

RULE IMPACT STATEMENT

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 60. INSPECTORS REGULATIONS

1. **BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULE:** The addition of 158:60-3-2 is for the purpose of establishing a hearing process for the Oklahoma Inspector Examiners Committee. The proposed amendments to 158:60-5-3 are to clarify license requirements for inspectors. The proposed amendments to 158:60-5-5 are to remove limitations and to clarify standards for continuing education as they relate to online courses; clarify approval procedures; allow for an alternate method for continuing education credit accrual.
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:** The proposed amendments create no new cost to the agency. It is a benefit to the agency to have clear, unambiguous rules.
6. **ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** No fees are established or changed by the proposed rules. No economic impact on any political subdivision is anticipated by the proposed rules.
7. **ECONOMIC IMPACT ON SMALL BUSINESS:** Any 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 19, 2018.

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

SUBCHAPTER 3. PROCEDURES OF THE COMMITTEE

158:60-3-2. Hearings

The Committee may, upon its own motion or upon receipt of written complaint about a licensee or political subdivision, request an investigation be conducted regarding an alleged violation of the Oklahoma Inspectors Act or the related administrative rules. All Inspector investigations must be approved by the Committee. Complaints must:

1. Be in writing;
2. Provide adequate information, including but not limited to, the date when the alleged violation occurred, facts surrounding the event, name of the person(s) and/or political subdivision being complained against; and
3. Provide any documented evidence to substantiate the complaint.

Upon completion of an investigation by the Committee's designee, the results of the investigation will be presented to the Committee for them to determine if an individual proceeding is to be conducted. If the Committee approves a matter to be set for individual proceeding, the CIB Administrator will contact a hearing examiner to conduct the individual proceeding according to the Procedures of the Construction Industries Board's administrative rules in Title 158, Ch. 1.

Notice of an individual proceeding will be served upon an individual licensee or for political subdivisions the mayor, city manager or city attorney according to the Procedures of the Construction Industries Board's administrative rules in Title 158, Ch. 1.

Pursuant to the Construction Industries Board Act, the Oklahoma Inspectors Act, and Administrative Rules hearings shall occur as often as is necessary to enforce the requirements of the Inspectors Act and this Chapter. Hearings shall be conducted by an administrative hearing examiner who will render a proposed order on any fine, penalty or fee which will then be submitted to the Construction Industries Board to become a final order.

After a proposed order by the impartial hearing examiner finding whether a violation occurred pursuant to the Oklahoma Inspectors Act with a recommendation of action as provided by the Oklahoma Inspectors Act, Construction Industries Board Act and/or the administrative rules is completed, it will be provided to the Administrator and then submitted to the Construction Industries Board pursuant to the Procedures of the Construction Industries Board administrative rules in Title 158, Ch. 1.

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

158:60-5-3. 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~~All licensees shall, in addition to any local procedures or requirements, notify the Administrator as to persons suspected of performing building, electrical, mechanical, ~~or plumbing, or roofing~~ work within their jurisdiction who are not properly licensed or registered by the State. ~~All licensed~~licensees performing building and construction inspections 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.
- (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.

158:60-5-5. Continuing education

(a) Continuing education requirements:

- (1) No license shall be renewed unless the licensee has completed at least six (6) hours of continuing education within twelve (12) months preceding the application for renewal.
- (2) Credit will only be given for continuing education programs approved by the Committee.
- (3) A licensee is exempt from the continuing education requirements of this Chapter for one (1) year from the date he or she passed their current licensing exam.

(b) Application procedures for continuing education course approval. Any provider or instructor which desires to sponsor education to licensees in compliance with the continuing education requirements of OAC 158:60-5-4 shall file an application for approval on the form prescribed by the Committee, or its designee at least fifteen (15) days prior to the date of the Regular meeting of the Committee from which the organization wants the course to be

DRAFT of Proposed Amendments to Permanent Rules – 2019 Rulemaking

considered for approval, and at least thirty (30) days prior to the date for which the course is scheduled. The application shall include a list of the course instructors and their qualifications, an agenda detailing the material to be presented, the location of the training, the program objectives, and the number of credit hours of classroom and supervised instruction. Licensees shall not receive continuing education credit for attending classes that are not approved by the Committee. Within seven (7) days of the completion of the course, the provider or instructor shall submit the original sign-in sheets for all sessions to the Inspector Examiners Unit of the Construction Industries Board. The sign-in sheets shall include the signature and state inspector license number of each person in attendance. The provider or instructor shall verify the total number of continuing education hours completed by each attendee. All programs shall be presented as submitted and approved, including lunch and breaks shown on the approved agenda, unless changes have been approved. Changes to the program shall be submitted to the Committee, or its designee, within ten (10) days of the training session for review by the Committee. Failure to obtain approval of changes may result in loss of CEU approval.

(c) Standards for continuing education. The following standards will govern the approval of continuing education programs by the Inspector Examiners Committee:

- (1) The program provider shall submit evidence that the provider and instructional staff are qualified by reason of education, experience or training.
- (2) All material and information presented shall pertain to the discipline in which the person is licensed.
- (3) All courses must be of at least two (2) credit hours in length.
- (4) The training location must be outside the regular work place or after hours.
- (5) Correspondence or online course approval standards:

(A) Providers or instructors seeking to offer correspondence courses for continuing education shall submit a course curriculum and study material for review and approval by the Committee prior to the courses being offered as continuing education. An access code and password shall be provided to the Committee, or its designee, for an online course for the purpose of review and approval. Approved correspondence courses shall be required to comply with all requirements for other continuing education courses except for sign-in sheets. Providers shall provide a student with a document of completion which certifies completion of approved correspondence courses.

~~(B) Only licensees meeting one or more of the following requirements may receive CEU credit for taking a correspondence or online course;~~

- ~~(i) Any licensee residing outside of Oklahoma;~~
 - ~~(ii) Any licensee that has an expired license which requires a continuing education course that is no longer available in the classroom;~~
 - ~~(iii) Any licensee who is currently incarcerated, or~~
 - ~~(iv) Any licensee who submits written proof to the Committee from a physician stating the medical reason that the licensee is unable to attend a continuing education class.~~
- Providers of an on-line course shall submit verification of six (6) hours of real time on-line instruction. Correspondence or online courses shall have sufficient explanation and or graphics to expound the concepts being taught. The format of the online course shall be constructed so as to elicit interaction between the student and the material presented. Each page of text shall be designed with a question that must be answered before advancing to the

DRAFT of Proposed Amendments to Permanent Rules – 2019 Rulemaking

next page or a test at the end of a subject matter before the course is considered complete. Providers shall provide a student with a document of completion that shall certify completion of an approved online course.

- (C) Applications for correspondence or online courses shall be resubmitted annually, from date of approval, for review and approval.
- (6) Along with a course application, a video presentation may be submitted for course material and instructor approval by the Committee if the video presentation is closely related to the subject matter of the course and meets the following:
- (A) All video presentations must be submitted in electronic format at least thirty (30) days in advance of the Committee meeting reviewing the course application, except for manufacturer's videos generally accepted in the industry covering accepted industry practices or standards. If the electronic format does not allow forwarding by email, then seven (7) copies of a portable storage format are required.
- (B) Video segments shall be no more than thirty (30) minutes, followed by a discussion and no more than fifty percent (50%) of the total course time.
- (C) The required copies of each individual video presentation training segment must be submitted with the CEU class approval request for review and approval by the Committee of the course material and instructor. However, if the video is a manufacturer's video, the Committee is not required to approve of the instructor in the video as long as the video course material and video presentation is approved by the Committee.
- (D) An approved instructor will be present during the viewing of any video and will monitor the class for questions. Prior to any video presentation, class participants shall be instructed to raise their hand if they have a question or comment during the video presentation. When a class participant has a question or comment during the video presentation, the instructor must be able to stop or pause the video to accommodate live interactive discussion.
- (E) Audio and video equipment shall be arranged in advance or otherwise provided to assure that class participants are able to see and hear all portions of any video presentation. In the case of audio or video failure, the time of the video presentation may be presented by the approved instructor over subject matter previously approved for that instructor.
- (d) **Course Advertisement.**
- (1) All advertising must include the course ID number.
- (2) The provider of an approved continuing education program may announce or indicate as follows: Course # ___ has been approved by the Construction Industries Board Inspector Examiners Committee for ___ hours of CE credit.
- (e) **Approval Limitations.**
- (1) The Committee's designee may approve additional course dates and locations after the course has been approved by Committee vote. Substantive change to course content must be brought before the Committee.
- (2) Approval of all courses, including correspondence and online courses, is rescinded upon the adoption of a different statewide code by OUBCC, and a new application showing updates of new code is necessary.

DRAFT of Proposed Amendments to Permanent Rules – 2019 Rulemaking

(3) The Committee or its designee may refuse to accept any application for approval if the supporting documentation is insufficient or incomplete. The Committee may deny or revoke approval of an application for any of the following reasons:

(A) failure to comply with the continuing education provisions;

(B) inadequate application or supporting documentation;

(C) failure to instruct on the topic approved; or

(D) unsatisfactory evaluations of the course, instructor, or materials from previous classes.

(4) If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant.

(5) The Committee may at an time re-evaluate and grant or revoke approval of an application or course.

(A) The Committee or its designee shall be granted access to attend, observe and audit any continuing education course approved by the Committee.

(B) The Committee may at any time review courses for quality in instruction. The Committee shall also investigate and take appropriate action, up to and including revocation of authority to provide CE, regarding complaints involving approved courses.

(C) A provider's failure to comply with this Section constitutes grounds for disciplinary action, up to and including revocation of authority to provide CE, against the provider or for denial of future applications for coursework.

(6) The applicant will be notified in writing by mail whether the program is approved or disapproved.

(f) Alternate Credit accrual:

(1) Credit may be earned through teaching in an approved continuing education class in the license category for which the renewal application is submitted. The Committee may award up to six (6) hours of CE credit not to exceed the number of approved hours for that CE class.

(2) Credit may also be earned through teaching an approved course in an accredited vocational school or a building and construction inspector-specific program approved by the Committee. The Committee may award up to six (6) hours of CE credit for each semester of academic credit awarded by the academic institution for the course.

(3) Credit may also be earned through participating as a designate of a technical committee appointed by the OUBCC to review and recommend adoption of building codes. The Committee may award up to six (6) hours of continuing education for completing a code review as designee in the code listed as the standard for the license held and upon completion of the code review receiving a certificate to be provided to CIB to receive continuing education credits.

(g) Complaint procedure:

(1) A person, government, or private organization may submit a written complaint to the Committee, or its designee, charging a provider of continuing education with a violation of the rules, and specifying the grounds for the complaint.

(2) Complaints must be in writing and include contact information, and shall be filed on the proper complaint form prescribed by the Construction Industries Board, or its designee.

(3) The Committee may consider an unsigned or anonymous complaint for further investigation.

DRAFT of Proposed Amendments to Permanent Rules – 2019 Rulemaking

(4) Upon receipt of a signed complaint form, a copy shall be sent to the continuing education provider addressed in the complaint. The continuing education provider shall provide a written response within fifteen (15) days. Upon receipt of the continuing education provider's written response, both complaint and response shall be considered by the Committee, or its designee, for appropriate action including dismissal of the complaint, further investigation, or a finding of violation of a statute or rule. The Committee, or its designee, shall notify both complainant and continuing education provider of the determination made by the Committee. Failure of the continuing education provider to respond will be considered as a violation of this rule.

(5) If a reasonable cause violation determination is made by the Committee, the Oklahoma Administrative Procedure Act shall be followed for all disciplinary proceedings undertaken including but not limited to all parts of this subsection.

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Procedures of the Committee

158:60-3-2 [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

158:60-5-3 [AMENDED]

158:60-5-5 [AMENDED]

SUMMARY:

The addition of 158:60-3-2 is for the purpose of establishing a hearing process for the Oklahoma Inspector Examiners Committee. The proposed amendments to 158:60-5-3 are to clarify license requirements for inspectors. The proposed amendments to 158:60-5-5 are to remove limitations and to clarify standards for continuing education as they relate to online courses; clarify approval procedures; allow for an alternate method for continuing education credit accrual.

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, 2019, 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 23, 2019, 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, 2019, 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 28, 2018, at the address listed above for obtaining copies of the proposed rules.

CONTACT PERSON:

Stephanie Brown, Board Secretary/Executive Assistant, 405-521-6550

ADDITIONAL INFORMATION:

If the monthly meeting of the Construction Industries Board scheduled for Wednesday, January 23, 2019, cannot be held due to inclement weather or lack of a quorum, the Public Hearing that would have occurred January 23, 2019, at that monthly meeting of the Construction Industries Board will be held instead at the monthly meeting scheduled for Wednesday, February 13, 2019, 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.