

REINS Report: TITLE 428 CHAPTER 1. Administrative Actions. ADOPTED CODES

Summary of proposed rule change

The Long-Range Capital Planning Commission (LRCPC) has proposed updates to its administrative operations in response to SB1169 (2025). This bill dissolved the Oklahoma Capital Assets Management and Protection Board (OCAMP) and transferred its duties to the LRCPC. With this action, the commission became responsible for developing a deferred maintenance plan for state owned property. Statute directs Oklahoma Management and Enterprise Services (OMES) to staff and provide administrative operations for the commission; therefore, OMES is responsible for the submitting changes to the rules. LOFT found several deficiencies with this rule packet that will be discussed within this summary.

LOFT analysis of agency compliance with Section 303 of Title 75 of the Oklahoma Statutes

LOFT provides the following analysis in accordance with 62 O.S. § 8016: “LOFT shall inform the chairs of the designated committees if the rule impact statement from the agency is incomplete or contains substantive inaccuracies.”

Determination: LOFT finds the agency’s rule impact statement incomplete and contains substantive errors.

75 O.S. §303 directs agencies on how to promulgate a new administrative rule. In this case, the agency did not follow the correct process: The agency posted the proposed change in the Oklahoma register, held a hearing, and created the necessary paperwork. However, the inconsistencies in the agency’s analysis and paperwork lead LOFT to determine that the agency failed to put forth the necessary effort to create a comprehensive rule report and did not provide enough information to the Legislature to inform a decision on the necessity of the rule.

Background

It appears the agency submitted two rule packets and two rule impact statements addressing the same topic: docket 26-118 and 26-120 both state, “The proposed rule changes are to address the additional scope and duties required by the Oklahoma Capital Assets Maintenance and Protection Act codified at 73 O.S. §§188A-B.” The first rule packet addresses Chapter 1 of Title 428, and the intent is to update the commission’s duties, which were amended by SB1169, and contact information. The second rule packet addresses a new addition to Title 428, Chapter 15. This submission creates rules for the expanded duties of the LRCPC as amended in the Chapter 1 packet. This new chapter implements the procedures for agencies to report deferred maintenance to OMES and comply with assessing the condition of state-owned property. In response to questions from two different members, on April 10, 2026, the agency submitted a revised rule packet for Chapter 1, and on April 21, 2026, the agency submitted another revised rule packet for Chapter 15.

The key differences between the three rule impact statements are summarized below:

- The first RIS did not contain an economic impact analysis and estimated no increased costs from the change.
- The second version (first revision, dated April 10, 2026) of the RIS provided expected costs for OMES, totaling \$235,100 over a five-year period. The revised RIS acknowledged that agencies would likely have compliance costs but stated those could not be calculated at this time.
- The third version (second revision, dated April 21, 2026) of the RIS includes estimated costs to other agencies, in addition to OMES. The combined costs are estimated to be \$960,104 over a five-year period.

LOFT identified numerous errors and inconsistencies within the required documentation that is submitted with a rule change packet, including:

1. On the Rule Impact Statement, the agency listed the date of which the Notice of Rulemaking Intent (NRI) appeared in the register as Oct 1, Volume 41, Issue 3. In fact, the NRI did not appear until December 15, 2025, Volume 43, Issues 6 & 7.
2. The NRI for Chapter 1 stated that the public hearing would be held on January 5, 2026, at 11 a.m. For Chapter 15, the NRI stated the hearing would be on January 19th. The actual hearing was held on January 20, 2026.
3. The description of the rule change for Chapter 1 is different in the RIS and the Agency Rule Report.
4. No mention of the fact that the rule change was prompted by SB1169 in any document submitted.

LOFT analysis of rule impact

LOFT's evaluation of the three different rule impact statements submitted found significant omissions and errors. For example, the most recent RIS bases its calculation of agency costs on the average salary of all state employees instead of averaging the salaries of positions comparable to construction and building inspectors, which would have yielded a higher cost exceeding the \$1 million threshold over a five-year period.

To determine the full economic impact of this proposed rule change LOFT evaluates the outcomes of a range of possible solutions:

1. Agencies do nothing as they do not have maintenance needs at their properties,
2. Agencies hire FTEs to fulfill this requirement,
3. Agencies hire consultants to complete this requirement, or
4. OMES hires additional staff to complete the requirement on behalf of state agencies.

There is a potential, albeit unlikely, situation where all state agencies that own their own property do not have any maintenance needs. This would mean that the cost burden *would* be fully covered by OMES, in which they have already reported that the cost would be \$47,020 annually.

It is also possible that state agencies will need to hire staff to complete the reports that will be submitted to OMES. Based on the data within the Real Property report that is also published by OMES, LOFT estimates there are forty-two state agencies that own their own property. If each of these agencies had to hire a construction and building inspector to evaluate the condition of their property the five-year economic impact would be **\$873,684, plus the \$235,100 for the office staff charged with compiling the report.**¹

Another solution that agencies may consider to comply with this requirement would be to hire a consultant to do periodic reviews of properties. These consultants would act on an “as needed” basis with the agencies. The cost of these services would be dependent on an agency’s property portfolio. LOFT estimates that these 42 agencies would expend \$1.2 million on consultants, but because their services would be on an as-needed basis, LOFT assumes that in the five-year period agencies will need these services at least twice, once at the start of the new requirement and once again toward the end of the five-year window. **This equates a five-year total estimated economic impact of \$1.2 million, plus the \$235,100 for the office staff charged with compiling the report.**²

A solution that is not proposed by OMES, but is logical, is for OMES to hire staff to do these reviews. This would provide consistency in the assessments. Using OMES’ Real Property Reports, LOFT estimates that there are nearly 4,500 structures that will need to be evaluated within the five-year window. These structures include offices, parking garages, storage sheds and hospitals. Some structures can be evaluated quickly, such as storage buildings, while others will require extensive review, like hospitals. If a typical employee works an average of 250 days per year, then one employee would have 1,250 days to review state properties over five years. For a team of evaluators to visit all properties, OMES could hire four FTEs, allowing 5,000 evaluation days, which computes to less than one property being evaluated per day, per employee; an easily managed caseload. If OMES were to staff these four positions with compensation at the 2023 levels for Construction and Building Inspectors (\$72,120), **OMES could complete the assessments and reports at a cost of \$1.4 million over five years, plus the \$235,100 for the office staff charged with compiling the report.**

Conclusion

The errors within these documents and the subsequent revisions required demonstrate a lack of attention to detail by the agency at best, or an outright subversion of the APA at worst. The inconsistencies could have led to misleading the public by not publishing the correct OK Register location or the correct hearing date. The agency failed to initially provide a comprehensive economic impact by not soliciting information from agencies or the public as required by the APA.

¹ Data used from the Bureau of Labor Statistics *Occupational Employment and Wages, May 2023, 11-3013 Construction and Building Inspectors*. Annual mean wage of Construction and Building Inspectors in Oklahoma in 2023 was \$72,120.

² The \$1.2 million impact reflects OMES’ stated average cost of a one-time consultant of \$15,000. LOFT was unable to substantiate this estimate as most management contracts involve the company to perform the maintenance, not just assess needs.