

**TITLE 145. OKLAHOMA DEPARTMENT OF EMERGENCY MANAGEMENT
CHAPTER 15. OKLAHOMA 9-1-1 MANAGEMENT AUTHORITY [NEW]**

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Chapter 15. Oklahoma 9-1-1 Management Authority [NEW]
- Subchapter 1. Administrative Operations [NEW]
 - 145:15-1-1. Purpose [NEW]
 - 145:15-1-2. Definitions [NEW]
 - 145:15-1-3. Computation of time [NEW]
 - 145:15-1-4. Availability of forms and documents [NEW]
 - 145:15-1-5. Petition requesting promulgation, amendment or repeal of a rule [NEW]
 - 145:15-1-6. Filing and disposition of petitions for declaratory rulings [NEW]
 - 145:15-1-7. Relief from rules [NEW]
- Subchapter 3. Oklahoma 9-1-1 Management Authority [NEW]
 - 145:15-3-1. Officers [NEW]
 - 145:15-3-2. Committees [NEW]
 - 145:15-3-3. Meetings [NEW]
- Subchapter 5. Reporting Requirements [NEW]
 - 145:15-5-1. Annual reports [NEW]
 - 145:15-5-2. Audits of service providers [NEW]
- Subchapter 7. Disbursement of 9-1-1 Telephone Fees [NEW]
 - 145:15-7-1. Annual determination of eligibility and population [NEW]
 - 145:15-7-2. Escrow of funds [NEW]
- Subchapter 9. Grant program [NEW]
 - 145:15-9-1. Purpose [NEW]
 - 145:15-9-2. Application process [NEW]
 - 145:15-9-3. Award process [NEW]
 - 145:15-9-4. Grant administration and evaluation [NEW]

AUTHORITY:

Department of Emergency Management; 2016 Okla. Sess. Laws ch. 324, § 12

ADOPTION:

June 7, 2017

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2018, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

Incorporated standards:

Federal Communications Commission (FCC) Rule on 911 Service, 47 C.F.R. 20.18
National Emergency Number Association, Inc. (NENA) NextGen 9-1-1 Standards

Incorporating rules:

- 145:15-1-2
- 145:15-3-2
- 145:15-5-1
- 145:15-7-2
- 145:15-9-1

Availability:

8:00 a.m. to 5:00 p.m., Monday through Friday, Department of Emergency Management, 2401 Lincoln Blvd. Suite C51, Oklahoma City, OK 73105.

FINDING OF EMERGENCY:

Pursuant to the Oklahoma 9-1-1 Management Authority Act, 63 O.S., Sections 2861, *et seq.*, the Oklahoma 9-1-1 Management Authority was created on November 1, 2016. Some of the Authority's primary duties are directing the distribution of fees for the support of public safety answering points (PSAPs) throughout the state, ensuring PSAP compliance with safety standards regarding receiving and processing 9-1-1 calls, and administering grants to PSAPs for the purpose of upgrading technology. The emergency rules are necessary to allow the Authority to implement the provisions of the bill. The emergency rules are necessary to protect the public health, safety or welfare and avoid serious prejudice to the public interest.

GIST/ANALYSIS:

The purpose of the proposed rules is to establish procedures and guidelines for the implementation and enforcement of the Oklahoma 9-1-1 Management Authority Act, 63 O.S., Sections 2861, *et seq.* created by HB 3126. The Act created the Oklahoma 9-1-1 Management Authority and charged the Authority with overseeing the development and regulation of 9-1-1 emergency systems in the state and managing the distribution of all 9-1-1 telephone fees collected under the Act. The proposed emergency rules provide for definitions, establish general operating procedures, create officers and committees, establish meeting requirements, specify annual report requirements, provide for audits of service providers, establish guidelines for the determination of eligibility and population for the disbursement of fees, provide for the escrow of funds, and establish grant program procedures and requirements.

CONTACT PERSON:

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

SUBCHAPTER 1. ADMINISTRATIVE OPERATIONS [NEW]

145:15-1-1. Purpose [NEW]

The purpose of this Chapter is to establish procedures and guidelines for the implementation and enforcement of the Oklahoma 9-1-1 Management Authority Act, 63 O.S., Sections 2861, *et seq.*

145:15-1-2. Definitions [NEW]

In addition to the terms defined in 63 O.S., Section 2862, the following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma 9-1-1 Management Authority Act, 63 O.S., Sections 2861, et seq.

"Coordinator" means the Oklahoma 9-1-1 Coordinator selected by the Authority to administer grants approved by the Authority and perform other duties as it deems necessary to accomplish the requirements of the Act.

"Next-Gen 9-1-1" means an initiative of the National Emergency Number Association (NENA) to update the 9-1-1 service infrastructure to allow for additional types of emergency communication and data transfer such as text, images, and video in addition to phone communication.

"Phase II" means a wireless Enhanced 9-1-1 program where wireless carriers provide the PSAP with the location of the caller to a certain degree of certainty in accordance with accuracy standards set by the Federal Communications Commission (FCC).

145:15-1-3. Computation of time [NEW]

In computing any time period prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is not a working day, in which event the period runs until the end of the next day which is a working day.

145:15-1-4. Availability of forms and documents [NEW]

All forms required by the Authority are available at the Authority's office and on the Authority's website. Additional forms and instructions may be developed for use when deemed necessary by the Authority. All records of the Authority which are public record pursuant to the Oklahoma Open Records Act and are not confidential or otherwise protected from public disclosure by applicable statutes or rules shall be available for public review and copying during regular business hours at the Authority's office. Copies shall be available upon payment of applicable fees.

145:15-1-5. Petition requesting promulgation, amendment or repeal of a rule [NEW]

All interested persons may request the Oklahoma Department of Emergency Management to promulgate, amend or repeal a rule. Such request shall be in writing, signed by the person seeking the change, state the rule involved, the alleged need or necessity therefore, whether it conflicts with any existing rule, and what statutory provisions, if any, are involved. If the request is approved, notice will be given that such proposal will be formally considered for adoption. If it is determined that the proposal or request is not a necessary rule, amendment or repeal, the same will be refused and the decision reflected in the records. A copy of the decision will be sent to the person who submitted the request.

145:15-1-6. Filing and disposition of petitions for declaratory rulings [NEW]

Any person who may be directly affected by the existence or application of any of the rules of the Oklahoma Department of Emergency Management that the Authority shall enforce may request in writing an interpretation or ruling regarding the application of such rule to a particular set of facts. Such request shall be in writing, signed by the person seeking the ruling, state the

rule involved, and contain a brief and concise statement of facts to which the ruling shall apply. The Authority will make the final determination of the interpretation or ruling. Such interpretation of the rule will be furnished in writing within a reasonable time to the person making the request.

145:15-1-7. Relief from rules [NEW]

Whenever compliance with any requirement of this Chapter would result in unreasonable hardship upon or excessive expense to a party or parties subject to the rules of this Chapter, the Authority may, upon application and for good cause shown, issue an order waiving or modifying the requirements of this Chapter. The Authority may grant temporary relief pending hearing.

SUBCHAPTER 3. OKLAHOMA 9-1-1 MANAGEMENT AUTHORITY [NEW]

145:15-3-1. Officers [NEW]

- (a) The Oklahoma 9-1-1 Management Authority shall have the following officers:
 - (1) Chair. It shall be the duty of the Chair to conduct the meetings. The Chair shall appoint all standing committee chairs who shall form, along with the Vice Chair and the Secretary, the Executive Committee.
 - (2) Vice Chair. The Vice Chair shall conduct the meetings in the absence of the Chair, and shall perform such other duties as may be assigned by the Chair or the Authority.
- (b) Officers shall serve in office for one year and may serve in the same office for no more than two consecutive one year terms.
- (c) Nominations for a slate of officers shall be presented to the full Authority by the Nominating Committee.

145:15-3-2. Committees [NEW]

- (a) The Authority shall have the following standing committees:
 - (1) Administrative Committee. The duties of the Administrative Committee shall include the following:
 - (A) recommending changes to administrative rules;
 - (B) advising on issues of budget and finance;
 - (C) recommending certification of PSAPs for funding;
 - (D) overseeing the distribution of grants;
 - (E) recommending the escrow of funds;
 - (F) reviewing PSAP annual reports;
 - (G) conducting or reviewing audits of fee collections;
 - (H) recommending areas for grant funding emphasis; and
 - (I) such tasks as the Chair deems advisable, subject to the approval of the Authority.
 - (2) Technical Committee. The duties of the Technical Committee shall include the following:
 - (A) developing a plan to deploy Next-Gen 9-1-1 services statewide;
 - (B) recommending 9-1-1 equipment standards for use in competitive bidding and contracting;
 - (C) developing model plans to facilitate equipment and technology sharing;
 - (D) identifying state, federal and industry programs and standards beneficial for the deployment of Next-Gen 9-1-1 statewide;

- (E) recommending areas for grant funding emphasis;
 - (F) conducting an inventory of the 9-1-1 infrastructure;
 - (G) identifying call routing and networks in use by PSAPs; and
 - (H) such tasks as the Chair deems advisable, subject to the approval of the Authority.
- (3) Operations Committee. The duties of the Operations Committee shall include the following:
- (A) developing training program standards for 9-1-1 call takers;
 - (B) reviewing PSAP annual report items that relate to national emergency dispatch standards;
 - (C) recommending improvement plans for PSAPs who have failed to deploy Phase II service or have failed to deliver service consistent with NENA standards;
 - (D) developing best practices for PSAP operations;
 - (E) formulating a Strategic Plan as a guide for statewide coverage and interoperability between PSAPs;
 - (F) recommending areas for grant funding emphasis; and
 - (G) such tasks as the Chair deems advisable, subject to the approval of the Authority.
- (b) Ad hoc committees may be established by the Chair or by the majority vote of the Authority. Non-members may be appointed to ad-hoc committees subject to the Authority's approval. The Chair of each ad hoc committee must be a member of the board. The Chair is not included as a member of the Executive Committee.
- (c) Executive Committee. Members of the Executive Committee shall be the officers and standing committee chairs.

145:15-3-3. Meetings [NEW]

- (a) The Authority shall approve a schedule of regular meetings for the upcoming calendar year by December 15 of each year. In the event that the authority fails to approve a schedule of meetings, the Chair may file a schedule of meetings pursuant to the Open Meetings Act and submit the schedule to the Authority for approval at the next regularly scheduled meeting.
- (b) Special meetings may be called by the Chair or by a majority of the Authority present at a duly called meeting.
- (c) A quorum of the Authority must be present for any business to be conducted. A majority of the filled seats of the Authority shall constitute a quorum.

SUBCHAPTER 5. REPORTING REQUIREMENTS [NEW]

145:15-5-1. Annual reports [NEW]

- (a) Public agencies shall submit an annual report on a form to be prescribed by the Authority no later than September 1 of each year. The report shall cover the immediately preceding fiscal year of the public agency.
- (b) The annual report shall contain the following:
 - (1) information regarding the operation and financing of the PSAP;
 - (2) all sources of funding available to the public agency for the provision of 9-1-1 services;
 - (3) a copy of the most recent annual audit showing all expenses of the public agency relating to the 9-1-1 emergency telephone system;
 - (4) information demonstrating that the public agency delivered service consistent with National Emergency Number Association (NENA) standards;

(5) information demonstrating that the public agency has deployed Phase II service or has complied with the terms of a master plan to deliver Phase II that has been previously approved by the Authority; and

(6) any additional information deemed necessary by the Authority.

(c) The annual report will be reviewed by the Coordinator who may request additional information as necessary. A representative of the public agency may be requested to present the annual report to the Authority. The Authority will review the annual report and approve, modify, request additional information or reject the report.

(d) Failure by a public agency to submit the report annually or denial of a report may cause the Authority to order the Tax Commission to escrow the 9-1-1 emergency telephone fees due to the public agency until the public agency complies with the requirements of the Oklahoma 9-1-1 Management Authority Act and the procedures established by the Authority. [63:2868]

(e) Public agencies shall timely notify the Authority in the event that the name, contact information or response area of the PSAP changes. Failure to timely notify the Authority may result in delay of funding.

145:15-5-2. Audits of service providers [NEW]

An audit of a wireless service provider or VoIP provider may be requested by the State Auditor and Inspector, the Authority or any affected public agency. If the audit results in a finding that the provider has collected and remitted fees in accordance with the Act, the Authority will approve the audit. Upon approval of the audit by the Authority, the provider may request reimbursement of audit expenses by submitting a written request and supporting documentation to the Authority.

SUBCHAPTER 7. DISBURSEMENT OF 9-1-1 TELEPHONE FEES [NEW]

145:15-7-1. Annual determination of eligibility and population [NEW]

(a) The Authority will establish and submit to the Tax Commission a list of eligible governing bodies entitled to receive 9-1-1 telephone fees and establish annual population figures for the purpose of distributing fees collected pursuant to the Act. Population figures will be derived by dividing the population of each public agency's response area by the total population of the state using data from the latest available Federal Census estimates. An agency's response area is defined as the territory within which landline 9-1-1 calls are directed to the agency to be answered.

(b) If a public agency disputes the Authority's determination regarding the population of the public agency's response area, the public agency may be permitted to present information regarding the population of the public agency's response area to the Authority. If the Authority determines that an error was made, the Authority may correct the population figures submitted to the Tax Commission.

(c) If more than one public agency operates in the same response area, providing different types of 9-1-1 call answering service (VoIP, Wireless, Landline), the public agencies shall enter into a written agreement regarding the percentage of the total population of the response area that will be attributed to each public agency for purposes of distributing funds under the Act. The details of the agreement shall be submitted by each public agency in the annual report. If the public agencies fail to enter into such an agreement, the population of the public agency answering

wireless calls will be approved. The public agencies shall submit all information deemed necessary by the Authority to aid in the determination.

145:15-7-2. Escrow of funds [NEW]

(a) The Authority may direct the Tax Commission to escrow all or any portion of funds collected pursuant to the Act attributable to a public agency if the public agency fails to:

- (1) submit or comply with master plans to deliver Phase II 9-1-1 wireless locating services as required by this Act and approved by the Authority;
- (2) meet standards of the National Emergency Number Association (NENA) limited to call-taking and caller-location technology or comply with an improvement plan to meet such standards as directed by the Authority;
- (3) submit annual reports or audits as required by the Act; or
- (4) comply with the requirements of the Act or procedures established by the Authority.

[63:2864]

(b) If the Authority has reason to believe that grounds exist for the Authority to escrow funds attributable to a public agency, the Coordinator shall communicate the grounds to the public agency. The public agency shall be given an opportunity to present information to the Authority to show compliance with the Act and this Chapter.

(c) If the Authority determines that the public agency has failed to comply with subsection (a)(3) or (a)(4) of this Section, the Authority may direct the Tax Commission to escrow all or any portion of funds attributable to the public agency. The Authority may lift the escrow order if the public agency shows compliance with the requirements of the Act or the procedures established by the Authority with which the public agency was found to be in non-compliance.

(d) If the Authority determines that the public agency has failed to comply with subsection (a)(1) or (a)(2) of this Section, the public agency shall submit an improvement plan to be Authority within 90 days of the Authority's finding of non-compliance. The Authority will approve, modify or deny the improvement plan and establish a time period for the public agency to come into compliance. If the public agency fails to submit an acceptable improvement plan or fails to comply with the improvement plan, the Authority may direct the Tax Commission to escrow all or any portion of funds attributable to the public agency. The Authority may lift the escrow order upon a showing of compliance with the requirements of the Act or the procedures established by the Authority with which the public agency was found to be in non-compliance or upon acceptance by the Authority of a new improvement plan. If the public agency determines that it cannot comply with the terms of the improvement plan, the public agency may request approval to modify the terms of the plan.

SUBCHAPTER 9. GRANT PROGRAM [NEW]

145:15-9-1. Purpose [NEW]

The Authority may award grants to eligible entities for the purposes of assisting public agencies with funding for consolidation of facilities or services, deployment of Phase II technology or successor technology, development of next-generation 9-1-1 regional emergency service networks, and for other purposes it deems appropriate and necessary. [63:2864]

145:15-9-2. Application process [NEW]

- (a) Upon a determination by the Authority that funds are available for grants, the Authority will notify potential applicants through the Authority's website. The Authority may determine the application requirements, funding priorities and evaluation criteria.
- (b) Any PSAP is eligible to submit an application to the Authority. The application shall be completed by an individual employed by or affiliated with the PSAP and shall include all information and attachments requested.
- (c) If an application is not submitted by the designated date and time, it shall be returned without consideration. Timely applications are reviewed by the Authority, or a committee appointed by the Chair, to determine completeness. The Committee may require any applicant to provide additional information. An application is not considered final until all requested information has been submitted.
- (d) An application that is not reviewed for any failure on the part of the applicant shall be deemed to be a withdrawal of the application.

145:15-9-3. Award process [NEW]

- (a) Submission of a final application does not guarantee the award of a grant.
- (b) In anticipation of receiving applications for funding greater than the program funds available, evaluation criteria will be used to rank the applications. These criteria will be developed by the Administrative Committee.
- (c) Applications will be evaluated and ranked by Committee members, or by others as requested. Applications with the highest evaluation will be recommended for funding to the extent of funds available.
- (d) Applications submitted to the agency remain confidential until a decision is made by the Authority. The final decision to award shall be made at the sole discretion of the Authority.
- (e) All applicants will receive written notification of final award status.
- (f) The mechanism for funding approved applications may be a cooperative agreement between the authority and the grantees. Grantees shall abide by the terms and conditions of the cooperative agreement.

145:15-9-4. Grant administration and evaluation [NEW]

- (a) Proper documentation of each expense is required, including paid invoices, cancelled checks, payroll receipts, time records and other pertinent proof of expenditures. Grant funds may not be used for ongoing operating costs of any emergency telephone system.
- (b) Grantees shall be subject to performance evaluations as to their compliance with the terms and conditions of the cooperative agreement and may be audited as appropriate.
- (c) Grantees shall keep a file on awarded grants, and include copies of grant award, applications, claims, invoices and cancelled checks, as appropriate, in order to comply with audits.
- (d) Failure to complete an awarded project may result in repayment of claimed funds and ineligibility to receive other awards.
- (e) Grants may be cancelled by the Authority in the event of noncompliance or lack of progress by grantee. Written notification of cancellation or withholding of funds will be provided to defaulting grantees. Grantees shall be given an opportunity to cure the default. The final decision to cancel the grant shall be made at the sole discretion of the Authority.