

## RULE IMPACT STATEMENT

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

1. **BRIEF DESCRIPTION OF PURPOSE OF PROPOSED RULE:** As a result of the passage of SB 733 and its effective date of November 1, 2019, the changes are to provide the public and potential licensees clarification on procedures and regulations regarding inspector licensing.
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"), 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"), and citizens of Oklahoma.
4. **ECONOMIC IMPACT UPON AFFECTED CLASSES OF PERSONS:** There is no anticipated economic impact at this time. Although SB 733 creates a new license type for independent third party inspectors, this allows another license option for those that are already required to have a license. While this is a new license category, there is no additional cost or economic impact.
5. **COSTS AND BENEFITS TO THE AGENCY:** The proposed amendments as a result of SB 733 will cause a minimal increase for a software upgrade to the agency. It is a benefit to the agency to have clear, unambiguous rules.
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:** 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:** September 30, 2019.

**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 Provider agent**" means one who is not a governmental employee but an independent contractor who, ~~through contract,~~ is ~~designated~~ recognized 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 the 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 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~~ provider 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.

"**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~~ Authorized Provider ~~agent~~ is ~~solely and exclusively~~ responsible to the recognizing 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~~provider 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 ~~two (2) years~~one (1) year in each license category for the purpose of enabling an applicant to meet the certification requirements.

**"Recognized"** means when a political subdivision having managerial and superintending control over building codes identifies and approves a licensee to perform work for the political subdivision, is aware the licensee is free of direction and control of any person, entity or performing or designing contractor requesting the inspection and can notify the Construction Industries Board of the same upon request.

**"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~~ recognized 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

#### **158:60-3-2. Hearings and Complaints**

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.

Complaints on authorized providers may be made by a political subdivision as they will be recognizing any authorized provider's licensures for their jurisdiction.

Any complaint on a person acting or performing as a building and construction inspector without the proper license can be forwarded to the appropriate district attorney for prosecution.

Any complaint toward an entity who employs an unlicensed person to perform the duties and responsibilities of a building and construction inspector or who fails to notify the Construction Industries Board of the employment of an inspector shall be subject to an administrative fine following an investigation and hearing on the matter.

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**

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

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~~One year Provisional Unlimited classification.
  - (H) ~~Two-year~~One year Provisional Residential classification.
  - (I) Authorized ~~Agent~~Provider 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~~One year Provisional Unlimited classification.
  - (H) ~~Two-year~~One year Provisional Residential classification.
  - (I) Authorized ~~Agent~~Provider 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~~One year Provisional Unlimited classification.
  - (H) ~~Two-year~~One year Provisional Residential classification.
  - (I) Authorized ~~Agent~~Provider 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~~One year Provisional Unlimited classification.
  - (H) ~~Two-year~~One year Provisional Residential classification.
  - (I) Authorized ~~Agent~~Provider 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~~One year Provisional Unlimited classification.
  - (H) ~~Two-year~~One year Provisional Residential classification.
  - (I) Authorized ~~Agent~~Provider classification (Unlimited only).

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

- (a) Initial application must be made on the form provided by the Administrator and the licensure must be approved ~~recognized~~ by the employing Political Subdivision.
- (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 or Authorized Provider 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 successful completion of a national examination approved by the Committee.
- (e) ~~Other than two-year provisional license, no~~No license shall be issued for longer than one (1) year and all licenses shall expire on the end of the birth-date month of the licensee.
- (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.~~
- ~~(h)~~(g) 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 (d) of this Section are met.
- ~~(i)~~(h) A provisional license is issued to allow a person to work as an inspector even though all the license 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~~ one (1) year 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~~ one (1) year, 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 fee for the provisional license shall be \$35.00.

**158:60-5-2.1. Acceptance of Military education, training and experience toward qualification for licensure examination**

(a) **Licensure – ~~post-military service~~.** See OAC 158:1-3-10 for provisions related to the application of substantially equivalent licensure, education, training, and experience completed as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction toward satisfying the qualifications for examination and license issuance.

(b) **Military spouse applicant—~~equivalency~~.** See OAC 158:1-3-10 for provisions related to issuance of ~~an equivalent~~ a license in an equivalent category for the spouse of an active-duty member of the Armed Forces or Reserves of the United States.

**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) All licensees shall, in addition to any local procedures or requirements, notify the Administrator as to persons suspected of performing building, electrical, mechanical, plumbing, or roofing work within their jurisdiction who are not properly licensed or registered by the State. All 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 ProviderAgent 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.

(i) Any municipality or other governmental entity which employs any person as a building and construction inspector for functions normally performed by a building and construction inspector shall notify the Construction Industries Board of the employment.

### **158:60-5-3.1. Authorized agents Provider**

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

(1) ~~Be engaged in an independently established business approved, recognized~~ individually, accepted and designated by a political subdivision, ~~meet as meeting~~ all requirements for a state inspector's license in the category of the inspections being performed, unlimited classification, and make any recognizing political subdivisions aware he or she is ~~be~~ free of direction and control of any contractor, person, or entity 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~~ Authorized Provider 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 completed application form ~~notarized certification~~ and be recognized 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~~ provider of that political subdivision.

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

(c) ~~Authorized agent~~ provider 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~~ providers.

(d) ~~Authorized agents~~ providers 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, except as restricted or limited by the political subdivision;
- (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.

(e) A political subdivision should report to the CIB any instances of an authorized provider failing to maintain liability insurance, failing to comply with worker's compensation laws, and if the authorized provider is working under the direction and control of an entity to which they are also providing services.

**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~~ provider 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.

**One time low-income fee waiver.** See OAC 158:1-3-13(c) regarding eligibility on a one-time, one-year fee waiver.

## 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~~ licensee's last day of his or her birth-day month.
- (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.~~