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Board of MEDICOLEGAL Investigations	445	Board of Examiners for SPEECH-LANGUAGE Pathology and	
Department of MENTAL Health and Substance Abuse Services	450	Audiology (<i>Formerly:</i> Board of Examiners for SPEECH	
MERIT Protection Commission	455	Pathology and Audiology)	690
MILITARY Planning Commission, Oklahoma Strategic	457	STATE Employee Charitable Contributions, Oversight	
Department of MINES	460	Committee for (<i>Formerly:</i> STATE Agency	
Oklahoma MOTOR Vehicle Commission	465	Review Committee)	695
Board of Regents of MURRAY State College (<i>exempted 11-1-98</i>)	470	STATE Use Committee (<i>Formerly:</i> Committee on Purchases of Products	
Oklahoma State Bureau of NARCOTICS and Dangerous Drugs		and Services of the Severely HANDICAPPED) – <i>See</i> Title 304	
Control	475	Oklahoma STUDENT Loan Authority	700
Board of Regents of NORTHERN Oklahoma College (<i>exempted</i>		TASK Force 2000	705
11-1-98)	480	Oklahoma TAX Commission	710
Oklahoma Board of NURSING	485	Oklahoma Commission for TEACHER Preparation	712
Oklahoma State Board of Examiners for LONG-TERM Care		TEACHERS' Retirement System	715
Administrators (<i>Formerly:</i> Oklahoma State Board of Examiners		State TEXTBOOK Committee	720
for NURSING Home Administrators)	490	TOBACCO Settlement Endowment Trust Fund	723
Board of Regents of OKLAHOMA City Community College (<i>exempted</i>		Oklahoma TOURISM and Recreation Department	725
11-1-98)	495	Department of TRANSPORTATION	730
Board of Regents of OKLAHOMA Colleges (<i>exempted 11-1-98</i>)	500	Oklahoma TRANSPORTATION Authority (<i>Name changed to</i>	
Board of Examiners in OPTOMETRY	505	Oklahoma TURNPIKE Authority 11-1-05) - <i>See</i> Title 731	
State Board of OSTEOPATHIC Examiners	510	Oklahoma TURNPIKE Authority (<i>Formerly:</i> Oklahoma	
PARDON and Parole Board	515	TRANSPORTATION Authority AND Oklahoma TURNPIKE	
Oklahoma PEANUT Commission	520	Authority) - <i>See</i> also Title 745	731
Oklahoma State PENSION Commission	525	State TREASURER	735
State Board of Examiners of PERFUSIONISTS	527	Board of Regents of TULSA Community College (<i>exempted</i>	
Board of Commercial PET Breeders	532	11-1-98)	740
Office of PERSONNEL Management	530	Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma</i>	
Oklahoma State Board of PHARMACY	535	TRANSPORATION Authority 11-1-99 - <i>no rules enacted in this</i>	
PHYSICIAN Manpower Training Commission	540	<i>Title - See</i> Title 731)	745
Board of PODIATRIC Medical Examiners	545	Oklahoma UNIFORM Building Code Commission	748
Oklahoma POLICE Pension and Retirement System	550	Board of Trustees for the UNIVERSITY Center at Tulsa (<i>exempted</i>	
State Department of POLLUTION Control (<i>abolished 1-1-93</i>)	555	11-1-98)	750
POLYGRAPH Examiners Board	560	UNIVERSITY Hospitals Authority	752
Oklahoma Board of PRIVATE Vocational Schools	565	UNIVERSITY Hospitals Trust	753
State Board for PROPERTY and Casualty Rates		Board of Regents of the UNIVERSITY of Oklahoma (<i>exempted</i>	
(<i>abolished 7-1-06; see also Title 365</i>)	570	11-1-98)	755
State Board of Examiners of PSYCHOLOGISTS	575	Board of Regents of the UNIVERSITY of Science and Arts	
Department of CENTRAL Services (<i>Formerly:</i> Office of PUBLIC		of Oklahoma (<i>exempted 11-1-98</i>)	760
Affairs)	580	Oklahoma USED Motor Vehicle and Parts Commission	765
PUBLIC Employees Relations Board	585	Oklahoma Department of VETERANS Affairs	770
Oklahoma PUBLIC Employees Retirement System	590	Board of VETERINARY Medical Examiners	775
Department of PUBLIC Safety	595	Oklahoma Department of CAREER and Technology Education	
REAL Estate Appraiser Board	600	(<i>Formerly:</i> Oklahoma Department of VOCATIONAL and	
Oklahoma REAL Estate Commission	605	Technical Education)	780
Board of Regents of REDLANDS Community College (<i>exempted</i>		Oklahoma WATER Resources Board	785
11-1-98)	607	Board of Regents of WESTERN Oklahoma State College (<i>exempted</i>	
State REGENTS for Higher Education	610	11-1-98)	790
State Department of REHABILITATION Services	612	Oklahoma WHEAT Commission	795
Board of Regents of ROGERS State College (<i>exempted 11-1-98</i>)	615	Department of WILDLIFE Conservation	800
Board of Regents of ROSE State College (<i>exempted 11-1-98</i>)	620	WILL Rogers and J.M. Davis Memorials Commission	805

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 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 2. FEES

[OAR Docket #11-352]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Fee Schedules
35:2-3-1 [AMENDED]
35:2-3-2.1 [AMENDED]
35:2-3-2.2 [AMENDED]
35:2-3-2.3 [AMENDED]
35:2-3-2.4 [AMENDED]
35:2-3-2.5 [AMENDED]
35:2-3-2.6 [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2011

SUBMITTED TO HOUSE:

March 31, 2011

SUBMITTED TO SENATE:

March 31, 2011

[OAR Docket #11-352; filed 4-7-11]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS

[OAR Docket #11-350]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions
35:10-1-3 [AMENDED]
Subchapter 19. Examination Procedures for Price Verification
35:10-19-1 [REVOKED]

SUBMITTED TO GOVERNOR:

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SUBMITTED TO SENATE:

March 31, 2011

[OAR Docket #11-350; filed 4-7-11]

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

[OAR Docket #11-322]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

35:13-1-1 [AMENDED]
35:13-1-2 [AMENDED]

SUBMITTED TO GOVERNOR:

March 7, 2011

SUBMITTED TO HOUSE:

March 7, 2011

SUBMITTED TO SENATE:

March 7, 2011

[OAR Docket #11-322; filed 4-5-11]

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

[OAR Docket #11-320]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 9. Livestock Dealers and Livestock Special Sales [REVOKED]
Part 1. Livestock Dealers [REVOKED]
35:15-9-1 through 35:15-9-6 [REVOKED]

SUBMITTED TO GOVERNOR:

March 4, 2011

SUBMITTED TO HOUSE:

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SUBMITTED TO SENATE:

March 4, 2011

[OAR Docket #11-320; filed 4-5-11]

Submissions for Review

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

[OAR Docket #11-324]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 16. Contagious Equine Metritis
35:15-16-1 [AMENDED]
Subchapter 36. Scrapie
35:15-36-1 through 35:15-36-2 [AMENDED]

SUBMITTED TO GOVERNOR:

March 4, 2011

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March 4, 2011

SUBMITTED TO SENATE:

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[OAR Docket #11-324; filed 4-5-11]

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

[OAR Docket #11-347]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 11. Importation of Livestock, Poultry, and Pets
Part 13. Equine Piroplasmiasis [NEW]
35:15-13-1 [NEW]
35:15-13-2 [NEW]
35:15-13-3 [NEW]
35:15-13-4 [NEW]
35:15-13-5 [NEW]
35:15-13-6 [NEW]

SUBMITTED TO GOVERNOR:

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[OAR Docket #11-347; filed 4-7-11]

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

[OAR Docket #11-348]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 22. Swine Pseudorabies and Brucellosis
Part 1. General Provisions
35:15-22-1 [AMENDED]
35:15-22-2 [REVOKED]
35:15-22-3 [AMENDED]
35:15-22-4 [NEW]

Part 3. Requirements for Swine Entering Oklahoma

35:15-22-31 [AMENDED]
35:15-22-32 [REVOKED]
35:15-22-33 [AMENDED]
35:15-22-35 [AMENDED]

Part 5. Requirements for a Validated/Qualified
~~Pseudorabies Negative Herd~~ [AMENDED]

35:15-22-51 [AMENDED]
35:15-22-52 [AMENDED]
35:15-22-53 [AMENDED]

Part 7. Requirements for Swine Exhibitions

35:15-22-71 [AMENDED]
35:15-22-72 [NEW]

Part 9. Requirements for Approved Markets [REVOKED]

35:15-22-91 [REVOKED]

Part 11. Pseudorabies ~~Testing, Vaccine, and Quarantine~~
Procedures Brucellosis [AMENDED]

35:15-22-109 [NEW]
35:15-22-110 [REVOKED]
35:15-22-111 [REVOKED]
35:15-22-112 [REVOKED]
35:15-22-113 [REVOKED]
35:15-22-114 [REVOKED]
35:15-22-115 [REVOKED]

Part 13. Violations of Requirements for Testing or
Movement of Swine Into or Within the State of
Oklahoma [REVOKED]

35:15-22-131 [REVOKED]

Subchapter 24. Swine Brucellosis [REVOKED]

Part 1. General Provisions [REVOKED]

35:15-24-1 [REVOKED]
35:15-24-2 [REVOKED]
35:15-24-3 [REVOKED]

SUBMITTED TO GOVERNOR:

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

[OAR Docket #11-356]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Biological Products and Laboratories
35:15-5-1 [AMENDED]

SUBMITTED TO GOVERNOR:

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March 31, 2011

[OAR Docket #11-356; filed 4-7-11]

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

[OAR Docket #11-357]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 45. Brucellosis in Cervidae
Part 11. Animal Movement
35:15-45-111 [AMENDED]

SUBMITTED TO GOVERNOR:

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SUBMITTED TO SENATE:

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[OAR Docket #11-357; filed 4-7-11]

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

[OAR Docket #11-358]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 44. Farmed Cervidae
35:15-44-2 [REVOKED]
35:15-44-3 [AMENDED]
35:15-44-4 [AMENDED]
35:15-44-5 [AMENDED]
35:15-44-6 [AMENDED]
35:15-44-8 [AMENDED]
35:15-44-9 [AMENDED]
35:15-44-10 [AMENDED]
35:15-44-13 [AMENDED]
35:15-44-14 [REVOKED]
35:15-44-15 [REVOKED]
35:15-44-16 [REVOKED]
35:15-44-17 [REVOKED]
35:15-44-18 [AMENDED]
35:15-44-19 [AMENDED]
35:15-44-20 [NEW]

SUBMITTED TO GOVERNOR:

April 1, 2011

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April 1, 2011

SUBMITTED TO SENATE:

April 1, 2011

[OAR Docket #11-358; filed 4-7-11]

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

[OAR Docket #11-323]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

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]

SUBMITTED TO GOVERNOR:

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[OAR Docket #11-323; filed 4-5-11]

Submissions for Review

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

[OAR Docket #11-349]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 29. Fertilizer
Part 3. Liquid, Dry, and Anhydrous Ammonia
35:30-29-38 [AMENDED]

SUBMITTED TO GOVERNOR:

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March 31, 2011

[OAR Docket #11-349; filed 4-7-11]

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

[OAR Docket #11-355]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 4. Thousand Cankers Disease [NEW]
35:30-4-1 [NEW]
35:30-4-2 [NEW]
35:30-4-3 [NEW]
35:30-4-4 [NEW]
35:30-4-6 [NEW]

SUBMITTED TO GOVERNOR:

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March 31, 2011

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March 31, 2011

[OAR Docket #11-355; filed 4-7-11]

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

[OAR Docket #11-351]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. Meat Inspection

Part 1. General Provisions

35:37-3-1 [AMENDED]

35:37-3-2 [AMENDED]

35:37-3-3 [AMENDED]

35:37-3-4 [AMENDED]

Part 3. Mobile Farm Slaughter Regulations

35:37-3-6 [AMENDED]

35:37-3-7 [AMENDED]

35:37-3-11 [AMENDED]

35:37-3-12 [AMENDED]

35:37-3-13 [AMENDED]

Part 5. Application for Inspection: Grant or Refusal of Inspection

35:37-3-16 [AMENDED]

Part 13. Plants Identified as Unsanitary

35:37-3-42 [AMENDED]

35:37-3-42.1 [NEW]

Subchapter 5. Poultry Products Inspection

Part 1. General Provisions

35:37-5-1 [AMENDED]

35:37-5-2 [AMENDED]

35:37-5-3 [AMENDED]

Part 9. Miscellaneous

35:37-5-25 [AMENDED]

35:37-5-26 [AMENDED]

Subchapter 13. Milk and Milk Products

35:37-13-2 [AMENDED]

35:37-13-7 [NEW]

Appendix A. Chemical, Bacteriological, and Temperature Standards for Milk and Milk Products [REVOKED]

Appendix A. Chemical, Bacteriological and Temperature Standards for Milk and Milk Products [NEW]

SUBMITTED TO GOVERNOR:

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March 31, 2011

[OAR Docket #11-351; filed 4-7-11]

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

[OAR Docket #11-354]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 15. Organic Products

35:37-15-3 [AMENDED]

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[OAR Docket #11-354; filed 4-7-11]

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 40. MARKET DEVELOPMENT**

[OAR Docket #11-353]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 13. Healthy Corner Store [NEW]

35:40-13-1 [NEW]

35:40-13-2 [NEW]

SUBMITTED TO GOVERNOR:

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[OAR Docket #11-353; filed 4-7-11]

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

[OAR Docket #11-321]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. Agriculture Environmental Permitting and AgPDES

Part 1. General Provisions

35:44-1-3 [AMENDED]

Subchapter 3. Permit Conditions and Requirements

35:44-3-3 [AMENDED]

SUBMITTED TO GOVERNOR:

March 4, 2011

SUBMITTED TO HOUSE:

March 4, 2011

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March 4, 2011

[OAR Docket #11-321; filed 4-5-11]

**TITLE 38. OKLAHOMA BOARD OF LICENSED ALCOHOL AND DRUG COUNSELORS
CHAPTER 10. LICENSURE AND CERTIFICATION OF ALCOHOL AND DRUG COUNSELORS**

[OAR Docket #11-291]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

Subchapter 9. Supervision

38:10-9-5 [AMENDED]

SUBMITTED TO GOVERNOR:

March 28, 2011

SUBMITTED TO HOUSE:

March 28, 2011

SUBMITTED TO SENATE:

March 28, 2011

[OAR Docket #11-291; filed 3-28-11]

**TITLE 75. ATTORNEY GENERAL
CHAPTER 1. ADMINISTRATION**

[OAR Docket #11-302]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 1. Administration [AMENDED]

SUBMITTED TO GOVERNOR:

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March 31, 2011

SUBMITTED TO SENATE:

March 31, 2011

[OAR Docket #11-302; filed 4-1-11]

**TITLE 75. ATTORNEY GENERAL
CHAPTER 15. STANDARDS AND CRITERIA FOR DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROGRAMS**

[OAR Docket #11-303]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 15. Standards and Criteria For Domestic Violence and Sexual Assault Programs [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2011

Submissions for Review

SUBMITTED TO HOUSE:

March 31, 2011

SUBMITTED TO SENATE:

March 31, 2011

[OAR Docket #11-303; filed 4-1-11]

**TITLE 75. ATTORNEY GENERAL
CHAPTER 20. ADDRESS
CONFIDENTIALITY PROGRAM**

[OAR Docket #11-304]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 20. Address Confidentiality Program
[AMENDED]

SUBMITTED TO GOVERNOR:

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SUBMITTED TO HOUSE:

March 31, 2011

SUBMITTED TO SENATE:

March 31, 2011

[OAR Docket #11-304; filed 4-1-11]

**TITLE 75. ATTORNEY GENERAL
CHAPTER 25. STANDARDS AND CRITERIA
FOR BATTERERS INTERVENTION
PROGRAMS**

[OAR Docket #11-305]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 25. Standards and Criteria for Batters
Intervention Programs [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2011

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SUBMITTED TO SENATE:

March 31, 2011

[OAR Docket #11-305; filed 4-1-11]

**TITLE 75. ATTORNEY GENERAL
CHAPTER 30. STANDARDS AND
CRITERIA FOR ADULT VICTIMS OF SEX
TRAFFICKING PROGRAMS**

[OAR Docket #11-306]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 30. Standards and Criteria for Adult Victims of Sex
Trafficking Programs [NEW]

SUBMITTED TO GOVERNOR:

March 31, 2011

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March 31, 2011

SUBMITTED TO SENATE:

March 31, 2011

[OAR Docket #11-306; filed 4-1-11]

**TITLE 92. OKLAHOMA STATE ATHLETIC
COMMISSION
CHAPTER 1. GENERAL AGENCY RULES**

[OAR Docket #11-376]

PERMANENT RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 3. Meetings
92:1-3-6 [REVOKED]

SUBMITTED TO GOVERNOR:

March 31, 2011

SUBMITTED TO HOUSE:

March 31, 2011

SUBMITTED TO SENATE:

March 31, 2011

[OAR Docket #11-376; filed 4-8-11]

**TITLE 92. OKLAHOMA STATE ATHLETIC
COMMISSION
CHAPTER 10. RULES FOR BOXING AND
OTHER ACTIVITIES**

[OAR Docket #11-377]

PERMANENT RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 1. General Provisions
92:10-1-1 [AMENDED]
92:10-1-2 [AMENDED]
92:10-1-4 [AMENDED]

92:10-1-5 [AMENDED]
92:10-1-6 [AMENDED]
92:10-1-7 [AMENDED]
92:10-1-8 [AMENDED]
92:10-1-9 [AMENDED]
92:10-1-10 [AMENDED]

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March 31, 2011

SUBMITTED TO SENATE:

March 31, 2011

[OAR Docket #11-377; filed 4-8-11]

**TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION
CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES**

[OAR Docket #11-378]

PERMANENT RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 3. Boxing and Kickboxing Participants
92:10-3-3 [AMENDED]
92:10-3-8 [AMENDED]
92:10-3-12 [AMENDED]
Subchapter 5. Professional Boxing and Kickboxing Events
92:10-5-3 [AMENDED]
92:10-5-4 [AMENDED]
92:10-5-13 [AMENDED]
92:10-5-14 [AMENDED]
Subchapter 7. Elimination Tournaments
92:10-7-4 [AMENDED]
Subchapter 9. Professional Wrestling
92:10-9-2 [AMENDED]
92:10-9-3 [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2011

SUBMITTED TO HOUSE:

March 31, 2011

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March 31, 2011

[OAR Docket #11-378; filed 4-8-11]

**TITLE 92. OKLAHOMA STATE ATHLETIC COMMISSION
CHAPTER 10. RULES FOR BOXING AND OTHER ACTIVITIES**

[OAR Docket #11-379]

PERMANENT RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 11. Mixed Martial Arts
92:10-11-1 [AMENDED]
92:10-11-2 [AMENDED]
92:10-11-3 [AMENDED]
92:10-11-5 [REVOKED]
92:10-11-6 [REVOKED]
92:10-11-7 [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2011

SUBMITTED TO HOUSE:

March 31, 2011

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March 31, 2011

[OAR Docket #11-379; filed 4-8-11]

**TITLE 120. CAPITOL-MEDICAL CENTER IMPROVEMENT AND ZONING COMMISSION
CHAPTER 10. ZONING REGULATIONS FOR CAPITOL-MEDICAL CENTER IMPROVEMENT AND ZONING DISTRICT**

[OAR Docket #11-383]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [AMENDED]
120:10-1-3. Definitions [AMENDED]
120:10-1-8. Zoning districts [AMENDED]
Subchapter 3. Specific District Regulations [AMENDED]
120:10-3-1.1. Single Family Residence District (RD-1) [REVOKED]
120:10-3-2.1. Low Density General Residence District (RD-2) [REVOKED]
120:10-3-1.2. Low Density Residential (R-1) [NEW]
120:10-3-2.2. Medium Density Residential District (R-2) [NEW]
120:10-3-5.1. Historic Preservation District (HP) [AMENDED]
120:10-3-6.1. Neighborhood Commercial District (CN) [AMENDED]
120:10-3-7.1. Office Commercial District (CO) [AMENDED]

Submissions for Review

120:10-3-10.1. Restricted light Industrial District (I-1) [AMENDED]
120:10-3-11.1. Light Industrial District (I-2) [AMENDED]
120:10-3-12. Public District (P) [AMENDED]
120:10-3-13. Health Center District (HC) [AMENDED]
Subchapter 5. General District Provision and Additional Zoning Regulations [AMENDED]
Part 1. General Provisions [NEW]
120:10-5-2.1. Conditions of a more restricted district applied [AMENDED]
120:10-5-3.1. Height regulations [AMENDED]
120:10-5-4.1. Area and open space [AMENDED]
120:10-5-6.1. Child care facilities [REVOKED]
120:10-5-8. Commercial dumpsters and trash receptacles [NEW]
Part 3. Special Uses [NEW]
120:10-5-10.1. Historical Landmark District (HL) [AMENDED]
120:10-5-11.1. Planned Unit Development (PUD) [AMENDED]
120:10-5-12.1. Alcoholic Beverage Consumption Overlay Zoning District [AMENDED]
120:10-5-14. Mixed Use District-1, Health Center Commercial [AMENDED]
120:10-5-15. Mixed Use District-2, Limited Health Center Commercial [AMENDED]
Part 5. Special Uses [NEW]
120:10-5-19. Special Uses [NEW]
120:10-5-20. Adult day care centers [NEW]
120:10-5-21. Child care facilities [NEW]
120:10-5-22. Home occupation or home based business [NEW]
120:10-5-23. Humanitarian or philanthropic foundations [NEW]
120:10-5-24. Group living facilities [NEW]
120:10-5-25. Reasonable accommodation permit [NEW]
120:10-5-26. Validity [NEW]
Subchapter 7. Off-street Automobile and Vehicle Parking and Loading [AMENDED]
120:10-7-9. Size of off-street parking spaces [AMENDED]
120:10-7-10. General requirements [AMENDED]
120:10-7-11. Amount of off-street parking required [AMENDED]
120:10-7-14. Remote or overflow parking facilities [AMENDED]
120:10-7-16. Citations for illegal parking [AMENDED]
120:10-7-17. Miscellaneous provisions [AMENDED]
Subchapter 11. Historical Preservation and Landmark Board of Review [AMENDED]
120:10-11-3.1. Membership of the Board of Review [AMENDED]
120:10-11-4. Board of Review meetings, rules, quorum and duties of Director [AMENDED]
120:10-11-5.1. Duties and powers of the Board of Review [AMENDED]

120:10-11-6.1. Historical district designation procedures [AMENDED]
120:10-11-8.1. Certificate of Appropriateness [AMENDED]
120:10-11-9.1. Miscellaneous provision [AMENDED]
Subchapter 13. Administration [AMENDED]
120:10-13-16. Amendments [AMENDED]
120:10-13-19. Powers relative to conditional uses permissible on review [AMENDED]
Subchapter 17. Off-street Parking Facilities Landscape Code [AMENDED]
120:10-17-10. Miscellaneous provisions [AMENDED]
SUBMITTED TO GOVERNOR:
March 30, 2011
SUBMITTED TO HOUSE:
March 30, 2011
SUBMITTED TO SENATE:
March 30, 2011

[OAR Docket #11-383; filed 4-8-11]

TITLE 165. CORPORATION COMMISSION CHAPTER 35. ELECTRIC UTILITY RULES

[OAR Docket #11-309]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 39. Minimum Filing Requirements
165:35-39-1. Purpose and Scope of this Subchapter [AMENDED]
165:35-39-2. Definitions and Acronyms [AMENDED]
165:35-39-4. Initiation of Fuel Audit or Prudence Review [AMENDED]
165:35-39-5. Actual Fuel and Purchased Power Expenses [AMENDED]
165:35-39-6. Fuel Purchase Power, ~~and~~ Power Procurement and REC Management Practices [AMENDED]
165:35-39-7. Fuel, Purchased Power, Wind Energy Purchased Power and Fuel-Related Contracts [AMENDED]
165:35-39-11. Generator Availability and Dispatch [AMENDED]
165:35-39-13. Sunset Provisions [REVOKED]

SUBMITTED TO GOVERNOR:

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March 30, 2011

[OAR Docket #11-309; filed 4-4-11]

**TITLE 165. CORPORATION COMMISSION
CHAPTER 59. OKLAHOMA UNIVERSAL
SERVICE AND LIFELINE**

[OAR Docket #11-310]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
 - 165:59-1-1. Purpose and title [AMENDED]
 - 165:59-1-4. Definitions [AMENDED]
 - 165:59-1-7. Supremacy [AMENDED]
- Subchapter 3. Oklahoma Universal Service Fund
 - Part 3. Oklahoma Universal Service Fund
 - 165:59-3-13. Fund amount [AMENDED]
 - 165:59-3-14. Eligibility to receive OUSF funding [AMENDED]
 - Part 9. Requests for OUSF Funding
 - 165:59-3-62. Procedures for requesting funding from the OUSF [AMENDED]
- Subchapter 7. Special Universal Services
 - 165:59-7-1. Reimbursement from the OUSF for Special Universal Service [AMENDED]
 - 165:59-7-8. Internet access to public schools and libraries [AMENDED]
 - 165:59-7-10. Other sources of funds [AMENDED]
 - 165:59-7-13. Reselling of Special Universal Services Prohibited [AMENDED]
 - 165:59-7-15. Provision of Special Universal Services [AMENDED]
 - 165:59-7-17. Disclosure on bill regarding provided Special Universal Services [AMENDED]
- Subchapter 9. Oklahoma Lifeline Fund
 - Part 1. Lifeline Service Program
 - 165:59-9-3. Lifeline Service Program [AMENDED]
 - Part 5. Contributions and Reimbursements
 - 165:59-9-25. Procedures for requesting reimbursement from the OLF [AMENDED]

SUBMITTED TO GOVERNOR:

March 30, 2011

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March 30, 2011

[OAR Docket #11-310; filed 4-4-11]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 15. CURRICULUM AND
INSTRUCTION**

[OAR Docket #11-372]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 3. Priority Academic Student Skills
 - Part 23. Instructional Technology
 - 210:15-3-183. Overview [AMENDED]
 - 210:15-3-183.1. Definitions [AMENDED]
 - 210:15-3-184. ~~Introductory level prior to completion of grade 5 Standards~~ [AMENDED]

SUBMITTED TO GOVERNOR:

March 28, 2011

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March 28, 2011

SUBMITTED TO SENATE:

March 28, 2011

[OAR Docket #11-372; filed 4-8-11]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 15. CURRICULUM AND
INSTRUCTION**

[OAR Docket #11-373]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 3. Priority Academic Student Skills
 - Part 3. Pre-Kindergarten and Kindergarten
 - 210:15-3-5.6. Science [AMENDED]
 - Part 9. Science
 - 210:15-3-70. Overview organization [AMENDED]
 - 210:15-3-70.1. Science standards for grades 1 through 12 [AMENDED]
 - 210:15-3-70.2. Definitions [AMENDED]
 - 210:15-3-72. Standards for inquiry, physical, life, and earth/space science for grade 2 [AMENDED]
 - 210:15-3-73. Standards for inquiry, physical, life, and earth/space science for grade 3 [AMENDED]
 - 210:15-3-74. Standards for inquiry, physical, life, and earth/space science for grade 4 [AMENDED]
 - 210:15-3-75. Standards for inquiry, physical, life, and earth/space science for grade 5 [AMENDED]
 - 210:15-3-76. Standards for inquiry, physical, life, and earth/space science for grade 6 [AMENDED]
 - 210:15-3-77. Standards for inquiry, physical, life, and earth/space science for grade 7 [AMENDED]

Submissions for Review

- 210:15-3-78. Standards for inquiry, physical, life, and earth/space science for grade 8 [AMENDED]
210:15-3-79. Physical science - standards for inquiry and the physical sciences (including earth/space science) for high school [AMENDED]
210:15-3-80. Biology I - standards for inquiry and the biological sciences for high school [AMENDED]
210:15-3-81. Chemistry - standards for inquiry and chemistry for high school [AMENDED]
210:15-3-82. Physics - standards for inquiry and physics for high school [AMENDED]
210:15-3-83. Environmental Science - standards for inquiry and environmental science for high school [NEW]

SUBMITTED TO GOVERNOR:

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[OAR Docket #11-373; filed 4-8-11]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 15. CURRICULUM AND
INSTRUCTION**

[OAR Docket #11-374]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 4. Common Core State Standards [NEW]
210:15-4-1. Purpose [NEW]
210:15-4-2. Definitions [NEW]
210:15-4-3. Adoption and implementation [NEW]

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[OAR Docket #11-374; filed 4-8-11]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 15. CURRICULUM AND
INSTRUCTION**

[OAR Docket #11-375]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 13. Special Education
210:15-13-7. Lindsey Nicole Henry Scholarship for Students with Disabilities Program [NEW]

SUBMITTED TO GOVERNOR:

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SUBMITTED TO SENATE:

March 30, 2011

[OAR Docket #11-375; filed 4-8-11]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 1. ADMINISTRATIVE
OPERATIONS**

[OAR Docket #11-295]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
365:1-1-2. Office of the Insurance Commissioner [AMENDED]
Subchapter 9. Description of Forms and Instructions
365:1-9-11. Applications [AMENDED]
365:1-9-13. Suggested language for ~~agents~~ producers bonds [AMENDED]
365:1-9-14. Producer and adjuster continuing education forms [REVOKED]
365:1-9-15.1. License renewals and reinstatements [AMENDED]
365:1-9-16. ~~Agents—license~~ Producer licensing forms [AMENDED]

SUBMITTED TO GOVERNOR:

March 30, 2011

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March 30, 2011

SUBMITTED TO SENATE:

March 30, 2011

[OAR Docket #11-295; filed 3-31-11]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 10. LIFE, ACCIDENT AND
HEALTH**

[OAR Docket #11-296]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
Part 1. General Provisions

- 365:10-1-6. Oklahoma Life and Health Insurance Guaranty Association ~~disclaimer~~ notice requirements [AMENDED]
- 365:10-1-13. Notification required upon rejection [AMENDED]
- 365:10-1-15. Eliminating unfair discrimination on basis of children as single applicants [NEW]
- Subchapter 5. Minimum Standards; Contract Guidelines
- Part 1. Minimum Standards and Benefits for Accident and Health Insurance
- 365:10-5-4. Prohibited policy provisions [AMENDED]
- Part 13. Medicare Supplement Insurance Minimum Standards
- 365:10-5-128.2. Standard Medicare supplement benefit plans for 2010 standardized Medicare supplement benefit plan policies or certificates issued for delivery on or after June 1, 2010 [AMENDED]
- 365:10-5-134. Required disclosure provisions [AMENDED]
- Appendix S. Outline of Coverage [REVOKED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #11-296; filed 3-31-11]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 15. PROPERTY AND CASUALTY**

[OAR Docket #11-297]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- 365:15-1-3. Property and casualty form filings [AMENDED]
- Subchapter 3. Claims Resolution and Unfair Claim Settlement Practices
- 365:15-3-5. Failure to acknowledge pertinent communications [AMENDED]
- Subchapter 7. Property and Casualty Competitive Loss Cost Rating Regulations
- 365:15-7-17. Suspension or modification of filing requirements [REVOKED]
- 365:15-7-32. Use of "a" rates [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #11-297; filed 3-31-11]

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. LICENSURE OF
PRODUCERS, ADJUSTERS, BAIL
BONDSMEN, COMPANIES, PREPAID
FUNERAL BENEFITS, AND VIATICAL
SETTLEMENTS PROVIDERS AND
BROKERS**

[OAR Docket #11-298]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 3. Producers, Brokers, ~~Limited~~ ~~limited~~ Lines Producers and Vehicle Protection Product Warrantors
- 365:25-3-1. Insurance producers continuing education [AMENDED]
- 365:25-3-1.1. Application for resident producer license [REVOKED]
- 365:25-3-1.2. Provisional producer licensees [REVOKED]
- 365:25-3-1.3. Approved insurance company training program [REVOKED]
- 365:25-3-14. Insurance adjusters continuing education [AMENDED]
- 365:25-3-15. Variable ~~annuity~~ product licensing [AMENDED]
- 365:25-3-16. Examination exemptions [AMENDED]
- 365:25-3-17. Agriculture revenue insurance license [REVOKED]
- 365:25-3-18. Compensation and education for sale of Medicare Advantage (including private fee for service plans) or Medicare prescription drug products and plans [AMENDED]
- 365:25-3-20.1. Prior approval of vehicle protection product contract forms [NEW]
- 365:25-3-20.2. Cancellation language for vehicle protection product contract forms [NEW]
- 365:25-3-20.3. Disapproval of any vehicle protection product contract form [NEW]
- Subchapter 5. Bail Bondsmen
- Part 1. Continuing Education for Bail Bondsmen
- 365:25-5-3. Education requirements [AMENDED]
- Part 5. General Provisions Pertaining to Bail Bondsmen
- 365:25-5-35. Bondsman license renewal [AMENDED]
- 365:25-5-45. Fines and costs due to Commissioner [NEW]
- 365:25-5-46. Notification of use of business name [NEW]
- Subchapter 23. Cemetery Merchandise Trusts [NEW]
- 365:25-23-1. Purpose [NEW]
- 365:25-23-2. Permit required [NEW]
- 365:25-23-3. Contract approval [NEW]
- 365:25-23-4. Forms [NEW]

Submissions for Review

365:25-23-5. Trust fund and trustee [NEW]
365:25-23-6. Surety bond [NEW]
365:25-23-7. Reports to trustee [NEW]
365:25-23-8. Annual report [NEW]
365:25-23-9. Notice of sale [NEW]
Appendix T. Insurance Company Training Program
Affidavit [REVOKED]

SUBMITTED TO GOVERNOR:

March 30, 2011

SUBMITTED TO HOUSE OF REPRESENTATIVES:

March 30, 2011

SUBMITTED TO SENATE:

March 30, 2011

[OAR Docket #11-298; filed 3-31-11]

**TITLE 420. OKLAHOMA LIQUEFIED
PETROLEUM GAS BOARD
CHAPTER 10. LIQUEFIED PETROLEUM
GAS ADMINISTRATION**

[OAR Docket #11-294]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

420:10-1-5. Permits [AMENDED]
420:10-1-14. Standards for the storage and handling of
liquefied petroleum gas [AMENDED]

SUBMITTED TO GOVERNOR:

March 31, 2011

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March 31, 2011

[OAR Docket #11-294; filed 3-31-11]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 24. STANDARDS AND CRITERIA
FOR COMPREHENSIVE COMMUNITY
ADDICTION RECOVERY CENTERS**

[OAR Docket #11-307]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Chapter 24. Standards and Criteria for Comprehensive
Community Addiction Recovery Centers [NEW]

SUBMITTED TO GOVERNOR:

April 1, 2011

SUBMITTED TO HOUSE:

April 1, 2011

SUBMITTED TO SENATE:

April 1, 2011

[OAR Docket #11-307; filed 4-1-11]

**TITLE 515. PARDON AND PAROLE BOARD
CHAPTER 1. PROCEDURES OF THE
PARDON AND PAROLE BOARD**

[OAR Docket #11-300]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 3. General Operation
515:1-3-1. [AMENDED]

SUBMITTED TO GOVERNOR:

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[OAR Docket #11-300; filed 3-31-11]

**TITLE 515. PARDON AND PAROLE BOARD
CHAPTER 5. IT ACCESSIBILITY
COMPLIANCE REPRESENTATIVE**

[OAR Docket #11-301]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [NEW]
515:5-1-1. Purpose [NEW]
515:5-1-2. Definitions [NEW]
Subchapter 2. Responsibilities [NEW]
515:5-2-1. Responsibilities [NEW]
Subchapter 3. Procedures [NEW]
515:5-3-1. Filing a formal complaint [NEW]
515:5-3-2. Processing a complaint [NEW]
515:5-3-3. Review of final agency decision [NEW]
515:5-3-4. Annual complaint report [NEW]
515:5-3-5. Evaluation of proposed custom-designed
information technology systems [NEW]
Subchapter 4. [RESERVED]

SUBMITTED TO GOVERNOR:

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March 31, 2011

[OAR Docket #11-301; filed 3-31-11]

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

[OAR Docket #11-335]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 1. General Provisions

Part 1. General Provisions

530:10-1-2 [AMENDED]

Subchapter 5. Position Allocation and Employee
Classification System

Part 5. Audits of Positions

530:10-5-52 [AMENDED]

Subchapter 7. Salary and Payroll

Part 1. Salary and Rate of Pay

530:10-7-12 [AMENDED]

Subchapter 9. Recruitment and Selection

Part 3. Written and Performance Tests

530:10-9-40 [AMENDED]

Part 11. Direct Hire Authority

530:10-9-111 [AMENDED]

Subchapter 11. Employee Actions

Part 11. Other Transactions

530:10-11-120 [AMENDED]

Subchapter 13. Reduction-in-Force

Part 1. General Provisions for Reduction-in-Force

530:10-13-3 [AMENDED]

530:10-13-12 [AMENDED]

Part 3. Reduction-In-Force Plan Requirements

530:10-13-32 [AMENDED]

Subchapter 15. Time and Leave

Part 5. Miscellaneous Types of Leave

530:10-15-43 [AMENDED]

530:10-15-48 [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2011

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April 1, 2011

[OAR Docket #11-335; filed 4-6-11]

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

[OAR Docket #11-336]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

PROPOSED RULES:

Subchapter 1. General Provisions

530:15-1-9 [AMENDED]

Subchapter 3. Administrative Provisions

530:15-3-13 [AMENDED]

SUBMITTED TO GOVERNOR:

April 1, 2011

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[OAR Docket #11-336; filed 4-6-11]

**TITLE 580. DEPARTMENT OF CENTRAL
SERVICES
CHAPTER 35. FLEET MANAGEMENT
DIVISION**

[OAR Docket #11-382]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

580:35-1-1 [AMENDED]

580:35-1-9 [AMENDED]

580:35-1-10 [AMENDED]

SUBMITTED TO GOVERNOR:

March 28, 2011

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March 28, 2011

[OAR Docket #11-382; filed 4-8-11]

**TITLE 630. SCENIC RIVERS COMMISSION
CHAPTER 10. LICENSING AND USE
PERMITS**

[OAR Docket #11-293]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions and Licensing

Submissions for Review

630:10-1-9 [NEW]

SUBMITTED TO GOVERNOR:

March 28, 2011

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March 28, 2011

[OAR Docket #11-293; filed 3-29-11]

**TITLE 712. OKLAHOMA COMMISSION
FOR TEACHER PREPARATION
CHAPTER 10. TEACHER PREPARATION
PROGRAM ACCREDITATION**

[OAR Docket #11-292]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 5. Teacher Preparation Program Accreditation

712:10-5-1 [AMENDED]

712:10-5-2 [AMENDED]

712:10-5-3 [AMENDED]

712:10-5-4 [AMENDED]

Subchapter 7. Teacher Preparation Teacher Assessment

712:10-7-1 [AMENDED]

Appendix A. Competency Exam Requirements by
Certification Areas [REVOKED]

Appendix A. Competency Examination by Certification
Area [NEW]

SUBMITTED TO GOVERNOR:

March 16, 2011

SUBMITTED TO HOUSE:

March 16, 2011

SUBMITTED TO SENATE:

March 16, 2011

[OAR Docket #11-292; filed 3-29-11]

**TITLE 748. UNIFORM BUILDING CODE
COMMISSION
CHAPTER 20. ADOPTED CODES**

[OAR Docket #11-299]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

Subchapter 1. General Provisions [NEW]

748:20-1-1. Adoption of IRC 2009 [NEW]

748:20-1-2. Effect of Adoption [NEW]

748:20-1-3. IRC 2009 Appendices [NEW]

748:20-1-4. IRC 2009 Provisions Adopted and Modified
[NEW]

748:20-1-5. IRC 2009 Chapter 1 Scope and Administration
[NEW]

748:20-1-6. IRC 2009 Chapter 3 Building Plans [NEW]

748:20-1-7. IRC 2009 Chapter 4 Foundations [NEW]

748:20-1-8. IRC 2009 Chapter 5 Floors [NEW]

748:20-1-9. IRC 2009 Chapter 6 Wall Construction [NEW]

748:20-1-10. IRC 2009 Chapter 7 Wall Covering [NEW]

748:20-1-11. IRC 2009 Chapter 8 Roof-Ceiling
Construction [NEW]

748:20-1-12. IRC 2009 Chapter 11 Energy Efficiency
[NEW]

748:20-1-13. IRC 2009 Chapter 15 Exhaust Systems
[NEW]

748:20-1-14. IRC 2009 Chapter 24 Fuel Gas [NEW]

748:20-1-15. IRC 2009 Chapter 25 Plumbing
Administration [NEW]

748:20-1-16. IRC 2009 Chapter 26 General Plumbing
Requirements [NEW]

748:20-1-17. IRC 2009 Chapter 27 Plumbing Fixtures
[NEW]

748:20-1-18. IRC 2009 Chapter 28 Water Heaters [NEW]

748:20-1-19. IRC 2009 Chapter 29 Water Supply and
Distribution [NEW]

748:20-1-20. IRC 2009 Chapter 30 Sanitary Drainage
[NEW]

748:20-1-21. IRC 2009 Chapter 31 Vents [NEW]

748:20-1-22. IRC 2009 Chapter 34 General Requirements
(Electrical) [NEW]

748:20-1-23. IRC 2009 Chapter 40 Devices and Luminaries
[NEW]

Subchapter 3. [RESERVED]

Subchapter 5. IRC 2009 [NEW]

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March 31, 2011

[OAR Docket #11-299; filed 3-31-11]

Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register*.

For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION
AND INSTRUCTIONAL SERVICES**

[OAR Docket #11-368]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 13. Student Assessment
210:10-13-21. Academic Assessment Monitoring Program
(AAMP) [NEW]

GUBERNATORIAL APPROVAL:

March 31, 2011

[OAR Docket #11-368; filed 4-8-11]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION
AND INSTRUCTIONAL SERVICES**

[OAR Docket #11-371]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 9. Lifelong Learning
210:10-9-6. General educational development (GED)
testing program [AMENDED]

GUBERNATORIAL APPROVAL:

March 31, 2011

[OAR Docket #11-371; filed 4-8-11]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 15. CURRICULUM AND
INSTRUCTION**

[OAR Docket #11-369]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 3. Priority Academic Student Skills
Part 21. Information Literacy
210:15-3-172. Overview [AMENDED]
210:15-3-173. Information literacy [AMENDED]

GUBERNATORIAL APPROVAL:

March 31, 2011

[OAR Docket #11-369; filed 4-8-11]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 20. STAFF**

[OAR Docket #11-370]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

Subchapter 9. Professional Standards: Teacher Education
and Certification
Part 9. Teacher Certification
210:20-9-103. Career development plan to teach early
childhood - infants, toddlers, and three-year-olds [NEW]

GUBERNATORIAL APPROVAL:

March 31, 2011

[OAR Docket #11-370; filed 4-8-11]

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

[OAR Docket #11-331]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions
240:10-1-2. Definitions [AMENDED]
Subchapter 3. Benefits
Part 5. Eligibility
240:10-3-23. Claims for total unemployment benefits
[AMENDED]
240:10-3-29. Employer leave due to illness or disability
[NEW]
Subchapter 5. Contributions
Part 3. Rates
240:10-5-15. Successor acquiring the experience rating
account of predecessor [AMENDED]
Part 19. Maintenance and Production of Work Records
240:10-5-91. Employer's Quarterly Contribution Wage
Reports [AMENDED]

240:10-5-96. Application for Oklahoma UI Tax Account Number [NEW]

Subchapter 11. Assessment Board Procedures
Part 5. Hearings

240:10-11-20. Notice of hearings [AMENDED]

240:10-11-22. Conduct of hearings [AMENDED]

240:10-11-25. Motion to reopen after failure to appear [AMENDED]

Subchapter 13. Appeal Tribunal Procedures
Part 5. Hearings

240:10-13-33. ~~Notices~~ Notice of hearing [AMENDED]

240:10-13-40. Reopen [AMENDED]

240:10-13-42. Conduct of hearings [AMENDED]

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-331; filed 4-6-11]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 20. RACING OFFICIALS AND
RACING PERSONNEL**

[OAR Docket #11-340]

RULEMAKING ACTION:

Gubernatorial approval of permanent rule

RULE:

325:20-1-12 [AMENDED]

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-340; filed 4-7-11]

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 75. OKLAHOMA-BRED
PROGRAM**

[OAR Docket #11-341]

RULEMAKING ACTION:

Gubernatorial approval of permanent rule

RULE:

325:75-1-2 [AMENDED]

325:75-1-21 [NEW]

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-341; filed 4-7-11]

**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 2. ADMINISTRATIVE
COMPONENTS**

[OAR Docket #11-311]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 5. Fair Hearings

Part 7. Assistance Programs

340:2-5-79 [AMENDED]

(Reference APA WF 10-06)

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-311; filed 4-5-11]

**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 5. ADULT PROTECTIVE
SERVICES**

[OAR Docket #11-312]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. General Provisions

340:5-1-5 through 340:5-1-6 [AMENDED]

Subchapter 5. Investigation of Adult Protective Services
Referrals

340:5-5-8 [AMENDED]

(Reference APA WF 10-11)

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-312; filed 4-5-11]

**TITLE 340. DEPARTMENT OF HUMAN
SERVICES
CHAPTER 10. TEMPORARY ASSISTANCE
FOR NEEDY FAMILIES (TANF)**

[OAR Docket #11-313]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 2. Temporary Assistance for Needy Families
(TANF) Work Program

340:10-2-1 through 340:10-2-2 [AMENDED]

340:10-2-4 through 340:10-2-5 [AMENDED]

340:10-2-7 [AMENDED]

Subchapter 3. Conditions of Eligibility - Need
Part 1. Resources
340:10-3-5 [AMENDED]
Part 3. Income
340:10-3-32 [AMENDED]
340:10-3-39 through 340:10-3-40 [AMENDED]
Part 5. Assistance Payments
340:10-3-57 [AMENDED]
Subchapter 5. Conditions of Eligibility - Age
340:10-5-1 [AMENDED]
Subchapter 7. Conditions of Eligibility - Residence
340:10-7-1 [AMENDED]
Subchapter 9. Conditions of Eligibility - Relationship of
Payee to Child
340:10-9-1 [AMENDED]
Subchapter 10. Conditions of Eligibility - Deprivation
340:10-10-4 [AMENDED]
Subchapter 13. Conditions of Eligibility - School
Attendance
340:10-13-1 [AMENDED]
Subchapter 14. Conditions of Eligibility - Immunizations
340:10-14-1 [AMENDED]
(Reference APA WF 10-08 and 10-19)

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-313; filed 4-5-11]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 20. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)**

[OAR Docket #11-314]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 1. Low Income Home Energy Assistance Program
340:20-1-10 through 340:20-1-14 [AMENDED]
340:20-1-17 [AMENDED]
(Reference APA WF 10-15)

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-314; filed 4-5-11]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 40. CHILD CARE SUBSIDY PROGRAM**

[OAR Docket #11-315]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 3. Initial Application
340:40-3-1 [AMENDED]
Subchapter 5. Plan of Service
340:40-5-1 [AMENDED]
Subchapter 7. Eligibility
340:40-7-3.1 [AMENDED]
340:40-7-6 [AMENDED]
340:40-7-8 through 340:40-7-9 [AMENDED]
340:40-7-11 [AMENDED]
Subchapter 9. Procedures Relating to Case Changes
340:40-9-1 through 340:40-9-2 [AMENDED]
Subchapter 10. Electronic Benefit Transfer (EBT) System for Child Care
340:40-10-2 through 340:40-10-4 [AMENDED]
Subchapter 13. Child Care Rates and Provider Issues
340:40-13-5 [AMENDED]
(Reference APA WF 10-17)

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-315; filed 4-5-11]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 50. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**

[OAR Docket #11-316]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 3. Application Process
340:50-3-2 [AMENDED]
Subchapter 5. Non-Financial Eligibility Criteria
Part 1. Household Definition
340:50-5-3 [AMENDED]
340:50-5-6 [AMENDED]
340:50-5-8.1 [AMENDED]
Part 3. Special Households
340:50-5-28 [AMENDED]
Part 5. Students, Strikers, Resident Farm Laborers, Migrant Households, Sponsored Aliens, and School Employees
340:50-5-48 through 340:50-5-49 [AMENDED]
Part 7. Related Provisions
340:50-5-67 through 340:50-5-68 [AMENDED]

Part 9. Work Registration
340:50-5-88 [AMENDED]
Subchapter 7. Financial Eligibility Criteria
Part 1. Resources
340:50-7-1 [AMENDED]
340:50-7-2 through 340:50-7-5 [REVOKED]
Part 3. Income
340:50-7-22 [AMENDED]
340:50-7-29 through 340:50-7-31 [AMENDED]
Subchapter 9. Eligibility and Benefit Determination
Procedures
340:50-9-1 [AMENDED]
340:50-9-5 [AMENDED]
Subchapter 11. Special Procedures
Part 1. Households Entitled to Expedited Service
340:50-11-5 [AMENDED]
Part 7. Replacement When Food Purchased With Food
Benefits Is Destroyed
340:50-11-64 [AMENDED]
Part 12. Categorically Eligible Households
340:50-11-111 through 340:11-113 [AMENDED]
340:50-11-115 [AMENDED]
Subchapter 15. Overpayments and Fraud
Part 3. Fraud
340:50-15-25 [AMENDED]

(Reference APA WF 10-16)

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-316; filed 4-5-11]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 65. PUBLIC ASSISTANCE PROCEDURES**

[OAR Docket #11-317]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 3. Eligibility for Benefits
340:65-3-1 through 340:65-3-2.1 [AMENDED]
340:65-3-4 through 340:65-3-6 [AMENDED]
340:65-3-8 through 340:65-3-9 [AMENDED]
Subchapter 5. Procedures Relating to Case Changes
Part 1. General Provisions
340:65-5-1 [AMENDED]
340:65-5-3 [AMENDED]
Subchapter 9. Overpayments and Fraud in Temporary
Assistance for Needy Families and State Supplemental
Payment Benefits
340:65-9-1 through 340:65-9-2 [AMENDED]
340:65-9-4 through 340:65-9-6 [AMENDED]
340:65-9-8 [AMENDED]

(Reference APA WF 10-18)

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-317; filed 4-5-11]

**TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES**

[OAR Docket #11-338]

RULEMAKING ACTION:

Gubernatorial Approval of Permanent Rules

RULES:

Subchapter 1. General Provisions
485:10-1-2. [AMENDED]
Subchapter 7. Requirements for Registration and Licensure
as a Registered Nurse
485:10-7-3. [AMENDED]
Subchapter 9. Requirements for Registration and Licensure
as a Licensed Practical Nurse
485:10-9-3. [AMENDED]
Subchapter 16. Requirements for Prescriptive Authority for
Advanced Practice Nurses
485:10-16-1. [AMENDED]
485:10-16-3. [AMENDED]

GUBERNATORIAL APPROVAL:

March 11, 2011

[OAR Docket #11-338; filed 4-6-11]

**TITLE 715. TEACHERS' RETIREMENT SYSTEM
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #11-318]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

715:1-1-5 [AMENDED]
715:1-1-6 [AMENDED]
715:1-1-7 [AMENDED]
715:1-1-8 [AMENDED]
715:1-1-10 [AMENDED]
715:1-1-12 [AMENDED]

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-318; filed 4-5-11]

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

[OAR Docket #11-319]

RULEMAKING ACTION:

Gubernatorial approval of permanent rules

RULES:

- Subchapter 1. Membership Provisions
715:10-1-7 [AMENDED]
- Subchapter 5. Establishing Other Service Credits
715:10-5-6 [AMENDED]
715:10-5-17 [AMENDED]
715:10-5-31 [AMENDED]
- Subchapter 9. Survivor Benefits
715:10-9-6 [AMENDED]

Subchapter 11. Withdrawal From Membership and Refund
of Deposits

715:10-11-2 [AMENDED]

Subchapter 13. Contributions for Membership Service

715:10-13-1 [AMENDED]

715:10-13-9 [AMENDED]

Subchapter 15. Service Retirement

715:10-15-5 [AMENDED]

715:10-15-24 [AMENDED]

Subchapter 17. Post-Retirement Employment

715:10-17-6 [AMENDED]

715:10-17-7 [AMENDED]

GUBERNATORIAL APPROVAL:

March 29, 2011

[OAR Docket #11-319; filed 4-5-11]

Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to final adoption (approval by Governor/Legislature) by notifying the Governor and the Legislature and by publishing a notice in the *Register* of such a withdrawal.

An agency may withdraw proposed EMERGENCY rules prior to approval/disapproval by the Governor by notifying the Governor, the Legislature, and the Office of Administrative Rules. The withdrawal notice is not published in the *Register*, however, unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the EMERGENCY rules.

For additional information on withdrawal of proposed rules, see 75 O.S., Section 308(F) and 253(K) and OAC 655:10-7-33.

**TITLE 710. OKLAHOMA TAX
COMMISSION
CHAPTER 60. MOTOR VEHICLES**

[OAR Docket #11-330]

RULEMAKING ACTION:

Withdrawal of PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Motor Vehicle Titles

Part 11. Liens

710:60-5-116. Possessory Liens under Title 42 of the

Oklahoma Statutes [AMENDED]

DATES:

Adoption:

March 3, 2011

Submitted to Governor:

March 9, 2011

Submitted to House:

March 9, 2011

Submitted to Senate:

March 9, 2011

Withdrawn:

April 5, 2011

[OAR Docket #11-330; filed 4-6-11]

Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption" of the proposed new, amended, or revoked rules. "Final adoption" occurs upon approval by the Governor and the Legislature, or upon enactment of a joint resolution of approval by the Legislature. Before proposed permanent rules can be reviewed and approved/disapproved by the Governor and the Legislature, the agency must provide the public an opportunity for input by publishing a Notice of Rulemaking Intent in the *Register*.

Permanent rules are effective ten days after publication in the *Register*, or on a later date specified by the agency in the preamble of the permanent rule document.

Permanent rules are published in the *Oklahoma Administrative Code*, along with a source note entry that references the *Register* publication of the permanent action.

For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 303.2, 308 and 308.1.

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

[OAR Docket #11-308]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

150:105-1-2 [AMENDED]

150:105-1-4 [AMENDED]

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.

DATES:

Comment period:

October 18, 2010 through November 17, 2010

Public hearing:

November 18, 2010

Adoption:

November 18, 2010

Submitted to Governor:

November 19, 2010

Submitted to House:

November 19, 2010

Submitted to Senate:

November 19, 2010

Gubernatorial approval:

December 27, 2010

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 1, 2011.

Final adoption:

April 1, 2011

Effective:

May 12, 2011

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

This action is to incorporate the amendments to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act contained in House Bill 1786 of the Second Session of the 52nd Oklahoma Legislature which was executed by the Governor on May 26, 2010, which were effective when executed.

CONTACT PERSON:

Donald R. Hackler, Jr. (405) 815-5359

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

150:105-1-2. Definitions

In addition to those terms defined elsewhere in this chapter, and the terms defined in 62 O.S. § 841, the following words and terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise.

"Department" means the Oklahoma Department of Commerce established pursuant to 74 O.S. §§ 5001 et seq. and any successor agencies thereto.

"Director" means the duly appointed and acting Director of the Department or during any period of time that the position of Director is vacant; such term shall refer to the person serving as the acting director.

"District" means either an incentive district as authorized by Section 860 of this title or an increment district as authorized by Section 861 of this title. A district may consist of all or a portion of a project area. [62 O.S. § 853(4)]

"Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, corporation, limited liability company or other legally constituted business entity. [62 O.S. § 841(1)]

"Enterprise zone" means an area as defined pursuant to paragraph 5 of Section 690.2 of this title. [62 O.S. 841(2)]

"Estimated direct state benefits" means the total incremental state tax revenues new to the state estimated by the Oklahoma Department of Commerce to accrue to the state from new investments during the period of apportionment of local sales taxes as a result of the project and/or projects described in the related project plan. In projecting such benefits, the Oklahoma Department of Commerce shall consider, if practicable, whether or not the project plan involves an enterprise:

- (A) relocating from within the state,
- (B) subject to or in the process of recruitment by two or more governmental entities within the state, or
- (C) which will be in direct competition with an existing enterprise located in the state. [62 O.S. § 841(3)]

(D) The Department may also look to the following information to assist the Department to determine the estimated direct state benefit:

(i) The Department may review the following related to the project:

- (I) historical data on similar or existing projects;
- (II) information provided in the application;
- (III) data from federal agencies such United States Bureau of the Census and the United States Department of Labor;

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- (IV) the most recent historical data from the Oklahoma Tax Commission on average personal tax rates by income class; and,
 - (V) private sector financial reports.
- (ii) The Department may review the following related to the estimated tax benefit:
- (I) information supplied in the application;
 - (II) data from federal agencies such as the United States Department of Labor;
 - (III) Oklahoma Tax Commission sales and use tax reports; and,
 - (IV) private sector financial reports.

"Estimated direct state costs" means the costs projected by the Oklahoma Department of Commerce to be incurred by the state during the period of apportionment of local sales taxes, as a result of the project and/or projects described in the related project plan. [62 O.S. § 841(4)] The Department may also look to the following information to assist the Department to determine the estimated direct state cost:

- (A) The costs of educating new state resident children. The Department may determine the estimated direct state costs of such educations by using:
 - (i) information supplied in the application;
 - (ii) the most recent average student allocation per pupil formula provided by the Oklahoma Department of Education; and,
 - (iii) United States Department of Labor statistics.
- (B) The costs of government services such as public health, public safety and transportation provided to new residents and/or state service beneficiaries. The Department may determine the estimated direct state costs for such government costs by examining the state's per capita cost of providing non-common education services and estimating the amount of the state's excess capacity; and
- (C) The costs of any industrial access road paid for with state funds and provided by the Oklahoma Department of Transportation; provided, the road is clearly from the facility to the thoroughfare and is clearly and primarily utilized by the project.

"Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs. [62 O.S. § 841(5)]

"Facility" means the definition contained in paragraph 8 of Section 690.2 of this title. [62 O.S. § 841(6)]

"Governing body" means the governing board of a local governmental entity in the case of a single incentive district or increment district when the boundaries of the district are co-extensive with or contained within the jurisdiction of any such single local governmental entity or the governing boards of a combination of counties, cities, or towns forming an incentive district or an increment district pursuant to the provisions of the Local Development Act. [62 O.S. § 841(7)]

"Incentive district" means an area created pursuant to the provisions of the Local Development Act, including Section 856 of Title 62 of the Oklahoma Statutes. [62 O.S. § 841(8)]

"Increment" means that portion of ad valorem taxes in excess of the amount of that portion of the taxes which are produced by the levy at the rate fixed each year by or for each such ad valorem taxing entity upon the base assessed value of the district or as to an area later added to the district, the effective date of the modification of the plan, or that portion of sales taxes, other local taxes or local fees collected each year reasonably determined by a formula approved by the governing body to be generated by the project, which may be apportioned for specific project costs or as a specific revenue source for other public entities in the area in which the project costs take place. [62 O.S. § 853(9)]

"Increment district" means an area created pursuant to the provisions of the Local Development Act. [62 O.S. § 841(9)]

"Local Development Act" is set forth at 62 O.S. §§ 850 - 869.

"Local governmental entity" means a county, city or town forming an incentive district or an increment district pursuant to the provisions of the Local Development Act. [62 O.S. § 841(10)]

"Local sales taxes" means amounts payable to or for the benefit of a local governmental entity calculated as a percentage, which, except on transient lodgings, shall not exceed four and one half percent (4.5%) of gross sales whether imposed by ordinance, resolution, covenant, or agreement [62 O.S. § 841(11)]

"Major tourism destination project" means a project which:

- (A) meets the definition of a "tourism attraction" as set forth in subparagraph a of paragraph 10 of Section 2357.36 of Title 68 of the Oklahoma Statutes, subject only to the restrictions of divisions (1), (3) and (6) of subparagraph b of paragraph 10 of Section 2357.36 of Title 68 of the Oklahoma Statutes;
- (B) is projected to meet the following qualifications within three (3) years of the date of substantial completion of the project based upon the findings of the Oklahoma Department of Commerce:
 - (i) at least Fifty Million Dollars (\$50,000,000.00) in capital investment,
 - (ii) at least Fifty Million Dollars (\$50,000,000.00) in projected annual gross sales revenues or at least Ten Million Dollars (\$10,000,000.00) in annual gross sales revenues to out of state visitors;
 - (iii) a number of out of state visitors of at least:
 - (I) twenty percent (20%) of the number of total visitors, or
 - (II) twenty thousand (20,000) visitors per year, and
 - (iv) a number of visitors traveling at least one hundred (100) miles of at least:
 - (I) thirty percent (30%) of the number of total visitors, or
 - (II) twenty five thousand (25,000) visitors per year, or

(C) is a lake resort project, containing a hotel, a conference center, and an eighteen hole golf course, located within twenty five (25) linear miles of the state boundary on a lake containing at least forty five thousand (45,000) surface acres of water, that is estimated to generate at least Fifty Million Dollars (\$50,000,000.00) in capital investment. [62 O.S. § 841 (12)]

"Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross taxable sales derived from the project during the period of apportionment of local sales taxes by the local governmental entity. [62 O.S. § 841 (13)]

"Net leasable space" means any area of a building, structure, enclosure, or any other facility that can be leased for any lawful purpose or purposes.

"Project" means all development activities pursuant to the objectives of the project plan. [62 O.S. § 853(12)]

"Project area" means the geographic boundaries within which development activities will occur. The project area may be coextensive or larger than the increment district. [62 O.S. § 853(13)]

"Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred which are listed in the project plan as costs of and incidental to planning, approval and implementation of the project plan. Any income, special assessments, or other revenues received, or reasonably expected to be received, by the city, town or county in connection with the implementation of the project plan may be used to pay project costs. Project costs include, but are not limited to:

(A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new public or private buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing public or private buildings, structures, and fixtures; and the actual costs of the acquisition of land and equipment for public works, public improvements and public buildings and the actual costs of clearing and grading of such land and environmental remediation related thereto;

(B) financing costs, including interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;

(C) real property assembly costs, including clearance and preparation costs;

(D) professional service costs, including those incurred for architectural, planning, engineering, legal and financial advice and services;

(E) direct administrative costs, including reasonable charges for the time spent by employees of the city, town or county in connection with the implementation of a project plan or employees of private entities under contract with a public entity for project planning or implementation,

(F) organizational costs, including the costs of conducting environmental impact studies or other impact studies, the cost of publicizing the consideration of the project plan, costs incidental to creation of the district, and the cost of implementing the project plan for the district;

(G) interest, before and during construction and for two (2) years after completion of construction, whether or not capitalized;

(H) fees for bond guarantees, letters of credit and bond insurance;

(I) the amount of any contributions offset made in connection with the implementation of the project plan;

(J) the costs for determining or redetermining the base assessed value of a district;

(K) costs of construction of public works or improvements, including but not limited to highways, roads, streets, bridges, sewers, traffic control systems and devices, telecommunications systems, parks, water distribution and supply systems, curbing, sidewalks and any similar public improvements, common utility or service facilities, landscaping, parking, and water detention/retention systems;

(L) all or a portion of another taxing jurisdiction's capital costs resulting from the development or redevelopment project necessarily incurred or to be incurred in furtherance of the objectives of the plan and project, to the extent the governing body by written agreement accepts and approves such costs;

(M) relocation costs to the extent that a governing body determines that relocation costs shall be paid or are required to be paid by federal or state law;

(N) all costs incurred in the maintenance, management, marketing and other services provided through an active Main Street Program recognized as such by the Oklahoma Department of Commerce; and

(O) assistance in development financing to the extent the governing body approves such financing. [62 O.S. § 853(14)]

"Project plan" means the approved plans of a city, town or county which may include a designated district or districts under this act in conformance with its comprehensive plan, which is intended by the payment of costs through apportionment of the increment or by the granting of incentives or exemptions to reduce or eliminate those conditions, the existence of which qualified the district, and to thereby enhance private investment of the tax bases of the taxing entities which extend into the district. Project plans may be a part of and incorporate existing neighborhood, renewal, economic development, public school and other such plans. Each project plan shall conform to the requirements specified by this act. [62 O.S. § 853(15)]

"Public entity" means any city, town, county, board, commission, authority, district, urban renewal authority or public trust. [62 O.S. § 853(16)]

"Retail leasable space" means space intended for retail purposes and shall include, but not be limited to, points of

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sales, aisles, display areas, storage and warehouse space to support the retail purposes.

~~"Retail purposes" means the objectives of selling tangible personal property, other than art, on the physical premises of an establishment. Retail purposes shall not mean a hotel, motel, entertainment facility, museum, cultural facility, art gallery, restaurant supporting another establishment excluded herein, or a major tourism destination project. [62 O.S. § 841(15)]~~

~~"State local enterprise matching payment" means the payment authorized by subsection A of Section 844 of Title 62 of the Oklahoma Statutes. [62 O.S. § 841(16)]~~

~~"State local government matching payment" means the payment authorized by subsection D of Section 844 of Title 62 of the Oklahoma Statutes. [62 O.S. § 841(17)]~~

150:105-1-4. Threshold and Selection Criteria

Complete threshold requirements and selection criteria will be set forth in the application guide. The minimum threshold criteria are as follows:

- (1) Project must be located entirely within an enterprise zone or in support of a major tourism destination which the local governmental entity determines is likely to significantly benefit contiguous or nearby enterprise zone census tracts;
- (2) No more than ten percent (10%) of the net leasable space of such development may be used for retail purposes and no state local government matching payment shall be made for project costs in support of any gambling establishment;
- (3) State local government matching payments cannot be used to supplant local revenue currently being expended within the increment district boundaries;
- (4) Certification that all projects described within the related project plan will generate, in the aggregate, a minimum of either One Million Dollars (\$1,000,000.00) in payroll, exclusive of payroll for construction, or Five Million Dollars (\$5,000,000.00) in investment;
- (5) The application must include an estimate of incremental revenues likely to be derived from the project;
- (6) The project must include the commitment of local governmental entity; and
- (7) The project meets the time deadlines set forth in 62 O.S. § 842(I).
- (8) If the project is in support of a major tourism destination, the application must meet the requirements set forth at 62 O.S. § 842 (B)(3) and (B)(4).
- (9) If the project is a Military growth impact project, the application must meet the requirements set forth at 62 O.S. §§ 841(13), (14), and (15).

[OAR Docket #11-308; filed 4-4-11]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #11-332]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
240:1-1-2. Definitions [AMENDED]
Subchapter 3. Records and Inspections
240:1-3-9. Release of Confidential Information to Specific Government Agencies [NEW]

AUTHORITY:

40 O.S. §§4-302, 4-508; and the Oklahoma Employment Security Commission.

DATES:

Comment period:

October 15, 2010 through December 14, 2010

Public hearing:

None held or requested

Adoption:

December 14, 2010

Submitted to Governor:

December 15, 2010

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December 15, 2010

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December 15, 2010

Gubernatorial approval:

January 26, 2011

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Failure of the Legislature to disapprove the rules resulted in approval on April 1, 2011

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April 1, 2011

Effective:

May 12, 2011

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

The amendment to this rule will define the term "aggregated data" and the new rule sets out the requirements for obtaining confidential information from the OESC by government agencies

CONTACT PERSON:

Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. Telephone number 405/557-7146. E-Mail address: Melissa.Copenhaver@oesc.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

SUBCHAPTER 1. GENERAL PROVISIONS

240:1-1-2. Definitions

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

"Aggregated Data" means statistical data that has been stripped of any information that would identify any particular individual or employer and has been extracted or processed from a sufficiently large population of individuals or employers to insure that the data concerning any specific individual, employer, employee or unemployment benefit claimant cannot be discerned from the information if it is made public, thereby protecting the confidentiality of information maintained by the Oklahoma Employment Security Commission.

"Third Party Administrator" means any entity that contracts with an employer to perform administrative functions on the employer's behalf related to the employer's compliance with any provision of the Employment Security Act of 1980, or any entity that contracts to represent the employer's interests in any protests, appeal or hearing before any division of the Oklahoma Employment Security Commission or the Board of Review. Attorneys licensed to practice law in Oklahoma who represent clients before the Oklahoma Employment Security Commission or the Board of Review shall not be considered third party administrators.

SUBCHAPTER 3. RECORDS AND INSPECTIONS

240:1-3-9. Release of confidential information to specific government agencies

(a) Pursuant to 40 O.S. § 4-508(C), the government agencies, public entities and political subdivisions specified in part (b) of this rule may obtain confidential information maintained by the Oklahoma Employment Security Commission after entering into an agreement with the Oklahoma Employment Security Commission that sets out the purpose the information will be used for, how the information will be transmitted, and how the information will be safe guarded. All costs involved in providing information to government agencies, public entities, or political subdivisions will be set out in the agreement. The information shall be held confidential by the receiving government agency, public entity or political subdivision at all times and shall not be disclosed or open to public inspection. It shall be allowable for the receiving government agency, public entity or political subdivision to release aggregated data.

(b) Government agencies authorized to obtain confidential information from the Oklahoma Employment Security are:

- (1) The Oklahoma Department of Commerce, to accomplish specific goals, missions or tasks of the agency as determined by the Oklahoma Legislature;
- (2) The Oklahoma Department of Transportation for use in federally mandated regional transportation planning, which is performed as a part of its official duties;
- (3) The Oklahoma State Treasurer's office to verify or evaluate the effectiveness of the Oklahoma Small Business Linked Deposit Program on job creation;
- (4) The Oklahoma Attorney General for use in investigation of workers' compensation fraud, insurance fraud and health care fraud;
- (5) Compsource Oklahoma for use in investigation of workers' compensation fraud;

(6) The Oklahoma Department of Labor for use in investigation of workers' compensation fraud;

(7) The Oklahoma Workers' Compensation Court for use in investigation of workers' compensation fraud;

(8) The Oklahoma Insurance Department for use in investigation of workers' compensation fraud, insurance fraud and health care fraud;

(9) The Oklahoma State Bureau of Investigation for use in criminal investigations, the location of missing persons or fugitives from justice, and the investigation of insurance fraud and health care fraud;

(10) The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control for use in criminal investigations and the location of missing persons or fugitives from justice;

(11) The Center of International Trade of Oklahoma State University for the development of international trade for employers doing business in the State of Oklahoma;

(12) The Oklahoma State Regents for Higher Education for use in the default prevention efforts and/or collection of defaulted student loans guaranteed by the Oklahoma Guaranteed Student Loan Program;

(13) The Center for Economic and Management Research of the University of Oklahoma to identify economic trends;

(14) The Center for Economic and Business Development at Southwestern Oklahoma State University to identify economic trends;

(15) The Oklahoma Office of State Finance to identify economic trends;

(16) The Department of Mental Health and Substance Abuse Services to evaluate the effectiveness of mental health and substance abuse treatment and state or local programs utilized to divert persons from inpatient treatment;

(17) Public housing agencies for purposes of determining eligibility pursuant to 42 U.S.C., Section 503(I);

(18) An agency of this state or its political subdivisions, or any nonprofit corporation that operates a program or activity designated as a partner in the Workforce Investment Act One-Stop delivery system pursuant to 29 U.S.C.A., Section 2481(b)(1), based on a showing of need made to the Commission;

(19) The national Wage Record Interchange System, at the discretion of the Commission;

(20) The Bureau of the Census of the U.S. Department of Commerce for the purpose of economic and statistical research;

(21) The Oklahoma Health Care Authority for use in determining eligibility for subsidies for health insurance premiums for qualified employers, employees, self-employed persons, and unemployed persons; or

(22) The Oklahoma State Department of Rehabilitation Services for use in assessing results and outcomes of clients served.

[OAR Docket #11-332; filed 4-6-11]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION CHAPTER 15. BOARD OF REVIEW PROCEDURES

[OAR Docket #11-333]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Hearings [REVOKED]
240:15-5-1 through 240:15-5-5 [REVOKED]
Subchapter 7. Witnesses and Subpoenas
240:15-7-1. Attendance at hearing [REVOKED]
Subchapter 9. Records of the Board of Review
240:15-9-2. Board of Review records [AMENDED]
Subchapter 11. Appeals to District Court
240:15-11-1. Board of Review decision; appeal to district court [AMENDED]

AUTHORITY:

40 O.S. §§2-607, 4-302 and the Oklahoma Employment Security Commission.

DATES:

Comment period:

October 15, 2010 through December 2, 2010

Public hearing:

None held or requested

Adoption:

December 2, 2010

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December 27, 2010

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SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

These rules remove from the Board of Review the option of conducting an evidentiary hearing of its own after the Appeal Tribunal hearing on an unemployment benefit claim. In current practice, the Board of Review sits as an appellate body only. It does not conduct evidentiary hearings on its own. If a further hearing is deemed necessary, the case is remanded to the Appeal Tribunal to conduct a hearing. Since it is no longer the practice of the Board of Review to conduct evidentiary hearings, these rules are being changed or revoked. These rules will clarify appeals procedures for individuals who file claims for unemployment insurance benefits.

CONTACT PERSON:

Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. Telephone number 405/557-7146. E-Mail address: Melissa.Copenhaver@oesc.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

SUBCHAPTER 5. HEARINGS [REVOKED]

240:15-5-1. Request for hearing; new additional evidence [REVOKED]

~~The Board may conduct a hearing upon request of any of the interested parties or upon its own motion. The hearing shall be conducted by all Board members sitting en banc, or by any one of the Board members, or by a designated Hearing Officer. If a request for hearing is made by a party, the party must explain, in a brief, why the record of the original Appeal Tribunal hearing cannot, or should not, be relied upon, and include a list of all witnesses and exhibits that the party will present at a new hearing if one would be scheduled. The Board shall determine whether the request should be granted. If the request for hearing is denied, the case shall be considered as submitted on the record and a decision rendered.~~

240:15-5-2. Hearings; notice; Appeal Tribunal testimony; failure to appear [REVOKED]

~~If the request for the hearing is granted by the Board for the purposes of taking new additional evidence, all interested parties to the appeal shall be notified of the time, date and location of the scheduled hearing at least ten (10) days prior to the date of the scheduled hearing.~~

~~(1) The hearing location shall be reasonably convenient for all parties to the appeal. If the parties are in different geographical locations and no convenient location can be determined, telephone hearings shall be scheduled and the parties notified. Exhibits shall be received five (5) days in advance if they are to be introduced by the parties and sent to the opposing party by the Clerk. All other aspects of the telephone hearing will be the same as an in person hearing.~~

~~(2) If the hearing is conducted in person, all parties shall be allowed to introduce new additional evidence and/or rebut any new additional evidence introduced at the hearing and shall be afforded the right of cross examination of the other party and witnesses. Both parties shall be furnished a tape and copies of documentation presented at the Appeal Tribunal hearing. The Board is not bound by common law or the statutory rules of evidence or by technical rules of procedure. The hearing shall be conducted in a manner to ascertain the substantial rights of the parties.~~

~~(3) If the appealing party fails to appear, after having been duly notified, the appeal shall be considered as submitted on the record without the introduction of new additional evidence. However, if within five (5) days after the scheduled hearing, the Board of Review receives written notice from the appealing party as to the reason for non appearance, the Board shall then schedule a hearing on the issue of showing good cause for the appealing party's non attendance. All interested parties shall receive notice of the time, date and location of the hearing. If the non appearance of the appealing party is excused for good cause, the case will proceed on its merits. If~~

the Board determines that the appealing party's failure to appear was not for good cause, the appeal shall be submitted on the record without the introduction of new additional evidence. If the appealing party appears at the show cause hearing and the non-appealing party appears not, testimony shall be taken on the issue of good cause. (4) If good cause cannot be shown, the Board shall consider the case as submitted on the record. If good cause can be shown, the appealing party shall present new additional evidence and the case shall be submitted for decision.

240:15-5-3. Continuances [REVOKED]

Requests for continuances shall only be granted for good cause by the Board of Review when the request is communicated in writing to the Clerk of the Board of Review. Such request shall fully explain the reasons for the request for continuance and shall be received by the Clerk at least three (3) days prior to the date of any scheduled hearing. Continuances shall be granted only for good cause.

240:15-5-4. Recording hearings [REVOKED]

Hearings before the Board of Review shall be recorded by electronic device and shall constitute the transcript of the hearings. Parties to the appeal may obtain a copy of the cassette tape of the hearing, if a request is made in writing to the Clerk of the Board of Review. If a tape of the hearing is requested by either party, the cost of the tape shall be borne by the requesting party.

240:15-5-5. Cameras [REVOKED]

Cameras shall not be allowed in any hearing conducted by the Board of Review.

SUBCHAPTER 7. WITNESSES AND SUBPOENAS

240:15-7-1. Attendance at hearing [REVOKED]

Each party to an appeal to the Board of Review shall be entitled to call witnesses to testify in support of his/her position. If witnesses will not voluntarily appear, the following process shall be available to aid any party in compelling attendance of witnesses. The requesting party shall furnish the Clerk of the Board of Review with the names and home addresses of the witnesses prior to the issuance of subpoenas. The Clerk must be in receipt of the request for subpoena six (6) days prior to the date of the scheduled hearing. Upon receipt of a timely request from the parties to the appeal, the Clerk shall issue subpoenas for the witnesses by certified mail at least six (6) days before the scheduled hearing. The Clerk shall have the power to issue subpoenas for the production of books, papers, correspondence, memoranda and other records necessary as evidence in connection with a disputed claim or in the administration of this Act. Witnesses who are not employees of the Commission who have been compelled by subpoena to attend hearings shall receive witness and mileage fees as provided for witnesses in civil proceedings in courts of this state. No mileage fees shall

be paid for more than one case covering the same time period on the same travel.

SUBCHAPTER 9. RECORDS OF THE BOARD OF REVIEW

240:15-9-2. Board of Review records

The record in an appeal filed with the Board of Review shall include the testimony and exhibits admitted into evidence by the Appeal Tribunal or Board of Review, motions made by the parties and rulings thereon, the decision of the Appeal Tribunal, and the decision of the Board of Review and additional evidence presented at a hearing, if granted, conducted by the Board of Review or its designated Hearing Officer.

SUBCHAPTER 11. APPEALS TO DISTRICT COURT

240:15-11-1. Board of Review decision; appeal to district court

The Board of Review decision shall be based upon the record compiled by the Appeal Tribunal and additional evidence submitted at the Board of Review hearing if granted. Within a reasonable time, the Board shall enter a decision affirming, modifying, remanding or reversing the decision of the Appeal Tribunal. The decision shall be in writing and shall be signed by a majority of the members of the Board. Copies of the decision shall be promptly mailed by the Clerk to all parties of record in the case and shall bear appeal rights of the parties. Said The decision shall be final and binding unless within ten (10) days after the mailing of the decision to the parties' last known address, a petition for review of the Board decision is filed by an interested party in a District Court pursuant to Section 2-610, Title 40 Okla. Stat. 1980.

[OAR Docket #11-333; filed 4-6-11]

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

[OAR Docket #11-334]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 9. Audits
240:21-9-2. Delinquent audit [AMENDED]

AUTHORITY:

40 O.S. §§4-302, 4-313, 4-702, 4-704; and the Oklahoma Employment Security Commission.

DATES:

Comment period:

October 15, 2010 through December 14, 2010

Public hearing:

None held or requested

Permanent Final Adoptions

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May 12, 2011

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

This amendment makes the audit times consistent for the federal audits and Oklahoma Employment Security Commission audits.

CONTACT PERSON:

Melissa Copenhaver, Rulemaking Liaison, 2401 N. Lincoln Boulevard, 5th Floor, Oklahoma City, Oklahoma 73152. Telephone number 405/557-7146. E-Mail address: Melissa.Copenhaver@oescc.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

SUBCHAPTER 9. AUDITS

240:21-9-2. Delinquent audit

If the audit has not been received within ~~one (1) year~~ nine (9) months after the end of the grant recipient's fiscal year, the Director of the Internal Audit Division will send a certified letter to the subrecipient advising it that it has fifteen days to provide its reasons for failing to comply with the requirements set forth in Rule 240:21-5-1. If no response is received within fifteen (15) days, or the response received is not adequate, the Director of Workforce Integrated Programs will send a certified letter to the subrecipient advising it that its current funding and eligibility for future contracts are suspended.

[OAR Docket #11-334; filed 4-6-11]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 4. RULES OF PRACTICE AND PROCEDURE

[OAR Docket #11-342]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 7. Environmental Permit Process

Part 5. Land Protection Division Tiers and Time Lines

252:4-7-61 [REVOKED]

252:4-7-62 [REVOKED]

252:4-7-63 [REVOKED]

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; the Hazardous Waste Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. § 2-15-101 *et seq.*

DATES:**Comment period:**

March 5 through April 16, 2010; July 15 through August 16, 2010

Public hearing:

April 22, 2010, Hazardous Waste Management Advisory Council

August 24, 2010, Environmental Quality Board

Adoption:

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July 1, 2011

SUPERSEDED EMERGENCY ACTIONS:**Superseded rules:**

Subchapter 7. Environmental Permit Process

Part 5. Land Protection Division Tiers and Time Lines

252:4-7-61 [REVOKED]

252:4-7-62 [REVOKED]

252:4-7-63 [REVOKED]

Gubernatorial approval:

September 17, 2010

Register publication:

28 Ok Reg 83

Docket number:

10-1219

INCORPORATIONS BY REFERENCE:

None.

ANALYSIS:

In 2009, the Oklahoma legislature amended the Oklahoma Brownfields Voluntary Redevelopment Act to better streamline the Brownfields program. One of the amendments clarified that a Certificate of Completion and a Certificate of No Action Necessary were not "permits" as defined in 27A O.S. § 2-14-103. Therefore, it is no longer necessary for the Brownfields program to conform to the permitting tier hierarchy.

This rule revocation process is progressing in tandem with the rulemaking for the new Chapter 221 which includes rules for public involvement in the Brownfields process.

Emergency rules may be in effect until such time as these permanent rules become effective.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED ADOPTED AS SET FORTH IN 75 O.S. § 308.1 WITH AN EFFECTIVE DATE OF JULY 1, 2011:

SUBCHAPTER 7. ENVIRONMENTAL PERMIT PROCESS

PART 5. LAND PROTECTION DIVISION TIERS AND TIME LINES

252:4-7-61. Brownfields applications - Tier I [REVOKED]
~~A Tier I application shall be required for a Memorandum of Agreement for site characterization.~~

252:4-7-62. Brownfields applications - Tier II [REVOKED]
~~A Tier II application shall be required for all Certificates.~~

252:4-7-63. Brownfields applications - Tier III [REVOKED]
 None.
 [OAR Docket #11-342; filed 4-7-11]

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

[OAR Docket #11-343]

RULEMAKING ACTION:
 PERMANENT final adoption

RULES:
 Subchapter 17. Incinerators
 Part 4. Biomedical Waste Incinerators [NEW]
 252:100-17-8. Applicability [NEW]
 252:100-17-9. Definitions [NEW]
 252:100-17-10. Design and operation [NEW]
 252:100-17-11. Emission limits [NEW]

AUTHORITY:
 Environmental Quality Board and Air Quality Advisory Council powers and duties, 27A O.S., §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S., §§ 2-5-101 *et seq.*

DATES:
Comment period:
 September 15, 2009 through April 21, 2010
 August 24, 2010

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 April 21, 2010
 August 24, 2010

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 Failure of the Legislature to disapprove the rules resulted in approval on April 1, 2011

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 April 1, 2011

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 July 1, 2011

SUPERSEDED EMERGENCY ACTIONS:
 N/A

INCORPORATIONS BY REFERENCE:
 N/A

ANALYSIS:
 The DEQ proposes to add a new Part 4, Biomedical Waste Incinerators, to OAC 252:100-17, Incinerators. The proposed rulemaking will include design requirements, emission standards and control technology for this type of incinerator. Additionally, the proposed rulemaking will close certain regulatory gaps in Subchapter 17, Part 7 (Hospital, Medical and Infectious Waste Incinerators) when pathological waste, low-level radioactive waste and chemotherapeutic wastes are incinerated.

CONTACT PERSON:
 Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2011:

SUBCHAPTER 17. INCINERATORS

PART 4. BIOMEDICAL WASTE INCINERATORS

252:100-17-8. Applicability
This part applies to any new or existing biomedical waste incinerator that is not subject to the requirements of Part 7 of this subchapter or is exempted from the requirements of Subpart Ec of 40 CFR Part 60.

252:100-17-9. Definitions
The following words and terms when used in this part shall have the following meaning unless the context clearly indicates otherwise:

"Antineoplastic agents" means drugs used to inhibit and combat the development of neoplasms.

"Biomedical radioactive waste" means low-level radioactive waste as defined in 40 CFR 60.51c.

"Biomedical waste" means medical/infectious waste as defined in 40 CFR 60.51c, Chemotherapeutic waste and biomedical radioactive waste.

"Biomedical waste incinerator" means an incinerator used to burn biomedical waste.

"Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents.

"Neoplasms" means tumors consisting of an abnormal proliferation of cells. The growth of this clone of cells exceeds, and is uncoordinated with, that of the normal tissues around it. Neoplasms may be benign, pre-malignant or malignant.

252:100-17-10. Design and operation
An incinerator subject to this part shall be designed and built with a primary combustion chamber and secondary combustion chamber(s) each equipped with burners or other combustion devices that maintain the applicable temperature and retention time specified in (1) through (3) of this section in both the primary and secondary combustion chamber(s) at all times when biomedical waste is being incinerated.

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- (1) The temperature in the primary combustion chamber shall not be less than 1,200°F.
- (2) The temperature in the secondary combustion chamber(s) shall not be less than 1,800°F with a retention time of not less than one (1) second when processing biomedical waste containing no chemotherapeutic waste.
- (3) The temperature in the secondary combustion chamber(s) shall not be less than 2,000°F with a retention time of not less than two (2) seconds when processing biomedical waste containing chemotherapeutic waste.

252:100-17-11. Emission limits

Emissions from any biomedical waste incinerator subject to the requirements of this part shall not exceed the limits specified in (1) through (3) of this section. Any required performance testing shall be conducted while the incinerator is operating between 90% and 100% of operating capacity, or under other representative operating conditions specified by an applicable permit or testing method.

- (1) **Hydrochloric acid (HCl).** Emissions of HCl shall not exceed 4.0 lb/hr.
- (2) **Particulate matter.** Emissions of particulate matter shall not exceed 0.08 gr/dscf (grains per dry standard cubic foot) corrected to 12% carbon dioxide in the emission gas stream.
- (3) **Carbon monoxide (CO).** Emissions of CO shall not exceed 100 ppm by volume corrected to standard conditions in the emission gas stream.

[OAR Docket #11-343; filed 4-7-11]

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

[OAR Docket #11-346]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Incorporation by Reference
252:205-3-1. [AMENDED]

AUTHORITY:

Environmental Quality Board and Hazardous Waste Management Advisory Council powers and duties, 27A O.S. §§ 2-2-101, 2-2-104, 2-2-201; Oklahoma Hazardous Waste Management Act, 2-7-105 and 2-7-106.

DATES:

Comment period:

September 15 through October 28, 2010, and November 16, 2010

Public hearing:

October 28, 2010, Hazardous Waste Management Advisory Council
November 16, 2010, Environmental Quality Board

Adoption:

November 16, 2010

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July 1, 2011

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATION BY REFERENCE:

Incorporated standards:

As set forth in OAC 252:205-3-2 through 252:205-3-4, certain provisions of Title 40 of the Code of Federal Regulations, Parts 124, 260 through 268, 270, 273, and 279 as amended through July 1, 2010.

Incorporating rules:

252:205-3-1

Availability:

From the contact person listed below

ANALYSIS:

The proposed amendments are to incorporate by reference, as set forth in OAC 252:205-3-2 through 252:205-3-4, certain provisions of Title 40 of the Code of Federal Regulations, Parts 124, 260 through 268, 270, 273, and 279 as amended through July 1, 2010.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2011:

SUBCHAPTER 3. INCORPORATION BY REFERENCE

252:205-3-1. Reference to 40 CFR

- (a) **Incorporation date.** Except as provided in subsection (b), when reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, ~~2009~~2010.
- (b) **Excluded provisions.** None of the revisions to 40 CFR published at 73 FR 64668 - 64788 (October 30, 2008), "Revisions to the Definition of Solid Waste: Final Rule" are incorporated herein.

[OAR Docket #11-346; filed 4-7-11]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 220. BROWNFIELDS

[OAR Docket #11-344]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Chapter 220. Brownfields [REVOKED]

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; the Hazardous Waste Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. (Supp 2009) § 2-15-101 *et seq.*

DATES:

Comment period:

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April 22, 2010, Hazardous Waste Management Advisory Council
August 24, 2010, Environmental Quality Board

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Chapter 220, Brownfields [REVOKED]

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INCORPORATIONS BY REFERENCE:

None.

ANALYSIS:

Title 252, Chapter 220 was originally promulgated to implement the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. § 2-15-101 *et seq.*, in order to foster voluntary redevelopment and reuse of abandoned, idled or underused industrial or commercial facilities at which expansion or redevelopment of the real property is complicated by pollution. Subsequently, the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.*, was amended to provide specific grant programs for Brownfields with specific eligibility requirements and to provide further protections for those persons redeveloping Brownfields sites. Additionally, the Oklahoma legislature amended the state Brownfields law in 2009 to better streamline the Brownfields program.

Therefore, the current Brownfields rules, Chapter 220, became inconsistent with both federal and state law. The DEQ proposes to revoke Chapter 220 and adopt a new Chapter to cover much of the same content but in a more streamlined context and format. Additionally, the Revolving Loan Fund rules were rewritten to be in compliance with the federal law.

This rule revocation process is progressing in tandem with the rulemaking process of the new Chapter 221. For further information, refer to the Notice of Rulemaking Intent for Chapter 221.

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2011:

**SUBCHAPTER 1. GENERAL PROVISIONS
[REVOKED]**

**252:220-1-1. Purpose, authority and applicability
[REVOKED]**

(a) **Authority.** ~~The rules in this Chapter implement the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. § 2-15-101 *et seq.*~~

(b) **Promulgation.** ~~252:220 was promulgated and adopted pursuant to the Act, specifically 27A O.S. § 2-15-104.~~

(c) **Qualification.** ~~Any person who qualifies under § 2-15-103 of the Act may apply for a Certificate of Completion or a Certificate of No Action Necessary.~~

252:220-1-2. Methodology [REVOKED]

~~All analytical and sampling methods used to comply with 252:220 shall be approved ASTM or EPA procedures or procedures approved by the DEQ. Any reference to an ASTM or EPA Method refers to the latest published procedure.~~

252:220-1-3. Definitions [REVOKED]

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

~~"Act" means The Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. § 2-15-101 *et seq.* as amended.~~

~~"ASTM" means the American Society for Testing and Materials.~~

~~"Certificate", as used in these rules, shall mean Certificate of Completion and Certificate of No Action Necessary.~~

~~"DEQ" means the Oklahoma Department of Environmental Quality.~~

~~"Draft cleanup plan" means "draft permit" as used in the Oklahoma Environmental Permitting Act.~~

~~"Final cleanup plan" means "final permit" as used in the Oklahoma Environmental Permitting Act.~~

~~"Regulated substance", for purposes of this Act only, means any substance regulated under the Environmental Quality Code or rules promulgated pursuant thereto.~~

~~"Tier I" [See 252:2-15.]~~

~~"Tier II" [See 252:2-15.]~~

**252:220-1-4. Terms not defined by Code or rule
[REVOKED]**

~~Any term not defined in the Oklahoma Environmental Quality Code or 252 (Oklahoma Administrative Code, Department of Environmental Quality), shall be defined by:~~

- ~~(1) The Dictionary of Geological Terms, Latest Revised Edition, American Geological Institute,~~
- ~~(2) EPA Guidance Documents,~~
- ~~(3) Its generally accepted scientific meaning, or~~
- ~~(4) Its standard dictionary meaning.~~

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252:220-1-5. Consideration of other laws [REVOKED]

The owner or operator of a Brownfield must comply with all applicable state and federal laws and rules.

SUBCHAPTER 3. APPLICATIONS [REVOKED]

252:220-3-1. Application process [REVOKED]

The application process for a Certificate, including notice and public participation, shall be in accordance with the Uniform Environmental Permitting Act and 252:002.

252:220-3-2. Application content [REVOKED]

(a) **Eligibility.** The applicant must provide sufficient information to the DEQ for the DEQ to determine whether the applicant is eligible under the law to apply for liability protection under Brownfields.

(b) **Information.** The applicant shall provide the DEQ with the information specified in the Oklahoma Brownfields Voluntary Redevelopment Act and Subchapter 5, Rules 5-1 through 5-4, inclusive. [See 27A O.S. § 2-15-105.]

SUBCHAPTER 5. PROCEDURE [REVOKED]

252:220-5-1. Site characterization [REVOKED]

(a) **Memorandum of Agreement.** The applicant and the DEQ shall execute a Memorandum of Agreement (MOA) for site characterization, including a provision for reasonable oversight costs.

(b) **Required plans.** The applicant shall submit a work plan, a quality assurance project plan (QAPP), a sampling and analysis plan (SAP) and a health and safety plan (HSP) for site characterization.

(c) **Report.** The applicant shall submit the following necessary data in a site characterization report:

- (1) Summary of a title search document;
- (2) Complete operational history of the site;
- (3) Information about the current use(s) of the property;
- (4) Documentation which identifies all potential receptors, human and ecological, and potential contamination migration pathways;
- (5) Delineation of all sources of contamination associated with the site, including contaminated soil, and the location, size, constituents and concentrations of each source;
- (6) Delineation of the nature and extent of contamination; and
- (7) Any site specific information requested by the DEQ.

(d) **Previously prepared plans.** If the applicant has already performed an environmental assessment or investigation of the

proposed Brownfield site prior to contacting the DEQ, that information may be presented as part of the required site characterization. DEQ may consider this information in determining the appropriateness of further investigation of the site. DEQ may require verification sampling to validate the information submitted. If the information submitted does not fully address the requirements of the program, DEQ may also require the applicant to collect additional data.

252:220-5-2. Risk assessment [REVOKED]

(a) **Land use disclosure.** The applicant shall identify the future use of the contaminated property.

(b) **Risk based cleanup levels.** Using risk assessment methodology approved by the DEQ, the applicant shall:

- (1) Calculate a default risk based cleanup level; or
- (2) Conduct a risk assessment of the contaminated property to produce site specific risk based cleanup levels.

252:220-5-3. Remedial option evaluation [REVOKED]

(a) **Remedial options.** The applicant shall identify remedial option(s) and shall submit narrative information which discusses risk based cleanup levels, economic feasibility, technical feasibility, and reliability of each remedial option considered, including a discussion of institutional controls needed for each option to maintain future use of the site.

(b) **Preferred option.** The applicant shall identify the preferred option.

252:220-5-4. Remediation plan for preferred option [REVOKED]

(a) **Statutory requirements.** The applicant shall submit information required by the Act in the remediation plan for the preferred option.

(b) **Other requirements.** The applicant shall also identify:

- (1) The remedial action objectives (RAOs);
- (2) All applicable state and federal laws, rules, standards, limitations, criteria and requirements;
- (3) Methods to verify how risk based cleanup levels will be achieved; and
- (4) Future monitoring and maintenance requirements.

252:220-5-5. Draft site cleanup plan [REVOKED]

The DEQ shall compile from documents submitted a draft site cleanup plan for public review.

252:220-5-6. Final site cleanup plan [REVOKED]

The DEQ shall issue a final site cleanup plan in accordance with the Uniform Permitting Procedures, 252:002-15.

252:220-5-7. Consent Order [REVOKED]

If a final site cleanup plan is issued, the applicant and the DEQ shall execute a Consent Order for site remediation.

252:220-5-8. Workplan [REVOKED]

The applicant shall submit the workplan to the DEQ for approval, including but not limited to the following:

- (1) The design requirements to obtain the RAOs;
- (2) Project and construction management plans; and
- (3) A remediation schedule.

252:220-5-9. Final report [REVOKED]

The applicant shall submit a final report which summarizes all remedial work, including the verification sampling results.

SUBCHAPTER 7. CERTIFICATES [REVOKED]

252:220-7-1. No action determination [REVOKED]

Upon a determination that no action is necessary, the DEQ shall issue a Certificate of No Action Necessary to the applicant in accordance with the Act.

252:220-7-2. Completion of Remediation Project [REVOKED]

Upon final inspection and approval of work, the DEQ shall issue a Certificate of Completion to the applicant in accordance with the Act.

252:220-7-3. Filing [REVOKED]

The applicant shall file the Certificate and submit a file-stamped copy to the DEQ in accordance with the Act. [27A O.S. § 2-15-107.]

SUBCHAPTER 9. VERIFICATION OF BROWNFIELDS PROJECTS [REVOKED]

252:220-9-1. Applicability [REVOKED]

This Subchapter applies to Brownfields projects eligible for funds from the Wastewater Facility Construction Revolving Loan Account pursuant to 82 O.S. §1084.1 *et seq.* and other state or federal funding sources.

252:220-9-2. Verification of projects [REVOKED]

The DEQ shall verify eligibility of Brownfields projects to the Oklahoma Water Resources Board or other appropriate state or federal funding entities. Additionally, the DEQ shall cooperate with appropriate funding entities in identifying water quality benefits under the federal Clean Water Act by providing the following information upon request of the funding entity:

- (1) verification of eligibility as a Brownfields project;
- (2) verification that runoff from the project potentially impacts water quality; and
- (3) documentation of potential water quality benefits.

SUBCHAPTER 11. BROWNFIELDS CLEANUP REVOLVING LOAN FUNDS (BCRLF) [REVOKED]

252:220-11-1. Purpose, authority and applicability [REVOKED]

(a) **Purpose.** The purpose of this Subchapter is to implement Executive Order 98-37, mandating state agencies to establish criteria for local project funding contracts, and to comply with the provisions of Superfund Brownfields Revolving Loan Fund Assistance Agreement #BL-988684801-0 (*Cooperative Agreement*).

(b) **Authority.** This subchapter is adopted pursuant to 27A O.S. § 2-2-101 *et seq.* and § 2-15-101 *et seq.*, 75 O.S. § 302 and Executive Order 98-37.

(c) **Applicability.** The rules in this Subchapter apply to any private entity, political subdivision or unit of local government, including municipal and county governments and school districts, and federally recognized Indian tribes seeking to use Brownfields Cleanup Revolving Loan Funds (BCRLF) for non time-critical removal activities as defined in the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA, 42 United States Code § 9601 (23)] and described in the National Oil and Hazardous Substances Pollution Contingency Plan [NCP, 40 CFR § 300.415].

(d) **Other requirements.**

(1) **Oklahoma Department of Commerce.** The Oklahoma Department of Commerce (ODOC), may be the BCRLF Fund Manager responsible for ensuring that the BCRLF applicants meet all financial requirements. Applicants are on notice that the ODOC may have specific rules governing loan applications and eligibility requirements.

(2) **Federal "cross-cutting" requirements.** "Cross-cutting requirements" are those federal requirements in addition to CERCLA and associated administrative authorities which are applicable to the BCRLF by operation of federal statutes, President's Executive Orders and federal regulations. These cross-cutting federal authorities apply by their own terms to projects and activities receiving federal financial assistance regardless of whether the statute authorizing the assistance mentions them specifically. BCRLF cross cutters include but are not limited to social and economic policy authorities such as equal employment opportunities (President's Executive Order 11246) and government wide debarment and suspension rules (President's Executive Order 12549), the Demonstration Cities and Metropolitan Development Act, procurement prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, Anti lobbying provisions of 40 CFR Part 30, Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, the Contract Work Hours and Safety Standards Act, Anti kickback Acts, the Women and Minority Business Enterprise Act, Section 13 of the Federal Water Pollution Act amendments, the Drugfree Workplace Act of 1988, Section 504 of the Rehabilitation Act of 1973

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and Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988.

252:220-11-2. Definitions [REVOKED]

In addition to the definitions found in OAC 252:220-1-3, the following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"BCRLF response" means the same as non-time critical removal action as defined in CERCLA, 42 U.S.C. § 9601(23).

"Borrower" means a public or private entity that uses BCRLF funds for cleanup and cleanup-related activities and agrees to the terms of a loan agreement between itself and the DEQ and ODOC.

"Governmental borrower" means states, tribes and political subdivisions as defined at 40 CFR 35.6015.

"Loan discount" means a decision by the DEQ and ODOC to allow a borrower to repay less than the full amount of a loan, subject to certain restrictions.

"Nonprofit borrower" means organizations which meet the definition of a nonprofit entity in Paragraph 4 of OMB Circular A-122.

252:220-11-3. Borrower eligibility [REVOKED]

(a) An owner/operator (o/o) who was the generator or transporter of contamination at that site is not eligible for a BCRLF pilot loan for that same site.

(b) An owner/operator of a brownfields site is an eligible borrower for a BCRLF pilot loan for that same site only if

- (1) the DEQ determines that the o/o would fall under a statutory exemption from liability; or
- (2) the EPA could use its enforcement discretion to not pursue the party under CERCLA, as described by EPA guidance; and
- (3) the o/o of contaminated brownfields property acquired the property after the time of disposal or placement of hazardous substances and the DEQ determines that the o/o has not caused, contributed to, permitted, or exacerbated the release of a hazardous substance on, or emanating from that property.

252:220-11-4. Ineligible fund uses [REVOKED]

(a) **Ineligible activities.** BCRLF funds shall not be used for any of the following activities, including but not limited to:

- (1) Pre-cleanup environmental response activities, such as site assessment, identification, and characterization;
- (2) Cleanup of a naturally occurring substance; cleanup of products that are part of the structure of and result in exposure within residential buildings or business or community structures (e.g. interior lead-based paint contamination or asbestos which results in indoor exposure); or cleanup of public or private drinking water supplies that have deteriorated through ordinary use;
- (3) Monitoring and data collection necessary to apply for, or comply with, environmental permits under other

state and Federal laws, unless such a permit is required as a component of the cleanup action;

(4) Development activities that are not removal actions (e.g., construction of a new facility or marketing of property); or

(5) To support job training.

(b) **Ineligible sites.** BCRLF funds shall not be used at any sites:

- (1) Listed, or proposed for listing, on the National Priorities List;
- (2) At which a removal action must be taken within six months (i.e., time-critical removal action);
- (3) Where a federal or state agency is planning or conducting a response or enforcement action; or
- (4) Contaminated by petroleum products except to address a non-petroleum hazardous substance.

252:220-11-5. Environmental response requirements [REVOKED]

(a) BCRLF funds shall only be used to conduct non-time critical response actions at brownfields sites.

(b) All environmental response activities carried out using BCRLF funds shall be conducted in accordance with CERCLA and consistent with the NCP.

(c) All activities shall be conducted consistent with the community relations and public involvement requirements in the NCP.

252:220-11-6. Project selection criteria [REVOKED]

(a) **Compliance with state and federal laws and rules.** The applicant must comply with the Oklahoma Brownfields Voluntary Redevelopment Act (27A O.S. § 2-15-101 *et seq.*), the rules in this Chapter, and applicable provisions of CERCLA and the NCP.

(b) **Contribution to local community revitalization.** The applicant shall submit documentation to support its position that the cleanup of a particular site will significantly contribute to local community revitalization.

(c) **Environmental compliance history.** A borrower must submit information regarding its overall environmental compliance history. The DEQ will strongly consider this history in its analysis of the borrower as a cleanup and business risk. Each borrower must certify that it is not currently, nor has it been, subject to any penalties resulting from environmental non-compliance at the site subject to the loan. An entity that has been suspended, debarred or otherwise declared ineligible, as those terms are defined in 40 CFR Part 32, cannot be a borrower.

252:220-11-7. Protocol for demonstrating eligibility [REVOKED]

The borrower shall provide the following documentation to the DEQ:

- (1) Description of project to be funded;
- (2) How loan monies will be used;
- (3) Explanation of how the project, if selected, would be consistent with BCRLF program objectives; and

- (4) Environmental compliance history.

252:220-11-8. Special terms and conditions [REVOKED]

The following terms and conditions are incorporated by reference into each borrower's loan agreement:

- (1) Borrower shall use funds only for eligible activities.
- (2) Borrowers shall document all funds used.
- (3) Borrower shall maintain documentation for a minimum of ten (10) years after the completion of the cleanup activity supported by the loan or for the length of the loan, whichever is longer. Borrowers shall obtain written approval from the DEQ prior to disposing of records.
- (4) Borrowers shall use no more than ten percent (10%) of the loan for allowable non cleanup activities.
- (5) Borrowers shall conduct BCRLF response activities in accordance with the cooperative agreement and CERCLA and consistent with the NCP.
- (6) Borrowers shall modify response activities as required by the DEQ.
- (7) Borrowers shall comply with CERCLA § 104(g) [42 USC § 9604(g)] by requiring that laborers and mechanics employed by the borrower or its contractors or subcontractors in the performance of construction, alteration, or repair work are paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the U.S. Department of Labor in accordance with the Davis Bacon Act.
- (8) Borrowers must comply with the Uniform Relocation Act and other applicable federal "cross-cutting" requirements.
- (9) Borrowers shall use loan funds promptly for costs incurred in connection with the cleanup. Interest accumulating on schedule disbursements shall be applied to the cleanup.

252:220-11-9. Loan discount [REVOKED]

- (a) **Nonprofit borrowers.** Nonprofit borrowers may forgo repayment of up to 30% of the loan amount on a site specific basis upon approval by the DEQ and ODOC.
- (b) **Governmental borrowers.** Governmental borrowers may forgo repayment of up to 20% of the loan amount on a site specific basis upon approval by the DEQ and ODOC.
- (c) **Allowable use.** The loan repayment amount that has been discounted may only be used by the borrower to carry out allowable cleanup activities in compliance with terms of loan agreement such as compliance with CERCLA, the NCP, the Davis Bacon Act, and cross-cutting requirements applicable to the loan.
- (d) **Same conditions.** The discounted amount must be expended under the same conditions as the loan itself (including compliance with CERCLA, the NCP, and other statutory obligations).

252:220-11-10. Insurance [REVOKED]

- (a) Borrowers may purchase insurance, including environmental insurance, if the expense is incidental to and associated

with BCRLF costs they incur for site-specific cleanup activities (e.g. workers compensation). Incidental insurance purchased by a borrower is not counted against the borrower's ten percent limit on administrative costs.

- (b) With U.S.EPA approval, BCRLF funds may be used to purchase environmental insurance as a non-administrative cost if the purchase of such insurance is necessary to carry out other removal activities. Removal activities associated with BCRLF funded insurance must be carried out in accordance with the terms and conditions of the cooperative agreement, CERCLA and the NCP.

[OAR Docket #11-344; filed 4-7-11]

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 221. BROWNFIELDS**

[OAR Docket #11-345]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. General Provisions [NEW]
- Subchapter 3. The Brownfield Program [NEW]
- Subchapter 5. Verification of Brownfields Projects [NEW]
- Subchapter 7. Revolving Loan Funds (RLF) [NEW]

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; the Hazardous Waste Management Advisory Council powers and duties, 27A O.S. § 2-2-201; and the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. (Supp. 2009) § 2-15-101 et seq.

DATES:

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March 5 through April 16, 2010; July 15 through August 16, 2010

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April 22, 2010, Hazardous Waste Management Advisory Council
August 24, 2010, Environmental Quality Board

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Superseded rules:

- Subchapter 1. General Provisions [NEW]
- Subchapter 3. The Brownfield Program [NEW]
- Subchapter 5. Verification of Brownfields Projects [NEW]
- Subchapter 7. Revolving Loan Funds (RLF) [NEW]

Gubernatorial approval:

September 17, 2010

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28 Ok Reg 89

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10-1221

Permanent Final Adoptions

INCORPORATIONS BY REFERENCE:

None.

ANALYSIS:

The Oklahoma Legislature amended the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. § 2-15, effective July 1, 2009. A new chapter of Brownfields rules has been developed to be consistent with the Brownfields law as well as to be compliant with U.S.E.P.A. Brownfields program policies.

The rules in Subchapter 1, General Provisions, include definitions, methodology, transitioning from voluntary cleanup to Brownfields, Superfund and Brownfields, Responsible Parties and other topics.

The Brownfields Program, Subchapter 3, describes the program and its requirements for participation. These rules address eligibility, site characterization, future use, risk evaluation, risk-based cleanup levels, remedial option evaluation, preferred option, approval process, public participation, evaluation of public comments, remediation plans, completion of remedial actions and other topics.

Subchapter 5, Verification of Brownfields Projects, contains the same rules as in Chapter 220. There are two rules, one dealing with applicability and the other with verification of projects. These rules pertain to projects eligible for funds from the Wastewater Facility Construction Revolving Loan Account, 82 O.S. § 1084.1 *et seq* and other state or federal funding sources.

Revolving Loan Funds, Subchapter 7, are funds available to private entities, political subdivisions or units of local government, including municipal and county governments and school districts, and federally recognized Indian tribes seeking to use the funds for brownfield cleanup activities. The rules in this subchapter address federal cross-cutting requirements, borrower eligibility, eligible and ineligible fund uses, environmental requirements, project selection criteria, public involvement, special terms and conditions, loan discounts and other topics.

The DEQ proposes to revoke the current chapter of Brownfields rules, OAC 252:220, subsequent to OAC 252:221 being adopted. This rulemaking is progressing in tandem with the rule revocation process of Chapter 220 and three rules in Chapter 4, *i.e.* 252:4-7-61, 62 and 63. For further information, refer to the Notice of Rulemaking Intent for Chapter 220 and the Notice of Rulemaking Intent for Chapter 4.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS ADOPTED AS SET FORTH IN 75 O.S. § 308.1(A) WITH AN EFFECTIVE DATE OF JULY 1, 2011:

SUBCHAPTER 1. GENERAL PROVISIONS

252:221-1-1. Purpose, authority and applicability

(a) **Purpose.** The purpose of the Brownfield program is to provide for the safe reuse of brownfield properties and provide a mechanism for landowners to resolve or manage their environmental liability to the government.

(b) **Authority.** The rules in this Chapter implement the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. § 2-15-101 *et seq.*, as amended.

(c) **Applicability.** Any person who qualifies under 27A O.S. § 2-15-103 may participate in the Brownfield program and receive a Certificate of Completion or a Certificate of No Action Necessary upon successful completion of a Brownfield Plan.

252:221-1-2. Definitions

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

"ASTM" means the American Society for Testing and Materials.

"Brownfield" is defined at 27A O.S. § 2-15-103(2)

"Brownfield Plan" means the approved plan that specifies the brownfield remedy for a property.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601 *et seq.* also known as Superfund.

"Certificate" means a Certificate of Completion or a Certificate of No Action Necessary. See further "Certificate of Completion" and "Certificate of No Action Necessary" at 27A O.S. § 2-15-103(3), (4) and (7).

"Consent Order" is defined at 27A O.S. § 2-15-103(5)

"Demonstrated pattern of uncorrected noncompliance" is defined at 27A O.S. § 2-15-103(6).

"DEQ" means the Oklahoma Department of Environmental Quality.

"NCP" means the National Oil and Hazardous Substance Pollution Contingency Plan, 40 CFR Part 300.

"Participant" is defined at 27A O.S. § 2-15-103(1).

"Pollution" is defined at 27A O.S. § 2-1-102.

"Proposal" means the document submitted to the DEQ that sets forth the participant's concept, technical data and intended actions for remediation or no action necessary in accordance with 27A O.S. § 2-15-101 *et seq* and the rules in this Chapter.

"Public Forum" means a gathering for the purpose of discussion of a participant's proposal and any amendments to that document.

"Remediation" is defined at 27A O.S. § 2-15-103(9).

"Risk-based remediation" is defined at 27A O.S. § 2-15-103(10).

"Site characterization" is defined at 27A O.S. § 2-15-103(11).

252:221-1-3. Methodology

All analytical and sampling methods used to comply with this Chapter shall be approved ASTM or EPA procedures or analytical methods and procedures approved by the DEQ. Any reference to an ASTM or EPA Method refers to the latest published procedure.

252:221-1-4. Terms not defined by Code or rule

Any term not defined in the Oklahoma Environmental Quality Code (27A O.S. § 1-2-101 *et seq* or Title 252 of the Oklahoma Administrative Code shall be defined by:

- (1) The Dictionary of Geological Terms, latest revised edition, American Geological Institute.
- (2) Its generally accepted scientific meaning, or
- (3) Its standard dictionary meaning.

252:221-1-5. Consideration of other laws

The participant must comply with all applicable state and federal laws and rules.

252:221-1-6. Transitioning from Voluntary Cleanup Program to Brownfield Program

A participant in the Voluntary Cleanup Program may transition to the Brownfield Program by notifying the Brownfield Program in writing and meeting the requirements in 27A O.S. § 15-101 et seq and the rules in this Chapter.

252:221-1-7. Superfund and Brownfield

Deleted National Priorities List (NPL, aka Superfund) sites are eligible for Brownfield certification if the program requirements are met.

252:221-1-8. Responsible parties

- (a) Entities responsible for contaminating the property may participate in the Brownfield program.
- (b) Participants may choose to be consistent with the NCP to reserve their rights to cost recovery under CERCLA 107 (42 U.S.C 9607).

SUBCHAPTER 3. THE BROWNFIELD PROGRAM

252:221-3-1. General requirements

All participants shall enter into a consent order with the DEQ, characterize the site, evaluate the risk the site poses to the selected future use, evaluate cleanup alternatives if a risk is present, select a remedial option, prepare a proposal, notify the public of an opportunity to review and comment on the proposal, reimburse DEQ for its reasonable oversight costs and remedy the risk or request a no action determination in accordance with 27A O.S. § 15-101 et seq. and the rules in this Chapter.

252:221-3-2. Process

- (a) **Eligibility.** The participant must provide sufficient information for the DEQ to determine whether :
 - (1) the participant is eligible for liability protection under the state Brownfields law; and
 - (2) the site qualifies for the EPA enforcement bar under CERCLA.
- (b) **Information.** The participant shall provide the DEQ with information specified in 27A O.S. § 2-15-105 and this Chapter.
- (c) **Project tracking database.** The participant shall submit the name of the site, with the latitude and longitude, legal description, and street address as well as contact information for the participant.

252:221-3-3. Proposal

The participant shall develop a Proposal in accordance with 27A O.S. § 2-15-105 and the rules in this Chapter and shall propose either a remedial option or a request for a no action necessary determination. DEQ and the participant shall

consider the history of the site and surrounding area in determining the type of sampling and analysis to be conducted and risk-based decision making.

- (1) **Site characterization.** In addition to the requirements of 27A O.S. § 2-15-105, the participant shall submit a work plan for site characterization, which includes a plan to control the quality of the data generated for the project commensurate with the complexity of the site, a discussion of existing data, the data gaps, a sampling plan to delineate areas of contamination, and a contaminant and site-specific plan to protect worker and public health and safety during site work.
- (2) **Previously acquired data.** The participant may submit previously generated data, if appropriate, with corresponding Quality Assurance/Quality Control documentation. Temporal issues will be considered on a site by site basis. The DEQ may consider this information in determining the appropriateness of further investigation of the site.
 - (A) The DEQ may require verification sampling to validate the information submitted.
 - (B) If the information submitted does not fully address the requirements of the Brownfield program, the participant shall collect additional data as required by the DEQ.
 - (C) The DEQ may require additional analytes, at its discretion.
- (3) **Future use.** The participant shall identify the future use of the contaminated property. If the future use of the site is other than "unrestricted use", the Proposal must include a plan for the implementation and maintenance of engineering and institutional controls and a plan for long term stewardship.
- (4) **Risk evaluation.** On a site specific basis, the participant shall identify and evaluate all potential receptors and exposure pathways. If the proposal claims that an exposure pathway is not complete and therefore no receptor is threatened, specific information must be provided that documents and supports the claim.
- (5) **Risk-based cleanup levels.** Using risk evaluation methodology approved by the DEQ, the participant shall:
 - (A) compare site contaminant levels to published screening levels approved by the DEQ;
 - (B) calculate a default risk-based cleanup level in accordance with DEQ guidance; or
 - (C) conduct a risk assessment of the contaminated property to produce site-specific risk-based cleanup levels. DEQ must approve the model and input parameters used in any risk assessment.
- (6) **Remedial option evaluation.** The participant shall identify alternatives for remediation and shall submit narrative information which discusses each alternative's risk-based cleanup levels, protectiveness, economic feasibility, technical feasibility, and reliability of each remedial alternative considered. Additionally, the participant shall include a discussion of engineering and institutional controls needed for each option to maintain the remedy and control the use of the property in the future. Examples of specific

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institutional controls must be included in the Proposal for evaluation unless the future use is "unrestricted use".

(7) **Preferred option.** The participant shall identify its preferred option.

(8) **No Action Determination.** A request for a no action determination does not require a remedial option evaluation as described in subsection (f) above.

(9) **Submittal.** The Proposal must be written in plain language, with technical terms defined. The participant shall submit two paper copies and one electronic copy of the Proposal to the DEQ for review and comment.

252:221-3-4. Approval process

(a) The DEQ will review and comment on participant's Proposal and may ask for additional information. All additional submittals made by participant shall be in duplicate with one electronic copy. The document(s) will be added to the original Proposal as amendments.

(b) When the DEQ and the participant are satisfied that the Proposal will be protective of human health and the environment and that the Proposal adequately addresses long term stewardship, the Proposal (as amended) shall be made available for public review as specified in the following section.

252:221-3-5. Public participation

(a) **Public review.** The participant must make the Proposal and its amendments available to the public for review for 20 working days. The Proposal must be placed at a convenient location local to the site that provides easy access to the public to review.

(b) **Public notice.** The participant must place a public notice in a newspaper of general circulation local to the site announcing the availability of the Proposal for public review and comment. The notice must include, at a minimum:

- (1) the name(s) and contact information of the participant(s);
- (2) the site name;
- (3) the location (street address and legal description) of the site;
- (4) the proposed future use of the property;
- (5) the proposed remedy;
- (6) the location where the Proposal may be reviewed;
- (7) the beginning and ending dates for the 20 working day review and comment period;
- (8) the opportunity to request a public forum on the Proposal and its amendments within the 20 working day review period; and
- (9) the DEQ contact person and mailing address where comments will be received.

(c) **Public forum.** If the DEQ receives a timely request for a public forum on the Proposal and its amendments and determines that there is a significant degree of public interest in the Proposal, the DEQ shall expeditiously schedule and hold a public forum. Notice of the forum shall be given to the public at least 10 working days prior to the public forum in the same

manner as in subsection (b) above. The public forum shall be held at a location convenient to and near the Brownfield site. The participant must attend the meeting or send a designated representative.

252:221-3-6. Evaluation of public comments

The DEQ will prepare a responsiveness summary for all comments received. After consideration of the comments, the DEQ may require the participant to revise the Proposal in a manner that satisfies the public's concerns or may accept the Proposal.

252:221-3-7. Request for a No Action Necessary determination

In accordance with 27A O.S. § 2-15-106 (D), the participant may select to pursue a no action necessary determination as the preferred option. DEQ approval will be based on information and procedure required in 27A O.S. § 2-15-101 *et seq* and the rules in this Chapter demonstrating that level of contamination at the site, if any, does not pose an unreasonable risk to human health and safety or to the environment for the prescribed future use.

252:221-3-8. Remediation plan for preferred option

(a) **Statutory requirements.** The participant shall submit information required by 27A O.S. § 2-15-101 *et seq* and the rules in this Chapter in the remediation plan for the preferred option.

(b) **Proposal.** The remediation plan shall incorporate the Proposal and shall provide the technical information necessary for implementation of the Proposal.

(c) **Additional requirements.** The participant shall also identify the following in the remediation plan:

- (1) The cleanup levels and design requirements to obtain them;
- (2) All applicable state and federal laws, rules, standards, limitations, criteria and requirements;
- (3) Methods to verify how risk-based cleanup levels will be achieved;
- (4) Project and Construction Management plan;
- (5) Remediation schedule;
- (6) Future monitoring and maintenance requirements; and
- (7) A specific plan for long-term stewardship if the future use is not "unrestricted use". If active long-term maintenance of the remedy is required, the plan must include information on how funding for the maintenance will be provided.

(d) **Interim remedial action.** If an environmental problem is discovered before the remediation plan is finalized, an interim measure may be proposed for DEQ approval.

(e) **DEQ approval required.** Other than interim remedial action, the participant may not begin remediation until DEQ approves the remediation plan.

252:221-3-9. Pre-certification inspection and written report

Within thirty (30) calendar days after participant concludes that the remedial action has been fully performed, participant shall notify DEQ and shall schedule and conduct a pre-certification inspection to be attended by DEQ. The pre-certification inspection shall be followed by a written report submitted within thirty (30) calendar days of the inspection by participant's project manager, certifying that the remedial action, including confirmation sample data, has been completed in full satisfaction of the requirements of the Consent Order.

252:221-3-10. Further remedial action

If, after completion of the pre-certification inspection and receipt and review of the written report, DEQ determines that the remedial action or any portion thereof has not been completed in accordance with this Chapter or the Consent Order, DEQ shall notify participant in writing of the activities that must be undertaken to complete the remedial action and shall set forth in the notice a schedule for performance of such activities. Respondents shall perform all activities described in the notice in accordance with the specifications and schedules established therein.

252:221-3-11. Completion of remedial action.

Once DEQ concludes that the remedial action has been fully performed in accordance with 27A O.S. § 2-15-101 *et seq.* this Chapter and the Consent Order, DEQ will notify participants that the remedial action is complete.

252:221-3-12. Certificates

(a) **Certificate of No Action Necessary.** Upon determination by the DEQ that no action is necessary, the participant shall receive Certificate of No Action Necessary.

(b) **Certificate of Completion.** Upon final inspection and approval of work by the DEQ, the participant shall receive a Certificate of Completion.

(c) **Certificates.** Language in the Certificates shall comply with 27A O.S. § 2-7-123 and § 2-15-101 *et seq.*

(d) **Filing.** The participant shall file the Certificate in the county land records and submit a file-stamped copy to the DEQ in accordance with 27A O.S. § 2-7-123 and § 2-15-107.

SUBCHAPTER 5. VERIFICATION OF BROWNFIELDS PROJECTS

252:221-5-1. Applicability

This Subchapter applies to Brownfields projects eligible for funds from the Wastewater Facility Construction Revolving Loan Account pursuant to 82 O.S. § 1084.1 *et seq.* and other state or federal funding sources.

252:221-5-2. Verification of projects

The DEQ shall verify eligibility of Brownfields projects to the Oklahoma Water Resources Board or other appropriate state or federal funding entities. Additionally, the DEQ shall cooperate with appropriate funding entities in identifying water quality benefits under the federal Clean Water Act by providing the following information upon request of the funding entity:

- (1) verification of eligibility as a Brownfields project;
- (2) verification that runoff from the project potentially impacts water quality; and
- (3) documentation of potential water quality benefits.

SUBCHAPTER 7. REVOLVING LOAN FUNDS (RLF)

252:221-7-1. Purpose, authority and applicability

(a) **Purpose.** The purpose of this Subchapter is to implement Executive Order 98-37, mandating state agencies to establish criteria for local project funding contracts.

(b) **Authority.** This subchapter is adopted pursuant to 27A O.S. § 2-2-101 *et seq.* and § 2-15-101 *et seq.*, 75 O.S. § 302 and Executive Order 98-37.

(c) **Applicability.** The rules in this Subchapter apply to any private entity, political subdivision or unit of local government, including municipal and county governments and school districts, and federally recognized Indian tribes seeking to use Revolving Loan Funds (RLF) for brownfield cleanup activities.

(d) **Oklahoma Department of Commerce.** The Oklahoma Department of Commerce (ODOC) is the RLF Fund Manager responsible for ensuring that the RLF applicants meet all financial requirements. Applicants are on notice that the ODOC may have specific rules governing loan applications and eligibility requirements.

(e) **Federal "cross-cutting" requirements.** "Cross-cutting requirements" are those federal requirements in addition to CERCLA and associated administrative authorities which are applicable to the RLF by operation of federal statutes, President's Executive Orders and federal regulations. These cross-cutting federal authorities apply by their own terms to projects and activities receiving federal financial assistance regardless of whether the statute authorizing the assistance mentions them specifically. RLF cross-cutters include but are not limited to social and economic policy authorities such as equal employment opportunities (President's Executive Order 11246) and government wide debarment and suspension rules (President's Executive Order 12549), the Demonstration Cities and Metropolitan Development Act, procurement prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, Anti-lobbying provisions of 40 CFR Part 30, Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, the Contract Work Hours and Safety Standards Act, Anti-kickback Acts, the Women and Minority Business Enterprise Act, Section 13 of the Federal Water Pollution Act amendments, the Drugfree Workplace Act of 1988, Section 504 of the Rehabilitation Act of 1973 and Section 129

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of the Small Business Administration Reauthorization and Amendment Act of 1988 and the Davis-Bacon Act.

252:221-7-2. Definitions

In addition to the definitions found in OAC 252:221-1-3, the following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Administrative Record" means a record available to the public, containing all relevant site information and documents that form the basis for the selection of a cleanup.

"Brownfield", as used in this subchapter, is defined in 42 U.S.C. § 9601(39) and has a different meaning than the term as used in Subchapters 1, 3 and 5 of this Chapter.

"RLF response" means planned cleanup actions.

"Borrower" means a public or private entity that uses RLF funds for cleanup and cleanup-related activities and agrees to the terms of a loan agreement between itself and the DEQ and ODOC.

"Eligible response site" means properties that do not meet the definition of a Brownfield but may be eligible if EPA makes a property-specific determination that the site is eligible for funding.

"Governmental borrower" means states, tribes and political subdivisions as defined at 40 CFR 35.6015.

"Loan discount" means a decision made by the DEQ and ODOC under OAC 252:221, to allow a borrower to repay less than the full amount of a loan, subject to certain restrictions.

"Nonprofit borrower" means "nonprofit organization" as defined in accordance with the Federal Financial Assistance Management Improvement Act of 1999, 31 U.S.C. 6101.

"Private borrower" means a for profit company or private individual not representing a governmental entity or nonprofit organization.

"Subgrant" means a portion of the RLF award available as grants to eligible entities, at the DEQ's discretion.

252:221-7-3. Borrower eligibility

(a) An owner/operator (o/o) who was the generator or transporter of contamination at the site is not eligible for a RLF loan/grant for that same site.

(b) An owner who does not qualify as an innocent landowner, contiguous property owner, or bona fide prospective purchaser is not eligible for an RLF loan.

(c) A government entity may borrow RLF funds to clean up property acquired through eminent domain.

252:221-7-4. Eligible uses

The RLF funds may be used to clean up hazardous substances, pollutants, contaminants, petroleum, mine-scarred land and controlled substances as defined in the Controlled Substances Act, 21 U.S.C. § 802.

252:221-7-5. Ineligible fund uses

(a) **Ineligible activities.** RLF funds shall not be used for any of the following activities, including but not limited to:

(1) Pre-cleanup environmental response activities, such as site assessment, identification, and characterization

(2) Monitoring and data collection necessary to apply for, or comply with, environmental permits under other state and Federal laws, unless such a permit is required as a component of the cleanup action;

(3) Development activities that are not cleanup actions (e.g., construction of a new facility or marketing of property);

(4) To support job training; or

(5) Indirect costs.

(b) **Ineligible sites.** RLF funds shall not be used at any sites:

(1) Listed, or proposed for listing, on the National Priorities List; or

(2) That do not meet the definition of an eligible response site.

252:221-7-6. Environmental requirements

(a) RLF funds shall only be used to conduct cleanup actions at brownfields sites, as brownfields is defined in this subchapter.

(b) All cleanup actions funded by the RLF must meet the following:

(1) the requirements of a state approved program;

(2) EPA Brownfield RLF Programmatic Requirements as specified in EPA's Revolving Loan Fund Grant Program Administration Manual December 2008, as updated; and

(3) relevant and appropriate provisions of CERCLA and the NCP.

252:221-7-7. Project selection criteria

(a) **Funding available.** Loans will be made to eligible projects as funding allows.

(b) **Priority projects.** Priority will be given to projects that:

(1) remove environmental risks as opposed to managing them long term;

(2) use deconstruction techniques to remove structures as opposed to demolition;

(3) use sustainable material management techniques for demolition/deconstruction wastes;

(4) redevelop property using LEED standards or promote energy efficiency;

(5) promote reuse by a green industry;

(6) use sustainable landscaping or sustainable redevelopment techniques;

(7) create green jobs;

(8) facilitate the creation of, preservation of or addition to a park, a greenspace; undeveloped property, recreational property or other property used for nonprofit purposes;

(9) meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community; or

(10) facilitate the use or reuse of existing infrastructure.

(b) **Compliance with state and federal laws and rules.** The borrower/grantee must comply with the the rules in this subchapter, the agency of jurisdiction's rules, and relevant and appropriate provisions of CERCLA and the NCP.

(c) **Contribution to local community revitalization.** The borrower/grantee shall submit documentation to support its position that the cleanup of a particular site will significantly contribute to local community revitalization.

(d) **Environmental compliance history.** A borrower/grantee must submit information regarding its overall environmental compliance history. The DEQ will strongly consider this history in its analysis of the borrower/grantee as a cleanup and business risk. Each borrower/grantee must certify that it is not currently, nor has it been, subject to any penalties resulting from environmental non-compliance at the site subject to the loan. An entity that has been suspended, debarred or otherwise declared ineligible, as those terms are defined in 40 CFR Part 32, cannot be a borrower/grantee.

252:221-7-8. Protocol for demonstrating eligibility

The borrower/grantee shall provide the following documentation to the DEQ:

- (1) Description of project to be funded;
- (2) How loan or grant monies will be used;
- (3) Explanation of how the project, if selected, would be consistent with RLF program objectives;
- (4) Environmental compliance history; and
- (5) Documentation showing that the potential borrower/grantee is an innocent landowner, contiguous property owner, bona fide prospective purchaser or other proof of non-responsibility for the environmental contaminants that are the subject of the cleanup; and
- (6) If the borrower/grantee is selected for a loan/grant, he/she must submit the following additional documents:
 - (A) Analysis of Brownfields Cleanup Alternatives (ABCA);
 - (B) Community Involvement Plan; and
 - (C) Quality Assurance Project Plan (QAPP).

252:221-7-9. Public Involvement

(a) **Community Involvement Plan.** The Borrower/grantee must involve the public in the process prior to site cleanup. This public process involvement must be documented in the Community Involvement Plan.

(b) **Administrative record.** The Borrower/grantee must establish an administrative record for this site and must make the administrative record available to the public for review for 30 calendar days. The administrative record must be placed at a convenient location that provides easy access to the public to review.

(c) **Public notice.** The Borrower/grantee must place a public notice in a newspaper of general circulation local to the site announcing the availability of the administrative record for public review and comment. The notice must include, at a minimum:

- (1) the name(s) and contact information of the participant(s);
- (2) the site name;
- (3) the location (street address and/or legal description) of the site;
- (4) the proposed future use of the property;
- (5) the proposed remedy;
- (6) the location where the administrative record may be reviewed;
- (7) the beginning and ending dates for the 30 calendar day review period;
- (8) the DEQ contact person and mailing address where public comments will be received.

(d) **Evaluation of public comments.** The DEQ will consider all relevant comments and prepare a responsiveness summary.

252:221-7-10. Final Decision Document

The DEQ will issue a Final Decision Document prior to a loan being made.

252:221-7-11. Special terms and conditions

The following terms and conditions are incorporated by reference into each Borrower/grantee's loan agreement:

- (1) Borrower/grantee shall use funds only for eligible activities.
- (2) Borrower/grantees shall document all funds used.
- (3) Borrower/grantee shall maintain documentation for a minimum of three (3) years after the completion of the cleanup activity supported by the loan or for the length of the loan, whichever is longer. Borrower/grantee shall obtain written approval from the DEQ prior to disposing of records.
- (4) Borrower/grantee shall conduct RLF response activities in accordance with this Subchapter, relevant and appropriate provisions of CERCLA and EPA's Revolving Loan Fund Grant Programs Administrative Manual, December 2008, as updated.
- (6) Borrower/grantees shall modify response activities as required by the DEQ.
- (7) Borrower/grantees shall comply with CERCLA § 104(g) [42 USC § 9604(g)] by requiring that laborers and mechanics employed by the Borrower/grantee or its contractors or subcontractors in the performance of construction, alteration, or repair work are paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the U.S. Department of Labor in accordance with the Davis-Bacon Act. Borrower/grantees shall submit copies of all Davis Bacon forms to the DEQ.
- (8) Borrower/grantees must comply with the Uniform Relocation Act and other applicable federal "cross cutting" requirements.
- (9) Borrower/grantees shall use funds promptly for costs incurred in connection with the cleanup.
- (10) All distribution of funds will be as reimbursement for costs incurred.

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252:221-7-12. Loan discount

DEQ may at its discretion discount a portion of a loan. DEQ will consider the Borrower's ability to pay, the impact that the cleanup and redevelopment will have on the local community, and sustainable practices in its decision.

252:221-7-13. Insurance

Borrower/grantees may purchase insurance, including environmental insurance, if the expense is necessary to carry out cleanup activities and associated cleanup activities are carried out in accordance with the terms and conditions of DEQ's loan/grant.

[OAR Docket #11-345; filed 4-7-11]

TITLE 325. OKLAHOMA HORSE RACING COMMISSION CHAPTER 25. ENTRIES AND DECLARATIONS

[OAR Docket #11-325]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:25-1-10. Horses ineligible to start in a race [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

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Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

Mr. Constantin A. Rieger, Commission Executive Director, proposed a new racing rule to address testing for Equine Infectious Anemia. The rule would require a negative test result taken 12 months of the date of the race for the horse to be allowed to race in Oklahoma. The negative test record would be attached to the horse's registration papers. Currently, the negative test result requirement is handled by a Commission Directive.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENTS ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

325:25-1-10. Horses ineligible to start in a race

In addition to any other valid ground or reason, a horse is ineligible to start in any race if:

(1) Such horse is not registered by The Jockey Club if a Thoroughbred; the American Quarter Horse Association if a Quarter Horse; the Appaloosa Horse Club if an Appaloosa; the Arabian Horse Club Registry of America if an Arabian; the American Paint Horse Association if a Paint; the Pinto Horse Association of America, Inc., if a Pinto; or any successors to any of the foregoing or other registry recognized by the Commission.

(2) The original, replacement, or corrected Certificate of Foal Registration, or other registration issued by the official registry for such horse is not on file with the Racing Secretary prior to ~~entry for~~ the race in which the horse is scheduled to race. The Stewards may make exceptions in certain stakes and races ~~which are not overfilled~~, in which case such Foal Certificate must be on file no later than one (1) hour prior to post time for the first race of that race program, except that in emergency situations for finals and stakes races, the Stewards may allow a horse to start in a race if an acceptable photocopy of the Foal Certificate is provided by a representative of a turf governing body, a licensed racetrack or a breed registry, and the original Foal Certificate is on file with that entity. However, under no circumstances shall any money earned be paid to said starter until the original, replacement, or corrected Foal Certificate is received by the Stewards so that all information may be verified and any eligibility notations recorded on or attached to the Foal Certificate.

(3) Such horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation duly assigned by and registered with the official registry.

(4) The Win Certificate, Certificate of Foal Registration, eligibility papers, or other registration issued by the official registry has been materially altered, erased, removed, or forged.

(5) Such horse is ineligible to enter said race, is not duly entered for such race, or remains ineligible to time of starting.

(6) The ownership and Trainer of such horse has not completed the prescribed licensing procedures required by the Commission before starting the horse, or the horse is in the care of an unlicensed Trainer.

(7) Such horse is owned in whole or in part or trained by any person who is suspended or ineligible for a license or ineligible to participate under the rules of any Turf Governing Authority or Stud Book Registry.

(8) Such horse is a suspended horse.

(9) Such horse is on the Stewards' List, Starter's List, or the Veterinarian's List.

(10) Except with permission of the Stewards and Horse Identifier, the identification markings of the horse do not agree with the identification as set forth on the Registration Certificate to the extent that a correction is required from the appropriate breed registry.

(11) Except with the permission of the Stewards, the horse has not been lip tattooed by a Commission-approved Tattooer.

(12) The entry of a horse is not in the name of its true Owner.

(13) The horse has drawn into the field or has started in a race on the same day.

(14) The age of the horse as determined by an examination of its teeth by the Official Veterinarian does not correspond to the age shown on its Registration Certificate, such determination by tooth examination to be made in accordance with the current OFFICIAL GUIDE FOR DETERMINING THE AGE OF THE HORSE as adopted by the American Association of Equine Practitioners.

(15) The Certificate of Registration of a horse reflects an unknown sire or dam.

(16) An ownership transfer for a claimed horse is being processed by the Racing Secretary to a breed registry, and an acceptable photocopy of the Foal Certificate is not on file with the Racing Secretary.

(17) A horse is wholly or partially owned by a disqualified person, or a horse is under the direct or indirect management of a disqualified person.

(18) A horse is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted.

(19) The horse is a cloned horse.

[OAR Docket #11-325; filed 4-5-11]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 25. ENTRIES AND DECLARATIONS**

[OAR Docket #11-326]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:25-1-32. Coggins test [NEW]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

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Effective:

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SUPERSEDED EMERGENCY ACTIONS:

Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

Mr. Constantin A. Rieger, Commission Executive Director, proposed a new racing rule to address testing for Equine Infectious Anemia. The rule would require a negative test result taken 12 months of the date of the race for the horse to be allowed to race in Oklahoma. The negative test record would be attached to the horse's registration papers. Currently, the negative test result requirement is handled by a Commission Directive.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

325:25-1-32. Coggins test

No horse shall be allowed to race in Oklahoma unless it has had a Coggins test taken within 12 months of the date of the race in question with a negative result. Record of the negative test shall be attached to registration papers of the horse. The trainer of the horse is responsible for insuring that a negative Coggins test result is in the racing secretary's office as required by this rule.

[OAR Docket #11-326; filed 4-5-11]

**TITLE 325. OKLAHOMA HORSE RACING COMMISSION
CHAPTER 30. CLAIMING RACES**

[OAR Docket #11-327]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

325:30-1-17. Entry of claimed horse [AMENDED]

AUTHORITY:

75 Oklahoma Statutes §§ 302, 305, and 307; Title 3A O.S., § 204(A); Oklahoma Horse Racing Commission

DATES:

Comment Period:

August 2, 2010 through September 13, 2010

Public Hearing:

September 13, 2010

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October 21, 2010

Permanent Final Adoptions

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Gubernatorial approval:

December 1, 2010

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Failure of the Legislature to disapprove the rules resulted in approval on April 1, 2011

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April 1, 2011

Effective:

May 12, 2011

SUPERSEDED EMERGENCY ACTIONS:

Not Applicable

INCORPORATIONS BY REFERENCE:

Not Applicable

ANALYSIS:

The Thoroughbred Racing Association of Oklahoma (TRAO), the recognized horsemen's representative organization for Thoroughbreds racing at Commission-licensed racetracks in Oklahoma, requested that the Horse Racing Commission consider a rule amendment to Rule 325:30-1-17, Entry of Claimed Horse. The current regulatory language requires that, when a Thoroughbred horse is claimed at a racetrack in Oklahoma, if the horse is entered within thirty (30) days of being claimed, the horse must be entered into a race with a minimum of a twenty-five percent (25%) increase in claiming value. In Fall 2009, TRAO conducted a survey of its membership, suggesting three alternatives to the current rule. The TRAO reported that the majority of its members favor a rule amendment that no increase in the claiming price be required with the new Owner/Trainer being able to enter the horse in any race at any level per their discretion.

Mr. Constantin Rieger, Commission Executive Director, conducted a survey of racing jurisdictions regarding the claiming price level of subsequent start(s) for a claimed horse, which included 14 racing jurisdictions, the American Association of Equine Practitioners and the Racing Commissioners International Model Rule. The survey results reflect that six states have no raise requirements after claiming such that a horse may be claimed for \$10,000 and run back for \$5,000; three states require a 25% raise for the first 20 days after the claim; three states, including Oklahoma, require a 25% raise for the first 30 days after the claim; one state has no raise requirement but requires that the horse run for at least the same amount as the claim; and one state requires that a winning claimed horse must run back for no less than the original claiming price while all others may start for any claiming price. The American Association of Equine Practitioners recommends a 25% raise for the first 30 days after the claim, and the Racing Commissioners International Model Rule is silent as to subsequent claiming race amount. All states have the 30 day transfer of ownership provision.

Mr. Neal Leader, Senior Assistant Attorney General and Commission Counsel, prepared two options for dealing with entries of claimed horses: (1) no limit on in-state running back claimed Thoroughbred horses or (2) a limit on claimed Thoroughbreds running back in-state at a price less than the price for which the horse was claimed for a period of 30 days.

After discussion of the options, the Commission approved opening the permanent rulemaking process on Rule 325:30-1-17, Entry of Claimed Horse, by authorizing publication in *The Oklahoma Register* and scheduling of a Public Hearing with the proposed rule amendment to return the rule language to its original text of all breeds not being able to start in any claiming race for the first 30 days for less than the price for which the horse was claimed.

CONTACT PERSON:

Bonnie Morris, Agency Rulemaking Liaison, Oklahoma Horse Racing Commission, Shepherd Mall, 2401 N.W. 23, Suite 78, Oklahoma City, OK 73107, (405) 943-6472

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULE AMENDMENT IS CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

325:30-1-17. Entry of claimed horse

(a) A horse claimed out of a claiming race shall be eligible to race at any racing organization within the State of Oklahoma immediately or in any other state after the end of the race meeting where the claim occurred. A claimed horse shall not be eligible to start in any other claiming race for a period of thirty (30) days exclusive of the day such horse was claimed for less than the price for which the horse was claimed. A claimed horse, with permission of the Stewards at that race meeting, may be allowed to participate in stakes or nomination races in other jurisdictions.

(b) A Any horse claimed in another racing jurisdiction is subject to the eligibility requirements for the claimed horse in effect at the time of the claim in the jurisdiction in which the horse was claimed.

~~(b) Any Thoroughbred horse claimed at a race meeting in Oklahoma shall not be eligible to start in a claiming race in which the claiming price is less than 25 percent more than the price at which it was claimed for a period of 30 days, exclusive of the day the horse was claimed. A claimed Thoroughbred horse shall be eligible to enter a race whenever necessary so that the horse may start on the 31st day following the claim, for any claiming price.~~

~~(c) Any Thoroughbred horse claimed at a race meeting in Oklahoma will not be eligible to start in any race, exclusive of a stakes race, at any other jurisdiction until the end of the race meeting at which the horse was claimed. A claimed Thoroughbred horse may, however, be granted approval to compete in stakes races at other tracks in other jurisdictions during this time period if granted permission by the stewards at the track at which the horse was claimed.~~

[OAR Docket #11-327; filed 4-5-11]

**TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION
CHAPTER 50. LICENSED PEDORTHISTS**

[OAR Docket #11-337]

RULEMAKING ACTION:

PERMANENT final adoption.

RULES:

Subchapter 5. Annual Renewal/Continuing Education
435:50-5-3. Continuing education requirements for renewal [AMENDED]

AUTHORITY:

TITLE 59 O.S., Section 2304, State Board of Medical Licensure and Supervision

DATES:

Comment period:

January 4, 2010 to February 12, 2010

Adoption:

June 25, 2010

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June 29, 2010

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June 29, 2010

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June 29, 2010

Gubernatorial approval:

July 20, 2010

Legislative approval:

Failure of the Legislature to disapprove the rule resulted in approval on April 1, 2011.

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April 1, 2011

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May 12, 2011

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATED BY REFERENCE:

n/a

ANALYSIS:

The amendments accept current certification by the American Board for Certification in Orthotics, Prosthetics and Pedorthics as meeting the continuing education requirements for renewal for Pedorthists licensed in the state. These rules interpret, in part, Title 59 O.S. § 2304, and are necessary for the implementation and enforcement of the Oklahoma Licensed Pedorthists Act, including qualifications for renewals. Related rules are found at OAC 435:50, Subchapter 5.

CONTACT PERSON:

Kathy Plant, Executive Secretary, 101 NE 51st Street, Oklahoma City, Ok, 73105, (405) 962-1400 extension 122, or E-mail: kplant@okmedicalboard.org.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

SUBCHAPTER 5. ANNUAL RENEWAL/CONTINUING EDUCATION

435:50-5-3. Continuing education requirements for renewal

(a) Every year pedorthists seeking to renew licensure must show proof of current certification by the American Board for Certification in Orthotics, Prosthetics and Pedorthics or obtain 11 continuing education points as set out in 435:50-5-4 and 435:50-5-5 of this subsection. No continuing education hours may be carried over from one compliance period to another.

(b) Any applicant for renewal who cannot meet the requirements for continuing education may make a written request for an extension from the Board. The request shall include a plan for completion of the continuing education requirements within the requested extension period. An extension with a temporary license for a period of up to one calendar year may be granted if circumstances make it impossible or extremely difficult for the applicant to obtain the required continuing education hours. Such circumstances may include, but are not limited to, extended illness, family emergency, etc.

(c) Each licensee is responsible for maintaining evidence/proof/record of participation in a continuing education experience for a minimum of six years. Such proof shall include:

- (1) date, place, course title, schedule, presenter(s), etc.,
- (2) number of contact hours for activity,
- (3) proof of completion, such as abstracts, certificates of attendance, or other certification of completion.

(d) Individuals licensed between June 1 and January 31 will not be required to obtain continuing education points for their first renewal period.

(e) The Advisory Committee on Pedorthics shall conduct random audits of the continuing education records of the number of licensees that time and resources permit. The Committee may appoint a sub-committee to review audits and requests for approval of continuing education experiences and make recommendations to the Committee for disposition.

(f) Penalties for failure to comply with continuing education requirements may be assessed after notice and hearing as required by law. Penalties may include imposition of additional continuing education contact hours, probation of license, suspension of license, or revocation of license.

[OAR Docket #11-337; filed 4-6-11]

**TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES**

[OAR Docket #11-339]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

485:10-1-2. [AMENDED]

Subchapter 7. Requirements for Registration and Licensure as a Registered Nurse

485:10-7-3. [AMENDED]

Subchapter 9. Requirements for Registration and Licensure as a Licensed Practical Nurse

485:10-9-3. [AMENDED]

Subchapter 16. Requirements for Prescriptive Authority for Advanced Practice Nurses

485:10-16-1. [AMENDED]

485:10-16-3. [AMENDED]

AUTHORITY:

Oklahoma Board of Nursing 59 O.S. §§567.2.A.3, 567.3a.5, 567.3a.6, 567.3a.7, 567.3a.8, 567.3a.10, 567.4.F, 567.4a.2, and 567.4a.3

DATES:

Comment period:

December 1, 2010 to January 17, 2011

Public hearing:

January 25, 2011

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March 11, 2011

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Failure of the Legislature to disapprove the Rules resulted in approval on April 5, 2011

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SUPERSEDED EMERGENCY ACTIONS:

n/a

Permanent Final Adoptions

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

In Subchapter 10, definitions were adopted for "academic credit hours" and "continuing education contact hours" in section 485:10-1-2. These definitions support rules that were adopted for section 485:10-7-3 and 485:10-9-3 that establish a mechanism to evaluate continuing qualifications for practice for licensed nurses. In addition, the definitions can be used for evaluating compliance with rules for nursing education program faculty members and advanced practice nurses with prescriptive authority.

Revisions for sections 485:10-7-3 and 485:10-9-3 establish a mechanism to evaluate continuing qualifications for practice for licensed nurses. Each licensed nurse will be required to verify that he/she was employed in a position that requires a nursing license with verification of at least 520 hours, or has completed at least twenty-four (24) contact hours of continuing education applicable to nursing practice, or is certified in a nursing specialty area, or has completed a Board-approved refresher course, or has completed at least six (6) academic semester credit hours of nursing coursework at the licensee's current level of licensure or higher.

In section 485:10-16-1, definitions for academic credit hours and continuing education contact hours were deleted, as they have been moved to 485:10-1-2. In section 485:10-16-3, a statement was added for clarification purposes regarding the need to hold prescriptive authority recognition for each advanced practice recognition and specialty certification.

CONTACT PERSON:

Gayle McNish, Oklahoma Board of Nursing, 2915 N. Classen, Suite 524, Oklahoma City, OK 73106 (405) 962-1800.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. §308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2011:

SUBCHAPTER 1. GENERAL PROVISIONS

485:10-1-2. Definitions

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

"Academic credit hours" are calculated as follows:

(A) 1 academic semester credit hour = 16 contact hours

(B) 1 academic quarter credit hour = 12.5 contact hours

"Accountable" means assuming responsibility to the client, the public, other health-care practitioners and oneself for one's actions and/or decisions and their outcomes.

"Additional nursing function" means the nursing functions, procedures, or tasks, not usually included at the time of matriculation in most nursing education programs; requiring additional knowledge, instruction, and practice before they can be safely performed. Such functions must fall within the scope of accepted nursing practice; may become necessary due to technological advances, new practice standards, or the natural evolution of an occupation; and must not be precluded by other Oklahoma Practice Acts.

"Advanced practice nurse" is a term that includes Advanced Registered Nurse Practitioners (ARNP), Clinical Nurse Specialists (CNS), Certified Nurse Midwives (CNM), and Certified Registered Nurse Anesthetists (CRNA).

"Advanced unlicensed assistive person" means an individual, other than a licensed nurse, who performs in an assistive role and has been certified to perform core skills as delegated by a licensed nurse and as authorized by the Rules and Regulations of the Oklahoma Board of Nursing.

"Board" means the Oklahoma Board of Nursing [59 O.S. Section 567.3(1)]

"Client" means a consumer of nursing care; may be an individual or group; is synonymous with "patient".

"Clinical learning experiences" means faculty-planned and guided activities designed to assist students to meet stated program and course outcomes and to safely apply knowledge and skills when providing nursing care to clients across the lifespan as appropriate to the role expectations of the graduates. These experiences occur in a variety of affiliating agencies or clinical practice settings including, but not limited to: acute care facilities, extended care facilities, long-term care facilities, clients' residences, and community agencies; and in associated clinical pre- and post-conferences.

"Clinical skills laboratory" means a designated area in which equipment and supplies are provided to simulate a clinical facility, allowing skills and procedures to be demonstrated and practiced.

"Continuing education contact hours" are calculated as: 1 contact hour = 50 minutes.

"Controlling institution" means the agency or institution that administers the nursing education program, assumes responsibility for its financing, graduates the students, and grants the diploma, certificate or degree to the graduates.

"Core skills" means the list of functions developed by the working committee prescribed in 59 O.S. § 567.3a.13 that an advanced unlicensed assistive person shall be able to perform upon completion of the certification training program and satisfactory passage of the certification examination.

"Delegating" means entrusting the performance of selected nursing duties to individuals qualified, competent and legally able to perform such duties.

"Distance learning program" means 50% or more of the theory components of the board-approved nursing education program are offered by correspondence, on-line, through video-conferencing, or via CD-ROM.

"Innovative approach" means a creative nursing education strategy that departs from the current rule structure and requires Board approval for implementation.

"Legal authority" means the authorized state agency for the administration of the statutes relating to the practice of nursing in this state. The Oklahoma Board of Nursing is the only legal authority for licensing practical nurses, Registered Nurses, and issuing recognition to advanced practice nurses in Oklahoma.

"Licensed nurse" means a registered nurse or licensed practical nurse, currently licensed by the Oklahoma Board of Nursing.

"Nurse Administrator" means the Registered Nurse responsible for the administration of the nursing education program or the nurse holding the highest level of management in an agency/facility regardless of the title used.

"Preceptor" means a licensed nurse who is employed by the facility in which the clinical experience takes place, and who agrees to provide supervision to a student for a specified period of time during the preceptor's scheduled work hours in order to assist the student to meet identified learning objectives.

"State approved program of nursing" means a nursing education program approved by the Oklahoma Board of Nursing.

"Member board jurisdiction" means a full member board of National Council of State Boards of Nursing.

"Supervising" means providing guidance by a qualified nurse for the accomplishment of the nursing task or activity with initial direction of the task or activity and periodic inspection of the actual act of accomplishing a task or activity.

SUBCHAPTER 7. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A REGISTERED NURSE

485:10-7-3. Renewal of [RN] license

- (a) All Registered Nurse licenses issued may be renewed in accordance with the schedule published by the Board.
- (b) The applicant must submit an application containing such information as the Board may prescribe.
- (c) The application for renewal of license must be completed and accompanied by the established fee before a new license is issued.
- (d) The fee for renewal of license shall be established by the Board in accordance with statutory guidelines.
- (e) In addition to meeting other requirements for renewal established by the Board in these Rules, effective January 1, 2014, each licensee shall demonstrate evidence of continuing qualifications for practice through completion of one or more of the following requirements within the past two years prior to the expiration date of the license:

- (1) Verify employment in a position that requires a registered nurse license with verification of at least 520 hours; or
- (2) Verify the completion of at least twenty-four (24) contact hours of continuing education applicable to nursing practice; or
- (3) Verify current certification in a nursing specialty area; or
- (4) Verify completion of a Board-approved refresher course; or
- (5) Verify completion of at least six (6) academic semester credit hours of nursing coursework at the licensee's current level of licensure or higher.

- (f) If audited, the licensee shall present documentation supporting the continuing qualifications.

SUBCHAPTER 9. REQUIREMENTS FOR REGISTRATION AND LICENSURE AS A LICENSED PRACTICAL NURSE

485:10-9-3. Renewal of [LPN] license

- (a) All licenses issued may be renewed in accordance with a schedule published by the Board.
- (b) The applicant must submit an application containing such information as the Board may prescribe.
- (c) The application for renewal of license must be completed and accompanied by the established fee before a new license is issued.
- (d) The fee for renewal of license shall be established by the Board in accordance with statutory guidelines.
- (e) In addition to meeting other requirements for renewal established by the Board in these Rules, effective January 1, 2014, each licensee shall demonstrate evidence of continuing qualifications for practice through completion of one or more of the following requirements within the past two years prior to the expiration date of the license:

- (1) Verify employment in a position that requires a practical nurse license with verification of at least 520 hours; or
- (2) Verify the completion of at least twenty-four (24) contact hours of continuing education applicable to nursing practice; or
- (3) Verify current certification in a nursing specialty area; or
- (4) Verify completion of a Board-approved refresher course; or
- (5) Verify completion of at least six (6) academic semester credit hours of nursing coursework at the licensee's current level of licensure or higher.

- (f) If audited, the licensee shall present documentation supporting the continuing qualifications.

SUBCHAPTER 16. REQUIREMENTS FOR PRESCRIPTIVE AUTHORITY FOR ADVANCED PRACTICE NURSES

485:10-16-1. Definitions

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

"Continuing education categories" as set out below present and define methods for meeting initial and renewal contact and academic credit hours at an advanced practice level as required for prescriptive authority:

- (A) Category A: Academic credit. See continuing education equivalencies table for semester/quarter hour conversion to contact hours.
- (B) Category B:
 - (i) Onsite Seminar or lecture or workshop or course approved for contact hours, continuing education units or continuing medical education units through a recognized approver of continuing education ; or
 - (ii) Online continuing education for initial applications must be approved through a recognized approver of continuing education, and includes a minimum of thirty hours obtained from a single

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provider that is faculty-directed, with processes for interaction of the participant with faculty, evaluating the participant's learning through successful completion of case studies or written assignments and a comprehensive examination using a mechanism to ensure security of the evaluation process.

(C) Category C: Online seminars or workshops, or articles in professional journals or other professional references approved for contact hours, continuing education units or continuing medical education units through a recognized approver of continuing education.

(D) Category D: Published article in refereed journal/book/research project. Evidence of publication of one article related to pharmacotherapy appropriate for advanced practice nurses. These will be evaluated on a case-by-case review.

(E) Category E: Presenter/lecturer. Evidence of providing content related to pharmacotherapeutics at an advanced practice level. The presentation/lecture must be approved for contact hours or offered as part of an academic course with a target audience of advanced practice nurses.

"Continuing education equivalences" means:

(A) 1 contact hour = 50 minutes

(B) 1 academic semester hour = 15 contact hours

(C) 1 academic quarter hour = 12.5 contact hours

"Course in pharmacotherapeutic management" means a course in which the content must include pharmacodynamic and kinetic principles, classifications of medications relevant to the scope of practice, sources for and methods of evaluating drug information, legal and ethical implications of prescribing, clinical application and use of pharmacological agents in the prevention of illness, restoration and maintenance of health.

"Qualified preceptor" means an advanced practice nurse with a current unrestricted license who has a scope of practice which includes prescribing and has met the requirements for prescriptive authority; a licensed practitioner of medicine or osteopathy with unrestricted prescriptive authority.

485:10-16-3. Initial application

The advanced practice nurse applicant for prescriptive authority shall:

(1) hold a current R.N. license and recognition as an A.R.N.P., C.N.M. or C.N.S. in Oklahoma;

(2) submit a completed application for each type of recognition and advanced practice specialty certification held containing such information as the Board may prescribe and the required fee;

(3) submit a written statement from an Oklahoma-licensed physician supervising prescriptive authority which identifies a mechanism for:

(A) appropriate referral, consultation, and collaboration between the advanced practice nurse and physician supervising prescriptive authority;

(B) availability of communication between the advanced practice nurse and physician supervising

prescriptive authority through direct contact, telecommunications, or other appropriate electronic means for consultation, assistance with medical emergencies or patient referral;

(4) submit documentation verifying completion of forty-five contact hours of Category B continuing education or three academic credit hours of education, as required by law and defined in the rules and regulations, which are applicable to the scope of practice, in pharmacotherapeutics, clinical application, and use of pharmacological agents in the prevention of illness, and in the restoration and maintenance of health in a program beyond basic nursing preparation. Such contact hours or academic credits shall be obtained within a time period of three (3) years immediately preceding the date of receipt of application for prescriptive authority. The three (3) year time period may be waived if the applicant has graduated from their advanced practice educational program within a time period of three years immediately preceding the date of application for prescriptive authority and submits the following official documentation from the advanced practice program:

(A) Course descriptions with course objectives verifying the integration of didactic and clinical hours in pharmacotherapeutic management content throughout the advanced practice program curriculum; and

(B) Credentials of the faculty teaching the courses verifying the faculty's scope of practice includes prescribing.

(C) Verification of the total number of contact hours completed in pharmacotherapeutics.

(5) Submit documentation verifying successful completion of a graduate degree at an advanced practice level or post-master's certificate at an advanced practice level, if the Master's degree is in nursing.

[OAR Docket #11-339; filed 4-6-11]

TITLE 580. DEPARTMENT OF CENTRAL SERVICES CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #11-380]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

580:1-1-3 [AMENDED]

580:1-1-4 [AMENDED]

580:1-1-6 [NEW]

AUTHORITY:

Department of Central Services; 74 O.S., Section 63

DATES:

Comment Period:

October 1, 2010 through November 2, 2010

Public Hearing:

November 2, 2010

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November 8, 2010

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SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

None

ANALYSIS:

Revisions to Chapter 1 provide clarification to information related to obtaining copies of records from the agency; update information related to the organization of the agency; and add a new section establishing guidelines for requesting the promulgation, amendment or repeal of an agency rule as required by 75 O.S. §305.

CONTACT PERSON:

Gerry Smedley, Administrative Rules Liaison, (405) 522-8519, Department of Central Services, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK 73105 or email at Gerry_Smedley@dcs.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

580:1-1-3. Availability of records

(a) Records in the custody of DCS, except those documents specifically excluded by law, shall be available to the public as provided by the Open Records Act. Documents will be available to the public for inspection during regular office hours.

(b) Persons wishing to view records of DCS shall register their name, address and telephone number before documents are viewed. The registrant shall state whether the documents are being viewed for a personal, business or commercial reason and shall list the documents desired for viewing.

(c) No original records shall be removed from the DCS.

(d) Persons wishing to photocopy obtain copies of documents in the custody of the DCS may do so in accordance with the Open Records Act. A charge for copies may be made in accordance with the Open Records Act and administrative rules of the DCS.

580:1-1-4. Organization of the Department of Central Services

(a) The Department of Central Services is organized to include the following functions: ~~Administration, Asbestos Abatement, Building Management (also referred to as Facilities Services),~~ Central Printing, Central Purchasing, Construction and Properties, Facilities Management, Fleet Management, Interagency Mail, Property Distribution, and Risk Management, Surplus Property Management and Administration.

(b) The Department of Central Services also administratively supports; the Committee of Alternative Fuels Technician Examiners, the Capitol-Medical Center Improvement and Zoning Commission, the Public Employees Relations Board, the Oklahoma Capitol Improvement Authority, and the State Capitol Preservation Commission, and any other board or commission directed by the Governor or Oklahoma legislature.

580:1-1-6. Petition requesting promulgation, amendment or repeal of a rule

(a) Any person may request the Director of the Department of Central Services to adopt, amend, or repeal any rule in this Title. [Reference 75 O.S. §305]

(b) A request for rulemaking must be in writing and must include the following information:

- (1) the name, address and telephone number of the person making the request;
- (2) the name, address and telephone number of the organization the person represents, if applicable;
- (3) the date of the request;
- (4) the requested action, that is, revision of a rule, repeal of a rule, or addition of a rule;
- (5) any numbers and headings used to identify the rule if the request is to revise or repeal an existing rule;
- (6) the proposed language if the request is to amend an existing rule or add a new rule;
- (7) the reason for the request; and
- (8) the intended effect of the action.

(c) Upon review and consideration of the request, the Director may approve the request and send notice that such proposal will be formally considered for adoption. In accordance with 75 O.S. §305, if a person requesting rulemaking proceedings has not received a notice from the Director within thirty (30) calendar days after submission of a petition, the petition shall be deemed to have been denied.

[OAR Docket #11-380; filed 4-8-11]

**TITLE 580. DEPARTMENT OF CENTRAL SERVICES
CHAPTER 70. STATE INVENTORY**

[OAR Docket #11-381]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions [AMENDED]
580:70-1-3 [AMENDED]

AUTHORITY:

Department of Central Services; 74 O.S. Section 110.1(B)

DATES:

Comment Period:

October 1, 2010 through November 2, 2010

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November 2, 2010

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May 12, 2011

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

Revisions update information related to the state agency inventory reporting threshold to ensure consistency with the threshold established by 74 O.S. §110.1 in 2002 and to coordinate with threshold reporting requirements recently implemented through the State's financial and information system (currently PeopleSoft).

CONTACT PERSON:

Gerry Smedley, Administrative Programs Officer, (405) 522-8519, Department of Central Services, Administration, 2401 N. Lincoln Boulevard, Suite 206, Oklahoma City, OK 73105 or Gerry.Smedley@dcs.state.ok.us.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

SUBCHAPTER 1. GENERAL PROVISIONS

580:70-1-3. Threshold determination

(a) **General threshold.** ~~Unless the Director specifies otherwise (Reference (b) of this Section), the threshold for tangible asset inventory reports is \$500.00. The Director shall specify the required tangible asset reporting threshold for state agencies by written notice.~~

(1) The reporting threshold specified by the Director shall not exceed the threshold established by 74 O.S. §110.1.

(2) The reporting threshold specified by the Director shall not apply to information technology, communication and telecommunication items, which may have a lower reporting threshold established by statute or the Office of State Finance, Information Services Division. [Reference 62 O.S. §34.12]

(b) **Specified threshold for an individual agency.** ~~The Director may specify an individual threshold for an agency determine to reduce or increase the reporting threshold for an individual agency in accordance with this section and section 580:70-3-6. The reporting threshold specified for an individual agency which shall be greater than \$100.00 but not to exceed the amount authorized by 74 O.S., Section 110.1.~~

(c) **Threshold considerations.** ~~Whenever the Director specifies an individual threshold for an agency, the capabilities~~

~~of the agency to provide an inventory of tangible assets to the Department shall be considered. Prior to specifying an individual reporting threshold for an agency, the Director shall consider:~~

(1) ~~If an agency demonstrates reliable tangible asset reporting capabilities, the Director may specify a threshold greater than \$500.00 but not to exceed the amount authorized by 74 O.S., Section 110.1. the capabilities of the agency to provide an inventory of tangible assets to the Department;~~

(2) ~~If an agency demonstrates unreliable tangible asset reporting capabilities or does not meet reporting requirements, the Director may specify a threshold not to exceed \$500.00; inventory accuracy;~~

(3) ~~failure to meet reporting requirements of this Chapter; or,~~

(4) ~~any other factors identified by the Department that indicate the agency's inventory report is unreliable.~~

(d) ~~Unreliable reporting. Whenever it is determined that an agency with an established threshold exceeding \$500.00 has provided unreliable information or has not met the reporting requirements of this Chapter, the Director may reduce the threshold of the agency.~~

(e) **Review of specified threshold.** No less than six (6) months after the reduction of its threshold, ~~an~~ the agency chief administrative officer may submit a written request ~~for review of the agency's inventory reporting capabilities to the Director requesting reinstatement of its reporting threshold. The Director shall consider information the agency provides and the agency's inventory reporting capabilities to determine if the agency merits reinstatement of its reporting threshold. The Director shall provide written notice of the final decision pursuant to (e) of this section.~~

(1) ~~If the review determines the agency has demonstrated the capability to provide reliable inventory reports, the Director may increase the agency threshold to an amount not to exceed the amount authorized by 74 O. S., Section 110.1.~~

(2) ~~If the review determines the agency has provided unreliable information or has not met the reporting requirements of this Chapter, the Director may reduce the agency threshold to an amount exceeding \$100.00.~~

(f) ~~Notice of reporting threshold. The Director shall provide an agency with written notice of the tangible asset reporting threshold specified pursuant to this section which states the amount and determination for the change.~~

[OAR Docket #11-381; filed 4-8-11]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

[OAR Docket #11-364]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
 590:10-1-11. De minimis provisions [AMENDED]
 Subchapter 3. Credited Service
 590:10-3-6. Full-time-equivalent employment [AMENDED]
 590:10-3-8. Actuarial cost for purchases: delinquent service cost [AMENDED]
 590:10-3-13. Credit for involuntary furlough [AMENDED]
 Subchapter 7. Retirement Benefits
 590:10-7-18. Post-retirement employment - eligibility [AMENDED]
 590:10-7-19. Required minimum distributions [AMENDED]
 Subchapter 9. Survivors and Beneficiaries
 590:10-9-2. Death benefit payment [AMENDED]
 Subchapter 11. Transported and State Portable Service Credit
 590:10-11-4. Use of transported service [AMENDED]
 590:10-11-13. Use of transferred state portable service [AMENDED]
 Subchapter 17. Step-Up Election and Benefits
 590:10-17-10. Step-up benefits not eligible for Excess Benefit Plan [NEW]
 Subchapter 21. Excess Benefit Plan and Trust [NEW]
 590:10-21-1. Establishment and purpose [NEW]
 590:10-21-2. Definitions [NEW]
 590:10-21-3. Construction [NEW]
 590:10-21-4. Participation [NEW]
 590:10-21-5. Payment of benefits [NEW]
 590:10-21-6. Contributions and funding [NEW]
 590:10-21-7. Trust fund [NEW]
 590:10-21-8. Administration [NEW]
 590:10-21-9. Plan amendments [NEW]
 590:10-21-10. Nonassignability and exemption from taxation and execution [NEW]
 590:10-21-11. Federal and state taxes [NEW]
 590:10-21-12. Investment [NEW]
 590:10-21-13. Conflicts and limitation of rights [NEW]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S., §§ 902, 909, 909.1, 913, 913.5, 914, 915, 915.1, 916.1, 917, 918.1

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Superseded rule:

Subchapter 3. Credited Service
 590:10-3-13. Credit for involuntary furlough [AMENDED]
 Subchapter 7. Retirement Benefits
 590:10-7-18. Post-retirement employment - eligibility [AMENDED]
 Subchapter 9. Survivors and Beneficiaries
 590:10-9-2. Death benefit payment [AMENDED]
 Subchapter 17. Step-Up Election and Benefits
 590:10-17-10. Step-up benefits not eligible for Excess Benefit Plan [NEW]
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 590:10-21-1. Establishment and purpose [NEW]
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 590:10-21-12. Investment [NEW]
 590:10-21-13. Conflicts and limitation of rights [NEW]

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INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The amendment to 590:10-1-11 adds a de minimus provision for errors or miscalculations involving monthly benefits at the discretion of the System. It also increases the de minimus amount that may be due to a member or beneficiary for which the System is not required to make efforts to contact.

The amendment to 590:10-3-6 provides an exception to the type of service which does not constitute full-time-equivalent employment so that full-time-equivalent employment would include transported service which started out in the Oklahoma Public Employees Retirement System.

The amendment to 590:10-3-8 clarifies the cost for delinquent service that is for one month or less and which is more than 1 year delinquent, and service which is for more than one month and which is more than 1 year delinquent. The amendment also adds a provision that the cost for delinquent service involving retirees returning to work will be contributions plus 10% interest.

The amendment to 590:10-3-13 permits a leave of absence involving legislative and court employees to be credited as participating service if it is the result of an involuntary furlough. The amendment also removes obsolete language. This amendment is in accordance with Section 4 of Enrolled Senate Bill 1579 (amending 74 O.S. §913) which became effective June 7, 2010.

The amendment to 590:10-7-18 modifies the one year return to work prohibition to provide that the one year period starts from the date the retiree ended the employment with the participating employer. This amendment is in accordance with Section 3 of Enrolled Senate Bill 1889 (amending 74 O.S. §914) which became effective July 1, 2010.

The amendment to 590:10-7-19 provides that the system will make reasonable efforts to locate missing members and beneficiaries in order to comply with the required minimum distribution.

The amendment to 590:10-9-2 permits a beneficiary to assign the death benefit to a funeral director or funeral business entity which provides funeral services for the member. This amendment is in accordance with Section 1 of Enrolled House Bill 3128 (amending 74 O.S. §916.1) which becomes effective November 1, 2010.

The amendment to 590:10-11-4 relates to state transported service (common education entities) and allows service credit which satisfied the full-time-equivalent employment requirement to be transported to the Oklahoma Teachers Retirement System and back to the Oklahoma Public Employees Retirement System without losing its identity as full-time-equivalent employment in the Oklahoma Public Employees Retirement System.

The amendment 590:10-11-13 relates to state portable service (non-common education entities) and allows service credit which satisfied the full-time-equivalent employment requirement to be transported to the Oklahoma Teachers Retirement System and back to the Oklahoma Public Employees Retirement System without losing its identity as full-time-equivalent employment in the Oklahoma Public Employees Retirement System.

Rule 590:10-17-10 is added as a result of the Internal Revenue Service's approval of the Excess Benefit Plan and Trust. As a condition to obtain approval of the Excess Benefit Plan and Trust, the IRS required that any participating members in the Step-Up plan could not participate in the Excess Benefit Plan to the extent any excess benefit is attributable to the Step-Up election.

The new Subchapter 21 is necessary to implement the "Oklahoma Public Employees Retirement System Excess Benefit Plan and Trust." The Excess Benefit Plan and Trust was established by the Board of Trustees in August 2006

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in accordance with 74 O.S. §915.1. Before the plan could be implemented, the Board was required to obtain approval under Section 915.1 from the Internal Revenue Service. The plan was recently approved by the Internal Revenue Service in a private letter ruling dated June 24, 2010. The rules set forth the Excess Benefit Plan and Trust, their purpose and how they are to be implemented by the agency.

New rule 590:10-21-1 establishes the plan and its purpose.

New rule 590:10-21-2 sets forth defined terms.

New rule 590:10-21-3 provides how the Excess Benefit Plan is to be construed with regards to actuarial assumptions.

New rule 590:10-21-4 sets forth who must participate in the plan and when such participation begins.

New rule 590:10-21-5 sets forth the excess benefit amount, when such amount is paid, and the form of the benefit.

New rule 590:10-21-6 sets forth the process for determining the amount of contributions to the plan and that such contributions must be kept separate from the URSJJ plan.

New rule 590:10-21-7 establishes the Excess Benefit Trust Fund to hold and account for the separate excess benefit contributions.

New rule 590:10-21-8 sets forth the administrative authority and powers of the Board of Trustees over the plan.

New rule 590:10-21-9 permits the Board to amend the plan as may be necessary to maintain the plan and its tax qualified status under the Internal Revenue Code.

New rule 590:10-21-10 provides that the interests of the participants in the plan are not assignable except as provided under 74 O.S. §923.

New rule 590:10-21-11 provides no guarantee of any particular tax treatment as a result of participation in the plan.

New rule 590:10-21-12 permits the Board to invest such assets of the plan pending payments under the plan.

New rule 590:10-21-13 sets forth procedures for resolving conflicts in the plan.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

SUBCHAPTER 1. GENERAL PROVISIONS

590:10-1-11. De minimis provisions

(a) In any circumstance involving an error or miscalculation concerning a retirement account, ~~or record or benefit~~, including, but not limited to employer and/or employee contributions and interest, in the amount of \$25.00 or less, the System shall not be required to correct such error or miscalculation, solely at the discretion of the System. The System shall also not be required to correct an error or miscalculation involving a monthly retirement benefit in the amount of \$5.00 or less, solely at the discretion of the System. The amounts set forth in this subsection are determined to be de minimis due to the cost to calculate, invoice, collect or correct such error or miscalculation which would exceed the amount to be corrected. This de minimis amount may be used in any plan or account managed or administered by the Board.

(b) The System shall ~~also~~ not be required to make efforts to contact inactive members or beneficiaries if the total amount due to ~~said~~ the member or beneficiary is ~~\$25.00~~ One Hundred Dollars (\$100.00) or less, however. ~~However, said~~ the amount

shall remain payable to the member or beneficiary upon his or her request. This amount of ~~\$25.00~~ \$100.00 or less is determined to be de minimis due to the cost in ~~manpower, personnel, location services, postage, copying and other reasonable expenses necessary to calculate, invoice, collect or correct such error or miscalculation~~ locate such members and beneficiaries which would exceed the de minimis amount to be corrected. This de minimis amount may be ~~utilized~~ used in any plan or account managed or administered by the Board.

(c) In any circumstance involving a payment to be made by the System which represents employee contributions in the amount of \$500.00 or less, where the member is deceased and has not named a beneficiary, the beneficiary is deceased or where the beneficiary cannot be located, the System may pay to any person claiming such amount on behalf of the member's estate, solely at the discretion of the System. This provision shall be applicable only after the System has made reasonable efforts to locate a named beneficiary and has been unable to do so. This amount of \$500.00 or less is determined to be de minimis and reasonable in order to permit the System to make payments which would otherwise remain with the System due to the inability to locate a beneficiary or the cost to probate the member's estate. This de minimis amount may be ~~utilized~~ used in any Plan or account managed or administered by the Board.

SUBCHAPTER 3. CREDITED SERVICE

590:10-3-6. Full-time-equivalent employment

(a) Full-time-equivalent employment is a term which refers to a member's actual employment with a participating employer of the System. Full-time-equivalent employment with a participating Employer must have been service for which required contributions have been paid the System.

(1) Members obtain full-time-equivalent employment in two ways:

(A) actual employment with a participating employer of the System, while participating and paying contributions to the System; and/or

(B) making certain types of purchases of service credit which represent actual employment with a participating employer of the System.

(2) Each hour for which retirement contributions are paid shall credit the member with one (1) hour of full-time-equivalent employment. One hundred seventy-three (173) hours shall constitute one month of full-time-equivalent employment

(3) Examples of service and/or employment which do not constitute full-time-equivalent employment include, but are not limited to: overtime, leave without pay, unused sick leave, bonus years, temporary or seasonal employment, prior service or military service granted free of charge, purchased military service credit other than purchases pursuant to the Uniformed Services Employment and Reemployment Rights Act, service purchased from another retirement system including transported service except as provided in Sections 590:10-11-4 and

590:10-11-13, and purchased incentive, severance or termination credit.

(4) Examples of service and/or employment which do constitute full-time-equivalent employment include, but are not limited to: purchased prior service, repayment of withdrawn contributions, purchase of elected service, purchased temporary total disability credit, purchases pursuant to the Uniformed Services Employment and Reemployment Rights Act, and delinquent service paid for by the employer.

(b) For purposes of determining the full-time-equivalent employment for elected officials, if the elected official is in office and participating for fifteen (15) days or more in either the first or last month in such office, the full month will be credited as service for such official. If an elected official resigns from office effective on a day other than the last day of the month, then such elected official shall not receive credit for a full month, but only those hours of full-time-equivalent employment service for that month.

(c) Elected officials who elect to participate within ninety (90) days after taking office, and those elected officials who fail to file an election within the ninety-day period and are automatically enrolled in the System, shall be deemed to begin service in the System on the date the elected official takes office. The elected official and the employer shall be responsible for the necessary contributions to cover such time period.

590:10-3-8. Actuarial cost for purchases; delinquent service cost

(a) Actuarial costs. Effective January 1, 1991, all purchases of service credit, including incentive credit pursuant to 74 O.S. §913.5, or employer error costs pursuant to 74 O.S. §917(7), shall be based upon the actuarial cost of the incremental projected benefits to be purchased.

(1) The actuarial cost and any tables formulated for the purpose of determining such cost, shall be based on the actuarial assumptions utilized in the actuarial valuation report for the Fiscal Year ending June 30 of the prior year.

(2) The actuarial value shall be based upon the member's age, salary and contribution level at the time of purchase, together with the earliest age for retirement with maximum benefits and actuarially assumed salary at the time of retirement. If purchase is not made by the due date on the billing statement, the purchase must be recalculated and the actuarial cost may increase.

(3) For purposes of determining this actuarial cost, the member's age shall be rounded up or down to the nearest birthday.

(4) For purposes of determining this actuarial cost, the mortality tables shall be formulated as a unisex table assuming a 50% male and a 50% female population, based upon the actuarial assumptions in paragraph (1) of this section.

(5) In the event a member who chooses to purchase service has been employed less than twelve (12) months, his salary shall be averaged based upon the most current ~~months~~ month's payroll information.

(6) In the event that the actuarial cost is less than the contributions that would have been required by law, the member and/or the employer shall pay the actual contributions cost.

(7b) Delinquent service costs. The cost for purchases of delinquent service credit ~~due to employer error~~ for service of one (1) month or less which is based on employer error and which is one (1) or more years past due shall be calculated at employer and employee contributions plus ten percent (10%) simple interest per annum. If delinquent service of one (1) year or less is identified and paid for within one (1) year from the beginning service date, the cost will be calculated at employer and employee contributions only. The cost for delinquent service credit for service of more than one (1) month and which is over one (1) year past due shall be calculated at actuarial cost. The cost for any delinquent service credit for a retiree returning to work shall be calculated at employer and employee contributions plus ten percent (10%) simple interest per annum.

590:10-3-13. Credit for involuntary furlough

(a) Office of Personnel Management approved furloughs. A leave of absence as a result of an involuntary furlough established by the Office of Personnel Management under OPM Rule 530:10-15-48: *Involuntary leave without pay (furlough)*, or as it may be amended, may be credited as participating service. It is the responsibility of the employer to provide a copy of the furlough plan approved by the Administrator of the Office of Personnel Management, ~~a list of the affected employees and the dates, times and hours that each employee was placed on leave without pay.~~

(b) District Attorneys Council approved furloughs. The employees of a district attorney may receive participating service credit for a leave of absence due to an involuntary furlough after July 1, 2004, provided the furlough was conducted in substantial compliance with OPM Rule 530:10-15-48: *Involuntary leave without pay (furlough)*, or as it may be amended. It is the responsibility of the district attorney to provide a copy of the furlough plan approved by the District Attorneys Council, ~~a list of the affected employees and the dates, times and hours that each employee was placed on leave without pay.~~ The approved furlough plan must include a certification from the Council that the plan was in substantial compliance with the OPM rule.

(c) Legislative or Supreme Court approved furloughs. A leave of absence as a result of an involuntary furlough of legislative employees pursuant to a furlough plan adopted by the President Pro Tempore of the Senate or the Speaker of the House of Representatives as authorized by 74 O.S. §840-5.1, and involuntary furloughs of court employees authorized by the Oklahoma Supreme Court may be credited as participating service. It shall be the responsibility of the employer to provide a copy of the adopted furlough plan.

SUBCHAPTER 7. RETIREMENT BENEFITS

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590:10-7-18. Post-retirement employment - eligibility

(a) **Retiree subject to restrictions.** Returning to work for a participating employer may affect the retirement benefit of a retiree. A retiree returning to work for a participating employer is subject to various state and federal restrictions, including, but not limited to, the requirements set forth in 74 O.S. ~~§ 914~~ §914 and certain Internal Revenue Service regulations.

(b) **Bona fide termination of employment.** Prior to the payment of any retirement benefit to a member, the participating employer shall certify in writing to the System that the member has terminated employment. Termination of employment shall be governed by guidelines and regulations set forth by the Internal Revenue Service, and shall generally mean the member must have experienced a bona fide separation, severance or termination of employment or service in which the employer and employee relationship is completely severed. Changing from full-time to part-time employment with the same participating employer does not qualify as a bona fide termination.

(c) **Returning to work for former employer.** A retiree may not be rehired in any capacity by the retiree's same participating employer for a period of one (1) year after the ~~retiree's initial retirement from retiree ended his or her employment with~~ such same participating employer. A retiree may not enter into an employment contract of any kind, including through a third party, with the same participating employer for a period of one (1) year after ~~retiring from ending his or her employment with~~ such same participating employer. The provisions of this subsection shall not apply if the retiree waives his or her benefit as provided under 74 O.S. §914(E)(2).

(d) **Pre-arranged rehires.** If any agreement is made between the employee and the employer prior to the retirement of the employee which would allow the employee to return to work for the same participating employer, the retirement of such employee shall not be considered a bona fide termination of employment. Upon discovery of such an agreement, the employee shall be subject to having the retirement benefits stopped pursuant to 74 O.S. ~~§ 914(D)~~. §914(D).

(e) **Independent contractors.**

(1) A retired member who provides services as an independent contractor to a participating employer shall not participate in the System. However, the employer must submit a copy of the contract to OPERS for approval in advance of the effective date of the contract. The contract must be a true contract labor situation where the individual engages to perform certain services according to his or her own method and manner, free from control and direction of the employer in the performance of the service except the result thereof. Review of the contract shall include, but not be limited to:

- (A) the degree of the right to control or supervise the work of the individual;
- (B) payment of self-employment taxes;
- (C) whether any benefits or leave time are paid;
- (D) the nature and length of the contract;
- (E) whether the work is part of the regular business of the employer, and;

(F) the right of either party to terminate the relationship without liability.

(2) If an individual after retirement is doing the same work for the same employer as the individual did prior to retirement, the System will consider the individual to be an employee and not an independent contractor. In no event will an employment contract be accepted by the System if it is determined that the contract was arranged or agreed to prior to the retirement of the employee. In such cases, the System will consider the relationship to be that of employer and employee, and the employer and employee will be subject to the laws and rules regarding post-retirement employment.

590:10-7-19. Required minimum distributions

(a) The retirement system will pay all benefits in accordance with a good faith interpretation of the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations in effect under that section, as applicable to a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code. The retirement system is subject to the following provisions:

(1) Distribution of a member's benefit must begin by the required beginning date, which is the later of the April 1 following the calendar year in which the member attains age 70 1/2 or April 1 of the year following the calendar year in which the member terminates. If a member fails to apply for retirement benefits by the later of either of those dates, the Board shall begin distribution of the monthly benefit as required by this rule in the form provided in 74 O.S. §901 et seq.

(2) The member's entire interest must be distributed over the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary.

(3) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death.

(4) If a member dies before required distribution of the member's benefits has begun, the member's entire interest must be either:

(A) ~~Distributed~~ distributed (in accordance with federal regulations) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year following the calendar year of the member's death (or, if the designated beneficiary is the member's surviving spouse, beginning no later than the date on which the member would have attained age 70 1/2), or

(B) distributed within five (5) years of the member's death.

(5) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Section

401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2.

(6) The death and disability benefits provided by the retirement system are limited by the incidental benefit rule set forth in Section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed twenty-five percent (25%) of the cost for all of the members' benefits received from the retirement system.

(b) Notwithstanding the other provisions of this rule or the provisions of Treasury Regulations, benefit options may continue so long as the option satisfies Section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

(c) The retirement system shall make reasonable efforts to locate missing members, survivors and beneficiaries in order to comply with the required minimum distribution provisions of Section 401(a)(9). Reasonable efforts may include using any contact information the retirement system may have available for a member or any type of locator service.

SUBCHAPTER 9. SURVIVORS AND BENEFICIARIES

590:10-9-2. Death benefit payment

(a) **Payment of benefit.** The four thousand dollars (\$4,000) death benefit, available for any retired member who died on or after July 20, 1987, shall be payable to the beneficiary listed by the member or to the member's estate. This beneficiary designation is not affected by any designation of joint-annuitant, deferred compensation beneficiary or insurance beneficiary, unless otherwise specifically designated in writing by member. For any retired member who died on or after July 1, 1999, the death benefit amount shall be five thousand dollars (\$5,000).

(b) **Assignment of benefit.** The beneficiary, or if none the member's estate or the heirs of the member in the case of a probate waiver, may assign the death benefit to a person licensed as a funeral director or to a lawfully recognized business entity licensed as required by law to provide funeral services for the deceased member.

SUBCHAPTER 11. TRANSPORTED AND STATE PORTABLE SERVICE CREDIT

590:10-11-4. Use of transported service

Transported service cannot be used to satisfy the ~~full-time equivalent~~ full-time-equivalent employment with a participating employer service requirement. However, in any case where such full-time-equivalent service was transported to the Teachers' Retirement System and is later transported back to OPERS, such service may be deemed to satisfy the full-time-equivalent employment requirement. Transported service may be used to determine eligibility for retirement

or vesting purposes and to determine the amount and type of retirement benefit.

590:10-11-13. Use of transferred state portable service

Transferred state portable service cannot be used to satisfy the ~~full-time equivalent~~ full-time-equivalent employment with a participating employer service requirement. However, in any case where such full-time-equivalent service was transferred to the Teachers' Retirement System and is later transferred back to OPERS, such service may be deemed to satisfy the full-time-equivalent employment requirement. Portable service may be used to determine eligibility for retirement or vesting purposes and to determine the amount and type of retirement benefit.

SUBCHAPTER 17. STEP-UP ELECTION AND BENEFITS

590:10-17-10. Step-up benefits not eligible for Excess Benefit Plan

Participating members in the Step-Up shall not be permitted to participate in the Excess Benefit Plan as set forth in 590:10-21-1 et seq. adopted pursuant to 74 O.S. §915.1 and which was approved by the Internal Revenue Service in a private letter ruling dated June 24, 2010, to the extent any excess benefit, as defined in 590:10-21-2, is attributable to the Step-Up election.

SUBCHAPTER 21. EXCESS BENEFIT PLAN AND TRUST

590:10-21-1. Establishment and purpose

(a) **Establishment.** The "Oklahoma Public Employees Retirement System Excess Benefit Plan and Trust" is hereby established effective as of November 1, 2010, pursuant to Code Section 415, 74 O.S. §915.1, and the Excess Benefit Plan and Trust document which was approved by the Internal Revenue Service in a private letter ruling dated June 24, 2010, and as adopted by the Board of Trustees.

(b) **Purpose.** The purpose of this Excess Benefit Plan is solely to provide the part of a Participant's Retirement Benefit that would otherwise have been payable by the System except for the limitations of Code Section 415(b). This Excess Benefit Plan is intended to be a "qualified governmental excess benefit arrangement" within the meaning of Code Section 415(m)(3) and shall be interpreted and construed consistently with such intent. This Excess Benefit Plan is an "exempt governmental deferred compensation plan" described in Code Section 3121(v)(3). Code Sections 83, 402(b), 457(a), and 457(f)(1) shall not apply to this Excess Benefit Plan.

590:10-21-2. Definitions

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

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"Administrator" means the System.

"Beneficiary" means any person named by a member to receive any benefits as provided by 74 O.S. §§901 et seq. If there is no beneficiary living at the time of member employee's death, the member's estate shall be the beneficiary.

"Board" means the Oklahoma Public Employees Retirement System Board of Trustees.

"Code" means the Internal Revenue Code of 1986, as amended, as applicable to a governmental plan, or corresponding provisions of any subsequent federal income tax law.

"Excess Benefit" means the benefit determined in accordance with 590:10-21-5(a) and Section 4.01 of the Excess Benefit Plan document.

"Excess Benefit Fund" means the trust fund established by the Board pursuant to Article VI of the Excess Benefit Plan document, pursuant to the provisions of 74 O.S. §915.1, and as set forth in 590:10-21-7.

"Excess Benefit Plan" means the "Oklahoma Public Employees Retirement System Excess Benefit Plan and Trust" established pursuant to Code Section 415 and 74 O.S. §915.1.

"OPERS Plan" refers to the retirement plan administered by the Oklahoma Public Employees Retirement System. The OPERS Plan document consists of the applicable Oklahoma statutes and rules and regulations.

"Participant" means a Retiree or Beneficiary who is entitled to benefits under the Excess Benefit Plan.

"Participating Employer" means an eligible employer who has agreed to make contributions to the System on behalf of its employees, provided such employer is the State, a political subdivision of the State, or an agency or instrumentality of the State. No employer which is not permitted to participate in a qualified governmental pension plan as defined in Code Section 414(d) shall be permitted to participate in the Excess Benefit Plan.

"Plan Year" means the calendar year for the purpose of this Excess Benefit Plan.

"Retiree" means a member who has retired under the System.

"Retirement Benefit" means a monthly income with benefits accruing from the first day of the month coinciding with installments by the Plan, whether payable for a temporary period or following retirement and ending on the last day of the month in which death occurs throughout the future life of a Retired Member or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to 74 O.S. §§901 et seq. or as otherwise allowed to be paid at the discretion of the Board, without regard to any limitations on such retirement income or benefit under Code Section 415(b).

"Retirement Fund" means the reserves of the System.

"State" means the State of Oklahoma.

"System" means the Oklahoma Public Employees Retirement System.

"Trustees" means the members of the Board.

590:10-21-3. Construction

Whenever any actuarial present value or actuarial equivalency is to be determined under the Excess Benefit Plan to

establish a benefit, it shall be based on such reasonable actuarial assumptions as may be approved in the sole discretion of the Board, and shall be determined in a uniform manner for all similarly situated Participants.

590:10-21-4. Participation

All Retirees and Beneficiaries of the System are required to participate in the Excess Benefit Plan if their Retirement Benefit from the System for a Plan Year is limited during the applicable Calendar Year by Code Section 415(b). The Board shall determine for each Plan Year which Retirees and Beneficiaries are required to participate in the Excess Benefit Plan. Participation in the Excess Benefit Plan shall commence each Plan Year once a Retiree or Beneficiary has an Excess Benefit in that Plan Year as determined by the Calendar Year Code Section 415 limits. Participation in the Excess Benefit Plan shall cease for any portion of a Plan Year in which the Retirement Benefit of a Retiree or Beneficiary is not limited by Code Section 415(b) or if all benefit obligations under the Excess Benefit Plan to the Retiree or Beneficiary have been satisfied.

590:10-21-5. Payment of benefits

(a) **Benefit amount.** A Participant in the Excess Benefit Plan shall receive a benefit in an amount equal to the amount of Retirement Benefit that would have been payable to, or with respect to, a Participant by the System that could not be paid because of the application of the limitations on such Retirement Benefit under Code Section 415(b). Provided, however, that the Excess Benefit Plan will not pay any Excess Benefit which results from the 2.5% step-up election pursuant to 74 O.S. §919.1(1)(e). An Excess Benefit under the Excess Benefit Plan shall be paid only if and to the extent the Participant is receiving a Retirement Benefit from the System.

(b) **No election to defer.** No election is provided at any time to the Participant, directly or indirectly, to defer compensation under this Excess Benefit Plan.

(c) **Time for Payment.** Each Plan Year, the Excess Benefit to which a Participant is entitled under the Excess Benefit Plan shall be paid from the Excess Benefit Fund commencing during or with the month in which all monthly payments of the Retirement Benefit (as limited by Code Section 415(b)) under the System have been paid, and such Excess Benefit shall be paid from that month to the end of the Calendar Year falling within the applicable Plan Year.

(d) **Form of Benefit.** The form of the Excess Benefit shall be the same form as the Participant's Retirement Benefit.

590:10-21-6. Contributions and funding

(a) **Funding.** The Excess Benefit Plan shall be, and remain, unfunded, and the rights, if any, of any person to any benefits hereunder shall be those specified herein. The Excess Benefit Plan constitutes a mere unsecured promise by the Participating Employers, on whose behalf the Retirement Benefit and Excess Benefits are paid to the Participant, to make benefit payments in the future.

(b) **Contributions.** The Administrator shall determine the amount necessary to pay the Excess Benefit under the Excess

Benefit Plan for each Plan Year for each Employer. The required contribution for all participating employers shall be the aggregate of the Excess Benefits payable to all Participants of all participating employers for such Plan Year plus an amount determined by the Board to be a necessary and reasonable expense of administering the Excess Benefit Plan. The amount determined to be necessary to pay the Excess Benefit of a Participant and administrative expenses of the Excess Benefit Plan shall be withheld from contributions to the System before being credited to the Retirement Fund and deposited into the Excess Benefit Fund established under Article VI of the Excess Benefit Plan document and 590:10-21-7. Participating Employer contributions shall be made at a time or times determined by the Board, but shall be made no less frequently than annually. Any contributions not used to pay the Excess Benefit for a current Plan Year, together with any income accruing to the Excess Benefit Fund, shall be first used to pay the administrative expenses of the Excess Benefit Plan, then shall be deposited to the Excess Benefit Fund and used to fund Excess Benefits of Participants in future Plan Years.

(c) **Contributions not to be credited to OPERS Plan.** Under no circumstances will Employer contributions to fund the Excess Benefits under the Plan be credited to the OPERS Plan. The amounts determined to be necessary to provide the Excess Benefit under the Excess Benefit Plan for each Participant shall be accounted for separately. However, such separate accounting shall not be deemed to set aside such amounts for the benefit of a Participant. Benefits under the Excess Benefit Plan shall be paid from the Excess Benefit Fund.

590:10-21-7. Trust fund

(a) **Establishment of Excess Benefit Fund.** A trust fund, referred to as the Excess Benefit Fund, is established as a valid trust under the law of the State, which is separate from the Retirement Fund, to hold contributions of the Participating Employers. Contributions to the Excess Benefit Fund shall be held separate and apart from the funds comprising the Retirement Fund and shall not be commingled with assets thereof. The Board shall prescribe a detailed accounting system for the Excess Benefit Fund, which shall allocate the expenses of the Excess Benefit Plan to the Excess Benefit Fund.

(b) **Excess Benefit Fund Purpose.** The Excess Benefit Fund is maintained solely for the purpose of providing Excess Benefits under a qualified governmental excess benefit arrangement within the meaning of Code Section 415(m).

(c) **Excess Benefit Fund Assets.** All assets held by such Excess Benefit Fund to assist in meeting the Participating Employers' obligations under the Excess Benefit Plan, including all amounts of Participating Employers' contributions made pursuant to the Excess Benefit Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, shall be, and remain, the general, unpledged, unrestricted assets of the Excess Benefit Fund. The Excess Benefit Fund shall be held separate and apart from other funds of the Employers and shall be used exclusively for the uses and purposes of Participants and general creditors as set forth herein. Participants shall have no preferred claim on,

or any beneficial interest in, any assets of the Excess Benefit Fund. Any assets held by the Excess Benefit Fund shall be subject to the claims of the contributing Employer's general creditors under federal and state law in the event of insolvency, to the extent of the affected Employer's undistributed contributions, if any.

(d) **Grantor Trust.** The Excess Benefit Fund is intended to be a grantor trust, of which the contributing Participating Employers are the grantors, within the meaning of Code Sections 671 through 679 and shall be construed accordingly. This provision shall not be construed to create an irrevocable trust of any kind.

(e) **Excess Benefit Fund Income.** Income accruing to the Excess Benefit Fund in respect of the Excess Benefit Plan shall constitute income derived from the exercise of an essential governmental function upon which the Excess Benefit Fund shall be exempt from tax under Code Section 115, as well as Code Section 415(m)(1).

590:10-21-8. Administration

(a) **Administrative Authority.** The Board shall have the authority to control and manage the operation and administration of the Excess Benefit Plan. The Board and the Administrator shall have the same rights, duties and responsibilities respecting the Excess Benefit Plan as the Board and the Administrator have with respect to the OPERS Plan pursuant to 74 O.S. §§909, 909.1 and 909.2, unless modified by Code Section 415 and its implementing regulations, or 74 O.S. §915.1.

(b) **Powers of the Board.** The Board shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable or convenient to enable the Board:

(1) to establish procedures with respect to administration of the Excess Benefit Plan not inconsistent with the Excess Benefit Plan and the Code, and to amend or rescind such procedures;

(2) to determine, consistent with the Excess Benefit Plan, the OPERS Plan, applicable law, rules or regulations, all questions of law or fact that may arise as to the eligibility for participation in the Excess Benefit Plan and eligibility for distribution of benefits from the Excess Benefit Plan, and the status of any person claiming benefits under the Excess Benefit Plan;

(3) pursuant to Article IV of the Excess Benefit Plan, to make payments from the Excess Benefit Fund to Participants;

(4) to contract with a third party to perform designated administrative services under this Excess Benefit Plan;

(5) subject to and consistent with the Code, to construe and interpret the Excess Benefit Plan as to administrative issues and to correct any defect, supply any omission or reconcile any inconsistency in the Excess Benefit Plan with respect to same.

(c) **Action by the Board.** Any action by the Board that is supported by competent, material, and substantial evidence and that is not found to be an abuse of discretion shall be final, conclusive and binding on all individuals affected thereby. The

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Board may take any such action in such manner and to such extent as the Board in its sole discretion may deem expedient, and the Board shall be the sole and final judge of such expediency.

(d) Payment of benefits and erroneous payments. The Board, if in doubt concerning the correctness of its action in making a payment of a benefit, may suspend payment until satisfied as to the correctness of the payment or the Participant to receive the payment. Any benefit payment that according to the terms of the Excess Benefit Plan and the benefits provided hereunder should not have been made may be recovered as provided in 74 O.S. §924.

590:10-21-9. Plan amendments

The Board from time to time may amend, suspend, or terminate any or all of the provisions of this Excess Benefit Plan as may be necessary to comply with Code Section 415(m) and to maintain the Excess Benefit Plan's or the System's qualified status under the Code.

590:10-21-10. Nonassignability and exemption from taxation and execution

The interests of Participants under this Excess Benefit Plan are hereby exempt from any state, county, municipal or local tax, and shall not be subject to execution, garnishment, attachment, or any other process of law whatsoever, and shall be unassignable, to the extent and except as otherwise provided by 74 O.S. §§923 and 924.

590:10-21-11. Federal and state taxes

The Board, the Participating Employers, and the Administrator do not guarantee that any particular Federal or State income, payroll, or other tax consequence will occur because of participation in this Excess Benefit Plan.

590:10-21-12. Investment

The Board may hold such portion of the Excess Benefit Plan uninvested as the Board deems advisable for making distributions under the Excess Benefit Plan, or may invest assets of the Excess Benefit Plan pending the Excess Benefit payments. The Board shall not purchase an annuity contract with the assets of the Excess Benefit Fund.

590:10-21-13. Conflicts and limitation of rights

(a) Conflicts. In resolving any conflict between provisions of the Excess Benefit Plan and in resolving any other uncertainty as to the meaning or intention of any provision of the Excess Benefit Plan, the interpretation that (i) causes the Excess Benefit Plan to constitute a qualified governmental excess benefit arrangement under the provisions of Code Section 415(m) and the Excess Benefit Fund to be exempt from tax under Code Sections 115 and 415(m), (ii) causes the Excess Benefit Plan to comply with all applicable requirements of the Code, and (iii) causes the Excess Benefit Plan to comply with the System

Plan and all applicable Oklahoma statutes and rules, shall prevail over any different interpretation.

(b) Limitation of rights. Neither the establishment nor maintenance of the Excess Benefit Plan, nor any amendment thereof nor any act or omission under the Excess Benefit Plan (or resulting from the operation of the Excess Benefit Plan) shall be construed as:

(1) conferring upon any Participant or any other person a right or claim against the Board, Trustees, Participating Employers, or Administrator, if any, except to the extent that such right or claim shall be specifically expressed and provided in the Excess Benefit Plan;

(2) creating any responsibility or liability of the Participating Employers for the validity or effect of the Excess Benefit Plan;

(3) a contract between the Participating Employers and any Participant or other person; or

(4) being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever the rights or obligations of the Participating Employers or any Participant or other person to continue or terminate the employment relationship at any time.

[OAR Docket #11-364; filed 4-8-11]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 15. UNIFORM RETIREMENT SYSTEM FOR JUSTICES AND JUDGES

[OAR Docket #11-365]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

590:15-1-21. Required minimum distributions [AMENDED]

Subchapter 5. Excess Benefit Plan and Trust [NEW]

590:15-5-1. Establishment and purpose [NEW]

590:15-5-2. Definitions [NEW]

590:15-5-3. Construction [NEW]

590:15-5-4. Participation [NEW]

590:15-5-5. Payment of benefits [NEW]

590:15-5-6. Contributions and funding [NEW]

590:15-5-7. Trust fund [NEW]

590:15-5-8. Administration [NEW]

590:15-5-9. Plan amendments [NEW]

590:15-5-10. Nonassignability and exemption from taxation and execution [NEW]

590:15-5-11. Federal and state taxes [NEW]

590:15-5-12. Investment [NEW]

590:15-5-13. Conflicts and limitation of rights [NEW]

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Oklahoma Public Employees Retirement System Board of Trustees; 20 O.S., §§ 1101.1, 1104.1, 1104.2, 1108, 1111

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Subchapter 5. Excess Benefit Plan and Trust [NEW]

590:15-5-1. Establishment and purpose [NEW]

590:15-5-2. Definitions [NEW]

590:15-5-3. Construction [NEW]

590:15-5-4. Participation [NEW]

590:15-5-5. Payment of benefits [NEW]

590:15-5-6. Contributions and funding [NEW]

590:15-5-7. Trust fund [NEW]

590:15-5-8. Administration [NEW]

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590:15-5-10. Nonassignability and exemption from taxation and execution [NEW]

590:15-5-11. Federal and state taxes [NEW]

590:15-5-12. Investment [NEW]

590:15-5-13. Conflicts and limitation of rights [NEW]

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N/A

ANALYSIS:

The amendment to 590:15-1-21 provides that the System will make reasonable efforts to locate missing members and beneficiaries in order to make the required minimum distributions and to comply with required minimum distribution rules under the Internal Revenue Code.

The new Subchapter 5 implements the "Uniform Retirement System for Justices and Judges Excess Benefit Plan and Trust." The Excess Benefit Plan and Trust was established by the Board of Trustees in August 2006 in accordance with 20 O.S. §1104.1. Before the plan could be implemented, the Board was required to obtain approval under Section 1104.1 from the Internal Revenue Service. The plan was recently approved by the Internal Revenue Service in a private letter ruling dated June 24, 2010.

New rule 590:15-5-1 establishes the plan and its purpose.

New rule 590:15-5-2 sets forth defined terms.

New rule 590:15-5-3 provides how the Excess Benefit Plan and Trust is to be construed with regards to actuarial assumptions.

New rule 590:15-4 sets forth who must participate in the plan and when such participation begins.

New rule 590:15-5-5 sets forth the excess benefit amount, when such amount is paid, and the form of the benefit.

New rule 590:15-5-6 sets forth the process for determining the amount of contributions to the plan and that such contributions must be kept separate from the OPERS plan.

New rule 590:15-5-7 establishes the Excess Benefit Trust Fund to hold and account for the separate excess benefit contributions.

New rule 590:15-5-8 sets forth the administrative authority and powers of the Board of Trustees over the plan.

New rule 590:15-5-9 permits the Board to amend the plan as may be necessary to maintain the plan and its tax qualified status under the Internal Revenue Code.

New rule 590:15-5-10 provides that the interests of the participants in the plan are not assignable except as provided under 20 O.S. §1111.

New rule 590:15-5-11 provides that there is no guarantee of any particular tax treatment as a result of participation in the plan.

New rule 590:15-5-12 permits the Board to invest such assets of the plan pending payments under the plan.

New rule 590:15-5-13 sets forth procedures for resolving conflicts in the plan.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

SUBCHAPTER 1. GENERAL PROVISIONS

590:15-1-21. Required minimum distributions

(a) The retirement system will pay all benefits in accordance with a good faith interpretation of the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations in effect under that section, as applicable to a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code. The retirement system is subject to the following provisions:

- (1) Distribution of a member's benefit must begin by the required beginning date, which is the later of the April 1 following the calendar year in which the member attains age 70 1/2 or April 1 of the year following the calendar year in which the member terminates. If a member fails to apply for retirement benefits by the later of either of those dates, the Board shall begin distribution of the monthly benefit as required by this rule in the form provided in 20 O.S. §1101 et seq.
- (2) The member's entire interest must be distributed over the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary.
- (3) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death.
- (4) If a member dies before required distribution of the member's benefits has begun, the member's entire interest must be either:
 - (A) Distributed (in accordance with federal regulations) over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year following the calendar year of the member's death (or, if the designated beneficiary is the member's surviving spouse, beginning no later than the date on which the member would have attained age 70 1/2), or
 - (B) distributed within five (5) years of the member's death.
- (5) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined

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under the incidental death benefit requirement of Section 401(a)(9)(G) of the Internal Revenue Code, and the minimum distribution incidental benefit rule under Treasury Regulation Section 1.401(a)(9)-6, Q&A-2.

(6) The death and disability benefits provided by the retirement system are limited by the incidental benefit rule set forth in Section 401(a)(9)(G) of the Internal Revenue Code and Treasury Regulation Section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed twenty-five percent (25%) of the cost for all of the members' benefits received from the retirement system.

(b) Notwithstanding the other provisions of this rule or the provisions of the Treasury Regulations, benefit options may continue so long as the option satisfies Section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of that section.

(c) The retirement system shall make reasonable efforts to locate missing members, survivors and beneficiaries in order to comply with the required minimum distribution provisions of Section 401(a)(9). Reasonable efforts may include using any contact information the retirement system may have available for a member or any type of locator service.

SUBCHAPTER 5. EXCESS BENEFIT PLAN AND TRUST

590:15-5-1. Establishment and purpose

(a) **Establishment.** The "Uniform Retirement System for Justices and Judges Excess Benefit Plan and Trust" is hereby established effective as of November 1, 2010, pursuant to Code Section 415, 20 O.S. §1104.1, and the Excess Benefit Plan and Trust document which was approved by the Internal Revenue Service in a private letter ruling dated June 24, 2010, and as adopted by the Board of Trustees.

(b) **Purpose.** The purpose of this Excess Benefit Plan is solely to provide the part of a Participant's Retirement Benefit that would otherwise have been payable by the System except for the limitations of Code Section 415(b). This Excess Benefit Plan is intended to be a "qualified governmental excess benefit arrangement" within the meaning of Code Section 415(m)(3) and shall be interpreted and construed consistently with such intent. This Excess Benefit Plan is an "exempt governmental deferred compensation plan" described in Code Section 3121(v)(3). Code Sections 83, 402(b), 457(a), and 457(f)(1) shall not apply to this Excess Benefit Plan.

590:15-5-2. Definitions

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

"Administrator" means the Oklahoma Public Employees Retirement System.

"Beneficiary" means any person named by a member to receive any benefits as provided by 20 O.S. §§1101 et seq. If

there is no beneficiary living at time of member employee's death, the member's estate shall be the beneficiary.

"Board" means the Oklahoma Public Employees Retirement System Board of Trustees.

"Code" means the Internal Revenue Code of 1986, as amended, as applicable to a governmental plan, or corresponding provisions of any subsequent federal income tax law.

"Employer" means the State of Oklahoma, which has agreed to make contributions to the URSJJ Plan on behalf of its employees.

"Excess Benefit" means the benefit determined in accordance with 590:15-5-5(a) and Section 4.01 of the Excess Benefit Plan document.

"Excess Benefit Fund" means the trust fund established by the Board pursuant to Article VI of the Excess Benefit Plan document, pursuant to the provisions of 20 O.S. §1104.1, and as set forth in 590:15-5-7.

"Excess Benefit Plan" means the "Uniform Retirement System for Justices and Judges Excess Benefit Plan and Trust" established pursuant to Code Section 415 and 20 O.S. §1104.1.

"Participant" means a Retiree or Beneficiary who is entitled to benefits under the Excess Benefit Plan.

"Plan Year" means the calendar year for the purpose of this Excess Benefit Plan.

"Retiree" means a member who has retired under the URSJJ Plan.

"Retirement Benefit" means a monthly income with benefits accruing from the first day of the month coinciding with installments by the URSJJ Plan, whether payable for a temporary period or following retirement and ending on the last day of the month in which death occurs throughout the future life of a Retired Member or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to 20 O.S. §§1101 et seq. or as otherwise allowed to be paid at the discretion of the Board, without regard to any limitations on such retirement income or benefit under Code Section 415(b).

"Retirement Fund" means the reserves of the URSJJ Plan.

"State" means the State of Oklahoma.

"Trustees" means the members of the Board.

"URSJJ Plan" means the retirement plan administered by the Oklahoma Public Employees Retirement System. The URSJJ Plan document consists of the applicable Oklahoma statutes and rules and regulations.

590:15-5-3. Construction

Whenever any actuarial present value or actuarial equivalency is to be determined under the Excess Benefit Plan to establish a benefit, it shall be based on such reasonable actuarial assumptions as may be approved in the sole discretion of the Board, and shall be determined in a uniform manner for all similarly situated Participants.

590:15-5-4. Participation

All Retirees and Beneficiaries of the URSJJ Plan are required to participate in the Excess Benefit Plan if their Retirement Benefit from the URSJJ Plan for a Plan Year is limited

during the applicable Calendar Year by Code Section 415(b). The Board shall determine for each Plan Year which Retirees and Beneficiaries are required to participate in the Excess Benefit Plan. Participation in the Excess Benefit Plan shall commence each Plan Year once a Retiree or Beneficiary has an Excess Benefit in that Plan Year as determined by the Calendar Year Code Section 415 limits. Participation in the Excess Benefit Plan shall cease for any portion of a Plan Year in which the Retirement Benefit of a Retiree or Beneficiary is not limited by Code Section 415(b) or if all benefit obligations under the Excess Benefit Plan to the Retiree or Beneficiary have been satisfied.

590:15-5-5. Payment of benefits

(a) **Benefit amount.** A Participant in the Excess Benefit Plan shall receive a benefit in an amount equal to the amount of Retirement Benefit that would have been payable to, or with respect to, a Participant by the URSJJ Plan that could not be paid because of the application of the limitations on such Retirement Benefit under Code Section 415(b). An Excess Benefit under the Excess Benefit Plan shall be paid only if and to the extent the Participant is receiving a Retirement Benefit from the URSJJ Plan.

(b) **No election to defer.** No election is provided at any time to the Participant, directly or indirectly, to defer compensation under this Excess Benefit Plan.

(c) **Time for Payment.** Each Plan Year, the Excess Benefit to which a Participant is entitled under the Excess Benefit Plan shall be paid from the Excess Benefit Fund commencing during or with the month in which all monthly payments of the Retirement Benefit (as limited by Code Section 415(b)) under the URSJJ Plan have been paid, and such Excess Benefit shall be paid from that month to the end of the Calendar Year falling within the applicable Plan Year.

(d) **Form of Benefit.** The form of the Excess Benefit shall be the same form as the Participant's Retirement Benefit.

590:15-5-6. Contributions and funding

(a) **Funding.** The Excess Benefit Plan shall be, and remain, unfunded, and the rights, if any, of any person to any benefits hereunder shall be those specified herein. The Excess Benefit Plan constitutes a mere unsecured promise by the Employer, on whose behalf the Retirement Benefit and Excess Benefits are paid to the Participant, to make benefit payments in the future.

(b) **Contributions.** The Administrator shall determine the amount necessary to pay the Excess Benefit under the Excess Benefit Plan for each Plan Year for the Employer. The required contribution for the Employer shall be the aggregate of the Excess Benefits payable to all Participants of the Employer for such Plan Year plus an amount determined by the Board to be a necessary and reasonable expense of administering the Excess Benefit Plan. The amount determined to be necessary to pay the Excess Benefit of a Participant and administrative expenses of the Excess Benefit Plan shall be withheld from contributions to the URSJJ Plan before being credited to the Retirement Fund and deposited into the Excess Benefit Fund

established under Article VI of the Excess Benefit Plan document and 590:15-5-7. Employer contributions shall be made at a time or times determined by the Board, but shall be made no less frequently than annually. Any contributions not used to pay the Excess Benefit for a current Plan Year, together with any income accruing to the Excess Benefit Fund, shall be first used to pay the administrative expenses of the Excess Benefit Plan, then shall be deposited to the Excess Benefit Fund and used to fund Excess Benefits of Participants in future Plan Years.

(c) **Contributions not to be credited to OPERS Plan.** Under no circumstances will Employer contributions to fund the Excess Benefits under the Plan be credited to the URSJJ Plan. The amounts determined to be necessary to provide the Excess Benefit under the Excess Benefit Plan for each Participant shall be accounted for separately. However, such separate accounting shall not be deemed to set aside such amounts for the benefit of a Participant. Benefits under the Excess Benefit Plan shall be paid from the Excess Benefit Fund.

590:15-5-7. Trust fund

(a) **Establishment of Excess Benefit Fund.** A trust fund, referred to as the Excess Benefit Fund, is established as a valid trust under the law of the State, which is separate from the Retirement Fund, to hold contributions of the Employer. Contributions to the Excess Benefit Fund shall be held separate and apart from the funds comprising the Retirement Fund and shall not be commingled with assets thereof. The Board shall prescribe a detailed accounting system for the Excess Benefit Fund, which shall allocate the expenses of the Excess Benefit Plan to the Excess Benefit Fund.

(b) **Excess Benefit Fund Purpose.** The Excess Benefit Fund is maintained solely for the purpose of providing Excess Benefits under a qualified governmental excess benefit arrangement within the meaning of Code Section 415(m).

(c) **Excess Benefit Fund Assets.** All assets held by such Excess Benefit Fund to assist in meeting the Employer's obligations under the Excess Benefit Plan, including all amounts of Employer's contributions made pursuant to the Excess Benefit Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, shall be, and remain, the general, unpledged, unrestricted assets of the Excess Benefit Fund. The Excess Benefit Fund shall be held separate and apart from other funds of the Employer and shall be used exclusively for the uses and purposes of Participants and general creditors as set forth herein. Participants shall have no preferred claim on, or any beneficial interest in, any assets of the Excess Benefit Fund. Any assets held by the Excess Benefit Fund shall be subject to the claims of the contributing Employer's general creditors under federal and state law in the event of insolvency, to the extent of the affected Employer's undistributed contributions, if any.

(d) **Grantor Trust.** The Excess Benefit Fund is intended to be a grantor trust, of which the contributing Employer is the grantor, within the meaning of Code Sections 671 through 679 and shall be construed accordingly. This provision shall not be construed to create an irrevocable trust of any kind.

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(e) **Excess Benefit Fund Income.** Income accruing to the Excess Benefit Fund in respect of the Excess Benefit Plan shall constitute income derived from the exercise of an essential governmental function upon which the Excess Benefit Fund shall be exempt from tax under Code Section 115, as well as Code Section 415(m)(1).

590:15-5-8. Administration

(a) **Administrative Authority.** The Board shall have the authority to control and manage the operation and administration of the Excess Benefit Plan. The Board and the Administrator shall have the same rights, duties and responsibilities respecting the Excess Benefit Plan as the Board and the Administrator have with respect to the URSJJ Plan pursuant to 20 O.S. §1108, unless modified by Code Section 415 and its implementing regulations, or 20 O.S. §1104.1.

(b) **Powers of the Board.** The Board shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable or convenient to enable the Board:

(1) to establish procedures with respect to administration of the Excess Benefit Plan not inconsistent with the Excess Benefit Plan and the Code, and to amend or rescind such procedures;

(2) to determine, consistent with the Excess Benefit Plan, the URSJJ Plan, applicable law, rules or regulations, all questions of law or fact that may arise as to the eligibility for participation in the Excess Benefit Plan and eligibility for distribution of benefits from the Excess Benefit Plan, and the status of any person claiming benefits under the Excess Benefit Plan;

(3) pursuant to Article IV of the Excess Benefit Plan document, to make payments from the Excess Benefit Fund to Participants;

(4) to contract with a third party to perform designated administrative services under this Excess Benefit Plan;

(5) subject to and consistent with the Code, to construe and interpret the Excess Benefit Plan as to administrative issues and to correct any defect, supply any omission or reconcile any inconsistency in the Excess Benefit Plan with respect to same.

(c) **Action by the Board.** Any action by the Board that is supported by competent, material, and substantial evidence and that is not found to be an abuse of discretion shall be final, conclusive and binding on all individuals affected thereby. The Board may take any such action in such manner and to such extent as the Board in its sole discretion may deem expedient, and the Board shall be the sole and final judge of such expediency.

(d) **Payment of benefits and erroneous payments.** The Board, if in doubt concerning the correctness of its action in making a payment of a benefit, may suspend payment until satisfied as to the correctness of the payment or the Participant to receive the payment. Any benefit payment that according to the terms of the Excess Benefit Plan and the benefits provided hereunder should not have been made may be recovered as provided in 20 O.S. §1111.

590:15-5-9. Plan amendments

The Board from time to time may amend, suspend, or terminate any or all of the provisions of this Excess Benefit Plan as may be necessary to comply with Code Section 415(m) and to maintain the Excess Benefit Plan's or the System's qualified status under the Code.

590:15-5-10. Nonassignability and exemption from taxation and execution

The interests of Participants under this Excess Benefit Plan are hereby exempt from any state, county, municipal or local tax, and shall not be subject to execution, garnishment, attachment, or any other process of law whatsoever, and shall be unassignable, to the extent and except as otherwise provided by 20 O.S. §1111.

590:15-5-11. Federal and state taxes

The Board, the Participating Employers, and the Administrator do not guarantee that any particular Federal or State income, payroll, or other tax consequence will occur because of participation in this Excess Benefit Plan.

590:15-5-12. Investment

The Board may hold such portion of the Excess Benefit Plan uninvested as the Board deems advisable for making distributions under the Excess Benefit Plan, or may invest assets of the Excess Benefit Plan pending the Excess Benefit payments. The Board shall not purchase an annuity contract with the assets of the Excess Benefit Fund.

590:15-5-13. Conflicts and limitation of rights

(a) **Conflicts.** In resolving any conflict between provisions of the Excess Benefit Plan and in resolving any other uncertainty as to the meaning or intention of any provision of the Excess Benefit Plan, the interpretation that (i) causes the Excess Benefit Plan to constitute a qualified governmental excess benefit arrangement under the provisions of Code Section 415(m) and the Excess Benefit Fund to be exempt from tax under Code Sections 115 and 415(m), (ii) causes the Excess Benefit Plan to comply with all applicable requirements of the Code, and (iii) causes the Excess Benefit Plan to comply with the System Plan and all applicable Oklahoma statutes and rules, shall prevail over any different interpretation.

(b) **Limitation of rights.** Neither the establishment nor maintenance of the Excess Benefit Plan, nor any amendment thereof nor any act or omission under the Excess Benefit Plan (or resulting from the operation of the Excess Benefit Plan) shall be construed as:

(1) conferring upon any Participant or any other person a right or claim against the Board, Trustees, Employer or Administrator, if any, except to the extent that such right or claim shall be specifically expressed and provided in the Excess Benefit Plan;

(2) creating any responsibility or liability of the Employer for the validity or effect of the Excess Benefit Plan;

- (3) a contract between the Employer and any Participant or other person; or
- (4) being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever the rights or obligations of the Employer or any Participant or other person to continue or terminate the employment relationship at any time.

[OAR Docket #11-365; filed 4-8-11]

**TITLE 590. OKLAHOMA PUBLIC
EMPLOYEES RETIREMENT SYSTEM
CHAPTER 25. DEFERRED
COMPENSATION**

[OAR Docket #11-366]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 9. Benefits
- 590:25-9-1. Commencement of benefits [AMENDED]
- 590:25-9-2. Distribution schedule [AMENDED]
- 590:25-9-8. Death [AMENDED]
- 590:25-9-10. Method of payment [AMENDED]
- 590:25-9-11. Payment and ~~settlement~~ distribution options [AMENDED]

AUTHORITY:

Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S. §1701

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N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The amendment to 590:25-9-1 changes the payment date of amounts deferred from no earlier than 60 days to 30 days. It also clarifies an exception relating to late retirements.

The amendment to 590:25-9-2 deletes obsolete language.

The amendment to 590:25-9-8 updates obsolete language and procedures for payment of benefits in the case of the death of the participant.

The amendment to 25-9-10 modifies the payment date from no earlier than 60 days to 30 days and also deletes obsolete language.

The amendment to 25-9-11 updates obsolete language and updates certain payment procedures.

CONTACT PERSON:

Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

SUBCHAPTER 9. BENEFITS

590:25-9-1. Commencement of benefits

The payment of amounts deferred under the Plan will become payable:

- (1) No earlier than ~~sixty (60)~~ thirty (30) days after the Participant separates from service with the State, through termination or retirement; or
- (2) No later than April 1 of the calendar year after the year the participant attains age 70 1/2 years of age, except as provided in 590:25-9-5.

590:25-9-2. Distribution schedule

Distributions must be made primarily for the benefit of the Participant ~~(or former Participant)~~. ~~Therefore~~ A distribution which begins prior to the death of a ~~participant~~ Participant must be in a form ~~such that~~ so the total benefit amount will be paid over a period not to exceed the life expectancy of the Participant and a designated beneficiary. ~~Any amount not distributed to the Participant during his lifetime will be distributed after the death of the participant at least as rapidly as under the method of distribution in use, as of the date of his death.~~

590:25-9-8. Death

If the Participant dies prior to receiving Plan benefits, the benefits payable under this Plan shall be paid to his or her designated beneficiary in accordance with the ~~settlement~~ distribution option selected by the designated beneficiary. If the Participant dies while benefits are being paid to ~~him~~ the Participant under the Plan and before such benefits have been exhausted, the benefits payable under this Plan shall ~~continue to be paid to his~~ continue ~~to be paid to his~~ be paid to his ~~the~~ designated beneficiary in accordance with the ~~settlement~~ distribution option selected by the Participant. ~~The unless the beneficiary may also select~~ selects a different ~~settlement~~ distribution option in accordance with Plan provisions.

590:25-9-10. Method of payment

The payment of benefits shall begin no earlier than ~~the month next following sixty (60)~~ thirty (30) days after the occurrence of the event that gives rise to the beginning of the payment of benefits. The Board may direct that the method of payment be directly from the company that issues the contracts

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in which investments have been made, directly to the Participant or ~~his~~ a designated beneficiary; under the payment option elected by the Participant ~~or may provide that certain benefits be paid directly to the Participant by such companies with other benefits to be paid to the Board, to be paid by them to the Participant or his designated beneficiary.~~

590:25-9-11. Payment and settlement distribution options

~~Payment~~ The payment, method of payment and settlement any distribution options ~~are~~ shall be available in accordance with the ~~Benefit Payment Elections~~ benefit payment elections as ~~indicated set forth on the Distribution Request~~ appropriate distribution request form. If the Participant elects to receive a deferred payout, the date selected for payouts to begin may be changed upon written notice to the Plan Administrator ~~at least 30 days~~ prior to the previously selected payout date subject to any applicable minimum distribution requirements. The method of payment may be changed ~~not more than twice in any twelve month period,~~ upon written notice to the Plan Administrator ~~at least thirty days preceding the date payments are to begin.~~

[OAR Docket #11-366; filed 4-8-11]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM CHAPTER 35. DEFERRED SAVINGS INCENTIVE PLAN

[OAR Docket #11-367]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 13. Benefits and Distributions
590:35-13-1. Commencement [AMENDED]
590:35-13-5. Death [AMENDED]
590:35-13-7. Payment and ~~settlement~~ distribution options [AMENDED]

AUTHORITY:
Oklahoma Public Employees Retirement System Board of Trustees; 74 O.S. §1707

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N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The amendment to 590:35-13-1 updates obsolete language and modifies the payment date from no earlier than 60 days to 30 days.

The amendment to 590:35-13-5 updates obsolete language.

The amendment to 590:35-13-7 updates obsolete language.

CONTACT PERSON:

Joseph A. Fox, General Counsel, Oklahoma Public Employees Retirement System, 5801 N. Broadway Extension, Suite 400, Oklahoma City, Oklahoma 73118, 405-858-6737

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

SUBCHAPTER 13. BENEFITS AND DISTRIBUTIONS

590:35-13-1. Commencement

(a) In the event of a Participant's separation from service as a result of Early Retirement, Normal Retirement, death, Disability or Termination of Service, ~~he~~ the Participant shall be entitled to receive a distribution of his or her Account under the Trust Fund. In the event that a Participant dies before the entire balance of his or her Account is distributed, Section 590:35-13-5 shall apply.

(b) The Participant may elect, on forms prescribed by the Plan Administrator, the time at which distributions under the Plan are to commence by designating the month and year during which the first distribution is to be made; however, in no event shall payment begin later than the required beginning date provided by Code Section 401(a)(9). The payment of benefits shall begin no earlier than ~~the month next following sixty (60) thirty (30) days~~ after the occurrence of the event that gives rise to the beginning of the payment of benefits.

590:35-13-5. Death

(a) If the Participant dies prior to receiving Plan benefits, or the Participant dies while benefits are being paid to ~~him~~ the Participant under the Plan and before such benefits have been exhausted, the benefits payable under this Plan shall be paid to ~~his~~ the designated Beneficiary of the Participant in accordance with the ~~settlement~~ distribution option selected by the Participant or the Beneficiary.

(b) Distributions must be made primarily for the benefit of the Participant (or former Participant). Therefore, distribution which begins prior to the death of a Participant must be in a form such that the total benefit amount will be paid over a period not to exceed the life expectancy of the Participant and a designated Beneficiary. Any amount not distributed to the Participant during his or her lifetime shall be distributed after the death of the Participant at least as rapidly as under the method of distribution used as of the date of his or her

death. In addition, if the Participant dies prior to the commencement of distributions, the Participant's Account shall be distributed to the Beneficiary, commencing within one year of the employee's death, over the life of such Beneficiary (or over a period not extending beyond the life expectancy of such Beneficiary) but not to exceed 15 years; provided however if such Beneficiary is the surviving spouse of the Participant, then (i) such distributions shall, in all events, commence no later than December 31 of the calendar year in which the Participant would have attained age 70 1/2 (or such other date as may be permitted under applicable Treasury Regulations), and (ii) benefits payable to such spouse shall be completed during a period not in excess of such spouse's life expectancy. Life expectancies will not be recalculated annually.

Final adoption:

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N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The Oklahoma Department of Veterans Affairs, pursuant to the legal authority granted to it in 72 O.S. § 63.3, promulgated permanent rules 770:1-3-1 and 1-5-5. These rules will update the description of the programs operated by the Oklahoma department of Veterans Affairs and list the current addresses and contact information for the facilities that the Department operated to provide care for honorably discharged war veterans.

CONTACT PERSON:

Martha Spear, Executive Director, Oklahoma Department of Veterans Affairs, 2311 N Central, Oklahoma City, OK 73105, 405.521.3684

590:35-13-7. Payment and ~~settlement~~ distribution options

Subject to the provisions of Section 590:35-13-1 herein, a Participant (or Beneficiary, where applicable) may elect within the period and on the forms prescribed by the Plan Administrator, to receive the balance of his or her Account in the form of:

- (1) Lump sum, payable in cash;
- (2) Substantially level periodic installments;
- (3) Any other form approved by the Plan Administrator or the Trustees.

[OAR Docket #11-367; filed 4-8-11]

**TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

[OAR Docket #11-328]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 3. Organizational Structure
- 770:1-3-1. Program description [AMENDED]
- Subchapter 5. Open Records Act
- 770:1-5-5. Access to records [AMENDED]

AUTHORITY:

War Veterans Commission; 72 O.S., § 63.3

DATES:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF MAY 12, 2011:

SUBCHAPTER 3. ORGANIZATIONAL STRUCTURE

770:1-3-1. Program description

The present program for Oklahoma veterans is:

(1) To provide medical, nursing and domiciliary care for those veterans when needed. The Centers to accomplish this are:

- (A) Ardmore
- ~~(B)~~ Claremore
- ~~(BC)~~ Clinton
- ~~(D)~~ Lawton
- ~~(CE)~~ Norman ~~(neuropsychiatric care only)~~
- ~~(DF)~~ Sulphur
- ~~(EG)~~ Talihina ~~(nursing care only)~~

(2) To provide financial assistance in emergencies to disabled or destitute veterans and to their wives, widows, orphans and needy children. This is accomplished through:

- ~~(A)~~ Child Welfare
- ~~(B)~~ Emergency Aid.
- ~~(C)~~ Small Loan Program

(3) To provide as complete rehabilitation as possible to disabled veterans and dependents:

- (A) Claims and counseling services through:
 - (i) Claims Office, Muskogee, Oklahoma
 - (ii) Hospital Office, Muskogee, Oklahoma
 - (iii) Hospital Office, Oklahoma City, Oklahoma
 - ~~(iv)~~ Field Service
 - ~~(iv)~~ Claims Office, Lawton, Oklahoma
 - ~~(v)~~ Referral service to other agencies
 - ~~(v)~~ Clinic Office, Tulsa, Oklahoma
 - ~~(vi)~~ Itinerant Field Service Offices
 - ~~(vii)~~ Referral service to other agencies

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(B) Education and training through schools, apprenticeship and on-job training establishments to be approved by the State Accrediting Agency.

SUBCHAPTER 5. OPEN RECORDS ACT

770:1-5-5. Access to records

(a) Records may be inspected, copied and/or mechanically reproduced during regular business hours from 8:00 a.m. to 4:30 p.m. at the following locations:

(1) Central Office, 2311 N. Central Ave., P.O. Box 53067, Oklahoma City, Oklahoma 73152, (405) 521-3684

(2) Oklahoma Veterans Center, Ardmore Division, 1015 S. Commerce, P.O. Box 489, Ardmore, Oklahoma 73401, ~~(405)(580)~~ 223-2266

(3) Oklahoma Veterans Center, Claremore Division, 3001 W. Blue Starr Dr., P.O. Box 988, Claremore, Oklahoma 74018, (918) 342-5432

~~(34)~~ Oklahoma Veterans Center, Clinton Division, 1701 S. 4th St., P.O. Box 1209, Clinton, Oklahoma 73601, ~~(405) 323-5540(580) 331-2200~~

(5) Oklahoma Veterans Center, Lawton/Ft. Sill Division, 501 SE Flower Mound Rd., P.O. Box 849, Lawton, Oklahoma 73502, (580) 351-6511

~~(46)~~ Oklahoma Veterans Center, Norman Division, 1776 E. Robinson, P.O. Box 1668, Norman, Oklahoma 73070, (405) 360-5600

~~(57)~~ Oklahoma Veterans Center, Sulphur Division, ~~P.O. Box 209304~~ E. Fairlane, Sulphur, Oklahoma 73086, ~~(405)(580) 622-2144~~

~~(68)~~ Oklahoma Veterans Center, Tahihina Division, ~~Rt. #2, Box 1425~~ 10014 SE 1138th Ave., P.O. Box 1168, Tahihina, Oklahoma 74571, ~~(910)(918) 567-2251~~

(9) Muskogee Claims and Benefits Office, 125 South Main, Room 1B38, Muskogee, Oklahoma 74401, (918) 781-7766

(b) The following individuals are authorized to release documents. At least one such person shall be available at all times to release records during regular business hours as specified in (a) of this section.

(1) Central Office Division:

(A) Executive Director

(B) ~~Assistant~~Deputy Director

(C) ~~Executive Assistant~~Administrative Programs Officer

~~(D) Supervisor, Claims and Benefits~~

~~(E) Supervisor, Personnel~~Human Resources Programs Director

~~(FE) Supervisor, Finance~~Chief Financial Officer

(2) Oklahoma Veterans Center, Ardmore Division:

(A) Administrator

(B) Assistant Administrator

(C) ~~Executive Secretary~~Administrative Programs Officer

(D) ~~Personnel Officer~~Human Resources Programs Manager

(E) ~~Accountant~~Business Manager

(3) Oklahoma Veterans Center, Claremore Division:

(A) Administrator

(B) Assistant Administrator

(C) Administrative Programs Officer

(D) Human Resources Programs Manager

(E) Business Manager

~~(34)~~ Oklahoma Veterans Center, Clinton Division:

(A) Administrator

(B) Assistant Administrator

(C) ~~Executive Secretary~~Administrative Programs Officer

(D) ~~Personnel Officer~~Human Resources Programs Manager

(E) ~~Accountant~~Business Manager

(5) Oklahoma Veterans Center, Lawton/Ft. Sill Division:

(A) Administrator

(B) Assistant Administrator

(C) Administrative Programs Officer

(D) Human Resources Programs Manager

(E) Business Manager

~~(46)~~ Oklahoma Veterans Center, Norman Division:

(A) Administrator

(B) Assistant Administrator

(C) ~~Executive Secretary~~Administrative Programs Officer

(D) ~~Personnel Officer~~Human Resources Programs Manager

(E) ~~Accountant~~Business Manager

~~(57)~~ Oklahoma Veterans Center, Sulphur Division:

(A) Administrator

(B) Assistant Administrator

(C) ~~Executive Secretary~~Administrative Programs Officer

(D) ~~Personnel Officer~~Human Resources Programs Manager

(E) ~~Accountant~~Business Manager

~~(68)~~ Oklahoma Veterans Center, Tahihina Division:

(A) Administrator

(B) Assistant Administrator

(C) ~~Executive Secretary~~Administrative Programs Officer

(D) ~~Personnel Officer~~Human Resources Programs Manager

(E) ~~Accountant~~Business Manager

(9) Muskogee Claims and Benefits Office:

(A) Manager

(B) Assistant Manager

(C) Administrative Programs Officer

[OAR Docket #11-328; filed 4-6-11]

**TITLE 770. OKLAHOMA DEPARTMENT OF
VETERANS AFFAIRS
CHAPTER 10. CENTER DIVISION
PROGRAM**

[OAR Docket #11-329]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

770:10-1-1 [AMENDED]

770:10-1-2 [AMENDED]

770:10-1-3 [AMENDED]

770:10-1-4 [AMENDED]

770:10-1-5 [REVOKED]

770:10-1-6 [REVOKED]

770:10-1-7 [REVOKED]

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INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The Oklahoma Department of Veterans Affairs, pursuant to the legal authority granted to it in 72 O.S. § 63.3, promulgated permanent rules 770:10-1-1 through 10-1-7. These rule amendments will modernize the requirements for admission to the seven facilities operated by the Oklahoma Department of Veterans Affairs for honorably discharged war veterans. These rule amendments will delete obsolete language currently found in the rules regarding neuropsychiatric care patients.

CONTACT PERSON:

Martha Spear, Executive Director, Oklahoma Department of Veterans Affairs, 2311 N Central, Oklahoma City, OK 73105, 405.521.3684

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN,
THE FOLLOWING RULES ARE CONSIDERED
FINALLY ADOPTED AS SET FORTH IN 75 O.S.,
SECTION 308.1(A), WITH AN EFFECTIVE DATE
OF MAY 12, 2011:**

SUBCHAPTER 1. GENERAL PROVISIONS

770:10-1-1. Purpose

(a) The purpose of the rules of this Chapter is to set forth the eligibility requirements, admission priorities and procedures, and care and maintenance charges, and to implement a policy concerning patients personal accounts, specifically to determine a maximum amount to be held for the patient in said account, and to conform to and comply with applicable state statutes concerning the release or disbursement of a deceased patient's assets at all Oklahoma Veterans Centers.

(b) ~~For special rules regarding neuropsychiatric care patients and special requirements for admission and discharge of neuropsychiatric care patients, see 770:10-1-5 through 770:10-1-7.~~

770:10-1-2. Definitions

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

"Care and treatment team" means a multidisciplinary group of clinical personnel that have direct involvement in the patient care and planning program, consisting of, but not necessarily limited to the following: Medical Director, Attending Physician, Registered Nurse Supervisor, Charge Nurse from the Ward, and Social Service Worker.

~~"Involuntary/court commitment" means persons following a court hearing, and found to be a danger to themselves or others, unable to meet their own basic needs and committed to a psychiatric institution for treatment and care, and must be detained until such time recovery from the threat to themselves or others has been established.~~

"Long-term care" means patients, who upon completing an acute treatment program, have not responded sufficiently as to where release from hospitalization could be realistically planned within a reasonable period of time (6 months). Continued hospitalization is then prescribed for an undetermined duration and extended until such time recovery occurs.

~~"Long-term neuropsychiatric patient" means a patient with a psychiatric diagnosis or one who displays psychotic behavior, who in the opinion of the Norman Veterans Center Medical Director does not require on going acute psychiatric treatment or care but who requires and/or will benefit from long term care.~~

"Referring agencies" means all state mental health institutions under the direction of the Department of Mental Health.

~~"Screening committee" means a multidisciplinary committee comprised of one physician, one registered nurse and one social service worker designated by the Center management. Purpose: To evaluate prospective admissions and obtain information as to patient's physical and psychiatric condition, and to determine if the Center's facilities and services could provide the care essential to the patient's comfort, care and safety.~~

"Voluntary admission" means a person seeking admission for psychiatric treatment to an institution, and in the opinion of the admitting physician, is aware of and fully understands the implications relative to being admitted and capable of signing a voluntary admission request.

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770:10-1-3. Eligibility requirements

To be eligible, ~~the Oklahoma veteran must have served in the active Armed Forces of the United States during wartime and discharged therefrom under conditions other than dishonorable, for admission to an Oklahoma Veterans Center, an individual must meet the definition of a War Veteran as defined in 72 O.S., Section 224 and/or as certified by the United States Department of Veterans Affairs for receipt of per diem payment~~

(1) ~~Wartime dates are:~~

(A) ~~World War I 04/06/17 to 11/11/18~~

(B) ~~World War II 12/07/41 to 12/31/46~~

(C) ~~Korean Conflict 06/27/50 to 01/31/55~~

(D) ~~Vietnam Era 08/05/64 to 05/07/75~~

(E) ~~And~~ and such other dates as may be established by U.S. Congress, Oklahoma Legislature or Oklahoma War Veterans Commission.

(2) ~~Veterans of other wars may be entitled provided they meet the eligibility requirement of wartime service.~~

(3) ~~Veterans must have served at least ninety (90) days, except where discharged due to or as a result of a service connected disability, with one or more days being during a wartime period as prescribed in (1) of this subsection. (Oklahoma Statutes, Title 72.) All patients presently being cared for at an Oklahoma Veterans Center who do not meet the new eligibility criteria will be "grandfathered" in and will be allowed to stay; however, should that patient be fully discharged and subsequently apply for readmission, the new eligibility criteria will be used to determine basic eligibility.~~

(4) ~~Residency requirement is three (3) years immediately prior to date of application.~~

(5) ~~A veteran must be disabled by age, disease or other reason as determined through physical examination by an Oklahoma Veterans Center physician to be eligible for admission. For domiciliary, he must be ambulant, be able to dress himself and perform necessary bathroom needs. For nursing care, he must be disabled or diseased to a degree that requires intermediate or skilled type nursing care.~~

(6) ~~Those veterans requiring hemodialysis can be cared for only at the Oklahoma Veterans Center, Sulphur Division.~~

(7) ~~The Oklahoma Veterans Center, Norman Division admits only those patients certified as in need of long-term neuropsychiatric care by a physician employed by the Oklahoma State Mental Health Department and verified by a physician of the Oklahoma Veterans Center, Norman Division.~~

(8) ~~Any domiciliary member discharged by his own request will not be readmitted to any of the Centers until thirty days have expired from date of discharge.~~

770:10-1-4. Admission priorities and procedures

(a) It is the intent of the War Veterans Commission to establish a fair and equitable system and one that allows for the flexibility necessary in the operation of long-term nursing care facilities whereby eligible veterans may be placed on waiting

lists for admission to the Oklahoma Veterans Centers operated by the Oklahoma Department of Veterans Affairs.

(b) Priorities for placement are as follows:

(1) Eligible World War II veterans seeking admission will be placed at the top of the waiting list and will be admitted to the first available bed capable of providing the level of care they require. When there are no longer living World War II veterans seeking admission, veterans of the next oldest wartime period will be placed at the top of the waiting list and will be admitted to the first available bed capable of providing the level of care they require and so on through established wartime periods.

(2) Eligible Ex-Prisoners of War and veterans rated service connected by the United States Department of Veterans Affairs will be placed at the top of the waiting list if there are no eligible ~~World War II~~ veterans on the waiting list in category (1) above, and will be admitted to the first available bed capable of providing the level of care they require.

(3) All eligible veterans not specified in (1) or (2) of this subsection will be placed on the waiting list in chronological order based on the date of receipt of the application. If more than one application is received on the same day, the Medical Director will determine their sequential order on the list according to medical need. The veterans will be called from this list and will be admitted to the first available bed capable of providing the level of care they require.

(c) The admission priorities as set forth in (b) of this Section are to be adhered to as closely as possible; however, the Administrator of each Veterans Center must maintain the flexibility of being allowed to deviate from the waiting list when medical or humanitarian need dictates.

(d) Applications for admission are provided by writing or calling the Oklahoma Department of Veterans Affairs Center as follows:

(1) Ardmore - Administrator, Oklahoma Veterans Center Box 489, Ardmore, Oklahoma 73402 Telephone: Area Code ~~(405)~~(580) 223-2266

(2) Claremore - Administrator, Oklahoma Veterans Center P. O. Box 988, Claremore, Oklahoma 74018 Telephone: Area Code (918) 342-5432

(3) Clinton - Administrator, Oklahoma Veterans Center Box 1209, Clinton, Oklahoma 73601 Telephone: Area Code (580) 331-2200

(4) Lawton/Ft. Sill Division - Administrator, Oklahoma Veterans Center P. O. Box 849, Lawton, Oklahoma 73502 Telephone: Area Code (580) 351-6511

(5) Norman - Administrator, Oklahoma Veterans Center Box 1668, Norman, Oklahoma 73070 Telephone: Area Code (405) 360-5600

(6) Sulphur - Administrator, Oklahoma Veterans Center 304 E. Fairlane, Sulphur, Oklahoma 73086 Telephone: Area Code ~~(405)~~(580) 622-2144

(7) Talihina - Administrator, Oklahoma Veterans Center P. O. Box 1168, Talihina, Oklahoma 74571 Telephone: Area Code (918) 567-2251

(8) Oklahoma City Central Office - P.O. Box 53067, Oklahoma City, Oklahoma 73152 Telephone: Area Code (405) 521-3684

(9) Other applications for admission can be obtained at USDVA Medical Centers in Muskogee and Oklahoma City and through Oklahoma Department of Veterans Affairs Service Officers.

770:10-1-5. Special rules for neuropsychiatric care patients [REVOKED]

(a) ~~The admission, discharge, transfer or readmission of an eligible veteran will at all times be handled in accordance with these policies and any amendment thereto as approved and adopted by the Oklahoma War Veterans Commission.~~

(b) ~~The care and treatment provided by the Center will always be for the best interest of the patient. The determination as to what treatment and care is necessary for an individual patient will be made by the Center's Care and Treatment team, rather than the patient's relatives, guardian, friends, or legal representative.~~

(c) ~~In the event of any situation requiring immediate action for the protection of the individual patient or other patient's care and safety, management, with the advice of the staff physician, will make necessary patient movement decisions, without notice or consent of the patient, guardian, relatives, or legal representatives.~~

770:10-1-6. Special requirements for admission of neuropsychiatric care patients [REVOKED]

(a) ~~Those eligible for admission to the Norman Veterans Center are all veterans who:~~

- (1) ~~Have served during the following wartime periods:~~
 - (A) ~~World War I 04/06/17 to 11/11/18~~
 - (B) ~~World War II 12/07/41 to 12/31/46~~
 - (C) ~~Korean Conflict 06/27/50 to 01/31/55~~
 - (D) ~~Vietnam Era 08/05/64 to 05/07/75~~
- (2) ~~Have been honorably discharged (as evidenced by copy of discharge/separation papers).~~
- (3) ~~Have been a resident of Oklahoma for three (3) successive years immediately preceding application for admission.~~
- (4) ~~Are in need of long term neuropsychiatric care.~~
- (5) ~~Are eligible for consideration for admission at Oklahoma Veterans Centers. (Oklahoma Veterans Center, Norman Division is licensed as a special psychiatric hospital for care of the long term neuropsychiatric patient.)~~

(b) ~~All eligible veteran psychiatric patients considered for admission to Oklahoma Veterans Center, Norman division, must first be received voluntarily or by court commitment into the Oklahoma State Mental Health system for psychiatric evaluation where a determination is made regarding the type of treatment and/or care appropriate to the patient's condition.~~

(c) ~~If long term care is determined to be the appropriate course of treatment by Mental Health authorities, and all other eligibility requirements are met, then a formal referral and application for admission to the Oklahoma Veterans Center may~~

~~be initiated and consideration will be given to the possible placement of the veteran at the Oklahoma Veterans Center, Norman Division.~~

(d) ~~Prior to the approval of admission, referring Mental Health agencies shall apply to the Oklahoma Veterans Center Administrator or his designee, and an appropriate time for applicant to be evaluated by the Center's Screening Committee will be scheduled. (An evaluation by the committee of the patient's general condition, special needs, previous treatment history, will determine acceptability.)~~

(e) ~~Patients, once interviewed and approved for admission, will be placed on the Center's waiting list. As vacancies occur, prospective patients will be admitted and placed, at the Center's discretion, in a care unit best suited to the individual's psychiatric and/or medical needs.~~

(f) ~~Application for admission must be completed by patient or guardian prior to final admission.~~

(g) ~~Final decision for admissions and placements shall be authorized by the Administrator of the Oklahoma Veterans Center, Norman Division; however, the Medical Director shall reserve the right to refuse admission and/or transfer the patient to other facilities as indicated based on Oklahoma Veterans Center's ability to provide proper care required.~~

(h) ~~When a patient is admitted to the Oklahoma Veterans Center, Norman Division, the following documentation must be obtained:~~

- (1) ~~Chronological Data (Fact Sheet) (Copy)~~
- (2) ~~Commitment Papers (Original)~~
- (3) ~~Certificate of Patient's Separation signed by transferring physician (Copy)~~
- (4) ~~Physician's Order for Transfer (Copy)~~
- (5) ~~Release Summary (Copy)~~
- (6) ~~Current Admission History (Copy)~~
- (7) ~~Current Physical Examination (Copy)~~
- (8) ~~Current Doctor's Orders (Copy)~~
- (9) ~~Current Social History (Copy)~~
- (10) ~~Current Doctor's progress Notes (Copy)~~
- (11) ~~Current Medication Record (Copy)~~
- (12) ~~Current Nurses Notes (Copy)~~
- (13) ~~Current Treatment Plan and Progress Notes (Copy)~~
- (14) ~~Current Laboratory Data (Copy)~~
- (15) ~~Current Chest X-Ray Interpretation (Copy)~~
- (16) ~~Current Electrocardiogram (Copy)~~
- (17) ~~EEG, CT, Brain Scan, etc., if done (Copy)~~
- (18) ~~Nursing Assessment (Copy)~~
- (19) ~~Guardianship Papers (Copy)~~
- (20) ~~Patient's Property Listed and Transferred with him~~

770:10-1-7. Special requirements for discharge of neuropsychiatric care patients [REVOKED]

(a) ~~All patient releases from the Oklahoma Veterans Center, Norman Division, shall be made through the Department of Mental Health or its designated individual facility. The dispositions by the Department of Mental Health may include referral for rehabilitation, further acute care, residential care, discharge to home or other suitable placement.~~

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(b) All voluntary patients, upon their written request for discharge, shall be transferred to the Department of Mental Health for release processing within five (5) days of receipt of request (weekends and holidays excluded). Prior to their release, a complete psychiatric evaluation shall be performed and noted in patient's clinical record. Voluntary patients may NOT be forcibly detained unless the patient is obviously a threat (danger) to self or others. In those cases appropriate legal procedures will be invoked.

(c) Discharge of court committed patients will be as follows:

(1) Court committed patients requesting their release, shall receive prompt psychiatric evaluation by the "Care and Treatment" team. The time limitation to honor the patient's request shall not exceed seven (7) days (weekends and holidays excluded). If discharged or other disposition is indicated, a written referral shall be made to the Department of Mental Health within three (3) days following team screening (weekends and holidays excluded).

(2) The attending physician, member of clinical staff, family member of other interested parties, including the committing courts, may, in writing, request a patient evaluation at any time to determine the necessity for continued institutionalization.

(3) Notification to the courts, guardians, and/or next of kin, shall be made forty eight (48) hours prior to patient transfer or discharge, or unless an emergency transfer is necessary, in the opinion of the staff physician for the protection and care of the patient, or care and safety of other patients, then no notice is necessary.

(4) All patient releases from the Center shall be on the written order of a physician currently licensed to practice medicine in the State of Oklahoma.

(5) Patients residing at the Center prior to June 30, 1977, will be processed in the same manner as recent admissions.

(6) Patients on convalescent leave must have an evaluation within one year from date of separation for discharge or other disposition.

(d) Former psychiatric patients may request application for domiciliary (residential) care, at any time following their discharge. This provision is applicable to both voluntary as well as court certified commitments. Any discharged patient wishing admission to one of the other Oklahoma Veterans Centers in the State will be advised of procedures relative to making application.

(e) Disciplinary action will be taken against any resident who violates house rules which could result in discharge from the Center for a period of up to thirty (30) days. Repeated offenders are subject to final discharge with no option to return to the facility.

(f) Patients' personal property and finances may either be given to the patient or transferred to an authorized or legal representative of the patient. All property released must be signed for and a written signed statement of the transaction maintained in patient's clinical record.

(g) When a patient is discharged from the Oklahoma Veterans Center, Norman Division, the following documentation will accompany the patient:

- (1) Chronological Data (Fact Sheet) (Copy)
- (2) Commitment Papers (Original)
- (3) Certificate of Patient's Separation—signed by transferring physician (Copy)
- (4) Physician's Order for Transfer (Copy)
- (5) Release Summary (Copy)
- (6) Current Admission History (Copy)
- (7) Current Physical Examination (Copy)
- (8) Current Doctor's Orders (Copy)
- (9) Current Social History (Copy)
- (10) Current Doctor's Progress Notes (Copy)
- (11) Current Medication Record (Copy)
- (12) Current Nurses Notes (Copy)
- (13) Current Treatment Plan and Progress Notes (Copy)
- (14) Current Laboratory Data (Copy)
- (15) Current Chest X Ray Interpretation (Copy)
- (16) Current Electrocardiogram (Copy)
- (17) EEG, CT, Brain Scan, etc., if done (Copy)
- (18) Nursing Assessment (Copy)
- (19) Guardianship papers (Copy)
- (20) Patient's Property Listed and Transferred with him

[OAR Docket #11-329; filed 4-6-11]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 1. OPERATIONS AND PROCEDURES

[OAR Docket #11-359]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 11. Publications

800:1-11-1. Charges for workshops, publications and other material [AMENDED]

AUTHORITY:

Title 29 O.S., Sections 3-103 and 5-401 Article XXVI, Sections 1 and 3 of the constitution of Oklahoma; Department of Wildlife Conservation Commission

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McAlester - Kiamichi Vo-Tech

301 Kiamichi Dr (SW corner of Hwy 69 and Carl Albert Dr)

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3205 Lincoln Road NE (3 miles N of Hwy 259)

Oklahoma City - OK Department of Wildlife Conservation Auditorium, 1801 N. Lincoln Blvd.

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATED BY REFERENCE:

n/a

ANALYSIS:

This rule will update the Outdoor Store publications available to the public by deleting discontinued items, adding new items and revise a section name change. All of the listed items are voluntary purchases.

CONTACT PERSON:

Nels Rodefeld, Chief of Information and Education Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, Ok 73105. Phone: 405/521-3855 or Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 301.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2011:

SUBCHAPTER 11. PUBLICATIONS

800:1-11-1. Charges for workshops, publications and other material

(a) The following charges, with appropriate postage fees where applicable, will be assessed for the following workshops, publications and other materials:

(1) Basic charges for Information and Education Division publications are as follows:

- ~~(A) Department Lakes: \$2.00~~
- ~~(B) Oklahoma Furbearers: \$2.00~~
- ~~(C) Bobwhite Quail in Oklahoma: \$5.00~~
- ~~(D) Turkey or Deer Hunters Handbook: \$2.00~~
- ~~(E) Managing Ponds Fisheries in Oklahoma: \$5.00~~
- ~~(F) Oklahoma Wildlife Management Areas Atlas: 25.00 and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.~~
- ~~(G) Waterfowl Identification in the Central Flyway: \$2.00~~
- ~~(H) Outdoor Oklahoma Magazine

 - ~~(i) Single issue copies: \$3.00~~
 - ~~(ii) One year subscription: \$10.00~~
 - ~~(iii) Two year subscription: \$18.00~~
 - ~~(iv) Three year subscription: \$25.00~~~~
- ~~(I) Oklahoma Fishing Spots: \$3.00~~
- ~~(J) Outdoor Oklahoma Journal and Calendar: \$15.00~~
- ~~(K) Angler's Guide: \$2.00~~
- ~~(L) Caps: \$15.00~~
- ~~(D) Cy Curtis Awards book: \$10.00~~

(2) Basic charges for Administration Division materials are as follows:

(A) Oklahoma Waterfowl Prints: \$129.00
 (3) Basic charges for ~~Natural Resources Section Wildlife Diversity~~ publications, workshops and materials are as follows:

- ~~(A) Attracting Birds: \$2.00~~
 - ~~(B) Guide to Reptiles and Amphibians of Oklahoma: \$25.00 and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.~~
 - ~~(C) Oklahoma Watchable Wildlife Viewing Guide: \$16.00~~
 - ~~(D) Birds of North America Bird Identification Guide: \$25.00 and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.~~
 - ~~(E) Bluebird House Plan: \$4.00~~
 - ~~(F) Dial A Bird House: \$25.00~~
 - ~~(G) Wildlife Posters: \$10.00~~
 - ~~(H) Bat House Kit: \$35.00~~
 - ~~(I) Bat House Builder's Handbook \$12.00~~
 - ~~(J) Wildscape Certification: \$15.00~~
 - ~~(K) Wildflower Seeds: \$3.00~~
 - ~~(L) Bat Viewing Workshops: \$20.00~~
 - ~~(M) Wildlife Diversity Caps: \$25.00~~
 - ~~(N) Wildlife Diversity Short Sleeve T-Shirts: \$25.00~~
 - ~~(O) Cedar Nesting Shelf: \$25.00~~
 - ~~(P) Landscaping for Wildlife: A Guide to the Southern Great Plains: \$50.00 \$30.00 includes wildscape certification and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.~~
 - ~~(Q) Oklahoma ConserVacation Outings: \$300/person~~
 - ~~(R) Pocket Guide to Prairie Birds: \$0.75 \$2.00~~
 - ~~(S) Butterflies of Kansas, Oklahoma and North Texas: \$15.00 \$25.00 and includes one year subscription to Outdoor Oklahoma magazine. If purchaser is already a subscriber, they can transfer subscription.~~
- (4) Basic Charges for Education workshops and materials are as follows:
- ~~(A) Project WILD workshop administrative fee: \$10.00~~
 - ~~(B) Project WILDs short sleeve T shirt: \$15.00~~
 - ~~(C) Deposit for natural resource trunk: \$50.00~~
 - ~~(D) Hunter safety education certification replacement cards: \$5.00~~
- (5) Basic charges for miscellaneous publications and materials are as follows:
- ~~(A) Fish Division Habitat Maps: \$10.00~~
 - ~~(B) Reservoir fact sheets: \$7.00~~
 - ~~(C) Fish rulers: 154~~
 - ~~(A) Habitat Donor Patch, Cap or T-shirt: \$20.00~~
 - ~~(B) Outdoor Oklahoma Cap: \$20.00~~
 - ~~(C) Outdoor Oklahoma Magazine

 - ~~(i) Single issue copies: \$3.00~~
 - ~~(ii) One year subscription: \$10.00~~
 - ~~(iii) Two year subscription: \$18.00~~~~

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(iv) Three year subscription: \$25.00

(D) ~~Cy Curtis Awards book: \$10.00~~Waterfowl Identification in the Central Flyway: \$2.00

- (b) These fees do not reflect postal or handling charges.
(c) Publications and materials not listed in (a) of this Section shall be cost plus handling until a fee is established. Fees may be waived for education and promotion purposes.

[OAR Docket #11-359; filed 4-8-11]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 10. SPORT FISHING RULES

[OAR Docket #11-360]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. Harvest and Possession Limits
800:10-1-3. Additional definitions [AMENDED]
800:10-1-4. Size limits on fish [AMENDED]
800:10-1-5. Bag limits on fish [AMENDED]
Subchapter 3. Methods of Taking
800:10-3-3. Additional definitions [AMENDED]
800:10-3-5. Use of bow and arrow, grabhooks, gigs, spears, and spearguns, snagging, noodling and netting [AMENDED]
Subchapter 5. Area Restriction and Special Fees
800:10-5-2. Department fishing areas [AMENDED]

AUTHORITY:

Title 29 O.S., Sections 3-103, 5-401 and 6-302 Article XXVI, Sections 1 and 3 of the constitution of Oklahoma; Department of Wildlife Conservation Commission

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McAlester - Kiamichi Vo-Tech

301 Kiamichi Dr (SW corner of Hwy 69 and Carl Albert Dr)

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Idabel - Kiamichi Vo-Tech

3205 Lincoln Road NE (3 miles N of Hwy 259)

Oklahoma City - OK Department of Wildlife Conservation Auditorium,

1801 N. Lincoln Blvd.

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n/a

ANALYSIS:

These rules will remove Lake Wayne Wallace from "Department Fishing Areas", modify size and bag limits for fish on several lakes, include crossbows in the definition of bow and arrow, add a definition for non-commercial netting, increase fishing opportunity on Black Fork Creek, increase fishing opportunity for paddlefish anglers using a bow and arrow and delete language regarding the Blue River Conservation Passport.

CONTACT PERSON:

Barry Bolton, Chief of Fisheries Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK 73105. Phone: 405/521-3721 or Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 301.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2011:

SUBCHAPTER 1. HARVEST AND POSSESSION LIMITS

800:10-1-3. Additional definitions

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

"Department fishing areas" means lakes American Horse, Burtschi, Chambers, Dahlgren, Elmer, Etling, Fugate, Hall, Jap Beaver, Nanih Waiya, Ozzie Cobb, Raymond Gary, Schooler, Vanderwork, Vincent, Watonga, ~~Wayne Wallace~~, the Blue River Public Fishing and Hunting Area and the Lower Illinois River Public Fishing and Hunting Area - Simp and Helen Watts Management Unit.

"No culling" means fish caught and placed on a stringer or otherwise held in possession (live well, basket, ice chest, etc.) cannot be released.

"Total length" means measured from the tip of the snout to the end of the tail, with the fish laid flat on the rule with mouth closed and tail lobes pressed together.

"Close To Home" fishing waters means bodies of water designated as such under a cooperative fisheries management agreement between ODWC and participating cities and/or municipalities. "Close to Home" fishing waters shall be designated in the Oklahoma Department of Wildlife Conservation Oklahoma Fishing Guide which is published annually.

800:10-1-4. Size limits on fish

There are no length and/or size limit restrictions on any game or nongame fish, except as follows:

- (1) All largemouth and smallmouth bass less than fourteen (14) inches in total length must be returned to the water unharmed immediately after being taken from these waters:

(A) **Lakes and Reservoirs** - Adair Recreation Area, Altus-Lugert, Arcadia, Birch, Broken Bow, Carl Albert, Carl Blackwell, Copan, Draper, Eu-
faula, Ft. Cobb, Ft. Gibson, Foss, Grand including all tributaries to state line, Greenleaf, Hall, Hefner

~~(applies to largemouth bass only)~~, Heyburn, Hudson, Hugo, Kaw, Keystone, Lone Chimney, Nanah Waiya, Oologah, Overholser (including tailwaters and downstream to NW 10th St. bridge), Pine Creek, Raymond Gary, Sardis, Skiatook, Sooner, Taft, Texoma, Thunderbird, Tom Steed, Vanderwork, Wayne Wallace, Waurika and Wister (Wister Lake boundaries are US Highway 271 bridge on Fourche Maline River, US Highway 59 bridge on Poteau River and the low water dam, one-half mile above county road bridge number 156, on Holson Creek).

(B) **McClellan-Kerr Arkansas River Navigation System** - All lakes, cutoffs and oxbows from the Oklahoma-Arkansas line to the Port of Catoosa, including R.S. Kerr, Webbers Falls, W.D. Mayo, Chouteau and Newt Graham Reservoir.

(C) **Department of Wildlife Conservation fishing areas** - Lakes Burtschi, Chambers, Elmer, Etling, Fugate, Jap Beaver, Ozzie Cobb, Schooler, Vincent, Watonga, ~~Wayne Wallace~~, Dahlgren, and all the ponds and streams within the following Department WMA's, Atoka, Beaver River, Bolen Hollow, Gruber/Cherokee, Cookson, Ellis Co., Ft. Gibson, James Collins, Lexington, Okmulgee, (excluding the Deep Fork River), Pushmataha, Robbers Cave, Robert S. Kerr, Sandy Sanders, Spavinaw, Stringtown, and all ponds and lakes in the Ouachita National Forest.

(D) Lower Illinois River below Tenkiller Dam, including the old river channel.

(2) All largemouth and smallmouth bass between thirteen (13) and sixteen (16) inches in total length must be returned unharmed immediately after being taken from lakes Chimney Rock (W.R. Holway), Elmer Thomas, Arbuckle, ~~Lone Chimney~~, Okmulgee, ~~Vanderwork and Hall~~, and Tenkiller Lake (downstream from Horseshoe Bend boat ramp).

~~(3) All largemouth and smallmouth bass between thirteen (13) and sixteen (16) inches in total length must be returned unharmed immediately after being taken from Broken Bow Lake (downstream from the slab at the Narrows), Tenkiller Lake (downstream from Horseshoe Bend boat ramp), and from Lake Elmer Thomas.~~

~~(4) All crappie (Pomoxis sp.) less than 10 inches in total length must be returned to the water unharmed immediately after being taken from Lakes Arbuckle, Tenkiller, Hudson, Texoma, Ft. Gibson, including all tributaries and upstream to Markham Ferry Dam and Grand Lake, including all tributaries to state line.~~

~~(5) All flathead catfish (Pylodictis olivaris) less than 20 inches in total length must be returned to the water unharmed immediately after being taken statewide.~~

~~(6) All walleye, sauger, and saugeye (sauger x walleye hybrid) less than 18 inches in total length must be returned to the water unharmed immediately after being taken statewide, except at Altus-Lugert, Ellsworth, Foss, Fort Cobb, Lawtonka and Murray lakes and the respective tailwaters, where walleye, sauger and saugeye less than 14 inches in total length must be returned to the water~~

unharmed immediately and at Great Salt Plains Reservoir and tailwater where the size limit does not apply and in the Illinois River below Tenkiller Dam and the Arkansas River from Keystone Dam downstream to the Oklahoma state line where all sauger less than 16 inches must be returned to the water unharmed immediately.

~~(7) All largemouth and smallmouth bass between sixteen (16) and twenty-two (22) inches in total length must be returned to the water immediately after being taken from McGee Creek Lake, ~~Lake Nanah Waiya~~, ~~Lake Raymond Gary~~, Dripping Springs Lake and Crowder Lake (Washita County).~~

~~(8) All rainbow trout less than twenty (20) inches in total length must be returned to the water immediately after being taken from the lower Mountain Fork River trout stream from the Lost Creek water control structure downstream to the first Highway 259 Scenic bridge, including Evening Hole and the Lost Creek stream channel, and from the State Park Dam downstream to the mouth of Rough Branch Creek and in the lower Illinois River trout stream from the USGS stream gauge downstream to the gravel pit county road. All brown trout less than twenty (20) inches in total length must be returned to the water immediately after being taken from the lower Mountain Fork River from Broken Bow Dam downstream to the U. S. Highway 70 bridge, and from the lower Illinois River trout stream from Tenkiller Dam downstream to the U. S. Highway 64 bridge.~~

~~(9) All blue catfish and channel catfish less than twelve (12) inches in total length must be returned to the water unharmed immediately after being taken from Texoma Lake.~~

~~(10) All smallmouth bass less than eighteen (18) inches in total length must be returned to the water unharmed immediately after being taken from Lake Hefner.~~

~~(11) All smallmouth bass between nine (9) and twelve (12) inches in total length must be returned to the water unharmed immediately after being taken from Baron Fork Creek, Flint Creek, Illinois River upstream from the Horseshoe Bend boat ramp, Lee Creek, and Little Lee Creek. Possession of smallmouth bass between nine (9) and twelve (12) inches in total length at these streams is prohibited.~~

~~(12) All smallmouth bass less than twelve (12) inches in total length must be returned to the water unharmed immediately after being taken from Glover River from the confluence with the Little River upstream to the "Forks of the Glover River". Possession of smallmouth bass less than twelve (12) inches in total length at this stream is prohibited.~~

~~(13) All black bass (largemouth, spotted and smallmouth) less than fourteen (14) inches in total length must be returned unharmed immediately after being taken from the Blue River Public Fishing Area.~~

800:10-1-5. Bag limits on fish

No person shall, during any one day, take, attempt to take, kill, or harvest more than:

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(1) Six (6) largemouth or smallmouth bass or six in aggregate, except at ~~Lake Hefner where the limit on smallmouth bass is one (1) fish 18 inches or longer~~, in "Close To Home" fishing water where all largemouth bass caught must be returned to the water unharmed immediately after being taken (no harvest allowed), at Texoma Reservoir where the limit is five (5), largemouth, smallmouth or spotted bass or five in aggregate, at Lake Konawa, McGee Creek Lake, ~~Lake Nanih Waiya~~, Dripping Springs Lake, ~~Lake Raymond Gary~~ and Crowder Lake (Washita County) where the limit is six (6) of which only one (1) may be twenty-two (22) inches or longer at Baron Fork Creek, Flint Creek, Illinois River upstream from the Horseshoe Bend boat ramp, Lee Creek, and Little Lee Creek where the limit is six (6) largemouth, smallmouth or spotted bass or six in aggregate, of which only one (1) smallmouth bass may be twelve (12) inches or longer, in Glover River from the confluence with Little River upstream to the "Forks of the Glover River" where the limit is six (6) largemouth, smallmouth, or spotted bass or six in aggregate of which only three (3) may be smallmouth bass, and at the Blue River Public Fishing Area where the limit is six (6) largemouth, smallmouth or spotted bass or six in aggregate.

(2) Fifteen (15) channel and/or blue catfish, or fifteen (15) in aggregate, of which only one (1) blue catfish may be 30 inches in length or larger; except at all U.S. Forest Service and State Park lakes (not including Lake Murray) and Department of Wildlife Management Area ponds and all Department of Wildlife Conservation fishing areas, in "Close To Home" fishing waters and all waters within the Wichita Mountains National Wildlife Refuge, where the limit is six (6). For scuba divers with spearguns, the limit is three (3) per day or three (3) in aggregate from May 1 through August 31, annually.

(3) Thirty-seven (37) crappie (*Pomoxis* sp.) except at Blue River Public Fishing and Hunting Area where the limit is six (6) and at lakes Arbuckle, Tenkiller, Hudson, Ft. Gibson including all tributaries and upstream to Markham Ferry Dam and Grand Lake including all tributaries to state line where the limit is fifteen (15).

(4) Six (6) rainbow trout - possession limit of twelve (12) after first day, except in the lower Mountain Fork River trout stream from the Lost Creek water control structure downstream to the first Highway 259 Scenic bridge, including Evening Hole and the Lost Creek stream channel, and from the State Park Dam downstream to the mouth of Rough Branch Creek, and in the lower Illinois River trout stream from the USGS stream gauge downstream to the gravel pit county road where the limit is one (1) rainbow trout per day twenty (20) inches or longer in total length (no culling); and in the Blue River from its entry onto the Plaster Wildlife Management Unit/Landrum Wilderness downstream approximately $\frac{1}{2}$ mile to a marker cable where all trout caught must be released immediately from November 1 to March 1 (thereafter, statewide trout bag limit applies).

(5) Six (6) brown trout, except in the lower Mountain Fork River trout stream below Broken Bow dam downstream to the U. S. Highway 70 bridge, and in the lower Illinois River trout stream from Tenkiller Dam downstream to US Highway 64 bridge where the limit is one (1) fish per day twenty (20) inches or longer in total length.

(6) ~~Five (5)~~ Six (6) walleye, sauger and/or saugeye, or ~~five (5)~~ six (6) in aggregate.

(7) Fifteen (15) striped bass of which only five (5) may be twenty (20) inches or longer, except ~~in the discharge area of Sooner Reservoir where the daily bag limit is five (5) (no culling) as designated in 800:10-1-5((8), (10) and (11))~~.

(8) Ten (10) striped bass and/or striped bass hybrids or ten (10) in aggregate of which only two (2) may be twenty (20) inches or longer in Texoma Reservoir and five (5) striped bass and/or striped bass hybrids or five (5) in aggregate in the Red River below Denison Dam (no culling). This paragraph shall become effective September 1, 1996.

(9) Ten (10) flathead catfish, except in Lake Texoma where the daily limit is five (5), and for noodlers and scuba divers the daily limit is three (3) from May 1 through August 31, annually.

(10) Twenty (20) striped bass, striped bass hybrids and/or white bass, or twenty (20) in aggregate, of which only five (5) may be twenty (20) inches or longer in lakes Altus-Lugert, Birch, Canton (Canton Lake boundaries are from State Highway 281 to one thousand (1,000) feet below Canton Dam), Carl Blackwell, Foss, Ft. Cobb, Konawa, Tom Steed, Sooner and Waurika, including tailwaters and Grand including all tributaries to stateline and below Grand River Dam (Pensacola Dam) downstream to State Highway 82 bridge and Oologah Lake including upstream on all tributaries to stateline and downstream below the dam to the mouth of the Caney River.

(11) Five (5) striped bass and/or striped bass hybrids, in aggregate, of which only two (2) may be 20 inches or longer in Arcadia Lake and Skiatook Lake.

~~(12) Five (5) striped bass hybrids in Lake Carl Etling.~~

~~(13) Five (5) striped bass hybrid and/or white bass in the discharge area of Sooner Reservoir.~~

~~(14)~~ 12) Twenty-five (25) white bass in Lake Texoma.

~~(15)~~ 13) One (1) paddlefish (*Polydon spathula*) per day on Sunday, Tuesday, Wednesday, Thursday, and Saturday, statewide. Catch and release of paddlefish only (no harvest) is permitted on Monday and Friday, statewide. Possession of paddlefish in the field is prohibited on Monday and Friday, statewide. The catch and release of paddlefish is permitted year round by use of rod and reel, trotline and throwlines. Paddlefish must be released immediately unless kept for the daily limit. Paddlefish taken by bow and arrow, gigs, spears or spearguns shall not be released. Paddlefish caught and placed on a stringer or otherwise held in possession must be tagged immediately and cannot be released (no culling). Each person must keep their own paddlefish distinctly separate from paddlefish taken by other fishermen. Each cleaned paddlefish, or its meat, eggs, or carcass, must also be tagged and kept

separate from all other cleaned paddlefish or its parts. Tagged means plainly labeled with the taker's paddlefish permit number. Paddlefish or their parts must remain tagged until the person in possession of the paddlefish or paddlefish parts has reached their residence. All paddlefish must have all viscera (internal organs) removed from the paddlefish before leaving the state. Persons fishing trotlines or throwlines must release all paddlefish on their lines, except the one (1) paddlefish held in possession for their daily limit, before leaving the trotline or throwline. Fishermen must cease snagging when they have taken their daily limit of paddlefish into possession.

(4614) It shall be unlawful for any person, regardless of residency, age or disability, to fish for paddlefish or be in possession of paddlefish parts without having first secured from the Department of Wildlife Conservation or its authorized agent, an annual paddlefish permit. Immediately upon taking possession of a paddlefish with the intent of harvesting said fish, the angler must record the date and time of harvest on the paddlefish permit. This permit must be carried on their person while fishing and/or in possession of paddlefish or parts and be produced for inspection upon the demand of any Oklahoma citizen or game warden.

(4715) Release of striped bass and/or striped bass hybrids caught and placed on a stringer, in a live well or otherwise held in possession is prohibited statewide (no culling).

(1816) One (1) alligator gar (*Atractosteus spatula*) per day, statewide, except during the period of May 1 through May 31 when angling for alligator gar by all angling methods is prohibited on Lake Texoma between the Highway 99 bridge upstream to the I-35 bridge. The catch and release of alligator gar is permitted year round, except during the closure referenced above, by use of rod and reel, trotline and throwlines. Alligator gar must be released immediately unless kept for the daily limit. Persons fishing trotlines or throwlines must release all alligator gar on their lines except the one alligator gar held in possession for their daily limit, before leaving the trotline or throwline. Alligator gar taken by bow and arrow, gigs, spears or spearguns shall not be released. Alligator gar caught and placed on a stringer or otherwise held in possession cannot be released (no culling). Anglers must cease snagging when they have taken their daily limit of alligator gar into possession.

(4917) Other fish do not have bag or possession limits.

SUBCHAPTER 3. METHODS OF TAKING

800:10-3-3. Additional definitions

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

"**Bow and arrow**" when used for bowfishing means a long bow only (any bow except a crossbow) and an arrow (including crossbows) having no more than one (1) point with

no more than four (4) barbs. Devices that permit a bow to be held mechanically at full or partial draw are permitted.

"**Foul hooked**" means a fish hooked other than inside the mouth.

"**Gaff hook**" means a handheld hook or handheld pole with a hook attached and may only be used in the landing of a fish, other than paddlefish, already hooked by other legal hook and line methods.

"**Gig**" means a hand-held fish spearing device mounted at the end of a shaft containing not more than three (3) points and not more than two (2) barbs on each point.

"**Grabhook**" means a handheld hook or handheld pole, or rope, with a single hook attached used in the initial taking of a fish.

"**Jugline**" means a vertical line suspended from a non-metallic or nonglass floating device which is drifting free or anchored, having no more than five (5) hooks per line and limited to twenty (20) such juglines per person.

"**Limblines**" means a line attached to a limb, branch, other natural object, or non-metallic manmade pole having no more than two (2) hooks attached per line and limited to twenty (20) such limblines per person.

"**Noodling**" means the taking of fish by use of hands only.

"**Snagging**" means the dragging of one (1) single hook or one (1) treble hook through the water attached to a hand-held line or fishing rod and line for the purpose of impaling fish.

"**Yo-Yo**" means any mechanical fishing device which automatically recoils when a fish strikes and is limited to no more than twenty (20) such devices per person.

"**Unattended**" means not within visual observing distance.

800:10-3-5. Use of bow and arrow, grabhooks, gigs, spears, and spearguns, snagging, noodling and netting

(a) **Bow and arrow.** The use of bow and arrows in bowfishing shall be lawful for taking nongame fish only in all waters of the state throughout the year, except:

(1) Illinois River and its tributaries shall be closed at all times to such fishing except, those portions above the Horseshoe Bend boat ramp on Tenkiller Reservoir which is open from December 1 through March 31 annually. Tenkiller Reservoir below Horseshoe Bend boat ramp is open to bowfishing.

~~(2) Black Fork Creek is closed except that portion from the old Heavener Fish Hatchery Dam downstream to the confluence with Poteau River shall be open during the period beginning December 1 and continuing through May 15 of the following year.~~

~~(3) Reservoir tailwaters, other than Eufaula, Keystone, Wister, Fort Gibson, Thunderbird and Hudson (Markham Ferry) shall be closed to fishing with bow and arrows throughout the year. This does not alter provisions of 29 O.S., Section 7-101, which designates a safety zone of the first 150 feet immediately below the dam on all reservoirs except Tenkiller, Canton, Salt Plains, and Fort Supply.~~

(43) All waters defined as "Designated Trout Areas" during open season for taking trout are closed.

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- (54) All waters within the boundaries of the Wichita Mountains Wildlife Refuge are closed.
- (65) Only that section of the Caney River from Hulah Dam downstream approximately 1,200 feet to the re-regulation dam is closed. Fishing with a bow and arrow is lawful in the Caney River below the re-regulation dam.
- (76) The following portions of Grand River:
- (A) The main river channel of Grand River below the turbine outlets of Grand River Dam downstream to the State Park Bridge is closed throughout the year.
- (B) The Grand River occurring below the spillway outlets of Grand River Dam downstream to the highline crossing (approximately $\frac{1}{2}$ mile) is closed throughout the year with the next $\frac{1}{2}$ mile downstream from the highline crossing closed during periods when the spillway gates are open and discharging water and for seven (7) days following closure of the spillway gates.
- (87) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.
- (98) "Close To Home" fishing waters and Lakes Pickens, Carl Albert and Taft and all ponds and lakes in the Ouachita National Forest are closed.
- (409) ~~The taking of paddlefish by bow and arrow is prohibited from May 16 through March 14 of the following year, statewide, on the Red River from Denison Dam downstream to the stateline year round.~~
- (410) Bowfishing may be used at Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper throughout the year during daylight hours only.
- (421) The Salt Fork of the Arkansas River from the spillway of Great Salt Plains Reservoir downstream to the State Highway 38 Bridge is closed.
- (b) **Grabhooks.** Taking fish by use of a grabhook is prohibited in all state waters.
- (c) **Gigs, spears and spearguns.** The use of gigs, spears and spearguns containing not more than three (3) points with no more than two (2) barbs on each point shall be lawful for taking nongame fish only, except white bass may be taken by use of a gig. These methods are lawful in all:
- (1) Rivers and streams from December 1 through March 31, except:
- (A) The taking of paddlefish by use of gig, spear or speargun is prohibited from May 16 through March 14 of the following year, statewide.
- (B) The Poteau and Fourche Maline Rivers and all their tributaries within LeFlore County are closed throughout the year.
- (C) All waters designated as "Designated Trout Areas" during the open season for taking trout are closed.
- (D) The Canadian River from Eufaula Dam downstream for a distance of one (1) mile to be so designated by buoy or other appropriate marker is closed throughout the year.
- (E) The Caney River from Hulah Dam downstream to the confluence of the old and new river channels is closed.
- (F) The following portions of Grand River:
- (i) The main river channel of the Grand River below the turbine outlets of Grand River Dam downstream to State Park Bridge is closed throughout the year.
- (ii) The Grand River occurring below the spillway outlets of Grand River Dam downstream for a distance of one (1) mile is closed throughout the year.
- (G) Rivers and streams in Delaware and Mayes counties are open to the use of gigs throughout the year, unless specifically closed in other sections of this chapter.
- (H) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.
- (2) Lakes and reservoirs throughout the year, except:
- (A) Waters within the boundaries of the Wichita Mountains Wildlife Refuge other than that portion of Lake Elmer Thomas are closed.
- (B) Tenkiller Reservoir, below the Horseshoe Bend boat ramp, is closed throughout the year except by speargunning when used with a self-contained underwater breathing apparatus which is closed from June 15 through July 15 annually to the taking of flathead catfish only.
- (C) All Department Fishing Areas, all "Close To Home" fishing waters and Lakes Carl Albert, Sooner, Lone Chimney and Taft and all ponds and lakes in the Ouachita National Forest are closed. Konawa is closed to gigging.
- (D) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.
- (3) Reservoir tailwaters other than Hudson (Markham Ferry) shall be closed to fishing with gigs, spears and spearguns throughout the year. This does not alter provisions of 29 O.S., Section 7-101, which designates a safety zone of the first 150 feet immediately below the dam on all reservoirs except Tenkiller, Canton, Salt Plains, and Fort Supply.
- (d) **Snagging.** Snagging for nongame fish only shall be lawful in all waters of the State throughout the year, except:
- (1) Reservoir tailwaters other than Fort Gibson which is open 24 hours a day, and Wister and Hudson (Markham Ferry) which are open from 10 p.m. to 6 a.m.; shall be closed to fishing by snagging throughout the year. This does not alter provisions of 29 O.S., Section 7-101, which designates a safety zone of the first 150 feet immediately below the dam on all reservoirs except Tenkiller, Canton, Salt Plains, and Fort Supply.
- (2) The following rivers, lakes, and streams:
- (A) The Illinois River and its tributaries above the Horseshoe Bend boat ramp on Tenkiller Reservoir and below the dam shall be closed at all times to such fishing.
- (B) All waters designated as "Designated Trout Areas" during the open season for taking trout are closed.

- (C) All waters within the boundaries of the Wichita Mountains Wildlife Refuge are closed.
- (D) The Canadian River from Eufaula Dam tailwater Downstream for a distance of one (1) mile to be so designated by buoy or other appropriate marker is closed throughout the year.
- (E) The Caney River from the Hulah Dam downstream to the confluence of the old and new river channels is closed.
- (F) The following portions of the Grand River:
- (i) The main river channel of Grand River below the turbine outlets of Grand River Dam downstream to the State Park Bridge is closed throughout the year.
 - (ii) That portion of the Grand River occurring below the spillway outlets of Grand River Dam downstream to the highline crossing (a distance of approximately $\frac{1}{2}$ mile) is closed throughout the year with the next $\frac{1}{2}$ mile downstream from the highline crossing closed during periods when the spillway gates are closed.
 - (iii) That portion of the Grand River occurring from the Markham Ferry Dam (Lake Hudson Dam) downstream to the Highway 412 bridge from 10 p.m. to 6 a.m. year-round.
- (G) The Arkansas River from the tailwaters below Keystone Dam downstream to the Interstate 44 (Skelly Drive) Bridge at Tulsa shall be closed at all times to such fishing.
- ~~(H) The Black Fork Creek within the boundaries of LeFlore County is closed throughout the year, except during the period from April 15 through May 15 each year when snagging shall be lawful.~~
- (H) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.
- (H) All Department Fishing Areas, all "Close To Home" fishing waters and Lakes Pickens, Carl Albert, Sooner and Konawa and all ponds and lakes in the Ouachita National Forest are closed.
- ~~(K) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.~~
- (3) When snagging for paddlefish the hook must have the barbs removed or completely closed.
- (e) **Noodling.** Possession of hooks, gaffs, spears, poles with hooks attached and/or ropes with hooks attached while in the act of noodling, shall be proof of violation of the "hands only" noodling law. Noodling shall be lawful for nongame fish only throughout the year in all:
- (1) Rivers and streams of the state, except:
 - (A) The Illinois River and its tributaries above Horseshoe Bend boat ramp on Tenkiller Reservoir and below the dam shall be closed at all times to such fishing.
 - (B) All waters designated as "Designated Trout Areas" during the open season for taking trout are closed.
 - (C) Kiamichi River from Hugo Dam downstream to the first railroad bridge is closed.
 - (D) The following portions of the Grand River:
 - (i) The main river channel of Grand River below the turbine outlets of Grand River Dam downstream to the State Park Bridge is closed throughout the year.
 - (ii) The Grand River occurring below the spillway outlets of Grand River Dam downstream to the highline crossing is closed throughout the year except the day of and two (2) days following closure of the spillway gates when noodling will be legal.
 - (E) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.
 - (2) Corps of Engineers and Bureau of Reclamation Reservoirs, Grand and Hudson Lakes.
 - (3) All waters within the boundaries of the Wichita Mountains Wildlife Refuge are closed.
 - (4) All Department Fishing Areas, all "Close To Home" fishing waters (except noodling is allowed in the North Canadian River from the NW 10th St. bridge downstream to the MacArthur St. bridge in Oklahoma City) and Lakes Pickens, Carl Albert, Taft, and Lone Chimney, and all ponds and lakes in the Ouachita National Forest are closed.
 - (5) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.
 - (f) **Netting (noncommercial).** Netting (noncommercial) is closed statewide. Only nets defined as gill nets, trammel nets, hoop nets or haul seines may be used, provided:
 - ~~(1) Hoop nets shall be no longer than ten (10) feet in length with mesh size no smaller than three (3) inch square, constructed of nonmetallic mesh only, having no more than seven (7) hoops three (3) feet in diameter or smaller.~~
 - ~~(2) Mesh size for gill nets and trammel nets, or seines shall be no smaller than four (4) inch square mesh.~~
 - ~~(3) All nets must be attended once every twenty four (24) hours.~~
 - ~~(4) Each license holder shall be limited to a maximum of three hundred (300) feet of net or a total of four (4) hoop nets in the water at any time.~~
 - ~~(5) Each net shall have the name and address of the owner attached thereto, if the net is to be left unattended.~~
 - ~~(6) It shall be unlawful to sell, barter, or trade, ship or transport from the State of Oklahoma any fish taken under the noncommercial netting provisions.~~
 - ~~(7) Noncommercial netting is prohibited statewide during April and May annually.~~
 - ~~(8) Only nongame fish may be taken in waters that are open for noncommercial netting.~~
 - ~~(9) The following lakes and reservoirs are closed to all such netting for game and/or nongame fish except under commercial fishing license:~~
 - ~~(A) Canton;~~
 - ~~(B) Wister;~~
 - ~~(C) Fort Gibson;~~

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- (D) Lugert;
(E) Oologah;
(F) Grand Lake;
(G) Wash Hudson;
(H) Eufaula;
(I) Texoma;
(J) Arbuckle;
(K) Carl Blackwell;
(L) Fort Cobb;
(M) Fort Supply;
(N) Foss;
(O) Greenleaf;
(P) Heyburn;
(Q) Hulah;
(R) Keystone;
(S) Murray;
(T) Salt Plains;
(U) Tenkiller;
(V) Thunderbird;
(W) Broken Bow;
(X) Pine Creek;
(Y) Robert S. Kerr;
(Z) Webbers Falls;
(AA) W.D. Mayo;
(BB) Chouteau;
(CC) Kaw;
(DD) Newt Graham;
(EE) Carl Albert;
(FF) Hugo;
(GG) Sooner;
(HH) Konawa;
(II) Ellsworth;
(JJ) Lawtonka;
(KK) Copan;
(LL) Sardis;
(MM) Optima;
(NN) Atoka;
(OO) Clayton State Park Lake;
(PP) Eucha;
(QQ) Spavinaw;
(RR) Arcadia;
(SS) McGee Creek;
(TT) all Department Fishing Areas and all ponds and lakes in the Ouachita National Forest;
(UU) all waters within the boundaries of the Wichita Mountains Wildlife Refuge; and
(VV) all new Federal Reservoirs.
(WW) all "Close To Home" fishing waters are closed.
(XX) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.
- (10) The following rivers and streams are closed to all such netting for game and/or nongame fish except under commercial fishing license:
(A) Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland Co.;
(B) Kiamichi River above Hugo Lake and from Hugo Dam downstream to the Red River;
(C) Caney River;
(D) Little River upstream from Highway 98 Bridge;
(E) Glover River upstream from State Highway 7;
(F) Mountain Fork River upstream from U.S. Highway 70 Bridge;
(G) Washita River upstream to U.S. Highway 77 Bridge, south of Davis;
(H) Red River from the Choctaw/Bryan County line upstream to Interstate 35 Bridge;
(I) Blue River;
(J) Illinois River;
(K) Barren Fork River;
(L) Pennington Creek;
(M) Lukfata Creek;
(N) Black Fork Creek;
(O) Lee Creek;
(P) Deep Fork River upstream from Lake Eufaula to Arcadia Reservoir dam;
(Q) Poteau and Fourche Maline Rivers in LeFlore County;
(R) McGee Creek;
(S) Sans Bois tributary of R.S. Kerr Reservoir;
(T) all cutoffs, oxbows, side channels and tributaries of the streams and rivers named in (A) through (S);
(U) All the old oxbows and cutoffs of the Arkansas River in LeFlore and Sequoyah Counties;
(V) Arkansas River;
(W) Cimarron River and its tributaries;
(X) Salt Creek in Osage County;
(Y) Salt Fork River;
(Z) the Canadian River from Eufaula Dam downstream to the confluence with Robert S. Kerr Reservoir;
(AA) the Neosho River from the Kansas border downstream to the confluence with Webbers Falls Reservoir;
(BB) Verdigris River; and
(CC) Spring River.
- (g) **Collecting Bait for personal use.** Cast netting, trawl netting, dip netting, minnow traps and seining non-game fish commonly used for bait for personal use is lawful in all waters of this state unless specifically closed under 800:10-5-2, 800:10-5-3 and/or 800:10-5-6. Cast nets and dip nets shall have a mesh size no greater than three-eighths (3/8) inch square mesh. Seines shall not exceed twenty (20) feet in length, and the mesh shall be no larger than one-half (1/2) inch square unless seining for minnows then the mesh shall not exceed one-fourth (1/4) inch. Minnow traps shall have a mesh size no greater than one-half (1/2) inch, shall not be longer than three (3) feet, shall not exceed eighteen (18) inches in diameter on round traps or eighteen (18) inches on a side on square or rectangular traps. The trap entrance (throat) cannot exceed two (2) inches across the opening. No person shall fish with more than 3 minnow traps. All minnow traps must have the owner's name and address attached and the traps must be attended once every

24 hours. All game fish and non-game fish not commonly used for bait must be released immediately. Minnow traps cannot be made with glass.

SUBCHAPTER 5. AREA RESTRICTIONS AND SPECIAL FEES

800:10-5-2. Department fishing areas

The following rules and restrictions govern public use on all Department Fishing Areas, including:

- (1) **Department owned lakes and access areas.** The following rules apply:
 - (A) Camping is permitted, but limited to three (3) days duration at all areas, except at the Kiamichi River Access Area and the Lower Illinois River Public Fishing and Hunting Area - Simp and Helen Watts Management Unit where no overnight camping is permitted and at Lakes Watonga, Carl Etling, ~~Wayne Wallace,~~ and the Illinois River Access Areas where camping shall be limited to fourteen (14) consecutive days. Camping is permitted only in designated camping areas.
 - (B) Boats and motors are permitted. All boats and motors must comply with existing state boat regulations and boat operators must obey Oklahoma State Boat Laws. All boats must be operated at no-wake speed (six '6' miles per hour or less) and may not be left on the water or the areas longer than the limit on camping.
 - (C) Water skiing is prohibited.
 - (D) Disposal of trash, refuse and debris is prohibited, except in designated trash containers. This includes organic and inorganic materials.
 - (E) Glass beverage containers are prohibited at Department fishing areas except in designated camping and parking areas.
 - (F) Commercial concessions and private developments on Department property are prohibited. Soliciting, advertising or promoting any commercial or private activity is prohibited. The use of these areas for any commercial operation in any way is prohibited.
 - (G) Dogs must be kept on a leash at all times, except when used to hunt with, during legal open hunting seasons on those areas where hunting is permitted.
 - (H) Boat houses, ramps, docks and other facilities may not be constructed on Department property without specific approval of the Oklahoma Wildlife Conservation Commission.
 - (I) It shall be unlawful to drive, occupy or park any motor driven vehicle, including automobiles, trucks, mini bikes, motorcycles, etc., except on maintained roads, (unless posted as "no parking zones"), designated parking areas, and designated camping areas. It shall be unlawful to operate any vehicle in a manner

- to create a public nuisance or to park in a "no parking zone." Operators must be licensed drivers.
- (J) Cutting or defacing of trees and vegetation shall be prohibited. Removal of any vegetation, soil, rocks, water or minerals is prohibited except under written approval of the Department Director.
- (K) Vandalism, theft, and damage to State property is prohibited.
- (L) No person shall use threatening, abusive, or indecent language, participate in a disorder assemblage, nor publicly appear nude or intoxicated on any lands owned or managed by the Oklahoma Department of Wildlife Conservation.
- (M) After 10:00 p.m., and until 5:00 a.m., all Department fishing areas will be restricted to fishing and fishing related activities only, and hunting if permitted by Commission.
- (N) Swimming is not permitted unless a designated swimming area is established by the Wildlife Conservation Commission.
- (O) Hunting is permitted on the following lakes: Hall, Jap Beaver, Burtschi, Nanih Waiya, Ozzie Cobb, Schooler, Evans-Chambers, American Horse and Vanderwork during the period of September 1 through Spring Turkey Season, including migratory bird seasons. Hunting regulations and restrictions for lakes Dahlgren and Vincent are the same as those listed for Lexington WMA (Dahlgren) and Ellis County WMA (Vincent). The following lakes are closed to hunting or taking of wildlife by any means: Elmer, Etling, Raymond Gary, and Watonga, ~~and Wayne Wallace.~~ Hunting is restricted to shotguns or archery only. These lakes are closed to antlerless deer harvest, except during archery season. Hunting and shooting other than that provided above is prohibited. The Director may designate "closed areas" for purposes of safety and/or security.
- (P) Fishing is permitted in accordance with provisions provided in OAC 800:10, Subchapter 1. The Director may designate "closed areas" for purposes of safety and/or security.
- (Q) No person may fish with more than two (2) poles, except during trout seasons at "Designated Trout Areas" where no person may fish with more than one (1) pole.
- (R) Trotlines, throwlines, limblines, juglines, nets, seines, yo-yo's, spearguns, and the taking of any fish by noodling and the taking of bait minnows by any method is prohibited, except cast nets may be used to take bait for personal use at Lake Carl Etling.
- (S) No person shall possess, consume or use any intoxicating beverage or low-point beer, as defined in Title 37, except in camping and parking areas on any lands or waterways subject to the control of the Oklahoma Department of Wildlife Conservation except U.S. Forest Service regulations shall apply to Black Kettle, Ouachita, Rita Blanca and Tiak Wildlife Management Areas.

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(T) No person shall possess, consume, use or manufacture any controlled or dangerous substance, as defined in Title 63 on any lands or waterways subject to the control of the Oklahoma Department of Wildlife Conservation.

(U) All impoundments are catch and release only on the following Department property unless determined otherwise as published in the Oklahoma Fishing Guide: Cimarron Bluff WMA.

(2) **Blue River Public Fishing and Hunting Area.**
The following rules apply:

(A) Hunting shall be permitted during regular hunting seasons and is restricted to shotgun and long bow and arrow only. No other use or other firearms are permitted.

(B) Blue River PFHA is closed to all except emergency traffic from 10:00 p.m. to 6:00 a.m. throughout the year.

(C) Glass beverage containers are prohibited at Blue River PFHA except in designated camping and parking areas.

(D) Fishing is permitted in accordance with provisions provided in OAC 800:10, Subchapter 1.

(E) Trotlines, throwlines, noodling, limblines, spearguns, juglines, nets, seines, and yo-yo's are prohibited throughout the year.

(F) No person may fish with more than two (2) poles, except only one (1) pole and line or rod and reel is permitted during the designated trout season.

(G) The following special rules pertain to the Carl R. and Ruth Walker Landrum Wilderness and Plaster Wildlife Management Unit:

- (i) no camping
- (ii) areas closed from 10:00 p.m. to 6:00 a.m.
- (iii) no swimming
- (iv) walk-in access only (except where wheelchair access is provided).

(H) The Blue River Campground Area is closed to swimming, effective January 1, 1990, unless suitable agreement can be reached between the Department and an acceptable second party who would be responsible for managing a designated swimming area for a three month season, annually. The Department will assume no cost or liability for development and operation of a designated swimming area.

(I) Effective July 1, 2000 the following rules apply to camping at the Blue River Campground Area:

- (i) Camping is restricted to 14 days in a 30 consecutive day period. The Area Manager may grant extensions by issuing a permit for camping beyond the 14 day limit. Such extensions shall be based upon degree of area use, anticipated weekend or holiday occupancy and recreation season. Extensions shall be requested 48 hours prior to the requested date of the extension.
- (ii) Camping is permitted only in designated camping areas.

(iii) No person shall leave a vehicle, camper, tent or any personal property unattended for more than a 48-hour period without approval of the Area Manager.

(iv) If property must be removed, it will be at owners expense and liability. The unauthorized placement of camping equipment or other items on a campsite and/or personal appearance without overnight occupancy at a campsite for the purpose of reserving a designated campsite for future occupancy is prohibited.

~~(J) Each person, not otherwise exempt by statute, entering or using the Blue River Public Fishing and Hunting Area shall be required to have a "Blue River Conservation Passport" in their possession while in the area. The Wildlife Commission hereby establishes and assesses an annual fee for the Passport which shall be one dollar (\$1.00) above the cost of an annual resident fishing license. No fishing or hunting privileges of any kind are provided or implied with the Passport.~~

(3) **Arcadia Conservation Education Area**

(A) Walk-in fishing permitted on all parts of the lake shoreline. No fishing in any ponds or wetland areas unless part of an ODWC sanctioned education event.

(B) Camping prohibited except as authorized by ODWC.

[OAR Docket #11-360; filed 4-8-11]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 20. RESTRICTION ON AQUATIC SPECIES INTRODUCTION

[OAR Docket #11-361]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 4. Aquatic Nuisance Species Restrictions
- 800:20-4-2. Movement of aquatic plants [AMENDED]
- 800:20-4-3. List of restricted aquatic nuisance species [AMENDED]

AUTHORITY:

Title 29 O.S., Sections 3-103, 5-401 and 6-302 Article XXVI, Sections 1 and 3 of the constitution of Oklahoma; Department of Wildlife Conservation Commission

DATES:

Comment period:

December 1, 2010 - January 7, 2011

Public hearings:

Date: January 4, 2011

Time: 7:00 p.m.

McAlester - Kiamichi Vo-Tech

301 Kiamichi Dr (SW corner of Hwy 69 and Carl Albert Dr)

Date: January 6, 2011

Time: 7:00 p.m.

Idabel - Kiamichi Vo-Tech

3205 Lincoln Road NE (3 miles N of Hwy 259)

Oklahoma City - OK Department of Wildlife Conservation Auditorium,
1801 N. Lincoln Blvd.

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATED BY REFERENCE:

n/a

ANALYSIS:

These rules will clarify language regarding removal of aquatic plants from boats, trailers, etc. and add new language regarding possession of aquatic nuisance species.

CONTACT PERSON:

Barry Bolton, Chief of Fisheries Division, Oklahoma Department of Wildlife Conservation, 1801 N. Lincoln Blvd., Oklahoma City, OK 73105. Phone: 405/521-3721 or Rhonda Hurst, APA Liaison, phone: 405/522-6279.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 301.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2011:

SUBCHAPTER 4. AQUATIC NUISANCE SPECIES RESTRICTIONS

800:20-4-2. Movement of aquatic plants

No person may transport aquatic plants between waters of this state. Persons ~~leaving any water of this state~~ must remove all aquatic plants from boat, trailer, or any other gear capable of holding aquatic plants prior to ~~leaving the body of water from which the plants originated~~ placing boat, trailer or gear into waters of the state.

800:20-4-3. List of restricted aquatic nuisance species

(a) In addition to species listed under 800:20-1-2 and 800:20-3-2 and until such time as is necessary for the Department of Wildlife Conservation to obtain adequate information for the determination of other harmful or potentially harmful aquatic nuisance species, the importation into the State and/or the possession of the following aquatic nuisance species is prohibited:

- (1) Zebra mussel (*Dreissena polymorpha*)
- (2) Quagga mussel (*Dreissena bugensis*)

(b) Boats, trailers, and boat parts must be cleaned free of live zebra and/or quagga mussels before launching in any public waters.

[OAR Docket #11-361; filed 4-8-11]

**TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 25. WILDLIFE RULES**

[OAR Docket #11-362]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 5. Migratory Bird Hunting Season
- Part 25. Hunting at Tishomingo Wildlife Management Unit
- 800:25-5-106. General provisions [AMENDED]
- Subchapter 7. General Hunting Seasons
- Part 5. Upland Game
- 800:25-7-17. Wild turkey B Spring; dates, limits and open areas [AMENDED]
- 800:25-7-17.1. Wild Turkey B Spring Youth Season [AMENDED]
- 800:25-7-19. Wild turkey B general provisions [AMENDED]
- Part 7. Falconry
- 800:25-7-31. Taking provisions [AMENDED]
- 800:25-7-32. Prohibited raptors [AMENDED]
- Part 13. Deer
- 800:25-7-51. Deer B archery [AMENDED]
- 800:25-7-54. Legal firearms and archery specifications [AMENDED]
- Part 15. Furbearers
- 800:25-7-60. Dates and legal furbearers [AMENDED]
- 800:25-7-62. Open areas [AMENDED]
- Part 19. Seasons On Areas Owned or Managed by the Oklahoma Department of Wildlife Conservation and the U.S. Fish and Wildlife Service
- 800:25-7-82. Atoka WMA [AMENDED]
- 800:25-7-82.1. Atoka PHA [AMENDED]
- 800:25-7-86. Broken Bow WMA [AMENDED]
- 800:25-7-92. Chickasaw NRA [AMENDED]
- 800:25-7-93. Cookson WMA [AMENDED]
- 800:25-7-102. Gary Sherrer WMA [AMENDED]
- 800:25-7-102.1.1. Grady County WMA [NEW]
- 800:25-7-102.2. Grassy Slough WMA [AMENDED]
- 800:25-7-108.1. Honobia Creek WMA [AMENDED]
- 800:25-7-109. Hugo WMA [AMENDED]
- 800:25-7-110. Lyndol Fry WRP [AMENDED]
- 800:25-7-113. James Collins WMA [AMENDED]
- 800:25-7-125. McGee Creek WMA [AMENDED]
- 800:25-7-132. Ouachita WMA B LeFlore Unit [AMENDED]
- 800:25-7-132.1. Ouachita WMA B Cucumber Creek Unit [AMENDED]
- 800:25-7-133.1. Ouachita WMA B McCurtain Unit [AMENDED]
- 800:25-7-135. Pine Creek WMA [AMENDED]
- 800:25-7-136. Pushmataha WMA [AMENDED]
- 800:25-7-136.1. Red Slough WMA [AMENDED]
- 800:25-7-136.2. Red Slough WRP [AMENDED]
- 800:25-7-138. Robbers Cave WMA [AMENDED]
- 800:25-7-145. Spavinaw GMA+ [AMENDED]
- 800:25-7-146. Spavinaw PHA [AMENDED]
- 800:25-7-147. Stringtown WMA [AMENDED]
- 800:25-7-149.1. Three Rivers WMA [AMENDED]
- 800:25-7-154.2. Whitegrass Flats WMA [AMENDED]
- 800:25-7-155. Wister WMA [AMENDED]
- 800:25-7-156. Wister WRP [AMENDED]
- 800:25-7-157. Yourman WMA [AMENDED]
- Subchapter 33. Restitution Fees [REVOKED]
- 800:25-33-1. Purpose [REVOKED]
- 800:25-33-2. Restriction Fees [REVOKED]

Permanent Final Adoptions

AUTHORITY:

Title 29 O.S., Sections 3-103, 4-101 and 5-401 Article XXVI, Sections 1 and 3 of the constitution of Oklahoma; Department of Wildlife Conservation Commission

DATES:

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SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATED BY REFERENCE:

n/a

ANALYSIS:

These rules will clarify the open area for muzzleloader and deer gun season on Tishomingo Wildlife Management Unit; adjust spring turkey season and bag limits in southeast Oklahoma due to turkey population declines; adjust falconry rules to comply with federal regulations; define/allow crossbows for archery seasons, make it illegal to transport a cocked crossbow or a bow held at full or partial draw in a vehicle; clarify mountain lions may be taken when depredating domesticated animals or an immediate safety hazard; open gray fox season statewide; establish rules on new Grady County WMA; modify seasons, firearm restrictions, and bag limits on several WMA's; correct turkey tagging requirement for Lifetime License holders; remove restitution fee language.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 301.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2011:

SUBCHAPTER 5. MIGRATORY BIRD HUNTING SEASON

PART 25. HUNTING AT TISHOMINGO WILDLIFE MANAGEMENT UNIT

800:25-5-106. General provisions

The following general provisions apply to hunting at the Tishomingo Wildlife Management Unit (TWMU).

(1) All hunters must check in and out of hunt areas regardless of game being hunted. Waterfowl hunters hunting west of the Washita River will use the check station. All other hunters may use the check station or the self registration boxes located at various hunter access points.

(2) Access is limited to walk-in use only during deer muzzleloader and regular deer gun seasons. Deer muzzleloader and deer gun season hunters are restricted to hunt only that portion of TWMU south and west of the Washita River.

(3) The management unit will be open for waterfowl hunting until 12:00 noon only on Tuesday, Thursday, Saturday, and Sunday.

SUBCHAPTER 7. GENERAL HUNTING SEASONS

PART 5. UPLAND GAME

800:25-7-17. Wild turkey - Spring; dates, limits and open areas

(a) The following hunting dates, bag limits and areas open to hunting apply to spring turkey hunting in counties listed in paragraph (3) of this Section:

(1) **Dates.** The dates for spring turkey hunting shall be April 6 through May 6.

(2) **Daily, season and possession limit.** The season bag limit is three tom turkeys statewide. No more than one tom may be taken in any county with a one tom bag limit; no more than two toms may be taken in any county with a two tom bag limit.

(3) **Bag limit and open areas.** The following is a listing of counties open to hunting and the bag limit for those counties:

(A) All counties statewide except Atoka, Choctaw, Coal, Latimer, LeFlore, McCurtain, Pittsburg, and Pushmataha. County bag limits will be determined annually and published in the current Oklahoma Hunting Guide and Regulations.

(b) The following hunting dates, bag limits and areas open to hunting apply to spring turkey hunting in Southeast Oklahoma.

(1) **Dates.** The dates for spring turkey hunting shall be ~~April 6~~ the Monday following the third Saturday in April through May 6.

(2) **Daily, season and possession limit.** The season bag limit is ~~two tom turkeys~~ for the spring season in the Southeast Oklahoma region, comprising the following counties: Atoka, Choctaw, Coal, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha will be determined annually and published in the current Oklahoma Hunting Guide.

(3) **Bag limit and open areas.** Southeast Oklahoma counties only - Atoka, Choctaw, Coal, Latimer, LeFlore,

McCurtain, Pittsburg, and Pushmataha. County bag limits will be determined annually and published in the current Oklahoma Hunting Guide and Regulations.

800:25-7-17.1. Wild Turkey - Spring Youth Season

- (a) Age Requirements: All youth under 18 years of age. All participants, while hunting, are required to be accompanied by an adult, 18 years or older. The adult accompanying the youth hunter shall not possess a firearm or bow.
- (b) Dates: The dates for the youth season shall be the Saturday and Sunday prior to the opening day of the regular statewide Spring Turkey Season; except for the Southeast Oklahoma Counties (Atoka, Choctaw, Coal, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha) - the dates shall be the third Saturday in April and continuing for two days through Sunday.
- (c) Open Areas: The season is open statewide.
- (d) Bag Limit. One tom turkey. An unfilled Spring turkey license shall be valid during the regular statewide Spring Turkey Season and/or the Southeast Spring Turkey Season.

800:25-7-19. Wild turkey - general provisions

The following general provisions apply to the taking of turkey:

- (1) **Tom turkey description.** A tom turkey is any bearded turkey, regardless of sex.
- (2) **Hunting hours.** The hunting hours shall be one-half hour before sunrise to sunset.
- (3) **Baiting.** Turkeys may not be taken within 100 yards of any bait. "Bait" shall mean the placing, exposing, depositing, distributing or scattering of shelled, shucked or unshucked corn, wheat or other grain or other feed so as to constitute for such birds a lure, attraction or enticement to, on or over any area where hunters are attempting to take them. Nothing in this section shall prohibit the taking of wild turkey over standing crops, grain crops, properly shucked on the field where grown or grain found scattered solely as the result of normal agricultural operations.
- (4) **Roost shooting.** Roost shooting is prohibited.
- (5) **Decoys and recorded calls.** Hunting turkey with artificial decoys is permitted. Live decoys and recorded calls are prohibited.
- (6) **Tagging.** The following provisions apply to the tagging and checking of turkey:
 - (A) Persons taking a turkey shall securely attach their name, license number, the current date and time of harvest immediately to the carcass.
 - (B) Evidence of sex (one leg with foot) must remain on the bird until it has reached final destination. Beards on hens must remain intact until the bird has reached final destination.
 - (C) A separate tag is required for each bird that is hunted. Hunters who possess Oklahoma Department of Wildlife Conservation lifetime hunting or lifetime combination licenses are exempt from the date and time tagging requirements outlined in 6 (A).

(D) Upon harvesting a turkey all annual license/permit holders will be required to complete the >Record of Game= Section on the back of the license form.

(7) **Reporting.** All turkeys harvested east of I-35 must be checked in at a hunter check station, or with an authorized Department employee, or online at www.wildlifedepartment.com no later than 24 hours upon leaving the hunt area. Once checked, the turkey will be issued a carcass tag or an online confirmation number. This tag or confirmation number must remain with the carcass to its final destination or through processing and/or storage at commercial processing or storage facilities.

(8) **Fee.** All persons hunting wild turkeys, unless otherwise exempt, must possess a turkey tag. Fee for turkey tags will be \$9.00 plus \$1.00 vendor fee.

PART 7. FALCONRY

800:25-7-31. Taking provisions

- (a) Eyas: Young birds not yet capable of flight (eyases) may only be taken from the wild during the period April 15 through July 31 by a General or Master Falconer. No more than two eyases may be taken by the same licensee during the taking period. At least two birds must be left in any nest form which one or more birds is removed, except in the case of birds of the genus Buteo where a minimum of one bird must be left in the nest. Removal of eggs from nests is prohibited.
- (b) Passage: First-year (passage) birds, still in immature plumage, may be taken only from August 1 through May 31.
- (c) Raptors that are lost to the wild may be retrapped at any time. Raptors lost for more than 30 days shall be considered as lost and reported as such to the Department.
- (d) Legal raptors: Raptors that may be taken from the wild in Oklahoma are the same as those listed in CFR 50.
- (e) Golden eagles may be taken with permission of the Oklahoma Department of Wildlife Conservation as allowed by pertinent state and federal statutes and regulations.
- (f) The Director of the Department of Wildlife may authorize resident general and master falconers to take passage gyrfalcons.
- (g) The take of any state or federally listed threatened species will require prior approval from the Oklahoma Department of Wildlife Conservation.
- (h) The first bird acquired by an apprentice falconer must be one in which they actively participated in capturing from the wild. This bird may only be a Red-tailed Hawk or an American Kestrel. An apprentice can acquire a bird through transfer no sooner than six months following the capture date of their first bird. An apprentice falconer may only possess a Red-tailed Hawk, American Kestrel or a Harris= Hawk.

800:25-7-32. Prohibited raptors

- (a) The taking of any raptor from the wild in Oklahoma that is not listed in 800:25-7-31 ~~(e)(d)~~ is prohibited.
- (b) Those species not listed in 800:25-7-31 ~~(e)(d)~~ as legal for taking in Oklahoma and any other captive-bred individuals

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or hybrids of species may be possessed and used for falconry provided the license holder can provide evidence that the bird was legally acquired.

(c) The taking or possession of endangered species or exotic birds, the import of which has been banned by the Oklahoma Department of Wildlife Conservation Commission is prohibited at all times except those acquired through legal means such as from a breeding facility.

PART 13. DEER

800:25-7-51. Deer - archery

The following hunting dates, open areas, bag limits and legal means of taking apply to hunting deer with archery:

- (1) **Dates.** The dates for the deer archery season shall be October 1 through January 15.
- (2) **Open areas.** The season is open statewide.
- (3) **Bag Limit.** Six (6) deer including no more than two (2) antlered deer. A separate tag is required for each deer to be hunted or harvested. All deer taken are included in the combined season statewide bag limit.
- (4) **Legal means of taking.** The legal means of taking deer with archery shall be as follows:

(A) **Legal bows.** A legal bow is any bow, ~~except the crossbow,~~ of forty pounds or more draw weight or any crossbow having a draw weight of 100 pounds or more. Crossbows must be equipped with safety devices. Leverage gaining devices are permitted. No crossbow may be transported in a motorized vehicle unless uncocked or disassembled. No bow that is at full or partial draw may be transported in a motorized vehicle.

(B) **Legal arrows and bolts** for deer shall be fitted with broadhead hunting type points not less than 7/8 inches wide, including mechanical broadheads meeting these dimensions when fully open. Crossbow bolts must be a minimum of 14 inches in length.

(C) ~~Any device~~ Devices that permits permit a bow to be held mechanically at full or partial draw ~~is prohibited~~ are permitted.

(D) Laser sights are prohibited.

(E) Hand-held releases are permitted.

(F) No person shall carry or use any firearm in conjunction with any bow and arrow during the archery deer season while hunting deer with bow and arrow, except under the provisions of the Oklahoma Self-Defense Act, or whenever the archery season is concurrent with any deer gun or deer primitive season and the hunter has the appropriate licenses and legal firearms and clothing requirements to participate in the said gun or primitive season.

(G) ~~Crossbows. A crossbow is defined as having a draw weight of 100 pounds. Bolts must be equipped with broadhead hunting type points not less than 7/8 inches wide and bolts must be a minimum of 14 inches in length. Crossbows must be equipped with safety devices. Laser sights are prohibited. Leverage~~

~~gaining devices are permitted. No crossbow may be transported in a motorized vehicle unless uncocked or disassembled.~~

800:25-7-54. Legal firearms and archery specifications

The following are the legal firearms specifications for rifles, muzzleloading firearms, shotguns, handguns and bows:

(1) **Rifles.** Centerfire rifles only and firing ammunition with a soft-nosed bullet are legal if firing at least a 55 grain weight bullet and having an overall cartridge case length of 1-1/4 inches or longer. Hollow point bullets are legal. Clips or magazines of all .22 caliber firearms may not be capable of holding more than seven (7) rounds of ammunition. Fully automatic firearms are prohibited.

(2) **Muzzleloading firearms.** Muzzleloading rifles and shotguns that are legal for the muzzleloading season shall also be legal in all areas open to rifles, except black powder firearms loaded from the breech are also legal. Muzzleloading pistols (single shot or revolver) with characteristics that are described for 40 caliber rifles are permissible as a secondary firearms, but may be used only for killing a downed animal.

(3) **Shotguns.** Twenty gauge shotguns or larger, firing a single rifled slug.

(4) **Handguns.** Centerfire handguns chambered for a 24 caliber or larger, 100 grain or heavier, soft-nosed bullet having an overall cartridge case length of 1 1/4 inches or longer, any semi-automatic pistol chambered for any centerfire ammunition with a 100 grain or heavier soft-nosed bullet and having a cartridge case size of .40 caliber or larger, or any pistol chambered for any centerfire rifle ammunition with a soft-nosed bullet firing at least a 55 grain bullet and having an overall cartridge case length of 1-1/4 inches or longer. Minimum barrel length is four inches. Fully automatic firearms are prohibited.

(5) **Bows, arrows, and bolts.** ~~Legal bows and arrows.~~ A legal bow is defined as any bow, ~~except the crossbow,~~ of forty (40) pounds or more draw weight or any crossbow having a draw weight of 100 pounds or more and being equipped with safety devices. Crossbow bolts must be a minimum of 14 inches in length. Legal arrows and bolts for deer shall be fitted with broadhead hunting type points not less than 7/8 inches wide, including mechanical broadheads meeting these dimensions when fully open. ~~Any device~~ Devices that permits permit a bow to be held mechanically at full or partial draw ~~is prohibited~~ are permitted. Laser sights are prohibited. Hand-held releases are permitted.

PART 15. FURBEARERS

800:25-7-60. Dates and legal furbearers

The following dates apply to the taking of legal furbearers:

(1) **Dates and legal furbearers.** The dates for the taking of furbearers shall be the first day of December to the last day of February [Title 29 O.S., Section 5-405] and those legal furbearers are as follows: Badger, bobcat, gray

fox, mink, muskrat, opossum, raccoon, red fox, river otter and weasel.

(2) **Open year-round.** The season for taking beaver, striped skunk, nutria and coyote is open year-round. Taking of mountain lion is allowed when the mountain lion is committing or about to commit depredation on any domesticated animal, or when acting in a manner as to constitute ~~a health or an immediate safety hazard or other nuisance~~. In the event a mountain lion is taken, an ODWC employee must be notified immediately and the intact carcass including the hide must be presented to ODWC within 24 hours for collection of biological information.

800:25-7-62. Open areas

The following provisions apply to areas which furbearers can be legally taken or are closed to harvest:

- (1) **Open statewide.** Badger, beaver, bobcat, coyote, gray fox, mink, muskrat, nutria, opossum, raccoon, red fox, striped skunk and weasel are open to harvest statewide.
- (2) **Closed statewide.** Ringtail, spotted skunk, and swift fox are closed to harvest statewide.
- ~~(3) **Open East of Interstate 35.** Gray fox can be taken East of I-35 only.~~
- (4) River otter may be taken in Adair, Atoka, Cherokee, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, McIntosh, Muskogee, Pittsburg, Pushmataha and Sequoyah counties.

PART 19. SEASONS ON AREAS OWNED OR MANAGED BY THE OKLAHOMA DEPARTMENT OF WILDLIFE CONSERVATION AND THE U.S. FISH AND WILDLIFE SERVICE

800:25-7-82. Atoka WMA

The following hunting and trapping seasons apply to the Atoka WMA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey-Fall:
 - (A) Archery: Same as statewide season dates, except closed during first 9 days of deer gun season.
 - (B) Gun: Closed season.
- (5) Turkey-Spring: Same as Southeast statewide season dates. ~~One tom season limit. Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.~~
- (6) Squirrel: Same as statewide season dates, except closed from opening day of archery season through first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed from opening day of archery season through first nine days of deer gun season.

- (8) Crow: Same as statewide season dates, except closed from opening day of archery season through first nine days of deer gun season.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
- (11) Common snipe: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed from the opening day of archery season through first nine days of deer gun season.
- (13) Deer-archery: Same as statewide season dates, except closed during first nine days of deer gun season.
- (14) Deer - primitive firearms: Controlled hunts only.
- (15) Deer - gun: Controlled hunts only.
- (16) Trapping: Open to water sets and live box traps only.
- (17) Pursuit with hounds: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season. In addition, closed during spring turkey season.
- (18) Predator/furbearer calling: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season. In addition, closed during spring turkey season.
- (19) Waterfowl: Same as statewide dates except closed from opening day of archery season through first nine days of deer gun season.

800:25-7-82.1. Atoka PHA

The following hunting and trapping seasons apply to the Atoka PHA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeast statewide season dates. ~~One tom season limit. Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.~~
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.

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- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates, except closed the last 7 days.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

800:25-7-86. Broken Bow WMA

The following hunting and trapping seasons apply to the Broken Bow WMA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey-Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey-Spring: Same as ~~Southeast~~ statewide season dates. Two tom season limit. Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer-archery: Same as statewide season dates.
- (14) Deer-primitive firearms: Same as statewide season dates.
- (15) Deer-gun: Same as statewide season dates.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

800:25-7-92. Chickasaw NRA

The following hunting and trapping seasons apply to the Chickasaw NRA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.

- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey-Fall:
 - (A) Archery: Same as statewide season dates, either-sex.
 - (B) Gun: Same as statewide season dates, 1 tom limit.
- (5) Turkey-Spring: Same as statewide season dates, 1 tom limit.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer-archery: Same as statewide season dates, except open to antlerless only.
- (14) Deer-primitive firearms: Same as statewide season dates, except open to antlerless only. Additional controlled hunts may be held.
- (15) Deer-gun: Same as statewide season dates, ~~except closed the last seven days of the deer gun season.~~ Antlerless only.
- (16) Trapping: Closed season.
- (17) Pursuit with hounds: Same as statewide season dates.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates.

800:25-7-93. Cookson WMA

The following hunting and trapping seasons apply to the Cookson WMA: ~~Unless otherwise provided, firearms are restricted to rimfire ammunition or shotguns with pellets.~~

- (1) Quail: ~~Open January 1 through January 31, except when statewide season closes prior to January 31.~~ Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey-Fall:
 - (A) Archery: ~~Open Saturday through Friday prior to statewide primitive season and the Monday following the close of deer gun season through January 15.~~ Same as statewide season dates, except closed from the opening day of deer primitive firearms season through deer gun season.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: ~~Open to special hunt permittees. Permits will be issued by drawing except the last 14 days of the statewide season will be open to the general public~~ Same as statewide season dates, 1 tom limit.

- (6) Squirrel: ~~Open August 1 through August 31 and January 1 through January 31, except when statewide season closes prior to January 31. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.~~
- (7) Rabbit: ~~Open January 1 through January 31, except when statewide season closes prior to January 31. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.~~
- (8) Crow: ~~Open January 1 through January 31, except when statewide season closes prior to January 31. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.~~
- (9) Dove: ~~Closed season. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.~~
- (10) Rail and gallinule: ~~Closed season. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.~~
- (11) Common snipe: ~~Open January 1 through January 31, except when statewide season closes prior to January 31. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.~~
- (12) Woodcock: ~~Open January 1 through January 31, except when statewide season closes prior to January 31. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.~~
- (13) Deer - archery: ~~Open Saturday through Friday prior to statewide primitive season and the Monday following the close of deer gun season through January 15. Same as statewide season dates, except closed from the opening day of deer primitive firearms season through deer gun season.~~
- (14) Deer - primitive firearms: Controlled hunts only.
- (15) Deer - gun: Controlled hunts only.
- (16) Trapping: ~~Open January 1 through January 31, except when statewide season closes prior to January 31. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.~~
- (17) Pursuit with hounds: ~~Open to special permittees only. Permits will be issued by drawing. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season and spring turkey season.~~
- (18) Predator/furbearer calling: ~~Open January 1 through January 31, except when statewide season closes prior to January 31. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.~~
- (19) Waterfowl: ~~Open January 1 through January 31, except when statewide season closes prior to January 31. Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.~~

800:25-7-102. Gary Sherrer WMA

The following hunting and trapping seasons apply to the Gary Sherrer WMA:

- (1) Quail: Same as statewide dates, except closed during first nine days of deer gun season.
- (2) Pheasant - Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season
- (5) Turkey - Spring: Same as Southeast statewide season dates. ~~One tom season limit.~~ Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates, except closed last seven days.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during the first nine days of deer gun season deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

800:25-7-102.1.1. Grady County WMA

The following hunting and trapping seasons apply to the Grady County WMA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates except closed during deer muzzleloader season and the first nine days of deer gun season, either-sex.
 - (B) Gun: Same as statewide season dates, 1 tom.
- (5) Turkey-spring: Same as statewide season dates, 1 tom limit.
- (6) Squirrel: Same as statewide season dates, except closed during first nine dates of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.

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- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer-archery: Same as statewide season dates except closed during deer muzzleloader season and the first nine days of deer gun season.
- (14) Deer-primitive firearms: Controlled hunts only.
- (15) Deer-gun: Controlled hunts only.
- (16) Trapping: Open to water sets and live box traps only.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed during first nine days of deer gun season.
- (19) Waterfowl: Same as statewide season dates.

800:25-7-102.2. Grassy Slough WMA

The following hunting and trapping seasons apply to the Grassy Slough WMA: All shotgun hunting restricted to federally approved nontoxic shot.

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeaststatewide season dates. ~~One tom season limit.~~ Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates, except closed during first nine days of deer gun season.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season..
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer-archery: Same as statewide season dates.
- (14) Deer-primitive firearms: Closed season.
- (15) Deer-gun: Closed season.
- (16) Trapping: Closed season.
- (17) Pursuit with hounds: Same as statewide season dates except closed during first nine days of deer gun season.

- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates.

800:25-7-108.1. Honobia Creek WMA

The following hunting and trapping seasons apply to the Honobia Creek WMA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeaststatewide season dates. ~~Two tom season limit.~~ Bag limit will be determined annually and published in the current Oklahoma hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

800:25-7-109. Hugo WMA

The following hunting and trapping seasons apply to the Hugo WMA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates.
 - (B) Gun: Closed Season.
- (5) Turkey - Spring: Same as Southeaststatewide season dates. ~~One tom season limit.~~ Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.

- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates, except closed during first nine days of deer gun season.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates, except closed last seven days of deer gun season.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed during first nine days of deer gun season.
- (19) Waterfowl: Same as statewide season dates.

800:25-7-110. Lyndol Fry WRP

The following hunting and trapping seasons apply to the Lyndol Fry WRP:

- (1) Quail: Same as statewide season dates, except closed October 15 - January 31.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates, except closed October 15 - January 31.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeast statewide season dates. One tom season limit. Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed October 15 - January 31.
- (7) Rabbit: Same as statewide season dates, except closed October 15 - January 31.
- (8) Crow: Same as statewide season dates, except closed October 15 - January 31.
- (9) Dove: Same as statewide season dates, except closed October 15 - January 31.
- (10) Rail and gallinule: Same as statewide season dates, except closed October 15 - January 31.
- (11) Common snipe: Closed season.
- (12) Woodcock: Closed season.
- (13) Deer - archery: Same as statewide season dates, except closed October 15 - January 31.
- (14) Deer - primitive firearms: Closed season.
- (15) Deer - gun: Closed season.
- (16) Trapping: Closed season.

- (17) Pursuit with hounds: Same as statewide season dates, except closed October 15 - January 31. In addition, closed during spring turkey season.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed October 15 - January 31. In addition, closed during spring turkey season.
- (19) Waterfowl: Same as statewide season dates, except closed October 15 - January 31.

800:25-7-113. James Collins WMA

The following hunting and trapping seasons apply to the James Collins WMA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall
 - (A) Archery: Same as statewide season dates, except closed during first nine days of deer gun season.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeast statewide season dates. One tom season limit. Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide dates, except closed from opening day of archery season through first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed from opening day of archery season through first nine days of deer gun season.
- (8) Crow: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
- (11) Common snipe: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed from the opening day of archery season through first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates, except closed during first nine days of deer gun season.
- (14) Deer - primitive firearms: Controlled hunts only.
- (15) Deer - gun: Controlled hunts only.
- (16) Trapping: Open to watersets and live box traps only.
- (17) Pursuit with hounds: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season. In addition, closed during spring turkey season.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed from opening day of archery season through first nine days of deer gun season. In addition, closed during spring turkey season.

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(19) Waterfowl: Same as statewide season dates except closed from opening day of archery season through first nine days of deer gun season.

800:25-7-125. McGee Creek WMA

The following hunting and trapping seasons apply to the McGee Creek WMA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates, except closed during first nine days of deer gun season.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeaststatewide season dates. ~~One tom season limit.~~Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.
- (8) Crow: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.
- (11) Common snipe: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed from the opening day of archery season through the first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates, except closed during first nine days of deer gun season.
- (14) Deer - primitive firearms: Controlled hunts only.
- (15) Deer - gun: Controlled hunts only.
- (16) Trapping: Open to water sets and live box traps only.
- (17) Pursuit with hounds: Same as statewide season dates except closed from opening day of archery season through the first nine days of deer gun season. In addition, closed during spring turkey season.
- (18) Predator/furbearer calling: Same as statewide season dates except closed opening day of archery season through the first nine days of deer gun season. In addition, closed during spring turkey season.
- (19) Waterfowl: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.

800:25-7-132. Ouachita WMA - LeFlore Unit

The following hunting and trapping seasons apply to the Ouachita WMA - LeFlore Unit:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeaststatewide season dates. ~~Two tom season limit.~~Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed during first nine days of deer gun season.
- (19) Waterfowl: Same as statewide season dates, except closed during deer gun season.

800:25-7-132.1. Ouachita WMA - Cucumber Creek Unit

The following hunting and trapping seasons apply to the Ouachita WMA - Cucumber Creek Unit. Walk-in access only.

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeaststatewide season dates. ~~Two tom season limit.~~Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.

- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer-archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide seasons dates, except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed during first nine days of deer gun season.
- (19) Waterfowl: Same as statewide season dates, except closed during deer gun season.

800:25-7-133.1. Ouachita WMA - McCurtain Unit

The following hunting and trapping seasons apply to the Ouachita WMA - McCurtain Unit:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeaststatewide season dates. ~~Two tom season limit~~ - Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.

- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

800:25-7-135. Pine Creek WMA

The following hunting and trapping seasons apply to the Pine Creek WMA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeaststatewide season dates. ~~One tom season limit~~ - Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates, except closed during first nine days of deer gun season.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates, except closed the last seven days of deer gun season.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed during first nine days of deer gun season.
- (19) Waterfowl: Same as statewide season dates.

800:25-7-136. Pushmataha WMA

The following hunting and trapping seasons apply to the Pushmataha WMA:

- (1) Quail: Same as statewide dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates, except closed during first nine days of deer gun season.
 - (B) Gun: Closed season.

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- (5) Turkey - Spring: Same as ~~Southeast~~statewide season dates. ~~One tom season limit.~~Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.
- (7) Rabbit: Same as statewide dates, except closed from opening day of archery season through the first nine days of deer gun season.
- (8) Crow: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.
- (11) Common snipe: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed from the opening day of archery season through the first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates, except closed during first nine days of deer gun season.
- (14) Deer - primitive firearms: controlled hunts only.
- (15) Deer - gun: Controlled hunts only.
- (16) Trapping: Open to water sets and live box traps only.
- (17) Pursuit with hounds: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season. In addition, closed during spring turkey season.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season. In addition, closed during spring turkey season.
- (19) Waterfowl: Same as statewide season dates, except closed from opening day of archery season through the first nine days of deer gun season.

800:25-7-136.1. Red Slough WMA

The following hunting and trapping seasons apply to the Red Slough WMA: All shotgun hunting restricted to federally approved nontoxic shot.

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as ~~Southeast~~statewide season dates. ~~One tom season limit.~~Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.

- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates, except closed during first nine days of deer gun season.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer-archery: Same as statewide season dates.
- (14) Deer-primitive firearms: Closed season.
- (15) Deer-gun: Closed season.
- (16) Trapping: Closed season.
- (17) Pursuit with hounds: Same as statewide season dates except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates.

800:25-7-136.2. Red Slough WRP

The following hunting and trapping seasons apply to the Red Slough WRP: All shotgun hunting restricted to federally approved nontoxic shot.

- (1) Quail: Open February 1 through 15.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex. Except closed October 15 - January 31.
 - (B) Gun: Closed season
- (5) Turkey - Spring: Same as ~~Southeast~~statewide season dates. ~~One tom season limit.~~Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates except closed October 15-January 31.
- (7) Rabbit: Same as statewide season dates except closed October 15-January 31.
- (8) Crow: Same as statewide season dates except closed October 15-January 31.
- (9) Dove: Same as statewide season dates except closed October 15-January 31.
- (10) Rail and gallinule: Same as statewide season dates except closed October 15-January 31.
- (11) Common snipe: Same as statewide season dates except closed October 15-January 31.
- (12) Woodcock: Closed season.
- (13) Deer-archery: Same as statewide season dates except closed October 15-January 31.
- (14) Deer-primitive firearms: Closed season.
- (15) Deer-gun: Closed season.
- (16) Trapping: Closed season.
- (17) Pursuit with hounds: Same as statewide season dates except closed October 15-January 31.

- (18) Predator/furbearer calling: Same as statewide season dates except closed October 15-January 31.
- (19) Waterfowl: Same as statewide season dates except closed October 15-January 31.

800:25-7-138. Robbers Cave WMA

(a) The following hunting and trapping seasons apply to the Robbers Cave WMA (that portion lying east of State Highway 2 and Coon Creek Road):

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as ~~Southeast~~statewide season dates. ~~One tom season limit.~~Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates, except closed last seven days of deer gun season.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

(b) The following hunting and trapping seasons apply to that portion lying north of State Highway 2 in Sections 5, 6 and 8 of the Robbers Cave WMA:

- (1) Quail: Closed season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.

- (5) Turkey - Spring: Same as ~~Southeast~~statewide season dates. ~~One tom season limit.~~Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, shotgun only.
- (7) Rabbit: Closed season.
- (8) Crow: Closed season.
- (9) Dove: Closed season.
- (10) Rail and gallinule: Closed season.
- (11) Common snipe: Closed season.
- (12) Woodcock: Closed season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Closed season.
- (16) Trapping: Closed season.
- (17) Pursuit with hounds: Closed season.
- (18) Predator/furbearer calling: Closed season.
- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

800:25-7-145. Spavinaw GMA

The following hunting and trapping seasons apply to the Spavinaw GMA: ~~Unless otherwise provided, firearms are restricted to rimfire ammunition or shotguns with pellets.~~

- (1) Quail: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates, except closed from the opening day of deer primitive season through deer gun season, and one (1) either sex bird limit on the PHA and GMA combined.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as statewide season dates, one (1) tom limit on the PHA and GMA combined.
- (6) Squirrel: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
- (8) Crow: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
- (9) Dove: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
- (10) Rail and gallinule: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
- (11) Common snipe: Same as statewide season dates, except closed from opening day of archery season through deer gun season.

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- (12) Woodcock: Same as statewide season dates, except closed from opening day of archery season through deer gun season.
- (13) Deer - archery: Same as statewide season dates, except closed from the opening day of deer primitive season through deer gun season.
- (14) Deer - primitive firearms: Controlled hunts only.
- (15) Deer - gun: Controlled hunts only.
- (16) Trapping: Same as statewide season dates, except closed from the opening day of archery season through deer gun season.
- (17) Pursuit with hounds: Same as statewide season dates, except closed from opening day of deer archery season through deer gun season and spring turkey season.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.
- (19) Waterfowl: Same as statewide season dates, except closed from the opening day of deer archery season through deer gun season.

800:25-7-146. Spavinaw PHA

The following hunting and trapping seasons apply to the Spavinaw PHA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates, ~~4 either sex~~ and one (1) either sex bird limit on the PHA and GMA combined.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as statewide season dates, ~~4 tom limit~~ one (1) tom limit on the PHA and GMA combined.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates, except closed the last seven days of deer gun season.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed during first nine days of deer gun season.

- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

800:25-7-147. Stringtown WMA

The following hunting and trapping seasons apply to the Stringtown WMA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as ~~Southeast~~ statewide season dates. ~~One tom season limit.~~ Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates, except closed last seven days of deer gun season.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

800:25-7-149.1. Three Rivers WMA

The following hunting and trapping seasons apply to the Three Rivers WMA:

- (1) Quail: Same as statewide dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as ~~Southeast~~ statewide season dates; ~~either sex.~~ Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
 - (B) Gun: Closed season.

- (5) Turkey - Spring: Same as statewide season dates. Two tom limit.
- (6) Squirrel: Same as statewide dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates, except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

800:25-7-154.2. Whitegrass Flats WMA

The following hunting and trapping seasons apply to the Whitegrass Flats WMA: All shotgun hunting restricted to federally approved nontoxic shot.

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Same as Southeaststatewide season dates. One tom season limit. Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates, except closed during first nine days of deer gun season.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season..
- (13) Deer-archery: Same as statewide season dates.
- (14) Deer-primitive firearms: Closed season.
- (15) Deer-gun: Closed season.
- (16) Trapping: Closed season.

- (17) Pursuit with hounds: Same as statewide season dates except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates.

800:25-7-155. Wister WMA

The following hunting and trapping seasons apply to the Wister PHA:

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex.
 - (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeaststatewide season dates. Two tom season limit. Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and gallinule: Same as statewide season dates.
- (11) Common snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - archery: Same as statewide season dates.
- (14) Deer - primitive firearms: Same as statewide season dates.
- (15) Deer - gun: Same as statewide season dates, except closed during last seven days of deer gun season.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates except closed during first nine days of deer gun season.
- (18) Predator/furbearer calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates.

800:25-7-156. Wister WRP

The following hunting and trapping seasons apply to the Wister WRP: All shotgun hunting restricted to federally approved nontoxic shot.

- (1) Quail: Same as statewide season dates, except closed October 15 - January 31.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
 - (A) Archery: Same as statewide season dates; either-sex. Except closed October 15 - January 31.

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- (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeast statewide season dates. ~~Two tom season limit. Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.~~
- (6) Squirrel: Same as statewide season dates, except closed October 15-January 31.
- (7) Rabbit: Same as statewide season dates, except closed October 15-January 31.
- (8) Crow: Same as statewide season dates, except closed October 15-January 31.
- (9) Dove: Same as statewide season dates, except closed October 15-January 31.
- (10) Rail and gallinule: Same as statewide season dates, except closed October 15-January 31.
- (11) Common snipe: Closed season.
- (12) Woodcock: closed season.
- (13) Deer - archery: Same as statewide season dates, except closed October 15-January 31.
- (14) Deer - primitive firearms: Closed season.
- (15) Deer - gun: Closed season.
- (16) Trapping: Closed season.
- (17) Pursuit with hounds: Same a statewide season dates, except closed October 15-January 31.
- (18) Predator/furbearer calling: Same as statewide season dates, except closed October 15-January 31.
- (19) Waterfowl: Same as statewide season dates, except closed October 15-January 31.

800:25-7-157. Yourman WMA

The following hunting and trapping seasons apply to the Yourman WMA: Walk-in access only, except for designated camping and parking areas.

- (1) Quail: Same as statewide season dates, except closed during first nine days of deer gun season.
- (2) Pheasant: Closed season.
- (3) Prairie chicken: Closed season.
- (4) Turkey - Fall:
- (A) Archery: Same as statewide season dates; either-sex.
- (B) Gun: Closed season.
- (5) Turkey - Spring: Same as Southeast statewide season dates. ~~1 tom limit. Bag limit will be determined annually and published in the current Oklahoma Hunting Guide.~~
- (6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
- (7) Rabbit: Same as statewide season dates, except closed during first nine days of deer gun season.
- (8) Crow: Same as statewide season dates.
- (9) Dove: Same as statewide season dates.
- (10) Rail and Gallinule: Same as statewide season dates.
- (11) Common Snipe: Same as statewide season dates, except closed during first nine days of deer gun season.
- (12) Woodcock: Same as statewide season dates, except closed during first nine days of deer gun season.
- (13) Deer - Archery: Same as statewide season dates.
- (14) Deer - Primitive: Same as statewide season dates.

- (15) Deer - Gun: Same as statewide season dates, except closed during last seven days of deer gun season.
- (16) Trapping: Same as statewide season dates.
- (17) Pursuit with hounds: Same as statewide season dates except closed during first nine days of deer gun season.
- (18) Predator/furbearer Calling: Same as statewide season dates.
- (19) Waterfowl: Same as statewide season dates, except closed during first nine days of deer gun season.

SUBCHAPTER 33. RESTITUTION FEES [REVOKED]

800:25-33-1. Purpose [REVOKED]

~~The purpose of this Subchapter is to establish restitution values for illegally taken wildlife.~~

800:25-33-2. Restitution fees [REVOKED]

~~(a) The following is a listing of wildlife along with its corresponding restitution fee. Restitution will be made to the Department upon conviction of alleged illegal taking of these species.~~

- ~~(1) Deer—\$700 each.
(2) Elk—\$1,500 each.
(3) Antelope—\$1,000 each.
(4) Turkey—\$200 each.~~

~~(b) Wildlife values not listed in (a) of this Section may be determined by the court.~~

[OAR Docket #11-362; filed 4-8-11]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 30. DEPARTMENT OF WILDLIFE LANDS MANAGEMENT

[OAR Docket #11-363]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

- Subchapter 1. Use of Department Managed Lands
800:30-1-3. License Requirements and Wildlife Conservation Passport
[AMENDED]
800:30-1-4. Camping [AMENDED]
800:30-1-5. Vehicles [AMENDED]
800:30-1-20. Restricted public use areas [AMENDED]

AUTHORITY:

Title 29 O.S., Sections 3-103, 4-138, 5-213 and 5-401 Article XXVI, Sections 1 and 3 of the constitution of Oklahoma; Department of Wildlife Conservation Commission

DATES:

Comment period:

December 1, 2010 - January 7, 2011

Public hearings:

Date: January 4, 2011

Time: 7:00 p.m.

McAlester - Kiamichi Vo-Tech

301 Kiamichi Dr (SW corner of Hwy 69 and Carl Albert Dr)

Date: January 6, 2011

Time: 7:00 p.m.

Idabel - Kiamichi Vo-Tech

3205 Lincoln Road NE (3 miles N of Hwy 259)

Oklahoma City - OK Department of Wildlife Conservation Auditorium,
1801 N. Lincoln Blvd.

Adoption:

February 7, 2011

Submitted to Governor:

February 10, 2011

Submitted to House:

February 10, 2011

Submitted to Senate:

February 10, 2011

Gubernatorial approval:

March 11, 2011

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on
April 7, 2011.

Final adoption:

April 7, 2011

Effective:

June 1, 2011

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATED BY REFERENCE:

n/a

ANALYSIS:

These rules establish that a Wildlife Conservation Passport (HB 2862) is required for entering or using lands owned and designated by the Commission, unless exempt; clarify camping regulations on a Wildlife Management Area; make it illegal to transport a cocked crossbow or bow held at full or partial draw in a vehicle and allow additional vehicle access to two WMA's.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 301.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2011:

SUBCHAPTER 1. USE OF DEPARTMENT MANAGED LANDS

800:30-1-3. License requirements and Wildlife Conservation Passport

(a) All persons carrying a firearm or bow and arrow on Department managed lands must possess a valid hunting or combination license unless exempt.

(b) Any person under the age of 14 must be immediately supervised by an adult while afield. Minors age 14-16 must be immediately supervised by an adult, unless they possess hunter safety certification.

(c) Any person entering or using land or lakes owned and designated by Commission resolution must possess a Wildlife Conservation Passport unless exempt.

800:30-1-4. Camping

(a) Camping is limited to a maximum of 14 days, except at areas open only to hunter camping for special season(s).

Camping on these areas is limited to 2 days longer than the period which the camper (hunter) is authorized to hunt.

(b) Quiet shall be maintained in all camping areas between the hours of 11:00 p.m. and 7:00 a.m. Excessive noise during such times which unreasonably disturbs persons is prohibited.

(c) All dogs or other pets must be kept on a leash or otherwise confined while in a camping area.

(d) No overnight camping is permitted at the following areas unless otherwise authorized by the Department:

- (1) Altus-Lugert WMA.
- (2) Arcadia Conservation Education Area - Any authorized camping must have education or conservation purpose.
- (3) Broken Bow WMA.
- (4) Canton WMA (waterfowl refuge portion).
- (5) Cherokee (GMA portion).
- (6) Dewey County WMA.
- (7) Drummond Flats WMA.
- (8) Eufaula WMA
- (9) Fort Gibson WMA.
- (10) Gist WMA.
- (11) Grady County WMA
- ~~(12)~~ Grassy Slough WMA.
- ~~(13)~~ Hackberry Flat (waterfowl refuge portion).
- ~~(14)~~ Hugo WMA (waterfowl refuge portion).
- ~~(15)~~ Major County Lands.
- ~~(16)~~ McClellan-Kerr WMA (includes waterfowl refuge portion).
- ~~(17)~~ McCurtain County Wilderness.
- ~~(18)~~ Okmulgee WMA (GMA portion).
- ~~(19)~~ Osage WMA (Western Wall Unit).
- ~~(20)~~ Ozark Plateau WMA.
- ~~(21)~~ Red Slough WMA.
- ~~(22)~~ Sparrow Hawk WMA.
- ~~(23)~~ Tenkiller WMA.
- ~~(24)~~ Van Osdol WMA.
- ~~(25)~~ Washita County WMA.
- ~~(26)~~ Whitegrass Flats WMA.
- ~~(27)~~ Wister WMA (waterfowl refuge portion).

(e) Hunter and fishermen camping is permitted only in designated camping areas at:

- (1) Atoka WMA (includes PHA portion).
- (2) Beaver River WMA.
- (3) Canton WMA (except waterfowl refuge portion).
- (4) Cherokee WMA (PHA portion).
- (5) Chickasaw NRA (Arbuckle).
- (6) Cimarron Bluff WMA.
- (7) Cimarron Hills WMA
- (8) Cooper WMA.
- (9) Copan WMA.
- (10) Ellis County WMA.
- (11) Fobb Bottom WMA.
- (12) Fort Cobb WMA.
- (13) Fort Supply WMA.
- (14) Hackberry Flat WMA (except waterfowl refuge portion).
- (15) Heyburn WMA .
- (16) Hickory Creek WMA.

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- (17) Hugo WMA (except waterfowl refuge portion).
 - (18) Hulah WMA.
 - (19) James Collins WMA.
 - (20) Kaw WMA.
 - (21) Lexington WMA.
 - (22) Mountain Park WMA.
 - (23) Okmulgee WMA (PHA portion, i.e., the area north and east of the Deep Fork River).
 - (24) Oologah WMA
 - (25) Optima WMA.
 - (26) Osage WMA (Rock Creek Unit).
 - (27) Pushmataha WMA.
 - (28) Sandy Sanders WMA.
 - (29) Stringtown WMA
 - ~~(2930)~~ Schultz WMA.
 - ~~(3031)~~ Skiatook WMA.
 - ~~(3132)~~ Texoma-Washita Arm WMA.
 - ~~(3233)~~ Tishomingo WMU.
 - ~~(3334)~~ Waurika WMA.
 - ~~(3435)~~ Yourman WMA.
- (f) Hunter camping is permitted only in designated camping areas and only during specified hunting seasons at:
- (1) Cookson Hills WMA, only during open hunting seasons on the area.
 - (2) Ouachita WMA (Homer L. Johnston portion), only during deer and turkey seasons.
 - (3) John Dahl WMA, only during hunting seasons.
 - (4) Packsaddle WMA, only during open hunting seasons.
 - (5) Robbers Cave WMA, only during open deer and turkey seasons.
 - (6) Spavinaw Hills WMA, only during open hunting seasons on the area.
- (g) Hunter and fishermen camping is permitted only within 50 yards of roads designated as open for public use at:
- (1) Deep Fork WMA.
 - (2) Gary Sherrer WMA, only during open hunting seasons on the area.
 - (3) Keystone WMA.
 - (4) Love Valley WMA.
 - (5) Pine Creek WMA.
 - ~~(6) Stringtown WMA, only during open hunting seasons on the area.~~
 - ~~(76)~~ Wister WMA, (except waterfowl refuge portion).
- (h) Camping is permitted in accordance with U.S. Forest Service regulations at:
- (1) Ouachita WMA - Le Flore Unit (Ouachita National Forest), except Homer L. Johnston Unit.
 - (2) Ouachita WMA - McCurtain Unit (Ouachita National Forest).
 - (3) Black Kettle WMA (Cibola National Forest) - Black Kettle National Grasslands.
 - (4) Rita Blanca WMA (Cibola National Forest) - Rita Blanca National Grasslands.
- (i) Camping is permitted in designated camping areas only at McGee Creek WMA.

800:30-1-5. Vehicles

- (a) Except as otherwise provided, all motorized vehicles are required to stay on roads designated as open for public or hunter use. There are no exceptions for motorcycles, four-wheel drive vehicles, snowmobiles or all terrain vehicles. Travel on roads which are gated and locked or designated as closed is prohibited, unless otherwise specified in annual regulations for nonambulatory persons holding valid permits.
- (b) Only those vehicles registered as legal to operate on Oklahoma public roadways may be used or parked on lands owned or managed by the Oklahoma Department of Wildlife Conservation, except on specified areas designated for off-road use; unless otherwise provided for nonambulatory persons holding valid permits. All vehicles used by nonambulatory permittees must conspicuously display a sticker designating the vehicle is being used by a nonambulatory permittee and motor vehicle permittees must conspicuously display a sticker designating the vehicle is being used by a motor vehicle hunt permittee.
- (c) Maximum speed limit shall be 25 mph unless otherwise posted.
- (d) Off-highway vehicle (OHV) use on the Ouachita WMA shall be the same as U.S. Forest Service rules and regulations for the Ouachita National Forest.
- (e) Off-highway vehicle (OHV) use on the Black Kettle and Rita Blanca WMAs shall be the same as U.S. Forest Service rules and regulations for the Cibola National Forest.
- (f) Off-road vehicle use on the Honobia Creek WMA shall be regulated by the following:
- (1) Off-Road Vehicles (ORV) and All-Terrain Vehicles (ATV) may be ridden on roads owned and maintained by John Hancock Mutual Life Insurance Company and managed by the Oklahoma Department of Wildlife as the Honobia Creek WMA. ORV/ATV use on county or state roads within the confines of the Honobia Creek WMA must comply with state requirements for street legal vehicles.
 - (2) Off-road travel by any motor vehicle, including ORVs and ATVs is prohibited.
 - (3) Motor vehicle travel, including ORVs and ATVs, on roads which are gated and locked, closed by an earthen mound, or otherwise designed as closed is prohibited.
- (g) It shall be unlawful to operate an all-terrain vehicle (ATV) or off-road vehicle (ORV) on the Three Rivers WMA except under the following restrictions:
- (1) During any open deer season.
 - (2) Any deer hunter licensed in Oklahoma, unless otherwise exempt.
 - (3) Any hunter while operating an ATV/ORV shall comply with daylight fluorescent orange head and chest covering as required for hunting deer gun seasons. If a crash helmet is worn, only the fluorescent orange chest covering is required.
 - (4) ATV/ORV use is restricted to WMA roads that are delineated on the current Three Rivers WMA map unless otherwise closed.
 - (5) Only unaltered standard manufactured ATV/ORV's with a 700 cc motor displacement or less are allowed.

(6) ATV/ORV use shall be restricted to a maximum speed of 25 mph.

(7) Operator and/or passenger under the age of 18 shall wear a crash helmet of a type which complies with standards established by C.F.R., Section 571.218.

(8) No operator of an ATV/ORV shall carry a passenger unless that ATV/ORV has been specifically designed by the manufacturer to carry passengers in addition to the operator.

(9) Leaving any ATV/ORV, treestand, or game camera unattended on the Three Rivers WMA without the owner's name and address affixed thereto in a conspicuous manner is prohibited.

(10) Use of ATV/ORV off of delineated roads for retrieval of lawfully taken deer shall be permissible only with the following restrictions:

(A) ATV/ORV's shall not travel more than 2 mile from the nearest road.

(B) ATV/ORV's shall not cross rivers and streams unless on a road with constructed stream crossing structures.

(C) ATV/ORV's used for deer retrieval shall not be used in areas otherwise closed to the use of motor vehicles (walk-in only hunting areas, etc.)

(h) It is unlawful for any person to hunt, chase, capture, shoot, attempt to shoot, wound or kill any wildlife from a motor driven vehicle on any Department managed areas, except as provided for persons holding a nonambulatory motor vehicle hunting permit.

(i) It is unlawful for any person to transport a loaded firearm on any Department managed area. ~~Crossbow permittees may not transport a cocked crossbow nor may the bolt be loaded while being transported in a motor vehicle.~~ No crossbow may be transported in a motor vehicle unless uncocked or disassembled. No bow that is at full or partial draw may be transported in a motorized vehicle. In addition, no person may take, catch, capture, kill or pursue wildlife or otherwise attempt to use for any purpose a vehicle mounted spotlight or other powerful light at night for any purpose on Department

managed lands, except as otherwise provided for hunting of furbearers and predators, taking of frogs, or for navigational purposes while in a water conveyance.

(j) Grassy Slough WMA, Hackberry Flat WMA, Red Slough WMA, Washita Arm WDU and Whitegrass Flats WMA are closed to all air driven water craft.

(k) It shall be unlawful for any person to use, transport, park, or unload any personal watercraft within the land and/or water boundaries of the Fort Gibson Wildlife Management Area.

800:30-1-20. Restricted public use areas

(a) The following Wildlife Management Areas are closed to all non-hunting activities except hunter camping (areas where camping is allowed) during the period October 1 - February 15: Beaver River, Canton, Lexington, except fishing and angler camping is permitted at Lake Dahlgren, Okmulgee, and Ellis County except fishing and angler camping is permitted at Lake Vincent, Fort Supply and Sandy Sanders.

(b) The following Wildlife Management Areas are closed to all non-hunting activities except hunter camping (on areas where camping is allowed) during the period October 1 - January 31 and spring turkey season: Atoka, Cherokee, Cookson, James Collins, McGee Creek, Osage, Pushmataha, and Spavinaw.

~~(e) The following areas are open to non hunting activities during the daylight hours only August 1-31: Cherokee GMA, Cookson WMA.~~

~~(d)~~ Lake Dahlgren shall be closed to all other activities during Lexington Wildlife Management Area designated controlled hunt dates.

~~(e)~~ The following Conservation Education Areas are closed to all non-hunting and non-fishing activities during the period of October 1 - January 15 unless authorized by ODWC; camping and fires of any kind are not permitted unless authorized by ODWC: Arcadia Conservation Education Area.

[OAR Docket #11-363; filed 4-8-11]

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

1:2011-8a.

AMENDED EXECUTIVE ORDER 2011-08 OF MARCH 11, 2011

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. All of the 77 counties in Oklahoma are currently under a severe wildfire threat beginning March 11, 2011, and continuing. The entire State is being affected.
2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.
3. There is hereby declared a disaster emergency caused by the wildfires in the entire State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety.
4. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.
5. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.
6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

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 8th day of April, 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Assistant Secretary of State

[OAR Docket #11-384; filed 4-11-11]

1:2011-10.

EXECUTIVE ORDER 2011-10

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the authority vested in me by the provision of Section 256 of Title 75 of the Oklahoma Statutes do hereby order:

A. The following executive orders placing various agencies or parts of agencies under the merit system shall remain in full force and effect:

1. The unnumbered executive orders issued by the Honorable J. Howard Edmondson:

Dated November 6, 1959, concerning the current Employment Security Commission and the Department of Health

Dated December 3, 1959, concerning the Civil Defense Department, Office of Division of the Budget, now referred to as the Office of State Finance, Board of Cosmetology and the Office of the State Reformatory

Dated December 9, 1959, concerning the current Office of Professional Engineers, now referred to as the Board of Registration for Professional Engineers and Land Surveyors, and the Office of the State Securities Commission, now referred to as the Department of Securities

Dated January 6, 1960, concerning the current Office of State Personnel Board, now referred to as the Office of Personnel Management

Executive Orders

Dated January 22, 1960, concerning the Historical Society, Commission of the Land Office, now referred to as the Office of the Land Commissioners, the Oklahoma Cerebral Palsy Commission, now referred to as the J.D. McCarty Center for Handicapped Children, Department of Public Safety, Water Resources Board

Dated March 3, 1960, concerning the current Liquefied Petroleum Gas Board and the Adjutant General's Department, now referred to as the Military Department

Dated March 7, 1960, concerning the current Department of Agriculture and Department of Libraries

Dated April 4, 1960, concerning the current Department of Highways, now referred to as the Department of Transportation

Dated May 5, 1960, concerning the current Soil Conservation Board, now referred to as the Conservation Commission

Dated May 27, 1960, concerning the Department of Mental Health

2. The unnumbered Executive Orders issued by the Honorable Henry Bellmon:

Dated January 18, 1965, concerning the current Office of the Oklahoma Capitol Improvement Authority

Dated April 28, 1966, concerning the current State Fire Marshal, now referred to as the State Fire Marshall's Commission, Board of Pharmacy, Real Estate Commission, Oklahoma Turnpike Authority, Will Rogers Memorial Commission, and Oklahoma Aeronautics Commission

Dated June 23, 1966, concerning the Grand River Dam Authority

Dated August 24, 1966, concerning the Cerebral Palsy Center, now referred to as the J.D. McCarty Center for Handicapped Children

Dated September 15, 1966, concerning the current Oklahoma State Retirement System, now referred to as the Public Employees Retirement System

3. The unnumbered Executive Orders issued by the Honorable Dewey Bartlett:

Dated October 11, 1967, concerning the current Department of Corrections

Dated September 5, 1968, concerning the current Oklahoma State Bureau of Investigation

4. The unnumbered Executive Order issued by the Honorable David Hall:

Dated December 2, 1974, concerning the current Department of Consumer Affairs, now referred to as the Department of Consumer Credit

5. The Executive Orders issued by the Honorable David Boren in 1978:

22 Carl Albert Community Mental Health Center
23 Jim Taliaferro Community Mental Health Center

6. The Executive Orders issued by the Honorable George Nigh:

79-8 Central Oklahoma Community Mental Health Center
80-4 Phil Smalley Children's Center
85-8 Department of Health
86-29 Oklahoma Pecan Commission
86-30 Office of Handicapped Concerns
86-31 Board of Governor's of the Registered Dentists
86-32 Oklahoma State Board of Embalmers and Funeral Directors
86-33 Board of Medical Examiners now referred to as the State Board of Medical Licensure and Supervision
86-34 Oklahoma Motor Vehicle Commission
86-35 State Board of Osteopathy, now referred to as the State Board of Osteopathic Examiners
86-36 Oklahoma Peanut Commission
86-37 Sheep and Wool Utilization, Research and Market Development Commission now referred to as the Sheep and Wool Commission
86-38 Oklahoma State Insurance Fund
86-41 The Department of Pollution Control, now referred to as the Department of Environmental Quality
86-42 Commission on Children and Youth

7. The Executive Order issued by the Honorable Henry Bellmon:

91-1 Highway Safety Division of the Oklahoma Department of Transportation

8. The Executive Orders issued by the Honorable Frank Keating:

98-11 Oklahoma State and Education Employees Group Insurance Board
98-12 Oklahoma Ethics Commission

B. The following additional Executive Orders shall remain in full force and effect:

1. The following additional Executive Orders issued by the Honorable David Walters:

91-10 establishing the Governor's Council on Physical Fitness
91-19 establishing the position of State Geographer

94-16 designating the Secretary of the Environment to be responsible to disburse certain funds for the State

2. The following additional Executive Orders issued by the Honorable Frank Keating:

- 93-20 (as amended on 9/5/02) establishing the Developmental Disabilities Council
- 95-6 designating the DHS Director to be the State Administrator of the federal food stamp program
- 95-7 designating the Oklahoma Housing Finance Agency to administer the federal housing credit program
- 96-07 designating Office of Juvenile Affairs as agency responsible for state juvenile justice plans
- 96-08 designating the Oklahoma Community Service Commission to oversee the State's participation in federal volunteer & other programs
- 96-27 directing Executive Department agencies, boards, and commissions with access to the Internet to develop an internal policy prohibiting child pornography and other obscene materials
- 97-08 designating the Director of DCS to issue emergency declarations closing state buildings when unsafe working conditions exist
- 97-12 designating the Oklahoma Amateur Sports Commission to advise Governor on the promotion of amateur sports
- 98-37 establishing procedures for local project funding contracts when contracts are not covered by competitive bidding statutes
- 2001-27 designating the DHS Director to be the State Administrator of the federal Improved Independent Living Program

3. The following Executive Orders issued by the Honorable Brad Henry:

- 2003-22 requiring certification and submission of payrolls for payment
- 2003-29 appointing Commissioner of Department of Public Safety as Governor's designee for advising when hazardous weather conditions exist
- 2004-1 clarifying powers for Secretary of Environment
- 2004-10 creating the Governor's Interagency Council on Homelessness
- 2004-13 creating AMBER plan for Oklahoma
- 2004-38 State government work places shall be free from illegal manufacture, distribution, dispensation, possession or use of any controlled substance
- 2006-4 re-establishing the Interagency Coordinating Council for Early Childhood Intervention (as amended on January 27, 2006)
- 2006-20 creating United We Ride Council
- 2006-28 designating Director of Oklahoma Department of Health to act as designee for Low-Income Home Energy Assistance Block Grant certifications
- 2007-05 amending the AMBER plan for Oklahoma
- 2007-42 Interoperable Communications for First Responders

- 2008-04 establishes the Oklahoma Health Information Security and Privacy Council
- 2008-31 establishes the Governor's United We Ride Council
- 2009-11 appoints Oklahoma Homeland Security Director as the State Continuity Coordinator and establishes Governor's Continuity Policy Coordination Committee
- 2010-02 State Holidays for 2011
- 2010-06 Texting While Driving
- 2010-14 American Recovery and Reinvestment Act of 2009 (ARRA) Development Bonds
- 2010-34 ARRA Bonds
- 2010-35 ARRA

This Executive Order shall be distributed to all members of the Governor's Cabinet.

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 8th day of April, 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Assistant Secretary of State

[OAR Docket #11-385; filed 4-11-11]

1:2011-11.

EXECUTIVE ORDER 2011-11

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by law, so that the status quo shall be maintained, and pursuant to the provisions of Subsection D of Section 840-2.14 of Title 74 of the Oklahoma Statutes, hereby order a state agency hiring freeze.

For purposes of this hiring freeze, each statewide elected official shall perform the duties of a Cabinet Secretary in approving or disapproving exemptions to this hiring freeze. These duties shall be accomplished in the same manner as other official actions by the elected officials.

This hiring freeze shall be implemented by all agencies in accordance with the following guidelines:

1. It is my direction that no audits of classified positions or reallocation of unclassified positions shall be initiated or conducted at the request of any agency unless specifically approved by the appropriated Cabinet Secretary.
2. All audits resulting from a classification grievance shall be exempted from the provisions of this Executive Order.

Executive Orders

3. Except as specifically provided and authorized by this order, all affected state agencies are prohibited from hiring, reinstating, or promoting employees and from accepting a transferred employee from another agency.

4. Exceptions to this hiring freeze may be granted pursuant to special conditions as declared by the Chief Administrative Officer of any agency and approved by the appropriate Cabinet Secretary for that agency. However, information technology positions, regardless of the Cabinet area of which the individual is employed, shall be approved or disapproved by the Secretary of Information Technology and Telecommunications. The information technology positions subject to this exception includes, but are not limited to, both classified and unclassified positions in the following functional areas: Applications Programming, EDP Audit, Data Examination, Computer Applications, Computer Data Entry, Computer Networking, Computer Operations, Computer Programming, Computer Security, Computer Software Design, Web Applications, Data Base Analysis, Data Management Analysis, Data Base Development, Data Base Programming, Software Design/Development, Help Desk, Imaging, Systems Analysis, Systems Application Planning, Systems Application, Systems Administration, Systems Coordination, Systems Integration, Systems Operation, Systems Planning/Development, Systems Programming, Systems Engineering, Systems Services Specialist, Systems Support, Network Administration, Network Management, Network Technical, Operating Systems Specialist, Systems, Program Manager, Telecommunications (Data and Voice), Software Training, and Technology Development/Support.

a. A Chief Administrative Officer shall submit a written request to the appropriate Cabinet Secretary stating the special conditions requiring the submission of the request.

b. Such requests may be on forms provided by the Office of Personnel Management. If an agency has an internal form regularly used by that agency which provides all the necessary information, that form may be used in lieu of the Office of Personnel Management forms if approved by the Administrator of the Office of Personnel Management.

c. The Cabinet Secretary shall indicate approval in writing of the submitted request for the granting of an exception of this hiring freeze.

d. All approved requests and approved Cabinet Secretary findings shall be maintained as an official record by the Office of Personnel Management in accordance with Records Management Act. Any agency which does not submit personnel action requests for approval to the Office of Personnel Management shall be responsible for maintaining this documentation.

e. In the event of a vacancy in a Cabinet Secretary position, the Secretary of State shall act as the approving authority for the hiring freeze exception request.

5. The Administrator of the Office of Personnel Management and the Director of the Office of State Finance are hereby directed to develop and implement procedures necessary to carry out the provisions of this Executive Order.

6. The Director of the Office of State Finance is authorized to require Cabinet Secretaries to provide him with periodic accountings of their approvals and disapprovals of written request for exemptions to this hiring freeze. These reports shall be provided to the Governor.

7. The Oklahoma Military Department shall not be required to comply with this order for hiring personnel and contracts for which the department receives total federal government reimbursement.

Copies of this Executive Order shall be distributed to the Secretary for Human Resources and Administration for immediate implementation.

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 12th day of April, 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Assistant Secretary of State

[OAR Docket #11-386; filed 4-13-11]

1:2011-12.

EXECUTIVE ORDER 2011-12

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Tuesday, April 19, 2011, in memory of those killed and injured in the bombing of the Alfred P. Murrah Federal Building on April 19, 1995.

We shall never forget the one hundred sixty-eight individuals who lost their lives, including nineteen children, or the more than eight hundred fifty others who were injured. The people of Oklahoma will always remember the courage and compassion of those from around the world who were involved in the rescue and recovery and tremendous outpouring of goodwill by countless others.

This executive order shall be forwarded to the Director of the Department of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of State government.

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 15th day of April, 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

Michelle R. Day
Assistant Secretary of State

[OAR Docket #11-425; filed 4-15-11]

1:2011-13.

EXECUTIVE ORDER 2011-13

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution hereby declare the following:

1. Tornadoes, severe storms, and straight line winds beginning April 14, 2011, and that are continuing, have caused extensive damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this state.

2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. There is hereby declared a disaster emergency caused by the tornadoes, severe storms, and straight line winds in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health and safety. The counties included in this declaration are:

Atoka, Carter, Coal, Creek, Custer, Delaware, Harper, Johnston, Latimer, LeFlore, Lincoln, Love, Marshall, Murray, Okfuskee, Okmulgee, Osage, Pittsburg, Pontotoc, Pushmataha, Rogers, Seminole, Tulsa, Wagoner, Washington, and Woodward.

This declaration may be amended to add counties as conditions warrant.

4. The State Emergency Operations Plan was activated on April 14, 2011, and resources of all State departments and

agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

5. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

6. This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 15th day of April 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

Michelle R. Day
Assistant Secretary of State

[OAR Docket #11-426; filed 4-15-11]

1:2011-14.

EXECUTIVE ORDER 2011-14

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the power vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution and 63 O.S. §683.1 et seq., and pursuant to Title 49 CFR Part 390.23, hereby declare that because there is a state of emergency existing in the State of Oklahoma due to catastrophic weather occurring statewide, it is necessary to assist and expedite all efforts of storm relief. In order to accommodate this need and to provide assistance to the citizens of Oklahoma in this extraordinary situation, I hereby order the temporary suspension of the following as they apply to vehicles used in the support efforts:

1. The requirements for special permits for use of oversized vehicles under Title 47;
2. The requirements for special permits for use of overweight vehicles operating off the interstate highway system under Title 47;

Executive Orders

3. The requirements for licensing/operating authority as required by the Oklahoma Corporation Commission;
4. The requirements for licensing/registration as required by the Oklahoma Tax Commission and the Oklahoma Corporation Commission;
5. Exemption from Parts 390 through 399 of Title 49 of the Federal Motor Carrier Safety Regulations.

Declaration of this emergency provides relief for 30 days from Sections 390 through 399 of the Federal Motor Carrier Safety regulations for those interstate and intrastate carriers who are providing direct assistance for the immediate restoration of essential services (such as electrical, sewer, water, and telecommunications) or essential supplies (such as food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed. Direct assistance terminates when a driver or commercial motor vehicle is used in interstate or intrastate commerce to transport cargo not destined for the emergency relief effort, or when a motor carrier dispatches such driver or vehicle to a location outside the relief area.

Nothing contained in this declaration shall be construed as an exemption from the Controlled Substance and Alcohol Use and Testing requirements (49 CFR Part 382), the Commercial Driver License requirements (49 CFR Part 383), the Financial Responsibility requirements (49 CFR Part 387), or any other

portion of the regulations not specifically identified herein. Motor carriers that have an Out-Of-Service Order in effect cannot take advantage of the relief from regulation that this declaration provides.

Consistent with Title 49 CFR Part 390.23 this emergency notice will remain in effect for 30 days, April 15, 2011 through May 16, 2011.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

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 this 15th day of April, 2011.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Michelle R. Day
Assistant Secretary of State

[OAR Docket #11-427; filed 4-15-11]
