160:3-1-4. Requirements for individual proceedings

(a) **Purpose.** The purpose of this rule is to prescribe procedures and requirements for references of parties, entries of appearance, continuances, subpoenas and Consent Orders for individual proceedings at the Department of Consumer Credit (Department). This rule supplements rules in subsequent chapters of this title concerning individual proceedings and hearing procedures. Any conflicts between this rule and rules in subsequent chapters of this title concerning individual proceedings and hearing procedures shall be resolved in favor of the requirements of this rule.

(b) **Definition of individual proceeding.** For purposes of this rule, individual proceeding has the same meaning as defined in 75 O.S. § 250.3.

(c) **Computation of time.** For purposes of this rule and any subsequent rules in this title concerning individual proceedings and hearing requirements, computation of time shall be as provided in 75 O.S. § 250.8.

(d) **Names of parties.** The Department shall be referred to as the Petitioner in an individual proceeding. A licensee or any entity or individual that is the subject of an individual proceeding initiated by the Department shall be referred to as the Respondent.

(e) **Entry of Appearance.** Attorneys representing the Department and attorneys representing Respondents in an individual proceeding shall file an entry of appearance. The entry of appearance shall include the case caption of the individual proceeding, the name, address, telephone number, electronic mail address and Oklahoma Bar Association number of the attorney filing an entry of appearance. An attorney filing an entry of appearance shall also indicate the party being represented by the attorney.

(f) **Continuances.**

(1) **Continuance motion by the Respondent.** A Respondent that wishes to continue a scheduled hearing pursuant to an individual proceeding shall file a motion for continuance with the Department. The motion for continuance shall be in writing, shall indicate the reason(s) for the requested continuance, shall include the signature of the Respondent or attorney representing the Respondent and shall be filed at least seven (7) calendar days prior to the scheduled hearing date. The calendar day filing requirement may be waived by the hearing examiner for good cause shown, upon motion of the Respondent.

(2) **Continuance by the Department.** The Department may continue a scheduled hearing pursuant to an individual proceeding by submitting written notification to the Respondent via certified mail, return receipt requested, or electronic mail at least seven (7) calendar days prior to the scheduled hearing date. The attorney for the Department shall prepare and sign the continuance order. The continuance order shall be filed at the Department. The submission date shall be the date a continuance is mailed to the Respondent. The calendar day notification requirement may be waived by the hearing examiner for good cause shown, upon motion of the Department.

(3) **Contested continuance motions.** If the Department opposes a motion for continuance filed by the Respondent, the attorney for the Department shall file a motion opposing the motion for continuance and include the reasons why the Department opposes the motion for continuance. The motion for continuance and the motion opposing the continuance shall be submitted to the hearing examiner by the attorney for the Department. The motion for continuance and the motion opposing the continuance shall be submitted via electronic mail at least five (5) calendar days prior to the scheduled hearing. The hearing examiner shall issue an order concerning the contested motion for continuance at least three (3) calendar days prior to the scheduled hearing. The hearing examiner shall submit the order to the

Department and the Respondent via electronic mail. The continuance order shall be filed at the Department.

(4) **Unopposed continuance motions.** If the Department does not object to a motion for continuance filed by the Respondent, the attorney for the Department shall issue and sign a continuance order and shall submit the continuance order to the Respondent via certified mail, return receipt requested or via electronic mail. The continuance order shall be filed at the Department.

(g) **Subpoenas.**

(1) **Subpoenas by the Department.** If the Department wishes to issue a subpoena for document production or testimony concerning any issue involved in an individual proceeding, the attorney for the Department, the Administrator or Deputy Administrator may issue and sign the subpoena. The subpoena shall be served as authorized by the Oklahoma Civil Procedure Code.

(2) **Subpoenas by a Respondent.** If the Respondent wishes to issue a subpoena for document production or testimony concerning any issue involved in an individual proceeding, the Respondent shall submit a written request to the attorney for the Department or Administrator via electronic mail or regular United States mail. The Administrator, Deputy Administrator or the hearing examiner may issue and sign the subpoena. The subpoena shall be served by the Respondent as authorized by the Oklahoma Civil Procedure Code.

(h) **Consent Orders.**

(1) **Process.** After a Notice of Hearing is filed pursuant to an individual proceeding initiated by the Department, a Respondent may waive their right to a hearing and enter into a Consent Order with the Department. A Respondent that wishes to waive their right to a hearing and enter into a Consent Order shall submit notification to the attorney for the Department. The notification may be submitted via electronic mail or regular United States Mail. The notification shall indicate that the Respondent wishes to waive their right to a hearing and enter into a Consent Order with the Department.

(2) **Time requirements.** Notification that a Respondent wishes to enter into a Consent Order shall be received by the Department at least five (5) calendar days prior to the scheduled hearing date. If the written notification is not received within the required period of time, the hearing shall be heard as scheduled unless waived by written agreement of both parties. Upon receipt of notification that a Respondent wishes to enter into a Consent Order, the attorney for the Department shall prepare a Consent Order for signature by the Respondent and the Administrator or Deputy Administrator. A Consent Order shall be signed by both parties and filed within thirty (30) calendar days of receipt of notification that the Respondent wishes to enter into a Consent Order. If a Consent Order is not signed by both parties and filed within the required period of time, a hearing shall be re-scheduled for the next regularly scheduled hearing docket at the Department.

(3) **Signatures.** The Deputy Administrator is authorized to sign any Consent Order entered into by a Respondent and the Department. A Respondent shall verify the truth of the statements contained in a Consent Order in the presence of a notary public.

(i) **Final Agency Orders.**

(1) **Issuance.** The Administrator shall issue a Final Agency Order regarding an individual proceeding that has not been resolved pursuant to a Consent Order. The Administrator shall

issue a Final Agency Order within a reasonable period of time after reviewing the administrative record and a proposed order from the hearing examiner.

(j) **Emergency orders.**

(1) **Issuance.** The Administrator may issue an emergency order that includes the suspension of a license instanter or a cease and desist instanter if the public health, safety, or welfare imperatively requires such action. An emergency order shall include an order for a hearing that is scheduled within twenty (20) days from the date of service of the emergency order. The Administrator shall serve an emergency order by certified mail, return receipt requested, or by personal delivery.