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State Board of Examiners of PERFUSIONISTS	527	Board of Regents of TULSA Community College	740
Office of PERSONNEL Management	530	Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma TRANSPORTATION Authority 11-1-99 - no rules enacted in this Title - See</i> Title 731)	745
Oklahoma State Board of PHARMACY	535	Board of Trustees for the UNIVERSITY Center at Tulsa	750
PHYSICIAN Manpower Training Commission	540	UNIVERSITY Hospitals Authority	752
Board of PODIATRIC Medical Examiners	545	UNIVERSITY Hospitals Trust	753
Oklahoma POLICE Pension and Retirement System	550	Board of Regents of the UNIVERSITY of Oklahoma	755
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	Board of Regents of the UNIVERSITY of Science and Arts of Oklahoma	760
POLYGRAPH Examiners Board	560	Oklahoma USED Motor Vehicle and Parts Commission	765
Oklahoma Board of PRIVATE Vocational Schools	565	Oklahoma Department of VETERANS Affairs	770
State Board for PROPERTY and Casualty Rates (<i>abolished 7-1-06; see also Title 365</i>)	570	Board of VETERINARY Medical Examiners	775
State Board of Examiners of PSYCHOLOGISTS	575	Oklahoma Department of CAREER and Technology Education (<i>Formerly</i> : Oklahoma Department of VOCATIONAL and Technical Education)	780
Department of CENTRAL Services (<i>Formerly</i> : Office of PUBLIC Affairs)	580	Oklahoma WATER Resources Board	785
PUBLIC Employees Relations Board	585	Board of Regents of WESTERN Oklahoma State College	790
Oklahoma PUBLIC Employees Retirement System	590	Oklahoma WHEAT Commission	795
Department of PUBLIC Safety	595	Department of WILDLIFE Conservation	800
REAL Estate Appraiser Board	600	WILL Rogers and J.M. Davis Memorials Commission	805
Oklahoma REAL Estate Commission	605		
Board of Regents of REDLANDS Community College	607		
State REGENTS for Higher Education	610		
State Department of REHABILITATION Services	612		
Board of Regents of ROGERS State College	615		
Board of Regents of ROSE State College	620		
Oklahoma SAVINGS and Loan Board (<i>abolished 7-1-93</i>)	625		
SCENIC Rivers Commission	630		

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 3. FINE MATRICES [REVOKED]

[OAR Docket #08-1478]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 1. Fine Schedules [REVOKED]

Part 15. Consumer Protection Services Violations [REVOKED]

35:3-1-16. [REVOKED]

SUMMARY:

The purpose of the proposed rule is to revoke the Department's fine matrix related to pesticide violations. The revocation is to ensure the Department is consistent with Title 2, Section 2-18, and does not limit the legislative mandate provided to the Department in that section. Although the pesticide fine matrix is revoked from the rules, it will continue to be used as guidance by the Department in assessing fines for pesticide violations.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4, 2-18, 3-81 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written to Teena Gunter at teena.gunter@oda.state.ok.us, or 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 2, 2009 through February 4, 2009.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., February 4, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 2, 2009 through February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #08-1478; filed 12-9-08]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 3. FINE MATRICES [REVOKED]

[OAR Docket #08-1484]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 1. Fine Schedules [REVOKED]

Part 1. General [REVOKED]

35:3-1-1. [REVOKED]

Part 3. Animal Health and Disease Violations [REVOKED]

Part 5. Food Safety Violations [REVOKED]

Part 7. Forestry and Timber Violations [REVOKED]

Part 9. Grain Warehouse Violations [REVOKED]

35:3-1-10. [REVOKED]

Part 11. Livestock Market Violations [REVOKED]

35:3-1-11. [REVOKED]

35:3-1-12. [REVOKED]

Part 13. Market Development Violations [REVOKED]

Part 15. Consumer Protection Services Violations [REVOKED]

35:3-1-15. [REVOKED]

35:3-1-17. [REVOKED]

35:3-1-18. [REVOKED]

35:3-1-19. [REVOKED]

35:3-1-20. [REVOKED]

35:3-1-21. [REVOKED]

35:3-1-22. [REVOKED]

35:3-1-23. [REVOKED]

35:3-1-24. [REVOKED]

Part 17. Agricultural Environmental Management Violations [REVOKED]

35:3-1-30. [REVOKED]

Notices of Rulemaking Intent

35:3-1-31. [REVOKED]

35:3-1-32. [REVOKED]

SUMMARY:

The purpose of the proposed rules is to revoke the Department's fine matrices. The revocation is to ensure the Department is consistent with Title 2, Section 2-18, and does not limit the legislative mandate provided to the Department in that section. Although the fine matrices are revoked from the rules, they will continue to be used as guidance by the Department in assessing fines for violations.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4 and 2-18; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 2, 2009 through February 4, 2009.

PUBLIC HEARING:

A public hearing will be held at 9:30 a.m., February 4, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 2, 2009 through February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #08-1484; filed 12-9-08]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 13. FUEL ALCOHOL

[OAR Docket #08-1479]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

35:13-1-1. [AMENDED]

35:13-1-2. [AMENDED]

SUMMARY:

The proposed rules incorporate the date for the most recent version of the Code of Federal Regulations.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4, 2-18, 11-20 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 2, 2009 through February 4, 2009.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m., February 4, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 2, 2009 through February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #08-1479; filed 12-9-08]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #08-1476]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 5. Biological Products and Laboratories

35:15-5-1 [AMENDED]

SUMMARY:

The proposed rules require all biological products distributed, sold, offered for sale, or used in Oklahoma to be registered with the Department. The rule requires annual registration of the products with an annual registration fee and other requirements for registration.

AUTHORITY:

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4, 6-2, and 6-135; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 2, 2009 through February 4, 2009.

PUBLIC HEARING:

A public hearing will be held at 3:00 p.m., February 4, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 2, 2009 through February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Dr. Becky Brewer, (405) 522-6131, e-mail address: becky.brewer@oda.state.ok.us

[OAR Docket #08-1476; filed 12-9-08]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 15. ANIMAL INDUSTRY**

[OAR Docket #08-1477]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking
PROPOSED RULES:

Subchapter 16. Contagious Equine Metritis
35:15-16-1 [AMENDED]

Subchapter 36. Scrapie
35:15-36-1 [AMENDED]
35:15-36-2 [AMENDED]

SUMMARY:

The proposed rules update the incorporation by reference of the Code of Federal Regulations for Contagious Equine Metritis and Scrapie.

AUTHORITY:

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4, 6-2, 6-131, 6-124, and 6-152; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 2, 2009 through February 4, 2009.

PUBLIC HEARING:

A public hearing will be held at 10:30 a.m., February 4, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 2, 2009 through February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #08-1477; filed 12-9-08]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 15. ANIMAL INDUSTRY**

[OAR Docket #08-1480]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking
PROPOSED RULES:

Subchapter 49. Miscellaneous Animal Diseases [NEW]

Notices of Rulemaking Intent

Part 1. Malignant Catarrhal Fever [NEW]

35:15-49-1 through 35:15-49-5 [NEW]

SUMMARY:

These rules provide requirements for owners of wildebeest within the state of Oklahoma. Wildebeest carry malignant catarrhal fever that is transmissible to other species when the wildebeest are calving. These rules were previously approved as emergency rules.

AUTHORITY:

Oklahoma State Board of Agriculture and the Oklahoma Agricultural Code; 2 O.S. §§ 2-4, 6-2, and 6-131; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 2, 2009 through February 4, 2009.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m., February 4, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 2, 2009 through February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Becky Brewer, (405) 522-6131, e-mail address: becky.brewer@oda.state.ok.us

[OAR Docket #08-1480; filed 12-9-08]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #08-1481]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 17. Combined Pesticide

Part 21. Standards for disposal of pesticide and pesticide containers

35:30-17-92 [AMENDED]

SUMMARY:

The proposed rules ensure that all pesticide spills, both wet and dry, that are of a specific amount are reported to the Oklahoma Department of Environmental Quality and the Oklahoma Department of Agriculture, Food, and Forestry in a timely manner. The proposed rule changes also provide clean up to the existing rules.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 3-81 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written to Teena Gunter at teena.gunter@oda.state.ok.us, or 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 2, 2009 through February 4, 2009.

PUBLIC HEARING:

A public hearing will be held at 2:00 p.m., February 4, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 2, 2009 through February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Mike Vandeventer, (405) 522-5981, e-mail address: mike.vandeventer@oda.state.ok.us

[OAR Docket #08-1481; filed 12-9-08]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 30. CONSUMER PROTECTION**

[OAR Docket #08-1482]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

- Subchapter 17. Combined Pesticide
- Part 6. Pesticidal Product Producing Establishments
35:30-17-13 [AMENDED]
- Part 21. Standards for disposal of pesticide and pesticide containers
35:30-17-89.1 [AMENDED]

SUMMARY:

The proposed rules incorporate the date for the most recent version of the Code of Federal Regulations.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 3-81 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P. O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 2, 2009 through February 4, 2009.

PUBLIC HEARING:

A public hearing will be held at 2:30 p.m., February 4, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 2, 2009 through February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #08-1482; filed 12-9-08]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 37. FOOD SAFETY**

[OAR Docket #08-1475]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

- Subchapter 3. Meat Inspection
- Part 1. General Provisions
35:37-3-1 [AMENDED]
35:37-3-3 [AMENDED]
- Subchapter 5. Poultry Products Inspection
- Part 1. General Provisions
35:37-5-1 [AMENDED]
35:37-5-2 [AMENDED]

SUMMARY:

The proposed rule changes update the incorporation by reference of Code of Federal Regulations citations.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 6-181 et seq., 6-251 et seq., 6-280.1 et seq., and 6-290.1 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 2, 2009 through February 4, 2009.

PUBLIC HEARING:

A public hearing will be held at 1:30 p.m., February 4, 2009 in the Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 2, 2009 through February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

Notices of Rulemaking Intent

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address:
teena.gunter@oda.state.ok.us

[OAR Docket #08-1475; filed 12-9-08]

**TITLE 35. OKLAHOMA DEPARTMENT OF
AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 44. AGRICULTURE POLLUTANT
DISCHARGE ELIMINATION SYSTEM**

[OAR Docket #08-1483]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 3. Concentrated Animal Feeding Operations
35:44-3-3 [AMENDED]

SUMMARY:

This rule updates the Code of Federal Regulations date for the incorporation by reference of the permitting requirements for concentrated animal feeding operations.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 2-18.2, 2A-1 et seq., and 2A-21 et seq.; 27A O.S. § 1-3-101(D); and Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written and oral comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from January 2, 2009 through February 4, 2009.

PUBLIC HEARING:

A public hearing will be held at 11:00 a.m., February 4, 2009, in the Board Room of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from January 2, 2009 through February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules, or by contacting Teena Gunter, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address:
teena.gunter@oda.state.ok.us

[OAR Docket #08-1483; filed 12-9-08]

**TITLE 150. OKLAHOMA DEPARTMENT OF
COMMERCE
CHAPTER 65. OKLAHOMA QUALITY JOBS
PROGRAM**

[OAR Docket #08-1443]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 1. Quality Jobs Program
150:65-1-10 [AMENDED]

SUMMARY:

This action is to clarify the existing Oklahoma Quality Jobs Program rules and to incorporate recent legislative changes in the Oklahoma Quality Jobs Program.

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Quality Jobs Program 68 O.S. §§ 3601 et seq.

COMMENT PERIOD:

Written and oral comments will be accepted from January 2, 2009 through February 3, 2009 during regular business hours by contacting Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Tuesday, February 3, 2009, at Gallery 1-2, 900 North Stiles Avenue, Oklahoma City, Oklahoma. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained without charge from the Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 by contacting Donald R. Hackler, Jr. at (405) 815-5359.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available at the offices of the Oklahoma Department of Commerce (address below).

CONTACT PERSON:

Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

[OAR Docket #08-1443; filed 12-1-08]

**TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 105. OKLAHOMA LOCAL DEVELOPMENT AND ENTERPRISE ZONE INCENTIVE LEVERAGE ACT**

[OAR Docket #08-1444]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 150:105-1-2. Definitions [AMENDED]
- 150:105-1-3. Application Process [AMENDED]
- 150:105-1-4. Threshold and Selection Criteria [AMENDED]

SUMMARY:

This action is to incorporate the amendments to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act contained in Senate Bill 1943 of the Second Session of the 51st Oklahoma Legislature which was executed by the Governor on May 15, 2008, which were effective when executed.

AUTHORITY:

The legislation establishing the Oklahoma Department of Commerce 74 O.S. §§ 5001 et seq., and the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act 62 O.S. §§ 840 - 847.

COMMENT PERIOD:

Written and oral comments will be accepted from January 2, 2009 through February 3, 2009 during regular business hours by contacting Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Tuesday, February 3, 2009, at Gallery 1-2, 900 North Stiles Avenue, Oklahoma City, Oklahoma. Time limitations may be imposed on oral presentations to ensure that all persons who desire to make oral comments will have an opportunity to do so.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred

by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Donald R. Hackler, Jr., Deputy General Counsel, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained without charge from the Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 by contacting Donald R. Hackler, Jr. at (405) 815-5359.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement has been prepared and is available at the offices of the Oklahoma Department of Commerce (address below).

CONTACT PERSON:

Donald R. Hackler, Jr., Attorney, Oklahoma Department of Commerce, 900 North Stiles Avenue, Oklahoma City, Oklahoma 73104 (405) 815-5359.

[OAR Docket #08-1444; filed 12-1-08]

**TITLE 158. CONSTRUCTION INDUSTRIES BOARD
CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD**

[OAR Docket #08-1485]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. General Operation and Procedures
- 158:1-3-8. Fee for dishonored checks [NEW]

SUMMARY:

The purpose of these rules is to implement O.S. 59 section 1005.(F) (amended by laws 2008, SB45, Section 4 § 1 effective November 1, 2008) to provide a fee for dishonored checks not to exceed amount pursuant to the provisions of Section 1121 of Title 47 of the Oklahoma Statutes.

AUTHORITY:

Construction Industries Board; 59 O.S. Supp 2008, Section 1000.5.

COMMENT PERIOD:

Written and oral comments will be accepted between January 2, 2009 through February 2, 2009 during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 p.m. on February 11, 2009, at a regular meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

Notices of Rulemaking Intent

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 Jeanne Britt at the above address, before the close of the comment period on February 2, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on February 2, 2009.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to January 10, 2009, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #08-1485; filed 12-9-08]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

[OAR Docket #08-1452]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:30-1-4. Standard of installation [AMENDED]

SUMMARY:

The rule change will incorporate the 2009 International Plumbing Code, the 2009 International Fuel and Gas Code, and the plumbing portions of the 2009 International Residential Code as the minimum standard for the installation of plumbing in Oklahoma where no ordinance or regulation of a governmental subdivision applies.

AUTHORITY:

Construction Industries Board; 59 O.S. §§ 1000.5.

COMMENT PERIOD:

Written and oral comments will be accepted between January 2, 2009 through February 2, 2009 during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 p.m. on February 11, 2009, at a regular meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

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 Jeanne Britt at the above address, before the close of the comment period on February 2, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on February 2, 2009.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to January 10, 2009, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #08-1452; filed 12-5-08]

TITLE 158. CONSTRUCTION INDUSTRIES BOARD CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

[OAR Docket #08-1486]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

158:50-1-4. Adopted references and standard of workmanship [AMENDED]

SUMMARY:

This rule change implements the adopted 2009 code standards incorporated by the International Mechanical Code, the International Fuel Gas Code, and the International Residential Code (Chapters 12 through 24) as the minimum standard for mechanical work in aOklahoma.

AUTHORITY:

Construction Industries Board; 59 O.S. § 1000.5(F), 59 O.S. § 1850.1 through § 1860 et seq..

COMMENT PERIOD:

Written and oral comments will be accepted between January 2, 2009 through February 2, 2009 during regular business hours at the office of the Administrator, Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107.

PUBLIC HEARING:

A public hearing on these proposed rules will be held at 1:30 p.m. on February 11, 2009, at a regular meeting of the Construction Industries Board at 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 1:35 p.m.

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 Jeanne Britt at the above address, before the close of the comment period on February 2, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Construction Industries Board, 2401 N.W. 23, Suite 5, Oklahoma City, Oklahoma, 73107, before the close of the comment period on February 2, 2009.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared prior to January 10, 2009, and may be obtained from the Construction Industries Board at the above address.

CONTACT PERSON:

Jeanne Britt, Liaison Officer, 405.271.2771

[OAR Docket #08-1486; filed 12-9-08]

**TITLE 180. OKLAHOMA STATE CREDIT UNION BOARD
CHAPTER 1. GENERAL PROVISIONS, DUTIES, DEFINITIONS, PROCEDURAL RULES, AND PUBLIC RECORDS REQUIRED RULES**

[OAR Docket #08-1450]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 180:1-1-2. Definitions [AMENDED]
- 180:1-1-4. ~~Public records~~ Requests for Information [AMENDED]

~~Subchapter 3.. Rules for Proceedings Before the Board~~
Procedural Rules

- 180:1-3-1. Board's principal offices and alternate locations [AMENDED]
- 180:1-3-2. General procedures before the Board [AMENDED]
- 180:1-3-3. Filing pleadings and papers [AMENDED]
- 180:1-3-4. Record of proceedings [AMENDED]
- 180:1-3-5. Service of pleadings [AMENDED]
- 180:1-3-6. Commencement of proceeding; intervention; consolidation [AMENDED]
- 180:1-3-7. Notice of hearing [AMENDED]
- 180:1-3-9. Depositions and discovery [AMENDED]
- 180:1-3-10. Examiner testimony [AMENDED]
- 180:1-3-15. Party's attendance required at hearing [AMENDED]
- 180:1-3-16. Complaint Procedure [NEW]
- 180:1-3-17. Petitions for rulemaking [NEW]
- 180:1-3-18. Declaratory Rulings [NEW]

SUMMARY:

The proposed rule changes are a result of a review of all rules in Chapter 1 of Title 180 in the Oklahoma Administrative Code. The circumstances that created the need for the new and amended rules are (1) the lack of certain rules required under the Administrative Procedures Act, and (2) a need to update certain rules to reflect the current operation of the Banking Department (the "Department") and any statutory changes in the Oklahoma Credit Union Act (Title 6 O.S. section 2001 *et seq.*, the "Act") occurring since the last complete review of these rules. The intended effect of the new and amended rules is to bring the provisions of Chapter 1 of Title 180 into conformity with statutory requirements and to update Chapter 1 of Title 180 to reflect the current operation of the Department. Several amendments are suggested with respect to typographical issues or clarification of language, with no substantive change intended.

Subchapter 1. In Subchapter 1, obsolete definitions have been deleted and other terms have been defined. For example, definitions for specific types of deposit accounts offered by credit unions (such as "regular share," "share certificate," and "share draft/checking account") have been deleted from the definitions in section 180:1-1-2 because those terms are not used in Chapter 1 of Title 180. A definition of the term "complaint," has been added for clarity in Chapter 1 and to correspond to new rule 180:1-3-16.

Rule 180:1-1-4 is amended to provide clarity and instruction with regard to how the public may make requests for public records. The rule also deletes an obsolete reference to Oklahoma statutes regarding those credit union records that are open for public inspection. The amended rule also describes how credit unions are to handle examination reports in their possession.

Subchapter 3. In Subchapter 3, changes are made to update the rules of practice with regard to formal and informal proceedings before the Banking Commissioner (the "Commissioner") and the State Credit Union Board (the

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"Board"). For example, the complaint procedure has been removed from the formal proceedings before the Board and is now described in detail in new proposed rule 180:1-3-16 as a matter to be decided by the Commissioner or his designee. On the other hand, appeals to the Board from certain decisions of the Commissioner are added to rule 180:1-3-6 as a type of formal proceeding that follows the other procedural rules of Subchapter 3.

Proposed rules 180:1-3-17 (Petitions for rulemaking), and 180:1-3-18 (Declaratory rulings), are new rules added to more fully describe the procedure relating to petitioning the board for rulemaking and for a declaratory ruling. These topics are addressed very briefly in existing rule 180:1-3-2 but the existing rule does not provide sufficient guidance to either the public or the Department with respect how these matters should be handled. The new proposed rules are intended to comply with the requirements of sections 305 and 307 of the Oklahoma Administrative Procedures Act (Title 75 O.S. section 250 *et seq.*)

AUTHORITY:

State Credit Union Board; 6 O.S., § 2001.2(A)(3) and 75 O.S., §§ 302(A), 305, and 307.

COMMENT PERIOD:

Written and oral comments will be accepted during the period from January 3, 2009, through February 13, 2009, at: Oklahoma State Banking Department, 2900 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Attn: Dudley Gilbert

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Tuesday, February 17, 2009, at the State Banking Department, 2900 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105. Anyone who wishes to speak will be allowed a maximum of 5 minutes and must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Banking Department with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing during the period from January 3, 2009, through February 13, 2009, at: Oklahoma State Banking Department, 2900 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Attn: Dudley Gilbert.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Angela Morris at the State Banking Department, 2900 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, (405) 521-2782.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement will be prepared and available at the State Banking Department office at the above address on and after January 17, 2009.

CONTACT PERSON:

Dudley Gilbert, Legal Counsel, State Banking Department, (405) 521-2782.

[OAR Docket #08-1450; filed 12-5-08]

TITLE 180. OKLAHOMA STATE CREDIT UNION BOARD CHAPTER 10. SUPERVISION, REGULATION AND ADMINISTRATION

[OAR Docket #08-1449]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. Department and Board Requirements

180:10-1-2. Definitions [AMENDED]

180:10-1-3. Description of forms and instructions [AMENDED]

180:10-1-4. Change in name [AMENDED]

180:10-1-5. Bond requirements; schedule [AMENDED]

180:10-1-6. Approved auditors [AMENDED]

180:10-1-7. Bylaw amendments [AMENDED]

180:10-1-8. Corporate central credit union organization and operation [AMENDED]

180:10-1-11. Records and retention [AMENDED]

180:10-1-12. Reporting changes in executive officers, directors and committee members [AMENDED]

180:10-1-13. Prohibition against credit unions employing, electing or appointing certain individuals and Credit Union Board's power to enforce

180:10-1-14. Assessments [AMENDED]

180:10-1-15. Fees [AMENDED]

180:10-1-16. Suspicious Activity Reports [NEW]

180:10-1-17. Credit Union Branches [NEW]

Subchapter 3. New Credit Unions, Mergers, Conversions, and Field of Membership

180:10-3-1. New credit union; organization [AMENDED]

180:10-3-3. Conversion requirements [AMENDED]

180:10-3-5. Community field of membership [AMENDED]

180:10-3-6. Multiple common bond field of membership [AMENDED]

180:10-3-7. Single common bond field of membership [AMENDED]

180:10-3-8. Field of membership list [AMENDED]

180:10-3-9. Field of membership disaffiliation [REVOKED]

Subchapter 5. Guidelines and Restrictions

180:10-5-1. Deposits [AMENDED]

180:10-5-2. Dividends and interest paid [AMENDED]

180:10-5-3. Investment and deposits [AMENDED]

180:10-5-4. Rental or purchase of property [AMENDED]

- 180:10-5-5. Share drafts, checking accounts or other instruments and accounts [AMENDED]
- 180:10-5-6. Issuance of accounts [REVOKED]
- 180:10-5-8. Safe deposit boxes [AMENDED]
- 180:10-5-9. Prohibited acts and practices [AMENDED]

SUMMARY:

The proposed rule changes are a result of a review of all rules in Chapter 10 of Title 180 in the Oklahoma Administrative Code. The circumstances that created the need for the new and amended rules were (1) a need to update the rules to reflect the current operation of credit unions, and (2) statutory changes in the Oklahoma Credit Union Act (Title 6 O.S. section 2001 *et seq.*, the "Act") and federal law occurring since the last complete review of these rules. The intended effect of the new and amended rules is to bring the provisions of Chapter 10 of Title 180 into conformity with statutory requirements, to reflect advances in technology, to create clarity and certainty with respect to compliance with various statutes and rules, and to reflect the current operation of credit unions. Several amendments are suggested with respect to typographical issues or clarification of language, with no substantive change intended.

Subchapter 1. The primary revisions to subchapter 1 are found in section 180:10-1-2 relating to definitions. Many definitions were deleted from Chapter 10 because such terms are defined in Chapter 1 of Title 180 and such terms are used exclusively in Chapter 1, rather than Chapter 10. For example, the terms "attorney," "intervenor," "party," "party of record," and "protestant," are defined in Chapter 1 and are used in Chapter 1 with respect to formal proceedings before the Banking Department (the "Department") and State Credit Union Board (the "Board"). Those terms need not also be defined in Chapter 10. Therefore, they are deleted. The term "rural service area" is deleted because it is no longer authorized as a type of community field of membership pursuant to changes to proposed rule 180:10-3-5. The term "Oklahoma Metropolitan Statistical Area" is amended to remove the specific counties comprising the various MSAs in order to accommodate future changes to the MSAs. Definitions for specific types of deposit accounts offered by credit unions (such as "regular share," "share certificate," and "share draft/checking account") have been deleted because proposed revisions to rule 180:10-5-5 provide broad authorization for accounts rather than only those defined in the rules. Definitions for "financial institution" and "federally insured" are moved from rules 180:10-1-12 and 180:10-1-13 to rule 180:10-1-2.

Rule 180:10-1-4 (Change in name) has been amended to impose the duty on the credit union to search state and federal governmental records regarding whether a new name is eligible for use and not infringing on another company's name. The new rule also removes the duty of the Banking Commissioner (the "Commissioner") to file the credit union's amended certificate of incorporation with the Secretary of State and requires the credit union to file its amended certificate. The proposed amendment also removes the Department's application fee associated with the name change.

Rule 180:10-1-5 (Bond requirements) is amended to require the same minimum coverages that are required for federal credit unions.

Rule 180:10-1-6 (Approved auditors) is amended to require the Board to review its list of approved auditors at least once per calendar year.

Proposed changes to rule 180:10-1-11 (Records and retention) remove the lengthy and detailed record retention schedule for numerous types of documents. The lengthy retention schedule is replaced by a proposed retention schedule that refers to other state or federal laws that already prescribe a retention schedule for certain documents (such as consumer disclosure documents). The proposed schedule also refers to statute of limitation laws when no state or federal law prescribes a retention period for specific records. The proposed amended schedule also allows the Commissioner to issue rulings, with the approval of the Board, that require credit unions to retain certain records for a period of time that is longer than may be required under the general rule.

Rule 180:10-1-14 (Assessments) is amended so that the payment deadline is changed from January 31 to February 5. The Credit Union Act already imposes a February 5th deadline in Title 6 O.S. § 2001.2.

Rule 180:10-1-16 (Suspicious activity reports) is a new rule that requires credit unions to file with the Department a copy of each suspicious activity report that it files with the federal government.

Rule 180:10-1-17 (Credit union branches) is a new rule relating to branch locations established by credit unions. The new rule requires credit unions to file an application with the Department and pay a \$400 fee. Department policy has required credit unions to file branch applications with the Department and receive approval from the Commissioner since 2005. The fee associated with the applications is new and is intended to defray the Department's personnel costs associated with processing, review, and analysis of the branch application. This fee is authorized by Title 6 O.S. 2001.2(A)(9).

Subchapter 3. In rule 180:10-3-1, it is clarified that a new credit union must have share insurance from the National Credit Union Administration ("NCUA") before it can be approved by the Board. In rule 180:10-3-3, the procedure for converting from a state-chartered credit union to a mutual savings bank is set forth - with an emphasis on federal law (*i.e.*, NCUA rules).

Rule 180:10-3-5 (Community field of membership) is amended to remove references to "rural service area" as a type of authorized community. Changes are also made to rule 180:10-3-5 to address the situation where the boundaries of a credit union's community (metropolitan statistical area) have been adjusted based on the latest census data.

Rule 180:10-3-8 (Field of membership list) is amended to remove the requirement to notify the Department of periodic changes to a credit union's list of select groups in its field of membership. Annual notification is still required.

Rule 180:10-3-9 (Field of membership disaffiliation) is revoked as obsolete.

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Subchapter 5. The primary changes to Subchapter 5 are to allow credit unions to offer any instruments and accounts authorized by the Act and to offer such other instruments and accounts as shall be approved by the NCUA for federally chartered credit unions. Rule 180:10-5-6 (Issuance of Accounts) is revoked because it limited the types of accounts that credit unions could offer. Changes are made to Rule 180:10-5-1 regarding the circumstances for, and amount of, dormant account fees.

AUTHORITY:

State Credit Union Board; 6 O.S., § 2001.2(A)(3) and (9).

COMMENT PERIOD:

Written and oral comments will be accepted during the period from January 3, 2009, through February 13, 2009, at: Oklahoma State Banking Department, 2900 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Attn: Dudley Gilbert

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Tuesday, February 17, 2009, at the State Banking Department, 2900 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105. Anyone who wishes to speak will be allowed a maximum of 5 minutes and must sign in at the door by 10:05 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the Banking Department with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing during the period from January 3, 2009, through February 13, 2009, at: Oklahoma State Banking Department, 2900 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, Attn: Dudley Gilbert.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by contacting Angela Morris at the State Banking Department, 2900 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105, (405) 521-2782.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement will be prepared and available at the State Banking Department office at the above address on and after January 17, 2009.

CONTACT PERSON:

Dudley Gilbert, Legal Counsel, State Banking Department, (405) 521-2782.

[OAR Docket #08-1449; filed 12-5-08]

TITLE 304. STATE USE COMMITTEE CHAPTER 10. OPERATIONAL PROCEDURES

[OAR Docket #08-1488]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

304:10-1-2 [AMENDED]
304:10-1-3 [AMENDED]
304:10-1-4 [AMENDED]
304:10-1-5 [AMENDED]
304:10-1-9 [AMENDED]
304:10-1-12 [AMENDED]

SUMMARY:

The proposed rule amendments will clarify the requirements of fair market determination, items suitable to procure and the procurement schedule. The proposed rule amendments will add definitions and new requirements for State Use vendors.

AUTHORITY:

State Use Committee; 74 O.S., Chapter 48, Sections 3009.A

COMMENT PERIOD:

Persons may submit written and oral comments to Gerry Smedley at P.O. Box 53218, 2401 N. Lincoln Blvd., Suite 206 Oklahoma City, OK 73152-3218 during the period from January 2, 2009 to February 4, 2009.

PUBLIC HEARING:

A public hearing will be held to provide an opportunity for persons to orally present their views. Each person will be allowed a maximum of 5 minutes to speak and must sign in at the door. The public hearing will be held on February 4, 2009 at 9:00 a.m. in the Chesapeake Room of the Oklahoma History Center located at 2401 N. Laird, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Gerry Smedley at the address above during the period from January 2, 2009 to February 4, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Department of Central Services' office located at 2401 N. Lincoln Blvd, Suite 116, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Gerry Smedley, P. O. Box 53218, Oklahoma City, OK 73152-3218.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement is being prepared and will be available for review after January 16, 2009 at the above address for the Department of Central Services' offices.

CONTACT PERSON:

Gerry Smedley (405) 522-8519

[OAR Docket #08-1488; filed 12-9-08]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 250. FEE SCHEDULE FOR
CONSUMER HEALTH SERVICES**

[OAR Docket #08-1453]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. License Classifications and Associated Fees For
- Consumer Health Services
- 310:250-3-1 [AMENDED]
- 310:250-3-2 [AMENDED]
- 310:250-3-3 [AMENDED]
- 310:250-3-6 [AMENDED]

SUMMARY:

310:250-3-1, 310:250-3-2, 310:250-3-3 The revisions to the rule increase fees associated with food service establishments, health facilities, state prisons, schools, non-profit institutions, temporary food services permits, drug operational permits, and lodging establishment operational permits. The proposal includes changes to no longer exempt from a license fee, non-profit institutions that use paid employees to operate their establishments, facilities or institutions. The cost of food service establishment permits and drug operational permits will be an initial fee of \$350.00, renewal fee of \$250.00 and late renewal of \$300.00. Health Facilities, State Prisons, Schools and Non-Profit Institutions will no longer be exempt and will be charged \$100.00 per license. The Temporary Food Service fee will be \$30.00 for three days and each day in excess will be \$15.00 per day. The cost of lodging establishment operational permits will be an initial fee of Class A (not more than 20 units) \$250.00, renewal of \$150.00 and late renewal of \$200.00; Class B (not more than 100 units) initial fee of \$300.00, renewal of \$200.00 and late renewal of \$250.00; and Class C (more than 100 units) initial fee of \$350.00, renewal of \$250.00 and late renewal of \$300.00 which will be used to offset the cost to provide consumers food that is safe, unadulterated and honestly presented in the State of Oklahoma. The proposal amends Subchapter 3, of the present Fee Schedule for Consumer Health Services in order to institute funding for Food Service Establishments, Health Facilities, State Prisons, Schools, Non-Profit Institutions, Temporary Food Service, Drug Operational permits, and Lodging establishment operational permits for the inspection programs and industry education activities. The proposed increased revenue will enable these programs to meet the budget demands for the operation and maintenance of these programs and reduce the public health

risk, due to insufficient inspections. 310:250-3-6 The current fee schedule for Public Bathing Place Construction Permits is set forth in Rule in at OAC 310:320-5-5 and is being moved to the License Classifications and Associated Fees for Consumer Health Services. This proposal is necessary to establish all fees assessed by Consumer Protection Division within the Department to be in one location of Rule. This change will help the Consumers of Oklahoma determine the cost of doing business in Oklahoma within in one area and prevent searching documents for fee schedules.

AUTHORITY:

Oklahoma State Board of Health, 63 O.S. Sections 1-104, 1-106.1 and 1-1118 et seq.

COMMENT PERIOD:

January 2, 2009 through February 12, 2009. Interested persons may discuss informally the proposed rules with staff of Consumer Protection Services; or before February 12, 2009, may submit written comment to Tressa Madden, Director, Consumer Protection Division, Protective Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

A hearing will be held as part of the regular meeting of the State Board of Health, February 12, 2009, which begins at 11:00 a.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before February 12, 2009, to Tressa Madden, Director, Consumer Protection Division, Protective Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or before February 12, 2009, may send electronic mail to tressam@health.ok.gov.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Consumer Health Division at the above address or by electronic mail request to tressam@health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement has been prepared and is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Tressa Madden, Director, Consumer Protection Division, Consumer Protection Division (405) 271-5243, email: tressam@health.ok.gov

[OAR Docket #08-1453; filed 12-5-08]

Notices of Rulemaking Intent

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 257. FOOD SERVICE ESTABLISHMENTS

[OAR Docket #08-1454]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 257. Food Service Establishments [AMENDED]

SUMMARY:

The current Rule sets forth definitions and parameters to safeguard public health and provide to consumers food that is safe, unadulterated and honestly presented. The proposed rule changes involve the addition of language to clarify existing regulations and correct items of reference. The proposed rule changes also address the definition of Food Service Establishment - fee exempt status and no longer "exempt" them from a license fee if they use paid persons to prepare or serve food on its behalf. The Department presently encumbers the cost of inspecting establishments that are currently defined as "fee exempt". The changes to 310:257 will update food service establishment rule that were printed in error and address the risks of morbidity and mortality caused by foodborne infection. These rule changes seek to further the Department's goal to optimize resources and align resources to meet our key priorities of food safety. If the proposed rule is not adopted the consumers will not be protected by current public health practices and funding for public health services charged with regulating the food service industry will experience further reduction in services as the Department competes for increasingly scarce resources.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. Section 1-104 et seq., Section 1-1114, and Section 1-1118

COMMENT PERIOD:

January 2, 2009 through February 12, 2009. Interested persons may discuss informally the proposed rules with staff of Consumer Protection; or before February 12, 2009 submit written comment to Tressa Madden, Director, Consumer Protection Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

A hearing will be held as part of the regular meeting of the State Board of Health, February 12, 2009, which begins at 11:00 a.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the

business entity due to compliance with the proposed rules. Business entities may submit this information in writing before February 12, 2009 to Tressa Madden, Director, Consumer Protection Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to tressam@health.ok.gov.

COPIES OF PURPOSED RULES:

Copies of the proposed rules may be obtained from the Consumer Health Services at the above address or by electronic mail request to tressam@health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement has been prepared and is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Tressa Madden, Director, Consumer Protection Division, Protective Health Services, (405) 271-5243

[OAR Docket #08-1454; filed 12-5-08]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 320. PUBLIC BATHING PLACESPLACE OPERATIONS

[OAR Docket #08-1455]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

10:320-1-3 [NEW]

Subchapter 5. Forms and Tables

310:320-5-5 [AMENDED]

SUMMARY:

310:320-1-3 This section provides that a public bathing place operator must possess a construction permit in order for the operator to apply for and receive a license in order to operate a public bathing place open to the public, which is required pursuant to 63 O.S.Supp. 2004, § 1-1013.1; and sets forth the process to apply for a license for and to operate a public bathing place open to the public, including access for inspections, and the basis for summary suspension, or suspension or revocation after a hearing, of a license to operate a public bathing place.

310:320-5-5 The current fee schedule for Public Bathing Place Construction Permits as set forth in this Chapter will be revoked and will be adopted for codification in Chapter 310:250, Fee Schedule for Consumer Health Services. This proposal is necessary to establish all fees assessed by Consumer Protection Division within the Department to be in one administrative rule Chapter. This change will help the Consumers of Oklahoma determine the cost of doing business in Oklahoma within in one area and prevent searching documents for fee schedules.

Additionally, this section is amended to reference the application form used to apply for a license to operate a public bathing place open to the public.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S.Supp. 2004, § 1-1013.1 and 63 O.S. 2001, § 1-1014

COMMENT PERIOD:

January 2, 2009 through February 12, 2009. Interested persons may discuss informally the proposed rules with Tressa Madden, Director, Consumer Protection Division; or may before February 12, 2009, submit written comment to Tressa Madden, Director, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

A hearing will be held as part of the regular meeting of the State Board of Health, February 12, 2009, which begins at 11:00 a.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before February 12, 2009 to Tressa Madden, Director, Consumer Protection Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to tressam@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Consumer Protection Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299 or via electronic mail request to tressam@health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement has been prepared and is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

Tressa Madden, Director, Consumer Protection Division, (405) 271-5243

[OAR Docket #08-1455; filed 12-5-08]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 515. COMMUNICABLE DISEASE AND INJURY REPORTING

[OAR Docket #08-1456]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. Disease and Injury Reporting Requirements
- 310:515-1-1.1 [AMENDED]
- 310:515-1-3 [AMENDED]
- 310:515-1-4 [AMENDED]
- 310:515-1-7 [AMENDED]
- 310:515-1-8 [AMENDED]

SUMMARY:

The rules are being amended to reflect changes in diseases and conditions to report and organisms to send to the Oklahoma State Department of Health.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. 1981, §1-502.2 and § 1-503.

COMMENT PERIOD:

January 2, 2009 through February 12, 2009. Interested persons may discuss informally the proposed rules with Lauri Smithee, Acute Disease Service; or may before February 12, 2009, submit written comment to Lauri Smithee, Chief, Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

A hearing will be held as part of the regular meeting of the State Board of Health, February 12, 2009, which begins at 11:00 a.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before February 12, 2009 to Lauri Smithee, Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to LauriS@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Lauri Smithee, Acute Disease Service, (405) 271-4060

[OAR Docket #08-1456; filed 12-5-08]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 525. DIRECT SERVICES TO INDIVIDUALS

[OAR Docket #08-1457]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Disease and Prevention Services [NEW]
310:525-5-1. Purpose [NEW]
310:525-5-2. Fees [NEW]

SUMMARY:

The rules are being amended to enable fees to be charged for disease and prevention services, such as tuberculosis. Fees may be charged for services that are not directly related to disease control and are performed through the state health department or the county health departments.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. 1991, §1-104 et seq. §§ 1-106; and 63 O.S. § 1-106.1.

COMMENT PERIOD:

January 2, 2009 through February 12, 2009. Interested persons may discuss informally the proposed rules with Lauri Smithee, Acute Disease Service; or may before February 12, 2009, submit written comment to Lauri Smithee, Chief, Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

A hearing will be held as part of the regular meeting of the State Board of Health, February 12, 2009, which begins at 11:00 a.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before February 12, 2009 to Lauri Smithee, Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to LauriS@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Acute Disease Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Lauri Smithee, Acute Disease Service, (405) 271-4060.

[OAR Docket #08-1457; filed 12-5-08]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 530. FAMILY PLANNING CENTERS

[OAR Docket #08-1458]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking intent

RULES:

310:530-1-4 [AMENDED]

SUMMARY:

This proposal amends the existing rule. This action will clarify the process for inclusion of an inflationary adjustment in development of the schedule of fees.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. 2002, Sections 1-533 et. seq.

COMMENT PERIOD:

January 2, 2009 through February 12, 2009. Interested persons may discuss informally the proposed rules with Suzanna Dooley, MS, ARNP Chief, Maternal and Child Health Service; or may before February 12, 2009, submit written comment to Suzanna Dooley, MS, ARNP Chief, Maternal and Child Health Service, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may, at the hearing, ask to present written or oral views.

PUBLIC HEARING:

A hearing will be held as part of the regular meeting of the State Board of Health, February 12, 2009, which begins at 11:00 a.m. in Room 307 of the State Health Department Building, 1000 N.E. 10th Street, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before February 12, 2009 to Suzanna Dooley, MS, ARNP Chief, Maternal and Child Health Service, Oklahoma State

Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to suzannad@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of Maternal and Child Health Service, Family Health Services, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning January 2, 2009 at the same location listed above for reviewing and obtaining copies of the proposed rules.

CONTACT PERSON:

Suzanna Dooley, MS, ARNP Chief, Maternal and Child Health Service, (405) 271-4480

[OAR Docket #08-1458; filed 12-5-08]

**TITLE 310. OKLAHOMA STATE
DEPARTMENT OF HEALTH
CHAPTER 641. EMERGENCY MEDICAL
SERVICES**

[OAR Docket #08-1459]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 3. Ambulance Services
 - Part 1. General Provisions
 - 310:641-3-2 [AMENDED]
 - Part 7. Air Ambulances
 - 310:641-3-31 [AMENDED]
 - 310:641-3-32 [AMENDED]
 - 310:641-3-33 [AMENDED]
 - 310:641-3-34 [AMENDED]
 - 310:641-3-35 [AMENDED]
 - 310:641-3-36 [AMENDED]
 - 310:641-3-37 [AMENDED]
 - 310:641-3-38 [AMENDED]
 - 310:641-3-39 [AMENDED]
 - Part 9. Specialty Care
 - 310:641-3-43 [AMENDED]
 - Part 11. Medical Control
 - 310:641-3-50 [AMENDED]
 - Part 19. Inspection, Correction, Actions
 - 310:641-3-91 [AMENDED]
- Subchapter 5. Personnel Licenses and Certification
 - Part 3. Emergency Medical Personnel Licenses
 - 310:641-5-11 [AMENDED]
 - 310:641-5-13 [AMENDED]
 - 310:641-5-14 [AMENDED]
 - 310:641-5-14.1 [NEW]
 - 310:641-5-15 [AMENDED]
 - 310:641-5-17 [AMENDED]
 - Part 5. Procedures Authorized ~~Instructor Qualifications~~

- 310:641-5-30 [AMENDED]
- Subchapter 7. Training Programs
 - Part 3. Training Programs
 - 310:641-7-10 [AMENDED]
 - 310:641-7-13 [AMENDED]
 - 310-641-7-15 [AMENDED]

SUMMARY:

310:641-3-2 The current Rule does not define the acuity of patients requiring specialty care. This proposal establishes specific definitions for the type of patients requiring this level of care. This change is necessary to ensure appropriate staffing and medical control for patients requiring higher levels of care. The effect of the Rule change will be to define specialty care as addressed in the rule. 310:641-3-31 through 310:641-3-39 The current Rule requires certain safety and air operations requirements that fall under the general purview of the Federal Aviation Administration. This change is necessary because such rules in other states have been set aside in federal district court when challenged. The effect of the Rule change will be to limit Oklahoma's law to patient care requirements only. The proposal deletes any references that appear to conflict with federal authority. 310:641-3-43 The current rule does not provide clear guidance as to the level of training of staff and the types of equipment required by specialty care patients as defined in the proposed definition. This change is necessary to define the training and equipment care of such patients may require. The effect of the rule is to ensure appropriate training and equipment are available to high acuity patients. 310:641-3-50 The current rule requires certain training and documentation for a physician to serve as a medical director for an ambulance service. This change is necessary to update clarify the training and documentation required. The effect of the change will be to update the language of the requirements. 310:641-3-91 The current rule does not provide sufficient guidance regarding orders of correction. This change is necessary to define the requirements for a sufficient plan of correction, acceptable time frames for responses and corrections and the consequences for failure to respond with the requirements. The effect of the change is to clarify the requirements and time frames for compliance and the consequences of failure. 310:641-5-11 The current rule does not permit relicensure on the basis of recertification by the National Registry of EMTs. The change is necessary to allow EMTs to recertify and relicense through the same process. The effect of the change is to allow relicensure through NREMT recertification. 310:641-5-13 The current rule sets a licensure period concurrent with the certification period of the National Registry of EMTs. The change is necessary to allow EMTs to submit and receive National Registry recertification materials prior to submitting the recertification as a basis for relicensure. The effect of the change is to extend the licensure period for the necessary three months. 310:641-5-14 and 310:641-5-14.1 The current rule does not contemplate relicensure through recertification by the National Registry of EMTs. The change is necessary to establish a separate process for EMTs with and without National Registry Certification. The effect of

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the rule is to establish a simplified relicensure process for EMTs holding certification by the National Registry of EMTs and a separate relicensure track for EMTs not holding such certification. 310:641-5-15 The current rules do are not clear regarding the Department's option to allow an extension of the relicensure period for hardship. The change is necessary to establish the circumstances whereby such extensions may be granted, and the allowable period. The effect of the rule is to define the circumstances and the period. 310:641-5-17 The current rule establishes a "re-entry" process for lapsed licenses. The change is necessary to eliminate obsolete language. The effect is to remove obsolete language. 310:641-5-30 The current rule establishes the standard of care for EMTs. The change is necessary to update the scope of practice for EMT-Basic and EMT-Intermediate. The effect of the rule is to specify medications and procedures that may be administered at each licensure level. 310:641-7-10 The current rule defines levels of EMT training institutions. The change is necessary to clarify the types of courses that can be taught in the various levels of EMT training institutions. The effect of the rule is to clarify the appropriate nomenclature and establish the classes that can be taught by each type of training institution. 310:641-7-13 The current rule includes obsolete nomenclature. The change is necessary to correct the obsolete language. The effect is to correct the obsolete language. 310:641-7-15 The current rule establishes the process for Department approval of EMT training courses. The change is needed to clarify the period and process for amending rosters. The effect is to clarify the roster approval process.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. Section 1-104 and 1-2501 et al.

COMMENT PERIOD:

January 2, 2009 through February 12, 2009. Interested persons may discuss informally the proposed rules with R. Shawn Rogers, Director, EMS Division; or may before February 12, 2009, submit written comment to R. Shawn Rogers, Director, EMS Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299; or may at the hearing ask to present written or oral views.

PUBLIC HEARING:

A hearing will be held as part of the regular meeting of the State Board of Health, February 12, 2009, which begins at 11:00 a.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before February 12, 2009 to R. Shawn Rogers, Director, EMS

Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by e-mail to shawnr@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the EMS Division, Oklahoma State Department of Health, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299 or via electronic mail request to ems@health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement has been prepared and is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

R. Shawn Rogers, Director, EMS Division, (405) 271-4027

[OAR Docket #08-1459; filed 12-5-08]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH CHAPTER 664. HOME CARE ADMINISTRATOR CERTIFICATION

[OAR Docket #08-1460]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. Initial Certificate Process

310:664-3-3 [AMENDED]

310:664-3-5 [AMENDED]

310:664-3-6 [AMENDED]

Subchapter 5. Preparedness Program

310:664-5-2 [AMENDED]

Subchapter 11. Renewal of Certification

310:664-11-1 [AMENDED]

310:664-11-3 [NEW]

SUMMARY:

310:664-3-3, certificate by completion of the OHCAPA (Oklahoma Home Care Administrator Preparedness Assessment), this rule sets forth the requirements and fee for applying for an initial certificate as a Home Care Administrator. 310:664-3-5, deeming application process, this rule sets forth the requirements and fee for applying for deemed status on the Home Care Administrator registry. 310:664-3-6, provisional certificate, this rule sets forth the requirements and fee for applying for provisional status on the Home Care Administrator registry. 310:664-5-2, approved programs, this rule sets forth the approval process and fee for a Home Care Administrator preparedness program. 310:664-11-1, certification renewal process, this rule sets forth the renewal process and fee for a Home Care Administrator certificate. 310:664-11-3, re-issuance of certificate, this new rule sets forth the process and fee to obtain a duplicate or amended Home Care Administrator certificate. This proposal amends the fees in each of the sections listed to reflect the costs of processing

the application. 310:664-11-3, re-issuance of certificate, this new rule sets forth the process and fee to obtain a duplicate or amended Home Care Administrator certificate. These changes are necessary because the current fees do not reflect agency costs. The effect of the Rule change will be to have fees commensurate with the cost of providing the service and having the regulated profession pay for a greater portion of their costs of regulation thereby reducing the re-allocation of funds from other public health services.

AUTHORITY:

Oklahoma State Board of Health; 63 O.S. Section 1-104, 63 O.S. 1-106.1, and 63 O.S. Section 1-1962a

COMMENT PERIOD:

January 2, 2009 through February 12, 2009. Interested persons may informally discuss the proposed rules with staff. Before February 12, 2009, interested persons may submit written comments to James Joslin, Chief, Health Resources Development Service, Protective Health Services, Oklahoma State Department of Health, 1000 NE 10th Street, Oklahoma City, OK 73117-1299, or before February 12, 2009, may send electronic mail to james@health.ok.gov, or may ask to present written or oral views at the hearing.

PUBLIC HEARING:

A hearing will be held as part of the regular meeting of the State Board of Health, February 12, 2009, which begins at 11:00 a.m. in Room 307 of the Oklahoma State Department of Health Building, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing before February 12, 2009 to James Joslin at the above address or to james@health.ok.gov.

COPIES OF PROPOSED RULES:

The proposed rules may be obtained for review from staff of the Health Resources Development Service, 1000 N.E. 10th Street, Oklahoma City, OK 73117-1299, or by electronic mail request to james@health.ok.gov.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement has been prepared and is available at the location listed above for obtaining copies of the rule.

CONTACT PERSON:

James Joslin, Chief, Health Resources Development Service, Protective Health Services, Oklahoma State Department of Health, 405-271-6868

[OAR Docket #08-1460; filed 12-5-08]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 3. ADMINISTRATIVE SERVICES**

[OAR Docket #08-1463]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 13. Office of Public Integrity
377:3-13-43. Staff Requirements [AMENDED]

SUMMARY:

Subchapter 13 is being changed to clarify which type of first aid training is needed and how often recertification is required.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from January 2, 2009 through February 4, 2009 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Teresa Wakolee. Email comments may be sent to Teresa.Wakolee@oja.ok.gov. During the same time period, oral comments may be made to Teresa Wakolee @ (405) 530-2854 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on February 3, 2009 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teresa Wakolee at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Teresa Wakolee, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on or before January 16, 2009 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Teresa Wakolee, Operations Supervisor, (405) 530-2854

[OAR Docket #08-1463; filed 12-8-08]

Notices of Rulemaking Intent

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 5. OFFICE OF THE PAROLE BOARD

[OAR Docket #08-1464]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 3. Pre-release Planning [AMENDED]
- Subchapter 5. Hearings [AMENDED]

SUMMARY:

The Office of Juvenile Affairs parole rules are being changed to modify the parole process.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from January 2, 2009 through February 4, 2009 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Teresa Wakolee. Email comments may be sent to Teresa.Wakolee@oja.ok.gov. During the same time period, oral comments may be made to Teresa Wakolee @ (405) 530-2854 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on February 3, 2009 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teresa Wakolee at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Teresa Wakolee, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on or before January 16, 2009 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Teresa Wakolee, Operations Supervisor, (405) 530-2854

[OAR Docket #08-1464; filed 12-8-08]

TITLE 377. OFFICE OF JUVENILE AFFAIRS CHAPTER 10. OFFICE OF JUVENILE AFFAIRS

[OAR Docket #08-1465]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 377:10-1-4. Use of physical force and/or mechanical restraints [AMENDED]

SUMMARY:

Rule revisions in Chapter 10 are needed to outline new duties for employees.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from January 2, 2009 through February 4, 2009 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Teresa Wakolee. Email comments may be sent to Teresa.Wakolee@oja.ok.gov. During the same time period, oral comments may be made to Teresa Wakolee @ (405) 530-2854 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on February 3, 2009 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teresa Wakolee at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Teresa Wakolee, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on or before January 16, 2009 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Teresa Wakolee, Operations Supervisor, (405) 530-2854

[OAR Docket #08-1465; filed 12-8-08]

**TITLE 377. OFFICE OF JUVENILE AFFAIRS
CHAPTER 35. INSTITUTIONAL SERVICES**

[OAR Docket #08-1466]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
- 377:35-1-2. Definitions [AMENDED]
- Subchapter 3. Security and Control
- 377:35-3-7. Contraband [AMENDED]
- 377:35-3-8. Searches and control of contraband/evidence [AMENDED]

SUMMARY:

Rule revisions in Subchapter 1 and Subchapter 3 are needed to be in compliance with PbS definitions.

AUTHORITY:

The Board of Juvenile Affairs, pursuant to 10 O.S., § 7302-1.1(H) and 7302-1.1(I) and 75 O.S. §302(A)(1).

COMMENT PERIOD:

Written comments will be accepted during regular business hours from January 2, 2009 through February 4, 2009 at: Office of Juvenile Affairs, 3812 N. Santa Fe, P.O., Box 268812, Oklahoma City, OK 73126-8812, Attn: Teresa Wakolee. Email comments may be sent to Teresa.Wakolee@oja.ok.gov. During the same time period, oral comments may be made to Teresa Wakolee @ (405) 530-2854 during regular business hours.

PUBLIC HEARING:

A Public Hearing will be held at 9:00 a.m. on February 3, 2009 at the Office of Juvenile Affairs, 3812 N. Santa Fe, 4th Floor Board Room, Oklahoma City, OK. 73126-8812.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The Office of Juvenile Affairs requests that business entities affected by these proposed rules provide OJA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teresa Wakolee at the above address during the comment period.

COPIES OF THE PROPOSED RULES:

Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs' office located at 3812 N. Santa Fe, Oklahoma City, OK. Copies may also be obtained by written request mailed to the attention of Teresa Wakolee, Office of Juvenile Affairs, P.O. Box 268812, Oklahoma City, OK 73126.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement is being prepared and will be available for review on or before January 16, 2009 at the above address for the Office of Juvenile Affairs.

CONTACT PERSON:

Teresa Wakolee, Operations Supervisor, (405) 530-2854

[OAR Docket #08-1466; filed 12-8-08]

**TITLE 395. OKLAHOMA LAW
ENFORCEMENT RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #08-1461]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 395:1-1-3. Board meetings and records [AMENDED]

SUMMARY:

The proposed revisions to the chapters listed above is to bring the rules in compliance with the legislative changes that have been made over the last three years. The revisions make changes such as our office location, the addition of paying qualified health insurance premiums, clean up language from the legislature and the internal revenue changes enacted concerning direct rollovers and trustee to trustee transfers.

AUTHORITY:

Oklahoma Law Enforcement Retirement System; Title 47 §2-300- 2-315.

COMMENT PERIOD:

Persons wishing to present their view orally or in writing may do so from January 9, 2009 through February 9, 2009 at the following address: Oklahoma Law Enforcement Retirement System, 421 NW 13th Street, Suite 100, Oklahoma City, OK 73103.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Ginger Poplin, Executive Director, (405) 522-4931 no later than 5:00 p.m. on February 1, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Law Enforcement Retirement System, 421 NW 13th Street, Suite 100, Oklahoma City, OK 73103.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Law Enforcement Retirement System at the above address beginning January 9, 2008.

CONTACT PERSON:

Ginger Poplin, Executive Director, (405) 522-4931

[OAR Docket #08-1461; filed 12-5-08]

TITLE 395. OKLAHOMA LAW ENFORCEMENT RETIREMENT SYSTEM CHAPTER 10. RETIREMENT AND PENSION BENEFIT PROGRAM

[OAR Docket #08-1462]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- 395:10-1-4. Benefits [AMENDED]
- 395:10-1-4.3. Qualified health insurance premiums [NEW]
- 395:10-1-10. Sick leave as credited service [AMENDED]
- 395:10-1-11.1. Direct Rollovers [AMENDED]
- 395:10-1-11.3. Direct Trustee-to-Trustee Transfer by Nonspouse Beneficiary [NEW]
- 395:10-1-15. Qualified Domestic Orders - QDRO'S [AMENDED]
- 395:10-1-16. Direct Payment of Qualified Health Insurance Premiums [NEW]

SUMMARY:

The proposed revisions to the chapter listed above is to bring the rules in compliance with the legislative changes that have been made over the last three years. The revisions make changes such as our office location, the addition of paying qualified health insurance premiums, clean up language from the legislature and the internal revenue changes enacted concerning direct rollovers and trustee to trustee transfers.

AUTHORITY:

Oklahoma Law Enforcement Retirement System; Title 47 §2-300- 2-315.

COMMENT PERIOD:

Persons wishing to present their view orally or in writing may do so before from January 9, 2009 through February 9, 2009 at the following address: Oklahoma Law Enforcement Retirement System, 421 NW 13th Street, Suite 100, Oklahoma City, OK 73103.

PUBLIC HEARING:

A public hearing has not been scheduled; however, pursuant to 75 O.S., Section 303(B)(9), "persons may demand a hearing" by contacting Ginger Poplin, Executive Director, (405) 522-4931 no later than 5:00 p.m. on February 1, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Oklahoma Law Enforcement Retirement System, 421 NW 13th Street, Suite 100, Oklahoma City, OK 73103.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Law Enforcement Retirement System at the above address beginning January 9, 2008.

CONTACT PERSON:

Ginger Poplin, Executive Director, (405) 522-4931

[OAR Docket #08-1462; filed 12-5-08]

TITLE 530. OFFICE OF PERSONNEL MANAGEMENT CHAPTER 10. MERIT SYSTEM OF PERSONNEL ADMINISTRATION RULES

[OAR Docket #08-1468]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 7. Salary and Payroll
 - Part 1. Salary and Rates of Pay
 - 530:10-7-12 [AMENDED]
 - 530:10-7-20 [AMENDED]
 - 530:10-7-24 [AMENDED]
 - 530:10-7-26 [AMENDED]
 - Subchapter 9. Recruitment and Selection
 - Part 1. General Provisions
 - 530:10-9-9 [AMENDED]
 - Subchapter 15. Time and Leave
 - Part 5. Miscellaneous Types of Leave
 - 530:10-15-40 [AMENDED]
 - 530:10-15-43 [AMENDED]
 - Subchapter 17. Performance Evaluation and Career Enhancement Programs
 - Part 15. State Mentor Program [REVOKED]
 - 530:10-17-150 [REVOKED]
 - 530:10-17-151 [REVOKED]
 - 530:10-17-152 [REVOKED]
 - 530:10-17-153 [REVOKED]
 - 530:10-17-154 [REVOKED]
 - 530:10-17-155 [REVOKED]
 - 530:10-17-156 [REVOKED]

SUMMARY:

The proposed amendments to 530:10-7-12 are to clarify payment of overtime compensation; the proposed amendments to 530:10-7-20, 530:10-7-24 and 530:10-7-26 are to provide clarification regarding the use of market adjustments, skill-based pay adjustments and equity-based pay adjustments; the proposed amendments to 530:10-9-9 address the use of unauthorized materials or electronic devices during merit examinations; the proposed amendments to 530:10-15-40 deletes language that references a revoked merit rule; the proposed amendments to 530:10-15-43 are to clarify holiday pay provisions; effective November 1, 2007, Title 74 O.S. §840-3.8 (Mentor Program) was repealed, and the proposed

amendments to 530:10-17-150 through 530:10-17-156 seek to revoke the State Mentor Program merit rules.

AUTHORITY:

The Administrator of the Office of Personnel Management: 74 O.S., §§ 840-1.6A, 840-2.17, 840-2.20, 840-3.8.

COMMENT PERIOD:

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Kara I. Smith, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to kara.smith@opm.ok.gov. The comment period will begin on Friday, January 2, 2009. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Wednesday, February 4, 2009.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at 2:00 p.m., Tuesday, February 3, 2009, at the State Office of Personnel Management, Jim Thorpe Building, 2101 N. Lincoln, OPM Conference Room, Fifth Floor, Room 560, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained beginning Friday, January 2, 2009, between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 521-2177.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning Friday, January 16, 2009. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

CONTACT PERSON:

Kara I. Smith, General Counsel, (405) 522-1736.

[OAR Docket #08-1468; filed 12-8-08]

**TITLE 530. OFFICE OF PERSONNEL
MANAGEMENT
CHAPTER 15. VOLUNTARY PAYROLL
DEDUCTION**

[OAR Docket #08-1467]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
530:15-1-1 [AMENDED]

530:15-1-2 [AMENDED]

530:15-1-7 [AMENDED]

530:15-1-9 [AMENDED]

Subchapter 3. Administrative Provisions

530:15-3-7 [AMENDED]

530:15-3-9 [AMENDED]

530:15-3-14 [AMENDED]

SUMMARY:

The purpose of the proposed amendments to 530:15-1-1, 530:15-1-7, 530:15-1-9 and 530:15-3-14 provide clarification and harmonize the rule for consistent use of language; the proposed amendments to 530:15-1-2 and 530:15-3-7 update the rule to reflect the current statutory provision in Title 62 O.S. §7.10 and correct statutory cites; the proposed amendments to 530:15-3-9 revise the provisions governing supplemental insurance or retirement plan and request for voluntary payroll deduction status.

AUTHORITY:

The Administrator of the Office of Personnel Management; Title 62 O.S., § 7.10, Title 74 O.S., §§ 842 and 843 and Title 75 O.S., §§ 302, 305 and 307.

COMMENT PERIOD:

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Mr. Oscar B. Jackson, Jr., Administrator, ATTENTION: Kara I. Smith, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to kara.smith@opm.ok.gov. The comment period will begin on Friday, January 2, 2009. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Wednesday, February 4, 2009.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at 2:00 p.m., Tuesday, February 3, 2009, at the State Office of Personnel Management, Jim Thorpe Building, 2101 N. Lincoln, OPM Conference Room, Fifth Floor, Room 560, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A:

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained beginning Friday, January 2, 2009, between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 521-2177.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning Friday, January 16, 2009. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

Notices of Rulemaking Intent

CONTACT PERSON:

Kara I. Smith, General Counsel, (405) 522-1736.

[OAR Docket #08-1467; filed 12-8-08]

**TITLE 550. OKLAHOMA POLICE PENSION
AND RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #08-1469]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Collections and Disbursements
550:1-7-4 [AMENDED]

SUMMARY:

The proposed amendments to OAC 550:1-7-4 allow for payments to be made to an estate without the estate being probated as provided for in 58 O.S. Sections 393 and 394 if the fair market value of property located in the State of Oklahoma owned by the decedent and subject to disposition by will or intestate succession at the time of the decedent's death is less than \$20,000.00.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., February 11, 2009, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., on Wednesday, February 18, 2009, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma

Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on January 16, 2009.

CONTACT PERSON:

Marla Hensley, Administrative Assistant (405) 840-3555 Ext. 236.

[OAR Docket #08-1469; filed 12-8-08]

**TITLE 550. OKLAHOMA POLICE PENSION
AND RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #08-1470]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 7. Collections and Disbursements
550:1-7-2 [AMENDED]

SUMMARY:

The proposed amendments to OAC 550:1-7-2 remove superfluous language that was previously needed to phase in the requirement that monthly benefit payments be made by direct deposit.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., February 11, 2009, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., on Wednesday, February 18, 2009, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on January 16, 2009.

CONTACT PERSON:

Marla Hensley, Administrative Assistant (405) 840-3555 Ext. 236.

[OAR Docket #08-1470; filed 12-8-08]

**TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM
CHAPTER 10. RETIREMENT AND PENSION BENEFIT PROGRAM**

[OAR Docket #08-1471]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

550:10-1-5 [AMENDED]

SUMMARY:

The proposed amendments to OAC 550:10-1-5 provide that municipalities applying for a disability benefit for a member must submit a fitness for duty physical completed by physician licensed to practice medicine in the State of Oklahoma.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., February 11, 2009, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., on Wednesday, February 18, 2009, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on January 16, 2009.

CONTACT PERSON:

Marla Hensley, Administrative Assistant (405) 840-3555 Ext. 236.

[OAR Docket #08-1471; filed 12-8-08]

**TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM
CHAPTER 15. OKLAHOMA POLICE DEFERRED OPTION PLAN**

[OAR Docket #08-1472]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

550:15-1-2 [AMENDED]

SUMMARY:

The proposed amendments to OAC 550:15-1-2 pertain to the methods of payment available to members participating in the Oklahoma Police Deferred Option.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., February 11, 2009, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., on Wednesday, February 18, 2009, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Notices of Rulemaking Intent

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on January 16, 2009.

CONTACT PERSON:

Marla Hensley, Administrative Assistant (405) 840-3555 Ext. 236.

[OAR Docket #08-1472; filed 12-8-08]

TITLE 550. OKLAHOMA POLICE PENSION AND RETIREMENT SYSTEM CHAPTER 20. PURCHASE OF TRANSFERRED CREDITED SERVICE

[OAR Docket #08-1473]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

550:20-1-2 [AMENDED]

SUMMARY:

The proposed amendments to OAC 550:20-1-2 change verbiage to non-specific gender.

AUTHORITY:

Oklahoma Police Pension and Retirement Board; 11 O.S. Sections 50-105.2(A)(B), 50-106(3)

COMMENT PERIOD:

Persons wishing to present their views may do so orally or in writing. Oral comments must be made at the public hearing. Those making oral comments must provide written notification of their intent to speak and shall specify the requested action, the impact of the requested action, and the desired outcome. Each person will be allowed a maximum of 10 minutes to speak and must sign in at the door. All written comments and notifications of intent to speak at the public hearing must be received by 4:30 p.m., February 11, 2009, at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m., on Wednesday, February 18, 2009, in the Board Room of the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, Oklahoma 73116.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

n/a

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained for review at the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., Section 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma Police Pension and Retirement System, 1001 N.W. 63rd Street, Suite 305, Oklahoma City, OK 73116, beginning on January 16, 2009.

CONTACT PERSON:

Marla Hensley, Administrative Assistant (405) 840-3555 Ext. 236.

[OAR Docket #08-1473; filed 12-8-08]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES CHAPTER 3. MANAGEMENT SERVICES DIVISION

[OAR Docket #08-1445]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Policy development and program standards

Part 1. General Provisions

612:3-5-1. Purpose [AMENDED]

Part 3. Policy Development

612:3-5-12. Policy Development [AMENDED]

612:3-5-13. Drafting of new or revised policy [AMENDED]

SUMMARY:

Updating language by removing the reference to forms; specifying that the Policy Development Unit manages and maintains Departmental regulations but not departmental memoranda; requiring the appropriate Program Administrator to provide reasons for (and budget impact of) policy changes.

AUTHORITY:

Commission for Rehabilitation Services; 74 O.S. § 166.2

COMMENT PERIOD:

Written and oral comments will be accepted January 02, 2009 through February 4, 2009 during regular business hours by contacting Larry Bishop, Department of Rehabilitation Services, 3535 NW 58th Suite 500, Oklahoma City, Oklahoma 73112, Telephone 405-951-3408 VOICE/TDD.

PUBLIC HEARING:

Monday, February 2, 2009,

4:00 P.M. - 6:00 P.M.,

Department of Rehabilitation Services

2nd Floor Conference Room,

3535 N.W. 58th

Oklahoma City, Oklahoma

Tuesday, February 3, 2009,

1:00 P.M. - 3:00 P.M.,

Total Source for Hearing loss and Access

8740 E. 11th, Conference Room

Tulsa, Oklahoma

Wednesday, February 4, 2009,

1:00 P.M. - 3:00 P.M.,
Great Plains Technical Center
4500 S.W. Lee Blvd., Bldg 300, Room 301A
Lawton, Oklahoma

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department of Rehabilitation Services (DRS) requests that business entities affected by these rules provide the DRS, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Policy Development Unit, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, Oklahoma 73112.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available after January 02, 2009, at the Department of Rehabilitation Services office at the above address.

CONTACT PERSON:

Larry Bishop, Rulemaking Liaison, (405) 951-3408

[OAR Docket #08-1445; filed 12-1-08]

**TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES
CHAPTER 10. VOCATIONAL REHABILITATION AND VISUAL SERVICES**

[OAR Docket #08-1446]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1, General Provisions
- 612:10-1-2. Definitions [AMENDED]
- Subchapter 3, Client Participation in Cost of Services
- 612:10-3-1. Guidelines for determining client participation in service costs [AMENDED]
- 612:10-3-4. Services exempt from client participation in service costs [AMENDED]
- Subchapter 7, Vocational Rehabilitation and Visual Services
- Part 1. Scope of Vocational Rehabilitation and Visual Services
- 612:10-7-4. Basic eligibility requirements for vocational rehabilitation services [AMENDED]
- Part 5. Case Status and Classification System
- 612:10-7-50. Eligibility - accepted for services and IPE under development [AMENDED]
- 612:10-7-62. Post-employment services [AMENDED]
- Part 9. Actions Requiring Review and Approval

- 612:10-7-87. Actions requiring supervisor's approval [AMENDED]
- 612:10-7-88. Actions requiring field coordinator's approval [AMENDED]
- Part 13. Supportive Services
- 612:10-7-131. Transportation [AMENDED]
- Part 15. Training
- 612:10-7-152. Payment of tuition and fees at colleges and universities [AMENDED]
- Part 21. Purchase of Equipment, Occupational Licenses and Certificates
- 612:10-7-219. Purchase of motor vehicles [AMENDED]
- 612:10-7-220. ~~Purchase of special equipment for motor vehicles~~ Vehicle modification services [AMENDED]
- Part 23. Self-employment Programs and Other Services
- 612:10-7-233. Special consideration in state government employment for persons with severe disabilities [AMENDED]

SUMMARY:

The proposed changes to Chapter 10 involve adding a definition for "severe disability" to eliminate confusion and match state law; clarifies exemptions to client participation in service costs; clarifies eligibility of diabetics and substance abuse clients if there is a substantial impediment to employment; removes the exclusion of post-employment services for the purpose of upgrading a person's financial status; pays a transportation allowance based on actual fuel costs and average car mileage; and allows the agency to assist a client in obtaining a vehicle with modifications already installed thereby reducing agency and client costs.

AUTHORITY:

Commission for Rehabilitation Services; 74 O.S. § 166.2

COMMENT PERIOD:

Written and oral comments will be accepted January 02, 2009 through February 4, 2009 during regular business hours by contacting Larry Bishop, Department of Rehabilitation Services, 3535 NW 58th Suite 500, Oklahoma City, Oklahoma 73112, Telephone 405-951-3408 VOICE/TDD.

PUBLIC HEARING:

Monday, February 2, 2009,
4:00 P.M. - 6:00 P.M.,
Department of Rehabilitation Services
2nd Floor Conference Room,
3535 N.W. 58th
Oklahoma City, Oklahoma
Tuesday, February 3, 2009,
1:00 P.M. - 3:00 P.M.,
Total Source for Hearing loss and Access
8740 E. 11th, Conference Room
Tulsa, Oklahoma
Wednesday, February 4, 2009,
1:00 P.M. - 3:00 P.M.,
Great Plains Technical Center
4500 S.W. Lee Blvd., Bldg 300, Room 301A
Lawton, Oklahoma

Notices of Rulemaking Intent

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department of Rehabilitation Services (DRS) requests that business entities affected by these rules provide the DRS, within the comment period, in dollar amounts, if possible, information on any increase in direct costs, such as fees, and indirect costs, such as those associated with reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity **due to** compliance with the proposed rules.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the Policy Development Unit, Department of Rehabilitation Services, 3535 N.W. 58th, Suite 500, Oklahoma City, Oklahoma 73112.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available after January 02, 2009, at the Department of Rehabilitation Services office at the above address.

CONTACT PERSON:

Larry Bishop, Rulemaking Liaison, (405) 951-3408

[OAR Docket #08-1446; filed 12-1-08]

TITLE 695. OVERSIGHT COMMITTEE FOR STATE EMPLOYEE CHARITABLE CONTRIBUTIONS CHAPTER 10. OKLAHOMA STATE CHARITABLE CAMPAIGN RULES

[OAR Docket #08-1487]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

695:10-1-5 [AMENDED]

Subchapter 3. Principal Combined Fund Raising Organization

Part 3. Local Principal Combined Fund Raising Organization (Local PCFRO)

695:10-3-33 [AMENDED]

Subchapter 5. Conduct of the Charitable Campaign

695:10-5-4 [AMENDED]

SUMMARY:

The proposed amendment to 695:10-3-33 is to reflect the legislatively mandated name change of the State Agency Review Committee to the Oversight Committee for the State Employee Charitable Contributions (OCSECC). The proposed amendments to 695:10-1-5 and 695:10-5-4 add clarifying language and terms.

AUTHORITY:

The Oversight Committee for State Charitable Contributions; 74 O.S. § 7005.

COMMENT PERIOD:

Persons wishing to present their views may submit written comments to the Office of Personnel Management. Written comments should be addressed to Kara I. Smith, General Counsel, Oklahoma Office of Personnel Management, 2101 North Lincoln Boulevard, Room G-80, Oklahoma City, OK 73105, or may be sent via email to kara.smith@opm.ok.gov. The comment period will begin on Friday, January 2, 2009. To be assured of consideration prior to the adoption of permanent rules, written comments must be received no later than 5:00 p.m., Monday, February 9, 2009.

PUBLIC HEARING:

A public hearing will be held to provide a means by which persons may offer suggested input on the content of the proposed rules at 2:00 p.m., Friday, February 6, 2009, at the State Office of Personnel Management, 2101 N. Lincoln, 5th Floor Conference Room, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained beginning Friday, January 2, 2009, between 8:00 a.m. and 5:00 p.m. Monday through Friday at the Office of Personnel Management, 2101 N. Lincoln Blvd., Suite G-80, Oklahoma City, OK 73105. Telephone (405) 521-2177.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., §303(D), a rule impact statement will be prepared and will be available beginning Friday, January 16, 2009. Copies may be obtained at the Office of Personnel Management, address and telephone listed above.

CONTACT PERSON:

Kara I. Smith, General Counsel, (405) 522-1736.

[OAR Docket #08-1487; filed 12-9-08]

TITLE 715. TEACHERS' RETIREMENT SYSTEM CHAPTER 10. GENERAL OPERATIONS

[OAR Docket #08-1491]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 11. Withdrawal From Membership and Refund of Deposits

715:10-11-7 [AMENDED]

Subchapter 15. Service Retirement

715:10-15-26 [AMENDED]

SUMMARY:

Amendments to OAC 715:10-11-7 will ensure continued compliance with Internal Revenue Code Section 401(a)(31) (Rollovers). This rule addresses rollovers from the Teachers' Retirement System to other eligible retirement plans

Amendments to OAC 715: 10-15-26 will ensure continued compliance with Internal Revenue Code Section 415 (Limitations on Benefits). This rule addresses Internal Revenue Code Section 415 limits as they apply to TRS.

AUTHORITY:

70 O.S. Section 17-101, et seq., especially Section 17-106; Board of Trustees

COMMENT PERIOD:

Written comments may be made from January 16, 2009, through February 16, 2009, filed and available for inspection in the Office of the Executive Secretary, Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma, from 8:00 a.m. until 4:30 p.m., Monday through Friday, excluding holidays, or by mailing same to the Executive Secretary, Teachers' Retirement System of Oklahoma, P.O. Box 53524, Oklahoma City, OK 73152.

PUBLIC HEARING:

A public hearing will be held from 10:00 a.m. to 11:00 a.m. on February 17, 2009, at the offices of the Teachers' Retirement System, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma. Written notice of intent to make oral comments is encouraged. Individuals who file a written notice to comment will be scheduled to speak before comments are accepted from the audience. Written notice may be filed with the Executive Secretary, Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, until 4:30 p.m. on February 13, 2009. Written notice may be mailed to: Executive Secretary, Teachers' Retirement System of Oklahoma, P.O. Box 53524, Oklahoma City, OK 73152

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained for review from the Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, and also will be available on the TRS website (www.ok.gov/TRS/).

RULE IMPACT STATEMENT:

The Oklahoma Teachers' Retirement System will issue a rule impact statement. Copies of the statement may be obtained from the Teachers' Retirement System of Oklahoma, 5th Floor, Oliver Hodge Building, 2500 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, beginning January 17, 2009, between 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding holidays.

CONTACT PERSON:

Jacqueline Scott Bateman, Rules Liaison/Communications Director (405) 521-4743.

[OAR Docket #08-1491; filed 12-10-08]

**TITLE 735. STATE TREASURER
CHAPTER 10. SECURITY FOR PUBLIC DEPOSITS**

[OAR Docket #08-1474]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 10. Security for Public Deposits [AMENDED]

SUMMARY:

The proposed revisions to Subchapter Chapter 10. Security for Public Deposit. Banks no longer require receipts to be returned.

AUTHORITY:

State Treasurer, 62 O.S., Sections 72.4 & 72.5.

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 4:30 p.m. on February 5, 2009 at the following address: Susan Bateman, 2300 N Lincoln Boulevard, Room 217, Oklahoma City, OK 73105.

PUBLIC HEARING:

A public hearing will be held at 9:00 a.m. on Tuesday, February 10, 2009 at 2300 North Lincoln Blvd., Room 217, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 9:00 a.m.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The State Treasurer's Office requests that business entities affected by these proposed rules provide the State Treasurer's Office, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Susan Bateman, at the address below, before the close of the comment period on February 5, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained from the contact person below, Monday through Friday between the hours of 8:30 a.m. and 4:30 p.m., Central Time.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., 303(D), a rule impact statement will be prepared and may be obtained from the Oklahoma State Treasurer at the above address beginning Monday, January 5, 2009.

CONTACT PERSON:

Susan Bateman, Office of the State Treasurer, 2300 North Lincoln Boulevard, Room 217, Oklahoma City, Oklahoma 73105-4895, telephone number (405) 522-4215.

[OAR Docket #08-1474; filed 12-9-08]

Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

TITLE 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #08-1451]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions [AMENDED]
- 165:35-1-2. Definitions [AMENDED]
- Subchapter 41. Demand Programs [NEW]
- 165:35-41-1. Purpose [NEW]
- 165:35-41-2. Goals [NEW]
- 165:35-41-3. Definitions [NEW]
- 165:35-41-4. Demand portfolio submission and implementation [NEW]
- 165:35-41-5. Commission consideration [NEW]
- 165:35-41-6. Evaluation, measurement, and verification [NEW]
- 165:35-41-7. Reporting [NEW]

SUBMITTED TO GOVERNOR:

December 4, 2008

SUBMITTED TO HOUSE:

December 4, 2008

SUBMITTED TO SENATE:

December 4, 2008

[OAR Docket #08-1451; filed 12-5-08]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #08-1489]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

- Subchapter 3. Benefits
- Part 1. General Provisions
- 240:10-3-2. Claimant's notification of change of address [AMENDED]
- Part 3. Computation
- 240:10-3-12. Payment of benefits [AMENDED]
- Subchapter 5. Contributions
- Part 19. Maintenance and Production of Work Records
- 240:10-5-90. Records [AMENDED]
- Subchapter 11. Assessment Board Procedure
- Part 1. General Provisions

240:10-11-6. Address of Board [AMENDED]

Part 5. Hearings

240:10-11-26. Cameras [NEW]

Subchapter 13. Appeal Tribunal Procedure

Part 1. General Provisions

240:10-13-7. Disqualification of hearing officer [AMENDED]

240:10-13-8. Address of Appeal Tribunal [AMENDED]

Part 5. Hearings

240:10-13-46. Cameras [NEW]

SUBMITTED GOVERNOR:

December 9, 2008

SUBMITTED TO HOUSE:

December 9, 2008

SUBMITTED TO SENATE:

December 9, 2008

[OAR Docket #08-1489; filed 12-10-08]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 21. WORKFORCE INVESTMENT ACT

[OAR Docket #08-1490]

RULEMAKING ACTION:

Submission for gubernatorial/legislative review

RULES:

Subchapter 9. Audits

240:21-9-1. Audit requirements [AMENDED]

SUBMITTED GOVERNOR:

December 9, 2008

SUBMITTED TO HOUSE:

December 9, 2008

SUBMITTED TO SENATE:

December 9, 2008

[OAR Docket #08-1490; filed 12-10-08]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #08-1437]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

Submissions for Review

RULES:

Subchapter 25. Visible Emissions and Particulates
252:100-25-3. Opacity limit [AMENDED]

SUBMITTED TO GOVERNOR:

November 25, 2008

SUBMITTED TO HOUSE:

November 25, 2008

SUBMITTED TO SENATE:

November 25, 2008

[OAR Docket #08-1437; filed 11-26-08]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #08-1438]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Appendix E. Primary Ambient Air Quality Standards
[REVOKED]

Appendix E. Primary Ambient Air Quality Standards
[NEW]

Appendix F. Secondary Ambient Air Quality Standards
[REVOKED]

Appendix F. Secondary Ambient Air Quality Standards
[NEW]

SUBMITTED TO GOVERNOR:

November 25, 2008

SUBMITTED TO HOUSE:

November 25, 2008

SUBMITTED TO SENATE:

November 25, 2008

[OAR Docket #08-1438; filed 11-26-08]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL**

[OAR Docket #08-1439]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Appendix Q. Incorporation by Reference [REVOKED]

Appendix Q. Incorporation by Reference [NEW]

SUBMITTED TO GOVERNOR:

November 25, 2008

SUBMITTED TO HOUSE:

November 25, 2008

SUBMITTED TO SENATE:

November 25, 2008

[OAR Docket #08-1439; filed 11-26-08]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 205. HAZARDOUS WASTE MANAGEMENT**

[OAR Docket #08-1440]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3 Incorporation by Reference

252:205-3-1. [AMENDED]

252:205-3-2. [AMENDED]

SUBMITTED TO GOVERNOR:

November 25, 2008

SUBMITTED TO HOUSE:

November 25, 2008

SUBMITTED TO SENATE:

November 25, 2008

[OAR Docket #08-1440; filed 11-26-08]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 410. RADIATION MANAGEMENT**

[OAR Docket #08-1441]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

252:410-1-2. Definitions [AMENDED]

252:410-1-4. General regulatory requirements
[AMENDED]

252:410-1-7. Incorporation of federal regulations by
reference [AMENDED]

Subchapter 10. Radioactive Materials Program

Part 1. General Provisions

252:410-10-1. Radioactive Materials Program
[AMENDED]

252:410-10-2. Using provisions incorporated by reference
as state rules [AMENDED]

252:410-10-3. Radioactive Materials Program
authorizations [AMENDED]

Part 30. Byproduct Material Licensing in General

252:410-10-30. 10 CFR 30 incorporations [AMENDED]

Part 31. Byproduct Material: General Licenses

252:410-10-31. 10 CFR 31 incorporations by reference
[AMENDED]

Part 32. Byproduct Material: Specific Licenses for
Manufacturing and Transferring Certain Items

252:410-10-32. 10 CFR 32 incorporations by reference
[AMENDED]

Part 35. Medical Use of Byproduct Material

252:410-10-35. 10 CFR 35 incorporations by reference
[AMENDED]

Subchapter 20. Standards for Protection Against Radiation

252:410-20-1. Standards for protection against radiation
[AMENDED]

SUBMITTED TO GOVERNOR:

November 25, 2008

SUBMITTED TO HOUSE:

November 25, 2008

SUBMITTED TO SENATE:

November 25, 2008

[OAR Docket #08-1441; filed 11-26-08]

**TITLE 252. DEPARTMENT OF
ENVIRONMENTAL QUALITY
CHAPTER 611. GENERAL WATER
QUALITY**

[OAR Docket #08-1442]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions

252:611-1-3. Adoption and incorporation by reference
[AMENDED]

Subchapter 3. Certifications

252:611-3-1. Water quality certifications required
[AMENDED]

252:611-3-2. Requirements for certification [AMENDED]

SUBMITTED TO GOVERNOR:

November 25, 2008

SUBMITTED TO HOUSE:

November 25, 2008

SUBMITTED TO SENATE:

November 25, 2008

[OAR Docket #08-1442; filed 11-26-08]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY CHAPTER 36. AFFORDABLE HOUSING TAX CREDIT PROGRAM

[OAR Docket #08-1448]

RULEMAKING ACTION:

Emergency adoption

RULES:

Subchapter 1. General Provisions
330:36-1-4. [AMENDED]
Subchapter 2. Allocation Procedures
330:36-2-1. [AMENDED]
330:36-2-2. [AMENDED]
330:36-2-7. [AMENDED]
330:36-2-9. [AMENDED]
330:36-2-11. [AMENDED]
330:36-2-16. [AMENDED]
330:36-2-17. [AMENDED]
Subchapter 4. Development Applications And Selection
330:36-4-2. [AMENDED]
330:36-4-2.1 [AMENDED]
Subchapter 6. Program Administration
330:36-6-3 [AMENDED]
330:36-6-7 [AMENDED]

AUTHORITY:

These Chapter 36 rules are authorized by the Board of Trustees of the Oklahoma Housing Finance Agency ("OHFA"), the amended trust indenture of OHFA, and the Bylaws of OHFA as established by the OHFA Board of Trustees.

DATES:

Comment Period:

October 31, 2008 through November 5, 2008

Public Hearing:

November 5, 2008

Adoption:

November 13, 2008

Approved by Governor:

November 20, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The Trustees of OHFA have found that the following compelling extraordinary circumstances necessitate the emergency adoption of amendments to OHFA's Chapter 36. Affordable Housing Tax Credit Program Rules:

1. The 2008 Housing Act enacted on July 30, 2008 contains substantial amendments to Section 42 and related provisions of the Internal Revenue Code (the "Code"), including new requirements for the State's Qualified Allocation Plan for administering the State's Section 42 Affordable Housing Tax Credit Program (the "QAP");

2. In order to bring the QAP into conformity with the amendments and modifications to the Code it is necessary to amend OHFA's Affordable Housing Tax Credit Rules (the "AHTC Rules");

3. Certain provisions of the 2008 Housing Act were effective immediately, including a provision for increasing the amount of credits available to developers (owners);

4. It is the desire of the Board of Trustees and in the best interest to the citizens of Oklahoma to maximize the number of resources available to those providing affordable housing to the citizens of the State;

5. Many providers of affordable rental housing have suffered serious economic consequences as a result of the recent economic downturn such that some projects underway may not be viable if additional resources are not provided;

6. A compelling public interest exists and it is in the best interest of the citizens of the State and the mission of OHFA for the Board of Trustees to adopt and promulgate the proposed amendments utilizing the emergency rulemaking procedures of the OAPA in order to make available the resources provided by the 2008 Housing Act as soon as possible;

The OHFA Board of Trustees find these circumstances necessitate the adoption of the proposed amendments, declaring an emergency;

ANALYSIS:

Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that Affordable Housing Tax Credits (AHTCs), which are federal tax credits, may be claimed by qualified owners of residential property used to provide affordable housing for low-income persons. AHTCs, as a federal tax incentive, are governed primarily by the Code, and although the program is basically a housing program, AHTCs are administered by the United States Department of the Treasury and its Internal Revenue Service.

The Congress of the United States has created a special system for allocating the AHTC in which an agency in each state (the "State Housing Credit Agency") decides which projects receive AHTCs each year. AHTCs are limited, i.e. each State's annual "Housing Credit Ceiling" is based upon multiplying a constant established by Congress (currently \$2.20) by a state's population. See Code Section 42(h)(F)(3). Accordingly, each State Housing Credit Agency must develop a priority system to determine which projects should receive AHTC. Certain selection criteria and certain priorities established by Congress must be embodied in such "qualified allocation plan". See Code Section 42(m)(1)(A)(i).

For Oklahoma, OHFA is the State Housing Credit Agency. Thus, in order for federal tax credits to be available to developers (owners) of affordable housing located within Oklahoma, it is necessary for OHFA to develop a qualified allocation plan to carry out the intent of the Code and to develop a AHTC Program for administering the plan. The Rules embody such a qualified allocation plan, in compliance with the Code, and provide guidelines for allocating Oklahoma's state tax credit authority and administering OHFA's AHTC Program, in compliance with the Code and the Oklahoma Administrative Procedures Act (the "APA").

CONTACT PERSON:

Phillip Elzo, Agency Liaison, (405) 419-8275.

Emergency Adoptions

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 1. GENERAL PROVISIONS

330:36-1-4. Definitions

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise. Additional capitalized terms used in these Chapter 36 Rules are defined in the Code. When a conflict exists between the following definitions and the Code the Code shall control.

"Affiliate" means any Person that directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with any other Person.

"Allocation" means the maximum amount of TCA's available to the Development as a result of the approval of an award by the Trustees. The Credit shall be apportioned to each Qualified Building at the time such Qualified Building is Placed-In-Service.

"Applicable Fraction" means the fraction used to determine the qualified basis of a qualified low income building which is the smaller of the unit fraction or the floor space fraction.

"Applicant" means any individual, nonprofit organization or profit-motivated individual, corporation, general or limited partnership, limited liability company or other legal entity which has submitted an Application to OHFA for a Credit Reservation and Allocation, and its successors in interest. "Applicant" includes the Taxpayer and Taxpayer's predecessor in interest, if any, and includes any successor in interest, Transferee, of all or any portion of the Development, and the heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, Transferee, Taxpayer or lessee (other than a Resident) of all or any portion of the Development, and any other person or entity having any right, title, or interest in the Development.

"Application" means an application in the form prescribed by OHFA, from time to time, in the AP, including all exhibits and other materials filed by an Applicant with OHFA in support of or in connection with the formal request by the Applicant requesting a TCA.

"Application Packet" (referred to in these Rules as the "AP") means the Application in the form prescribed by OHFA from time to time, together with instructions and such other materials provided by OHFA to any Person requesting the same for the purpose of seeking to obtain from OHFA a TCA. OHFA will solicit public input on the Application Packet, and provide explanation of any significant changes. The AP may include definitive statements of what shall constitute Threshold Criteria, Selection Criteria, priorities, preferences, and compliance and monitoring requirements as may be authorized by or provided for in the Code and these Rules, and may

include the necessary forms, instructions and requirements for Applications, environmental assessments, market studies, commitments, extensions, Carryover Allocations, Agreements, Elections, Set-asides, OHFA staff evaluation criteria for Threshold Criteria and Selection Criteria, final ranking, Credit amounts, tax exempt bond financed projects, compliance monitoring, and other matters deemed by OHFA Trustees, in their complete discretion, to be relevant to the process of evaluation of Applications and the Applicants in connection with the award or denial of TCAs.

"Area Median Gross Income" means the median gross Income adjusted for household size, for the county or counties where each Building in a Development is located as determined and published annually by HUD.

"Building" means a Residential Rental Property containing residential Housing Units located on the land and included in the Development. For purposes of the Credit Program, each Building is identified by its Building Identification Number assigned by OHFA BIN and its street address assigned by the United States Postal Service. In case of any inconsistency, the BIN shall control. In the event more than one Building is located on the land, each Building must be identified in the manner required by Code Section 42(g) to be treated as part of the Development. Any Allocation of Credit shall be effective only for the Building(s) identified in a Carryover Allocation Agreement, if applicable, or in Exhibit "A" to the Regulatory Agreement.

"Capital Needs Assessment" (CNA) means a qualified professional's opinion of a property's current physical condition determined after a physical inspection of the interior and exterior of the units and structures. The physical inspection should include an interview with the on-site manager and maintenance personnel. This assessment should identify deferred maintenance, physical needs, remaining useful life of key components, building material deficiencies and material building code violations that affect the property use, structural and mechanical integrity, and the future physical and financial needs. The assessment must include the cost of labor and materials identified in detail and the extent of future expenditures contemplated to ensure the costs will be addressed through operating and replacement reserves. Components which should be examined and analyzed in this assessment include but are not limited to:

- (A) site, including topography, drainage, pavement, curbing, sidewalks, parking, landscaping, amenities, water, sewer, storm drainage, gas and electric utility lines;
- (B) structural systems, both substructure and superstructure, including exterior walls and balconies, exterior doors and windows, roofing system and drainage;
- (C) interiors, including unit and common area finishes (carpeting, vinyl or tile flooring, plaster walls, paint condition, etc.), unit kitchen finishes, cabinets and appliances, unit bathroom finishes and fixtures, and common area lobbies and corridors ; and

(D) mechanical systems, including plumbing and domestic hot water, HVAC, electrical, lighting fixtures, fire protection and elevators.

"Carryover Allocation" means, an Allocation which is made with respect to a Building or Development pursuant to Code Section 42(h)(1)(E) and/or Code Section 42(h)(1)(F), as the case may be, and in conformance with IRS Notice 89-1 and Treasury Regulation Section 1.42-6.

"Carryover Allocation Agreement" means the contract between Taxpayer and OHFA, authorized and approved by the Trustees, wherein subject to the satisfaction by Taxpayer of the terms, conditions, obligations and restrictions contained therein or in any Resolution of the Trustees, a Carryover Allocation is made pursuant to Code Section 42(h)(1)(E) and/or Code Section 42(h)(1)(F), IRS Notice 89-1 and Treasury Regulation Section 1.42-6.

"Certifications" means the representations made under penalties of perjury by the Applicant, Taxpayer, each Developer, each partner or general partner, party to a joint venture, and/or Resident, as applicable, including but not limited to those representations and certifications set forth in the Applications and the Regulatory Agreement and Exhibits. Certifications also mean any and all representations made under penalties of perjury with respect to the Development at any time from the date of submission of the Application and throughout the Development Compliance Period.

"Code" means the Internal Revenue Code of 1986, as amended, and in effect at the date of the Regulatory Agreement, together with applicable rules and regulations, revenue rulings, guidelines, releases, pronouncements, notices or procedures promulgated thereunder or referred to therein or in the applicable rules and regulations.

"Commitment" means a representation or agreement of the Taxpayer/Applicant contained in the Application, or otherwise, which in all cases shall be irrevocable and binding upon Taxpayer and its Transferees and successors in interest throughout the Development Compliance Period, unless otherwise noted in the Regulatory Agreement, these Rules, the Application, or any other agreements entered into by Taxpayer with OHFA in connection with the Credit Program.

"Compliance Period" means with respect to any Qualified Building, the continuous fifteen (15) year period over which the Qualified Building must satisfy all requirements of the Code and the Credit Program. The Compliance Period begins with the first year of the Credit Period.

"Consultant" means any person (which is not an Affiliate of an owner of the Development) that provides professional or expert services relating to an Application, a Development, or any activities pertaining to the filing of an Application, the award of a TCA, the Carryover Allocation, or cost certification documents filings with OHFA.

"Control" (including the terms "controls", "controlling", "controlled by", and/or "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction or the management and policies or any other Person, whether through an ownership interest in the other Person, by contract, agreement, understanding, designation, office

or position held in or with the other Person or in or with any other Person, or by coercion, or otherwise.

"Credit" means the low-income housing tax Credit available for federal income tax purposes under Code Section 42 for a Qualified Building.

"Credit Period" means the ten (10) year period over which the Credit may be claimed for a Building. The Credit Period begins when the Building is placed in service, for Credit purposes, or if the Taxpayer makes an election under Section 42(f)(1)(B) of the Code, the next year; but only if the Building is a qualified low-income building within the meaning of Code Section 42(c)(2), by the end of the first year of that period. For an existing Building with Rehabilitation Expenditures, the Credit Period shall not begin before the year that the rehabilitation Credit is allowed under Code Section 42(f)(5).

"Credit Program" means OHFA's program for approving Allocations and includes, without limitation, adopting the Qualified Allocation Plan and OHFA's Credit Program Rules, the AP, and all things contemplated therein or appurtenant thereto, including without limitations, monitoring Developments throughout the Extended Use Period and notifying the IRS of the Building's or a Development's failure to comply with Code requirements.

"Credit Reservation" means the reservation of a maximum amount available for Allocation to such Development and apportioned to each Qualified Building therein upon meeting the requirements of the Credit Program and Code Section 42.

"Developer" means the person or entity with the responsibility of ensuring the effective construction or rehabilitation of the Development, including any and all responsibilities as outlined in the Development Agreement, which may also be the Applicant and/or Taxpayer of the Development. Developer also includes any other person or organization affiliated with, Controlled by, In Control Of or A Related Party to, the Developer, as determined by OHFA.

"Development" means the Land and one (1) or more Buildings, structures, or other improvements now or hereafter constructed or located upon the Land. If more than one (1) Building is to be part of the Development, each Building must be financed under a common plan and identified in the manner required under Code Section 42(g).

"Development Compliance Period" means the period beginning with the first day the first Building of the Development is Placed-In-Service and continuing thereafter until the latest to end of the following periods for each Building in the Development: (i) the Compliance Period; (ii) the Extended Use Period; or (iii) the "Three Year Period."

"Development Team" means the Applicant, architect, attorney, consultant, developer, general contractor, market analyst and/or appraiser, property management company, tax professional, Taxpayer, and the principals of each.

"Drug" for purposes of these OAHTC Program Rules, means "a controlled substance" as that term is defined in Section 102 of the Controlled Substances Act, 21 U.S.C., Section 802.

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"Drug-Related Criminal Activity" means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

"Due Date" if a due date for submission of documents or fees falls on a weekend or a designated Federal holiday, then the due date becomes the next business day.

"Elderly" means a person sixty-two (62) years of age or older. This definition is for consideration for the Elderly set-aside and for points in which one hundred percent (100%) of units are for Elderly.

"Eligible Basis" means generally the depreciable basis in the property.

"Extended Use Period" means the continuous period, a minimum of fifteen (15) years, following the close of the Compliance Period during which a Qualifying Building must satisfy all requirements of the Code and the Credit Program. The Extended Use Period for the Development is set forth on Exhibit "A" to the Regulatory Agreement and may not be revoked or terminated prior to said date except as provided in the Code, these Chapter 36 Rules or in the Regulatory Agreement.

"Gross Rent" means the rent received for a Low-Income Housing Unit, including utility allowances but excluding (i) any payments under Section 8 or any comparable rental assistance program; (ii) any fees or supportive services (within the meaning of Code Section 42(g)(2)(B)); (iii) paid to Taxpayer (on the basis of the low-income status of the Qualified Resident of the Low-Income Unit) by a governmental assistance program or an organization exempt from federal income tax under Code Section 501(c)(3), if such program or organization provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services; and (iv) rental payments to Taxpayer to the extent an equivalent amount is paid to the RHS under Section 515 of the Housing Act of 1949. Gross Rent includes the minimum amounts paid toward purchase of a Housing Unit as described in Code Section 42(g)(6). The amount of Gross Rent is determined annually based upon the Area Median Gross Income for the locality in which the Development is located. The annual amount may decrease but such amount will not be reduced below the amount of Gross Rent established in the first Year of the Credit Period.

"Hard Construction Costs" means the following types of activities, but not limited to, earthwork/site work, on-site utilities, roads and walks, concrete, masonry, metals, carpentry (rough and finish), moisture protection, doors/windows/glass, insulation, roofing, sheet metal, drywall, tile work, acoustical, flooring, electrical, plumbing, elevators, blinds and shades, appliances, lawns & planting, fence, cabinets, carpets, and heat & ventilation. For calculations of contractor fees, a reasonable contingency can be included.

"Homeless" means (1) lacking a fixed, regular and adequate nighttime residence; and has a primary nighttime residence that is a supervised public or private shelter providing temporary accommodations or a public or private place not ordinarily used as sleeping accommodations for human beings, OR (2) displaced as a result of fleeing violence in the home;

and has a temporary residence that is a supervised public or private shelter OR (3) certified by an agency involved in regularly determining homeless status. Homeless individuals are considered homeless for a period of twenty-four (24) months from the date of move-in, according to Section 103 of the Stewart B. McKinney Homeless Assistance Act and 42(i)(3)(B)(iii)(I) of the Code.

"Housing Unit" means a Low-Income Unit and/or Market Rate Unit located in a Building which is available for rent or is rented by Residents. Common Area Units are not included.

"HUD" means the U.S. Department of Housing and Urban Development.

"Income" means the income of one or more Qualified Residents, as determined in a manner consistent with the methods under HUD's Section 8 Program.

"IRS" means the Internal Revenue Service of the Treasury.

"IRS Form 8609" means the IRS Form entitled "Low Income Housing Credit Certification" issued by OHFA no later than the end of the calendar year that such Building is Placed-In-Service or to be issued. The IRS Form 8609 establishes the maximum Credit for a Building.

"IRS Form 8823" means the IRS form entitled "Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition" issued or to be issued by OHFA with respect to issues of noncompliance with the laws of the IRS and/or the sale or disposition of the Development.

"Land" means the site(s) for each Building in the Development and having the legal description set forth described in the Carryover Allocation Agreement and Exhibit "A" to the Regulatory Agreement.

"Large Development" means a Development with more than sixty (60) units.

"LIHTC Program" means the Credit Program. "LIHTC Program" may be used interchangeably with the term "Credit Program" or "OAHTC Program".

"Low-Income Unit" means a Housing Unit that is both Rent-Restricted and occupied by Qualified Residents, provided that: (i) Housing Unit shall constitute a Low-Income Unit only if it is suitable for occupancy taking into account local health, safety and building codes and it is used other than on a transient basis except in the case of transitional housing, all as determined under Code Section 42(i)(3); and (ii) Housing Unit in any Building which has four (4) or fewer Total Housing Units shall not constitute a Low-Income Unit if any Housing Unit in the Building is occupied by an Owner or a related person [within the meaning of Code Section 42(i)(3)(C)] unless such Building is described in Code Section 42(i)(3)(E).

"Market Rate Unit" means a Housing Unit that does not meet the definition of a Low-Income Unit.

"Minimum Low-Income Housing Set-Aside" means the minimum percent required under Code Section 42(g) of Housing Units in the Development to be both Rent-Restricted and occupied by Qualified Residents, i.e., Residents whose Income is at or below a certain percentage of Area Median Gross Income. For purposes of Code Section 42(g), Taxpayer must have selected either: (i) twenty percent (20%) or more of the Total Housing Units to be Rent-Restricted and

occupied by Residents whose Income is at or below fifty percent (50%) percent of the Area Median Gross Income; or (ii) forty percent (40%) or more of the Total Housing Units to be Rent-Restricted and occupied by Residents whose Income is at or below sixty percent (60%) of the Area Median Gross Income as the Minimum Low-Income Housing Set-Aside. The Applicant may, however, have made a Commitment to provide greater percentages of Housing Units that are both Rent-Restricted and occupied by Residents meeting the above Income limitations and/or making Housing Units available to Residents with Income below the above limitations, i.e., an Additional Low-Income Housing Set-Aside. Taxpayer and all Transferees, and successors in interest shall be bound by all Commitments, including the Minimum Low-Income Housing Set-Aside, or Additional Low-Income Housing Set-Aside made in the Regulatory Agreement, or included in the Carryover Agreement or any of the Resolutions of the Trustees respecting the Application, the Development, or Taxpayer.

"National Non-Metro Area Median Income" means as determined and published annually by HUD.

"Nonprofit" means a private nonprofit organization that is organized under State or local laws; has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization; has a tax exemption from the Internal Revenue Service under section 501(c) (3) or (4) of the Internal Revenue Code of 1986; does not include a public body; has among its purposes the provision of decent housing that is affordable to low income persons, as evidenced in its charter, articles of incorporation, resolutions or by-laws; and, has at least a one year history of providing affordable housing at the local level, and is duly qualified to do business within the State.

"Nonprofit Sponsored Development" means and refers to a proposed Development that has or will have a Nonprofit that has a Controlling interest by reason of an ownership interest in a Person that is or will be the owner of the subject Development, and has materially participated, or will materially participate (within the meaning of the Code) in the Development and operation of the Development throughout the Compliance Period.

"OAHTC Program" means the Credit Program. "OAHTC Program" may be used interchangeably with the term "LIHTC Program" or "Credit Program".

"OHFA" means Oklahoma Housing Finance Agency a State-beneficiary public trust. OHFA is the allocating agency for the State for purposes of the Credit Program.

"One Year Period (1YP)" means period commencing on the date on which OHFA and the owner agree to the Qualified Contract price in writing and lasting twelve (12) calendar months.

"Owner" means the legal Owner of record of the Development, as set forth on page one of the Regulatory Agreement, and any and all successor(s) in interest of Owner, including any and all Transferees, Assignees, purchasers, grantees, owners or lessees (other than a Resident) of all or any portion of the Development, and the heirs, executors, administrators,

devisees, successors and assigns of any Transferee, purchaser, assignee, grantee, owner or lessee (other than a Resident) of all or any portion of the Development, and any other person or entity having or acquiring any right, title, or interest in the Development. Owner is also the Taxpayer, Applicant or the Applicant's successor in interest.

"Partnership" means any syndicate, group, pool or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is treated for federal income tax purposes as a partnership and is not considered within the meaning of the Code, a trust or estate or a corporation. A Partnership may be a general Partnership or a limited Partnership and must have partners and an objective to carry on business and divide the gains therefrom.

"Person" means, without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability company, limited liability partnership, trust, estate, association, cooperative, government, political subdivision, agency or instrumentality, Community Housing Development Organization (CHDO), interlocal cooperative, or other organization of any nature whatsoever, and shall include any two or more Persons acting in concert toward a common goal.

"Placed-In-Service" means: (i) the date on which a new Building or existing Building used as residential rental property is ready and available for its specifically assigned function as evidenced by a certificate of occupancy or the equivalent; or (ii) for rehabilitation expenditures that are treated as a separate new Building, any twenty-four (24) month period over which such Rehabilitation Expenditures are aggregated.

"Preliminary Application (QCPA)" means a request containing all information and items necessary for OHFA to determine the eligibility of an Owner to submit a request for a qualified contract.

"Program Rules" means the various written criteria, requirement, rules, and policies adopted from time to time by the Trustees as the State's Qualified Allocation Plan to administer the Credit Program and to provide for Allocations. The Program Rules must be followed by any participant in the Program. The Program Rules may include requirements that are more stringent than those under Code Section 42.

"Qualified Allocation Plan (QAP)" means these Chapter 36 Rules plus the Application Packet (AP) as defined and other materials provided by OHFA. The deadline for all informal input sessions and the formal public hearing will be published by OHFA Staff.

"Qualified Building" means a Building which meets the terms, conditions, obligations, and restrictions of the Program Rules, Carryover Allocation Agreement, Regulatory Agreement, Resolutions of the Trustees respecting Taxpayer or the Development, and Code Section 42(c)(2) for an Allocation and the issuance by OHFA of IRS Form 8609.

"Qualified Contract" means a bona fide contract to acquire the portion of a Building which is not Rent-Restricted for fair market value and the portion of the Building which is Rent-Restricted for an amount not less than the Applicable Fraction for the Building or the sum of: (i) the portion of

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outstanding indebtedness secured by, or with respect to the Building which is allocable to such Building; (ii) adjusted investor equity in the Building; and (iii) other capital contributions invested in the Building but not reflected in the amounts described in (i) or (ii) above; reduced by cash distributed from the Development or available for distribution from the Development; provided that in all cases, the purchase price for the Building required for a contract to be a Qualified Contract shall be determined in a manner consistent with the requirements of Code Section 42(h)(6)(F), or such other regulations as prescribed by the Code to carry out this section.

"Qualified Contract Application (QCA)" means an application containing all information and items required by the OHFA to process a request for a Qualified Contract.

"Qualified Contract Price (QCP)" means calculated purchase price of the development as defined within §42(h) (6) (F) of the Code and as further delineated in Chapter 36 Rules.

"Qualified Development" means a Development or Residential Rental Property where an Applicable Percentage or more of the Housing Units are both Rent-Restricted and occupied by Residents whose Income is at or below the level selected as the Minimum Low Income Housing Set Aside.

"Qualifying Households" means households whose annual incomes do not exceed the chosen set-aside (which is either 50% or 60%) of the median family income for the area.

"Regulatory Agreement" means the written and recorded agreement between a recipient of a TCA and the allocating agency, OHFA, placing restrictive covenants upon the Development and the underlying land for a term of not less than thirty years (30) years, or such other term as may be required from time to time by provisions of the AP, these OAHTC Rules and Section 42 of the Code and the federal rules and regulations promulgated thereunder and containing other restrictions, covenants, warranties and agreements required by state, federal or local law and these OAHTC Rules.

"Rehabilitation Expenditures" means amounts that are capitalized and incurred for the addition to or improvement of an Existing Building of a character subject to the allowance for depreciation under Section 167 of the Code. However, it does not include the costs of acquiring a Building or an interest in it, for example, any Developer Fee properly allocated in acquiring a Building or any other soft costs or any amount not permitted to be taken into account under Section 42(d)(3) or Section 42(d)(4) of the Code.

"Rent-Restricted" means that the Gross Rent with respect to a Low-Income Unit does not exceed thirty percent (30%) of the income limitations for Qualified Residents adjusted by the Imputed Household Size, subject to the exception set forth in Code Section 42(g)(2)(E) (relating to certain Housing Units for which federal rental assistance decreases as Resident Income increases).

"Resident" means an individual or group of individuals (other than an Owner) residing in a Housing Unit.

"Resolution" means an official action of the Trustees and includes all Resolutions adopted by the Trustees with respect to a Development.

"Review Report" means the Threshold Criteria Review and Selection Criteria Review containing the results of OHFA's

review of the Application and scoring of the Application. There are preliminary and final versions of the review report for each Application.

"Rural Area" means any city, town, village, area or place generally considered rural by the Secretary of Agriculture (RHS) for rural housing programs. Verification will be obtained by contacting the Stillwater USDA-RD office.

"Rural Development" means a Development that is, or will be located within a Rural Area. RHS 538 projects are not eligible for the Rural 515 set-aside, but may qualify under other set-asides.

"Section 8" means Section 8(c)(2)(A) of the United States Housing Act of 1937, as amended.

"Selection Criteria" means the evaluation criteria, over and above the Threshold Criteria, set out in an applicable AP, which shall be established and may be changed by OHFA from time to time in an applicable AP (using the priorities for the State as they are established from time to time under and pursuant to these Rules and the applicable AP), to determine the Development's qualifications, and which are the basis for ranking Applications and establishing a relative level of acceptability for consideration under the Rules and the applicable AP for the possibility of the award of a TCA by OHFA. Although the Selection Criteria may be given substantial weight by OHFA Trustees in deciding whether or not a particular Application and Applicant shall be awarded a TCA, the OHFA Trustees reserve the right to take into consideration such other factors as they, in their complete discretion, deem appropriate.

"Site Control" means the exercise of dominion or control over the property through the execution of a purchase, sale, or long-term lease agreement (with a lease term that exceeds the extended use period), receipt of a deed or conveyance of the Land where the development will be located, or an option to purchase the property (where the option is not revocable on the part of the seller). OHFA alone will decide if an Applicant or Taxpayer has obtained Site Control.

"Special Needs" means such targeted populations as may be designated from time to time in an Application Packet by official action of OHFA's Board, which designations may include, but are not necessarily limited to, the homeless, the elderly, persons with mental and physical disabilities and/or disabled persons.

"State" means the State of Oklahoma.

"TCA" means a federal low-income tax Credit allocation by OHFA to a Development owner pursuant to Section 42 of the Code, these Rules, QAP, the Act, the applicable AP, the Application, and formal action by the OHFA Board of Trustees.

"Three-Year Period" for a Building means the three (3) year period following: (a) the date of acquisition of such Building by foreclosure or forfeiture under a deed of trust, mortgage or real estate contract or by deed in lieu of foreclosure; or (b) the end of the Extended Use Period, or (c) in the case of the release of the affordability restriction due to the failure of OHFA to present a QC before the expiration of the One Year Period, the recording of a Release of Regulatory Agreement by OHFA. During the Three-Year Period the owner may not evict or terminate a tenancy of an existing tenant of any low-income unit except for good cause. During the Three-Year

Period the owner may not increase the gross rent with respect to any low-income unit except as permitted under Section 42 of the Code.

"Threshold Criteria" means the criteria set out herein and in an applicable AP, which shall be established and may be changed by OHFA from time to time in an applicable AP, to determine the qualifications of the Applicant and the Taxpayer and the Proposed Development, presented in each Application that are the minimum level of acceptability for consideration under the Rules and the applicable AP for the possibility of the award of a TCA by OHFA. Failure to satisfy all Threshold Criteria set out in the applicable AP shall result in the disqualification of the Application for further consideration, and shall require no further action by OHFA Staff except to notify the Applicant of the disqualification.

"Total Housing Units" means all Housing Units in a Building including both Market Rate Units and Low-Income Units.

"Total Development Costs" means the total costs incurred in acquiring and developing the Development as set forth in the proposed budget for the Development included in the Application and in an independent certified public accountant's certification of sources and uses of funds submitted to OHFA.

"Transfer" means any sale, transfer, merger, consolidation, liquidation, contribution, assignment, exchange or other change in all or part of Ownership of the Land and/or Development or any Building which is a part thereof, whether voluntary or involuntary, and also includes: a transfer, sale, contribution or assignment by the Applicant, Taxpayer or Developer of all or any part of its rights, title or interest in the Application, Carryover Allocation Agreement, Credit, Land, Building and/or Development to another party; or a withdrawal, change or addition of any partner to a general Partnership, general partner of a limited Partnership, any party to a joint venture or the manager of a limited liability company.

"Transferee" means any and all successor(s) in interest of Taxpayer, including any and all Transferees, Assignees, purchasers, grantees, owners or lessees (other than a Resident) of all or any portion of the Development, and the heirs, executors, administrators, devisees, successors and assigns of any Transferee, purchaser, assignee, grantee, owner or lessee (other than a Resident) of all or any portion of the Development, and any other person or entity having or acquiring any right, title, or interest in the Development. Owner is also the Taxpayer, Applicant or the Applicant's successor in interest.

"Transitional Housing" for purposes of these OAHTC Program Rules means transitional housing for the homeless which meets the requirements of Code Section 42(i)(3)(B)(iii)

"Treasury" means the United States Department of the Treasury.

"Trustees" means the Board of Trustees of OHFA.

"Unit Fraction" means the fraction of a Building devoted to low-income housing, the numerator of which is the number of Low-Income Housing Units in the Building, and the denominator of which is the number of Total Housing Units, whether or not occupied, in the Building.

"Violent Criminal Activity" means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

SUBCHAPTER 2. ALLOCATION PROCEDURES

330:36-2-1. TCAs distribution

(a) OAHTCs allocated annually to the State by the IRS shall be awarded to Applicants selected through a formal application process governed by the Qualified Allocation Plan (QAP).

(b) TCAs will be awarded according to the Act, Code, these Chapter 36 Rules, the applicable AP, and at the discretion of the OHFA Trustees, by their formal action, giving consideration to Staff recommendation following a thorough review and financial feasibility analysis.

(c) The Trustees reserve the right, to consider allocations of TCAs outside the established reservation cycles for a given calendar year. The Trustees, in their sole discretion, reserve the right to approve such an allocation of TCAs, provided the facts presented to them demonstrate a special circumstance or need and said allocation promotes the development of residential use housing within the State. Provided however, the Trustees also reserve the right to deny any request for an allocation of TCAs made outside the established reservation cycles for a given calendar year. Consideration of all allocations of TCAs shall be made at a regularly scheduled or special meeting of the Trustees and shall be made by formal action, giving consideration to Staff review and recommendations.

(ed) The AP shall be made available to parties considering the filing of an Application and interested parties upon request. Requests for the AP should be directed to the OHFA Housing Development Team or the AP can be accessed at OHFA's website, www.ohfa.org.

330:36-2-2. Additional Credits

(a) Applications for additional Credits on new construction developments are not allowed.

(b) Applications for additional Credits on rehabilitation developments may be allowed, but only under extenuating circumstances not easily identifiable or ascertainable at the time of initial Credit award. The OHFA Board of Trustees may award additional Credits at their sole discretion. Maximum award amount cannot exceed ten percent (10%) of the original tax Credit allocation amount, which in the aggregate cannot exceed \$500,000. Applicants who have received approval of a Carryover Allocation in a prior year for a specific Development may request additional Credits for that Development. The Applicant may supplement the Applicant's prior Application; however, the Application as supplemented must:

- (1) Be made by the applicable reservation cycle deadline;
- (2) Be accompanied by the Application fee;
- (3) Meet all Threshold requirements of the Credit Program Rules in effect as of the deadline of the reservation

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cycle in which the request for additional Credits is made, except the Notice requirements; and

(4) Each page clearly tabbed in conformity with the current form of Application.

(5) The supplemented Application will be scored and ranked in accordance with the Credit Program Rules in effect as of the deadline of the reservation cycle in which the request is made.

(6) An additional feasibility analysis will be undertaken. The Applicant must prepare an in-depth analysis of why additional Credits are required. OHFA may request information from the Applicant's lender(s), accountants, legal advisors or financial Consultants to confirm representations contained in the Application.

(7) Neither the Applicant nor OHFA shall be required to give additional notice pursuant to 330:36-2-11 and 330:36-4-2(b)(1) of these Chapter 36 Rules if the notice requirements of the Credit Program Rules in effect as of the date of the Applicant's original filing of an Application were met.

(a) Guidelines for Applications for additional credits will be established in the annual AP. Limitations may be placed on types of developments, amount of additional credits, or type of applications.

(b) The timing of acceptance of applications for additional credits will also be established in the annual AP.

330:36-2-7. Award amounts

(a) The maximum TCA for any one Development proposal shall not exceed ~~\$500,000~~ \$550,000 or \$600,000 with any boost.

(b) TCAs for amounts less than applied for based upon OHFA's financial and feasibility analyses. In order to make the most efficient, equitable and practicable utilization of the State's tax Credit allocation, the Trustees of OHFA may approve, giving consideration to the recommendations of OHFA's staff, the utilization of funding from other housing programs administered by OHFA which may also result in a decrease in the amount of the TCA approved.

330:36-2-9. Reallocation of additional tax Credits

(a) Annually, additional tax Credits may become available for the award of TCAs as the result of:

- (1) Development cancellations;
- (2) Developments completed under original cost estimates;
- (3) Credits allocated but not utilized; or,
- (4) Other circumstances.

(b) In keeping with the applicable AP, OHFA may award TCAs based on the amount of Credits available, in the calendar year any such Credits first become available. For the calendar year in which such additional Credits become available they ~~shall~~ may be prorated among all the remaining cycles for which awards have not been made by formal action by OHFA.

(c) OHFA reserves the right, in its complete discretion, to make any adjustments in the amount of TCAs that may be awarded in any cycle of a given calendar year, by increasing

or decreasing the amount of TCAs made available in a given cycle.

(d) All Credits not awarded in any calendar year shall be carried over for use in the next calendar year, in accordance with the provisions of the Code, these Rules, the applicable AP and/or the formal action of OHFA Trustees.

330:36-2-11. OHFA Development notification

(a) OHFA shall, within fifteen (15) business days of receipt of an Application, and not less than thirty (30) calendar days prior to OHFA Trustee consideration thereof, notify, in writing, by certified mail or other form of traceable delivery system to provide proof of transmission and receipt, the Chief Executive Officer of each Local Governing Body of the jurisdiction within which the proposed Development is located at the time of application and the legislators who are entitled to such Notice, regarding the characteristics of the proposed Development located within their jurisdiction/district. All comments received from said Chief Executive Officer and/or legislator(s) during this thirty (30) day comment period will be presented to the Trustees for their consideration when reviewing a request for an allocation of Credits.

(b) If the application is considered at a different Board meeting than in the notice, this notification requirement is considered to be met.

330:36-2-16. Carryover Allocations

(a) **Code reference.** Code Section 42(h)(1)(E) provides that an Allocation may be made to a Qualified Building, as defined by Section 42(h)(1)(E)(ii), which has not yet been placed in service, provided the Qualified Building is placed in service not later than the close of the second calendar year following the calendar year of the Allocation.

(b) **Carryover Allocation requests.** An eligible Applicant must request in writing the approval of a carryover of an Allocation of the applicable calendar year, at a date specified in the AP. The Taxpayer must satisfy all requirements of the Code and this section and file proof of same with OHFA, except the verifications required by 330:36-2-16(d) of the calendar year in which a Carryover Allocation is sought. The certifications and opinions required by 330:36-2-16(d) must be received by OHFA ~~the later of the date which is six (6) months~~ one (1) calendar year after the date that the allocation was made ~~or the close of the calendar year in which the allocation is made.~~

All documents requested by OHFA must be provided by the Taxpayer.

(c) **Carryover Allocation basis.** To qualify for a Carryover Allocation, the Taxpayer must demonstrate that the Taxpayer's basis in the Development, at ~~the later of six (6) months~~ one (1) calendar year after the date of allocation ~~or the close of the calendar year in which the Allocation is made,~~ is more than ten percent (10%) of the Taxpayer's reasonably expected basis in the Development. Developments that fail to meet the ten percent (10%) Test will not have a valid carryover allocation.

(d) **Verification of basis.** The Code requires OHFA to verify that the Owner has, by ~~the later of six (6) months~~ one (1) calendar year after the date of allocation ~~or the close of~~

~~the calendar year in which a Carryover Allocation is made, incurred more than ten percent (10%) of the reasonably expected basis in the Development (land and depreciable basis). The Taxpayer must file with OHFA a written certification, under penalty of perjury and in the form prescribed by OHFA, certifying that more than ten percent (10%) has been expended, in the year in which the Carryover Allocation was made or six (6) months one (1) calendar year later.~~ The certification must be accompanied by a written opinion of the Taxpayer's certified public accountant, in a form acceptable to OHFA. It must state that said certified public accountant has examined all eligible costs incurred with respect to the Development and that, based upon this examination, it is the certified public accountant's belief that the taxpayer has incurred more than ten percent (10%) of its reasonably expected basis in the Development by ~~the close of the calendar year of the Allocation or six (6) months one (1) calendar year later~~ as determined in conformity with the Code and Treasury Regulations. OHFA's determination as to the satisfaction of the ten percent (10%) requirement is not binding upon the IRS and does not constitute a representation by OHFA to the Taxpayer or any other party to that effect.

(e) **Carryover Allocation Agreement.** The Taxpayer must submit to OHFA an executed Carryover Allocation Agreement, in a form approved by the Trustees of OHFA, in the year in which the Carryover Allocation is requested.

(f) **Notification of placed in service date.** Applicant must notify OHFA within thirty (30) calendar days of the date the Development is placed in service or be subject to loss of any Allocation. Notice will consist of submission of copies of the Certificates of Occupancy for each building and completion of any and all forms as may be required in the AP.

(g) **Development based Allocation.** An Allocation pursuant to Code Section 42(h)(1)(F) must meet the requirements of Code Section 42(h)(1)(F), all applicable Treasury Regulations, and these Chapter 36 Rules.

330:36-2-17. Final Allocations

(a) **Prior approval.** Applicants must have previously been approved for a Reservation, either in a prior year or during one of the Reservation cycles for the calendar year in which the request is made.

(b) **Deadline for filing.** Owner's request for approval of the Final Allocation must be received by OHFA on or before November 1 of the year in which the Owner has elected as the first taxable year of the Credit, or at such later date as OHFA may specify in writing to the Owner. Failure to file a timely Final Allocation accompanied by all required documentation may result in the denial of the Final Allocation and a determination by the Trustees that the Credits have been returned by the Applicant.

(c) **Complete filing.** The Final Allocation must be accompanied by all evidence or documentation required by the Program Rules then in effect, and such other information or documentation which may be requested by OHFA, in its sole discretion, to verify compliance with the Code, the Program Rules and the Resolutions, and to verify the amount of the Final Allocation. A complete and executed Regulatory Agreement

in the form provided by OHFA and ready for filing, together with the appropriate fees, including without limitation applicable filing fees and compliance monitoring fees, must be filed with the Final Allocation. The Regulatory Agreement shall contain provisions for regulation and enforcement by OHFA and such additional provisions as may be necessary to assure compliance with Section 42 of the Code or to give effect to the requirements of OHFA.

(d) **Additional requirements.** In addition to the opinions and certifications of professionals which may be required to be filed with OHFA pursuant to 330:36-2-16 in connection with a request for a Carryover Allocation, prior to making a final Allocation, OHFA will require:

(1) An audited certification of the total Development costs, and the eligible basis and qualified basis of each Building in the Development and the sources and uses of funds for the Development prepared from an independent certified public accountant.

(2) All opinions must be in a form satisfactory to OHFA and must indicate that the professional has made an independent inquiry into the matters contained therein.

(e) **Approval.** Upon receipt of a completed Final Allocation, OHFA will conduct a final feasibility analysis. Approval of the Final Allocation is subject to Owner's continued compliance with the Code, the Program Rules, the Resolutions, all terms and conditions of this Agreement, Owner's payment of all fees required by the Program Rule.

(f) **Issuance of Form 8609(s).** Subject to the approval of the Final Allocation by the Trustees, OHFA will, upon notification by Owner that the Development (or any Building therein) has been placed in service, issue IRS Form 8609(s) respecting each such Development (or each Building therein) to the extent required by, and in accordance with, the Code and the Program Rules. ~~The total dollar amount of the final Allocation of Credits set forth on IRS Form 8609(s) shall not exceed the allocation amount for the Development (or Building(s)) approved by the Trustees.~~ No Form 8609(s) shall be issued if OHFA has not received an executed Regulatory Agreement and all Exhibits thereto, together with applicable fees.

SUBCHAPTER 4. DEVELOPMENT APPLICATIONS AND SELECTION

330:36-4-2. Selection of Applications for award of TCAs

(a) **General.** For the purpose of selecting Applications for awards of TCAs, OHFA may annually develop Threshold and Selection Criteria that conform to the Code, the OAHTC Program purposes and these Chapter 36 Rules for inclusion in the next year's AP. The number, severity, or value of any one or more of the Threshold Criteria items may be increased by adoption of an AP for a given year that contains such increased Threshold Criteria items. However, each AP must contain, as a minimum standard for approval of any Applications for the award of any TCAs, for any applicable AP, the Threshold Criteria set out herein below in this section.

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(b) **Minimum Threshold Criteria.** Failure to meet all Threshold Requirements set forth in the AP upon initial submission of the Application will result in the Application being rejected without further review. The Threshold Criteria shall include, but are not necessarily limited to the following:

(1) **Notice Requirements.** The provisions of this subsection apply to all Applicants for a TCA. All notice requirements must be satisfied not less than thirty (30) and no more than ninety (90) calendar days prior to submission of an Application. Each application cycle requires notice. If the application is considered at a different Board meeting than in the notice, this notification requirement is considered to be met.

(A) **Written Notices.** The Applicant must notify, in writing and by certified mail, the local Chief Executive Officer of the local Governing Body, Chairman of the appropriate county commissioners, state legislators (or their successor) within whose district the development is located at the time of application regarding their intent to submit an application. This written notice shall serve to provide a reasonable opportunity to comment on the application. All notice requirements must be satisfied not less than thirty (30) and no more than ninety (90) calendar days prior to submission of an Application. Each application cycle requires notice.

(B) **Additional notice requirements.** If the site for the development is not located within the specific corporate limits of an incorporated town or city, but is within two (2) miles of an incorporated town(s) or city(ies) limits, Applicant must provide the same notice to each such town(s) and city(ies) as if the site was located within the corporate limits of each such town(s) and city(ies). All notice requirements must be satisfied not less than thirty (30) and no more than ninety (90) calendar days prior to submission of an Application. Each application cycle requires notice.

(C) **Publication notice.** Notice of an Applicant's intent to file an Application shall also be published in a newspaper of general circulation in the area wherein the Development will be located. All notice requirements must be satisfied not less than thirty (30) and no more than ninety (90) calendar days prior to submission of an Application. Each application cycle requires notice. At a minimum all such notices must contain the reasonably anticipated information below:

- (i) the name and the legal description or street address of the proposed Development;
- ii) the names, business addresses and telephone numbers of the Applicant and the Applicant's designated contact person in regard to the proposed Development;
- (iii) whether the Development is new construction, acquisition and rehabilitation and/or substantial rehabilitation;
- (iv) the maximum number of units, the type of development, and percentage of income restricted units;

(v) the month in which the Applicant reasonably expects the Application to be considered by the OHFA Trustees for an award of a TCA;

(vi) the name, business address, telephone number and extension number of the contact person at OHFA to whom all inquiries about the hearing on the Application and the proposed Development should be directed.

(2) **Market analysis.** All Applicants must submit third party, independent housing market analyses conforming to the Threshold Criteria set forth in the applicable AP, demonstrating and documenting the status of the market demand for the type and number of housing units proposed to be developed. The market analysis must be prepared no more than twelve (12) months prior to the date Application is filed with OHFA.

(3) **Nonprofit owners.** Applicants proposing Developments under the nonprofit set-aside must demonstrate and document that the Nonprofit owner and/or Nonprofit ownership participant meet the definition of a nonprofit as defined in Section 42h(5)(C) of the Code and these Chapter 36 rules at 330:36-1-4. Applicants for nonprofit set-aside TCAs must demonstrate that the Nonprofit participant:

(A) will own a minimum of fifty-one percent (51%) ownership interest (directly or through a Partnership) in the Development;

(B) is at least a co-general partner, co-managing member, or a controlling stockholder, or can otherwise demonstrate ownership of, or the contractual obligation to acquire a controlling interest in the proposed Development by not later than the date the Development is substantially completed and commences business;

(C) will materially participate, on a regular basis, in the planning and construction of the Development, and in the operation and management of the Development throughout the entire compliance period pursuant to 26 CFR § 1.469;

(D) has a Board of Directors and Officers that are independent from any for-profit Development partner;

(E) is duly authorized to do business within the State; and (F) has at least one year of affordable housing experience in the State.

(4) **Resolution of local support.** Applicants must provide documentation of official local support for the Development by the jurisdiction within which the proposed Development is located at the time of application, i.e. the Local Governing Body. The required documentation must be in the form of a resolution duly adopted by the Local Governing Body, and must be in a form that shall be subject to approval by OHFA. If there are any conditions in the resolution, OHFA may exercise its discretion to contact the governing body to ascertain the potential impact of the conditions.

(5) **Capacity and prior performance.** Each Applicant must demonstrate and document the degree of

expertise of Applicant and owner in the use of TCAs and the Development, rehabilitation and/or conversion, management and operation of properties related to the type of the proposed Development. Applicants, Owners, and their Affiliates, including all Development team members, shall be examined in regard to their Placed in Service Developments, and the record of compliance performance within Oklahoma and other states in which the Development team members have developed or are developing affordable housing. The removal as a General Partner may be considered lack of capacity and performance. Applicants with existing Developments may be ineligible for a TCA where OHFA has or receives notice of uncorrected or repeated instance of nonperformance by Applicant, owner, or any of their Affiliates, and may include any of their Development team;

- (A) failure to meet and maintain minimum property standards;
- (B) failure to meet and maintain any material aspect of a Development as represented in a Development Application;
- (C) have been involved in uncured financing defaults, foreclosures, or placement on HUD's list of debarred contractors;
- (D) events of material uncorrected non-compliance with any Federal or State assisted housing programs within the prior seven (7) years; or
- (E) the appointment of a Receiver; conviction on a felony criminal charge; or bankruptcy within the prior seven (7) years.

(6) **Acquisition Credits.** Applicants requesting acquisition Credits must provide an opinion of counsel, in a form satisfactory to OHFA, that the requirements of Code Section 42(d) (2)(B) have been met or a waiver obtained from the IRS. If an existing waiver or waiver to be granted is claimed, copy of the waiver letter or a copy of the letter indicating a waiver will be granted and is forthcoming must be included in the applicant's Development proposal.

(7) **Phase I environmental study.** Applicants must submit a Phase I Environmental Assessment of the Development prepared no more than twelve (12) months prior to the date an Application is filed with OHFA. In lieu of assessment for existing RHS-financed properties to be acquired and rehabilitated, the Applicant and RHS must certify that there are no adverse environmental concerns. Any remediation requirements should be detailed and costs identified in the budget.

(8) **Financial feasibility and viability.** Applicants must demonstrate with their financing that there are firm commitments to the Development's financial feasibility and viability as a qualified low-income housing Development throughout the extended use period. Projects financed through the RHS programs must submit a Multiple Family Housing Obligation-Fund Analysis, Form FmHA 1944-51, or other evidence of firm commitment. Applicant must demonstrate to OHFA's satisfaction that the Applicant has financing commitments for one hundred

percent (100%) of the project's total estimated construction and permanent financing. Commitment letters must include loan amount, interest rate, loan term, debt service coverage ratio (permanent lender), loan amortization period (permanent lender), borrower, loan fees, collateral and conditions precedent to funding. Requirements set out in 36-4-2.2 (b)(c) and (d) are part of the analysis for financial feasibility.

(9) **Readiness to proceed.** Applicants must demonstrate readiness to proceed in a timely manner should they be awarded a TCA. Factors that may be considered regarding Development readiness shall include but not be limited to:

- (A) site control; and
- (B) Applicant must provide preliminary plans or specifications; and
- (C) proper zoning for the proposed Development.

(10) **Public Housing Wait Lists.** Each Application will be analyzed and evaluated as to the extent to which it is demonstrated that the local or State public housing authority documents the presence of a client waiting list for affordable housing units in the locale of the proposed development.

(11) **Capital needs assessment.** No allocations for rehabilitation will be made unless preceded by a capital needs assessment performed by a qualified independent third-party (architect, engineer, contractor, Rural Housing Services) which considers the proposed rehabilitation activities to ensure that the proposed improvements plus reserves have a useful life that meets the full term of affordability based on extended use agreements. In addition, all rehab developments must include a complete, detailed tenant income audit that identifies all existing tenants and their income. The audit shall separately identify those tenants whose income exceeds applicable income limits.

(c) **Selection criteria.** The Selection Criteria shall be set forth in the appropriate AP, and shall include, but not necessarily be limited to the following:

(1) **Income targeting.** Each Application will be analyzed and evaluated as to the extent to which it is demonstrated therein a commitment to target lower-income populations. Points will be awarded based on the percentage of total AHTC units targeted to persons at or below fifty percent (50%) AMFI to the total number of AHTC units in the project. A sliding scale for points will be established in the annual AP.

(2) **Term of affordability.** Each Application will be analyzed on its ability and evaluated as to any commitments made therein in regard to serving qualified tenants for a period of time longer than the minimum required by the Code. Points will be awarded for an extension of the term of affordability beyond the minimum required by the Code and established in the annual AP.

(3) **Development location and housing characteristics.** Each Application will be analyzed and evaluated as to the geographic location and prevailing market conditions for the proposed Development. Examples of location and condition variables may include, locating Developments

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within Difficult Development Areas, Qualified Census Tracts, Presidentially declared disaster areas as identified in the current or preceding year or Empowerment Zones, Enterprise Zones, Enterprise Communities. Points will be established in the annual AP.

(4) **Development Leverage.** Each Application will be analyzed and evaluated as to the extent to which it results in tangible, cost beneficial investments or contributions to the proposed Development. Leverage shall be considered as the proportion or percentage of leverage resources to total eligible basis. Points for this criterion will be established in the annual AP.

(5) **Community Support.** The extent to which local governments and other community partners commit support for a proposed development will be analyzed. Examples of community support include, but are not necessarily limited to: fee waivers, tax abatements, public improvements directly related to a Development, donations of property and/or materials, and other contributions of direct value to the proposed Development. Support must be directly related to the proposed project. Eligible evidence of support and points will be established in the annual AP.

(6) **Development Amenities.** Each Application will be analyzed and evaluated as to commitments made therein for the provision of amenities. Points available under this criterion will be established in the annual AP. Only amenities which exceed the minimum required by applicable laws or building codes will be eligible for points.

(7) **Development Services.** Each Application will be analyzed and evaluated as to commitments made therein for the provision of resident appropriate services. Points available under this criterion for the resident appropriate services will be established in the annual AP.

(8) **Applicant/Owner Experience.** Each Application will be analyzed and evaluated as to the experience of the Applicant and/or the Development Team in owning and successfully operating Developments in the LIHTC Program. Points available under this criterion will be established in the annual AP.

(9) **Management Experience.** Each Application will be analyzed and evaluated as to managing or providing management for Developments in the LIHTC Program. Points available under this criterion will be established in the annual AP. This evaluation will be based on the experience of the management team members. Changes in management may not occur after the Reservation without the prior written approval of OHFA.

(10) **Tenant/Special Needs Populations.** Each Application will be analyzed and evaluated as to the extent to which commitments are made therein to serve Special Needs populations. Points available under this criterion will be established in the annual AP and will be based upon a percentage of units dedicated to special needs.

(11) **Tenant populations of individuals with children.** Each Application will be analyzed and evaluated as to the extent to which it is demonstrated that the development

will provide amenities and a unit mix conducive to families/individuals with children. Points available under this criterion will be established in the annual AP. To be eligible, the market study must indicate a need for family units.

(12) **Tenant ownership.** Points available to applicants proposing for single family home ownership after the Compliance Period will be established in the annual AP. Applicants must submit a detailed plan which includes projections on maintenance, tenant reserve funds, etc. which will be evaluated for feasibility.

(13) **Tie-breaker.** In case there are applications with the same final score in any set-aside, a drawing shall occur at the Board of Trustees meeting in which the applications are being considered for funding. All applications with the same score in any set-aside will be entered in the drawing. The first application drawn, will be funded first, the second application drawn, will be funded next, and so forth until such time as the tax credits have been allocated under the set-aside. Applications not drawn under a set-aside will be placed in the next set-aside in which they qualify in rank score order.

(14) **Women/MBE.** Points may be established in the AP for Applicants utilizing Minority Business Enterprises/Women Business Enterprises (M/WBEs) as a participant of the Development Team.

(15) **Preservation of affordable housing units from pre-1990.** Points may be established in the AP for the preservation of affordable housing.

(16) **Energy Efficiency of a development.** Points will be established in the AP to encourage energy efficiency of developments. This may be a separate point category, or it may be combined within another threshold or selection category.

(17) **Historic Nature of a development.** Points will be established in the AP regarding the historic nature of developments. This may be a separate point category, or it may be combined within another threshold or selection category.

(18) **Negative Points.** OHFA Staff will deduct points for records of poor performance. Point deductions will be established in the AP.

(d) **OHFA discretion.** Notwithstanding the point ranking under the Selection Criteria set forth above under 330:36-4-2.1(c), the OHFA Board of Trustees may in their sole discretion allocate Credits to a project irrespective of its point ranking, if allocation is:

- (1) in compliance with Code Section 42;
- (2) in furtherance of the housing goals set forth herein, in the AP or any formally adopted resolution of the Trustees; and
- (3) determined by the Trustees to be in the interests of the citizens of the State.

330:36-4-2.1. General program requirements and limitations

(a) **General.**

(b) **Developer Fee limitations.** The amount of allowable Developer Fees shall be limited to:

- (1) **Small developments.** Developer Fees may not exceed eighteen percent (18%) of the Eligible Basis, excluding the Developer Fees.
- (2) **Large Developments.** Developer Fees may not exceed fifteen percent (15%) of the Eligible Basis, excluding the Developer Fees.
- (3) OHFA may, in its sole discretion, increase the Developer Fees allowable in order to create special financing incentives to meet a pressing local affordable housing need. All determinations of allowable Developer Fees shall be made in a manner consistent with the Code, IRS regulations and/or any directives of the Internal Revenue Services at the time of Allocation.

(c) **Contractor Fee limitation.** Allowable Contractor Fees shall be limited to:

- (1) **Small Developments.** Total allowable Contractor fees may not exceed sixteen percent (16%) of the hard construction costs. Allowable Contractor Fees are further limited as follows:
 - (A) General requirements may not exceed six percent (6%) of the hard construction costs;
 - (B) General Overhead may not exceed two percent (2%) of the hard construction costs; and
 - (C) Builders Profit may not exceed eight percent (8%) of the hard construction costs.
- (2) **Large Developments.** Total allowable Contractor fees may not exceed fourteen percent (14%) of the hard construction costs. Allowable Contractor Fees are further limited as follows:
 - (A) General requirements may not exceed six percent (6%) of the hard construction costs.
 - (B) General Overhead may not exceed two percent (2%) of the hard construction costs; and
 - (C) Builders Profit may not exceed six percent (6%) of the hard construction costs.

(d) **Underwriting standards.**

- (1) **Operating and replacement reserves.**
 - (A) Minimum operating reserves must equal six months of projected operating expenses plus:
 - (i) debt service payments and
 - (ii) annual replacement reserve payments.
 - (B) Minimum replacement reserves should equal \$250.00 per unit annually for new construction and \$300.00 for rehabilitation developments.
 - (C) Developer guarantees or letters of Credit may be accepted in lieu of operating reserves, at the discretion of OHFA. The developer must demonstrate financial capacity and liquidity. OHFA will also consider the developer's track record and the number of other guarantees outstanding.
 - (D) Notwithstanding the foregoing, these underwriting standards shall not apply if the project is being constructed in accordance with another federal program, such as Rural Housing 515 or 538, and such program provides for budgeting for operating and replacement reserves.

(2) **Debt service coverage.**

- (A) Debt service coverage means the ratio of a property's net operating income to debt service obligations.
- (B) The minimum acceptable debt service coverage ratio will be established in the AP.
- (3) **Projections.** All projections and pro-formas must contain realistic operating expense and vacancy rate projections consistent with prevailing market conditions.
- (4) **Cost limits.** Costs per unit must be realistic and consistent with prevailing market rates. OHFA encourages cost efficient production, but will not give a preference solely for lowest construction costs.
- (5) **Minimum of \$7,500 hard construction costs per unit for rehabilitations.** No allocations for rehabilitation will be made unless a minimum of \$7,500 in hard construction costs per unit will be expended or at least twenty percent (20%) of eligible basis, whichever is greater.
- (6) **Buildings Designated by OHFA to receive increase in credit.** OHFA will allow up to one hundred thirty percent (130%) boost for reasons determined and identified in the annual AP.
- (e) **Progress reports.** Progress reports must be filed by the Applicant/Owner beginning with the calendar quarter following the approval of a reservation of Credits until the IRS Form 8609 is issued for a building. Due dates are January 10, April 10, July 10 and October 10. The report must contain, at a minimum, the status of site preparation and/or construction, including the percentage of completion of each building, and costs incurred to date. The report must address any other requirements set forth in a Resolution of the Trustees and/or the Carryover Agreement. Within thirty (30) calendar days after the Certificate of Occupancy is issued for the last building in the project, the Taxpayer must notify OHFA and submit a copy of the Permanent Certificate of Occupancy for each building in the Development. Remedies for violation of these provisions include those denoted at 330:36-6-3, including but not limited to return of unused Credits.
- (f) **Construction time period.** Construction, not including site prep work, must begin within ~~one hundred eighty (180) calendar days~~ nine (9) months of the last calendar day of the month of the Credit reservation, unless extended for cause by OHFA. Remedies for violation of these provisions include those denoted at 330:36-6-3, including but not limited to return of unused tax Credits.
- (g) **Additional requirements.** OHFA may, as it deems necessary in its sole discretion, impose additional requirements or Program limitations on any Applicant, Taxpayer, Owner or Development. Said requirements or limitations may be set forth in a Resolution of the Trustees or in any contract between the Applicant or Owner and OHFA.
- (h) **Timeliness and completeness of filings.** Deadlines for filing Applications will be established in the AP. Should OHFA request additional information, the deadline for filing same with OHFA will be set forth in the letter requesting same. Applicants/Owners must strictly comply with all deadlines and all filings must be complete when filed.

SUBCHAPTER 6. PROGRAM ADMINISTRATION

330:36-6-3. Corrective and remedial actions

(a) Upon a determination by OHFA staff that a violation has occurred during the Application stages or prior to the filing of the Regulatory Agreement, OHFA may take any one or more of the following actions when the cited violations are not corrected in a timely manner:

- (1) Condition regulatory agreements;
- (2) Withhold allocations of tax Credits;
- (3) Reduce the total amount of the tax Credit award;
- (4) Require the return of unused tax Credits;
- (5) Deny future program Applications and participation for a specified period of time as determined by OHFA;
- (6) Indefinitely suspend from program participation;
- (7) File an action for specific performance; and/or
- (8) Notify the IRS.

(b) Additionally, OHFA shall have the right, upon discovery of facts or statements indicating possible program violations by an Applicant or owner in regard to a Development, or a proposed Development or a pending Application, or a pending TCA, to request and obtain information regarding:

- (1) The administrative, planning, budgeting, management and evaluation functions, actions being taken to correct or remove the cause of the program violation(s);
- (2) Any activities by an Applicant and/or owner, or by an Affiliate of either of them that are, or might be in violation or breach of the commitments made in the Application or that are, or might be, in violation of applicable laws, these Rules, the applicable AP, and/or the applicable Carryover Agreement and/or the applicable Regulatory Agreement;
- (3) The ability of the Applicant and/or owner to fulfill the commitments made to OHFA in the Application and/or the applicable Carryover Agreement and/or the applicable Regulatory Agreement, in a timely manner; and
- (4) Progress schedules for completing and/or performing the commitments made to OHFA in the Application and/or the applicable Carryover Agreement and/or the Regulatory Agreement in a timely manner.

(c) Prior to OHFA taking any corrective and/or remedial actions, OHFA, may, in its sole discretion, issue a notice of a show cause hearing. The Applicant and/or owner shall have ~~ten (10)~~ thirty (30) business days to appear and show cause as to why corrective and/or remedial actions should not be taken. This language shall not be construed as a limitation on the compliance monitoring and reporting requirements of the Code and these Chapter 36 Rules.

330:36-6-7. OHFA monitoring procedures.

(a) **General.** Section 42(m)(1)(B)(iii) of the Code mandates that state housing Credit agencies monitor all placed in service tax Credit projects for compliance with the provisions of Section 42. The Code also mandates that the Internal Revenue Service be notified, by the state housing agencies, of any instances of noncompliance, this includes failure to comply with

the Code and federal regulations and these Chapter 36 Rules, as well as failure to pay all compliance fees in a timely manner. OHFA will also monitor for compliance with the Regulatory Agreement (Land Use Restriction Agreement) provisions which contain additional owner commitments made to secure points in the project selection process, e.g. additional low-income units or an extended low-income use period. OHFA has assembled and will make available to the development owners, a Compliance Manual explaining the OAHTC monitoring process in detail. An owner representative and a management agent representative will be required to successfully complete a compliance training session conducted by OHFA or approved by OHFA and submit proof thereof with the first Quarterly report. OHFA will monitor the documents and certifications set forth in 330:36-6-7(b) and (c) for compliance with the Code.

(b) Record keeping and record retention provisions.

(1) The owner of a low-income housing project is required to keep records for each qualified low-income building in the project showing:

- (A) The total number of residential units in the building (including the number of bedrooms and the size in square feet of each residential rental unit);
- (B) The percentage of residential rental units in the building that are low-income units;
- (C) The rents charged on each residential rental unit in the building (including any utility allowances);
- (D) The number of occupants in each low-income unit;
- (E) The low-income unit vacancies in the building and information that shows when, and to whom the next available units were rented;
- (F) The initial annual income certification of each low-income tenant per unit, and any additional recertification that may be required;
- (G) Documentation to support each low-income tenant's income certification;
- (H) The eligible basis and qualified basis of the building at the end of the first year of the Credit period;
- (I) The character and use of the nonresidential portion of the building included in the building's eligible basis under Section 42(d) of the Code (e.g. tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the project); and
- (J) Copies of all correspondence with the IRS.

(2) The owner is required to retain the records described in this section for each building in the project for at least six (6) years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the Credit period must be retained for at least six (6) years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

(c) Certification and review provisions

(1) Between the placed in service date of a building and the submission of an application for a final allocation of

Credits, and prior to the issuance of an 8609, OHFA may physically inspect the property. An on-site review will again be conducted within the following year as described in 330:36-6-7 (c)(6) of these Rules.

(2) In accordance with Section 42(l)(1), following the close of the first taxable year in the Credit period, the owner must certify to the Secretary of the Treasury:

- (i) the taxable year in which such building was placed in service,
- (ii) the adjusted basis and eligible basis as of the close of the first year of the Credit period,
- (iii) the maximum applicable percentage and qualified basis, and
- (iv) the election made for the low-income targeting threshold.

(v) This certification is accomplished by completing Part II of the 8609(s). A copy of the completed 8609(s) must also be submitted to OHFA. The due date for submission is May 10, or as extended by the Service or Staff, of the year due to The Service for the first Credit year.

(3) Owners must prepare and submit a quarterly report beginning with the first full calendar quarter after the last building is Placed in Service, and for the subsequent three quarters. This report must be accompanied by copies of the Tenant Income Certifications for each tenant and new move-ins for the appropriate quarter. If a project is determined not to be in compliance with Program requirements or there is indication of possible noncompliance, OHFA, at its discretion, may require reports each quarter until compliance is demonstrated.

(4) The owner of a low-income housing project is required to certify annually, in a form prescribed by OHFA, that for the preceding 12-month period:

- (A) The project met the requirements of the 20-50 or 40-60 test under Section 42(g)(I) of the Code, whichever minimum set-aside is applicable to the project, and, if the applicable to the project, the 15-40 test under Section 42(g)(4) for "deep rent skewed" projects;
- (B) There was no change in the applicable fraction (as defined in Section 42(c)(1)(B)) of any building in the project, or that there was a change and a description of the change;
- (C) The owner has received an ~~annual~~ income certification from each low-income tenant and documentation to support that certification;
- (D) Each low-income unit in the project was rent-restricted under Section 42(g)(2);
- (E) All units in the project were for use by the general public and used on a non-transient basis (except for transitional housing for the homeless);
- (F) Each building in the project was suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the state or local government unit responsible for making building code inspections did not issue a

report of a violation for any building or low-income unit in the project;

(G) There was no change in the eligible basis (as defined in Section 42(d)) of any building in the project, or that there was a change, and the nature of that change;

(H) All tenant facilities included in eligible basis under Section 42(d) of any building in the project, such as swimming pool, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building;

(I) If a low-income unit in the project became vacant during the year, reasonable attempts were, or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were, or will be rented to tenants not having a qualifying income;

(J) If the income of the tenant of a low-income unit in the project increased above the limit allowed in Section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was, or will be, rented to tenants having a qualifying income;

(K) An extended low-income housing commitment, as described in Section 42 (h)(6), was in effect;

(L) The project meets the additional requirements contained in the Land Use Restriction Agreements;

(M) There was no change in the Owner entity (for example, transfer of general partnership interest);

(N) If the owner received its Credit allocation from a portion of the State's ceiling set-aside for projects involving "qualified non-profit organizations" under Section 42(h)(5) of the Code, the non-profit organization has materially participated in the operation if the development (within the meaning of CFR § 1.469);

(O) No finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred for this project. A finding of discrimination includes an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 361a(a)(1), or an adverse judgment from federal court; and

(P) An extended low-income housing commitment as described in Section 42(h)(6) was in effect, that an owner cannot refuse to lease a unit in a project to an applicant because the applicant holds a voucher or certificate of eligibility under Section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s.

(Q) Collect data required by HUD in a form prescribed by OHFA. In no way will the data collection be in violation of Fair Housing.

(5) OHFA will review the owner certifications submitted pursuant to 330:36-6-7(c)(4), for compliance with the requirements of Section 42 of the Code.

(6) OHFA must and will conduct on-site inspections of all buildings in the project by the end of the second calendar year following the year the last building in the project is placed in service, and for at least twenty (20) percent

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of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units.

(7) At least once every three (3) years through the extended use period, OHFA must conduct on-site inspections of all buildings in the project and, for at least twenty percent (20%) of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units.

(8) The certifications and reviews of paragraphs 330:36-6-7(c)(2) and (c)(4) of these Chapter 36 Rules are required to be made at least annually until the end of the extended use period, and the certifications are to be made under penalty of perjury.

(9) The owner is required to provide to OHFA, for the first Credit year, a copy of the completed Part II 8609, 8609 Schedule A and Form 8586 that is submitted to the Internal Revenue Service.

(10) The owner is required to provide to OHFA, as it occurs, copies of all correspondence with the Internal Revenue Service.

(d) **Auditing provisions.** OHFA has the right to perform an audit of any low-income housing project during the term of the Land Use Restriction Agreement. An audit includes physical inspection of any building in the project, as well as a review of the records described in 330:36-6-7(c)(1) of these Chapter 36 Rules. The auditing provision of this paragraph is in addition to any inspection of low-income certifications and documentation under 330:36-6-7(c)(7) of this Chapter 36 Rules.

(e) **Notification of non-compliance provisions.**

(1) OHFA will provide prompt written notice to the owner of a low-income housing project if OHFA does not receive the certification described in 330:36-6-7(c)(4) of these Chapter 36, or does not receive, or is not permitted to inspect, the tenant income certification supporting documentation and rent records, or discovers on audit, inspection review, or in some other manner, that the project is not in compliance with the Code or these Chapter 36 rules. The owner shall have a period of time, not to exceed thirty (30) calendar days, from the date of such notice (the "Correction Period") to supply any missing certifications and bring the project into compliance. OHFA may extend, in its own discretion, the Correction Period for up to an additional thirty (30) calendar days for good cause.

(2) OHFA must file IRS Form 8823 Report of Non-compliance with the Internal Revenue Service no later than forty-five (45) calendar days after the end of the Correction Period whether or not the noncompliance or failure to certify is corrected. OHFA will explain on Form 8823 the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis that results in a decrease in the

qualified basis of the project under Section 42(c)(1)(A) is an event of noncompliance that must be reported under this paragraph.

[OAR Docket #08-1448; filed 12-4-08]

TITLE 715. TEACHERS' RETIREMENT SYSTEM CHAPTER 10. GENERAL OPERATIONS

[OAR Docket #08-1447]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 11. Withdrawal From Membership and Refund of Deposits
715:10-11-7 [AMENDED]
Subchapter 15. Service Retirement
715:10-15-26 [AMENDED]

AUTHORITY:

Board of Trustees; 70 O.S. Section 17-101, et seq., especially Section 17-106

DATES:

Adoption:

October 22, 2008

Approved by Governor:

November 12, 2008

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2009, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

FINDING OF EMERGENCY:

The rules will provide a more efficient administration of the System. These rules are necessary for continued compliance with the Internal Revenue Code.

ANALYSIS:

Proposed amendments to **OAC 715:10-11-7** will ensure continued compliance with Internal Revenue Code Section 401(a)(31) (Rollovers). This rule addresses rollovers from the Teachers' Retirement System to other eligible retirement plans

Proposed amendments to **OAC 715: 10-15-26** will ensure continued compliance with Internal Revenue Code Section 415 (Limitations on Benefits). This rule addresses Internal Revenue Code Section 415 limits as they apply to TRS.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 11. WITHDRAWAL FROM MEMBERSHIP AND REFUND OF DEPOSITS

715:10-11-7. Rollovers from OTRS to other eligible retirement plans

(a) Notwithstanding any other provision of the administrative code, ~~a member, a member's spouse, or a member's former spouse who is the alternate payee under a qualified domestic order, as defined in OAC 715:10-25-1, that otherwise would limit a distributee's election to make a direct rollover,~~ a distributee may elect at the time and in the manner prescribed by the Board of Trustees, ~~to have all or a portion of an eligible rollover distribution paid directly to another eligible retirement plan as a direct rollover as required under Internal Revenue Code Section 401(a)(31) and the regulations thereto.~~

(b) The following definitions shall apply for purposes of the words and phrases used in this Section:

(1) An "eligible rollover distribution" includes any distribution of all or any ~~taxable~~ portion of the ~~defined benefit balance~~ to the credit of ~~a member, a member's spouse, or the members' former spouse who is the alternate payee under a qualified domestic order, as defined in OAC 715:10-25-1,~~ the distributee, except that an eligible rollover distribution does not include the following:

(A) any distribution that is one of a series of substantially equal periodic payments, paid not less frequently than annually, made for the life or life expectancy of the ~~member and the member's spouse~~ distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary.

(B) any distribution that is one of a series of substantially equal periodic payments for a specified period of ten years or more.

(C) any distribution to the extent such distribution is required under Internal Revenue Code Section 401(1)(9).

(D) the portion of any distribution that is not includable in gross income.

(E) any distributions during a year that are reasonably expected to total less than \$200.

(F) ~~any distribution from the tax sheltered annuity program.~~ Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Internal Revenue Code Section 414(p) and OAC 715:10-25-1.

(G) Effective January 1, 2002, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only

(i) to an individual retirement account or annuity described in Internal Revenue Code Section 408(a) or (b) or to a qualified defined contribution plan described in Internal Revenue Code Section 401(a) that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the

distribution that is includable in gross income and the portion of the distribution that is not so includable;

(ii) on or after January 1, 2007, to a qualified defined benefit plan described in Internal Revenue Code Section 401(a) or to an annuity contract described in Internal Revenue Code Section 403(b), that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable; or

(H) on or after January 1, 2008, to a Roth IRA described in Internal Revenue Code Section 408A.

(2) An "eligible retirement plan" includes ~~an individual retirement account or annuity described in Internal Revenue Code Sections 408(a) or (b), an annuity plan described in Internal Revenue Code Section 403(a), or a qualified trust described in Internal Revenue Code Section 401(a) that is willing to accept the distributee's eligible rollover distribution.~~ However, in the case of an eligible rollover distribution to the member's spouse, an eligible retirement plan only includes an individual retirement account or an individual retirement annuity in Internal Revenue Code Sections 408(a) or (b), any of the following that accepts the distributee's eligible rollover distribution:

(A) an individual retirement account described in Internal Revenue Code Section 408(a);

(B) an individual retirement annuity described in Internal Revenue Code Sections 408 (b);

(C) an annuity plan described in Internal Revenue Code Section 403(a);

(D) a qualified trust described in Internal Revenue Code Section 401(a);

(E) effective January 1, 2002, an annuity contract described in Internal Revenue Code Section 403(b);

(F) effective January 1, 2002, a plan eligible under Internal Revenue Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into that plan from the retirement system; or

(G) effective January 1, 2008, a Roth IRA described in Internal Revenue Code Section 408A.

(3) A "distributee" means a member, a member's spouse, or a member's former spouse who is the alternate payee under a qualified domestic order, as defined in Internal Revenue Code Section 414(p) and OAC 715:10-25-1. Before January 1, 2002, in the case of an eligible rollover distribution to the member's spouse, an eligible retirement plan only includes an individual retirement account or an individual retirement annuity described in Internal Revenue Code Sections 408(a) or (b). Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Internal Revenue Code Section 401(a)(9)(E). However, a nonspouse beneficiary may

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rollover the distribution only to an individual retirement account or individual retirement annuity (or, effective January 1, 2008, a Roth IRA) established for the purpose of receiving the distribution, and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(4) "Direct rollover" means a payment by the plan to the eligible retirement plan specified by the distributee.

(c) Eligible rollover distributions may be paid to not more than two eligible retirement plans, as selected by the distributee, when a direct rollover is elected.

SUBCHAPTER 15. SERVICE RETIREMENT

715:10-15-26. Code Section 415 limits as applied to TRS

(a) Notwithstanding any other provision of the administrative code, contributions paid to and benefits paid from the retirement system shall not exceed the maximum contributions and benefits permissible under Internal Revenue Code Section 415. Solely for purposes of calculating and complying with the limitations under Internal Revenue Code Section 415, a member's compensation for a year shall be the member's taxable income as reported by the member's employer on the Form W-2 that is filed with the Internal Revenue Service for the year in question. For 415 testing purposes, the limitation year is the calendar year.

(b) Participation in Other Qualified Plans: Aggregation of Limits

(1) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in Internal Revenue Code Section 414(j) maintained by the member's employer in the retirement system shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan.

(2) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in Internal Revenue Code Section 414(i) maintained by the member's employer in the retirement system shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.

(c) Basic 415(b) Limitation.

(1) Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in Internal Revenue Code Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in Internal Revenue Code Section 415(b)(1)(A), subject to the applicable adjustments in Internal Revenue Code Section 415(b) and subject to any additional limits that may be specified in the retirement system. In no event shall a member's benefit payable under the retirement system in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Internal

Revenue Code Section 415(d) and the regulations thereunder.

(2) For purposes of Internal Revenue Code Section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Internal Revenue Code Section 415(n)) and to rollover contributions (as defined in Internal Revenue Code Section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(d) Adjustments to Basic 415(b) Limitation for Form of Benefit. If the benefit under the retirement system is other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

(1) If the form of benefit without regard to any automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Internal Revenue Code Section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation section 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit as follows:

(2) For a benefit paid in a form to which Internal Revenue Code Section 417(e)(3) does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced Limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity (if any) payable to the member under the retirement system commencing at the same annuity starting date as the form of benefit to the member, or

(B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in Treasury Regulation section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62); or

(3) For a benefit paid in a form to which Internal Revenue Code Section 417(e)(3) applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced Internal Revenue Code Section 415(b) limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and

mortality table, or tabular factor, specified in the plan for actuarial experience;

(B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and the applicable mortality table for the distribution under Treasury Regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

(C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and the applicable mortality rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), divided by 1.05.

(e) Benefits Not Taken into Account for 415(b) Limitation. For purposes of this section, the following benefits shall not be taken into account in applying these limits:

- (1) Any ancillary benefit which is not directly related to retirement income benefits;
- (2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
- (3) Any other benefit not required under Internal Revenue Code Section 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Internal Revenue Code Section 415(b)(1).

(f) Other Adjustments in 415(b) Limitation.

- (1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with Treasury Regulations pursuant to the provisions of Internal Revenue Code Section 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age sixty-two (62).
- (2) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(g) Less than Ten (10) Years of Service Adjustment for 415(b) Limitations. The maximum retirement benefits payable to any member who has completed less than ten (10) years of service shall be the amount determined under subsection (c) multiplied by a fraction, the numerator of which is the number

of the member's years of service and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(h) Ten Thousand Dollar (\$10,000) Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such member under the retirement system and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not any time maintained a qualified defined contribution plan in which the member participated.

(i) Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after January 1, 2009, for purposes of applying the limits under Internal Revenue Code Section 415(b) (the "Limit") to a member with no lump sum benefit, the following will apply:

- (1) a member's applicable Limit will be applied to the member's annual benefit in the member's first limitation year without regard to any cost of living adjustments under Oklahoma statutes;
- (2) to the extent that the member's annual benefit equals or exceeds the Limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the Limit; and
- (3) thereafter, in any subsequent limitation year, a member's annual benefit, including any cost of living increases under Oklahoma statutes, shall be tested under the then applicable benefit Limit including any adjustment to the Internal Revenue Code Section 415(b)(1)(A) dollar limit under Internal Revenue Code Section 415(d), and the regulations thereunder.

(j) Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable Limit will be applied taking into consideration cost of living increases as required by Internal Revenue Code Section 415(b) and applicable Treasury Regulations.

(k) Section 415(c) limitations on contributions and other additions. After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to Internal Revenue Code Section 415(d)) or 100% of the member's compensation.

(1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

(2) For purposes of applying Internal Revenue Code Section 415(c) and for no other purpose, the definition of

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compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under Internal Revenue Code Section 414(h) shall not be treated as compensation.

(3) Solely for purposes of calculating and complying with the limitations under Internal Revenue Code Section 415, a member's compensation will be defined as wages within the meaning of Internal Revenue Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Internal Revenue Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Internal Revenue Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Internal Revenue Code Section 3401(a)(2)).

(A) However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Internal Revenue Code Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of Internal Revenue Code Section 132(f)(4).

(B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of $2\frac{1}{2}$ months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

(i) the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

(ii) the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued.

(C) Back pay, within the meaning of Treasury Regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(4) For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of subsection (k) shall not exceed the annual limit under Internal Revenue Code Section 401(a)(17).

(1) Service Purchases under Section 415(n). Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the retirement system, then the requirements of Internal Revenue Code Section 415(n) will be treated as met only if:

(1) the requirements of Internal Revenue Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Internal Revenue Code Section 415(b), or

(2) the requirements of Internal Revenue Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Internal Revenue Code Section 415(c).

(3) For purposes of applying this section, the retirement system will not fail to meet the reduced limit under Internal Revenue Code Section 415(b)(2)(C) solely by reason of this subparagraph and will not fail to meet the percentage limitation under Internal Revenue Code Section 415(c)(1)(B) solely by reason of this section.

(4) For purposes of this section the term "permissive service credit" means service credit

(A) recognized by the retirement system for purposes of calculating a member's benefit under the retirement system,

(B) which such member has not received under the retirement system, and

(C) which such member may receive only by making a voluntary additional contribution, in an amount determined under the retirement system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

(5) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding paragraph (4), subparagraph (B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the retirement system.

(6) The retirement system will fail to meet the requirements of this section if

(A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph, or

(B) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the retirement system.

(7) For purposes of paragraph (6), effective for permissive service credit contributions made in limitation years

beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to

(A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in Internal Revenue Code Section 415(k)(3)).

(B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in subparagraph (A)) of an education organization described in Internal Revenue Code Section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed.

(C) service as an employee of an association of employees who are described in subparagraph (A), or

(D) military service (other than qualified military service under Internal Revenue Code Section 414(u)) recognized by the retirement system.

(8) In the case of service described in paragraph (7), subparagraph (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.

(9) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Internal Revenue Code Section 403(b)(13)(A) or Internal Revenue Code Section 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer):

(A) the limitations of paragraph (6) will not apply in determining whether the transfer is for the purchase of permissive service credit, and

(B) the distribution rules applicable under federal law to the system will apply to such amounts and any benefits attributable to such amounts.

(10) For an eligible member, the limitation of Internal Revenue Code Section 415(c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the retirement system as in effect on August 5, 1997. For purposes of this paragraph an eligible member is an individual who first became a member in the retirement system before January 1, 1998.

(11) Nothing in this subsection (l) shall provide any additional rights to purchase service credit in the retirement system that are not otherwise expressly provided for under other provisions of these rules or Oklahoma statutes.

(m) Modification of Contributions for 415(c) and 415(n) Purposes. Notwithstanding any other provision of law to the contrary, the retirement system may modify a request by a member to make a contribution to the retirement system if the amount of the contribution would exceed the limits provided in Internal Revenue Code Section 415 by using the following methods:

(1) If the law requires a lump sum payment for the purchase of service credit, the retirement system may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under Internal Revenue Code Section 415(c) or 415(n), pursuant to OAC 715:10-5-4.

(2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by Internal Revenue Code Section 415(c) or 415(n), the retirement system may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution. The rules applicable to picked-up service purchases under OAC 715:10-5-35 are not subject to this subsection.

(n) Repayments of Cashouts. Any repayment of contributions (including interest thereon) to the retirement system with respect to an amount previously refunded upon a forfeiture of service credit under the retirement system or another governmental plan maintained by the retirement system shall not be taken into account for purposes of Internal Revenue Code Section 415, in accordance with applicable Treasury Regulations.

(o) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

[OAR Docket #08-1447; filed 12-1-08]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2008-49.

EXECUTIVE ORDER 2008-49

I, Brad Henry, Governor of the State of Oklahoma, in recognition of Pearl Harbor Remembrance Day, direct that appropriate steps be taken to fly all American flags and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Sunday, December 7, 2008, to honor the many Oklahoma and United States citizens who perished on December 7, 1941, as a result of the infamous attack by the Japanese on Pearl Harbor, Hawaii and in recognition of the dedication of a Memorial to their sacrifice.

On that day, 2,403 service people were killed, including 429 aboard the USS Oklahoma. Eight of the 429 aboard the USS Oklahoma were Oklahoma citizens. The loss of those people was a heavy burden for all Americans to bear. The flying of

these flags at half staff is a symbol from Oklahomans that demonstrates our remembrance of those killed and sympathy for their families.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 5th day of December, 2008.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:
M. Susan Savage
Secretary of State

[OAR Docket #08-1492; filed 12-10-08]

