

RULE IMPACT STATEMENT

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 60. INSPECTORS REGULATIONS

1. **BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULE:** The purpose for most of the proposed amendments to OAC 158:60, and for the new section 158:60-5-3.1, is to administer new provisions of the Oklahoma Inspectors Act pursuant to HB 1283 which became effective November 1, 2017. The purpose of the proposed amendment to the definition of "certification" in 158:60-1-2 is to clarify the exam requirement for issuance of a license. The new Subchapter 3 is for the purpose of establishing procedures of the Oklahoma Inspector Examiners Committee. The purpose of the proposed amendments to 158:60-5-4 is to clarify that the fee for an Inspector license is the same regardless of the number of categories in which the applicant is licensed. The new Subchapter 9 is for the purpose of identifying the duration of a license and the procedures for renewing or reinstating a license.
2. **DESCRIPTION OF THE CLASSES OF PERSONS AFFECTED:** The agency, municipalities, members of industry and the public who are involved in or wish to be involved in the building and construction inspection trade licensed and regulated by the Construction Industries Board ("CIB"), continuing education providers, and citizens of Oklahoma.
3. **CLASSES OF PERSONS BENEFITTED:** The agency, municipalities, members of industry and the public who are involved in or wish to be involved in the building and construction inspection 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:** There is no perceived economic impact at this time.
5. **COSTS AND BENEFITS TO THE AGENCY:** It is a benefit to the agency to have clear, unambiguous rules. In order to administer the requirements related to the provisions of House Bill 1283, the agency will incur some cost related to updating application forms, processing of applications, licensing software update, etc.
6. **ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** The economic impact on political subdivisions is not measurable.
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 and inspections to ensure that construction is being performed in accordance with building codes adopted by the Uniform Building Code Commission helps to protect the health, safety and welfare of the public.
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 60. INSPECTORS REGULATIONS**

SUBCHAPTER 1. GENERAL PROVISIONS

158:60-1-2. Definitions

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

"Act" means the Oklahoma Inspectors Act as found at 59 O.S. § 1031, *et seq.*

"Administrator" means the Administrator of the Board as described in the Construction Industries Board Act found at 59 O.S. § 1000.1, *et seq.*

"Authorized agent" means one who is not a governmental employee but an independent contractor who, through contract, is designated by a political subdivision that issues building permits and who meets the requirements under the Oklahoma Inspectors Act and rules promulgated on the requirements of such licensure.

"Board" means the Construction Industries Board.

"Building and construction inspection" means the inspection of plumbing, electrical, mechanical or structural aspects of building and construction, for the purpose of enforcing compliance with the applicable building codes or standards.

"Building and construction inspector" means any person actively engaged in the inspection of any phase of building and construction by the political subdivision having managerial and superintending control over building codes as the code official for the purpose of enforcing and having the authority to enforce compliance with the applicable building codes or standards and includes, but is not limited to, plumbing inspectors, electrical inspectors, mechanical inspectors and structural building inspectors.

"Building official" means the licensed employee code official having the duty to administer and the authority to enforce building codes in the political subdivision.

"Certification" means ~~approval by a certifying organization demonstrating that an applicant has passed an appropriate certification examination~~ successful passage of an examination by a Committee-approved national certification program in a license category pursuant to the Oklahoma Inspectors Act.

"Category" means one of the following areas of inspector licensure: electrical, mechanical, plumbing, building, or energy.

"Circuit rider inspector" means a person who acts as a building and construction inspector for two or more municipalities or other political subdivisions and is certified and licensed pursuant to the Oklahoma Inspectors Act.

"Classification" means unlimited or residential, circuit rider, provisional, or authorized agent in a license Category. Only unlimited and residential classification may be renewed inactive.

"C.E.U." or "CEU" means a continuing education unit that is either one (1) credit hour of Committee approved instruction or its equivalent as determined by the Committee.

"Committee" means the Oklahoma Inspector Examiners Committee.

"Credit Hour" means fifty (50) minutes, or more, of instruction with a ten (10) minute break.

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"Designated code official" means an employee of a Political Subdivision with a population over 10,000 who is licensed, who approves the Report Writer or reviews and accepts the Report Writer's report in the same category as the official is licensed.

"Direction and Control" means when the licensed authorized agent is solely and exclusively responsible to the political subdivision through contract when performing building and construction inspections as an independent contractor separate and free from any influence or control on an inspection by any entity or business that performs industrial, commercial, or residential construction within the political subdivision where the authorized agent is providing inspection services.

"Inactive building and construction inspector" means a previously licensed building and construction inspector, having successfully passed an examination by a Committee-approved national certification program, who is currently not employed by a political subdivision and therefore does not meet all requirements of the Oklahoma Inspectors Act to perform building and construction inspections pursuant to the Oklahoma Inspectors Act until all requirements are met.

"OUBCC" means the Oklahoma Uniform Building Code Commission.

"Political Subdivision" means a municipality, city, town, village, county, or public trust where a city or town is a beneficiary.

"Provisional license" means a license issued to a building and construction inspector who is an employee of a political subdivision on a provisional basis and limited to a maximum of ~~for not more than two (2) years to a person who has made proper application but does not meet all licensing in~~ each license category for the purpose of enabling an applicant to meet the certification requirements.

"Regular work place" means the immediate individual office including desk, chair, computer and office telephone wherein the inspector is expected to be reached and to conduct day-to-day office business.

"Report writer" means any person or agency designated by a political subdivision having managerial and superintending control over building codes as a report writer for purposes of furnishing report-writing services on behalf of the building official. This person must be approved by the building official or designated code official, provided he or she has no conflict of interest and satisfies the requirements of the political subdivision as to qualifications, ethical standards and reliability in the process and services. The individual's furnished written reports shall be provided and acceptable to the building official, designated code official or political subdivision for final code evaluation. A report writer must be an employee of the political subdivision.

"Residential" means the classification of inspector license which authorizes an individual to conduct electrical, mechanical, plumbing or building inspections of only those structures designated as use group R3 or R4 in the most current Residential code adopted by the "OUBCC".

"Unlimited" means the classification of inspector license which authorizes an individual to conduct electrical, mechanical, plumbing or building inspections of all structures or installations.

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE

158:60-3-1. Procedures of the Committee

(a) The Committee shall serve the Construction Industries Board in an advisory capacity, assist and advise on all matters pertaining to the formation of rules pursuant to the Act, and assist and advise the Administrator, as needed, on the national certification and examination, by contract or otherwise, and licensing of applicants for building and construction inspector license, and shall act as advisor on all matters related to the licensing of building and construction inspectors, in accordance with these rules and the Act.

(b) Committee meetings will be held in the principal offices of the Construction Industries Board referenced at OAC 158:1-3-1, unless posted otherwise according to the Open Meeting Act. The Committee shall meet as often as is necessary, but at least once each quarter when applications are pending.

(c) The public may communicate with the Committee, in person or by mail, through the Oklahoma Construction Industries Board.

(d) Application for licensure shall be done by submitting an application to the Construction Industries Board on a form provided by the Board .

SUBCHAPTER 5. CATEGORIES AND CLASSIFICATIONS OF INSPECTOR LICENSES, QUALIFICATIONS FOR INSPECTOR LICENSURE, LICENSE REQUIREMENTS FOR INSPECTORS, FEES, CERTIFICATION AND CONTINUING EDUCATION FOR INSPECTORS, AND CONTINUING EDUCATION COURSES

158:60-5-1. Categories and classifications of inspector licenses

(a) Licenses shall be issued for the following categories and classifications:

- (1) Category of Electrical inspector:
 - (A) Unlimited classification.
 - (B) Residential classification.
 - (C) Inactive Unlimited classification.
 - (D) Inactive Residential classification.
 - (E) Circuit Rider Unlimited classification.
 - (F) Circuit Rider Residential classification.
 - (G) Two-year Provisional Unlimited classification.
 - (H) Two-year Provisional Residential classification.
 - (I) Authorized Agent classification (Unlimited only).
- (2) Category of Mechanical inspector:
 - (A) Unlimited classification.
 - (B) Residential classification.
 - (C) Inactive Unlimited classification.
 - (D) Inactive Residential classification.
 - (E) Circuit Rider Unlimited classification.
 - (F) Circuit Rider Residential classification.
 - (G) Two-year Provisional Unlimited classification.
 - (H) Two-year Provisional Residential classification.
 - (I) Authorized Agent classification (Unlimited only).
- (3) Category of Plumbing inspector:
 - (A) Unlimited classification.
 - (B) Residential classification.
 - (C) Inactive Unlimited classification.

- (D) Inactive Residential classification.
 - (E) Circuit Rider Unlimited classification.
 - (F) Circuit Rider Residential classification.
 - (G) Two-year Provisional Unlimited classification.
 - (H) Two-year Provisional Residential classification.
 - (I) Authorized Agent classification (Unlimited only).
 - (4) Category of Building inspector:
 - (A) Unlimited classification.
 - (B) Residential classification.
 - (C) Inactive Unlimited classification.
 - (D) Inactive Residential classification.
 - (E) Circuit Rider Unlimited classification.
 - (F) Circuit Rider Residential classification.
 - (G) Two-year Provisional Unlimited classification.
 - (H) Two-year Provisional Residential classification.
 - (I) Authorized Agent classification (Unlimited only).
 - (5) Category of Energy Code Inspector:
 - (A) Unlimited classification.
 - (B) Residential classification.
 - (C) Inactive Unlimited classification.
 - (D) Inactive Residential classification.
 - (E) Circuit Rider Unlimited classification.
 - (F) Circuit Rider Residential classification.
 - (G) Two-year Provisional Unlimited classification.
 - (H) Two-year Provisional Residential classification.
 - (I) Authorized Agent classification (Unlimited only).
- ~~(b) In addition to the above categories, a person may also be classified as:~~
- ~~(1) a circuit rider inspector if the person is employed by more than one political subdivision;~~
 - ~~(2) a provisional inspector if the Committee, or its designee, determines that a license should be issued even though the examination requirement has not yet been met;~~
 - ~~(3) an inactive inspector if the licensed person is not currently employed by a political subdivision or authority having jurisdiction ("AHJ") as a building and construction inspector.~~

158:60-5-2. Qualifications for inspector licensure

- (a) Initial application must be made on the form provided by the Administrator and must be approved by the employing ~~political subdivision~~ Political Subdivision ~~or authority having jurisdiction ("AHJ").~~
- (b) The proper fees must accompany any application, including the late fee if application for renewal is made after expiration of the initial license.
- (c) Be employed by a Political Subdivision with a population over 10,000 unless acting as a circuit rider then the person must be licensed regardless of Political Subdivision population size.
- (d) The applicant must submit, as soon as is practicable after application for initial license is made, proof of certification by a national inspector certifying organization recognized successful completion of a national examination approved by the Committee.

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(e) Other than two-year provisional licenses, no license shall be issued for longer than one (1) year and all licenses shall expire on the birth date of the licensee.

~~(d)~~(f) Before an application for license renewal can be approved, the Board must receive proof of completion of the required C.E.U.'s.

(g) If a licensed Building and Construction Inspector is not employed at the time of renewal, the license may be renewed if the applicant is otherwise compliant with the requirements of the Oklahoma Inspectors Act, including meeting continuing education requirements; however, the renewal application must reflect the change in employment along with a request to renew as inactive status. An inactive license status may be changed to active status upon notification of employment to the Construction Industries Board.

~~(e)~~(h) OAC 158:60-5-4 sets forth the licensing qualifications for the license categories and classifications provided in OAC 158:60-5-1. Additional certifications or exams may be recognized by approval of the Committee and the Construction Industries Board on a case by case basis. However, no person shall be required to meet the continuing education requirements for the licensing year the certification requirements of subsection ~~(e)~~(d) of this Section are met.

~~(f)~~(g) A provisional license is issued to allow a person to work as an inspector even though all the license ~~qualifications requirements~~ have not been met. This provisional license will provide the licensee with adequate time and motivation to become educated and meet all licensure requirements within two (2) years after being issued the provisional license. No person shall be issued more than one provisional license in any license category. At the end of the two (2) years the provisional license for the specified category and classification will expire. To continue performing inspections in the same category and classification as the expired provisional license an individual must meet the certification requirements to be a licensed inspector. A person cannot renew a provisional license in the category and classification previously held, but may obtain a provisional license in a different classification or category to perform work in that classification and category. The ~~initial~~ fee for the provisional license shall be \$35.00.

158:60-5-3. License requirements for inspectors

(a) The licensee shall notify the Construction Industries Board in writing within fifteen (15) days of any change in address or change in employment status related to the license.

(b) The licensee shall, in addition to any local procedures or requirements, notify the Administrator as to persons suspected of performing building, electrical, mechanical, or plumbing work within their jurisdiction who are not properly licensed by the State. All licensed building and construction inspectors shall require all persons doing work in his/her jurisdiction to meet all requirements for licensing and code standards.

(c) Any person who voluntarily surrenders their license during an investigation by the licensing authority shall be treated as if their license had been revoked by the Administrator on the day of surrender.

(d) The licensee shall not attempt to retain licensure by making false statements concerning C.E.U.'s.

(e) In political subdivisions where licensing is required by the Act, no person may perform building and construction inspections in a classification and category in which he or she is not licensed.

(f) To receive an unlimited inspector license in a given category, one must take and pass both the residential certification examination and the commercial certification examination for that category.

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(g) Any person conducting inspections as an Inspector or Building Official is required to be licensed if working for a Political Subdivision of over ten thousand. An Authorized Agent conducting inspections for a Political Subdivision regardless of the population must be licensed by passing both residential and commercial exams.

(h) No license is currently required for a Report Writer whose report is subject to review and accepted by one of the following licensees: Inspector, designated code official, or Building Official of the Political Subdivision.

158:60-5-3.1. Authorized agents

(a) To obtain an authorized agent inspector license, the applicant shall:

(1) Be engaged in an independently established business approved, individually accepted and designated by a political subdivision, meet all requirements for a state inspector's license in the category of the inspections being performed, unlimited classification, and be free of direction and control of any contractor who is requesting the inspection;

(2) Pass in the chosen category the unlimited inspector classification examinations (residential and commercial) approved by the Oklahoma Inspector Examiners Committee and complete all other requirements in the Oklahoma Inspectors Act and rules for each category sought; and

(3) Complete an authorized agent inspector license application for the examination, license or renewal of license. The application shall be completed in writing on forms furnished by the Construction Industries Board. Each application shall be accompanied by a fee and proof of continuing education for renewals as required in the Oklahoma Inspectors Act and rules. Every applicant shall provide to the Construction Industries Board, on new and renewal applications, a notarized certification by a political subdivision's city or county manager, clerk or director of inspections department that the applicant will be performing as an authorized agent of that political subdivision.

(b) It shall be unlawful for any person to act as or perform the work of an authorized agent inspector unless such person is qualified and licensed pursuant to the Oklahoma Inspectors Act. An authorized agent inspector license does not authorize an individual to issue permits.

(c) Authorized agent inspectors licensed by the state are deemed to be acting as independent contractors and not as officers, employees or agents of the state. The state assumes no liability for the actions or omissions of licensed authorized agents.

(d) Authorized agents shall:

(1) In addition to complying with the provisions of the Oklahoma Inspectors Act, provide proof of insurance coverage of up to One Million Dollars (\$1,000,000.00) in professional liability insurance, in addition to One Million Dollars (\$1,000,000.00) in errors and omissions insurance as set by rule. Proof of valid and current insurance coverage must be provided upon application for registration and renewal of registration in the form of an insurance certificate listing the State of Oklahoma as the certificate holder. Further, proof of compliance with the workers' compensation laws of Oklahoma or exemption is required. Lapse of insurance shall result in the change of license status to inactive;

(2) Not be under the direction and control of any entity that performs industrial, commercial or residential construction within the political subdivision in which they would provide services;

(3) Not be under the direction and control of any entity that designs industrial, commercial or residential projects within the political subdivision in which they would provide services;

(4) Provide written reports acceptable to the political subdivision according to the political subdivision requirements;

(5) Not be prohibited in this act from providing other plan review and inspection services for jurisdictions that pertain to infrastructure projects, utilities projects or other services not regulated by the Oklahoma Inspectors Act;

(6) Not be allowed to apply for a provisional license as described in Section 1036 of Title 59 of the Oklahoma Statutes; and

(7) Provide evidence of being certified for the specific license category for which they are applying and shall only provide services in the area of certification and licensing.

158:60-5-4. Fees, certification and continuing education for inspectors

The fees for an individual holding more than one inspector license category is capped at the cost for one category thereby the total cost for all license categories is the same total cost as the cost for one license category if application is made at the same time for multiple categories. The same fee structure for the inspector license classifications applies to the Authorized Agent and provisional classifications. Fees, certification and continuing education requirements for inspectors are as follows:

- (1) Building inspectors (both unlimited and residential licenses):
 - (A) \$35.00 Fee for initial license and renewal;
 - (B) \$35.00 Late fee, if applicable;
 - (C) Approved Certification; and
 - (D) Completion of six (6) C.E.U.'s for renewal license.
- (2) Electrical inspectors (both unlimited and residential licenses):
 - (A) \$35.00 Fee for initial license and renewal;
 - (B) \$35.00 Late fee, if applicable;
 - (C) Approved Certification; and
 - (D) Completion of six (6) C.E.U.'s for renewal license.
- (3) Mechanical inspectors (both unlimited and residential licenses):
 - (A) \$35.00 Fee for initial license and renewal;
 - (B) \$35.00 Late fee, if applicable;
 - (C) Approved Certification; and
 - (D) Completion of six (6) C.E.U.'s for renewal license.
- (4) Plumbing inspectors (both unlimited and residential licenses):
 - (A) \$35.00 Fee for initial license and renewal;
 - (B) \$35.00 Late fee, if applicable;
 - (C) Approved Certification; and
 - (D) Completion of six (6) C.E.U.'s for renewal license.
- (5) Energy Code inspector (both unlimited and residential licenses):
 - (A) \$35.00 Fee for initial license and renewal;
 - (B) \$35.00 Late fee, if applicable;
 - (C) Approved Certification;
 - (D) Completion of six (6) C.E.U.'s for renewal license.

SUBCHAPTER 9. DURATION OF LICENSES

158:60-9-3. Duration of licenses

- (a) All licenses, except for a provisional license, shall have a duration of no more than one (1) year, and shall expire on the licensee birth day.
- (b) Any license issued, except for a provisional license, may be renewed by submitting the renewal application and the license fee for the next year by check or money order which must be delivered or mailed on or before the expiration date.
- (c) A license renewed under the provision of (b) of this Section is effective when notice of such renewal is issued by the Construction Industries Board.
- (d) An expired license may be reinstated by submitting the license renewal fee and late fee with the filing of a renewal application and proof of meeting all license renewal requirements.
- (e) A licensee who, during an investigation of the licensee by the Construction Industries Board, surrenders their license shall be treated as if the license had been revoked for one (1) year from the day of surrender.
- (f) A license cannot be renewed until the licensee has paid any and all outstanding fines due and owing to any division of the Construction Industries Board.
- (g) To maintain an active inspector license, in addition to complying with the requirements of this Chapter, an inspector must be employed by a political subdivision, otherwise the license status is inactive.

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 60. INSPECTORS REGULATIONS**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:60-1-2 [AMENDED]

Subchapter 3. Procedures of the Committee [NEW]

158:60-3-1 [NEW]

Subchapter 5. Categories and Classifications of Inspector Licenses, Qualifications For Inspector Licensure, License Requirements For Inspectors, Fees, Certification and Continuing Education For Inspectors, and Continuing Education Courses

158:60-5-1 [AMENDED]

158:60-5-2 [AMENDED]

158:60-5-3 [AMENDED]

158:60-5-3.1 [NEW]

158:60-5-4 [AMENDED]

Subchapter 9. Duration of Licenses [NEW]

158:60-9-3 [NEW]

SUMMARY:

Most of the proposed amendments to OAC 158:60, and the new section 158:60-5-3.1, are for the purpose of administering the provisions of the Oklahoma Inspectors Act as amended by House Bill 1283 which became effective November 1, 2017. The amendment to the definition of "certification" in 158:60-1-2 is for the purpose of clarifying the exam requirement for issuance of a license. The new Subchapter 3 is for the purpose of establishing procedures of the Oklahoma Inspector Examiners Committee. The amendments to 158:60-5-4 clarify that the fee for an Inspector license is the same regardless of the number of categories in which the applicant is licensed. The new Subchapter 9 is for the purpose of identifying the duration of a license and the procedures for renewing or reinstating a license.

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.4, 1000.5, and 1032.

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.

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.