

## RULE IMPACT STATEMENT

### TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

1. **BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULE:** The purpose of the proposed amendment to 158:40-1-3 is to clarify that the section applies to registered apprentices as well as to licensed journeymen and contractors. The purpose of the proposed amendments to 158:40-5-1 is to clarify the period of time for which an apprentice registration is effective; to clarify an application fee is not required for a timely filed apprentice re-registration; and to clarify restricted actions for registered apprentices convicted of certain crimes. The purpose of the proposed amendments to 158:40-5-2 is to clarify restricted actions for journeymen. The purpose of the proposed amendments to 158:40-5-5 is to require that electrical contractors add the Construction Industries Board ("CIB") to the certificate of liability insurance as a certificate holder, not as an additional insured and with no additional cost, to ensure that the CIB is notified if the liability policy is cancelled or expires for non-payment of premiums. The purpose of the proposed amendments to 158:40-7-7 is to clarify requirements related to workers' compensation coverage. The purpose of proposed amendments to 158:40-11-2 is to clarify that the prohibited acts listed in (a) of the Section apply to all individuals.
2. **DESCRIPTION OF THE CLASSES OF PERSONS AFFECTED:** The agency, members of industry and the public who are involved in or wish to be involved in the electrical industry/trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
3. **CLASSES OF PERSONS BENEFITTED:** The agency, members of industry and the public who are involved in or wish to be involved in the electrical industry/trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
4. **ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS:** Having clear and unambiguous rules should have a positive economic impact in that it should help to keep an individual from unknowingly committing a violation that could result in a fine or penalty. There is a positive economic impact on apprentices who re-register timely as they only have to submit the registration fee for the re-registration and not the application fee. There should be no additional cost to electrical contractors related to the requirement to add the CIB to the certificate of liability insurance as a certificate holder, not as an additional insured.
5. **COSTS AND BENEFITS TO THE AGENCY:** It is a benefit to the agency to have clear unambiguous rules. Allowing an apprentice who re-registers timely to not pay the application fee for the re-registration would have a negligible economic impact on the agency.
6. **ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** No economic impact on any political subdivision is anticipated by the proposed rules.

7. **ECONOMIC IMPACT ON SMALL BUSINESS:** The economic impact on small business is not measurable.
8. **MEASURES TAKEN TO MINIMIZE COMPLIANCE COSTS:** The proposed rule changes are the least costly or least intrusive method of achieving the purpose of the proposed rules. There are no non-regulatory methods for achieving the purpose of the proposed rule changes.
9. **EFFECT OF THE PROPOSED RULE ON PUBLIC HEALTH:** Licensing helps to protect the health, safety and welfare of the public. Having clear and unambiguous rules regarding licensing requirements should have a positive effect on public health.
10. **DETRIMENTS TO PUBLIC HEALTH IF THE RULE IS NOT ADOPTED:** There are no known detriments to public health if the rule is not adopted.
11. **DATE IMPACT STATEMENT PREPARED:** December 12, 2017.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD  
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**158:40-1-3. License and registration requirement**

- (a) No person, on their own behalf or on behalf of an electrical firm, shall engage or offer to engage in, by advertisement or otherwise, any electrical work who does not possess a valid and appropriate license or registration from the Construction Industries Board pursuant to this Chapter.
- (b) No person shall act as a foreman, supervisor or superintendent over any electrical work on behalf of an electrical contractor unless such person possesses a valid license as an electrical contractor or journeyman from the Construction Industries Board in the appropriate category for the work performed.
- (c) Any changes in address, business relationship, structure or affiliation shall be reported in writing to the Oklahoma Construction Industries Board within thirty (30) days of such change.

**SUBCHAPTER 5. LICENSING REQUIREMENTS, DISPLAY OF LICENSE, AND  
FIRM NAME, AND BOND REQUIREMENTS**

**158:40-5-1. Apprentice requirements**

- (a) Apprentice electricians shall be registered with the Construction Industries Board and must be under the direct "on-the-job" supervision of a licensed journeyman or contractor of the appropriate category of the work performed when engaged in the work of an apprentice.
- (b) No more than two (2) apprentice electricians shall work under the supervision of a single journeyman or contractor.
- (c) Apprentice electricians shall work only under a licensed electrician who shall be responsible for the direct supervision of no more than two electrical apprentices.
- (d) Apprenticeship registration is effective upon the posting of the application and evidence of such posting shall be a copy of the executed application form with proof of tender of the proper fee which may serve as evidence of registration for a period not to exceed thirty (30) days.
  - (1) The apprentice will be registered for a one (1) year period if a completed application form with the apprentice application and registration fee listed in OAC 158:40-9-3(b) is submitted to the Electrical License Unit along with verification of enrollment in an approved school or training course or a statement of employment by the licensed electrical contractor who arranged for employment of the apprentice.
  - (2) When re-registering, the application fee is only required with the registration fee when the registration application is not filed within thirty (30) days of expiration of previous registration.
- (e) Prior to engaging in any activity described in (f) of this Section, a registered electrical apprentice shall obtain an alarm endorsement registration from the Construction Industries Board. Such alarm endorsement registration may only be issued to an applicant upon the completion of a satisfactory national criminal history record check. An application for an alarm endorsement registration shall require an additional fee in accordance with OAC 158:40-9-3. To obtain an alarm endorsement registration, a registered apprentice electrician shall provide the following:

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- (1) A recent passport style and quality photograph;
  - (2) Two classifiable sets of fingerprints taken by a local, state or federal law enforcement agency;
  - (3) A disclosure of convictions of all crimes of applicant, both felony and misdemeanor; and,
  - (4) Other such information as required by 74 O.S. §150.9 for a national criminal history record check.
- (f) A registered apprentice electrician shall not ~~sell~~, install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like when the registered apprentice electrician has disclosed or a national criminal history record check reveals a conviction of applicant for a disqualifying crime, as described in (h) of this Section.
- (g) A satisfactory "national criminal history record check" means a national criminal history record check which reveals no disqualifying crime, as described in (h) of this Section.
- (h) "Disqualifying crime" includes any conviction by any state or the United States of any of the following:
- (1) Murder in any degree;
  - (2) Voluntary manslaughter;
  - (3) Rape;
  - (4) Lewd conduct with a minor;
  - (5) Sexual abuse or exploitation of a child, including offenses involving child pornography;
  - (6) Kidnapping;
  - (7) Robbery;
  - (8) Burglary;
  - (9) Possession of stolen property;
  - (10) Aggravated assault;
  - (11) Aggravated battery;
  - (12) Arson;
  - (13) Any felony punishable by death or life imprisonment;
  - (14) Any felony determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property or the infliction of physical harm on another person committed while unlawfully present on the property of another;
  - (15) Attempt, conspiracy or accessory after the fact or aiding and abetting to commit any disqualifying crime; or
  - (16) A disqualifying five year crime as set forth in (i) of this Section.
- (i) A "disqualifying five year crime" shall mean a conviction within five years of the date of application for alarm endorsement registration by any state or the United States of any of the following:
- (1) Felony theft or grand theft;
  - (2) Felony passing of a bogus, stolen, fraudulent or counterfeit check;
  - (3) A felony involving a controlled substance;
  - (4) A felony involving a firearm;
  - (5) Forgery or counterfeiting;

- (6) Forgery of or fraudulent use of a credit card;
  - (7) A felony involving the theft of the identity of another;
  - (8) A felony involving fraud or embezzlement;
  - (9) Insurance or public assistance fraud;
  - (10) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property of another;
  - (11) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the infliction of physical harm on another person;
  - (12) Attempt, conspiracy, accessory after the fact or aiding and abetting to commit any disqualifying five-year crime.
- (j) An individual who has been convicted of a disqualifying crime as set forth in (h) of this Section shall be denied an alarm endorsement registration. Written notice of said denial shall be issued by the Construction Industries Board Administrator after completion and review of the individual's national criminal history record check. An individual has ten (10) business days after receipt of the denial to appeal said denial in writing to the Construction Industries Board Administrator. The Construction Industries Board Administrator shall issue a written decision to said appeal within ten (10) business days after receiving same. The Administrator's decision may be appealed to the Electrical Hearing Board within ten (10) business days after receipt of the Administrator's written decision. An appeal of a denial of an alarm endorsement registration to the Electrical Hearing Board shall be governed by Article II of the Administrative Procedures Act, 75 O.S. § 308a, *et seq.*

**158:40-5-2. Journeyman requirements**

- (a) Each journeyman must be licensed and employed by a licensed contractor before engaging in the work of a journeyman electrician.
- (b) No journeyman shall sell or contract to furnish labor or labor and materials.
- (c) Prior to engaging in any activity described in (d) of this Section, a licensed electrical journeyman shall obtain an electrical license alarm endorsement from the Construction Industries Board. Such alarm endorsement may only be issued to an applicant upon the completion of a satisfactory national criminal history record check. An application for an electrical license alarm endorsement shall require an additional fee in accordance with OAC 158:40-9-3. To obtain an electrical license alarm endorsement, a licensed electrical journeyman shall provide the following:
  - (1) A recent passport style and quality photograph;
  - (2) Two classifiable sets of fingerprints taken by a local, state or federal law enforcement agency;
  - (3) A disclosure of convictions of all crimes of applicant, both felony and misdemeanor; and,
  - (4) Other such information as required by 74 O.S. § 150.9 for a national criminal history record check.
- (d) A licensed journeyman electrician shall not ~~sell~~, install, service, or repair alarm or security systems or electronic security devices such as residential or commercial burglar alarms or security systems, electronic access control, closed circuit television, nurse call systems and the like when the licensed journeyman electrician has disclosed or a national criminal history record

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check reveals a conviction of applicant for a disqualifying crime, as described in (f) of this Section.

(e) A satisfactory "national criminal history record check" means a national criminal history record check which reveals no disqualifying crime, as described in (f) of this Section.

(f) "Disqualifying crime" includes any conviction by any state or the United States of any of the following:

- (1) Murder in any degree;
- (2) Voluntary manslaughter;
- (3) Rape;
- (4) Lewd conduct with a minor;
- (5) Sexual abuse or exploitation of a child, including offenses involving child pornography;
- (6) Kidnapping;
- (7) Robbery;
- (8) Burglary;
- (9) Possession of stolen property;
- (10) Aggravated assault;
- (11) Aggravated battery;
- (12) Arson;
- (13) Any felony punishable by death or life imprisonment;
- (14) Any felony determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property or the infliction of physical harm on another person committed while unlawfully present on the property of another;
- (15) Attempt, conspiracy or accessory after the fact or aiding and abetting to commit any disqualifying crime; or
- (16) A disqualifying five year crime as set forth in (g) of this Section.

(g) A "disqualifying five year crime" shall mean a conviction within five years of the date of application for electrical license alarm endorsement by any state or the United States of any of the following:

- (1) Felony theft or grand theft;
- (2) Felony passing of a bogus, stolen, fraudulent or counterfeit check;
- (3) A felony involving a controlled substance;
- (4) A felony involving a firearm;
- (5) Forgery or counterfeiting;
- (6) Forgery of or fraudulent use of a credit card;
- (7) A felony involving the theft of the identity of another;
- (8) A felony involving fraud or embezzlement;
- (9) Insurance or public assistance fraud;
- (10) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the theft, damage or destruction of property of another;
- (11) Any felony other than a "disqualifying crime" determined by the Construction Industries Board Administrator to be an offense which constitutes the infliction of physical harm on another person; or
- (12) Attempt, conspiracy, accessory after the fact or aiding and abetting to commit any

disqualifying five-year crime.

(h) An individual who has been convicted of a disqualifying crime as set forth in (f) of this Section shall be denied an electrical license alarm endorsement. Written notice of said denial shall be issued by the Construction Industries Board Administrator after completion and review of the individual's national criminal history record check. An individual has ten (10) business days after receipt of the denial to appeal said denial in writing to the Construction Industries Board Administrator. The Construction Industries Board Administrator shall issue a written decision to said appeal within ten (10) business days after receiving same. The Administrator's decision may be appealed to the Electrical Hearing Board within ten (10) business days after receipt of the Administrator's written decision. An appeal of a denial of an electrical license alarm endorsement to the Electrical Hearing Board shall be governed by Article II of the Administrative Procedures Act, 75 O.S. § 308a, *et seq.*

**158:40-5-5. Bond and insurance requirements**

(a) Each active electrical contractor must furnish a license bond in the amount of \$5,000.00 to the Bonds and Insurance Unit. This bond is to be a continuous bond with a thirty (30)-day cancellation notice. Such bond shall be conditioned upon faithful and lawful performance of all work entered upon by the contractor within the State of Oklahoma and shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. The bond will be filed with the Bonds and Insurance Unit of the Oklahoma Construction Industries Board and be in lieu of all other license bonds to any political subdivision.

(b) Each active electrical contractor must maintain insurance coverage and furnish and maintain in effect in the Bonds and Insurance Unit of the Oklahoma Construction Industries Board, Electrical Licensing Unit, a certificate of insurance therefore which indicates that the electrical contractor has a comprehensive general liability policy including manufacturers and contractors, completed operations, and independent contractors liability coverage. Limits of liability are to be no less than \$50,000.00 combined single limit for bodily injury and property damage. The Construction Industries Board must be added to a electrical contractor's certificate of insurance as a certificate holder but not as an additional insured and with no additional cost. This is required in order for the Construction Industries Board to be notified in the event such liability policy is cancelled for any reason or expires for non-payment of premiums.

(c) Each active electrical contractor shall be aware of the requirements of Titles 85 and 85A of the Oklahoma Statutes (Workers' Compensation Acts and the Rules and Regulations of the Workers' Compensation Court of the State of Oklahoma), and indicate in the space provided on the application compliance therewith.

(d) Failure to provide the complete information with current bond and insurance certificate will result in an inactive electrical contractor's license being issued until such time as the requirements are met. Failure to maintain the bond and insurance in force, as required, will result in the issuance of an inactive license to said electrical contractor.

(e) Electrical contractors shall pay all fines and penalties imposed by penalty orders of the Board and fines and penalties imposed by courts of competent jurisdiction for the violation of municipal ordinances. The Board may seek payment through the surety bond of any fines or penalties which the licensee fails to pay.

(f) Exceptions. The bond and insurance requirement will be waived if the electrical contractor is employed by a corporation, partnership, public entity, or political subdivision and said corporation, partnership, public entity or political subdivision submits an affidavit on behalf of

the contractor that the employee will only perform electrical work on property owned by said corporation, partnership, public entity, or political subdivision and the employer assumes all financial responsibility in lieu of the contractor providing bond and insurance. The affidavit must include a statement by the employer that the Board will be notified if the contractor is no longer employed by said employer, or if the employer no longer wishes to assume financial responsibility for the contractor.

## SUBCHAPTER 7. LICENSE CLASSIFICATIONS

### 158:40-7-7. Poultry house contractor license

(a) **Definition.** "Poultry house contractor" means any person who has qualified to become licensed in accordance with 59 O.S. § 1686.1 and 158:40-7-7.

(b) **Limitations.** Poultry house contractor license holders cannot perform any wiring for a structure or electrical facility that is not directly involved in the operation of the environmentally controlled poultry house wiring system. The poultry house contractor license allows contracting only for wiring of environmentally controlled poultry house systems and does not disallow or exclude unlimited electrical contractors from performing poultry house wiring work under an unlimited electrical contractor license without a poultry house contractor license. All licenses shall be nontransferable.

(c) **License requirements.**

(1) Applicants for Poultry House Contractor must be eighteen (18) years of age or over, be the party performing, overseeing, or otherwise responsible for the work performing solely poultry house premise wiring for environmentally controlled poultry house systems, and the insured poultry house wiring to connect the premise wiring, and who do not perform any wiring for a structure or electrical facility that is not directly involved in the operation of the environmentally controlled poultry house wiring system.

(2) Applicants must provide all necessary information and documentation required under the Electrical Licensing Act, rules, and as requested by the Board.

(d) **Insurance requirements.**

(1) Applicants for the Poultry House Contractor License must provide a copy of the certificate of liability insurance at the time of application.

(2) The amount of liability insurance shall not be less than Five Hundred Thousand Dollars (\$500,000.00).

(3) Any insurance company issuing a liability policy to the applicant shall be required to notify the Construction Industries Board in the event such liability policy is cancelled for any reason or lapses for nonpayment of premiums.

(4) Applicants shall submit proof of satisfactory workers' compensation—~~Worker's Compensation coverage under the Worker's Compensation Act or affidavit of exemption or self-insurance as authorized pursuant to the Worker's Workers' Compensation Act.~~

(e) **License renewal.** A poultry house license shall expire one (1) year from the date of issuance at which time the license may be renewed upon meeting the requirements of 59 O.S. § 1686.1, and paying the nonrefundable license renewal fee in the amount of Two Hundred Dollars (\$200.00). No continuing education is required for renewal of a poultry house contractor license.

(f) **Experience non-qualifying for other license categories.** Experience under the Poultry House Contractor license shall not be considered qualifying experience for application of any other electrical license category.



(g) **Suspension or revocation of license.** The Electrical Hearing Board shall suspend or revoke a poultry house contractor license for reasons as stated in the Act in accordance with procedures established in this Chapter and in OAC 158:1.

## **SUBCHAPTER 11. LICENSE REVOCATION OR SUSPENSION AND PROHIBITED ACTS**

### **158:40-11-2. Prohibited acts**

(a) The following acts are prohibited~~acts apply to all license holders~~:

(1) No person, entity, or firm may perform work without first obtaining the appropriate license or registration pursuant to this Chapter.

(2) No licensee shall perform work contrary to any provision of the standard of installation in OAC 158:40-1-4, except as otherwise provided by law or rule. Each violation of the standard of installation in OAC 158:40-1-4 can be treated as a separate violation of this Chapter.

(3) No person shall offer to engage in work during the period his or her license is suspended or revoked.

(4) No employing firm shall employ or use an unlicensed or unregistered individual or entity to perform work.

(5) No person, entity, or firm may transfer a license or registration.

(6) No individual or entity, licensed pursuant to this Chapter, shall enter into an agreement for the use of his or her license with any firm or person which is, or has been adjudicated to be, in violation of any provision of the Act, or whose license is currently suspended or has within the last year been revoked, unless or until otherwise approved by the Board.

(7) No person shall make a materially false or fraudulent statement in an application for license.

(8) No person may alter a license.

(9) No licensee shall perform work without keeping their license on their person or in close proximity while performing work.

(10) No person may engage in cheating or any act involving the fraudulent misrepresentation of an applicant by an examinee.

(11) No person or entity shall deny access to the Construction Industries Board or its representative on a job site.

(b) The following prohibited acts apply to persons issued a contractor license:

(1) No licensee shall allow more than two (2) apprentices per journeyman at a job site.

(2) No licensee shall fail to maintain a bond and insurance as provided for in OAC 158:40-5-5.

(3) No licensee shall be associated with and responsible for more than one firm.

(c) The following prohibited acts apply to persons issued a journeyman license:

(1) No licensee shall perform work except under the employment or supervision of a contractor.

(2) No licensee shall engage in the planning, contracting, or furnishing of labor and/or materials used for work.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD  
CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

158:40-1-3 [AMENDED]

Subchapter 5. Licensing Requirements, Display of License, and Firm Name, and Bond Requirements

158:40-5-1 [AMENDED]

158:40-5-2 [AMENDED]

158:40-5-5 [AMENDED]

Subchapter 7. License Classifications

158:40-7-7 [AMENDED]

Subchapter 11. License Revocation or Suspension and Prohibited Acts

158:40-11-2 [AMENDED]

**SUMMARY:**

The proposed amendment to 158:40-1-3 is to clarify that the section applies to registered apprentices as well as to licensed journeymen and contractors. The proposed amendments to 158:40-5-1 clarify the period of time for which an apprentice registration is effective; clarify an application fee is not required for a timely filed apprentice re-registration; and to clarify restricted actions for registered apprentices convicted of certain crimes. The proposed amendments to 158:40-5-2 clarify restricted actions for journeymen. The proposed amendments to 158:40-5-5 require that electrical contractors add the Construction Industries Board ("CIB") to the certificate of liability insurance as a certificate holder, not as an additional insured and with no additional cost, to ensure that the CIB is notified if the liability policy is cancelled or expires for non-payment of premiums. The proposed amendments to 158:40-7-7 clarify requirements related to workers' compensation coverage. The proposed amendments to 158:40-11-2 clarify that the prohibited acts listed in (a) of the Section apply to all individuals.

**AUTHORITY:**

Construction Industries Board; 59 O.S. §§ 1000.4(A)(1), 1000.5, and 1681

**COMMENT PERIOD:**

Written and oral comments will be accepted until 4:30 p.m. on January 16, 2018, at the following address: Construction Industries Board, ATTN: Administrative Rules Division, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107. During the open public comment period, comments may be delivered during regular business hours or submitted via regular mail.

**PUBLIC HEARING:**

A Public Hearing is scheduled for 1:30 p.m. on Wednesday, January 17, 2018, at the monthly meeting of the Construction Industries Board which will be held in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m. See "Additional Information" section below.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The Construction Industries Board requests that business entities affected by these proposed rules provide the Construction Industries Board, within the comment period set forth and described above, in dollar amounts if possible, the increase in the level of direct costs, such as administrative fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs that the business entity expects to be incurred due to compliance with the proposed rules. Business entities may submit this information in writing to the Administrative Rules Division through the close of the comment period on January 16, 2018, at the address shown below for obtaining copies of the proposed rules.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules are available at the Construction Industries Board, 2401 NW 23rd Street, Ste. 2F, Oklahoma City, OK 73107, or online at [www.cib.ok.gov](http://www.cib.ok.gov).

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D), a rule impact statement will be prepared and will be available beginning December 29, 2017, at the address listed above for obtaining copies of the proposed rules.

**CONTACT PERSON:**

Kim Stell, Business Program Officer/Assistant, 405-521-6550

**ADDITIONAL INFORMATION:**

If the monthly meeting of the Construction Industries Board scheduled for Wednesday, January 17, 2018, cannot be held due to inclement weather or lack of a quorum, the Public Hearing that would have occurred January 17, 2018, at that monthly meeting of the Construction Industries Board will be held instead at the monthly meeting scheduled for Wednesday, February 21, 2018, at 1:30 p.m., in the Construction Industries Board Conference Room at 2401 NW 23rd Street, Suite 2F, Oklahoma City, OK 73107. Anyone who wishes to make comments regarding the proposed rules at the public hearing must sign in by 1:30 p.m.