

Title 258 - Ethics Commission

Staff's Note: *The Ethics Commission promulgates these rules pursuant to the statutory requirements of the Administrative Procedures Act [75 O. S., §§ 250 et seq.] and constitutional rules pursuant to a special process established by constitution [OKLA. CONST. art 29, § 3]. The Commission's "statutory" rules are located in this Title, after having been revoked in Title 257 of the OAC. The Commission's "constitutional" rules, which are numbered in a similar style using 257 as the Title number, are published in the official statutes of the State of Oklahoma [Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, 74 O.S. Supp. 2010, Ch. 62, App.]. For additional information, see 74 O. S., §§ 4229 et seq. and OKLA. CONST. art 29.*

<u>Chapter 1</u>	<u>Statutory Administrative Operations</u>
<u>Chapter 20</u>	<u>Ethics and Conflicts of Interest for County Officials and Employees</u>
<u>Chapter 25</u>	<u>Procedure for Assessing Late Filing Fees</u>

Chapter 1 - Statutory Administrative Operations

<u>Section 258:1-1-1</u>	<u>General purpose and authority</u>
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<u>Section 258:1-1-6</u>	[Reserved]
<u>Section 258:1-1-7</u>	[Reserved]
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<u>Section 258:1-1-9</u>	<u>Request for ethics interpretation</u>
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<u>Section 258:1-1-11</u>	[Reserved]
<u>Section 258:1-1-12</u>	[Reserved]
<u>Section 258:1-1-13</u>	[Reserved]
<u>Section 258:1-1-14</u>	<u>Applicability of rules</u>

[Authority: 74 O.S., §§ 4206(A)(9) and 4206.2; 75 O.S., §§ 302(A) and 307]
[Source: Codified 7/1/95]

258:1-1-1. General purpose and authority

- (a) **Intent.** The Ethics Commission is the statutory administrator of the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes. It is the intent of the Commission that the rules of this Chapter establish a procedure by which, upon written request, an employee of or person contracting with the Commission shall conduct a hearing regarding any late filing fee imposed.
- (b) **Powers and duties.** The authority of the Ethics Commission to adopt these rules is set forth in the Ethics Commission Act, Sections 4206(A) (9) and 4206.2 of Title 74 and the Administrative Procedures Act, Section 302(A) and 307 of Title 75 of the Oklahoma Statutes.
- (c) **Rules.** In keeping with its statutory authority and purpose, the Ethics Commission has promulgated the rules of this Chapter to implement these statutes.

[Source: Added at 11 Ok Reg 4721, eff 9-1-94 (emergency); Added at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-2. Definitions

Masculine words, whenever used in this chapter, shall include the feminine and neuter, and the singular includes the plural, unless otherwise specified. In addition, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes.

"Address" means mailing address unless otherwise specified in the text.

"Affiliated" or **"Connected entity"** means any organization which directly or indirectly establishes, administers or financially supports a political entity.

"Business day" means any day except a Saturday, Sunday or a legal holiday designated in Section 82.1 of Title 25 of the Oklahoma Statutes.

"Commission" means the Ethics Commission. [74:4202 (12)]

"Compensation" means money, service, facility or thing of value or financial benefit which is received or is to be received in return for or in connection with services rendered or to be rendered. [74:4202 (8)]

"Day" means calendar day, except that in instances where a report or other document is required to be filed with the Commission and the calendar day upon which such a report or document must be filed falls on a day other than a regular business day, any such report or document may be filed on the immediate next regular business day.

"Governmental entity" means any department, commission, authority, council, board, bureau, committee, legislative body, agency, public trust, or other establishment of the executive, legislative or judicial branch of the State of Oklahoma or political subdivision thereof. [74:4202 (17)]

"Official action" means any judicial, executive, legislative or administrative action which shall include, but is not limited to, the promulgation of rules and regulations and the setting of rates. [74:4202 (23)]

[Source: Added at 11 Ok Reg 4721, eff 9-1-94 (emergency); Added at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-3. Office and hours

The principal office of the Ethics Commission is in B-5 State Capitol, Oklahoma City, Oklahoma. The Office is open 8:00 a.m. to 5:00 p.m. each business day.

[Source: Added at 11 Ok Reg 4721, eff 9-1-94 (emergency); Added at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-4. [RESERVED]

[Source: Reserved at 11 Ok Reg 4721, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-5. [RESERVED]

[Source: Reserved at 11 Ok Reg 4721, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-6. [RESERVED]

[Source: Reserved at 11 Ok Reg 4721, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-7. [RESERVED]

[Source: Reserved at 11 Ok Reg 4721, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-8. Availability of documents; photocopies

(a) Documents will be available to the public for inspection between 8:00 a.m. to 5:00 o'clock p.m. on business days.

(b) Persons wishing to photocopy documents in the custody of the Ethics Commission may do so in accordance with provisions of the Open Records Act. Photocopies of documents may be made upon payment of 25 cents per page for each page of a document requested. The executive director may, in his or her discretion, require additional fee payments, as provided in the Open Records Act, to recover and photocopy documents requested.

258:1-1-9. Request for ethics interpretation

Any person who may be affected by the existence or application of any of the provisions of the Rules of the Commission may request in writing an interpretation regarding the application of such rule or provision to the facts or hypothetical set of facts furnished with the inquiry. Such request may be in the form of a petition for ethics interpretation. The petition shall state fully the facts of the situation of the requesting party as are or may be pertinent to the rule or provision. The request or inquiry shall be assigned to administrative staff for review. Thereafter, the Commission shall make a final determination of the interpretation. The interpretation of the rule or provision of the Act will be furnished in writing to the person making the request within a reasonable time thereafter. The petition shall be in substantially the following form:

BEFORE THE ETHICS COMMISSION

In the matter of the petition
for Ethics Interpretation
of _____

No. (to be
assigned by staff)

PETITIONER DATE: PETITION FOR ETHICS INTERPRETATION

_____ a person who may be affected by the existence or application
of _____
(Name of Petitioner)

_____ states:

(set out provision of the Act or rule about which petition is asserted)

The facts upon which this petition is based are as follows:

(state facts in general terms and explain why question exists.)

WHEREFORE, petitioner requests that the Commission review this petition and make a final determination of the interpretation requested and provide the interpretation in writing to petitioner.

PETITIONER

DATE: _____

[Source: Added at 11 Ok Reg 4721, eff 9-1-94 (emergency); Added at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-10. Request for rule adoption, amendment or repeal

All interested persons may ask the Commission to adopt, amend or repeal a rule. Such request shall be in writing and filed with the Commission. The request shall set forth fully the reasons for its submission; the alleged need or necessity therefor, whether or not the proposal conflicts with any existing rule, and what, if any, statutory provisions are involved. Such persons may request the assistance of the Commission's staff in complying with the requirements of this section. Such request shall be considered by the Commission and, if approved, notice shall be given that such proposal will

be formally considered for adoption. If, however, it is initially determined that the proposal or request is not a necessary adoption, amendment or repeal, the same shall be refused and the decision reflected in the records of the Commission. A copy shall be sent to the interested person who submitted the request.

BEFORE THE ETHICS COMMISSION

In the matter of the petition for
Rule _____
(Adoption, Amendment or Repeal)
of _____

No. (to be
assigned by staff)

PETITION FOR RULE (ADOPTION, AMENDMENT OR REPEAL)

_____, an interested person, requests that the Commission _____
(Name of Petitioner)

_____ the following:
(adopt, amend or repeal)

(if a request to adopt, amend or repeal, set out Rule in question)

WHEREFORE, petitioner requests that the Commission consider this petition and approve the proposal submitted.

PETITIONER
DATE: _____

[Source: Added at 11 Ok Reg 4721, eff 9-1-94 (emergency); Added at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-11. [RESERVED]

[Source: Reserved at 11 Ok Reg 4721, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-12. [RESERVED]

[Source: Reserved at 11 Ok Reg 4721, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-13. [RESERVED]

[Source: Reserved at 11 Ok Reg 4721, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2255, eff 7-1-95]

258:1-1-14. Applicability of rules

The rules of this Chapter are adopted pursuant to Sections 4206(A)(9) and 4206.2(A) of Title 74 of the Oklahoma Statutes, from the Ethics Commission Act, and Sections 302(A) and 307 of Title 75, from the Administrative Procedures Act. The partial or total invalidity of any section or sections of these rules, found by a court of competent jurisdiction, shall not affect the valid sections.

[Source: Added at 11 Ok Reg 4721, eff 9-1-94 (emergency); Added at 12 Ok Reg 2255, eff 7-1-95]

Chapter 20 - Ethics and Conflicts of Interest for County Officials and Employees

<u>Section 258:20-1-1</u>	<u>General purpose and authority</u>
<u>Section 258:20-1-2</u>	<u>Definitions</u>
<u>Section 258:20-1-3</u>	[Reserved]
<u>Section 258:20-1-4</u>	[Reserved]
<u>Section 258:20-1-5</u>	[Reserved]
<u>Section 258:20-1-6</u>	<u>Representation by county officers and county employees -</u>
	<u>Disqualification</u>
<u>Section 258:20-1-7</u>	[Reserved]
<u>Section 258:20-1-8</u>	[Reserved]
<u>Section 258:20-1-9</u>	[Reserved]
<u>Section 258:20-1-10</u>	[Reserved]
<u>Section 258:20-1-11</u>	[Reserved]
<u>Section 258:20-1-12</u>	[Reserved]
<u>Section 258:20-1-13</u>	[Reserved]
<u>Section 258:20-1-14</u>	<u>Applicability of rules</u>

[Authority: 74 O.S., § 4206.2(A)]

[Source: Codified 7/1/95]

258:20-1-1. General purpose and authority

The rules of this chapter have been adopted for the purpose of complying with the provisions of the Section 4206.2(A) of the Title 74 of the Oklahoma Statutes. The purpose of this chapter is adopt rules for carrying out the Commission's statutory duties, specified in Section 4206.2(A) of Title 74 of the Oklahoma Statutes, with respect to county officers and employees.

[Source: Added at 11 Ok Reg 4725, eff 9-1-94 (emergency); Added at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-2. Definitions

Masculine words, whenever used in this chapter, shall include the feminine and neuter, and the singular includes the plural, unless otherwise specified. In addition, the following words or terms, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Commission" means the Ethics Commission. [74:4202(12)]

"Compensation" means money, service facility or thing of value of financial benefit which is received or is to be received in return for or in connection with services rendered or to be rendered. [74:4202(8)]

"Government entity" means any department, commission, authority, council, board, bureau, committee, legislative body, agency, public trust, or other establishment of the executive, legislative or judicial branch of the State of Oklahoma or political subdivision thereof. [74:4202(17)]

"Official action" means any judicial, executive, legislative or administrative action which shall include, but is not limited to, the promulgation of rules and regulations and the setting of rates. [74:4202(23)]

[Source: Added at 11 Ok Reg 4725, eff 9-1-94 (emergency); Added at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-3. [RESERVED]

[Source: Reserved at 11 Ok Reg 4725, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-4. [RESERVED]

[Source: Reserved at 11 Ok Reg 4725, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-5. [RESERVED]

[Source: Reserved at 11 Ok Reg 4725, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-6. Representation by county officers and county employees - Disqualification

- (a) *No county officer or county employee shall:*
 - (1) represent another person as an attorney in any matter before the Commission; or
 - (2) represent another person before the government entity the officer or employee serves.
 - (b) *The restrictions in [Subsection (a)] shall not apply to:*
 - (1) purely ministerial matters which do not require discretion on the part of the entity;
 - (2) representation of the officer or employee in the course of the officer's or employee's official duties;
 - (3) representation by the officer or employee in the officer's or employee's personal capacity; or
 - (4) representation of the officer or employee in matters arising out of or rules promulgated pursuant to the Oklahoma Personnel Act.
 - (c) *A county officer or county employee shall promptly disqualify himself prior to recommending or taking any official action in a manner affecting a person with whom the officer or employee is negotiating for employment.*
 - (d) *The restrictions set forth in this section do not apply if the officer or employee is testifying under oath to facts that are within the individual's knowledge, or as an expert witness who does not accept compensation other than regularly provided for by law or rule for subpoenaed witnesses. [74:4246.2]*
- [Source: Added at 11 Ok Reg 4725, eff 9-1-94 (emergency); Added at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-7. [RESERVED]

[Source: Reserved at 11 Ok Reg 4725, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-8. [RESERVED]

[Source: Reserved at 11 Ok Reg 4725, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-9. [RESERVED]

[Source: Reserved at 11 Ok Reg 4725, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-10. [RESERVED]

[Source: Reserved at 11 Ok Reg 4725, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-11. [RESERVED]

[Source: Reserved at 11 Ok Reg 4725, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-12. [RESERVED]

[Source: Reserved at 11 Ok Reg 4725, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-13. [RESERVED]

[Source: Reserved at 11 Ok Reg 4725, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2259, eff 6-26-95]

258:20-1-14. Applicability of rules

The rules of this chapter are adopted pursuant to Section 4206.2(A) of Title 74 of the Oklahoma Statutes. The partial or total invalidity of any section or sections of this chapter, found by a court of competent jurisdiction shall not affect the valid sections.

[Source: Added at 11 Ok Reg 4725, eff 9-1-94 (emergency); Added at 12 Ok Reg 2259, eff 6-26-95]

Chapter 25 - Procedure for Assessing Late Filing Fees

Section 258:25-1-1

Section 258:25-1-2

Section 258:25-1-3

Section 258:25-1-4

Section 258:25-1-5

General purpose and authority

Definitions

[Reserved]

Late filing fees

Applicability of rules

[Authority: 74 O.S., § 4206(A)(9)]

[Source: Codified 7/1/95]

258:25-1-1. General purpose and authority

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Oklahoma Ethics Commission Act, Section 4206(A)(9) of Title 74 of the Oklahoma Statutes. The purpose of this chapter is to establish a hearing procedure for persons under the jurisdiction of the Commission who have been assessed late fees for failing to file or filing late designations, registrations, reports or statements.

[Source: Added at 11 Ok Reg 4727, eff 9-1-94 (emergency); Added at 12 Ok Reg 2261, eff 7-1-95]

258:25-1-2. Definitions

Masculine words, whenever used in this chapter, shall include the feminine and neuter, and the singular includes the plural, unless otherwise specified. In addition, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Ethics Commission Act, Section 4200 et seq. of Title 74 of the Oklahoma Statutes.

"Address" means mailing address unless otherwise specified in the text.

"Affiliated" or **"Connected entity"** means any organization which directly or indirectly establishes, administers or financially supports a political entity.

"Business day" means any day except a Saturday, Sunday or a legal holiday designated in Section 82.1 of Title 25 of the Oklahoma Statutes.

"Day" means calendar day, except that in instances where a report or other document is required to be filed with the Commission and the calendar day upon which such a report or document must be filed falls on a day other than a regular business day, any such report or document may be filed on the immediate next regular business day.

[Source: Added at 11 Ok Reg 4727, eff 9-1-94 (emergency); Added at 12 Ok Reg 2261, eff 7-1-95]

258:25-1-3. [RESERVED]

[Source: Reserved at 11 Ok Reg 4727, eff 9-1-94 (emergency); Reserved at 12 Ok Reg 2261, eff 7-1-95]

258:25-1-4. Late filing fees

(a) **Publication and notice.** The Commission shall post in public view in its office a list of those delinquent in filing any designations, registrations, statements or reports required by the Act. The Commission shall send a delinquency notice to the appropriate person within twenty-four (24) hours

after the filing deadline by registered or certified mail and may impose late filing fees as provided in the Act.

(b) **Assessment hearing proceedings.** All proceedings held for appealing an assessment of late filing fees shall be conducted pursuant to the agency notice and hearing requirements for individual proceedings contained in the Administrative Procedures Act and found in Sections 309 through 323 of Title 75 of the Oklahoma Statutes.

(c) **Initiation of assessment appeal hearing.**

(1) **Assessment.** The Commission shall assess late fees whenever an investigation reveals facts which the Commission has reason to believe are a material violation of the filing provisions of the Act. A hearing is not required prior to the imposition of a late filing fee imposed under this section. The Respondent shall be notified of the assessment by certified mail. The Respondent shall have 30 days from receipt of the notice of assessment to request in writing a hearing on the assessment. The hearing shall be conducted within 30 days of the request.

(2) **Notification.** The Respondent shall be notified of the date of the hearing no later than twenty (20) days before that date pursuant to Section 309 of Title 75 of the Oklahoma Statutes.

(3) **Discovery.** The Commission's staff shall provide the Respondent, at his or her request, with copies of all materials to be presented by the staff at the hearing.

(4) **Records confidential.** All records generated or collected as a result of that investigation are exempt from public inspection and copying under Section 4206(A)(4) of Title 74 of the Oklahoma Statutes.

(d) **Facts resolvable by stipulation.**

(1) **Stipulated statement of fact.** When the Executive Director and Respondent agree that some or all of the facts are uncontested, the Executive Director and Respondent shall prepare a stipulated statement of fact for presentation to the Commission or Hearing Officer.

(2) **Additional facts.** The Commission or Hearing Officer may ask that additional facts be presented if he or she deems any stipulation to be inadequate.

(3) **Not approved.** The Commission or the Hearing Officer shall refer the matter to the Executive Director for further investigation or other action consistent with the Commission's or Hearing Officer's deliberations if the stipulated statement of fact is not approved.

(e) **Conduct of assessment hearing.**

(1) **Hearing officers.** An assessment hearing shall be heard either by an employee of the Commission or by a person contracting with the Commission.

(2) **Consolidation and joinder.** The Hearing Officer may order the consolidation or joinder of hearings or appeals if to do so would expedite the processing of the assessments and not adversely affect the interests of the parties.

(3) **Record of hearing.** All hearings before the Hearing Officer or the Commission shall be held in Executive Session and shall be recorded. That portion of a hearing constituting deliberations in Executive Session need not be recorded. A written transcript or a copy of the tape recording of the hearing, other than that portion of a hearing constituting deliberations in Executive Session, shall be made available to any person alleged to have filed late designation(s), registration(s), report(s) or statement(s) upon written request and payment of appropriate reimbursement cost(s) for reproduction. The Respondent may have the proceedings transcribed by a court reporter at the Respondent's own expense. A copy of the assessment, a copy of all sworn statements by persons other than the Respondent, and any and all exculpatory evidence shall also be made available to the Respondent or an attorney for the Respondent upon written request and payment of appropriate reimbursement cost(s) for reproduction.

(4) **Findings of fact, conclusions of law and proposed order.** Upon conclusion of an assessment hearing, the Hearing Officer shall prepare and present to the Commission findings of fact, conclusions of law, and a proposed order of assessment. A copy of the findings of fact, conclusions of law and the proposed order shall be served upon the Executive Director and the Respondent.

(f) **Appeal to Commission.** The proposed order of the Hearing Officer may be appealed to the Commission upon written request of the Respondent received by the Commission within 30 days of

Respondent's receipt of notification of the proposed order. Both the Respondent and the Executive Director shall be afforded an opportunity to file exceptions and present briefs and oral argument to the Commission at its next regular meeting or at a special meeting called for that purpose. The Commission shall consider the whole record or such portions as shall be cited by the parties.

(1) **Commission's findings.** After either a hearing by the Commission or a review by the Commission of the proposed order of the Hearing Officer, the Commission may find that:

(A) Respondent did not violate the Act, as alleged, and rescind the assessment;

(B) Respondent violated the Act, as alleged, and confirm the assessment imposed; or

(C) Respondent violated the Act, as alleged, and may modify the assessment imposed; provided, that before an assessment may be modified other than by lowering the assessment, the Respondent shall be given notice and an opportunity to be heard by the Commission.

(2) **Conclusion of hearing.** Upon the conclusion of an assessment appeal hearing, the Commission:

(A) shall issue a final order setting forth in writing its findings of fact, conclusions of law and decision on the merits of the case; and

(B) shall deliver, either in person or by mail, to each Respondent and their representative a copy of the findings of fact, conclusions of law and final order.

(g) **Order of referral.** When the Commission finds an apparent violation and assesses late filing fees which are not appealed within 30 days or when the Commission issues a final order to an appeal confirming assessed late filing fees, and Respondent does not pay to the Commission the late filing fees assessed within thirty (30) days of the time for filing an appeal or the entry of the order, the Commission shall refer the matter to the appropriate authority and shall give to the Respondent written notice of such order of referral.

(h) **Partial assessments.** For good cause shown, any candidate, public official, state employee or other person failing to file designations, registrations, reports or statements as provided for in the Act, may request that the Commission set aside all or part of the late filing fees assessed under the Act.

(i) **Good cause for partial assessments.** The Commission or Hearing Officer, in their discretion, and for good cause shown, may set aside or assess all or part of any late filing fees imposed under the terms of the Act.

(1) Good cause for setting aside such late filing fees or assessing less than the maximum late filing fees imposed under the terms of the Act shall include, but not be limited to:

(A) Omissions or errors of third persons not under the control of the person or entity against whom the late filing fee has been assessed, or

(B) The failure of the United States mail or of common carriers to timely deliver documents which have been timely transmitted and properly addressed for delivery to the Commission.

(2) Such good cause shall be included in the Findings of Fact and shall be based exclusively on the evidence and on matters officially noticed at the assessment hearing.

(j) **Reconsideration and renew of final orders.**

(1) **Request.** A final order may be reconsidered only upon:

(A) The written request of the Respondent, or

(B) The motion or written request of a Commission member who voted for the assessment when the final order was made.

(2) **Time limitation.** Such a request for reconsideration shall be served, or motion made, within ten (10) days after entry of the final order of which reconsideration is sought.

(3) **Grounds therefor.** A request or motion for reconsideration shall specify the grounds therefore which are limited to those grounds specified in Section 317 of Title 75 of the Oklahoma Statutes.

(4) **Judicial review.** Upon being notified of a final order as provided in Section 312 of Title 75 of the Oklahoma Statutes, the Respondent may treat the final order as final for the purpose of petitioning for judicial review under Section 318 of Title 75 of the Oklahoma Statutes. The Commission may not reconsider any decision after being served with a petition for judicial review.

(5) **Enforcement stayed.** When a request for reconsideration is served or motion made, enforcement of the final order of which reconsideration is sought shall be stayed and the decision shall not be final until the Commission has acted on the reconsideration.

(6) **Action by Commission.** The Commission shall act on the reconsideration at the next meeting at which it practicably may do so by:

(A) deciding whether to reconsider its final order, and

(B) if it decides to do so, either affirming or amending its final order; provided, that before a final order may be amended other than by lowering an assessment, the Respondent shall be given notice and an opportunity to be heard if, and in the same manner as, required for the final order.

(k) **Subpoenas.** The Commission, upon request by its staff or the Respondent, may subpoena persons to appear and give testimony and may require the production of any books, papers, correspondence, memorandums or other records which the Commission deems relevant or material. Such subpoena will issue and may be enforced in the form and manner set forth in Section 315 of Title 75 of the Oklahoma Statutes.

[Source: Added at 11 Ok Reg 4727, eff 9-1-94 (emergency); Added at 12 Ok Reg 2261, eff 7-1-95]

258:25-1-5. Applicability of rules

The rules of this chapter are adopted pursuant to Section 4206(A)(9) of Title 74 of the Oklahoma Statutes. The partial or total invalidity of any section or sections of this chapter, found by a court of competent jurisdiction shall not affect the valid sections.

[Source: Added at 11 Ok Reg 4727, eff 9-1-94 (emergency); Added at 12 Ok Reg 2261, eff 7-1-95]