the full text of the rule may be obtained.

C. The notice required pursuant to the provisions of Section 303 of this title shall be published in The Oklahoma Register prior to the adoption of a new rule, or amendment, revision or revocation of any existing rule. The notice shall include the information required by Section 303 of this title.

~~D. Rules which have been filed pursuant to Section 251 of this title, published pursuant to the provisions of Section 255 of this title, and otherwise comply with the Administrative Procedures Act shall be considered promulgated.~~

SECTION 8. AMENDATORY 75 O.S. 1991, Section 256, as last amended by Section 6, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Section 256), is amended to read as follows:

Section 256. A. 1. The Secretary shall provide for the codification, compilation, indexing and publication of agency rules and Executive Orders in a publication which shall be known as the Oklahoma Administrative Code in the following manner:

- a. On or before January 1, 1992, the Secretary shall compile Executive Orders which are effective pursuant to paragraph 3 of subsection B of this section, and agency rules which have been submitted pursuant to the agency schedule of compliance and have been accepted as properly codified, as set forth in this section, ~~Sections 256.1 and 256.2 of this title,~~ and rules promulgated by the Secretary. Such compilation shall be maintained by the Office of Administrative Rules and shall be updated by agencies, in a manner prescribed by the Secretary, to reflect subsequent permanent rulemaking. Prior to publication of the first Code, as set forth in subparagraph b of this paragraph, the compilation shall constitute the official permanent rules of the state. Effective January 1, 1992, any permanent rule not included in such compilation shall be void and of no effect.
- b. On or before December 1, 1992, the Secretary shall have indexed and published the Oklahoma Administrative Code. To effectuate this provision, the Secretary may contract for the publishing and indexing, or both of the Oklahoma Administrative Code. Any permanent rule not published in the Code shall be void and of no effect. A finally adopted rule filed and published in The Oklahoma Register may be valid until publication of the next succeeding Code or Code supplement following the date of its final adoption. Provided, a permanent rule which is finally adopted after the closing date for publication in a Code or Code supplement as announced by the Secretary may be valid until publication of the next succeeding Code or Code supplement. A permanent rule which is published in

The Oklahoma Register after the closing date for publication in the first Code, as announced by the Secretary, shall be void and of no effect upon publication of the next succeeding Code or Code supplement, if not published in the Code or Code supplement.

2. Compilations or revisions of the Code or any part thereof shall be supplemented or revised annually. The Code shall be organized by state agency and shall be arranged, indexed and printed in a manner to permit separate publications of portions thereof relating to individual agencies.

3. Annual supplements to the Code shall be cumulative. Emergency rules shall not be published in the Code or in any supplements thereto.

4. The Code and the supplements shall include a general subject index and an agency index of all rules and Executive Orders contained therein. The supplements shall also include a sections-affected index of the Code. The Code and supplements shall contain such notes, cross references and explanatory materials as required by the Secretary.

5. The Secretary in preparing such rules for publication in the Code or supplements shall omit all material shown in canceled type. The Secretary shall not prepare any rule for publication in the Code which amends or revises a rule unless the rule so amending or revising conforms to the provisions of the Administrative Procedures Act.

6. The Secretary is authorized to determine a numbering system and other standardized format for documents to be filed and may refuse to accept for publication any document that does not substantially conform to the promulgated rules of the Secretary.

B. 1. Rules submitted and accepted for publication in the Code by July 31st of each year shall be published in the next succeeding Code or supplement thereto.

2. As soon as possible after July 31st of each year, the Secretary shall assemble all rules and Executive Orders, except emergency rules, promulgated after the publication of the preceding Code or Code supplement in accordance with the provisions of the Administrative Procedures Act for publication in the Oklahoma Administrative Code. The Code or supplements thereto should be published as soon as possible after August 30 of each year.

3. ~~Effective January 14, 1991,~~ 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. Copies of all Executive Orders shall be published and indexed in the Administrative Code. All Executive Orders placing agencies or employees under the State Merit System of Personnel Administration shall remain in effect unless otherwise modified by action of the Legislature.

C. The Secretary is hereby authorized and empowered to publish or to contract to publish an Administrative Code, and to publish or contract to publish such annual cumulative supplements so as to keep the Code current. All such agreements shall provide that the publisher shall make such publications in such form and arrangement as shall be approved by the Secretary.

D. The Secretary is authorized to correct spelling errors in rules submitted for publication in the Code or any such supplements or in The Oklahoma Register. Any other errors in rules submitted for publication in the Code may be noted in editorial notes provided by the Secretary.

E. The Secretary shall make copies of the Code generally available at a cost sufficient to defray the cost of publication and

mailing. Except as otherwise provided by Section 257.1 of this title, the Secretary is authorized to sell or otherwise distribute the Code and its supplements.

F. 1. The codification system, indexes, tables and other aids relevant to the publication of the Oklahoma Administrative Code shall be the property of the state. No person shall attempt to copyright or publish such materials without expressed written consent of the Secretary of State.

2. After April 1, 1995, all agencies shall obtain an official copy of the relevant portions of the Oklahoma Administrative Code from the Office of Administrative Rules ~~when used~~ to use as a basis for ~~official publication or when represented as official~~ publishing agency rules. The sale or resale of the Oklahoma Administrative Code or any part thereof by the Secretary of State shall be exempt from any requirement mandating acquisition of a resale number and payment of sales tax.

3. The Secretary of State shall report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate potential advantages and disadvantages of centralizing the publication for state agencies by the office of the Secretary of State of portions of the Oklahoma Administrative Code. The report shall consider the extent to which the centralization would assist in the self-funding of the operations of the Office of Administrative Rules and associated services involved in publications pursuant to this subsection. The report required by this paragraph shall be submitted by February 1, 1995.

SECTION 9. AMENDATORY 75 O.S. 1991, Section 303, as amended by Section 7, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Section 303), is amended to read as follows:

Section 303. A. Prior to the adoption of any rule or amendment or repeal of a rule, the agency shall:

1. Cause notice of any intended action to be published in The Oklahoma Register pursuant to subsection B of this section;

2. For at least twenty (20) days after publication of the notice of the intended rulemaking action, afford a comment period for all interested persons to submit data, views or arguments, orally or in writing. The agency shall consider fully all written and oral submissions respecting the proposed rule;

3. Hold a hearing, if required, as provided by subsection C of this section;

4. Consider the effect its intended action may have on the various types of business and governmental entities. If an agency finds that its actions may adversely affect any such entity, the agency may modify its actions to exclude that type of entity, or may "tier" its actions to allow rules, penalties, fines or reporting procedures and forms to vary according to the size of a business or governmental entity or its ability to comply or both; and

5. Consider the effect its intended action may have on the various types of consumer groups. If an agency finds that its actions may adversely affect such groups, the agency may modify its actions to exclude that type of activity.

B. The notice required by paragraph 1 of subsection A of this section shall include but not be limited to:

1. In simple language, a brief summary of the rule;
2. The proposed action being taken;
3. The circumstances which created the need for the rule;
4. The specific legal authority authorizing the proposed rule;
5. The text of the proposed rule;
6. The intended effect of the rule;

~~6.~~ 7. The time when, the place where, and the manner in which interested persons may present their views thereon pursuant to paragraph 3 of subsection A of this section;

~~7.~~ 8. Whether or not the agency intends to issue a rule impact statement according to subsection D of this section and where copies of such impact statement may be obtained for review by the public;

~~8.~~ 9. The time when, the place where, and the manner in which persons may demand a hearing on the proposed rule if the notice does not already provide for a hearing. If the notice provides for a hearing, the time and place of the hearing shall be specified in the notice; and

~~9. Where copies of the proposed rules may be obtained for review by the public. An agency may charge persons for the actual cost of mailing a copy of the proposed rules to such persons.~~

10. Notice that unless the proposed rules are substantially changed from the published rules that the finally adopted rules will not be republished in The Oklahoma Register.

The number of copies of such notice as specified by the Secretary shall be submitted to the Secretary who shall publish the notice in The Oklahoma Register pursuant to the provisions of Section 255 of this title.

Prior to or within three (3) days after publication of the notice in The Oklahoma Register, the agency shall cause a copy of the notice of the proposed rule adoption to be mailed to all persons who have made a timely request of the agency for advance notice of its rulemaking proceedings. An agency may charge persons for the actual cost of mailing a copy of the proposed rules to such persons. Each agency shall maintain a listing of persons or entities requesting such notice.

C. 1. If the published notice does not already provide for a hearing, an agency shall schedule a hearing on a proposed rule if, within twenty (20) days after the published notice of the proposed rule adoption, a written request for a hearing is submitted by:

- a. at least twenty-five persons,
- b. a political subdivision,

- c. an agency, or
- d. an association having not less than twenty-five members.

At that hearing persons may present oral argument, data, and views on the proposed rule.

2. A hearing on a proposed rule may not be held earlier than twenty (20) days after notice of the hearing is published pursuant to subsection B of this section.

3. The provisions of this subsection shall not be construed to prevent an agency from holding a hearing or hearings on the proposed rule although not required by the provisions of this subsection; provided that notice of such hearing shall be published in The Oklahoma Register at least twenty (20) days prior to such hearing.

D. 1. Except as otherwise provided in this subsection, an agency shall issue a rule impact statement of a proposed rule prior to or within fifteen (15) days after the date of publication of the notice of proposed rule adoption. The rule impact statement may be modified after any hearing or comment period afforded pursuant to the provisions of this section.

2. Except as otherwise provided in this subsection, the rule impact statement shall include but not be limited to:

- a. a brief description of the purpose of the proposed rule,
- b. a description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule,
- c. a description of the classes of persons who will benefit from the proposed rule,
- d. a description of the probable economic impact of the proposed rule upon affected classes of persons, including a listing of all fee changes and, whenever

possible, a separate justification for each fee change,

- e. the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency,
- f. a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule, and
- g. the date the rule impact statement was prepared and if modified, the date modified.

3. To the extent an agency for good cause finds the preparation of a rule impact statement or the specified contents thereof are unnecessary, impracticable or contrary to the public interest in the process of adopting a particular rule, the agency may request the Governor to waive such requirement. If the Governor fails to waive such requirement prior to publication of the notice of the intended rulemaking action, the rule impact statement shall be completed. The determination to waive the rule impact statement shall not be subject to judicial review.

4. The rule shall not be invalidated on the ground that the contents of the rule impact statement are insufficient or inaccurate.

E. Upon completing the requirements of this section, an agency may adopt a proposed rule. No rule is valid unless adopted in substantial compliance with the provisions of this section.

SECTION 10. AMENDATORY 75 O.S. 1991, Section 303.1, as amended by Section 8, Chapter 384, O.S.L. 1994 (75 O.S. Supp. 1994, Section 303.1), is amended to read as follows:

Section 303.1 A. Within ten (10) days after adoption of a permanent rule, a copy of all such new rules or amendments,

revisions or revocations to an existing rule proposed by an agency, and a copy of an agency rule report as required by subsection D of this section shall be filed by the agency with the Governor for approval.

B. When the rules have been submitted to the Governor, the agency shall also submit to the Secretary for publication in The Oklahoma Register, a statement that the adopted rules have been submitted to the Governor.

C. The text of the adopted rules shall be submitted to the Governor in the same format as required by the Secretary pursuant to Section 251 of this title.

D. The report required by subsection A of this section shall include:

1. The date the notice of the intended rulemaking action was published in The Oklahoma Register pursuant to Section 255 of this title;

2. The name and address of the agency;

3. The title and number of the rule;

4. A citation to the statutory authority for the rule;

5. A brief summary of the content of the adopted rule;

6. A statement explaining the need for the adopted rule;

7. The date and location of the meeting, if held, at which such rules were adopted;

8. A summary of the comments and explanation of changes or lack of any change made in the adopted rules as a result of testimony received at all hearings or meetings held or sponsored by an agency for the purpose of providing the public an opportunity to comment on the rules or of any written comments received prior to the adoption of the rule;

9. A list of persons or organizations who appeared or registered for or against the adopted rule at any public hearing

held by the agency or those who have commented in writing before or after the hearing;

10. A rule impact statement if required pursuant to Section 303 of this title;

11. An incorporation by reference statement if the rule incorporates a set of rules from a body outside the state, such as a national code;

12. The members of the governing board of the agency adopting the rules and the recorded vote of each member; ~~and~~

13. The name of the legal counsel, if any, who reviewed the adopted rules for the agency; and

14. Any other information requested by the Governor.

E. The Governor shall have forty-five (45) calendar days from receipt of a rule to approve or disapprove the rule.

1. If the Governor approves the rule, the Governor shall immediately notify the agency in writing of the approval. Notice of such approval shall be given by the agency to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and to the Secretary for publication in The Oklahoma Register.

2. If the Governor disapproves the adopted rule, the Governor shall return the entire document to the agency with reasons in writing for the disapproval. Notice of such disapproval shall be given by the agency to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to the Secretary for publication in The Oklahoma Register. Failure of the Governor to approve a rule within the specified period shall constitute disapproval of the rule by the Governor.

F. Rules not approved by the Governor pursuant to the provisions of this section shall not become effective unless otherwise approved by the Legislature by joint resolution pursuant to subsection F of Section 308 of this title.

SECTION 11. AMENDATORY 75 O.S. 1991, Section 307.1, is amended to read as follows:

Section 307.1 A. The Speaker of the House of Representatives and the President Pro Tempore of the Senate may each establish a rule review committee or designate standing committees of each such house to review administrative rules.

B. Such committees may meet separately or jointly at any time, during sessions of the Legislature and in the interim.

C. The function of the committees so established or designated shall be the review and promotion of adequate and proper rules by agencies and developing an understanding on the part of the public respecting such rules. Such function shall be advisory only.

Each committee may review all adopted rules and such other rules the committee deems appropriate and may make recommendations concerning such rules to their respective house of the Legislature, or to the agency adopting the rule, or to both their respective house of the Legislature and the agency.

D. In addition to the review of agency-adopted rules pursuant to ~~this act~~ the Administrative Procedures Act, each such committee shall have the power and duty to:

1. Conduct a continuous study and investigations as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of proposed rules, review of existing rules including but not limited to consideration of amendments to or repeal of existing rules, the lack of rules, the ability of agencies to promulgate such rules, and the needs of administrative agencies;

2. Conduct a continuous study of the rulemaking process of all state agencies including those agencies exempted by Section 250.4 of this title for the purpose of improving the rulemaking process;

3. Conduct such other studies and investigations relating to rules as may be determined to be necessary by the committee; and

4. Monitor and investigate compliance of agencies with the provisions of the Administrative Procedures Act, make periodic investigations of the rulemaking activities of all agencies and evaluate and report on all rules in terms of their propriety, legal adequacy, relation to statutory authorization, economic and budgetary effects and public policy.

SECTION 12. AMENDATORY 75 O.S. 1991, Section 308, as last amended by Section 4, Chapter 182, O.S.L. 1994 (75 O.S. Supp. 1994, Section 308), is amended to read as follows:

Section 308. A. Within ten (10) days after adoption of a permanent rule, two copies of all such new rules or amendments, revisions or revocations to an existing rule proposed by an agency, and two copies of an agency rule report as required by subsection D of this section shall be filed by the agency each with the Speaker of the House of Representatives and the President Pro Tempore of the State Senate.

B. If the agency determines in the rule impact statement prepared as part of the agency rule report that the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing a proposed permanent rule, a copy of the proposed rule and rule report shall be filed within ten (10) days after adoption of the permanent rule with the Oklahoma Advisory Committee on Intergovernmental ~~Cooperation~~ Relations for its review. Said Committee may communicate any recommendations that it may deem necessary to the Governor, the Speaker of the House of Representatives and President Pro Tempore of the Senate during the period that the permanent rules are being reviewed.

C. When the rules have been submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the agency shall also submit to the Office for publication

in The Oklahoma Register, a statement that the adopted rules have been submitted to the Legislature.

D. The text of the adopted rules shall be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate in the same format as required by the Secretary pursuant to Section 251 of this title.

E. The report required by subsection A of this section shall include:

1. The date the notice of the intended rulemaking action was published in The Oklahoma Register pursuant to Section 255 of this title;

2. The name and address of the agency;

3. The title and number of the rule;

4. A citation to the statutory authority for the rule;

5. A brief summary of the content of the adopted rule;

6. A statement explaining the need for the adopted rule;

7. The date and location of the meeting if held, at which such rules were adopted;

8. A summary of the comments and explanation of changes or lack of any change made in the adopted rules as a result of testimony received at public hearings or of any oral or written comments received prior to the adoption of the rule;

9. A list of persons or organizations who appeared or registered for or against the adopted rule at any public hearing held by the agency or those who have commented in writing before or after the hearing;

10. A rule impact statement if required pursuant to Section 303 of this title;

11. An incorporation by reference statement if the rule incorporates a set of rules from a body outside the state, such as a national code;

12. The members of the governing board of the agency adopting the rules and the recorded vote of each member; ~~and~~

13. The name of the legal counsel, if any, who reviewed the adopted rules for the agency; and

14. Any other information requested by the Speaker of the House of Representatives, the President Pro Tempore of the Senate or either rule review committee.

F. Upon receipt of any adopted rules submitted pursuant to this section, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall assign such rules to the appropriate committees of each such house of the Legislature for review. Except as otherwise provided by this section, upon receipt of such rules, the Legislature shall have thirty (30) legislative days to review such rules.

G. 1. By the adoption of a joint resolution, the Legislature may disapprove any rule, waive the thirty-legislative-day review period and approve any rule which has been transmitted as required by this section, or otherwise approve any rule submitted pursuant to this section.

2. a. (1) The Legislature may by concurrent resolution disapprove a proposed rule or a proposed amendment to a rule submitted to the Legislature pursuant to this section or an emergency rule prior to such rule having the force and effect of law.

(2) Any such proposed rule or proposed amendment to a permanent rule shall be disapproved by both houses of the Legislature prior to the termination of the legislative review period specified by this section.

(3) Any such concurrent resolution shall not require the approval of the Governor, and any such rule

so disapproved shall be invalid and of no effect regardless of the approval of the Governor of such rule.

- b. By adoption of a concurrent resolution, the Legislature may waive the thirty-legislative-day review period for any rule which has been transmitted as required by this section.

H. Unless otherwise authorized by the Legislature by concurrent resolution, or by law, whenever a rule is disapproved as provided in subsection G of this section, the agency adopting such rules shall not have authority to resubmit an identical rule, except during the first sixty (60) calendar days of the next regular legislative session. Rules may be disapproved in part or in whole by the Legislature. Any resolution enacted disapproving a rule shall be filed with the Secretary for publication in The Oklahoma Register.

I. Unless otherwise provided by specific vote of the Legislature, resolutions introduced for purposes of disapproving or approving a rule shall not be subject to regular legislative cutoff dates, shall be limited to such provisions as may be necessary for disapproval or approval of a rule, and any such other direction or mandate regarding the rule deemed necessary by the Legislature. The resolution shall contain no other provisions.

J. 1. Transmission of a rule for legislative review pursuant to the provisions of this section on or before April 1 of each year shall result in the approval of such rule by the Legislature if:

- a. the Legislature is in regular session and has failed to disapprove such rule within thirty (30) legislative days after such rule has been so transmitted pursuant to subsection A of this section, or
- b. the Legislature has adjourned before the expiration of said thirty (30) legislative days of submission of such rules, and has failed to disapprove such rule.

2. After April 1 of each year, transmission of a rule for legislative review pursuant to the provisions of this section shall result in the approval of such rule by the Legislature only if the Legislature is in regular session and has failed to disapprove such rule within thirty (30) legislative days after such rule has been so transmitted. In the event the Legislature adjourns before the expiration of such thirty (30) legislative days, such rule shall carry over for consideration by the Legislature during the next regular session and shall be considered to have been originally transmitted to the Legislature on the first day of said next regular session for review pursuant to this section. As an alternative, an agency may request direct legislative approval of such rules or waiver of the thirty-legislative-day review provided by subsection G of this section. An agency may also adopt emergency rules under the provisions of Section 253 of this title.

K. Prior to final adoption of a rule, an agency may withdraw from legislative review a rule submitted pursuant to the provisions of this section. Notice of such withdrawal shall be given to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and to the Secretary for publication in The Oklahoma Register.

L. Except as otherwise provided by Sections 253, 250.4 and 250.6 of this title or as otherwise specifically provided by the Legislature, no agency shall promulgate any rule unless reviewed by the Legislature pursuant to this section. An agency may promulgate an emergency rule only pursuant to Section 253 of this title.

M. Any rights, privileges, or interests gained by any person by operation of an emergency rule, shall not be affected by reason of any subsequent disapproval or rejection of such rule by either house of the Legislature.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 250.4a of Title 75, unless there is created a duplication in numbering, reads as follows:

A. By July 1, 1996, any agency which is exempted from all or part of the requirements for publication of agency rules in the Oklahoma Administrative Code pursuant to subsection A of Section 250.4 of this title shall comply with the provisions of Section 256 of this title.

B. It is recognized by the Oklahoma Legislature that agencies specified by subsection A of this section have published rules containing obsolete rules or internal policy statements or agency statements which do not meet the Administrative Procedures Act definition of rules. Therefore, to assure that only current and official agency rules will be published in the Code, each such agency shall conduct an internal review of its rules to determine whether each of its rules is current and is a rule as such term is defined by the Administrative Procedures Act. Any rule determined by an agency to be obsolete or an internal policy statement, or any agency statement which does not meet the definition of a rule pursuant to the Administrative Procedures Act may be deleted by the agency. Prior to such deletion, the agency shall publish in The Oklahoma Register a notice of intent to remove the rule or statement, including a summary of such rule or statement. In addition, notice of such deletion shall be submitted to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor for informational purposes.

C. The provisions of this section shall not be construed to authorize any agency to amend any rule or to delete any rule which affects any private rights or procedures available to the public.

D. The Secretary is authorized to establish pursuant to the Administrative Procedures Act and enforce pursuant to this section a schedule of compliance for agency submission of rules to be

published in the Code. In developing such schedule of compliance the Secretary shall consider the number and length of rules to be submitted for publication in the Code and the time necessary for internal review of such rules to bring such rules into compliance with the Administrative Procedures Act. Each agency shall, no later than the date set forth in the schedule of compliance, furnish to the Office a complete set of its effective permanent rules in such form as is required by the Secretary.

E. Agency compliance with this section shall be coordinated in accordance with a schedule established by the Secretary for agency submission of rules for publishing in the Code pursuant to subsection D of this section.

F. Rules not submitted for publication in the Code pursuant to this section by July 1, 1996, are null and void.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5007.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority Board may conduct hearings upon complaint or whenever appropriate for the exercise of authority granted to the Board pursuant to the Oklahoma Health Care Authority Act.

B. The Board shall have all powers granted to administrative agencies for the conduct of individual proceedings. The Board shall have power to:

1. Take and hear evidence, administer oaths and affirmations; and

2. Compel the attendance of witnesses and the production of books, papers and documents to the hearing, by subpoena.

C. Whenever any person subpoenaed to appear and give testimony or to produce such books, papers or documents as required by the subpoena refuses to appear or testify before the Board, or to answer any pertinent or proper questions, the person shall be deemed in

contempt of the Board. It shall be the duty of the presiding officer of the Board to report the fact to the district court for the county in which the hearing is being held. The district court shall issue an attachment in the form usual in the district court, directed to the sheriff of the county, commanding the sheriff to attach the person and bring the person before the district court. On the return of the attachment, and the production of the person attached, the district court shall have jurisdiction of the matter, and the person charged may be purged of contempt in the same way, and the same proceedings shall be had, and the same penalties may impose, and the same punishment inflicted as in the case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a district court of the State of Oklahoma.

D. Any member of the Board shall have power to administer oaths and issue any subpoena as provided for in this section. A subpoena may be served upon any person in Oklahoma, with the same fees and mileage by any officer authorized to serve subpoenas in civil actions, in the same manner as is prescribed by the code of civil procedure for subpoenas issued out of the district courts of this state.

E. Depositions may be taken and used in the same manner as provided for in civil cases.

F. The district court shall have jurisdiction of an appeal from the Board, and shall have power to affirm, reverse or modify the decisions of the Board. Such appeals shall be commenced by the filing with the clerk of the district court a certified copy of the order of the Board attached to the petition of the complainant, wherein the complainant, or petitioner, shall make assignments or specifications as to wherein said decision is erroneous or illegal. Upon the filing of the petition and notice given to the Board by the clerk of the court, it shall be the duty of the Board to file in the court within thirty (30) days from the date of the notice a full and

complete transcript of all proceedings had in the cause. The cost of the preparation of the same shall be borne by the Board. The Board shall be deemed a party to such proceedings. The attorney of the Board or the Attorney General shall represent the Board in such proceedings. Such appeals shall be subject to the law and practice applicable to other civil actions. Upon final determination of the appeal, in which the decision of the Board is sought to be reviewed, the Board shall make an order and decision in accordance with the decision of the court. Any party to the appeal may appeal from the decision of the district court to the Supreme Court of Oklahoma in the same manner as provided by law in other civil actions.

G. The Board shall promulgate rules prescribing procedures for determining when hearings shall be held, location of hearings, conduct of hearings and appeals pursuant to the provisions of this section.

SECTION 15. The Oklahoma Health Care Authority Board may promulgate emergency rules and the Governor may sign such emergency rules pursuant to Article I of the Oklahoma Administrative Procedures Act necessary to implement Section 14 of this act prior to the effective date of the section. The emergency rules, however, shall not have an effective date prior to November 1, 1995. The Board shall promulgate permanent rules necessary for implementation and enforcement of Section 14 of this act.

SECTION 16. Section 15 of this act shall not be codified in the Oklahoma Statutes.

SECTION 17. Section 3 of this act shall become effective July 1, 1996.

SECTION 18. Sections 1, 2, 4 through 13 and 15 of this act shall become effective July 1, 1995.

SECTION 19. Section 14 of this act shall become effective November 1, 1995.

SECTION 20. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 15th day of March, 1995.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1995.

President of the Senate