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"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

- a. protect the public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's governing law or federal programs,
- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

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next regular legislative session after its promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

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

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

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

[OAR Docket #18-371]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 24. Oklahoma Industrial Hemp Agricultural Pilot Program [NEW]

- 35:30-24-1. Purpose [NEW]
- 35:30-24-2. Definitions [NEW]
- 35:30-24-3. Application [NEW]
- 35:30-24-4. Grounds for denial of application [NEW]
- 35:30-24-5. License [NEW]
- 35:30-24-6. Continuing obligation to provide information [NEW]
- 35:30-24-7. Fees [NEW]
- 35:30-24-8. Certified seed program [NEW]
- 35:30-24-9. Harvest reports [NEW]
- 35:30-24-10. Records [NEW]
- 35:30-24-11. Inspection and testing [NEW]
- 35:30-24-12. Violations [NEW]
- 35:30-24-13. Destruction [NEW]
- 35:30-24-14. Hearings and contests [NEW]

AUTHORITY:

Oklahoma Constitution, Article 6, Section 31; State Board of Agriculture; and 2 O.S. §§ 2-4 and 3-401 et seq. and HB 2913 of 2018 (signed by the Governor on 4/23/2018).

ADOPTION:

May 8, 2018

EFFECTIVE:

Immediately upon Governor's approval

APPROVED BY GOVERNOR:

May 16, 2018

EXPIRATION:

Effective through September 14, 2019, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The emergency rules and associated fees are required to avoid violation of state law, specifically, 2 O.S. § 3-401 et seq. per HB 2913 of 2018 (signed by the Governor on 4/23/2018).

GIST/ANALYSIS:

The proposed emergency rule establishes a regulatory scheme for the Oklahoma Industrial Hemp Agricultural Pilot Program along with all associated application, inspection, and registration fees.

CONTACT PERSON:

Bennett Abbott, (405) 522-5803, bennett.abbott@ag.ok.gov

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 24. OKLAHOMA INDUSTRIAL HEMP AGRICULTURAL PILOT PROGRAM

35:30-24-1. Purpose

The rules of this subchapter establish the licensing requirements and regulation of the Oklahoma Industrial Hemp Agricultural Pilot Program pursuant to the Oklahoma Agricultural Code, 2 O.S. § 3-401 et seq. The licensing requirements and regulation of the Oklahoma Industrial Hemp Agricultural Pilot Program shall be administered by the Department and shall conform to the Administrative Procedures Act, 75 O.S. § 250 et seq.; to the Oklahoma Agricultural Code, 2 O.S. § 1-1 et seq.; and to the procedural rules promulgated by the State Board of Agriculture in Title 35 of the Oklahoma Administrative Code.

35:30-24-2. Definitions

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

"Building" means any single standing structure with walls and a roof but shall not include separate structures connected by corridors or breezeways.

"Contiguous field" means any contiguous tract of land used for the cultivation of industrial hemp and may include contiguous tracts of land occasionally intersected by roads, streams, or other natural features but shall not include a tract or tracts of land intersected by property owned by a third party or gaps in the cultivation of industrial hemp exceeding one quarter of a mile.

"Cultivation" means the act of planting, growing, or harvesting industrial hemp and any related agricultural activities.

"Cultivation site" means the contiguous field, building, storage area, or processing area in which one or more varieties

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of industrial hemp may be lawfully cultivated, stored, or processed.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, its employees, officers, and divisions.

"Growing Area" means the portion of a contiguous field or building in which a single variety of industrial hemp is planted, grown, and harvested.

"Industrial Hemp" means any part of the plant, *Cannabis sativa* L., with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, whether growing or not, and the seeds thereof.

"Institution of higher education" means any public or private college or university located in Oklahoma that is part of the Oklahoma State System of Higher Education.

"Institutional licensee" means any institution of higher education possessing a license to participate in the Oklahoma Industrial Hemp Agricultural Pilot Program.

"License" means a valid license issued by the Department allowing an institutional licensee to cultivate industrial hemp from low THC seed in Oklahoma.

"Listed low THC seed" means low THC seed that has been approved by the Department and listed on the Department's Low THC Seed List.

"Low THC seed" means industrial hemp seed having no more than three-tenths of one percent (0.3%) delta-9 tetrahydrocannabinol concentration on a dry-weight basis.

"Processing Area" means any physical location in which entire harvested plants are altered by any manner of mechanical, chemical, or other processing techniques. The processing area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Storage Area" means any physical location in which harvested plants or plant parts are stored. The storage area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Subcontractor" means a person or business entity that has contracted with an institutional licensee and provides supplies, labor, land, or expertise related to the institutional licensee's participation in the Oklahoma Industrial Hemp Agricultural Pilot Program.

35:30-24-3. Application

(a) Any institution of higher education with a plant science curriculum may participate in the Oklahoma Industrial Hemp Agricultural Pilot Program by filing an application with the Department for a license:

(1) Not less than thirty (30) days prior to the planting or cultivation of any industrial hemp crop; or

(2) No later than December 1 if a subsequent license is required for industrial hemp crops planted before December 31 but scheduled for harvest after December 31.

(b) An institution of higher education shall submit a separate application, pay separate application and inspection fees, and obtain a separate license for each cultivation site.

(c) The application shall be on a form provided by the Department and shall, at a minimum, contain the following information:

(1) The name and address of the institution of higher education;

(2) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the institution of higher education responsible for oversight of the Oklahoma Industrial Hemp Agricultural Pilot Program and communications with the Department relating to the cultivation of industrial hemp;

(3) If the institution of higher education intends to utilize subcontractors, the correct legal name of the subcontractors along with all aliases or trade names of the subcontractors;

(4) If the institution of higher education intends to utilize subcontractors, the addresses for the subcontractors' primary business locations and any satellite business offices located in Oklahoma;

(5) If the institution of higher education intends to utilize subcontractors, the contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the subcontractor responsible for oversight of the Oklahoma Industrial Hemp Agricultural Pilot Program and communications with the Department relating to the cultivation of industrial hemp;

(6) Proof of ownership for the cultivation site and the following information if the cultivation site is not wholly owned by the institutional licensee:

(A) The name, address, and contact information for all persons or entities having any ownership interest in the cultivation site;

(B) If the property lease does not contain a provision that specifically provides for the growing of industrial hemp, an original, signed, and dated letter of acknowledgement from each person having any ownership interest in the cultivation site indicating approval for the cultivation of industrial hemp at the cultivation site; and

(C) A copy of the property lease for the entire duration of the license, if applicable;

(7) If the application identifies a contiguous field as the cultivation site:

(A) A legal description (Section, Township, Range) of the contiguous field;

(B) The global positioning location coordinates at the approximate center of the contiguous field; and

(C) An annotated map or aerial photograph with sufficient detail and clarity to define the boundaries and dimensions of the contiguous field in acres, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the contiguous field along with a description of the variety of industrial hemp corresponding to each growing area;

(8) If the application identifies a building as the cultivation site:

- (A) The physical address of the building;
 - (B) The global positioning location coordinates of the building; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the boundaries and dimensions of the building and growing area in square feet, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the building along with a description of the variety of industrial hemp corresponding to each growing area;
- (9) A description of any areas used to store or process plants or plant parts, including but not limited to:
- (A) The physical address or location of any storage areas or processing areas;
 - (B) The global positioning location coordinates of any storage areas or processing areas; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the location, boundaries and dimensions of any storage areas or processing areas in square feet;
- (10) A schedule identifying the intended dates of planting and intended dates of harvesting any industrial hemp crop or crops;
- (11) A statement of intended use and disposition for the industrial hemp harvested from the cultivation site or any plant parts thereof;
- (12) A statement from an official or employee of the institution of higher education or from an official or employee of any associated subcontractor that only listed low THC seed will be planted at the cultivation site; and
- (13) Acknowledgement and agreement with the following terms and conditions:
- (A) Any information provided by the institution of higher education or subcontractors is subject to public disclosure under the Open Records Act;
 - (B) Any information provided by the institution of higher education or subcontractors may be released by the Department to law enforcement agencies without notice to the institution of higher education or its subcontractors;
 - (C) The institution of higher education and subcontractors shall fully cooperate with the Department, grant the Department physical access to any part of the cultivation site and allow inspection and sampling that the Department deems necessary; and
 - (D) The institution of higher education and subcontractors shall submit all required reports by the dates specified by the Department.
- (d) A subcontractor may submit applications, pay associated fees, pay fines, file reports, and keep records required by the Department on the institutional licensee's behalf if authorized by the institutional licensee to do so. The institutional licensee's approval for the subcontractor to submit applications, pay fees, pay fines, file reports, and keep records shall be evidenced by an original, signed, and dated authorization letter from an official or employee of the institutional licensee identified in subsection (c)(2) of this section submitted with the application for a license. A unique original, signed, and dated

- authorization letter shall be required for each new application, each subsequent application, or renewal of an existing license.
- (e) Incomplete applications shall not be processed by the Department and any associated application fees shall be retained by the Department.
- (f) Applications that are denied by the Department may be resubmitted within twelve (12) months of the original filing. The Department may waive application fees for resubmitted applications.

35:30-24-4. Grounds for denial of application

- (a) The Department may consider a number of factors when deciding to grant or deny a license including, but not limited to, the location of the cultivation site; the criminal history of the institutional licensee, subcontractor, or employees thereof; and prior administrative actions taken by the Department against the institutional licensee, subcontractors, or employees thereof.
- (b) The Department's denial of a license may be contested in the manner provided by this subchapter.

35:30-24-5. License

- (a) A separate license shall be required for each cultivation site operated by the institutional licensee.
- (b) All licenses expire on December 31 of the year in which the license was issued. Any industrial hemp that is not harvested on or before December 31 must be declared for inclusion in a subsequent license or destroyed by the institutional licensee.
- (c) Every license issued by the Department shall remain the property of the Department. Possession of a license does not confer any property right or exemption from criminal liability under the Uniform Controlled Dangerous Substances Act to the institutional licensee, subcontractor, or officials or employees thereof that is not expressly described in this subchapter.
- (d) The Department may restrict, limit, or impose conditions on any license that are not similarly imposed on other institutional licensees or cultivation sites.
- (e) Licenses shall not be assigned or transferred.
- (f) Unless the context expressly indicates otherwise, a subcontractor's compliance with the Oklahoma Industrial Hemp Agricultural Pilot Program and the rules of this subchapter shall be sufficient to satisfy the obligations of the institutional licensee to comply with the Oklahoma Industrial Hemp Agricultural Pilot Program and the rules of this subchapter.

35:30-24-6. Continuing obligation to provide information

- (a) Every institutional licensee shall have a continuing obligation to provide current information to the Department. The institutional licensee shall provide updated information if there is any material change to the information provided in the application within ten (10) days of the material change unless otherwise specified herein, including but not limited to, changes in personnel or contact information.
- (b) The institutional licensee shall file an amendment to the institutional licensee's application not less than thirty (30) days prior to making any alteration to boundaries, dimensions, or

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growing areas of a cultivation site or a change in the variety of industrial hemp cultivated.

(c) The institutional licensee shall immediately notify the Department of any change to the planting and harvesting schedule exceeding five (5) days from the planting and harvesting schedule listed in the application.

(d) The employment of a new subcontractor or replacement of an existing subcontractor associated with a license for a particular cultivation site shall require the submission of a new application and the payment of new application and inspection fees by the institutional licensee.

35:30-24-7. Fees

(a) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable application fee at the rate of Five Hundred Dollars (\$500.00).

(b) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a site inspection fee calculated at the rate of Five Dollars (\$5.00) per acre on a contiguous field or Thirty Three Cents (\$0.33) per square foot in a building.

(c) An hourly inspection rate consisting of Thirty Five Dollars (\$35.00) per hour per inspector for actual time devoted to the inspection of a cultivation site shall be charged following routine or unannounced inspections. The calculation of the hourly inspection rate shall include the inspectors' travel time from the inspectors' duty station to the cultivation site, the time devoted to inspection of the cultivation site, and the inspectors' travel time returning from the cultivation to the inspectors' duty station.

(d) Application amendments or notifications of material change to the information provided in an application shall not require the payment of additional application fees but may, at the discretion of the Department, require additional inspections and the payment of additional site inspection fees and fees assessed at the hourly inspection rate at the same rate charged for a new application.

(e) An annual nonrefundable registration fee of One Hundred Dollars (\$100.00) shall be paid for listing low THC seed on the Department's Low THC Seed List. A separate annual registration fee shall be required from each vendor for each variety of low THC seed included on the Department's Low THC Seed List.

35:30-24-8. Certified seed program

(a) An institutional licensee shall only plant, replant, sell, or purchase listed low THC seed.

(b) Low THC seed shall not be considered listed low THC seed unless included on the Department's Low THC Seed List.

(c) The Department may rely on the legally constituted certification officials of a state, foreign country, or the United States to determine whether low THC seed imported into Oklahoma may be included on the Department's Low THC Seed List

(d) The Department may approve varieties of low THC seed produced in Oklahoma and include those varieties on the Department's Low THC Seed List.

(e) Designation of listed low THC seed shall comply with the general requirements of state and federal law for certification of seed.

(f) The Department's Low THC Seed List shall be published on the Department's website. The Department's Low THC Seed List shall identify vendors and associated varieties of listed low THC seed along with a notation indicating whether the listed low THC seed is commercially available for purchase or is retained for private use and replanting by the vendor, as follows:

(1) The Department shall accept informational submissions and payment of annual registration fees by vendors or institutional licensees seeking to include varieties of low THC seed on the Department's Low THC Seed List;

(2) Each variety of listed low THC seed registered by a vendor or institutional licensee shall be registered and listed separately and shall require the payment of a separate registration fee; and

(3) Each vendor selling low THC seed or retaining low THC seed for private use shall register each variety of low THC seed that the vendor intends to sell or replant regardless of whether another vendor has registered the same variety of low THC seed.

(g) Listings on the Department's Low THC Seed List shall expire on December 31 of each year. Vendors or institutional licensees may request that listings of low THC seed be renewed by submitting a request for relisting on or before December 1 along with the payment of any necessary annual registration fees. Requests for relisting shall not require supplementary informational submissions unless requested by the Department.

(h) Institutional licensees may retain low THC seed cultivated from prior harvests for replanting without offering the retained seed for sale to third parties, however, low THC seed retained in this manner shall be approved by the Department and included on the Department's Low THC Seed List as specified herein prior to replanting.

35:30-24-9. Harvest reports

(a) Not less than thirty (30) day prior to harvest, the institutional licensee shall file a harvest report on a form provided by the Department and shall, at a minimum, contain the following information:

(1) The name of the institutional licensee and any associated subcontractors;

(2) The location of the cultivation site or parts thereof wherever situated;

(3) A description of each variety of industrial hemp growing at the cultivation site;

(4) The expected date or dates of harvest for each variety of industrial hemp growing at the cultivation site;

(5) The expected yield for each variety of industrial hemp planted at the cultivation site along with a description of the growing area in which each variety was planted sufficient to calculate the growing area in acres for outdoor cultivation or square feet for indoor cultivation;

(6) A description of the intended use and disposition of the industrial hemp product;

(7) A description of fertilizers, pesticides, or other chemicals applied to each variety of industrial hemp planted at the cultivation site;

(8) A description of irrigation or water management practices applied to each variety of industrial hemp planted at the cultivation site;

(9) A description of tillage or ground preparation practices applied to each variety of industrial hemp planted at the cultivation site; and

(10) A description of the environmental impacts and viability of each variety of industrial hemp planted along with any supporting documentation.

(b) Not more than thirty (30) days following the harvest, the institutional licensee shall supplement the harvest report and declare the actual yield for each variety of industrial hemp planted at the cultivation site and any material change to the information supplied in the harvest report.

35:30-24-10. Records

(a) The institutional licensee shall retain the following records for no less than five (5) years from the date the record is obtained or generated:

(1) All records relating to information supplied in the application for a license;

(2) All records relating to the use and disposition of industrial hemp harvested or any plant parts thereof;

(3) All records relating to the storage or processing of industrial hemp or any plant parts thereof;

(4) All records relating to the destruction of industrial hemp harvested or any plant parts thereof, including but not limited to, any affidavits, notifications, and electronic records required by this subchapter.

(b) The institutional licensee shall produce or allow inspection of records at the request of the Department.

(c) The institutional licensee's obligation to retain and produce records shall be satisfied if the subcontractor retains or produces records.

35:30-24-11. Inspection and testing

(a) The Department shall develop an evidence gathering methodology for the inspection of cultivation sites and the collection of industrial hemp test samples.

(b) The Department may develop laboratory testing methodologies to verify the concentration of delta-9 tetrahydrocannabinol in industrial hemp test samples or the Department may contract with another laboratory to conduct such testing using laboratory protocols approved by the Department.

(c) The Department may inspect and take samples from any cultivation site and mature Cannabis sativa L. plants located thereon, as follows:

(1) The Department shall send written notification of routine inspections to the institutional licensee and subcontractor, if applicable, describing the date, time, scope, and process of routine testing.

(2) The Department may conduct unannounced inspections and collect samples from any cultivation site during regular business hours without advance notice.

(d) Industrial hemp test samples collected by the Department during routine or unannounced inspections shall be tested to verify that the delta-9 tetrahydrocannabinol concentration of industrial hemp does not exceed three tenths of one percent (0.3%) on dry weight basis.

(e) The institutional licensee shall pay the hourly inspection fees and laboratory analysis costs for any routine and unannounced inspections within thirty (30) days after receiving an invoice from the Department.

(f) The Department shall waive all hourly inspection fees and laboratory analysis costs for an unannounced inspection if no violations or inconsistencies are identified by the Department.

35:30-24-12. Violations

(a) The Department may deny, suspend, or revoke a license or fine an institutional licensee upon a finding by the Department that that the institutional licensee has violated the Oklahoma Industrial Hemp Agricultural Pilot Program and the rules of this subchapter.

(b) Violations committed by subcontractors or officials and employees thereof shall be considered violations of the institutional licensee.

(c) The fine for violating the Oklahoma Industrial Hemp Agricultural Pilot Program and the rules of this subchapter shall not exceed Ten Thousand Dollars (\$10,000) per violation per day or occurrence.

(d) Nothing in this subchapter shall restrict the institutional licensee from contractually obligating subcontractors to indemnify and hold the institutional licensee harmless from fines issued by the Department for violations occurring at a cultivation site operated by the subcontractor. The institutional licensee may require a bond or surety to guarantee the contractual obligations of the subcontractor for the payment of fines. However, the institutional licensee shall be financially responsible for any fines issued by the Department.

(e) The following conduct shall be considered a violation of the Oklahoma Industrial Hemp Agricultural Pilot Program and the rules of this subchapter:

(1) Providing false, misleading, or incorrect information or otherwise engaging in fraud or deception to secure or retain a license;

(2) Failure to timely, accurately, and truthfully complete and submit any application, report, or request for information from the Department;

(3) Failure to retain records required by this subchapter or produce such records at the request of the Department;

(4) Interference with the inspection process, including but not limited to, refusal to grant unrestricted access to a cultivation site; impeding the sampling of plants; or refusal or failure to fully cooperate with the Department's inspections;

(5) Failure to timely pay any fee or invoice issued by the Department;

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(6) Planting, growing, harvesting, storing, or processing industrial hemp or Cannabis sativa L. plants in locations other than the cultivation site described in the application for license or amendments thereto;

(7) Refusal or failure to comply with orders of the Department or the rules of this subchapter requiring the destruction of industrial hemp or Cannabis sativa L. plants or plant parts;

(8) Planting, growing, or harvesting Cannabis sativa L. plants with a delta-9 tetrahydrocannabinol concentration of exceeding three-tenths of one percent (0.3%) on a dry weight basis, as follows:

(A) The Department shall calculate an average from the results from all test samples collected from a growing area during an inspection in accordance with the Department's evidence gathering methodology to determine whether a violation occurred. A calculated average of delta-9 tetrahydrocannabinol concentrations exceeding three-tenths of one percent (0.3%) on a dry weight basis derived from test samples collected in the growing area shall be prima facie evidence that a violation occurred. The institutional licensee shall have the burden of proof to contradict such evidence.

(B) If the calculated average of delta-9 tetrahydrocannabinol concentrations in test samples collected from a growing area exceeds three-tenths of one percent (0.3%) but is equal to or less than one percent (1%) on a dry weight basis, the institutional licensee shall destroy all Cannabis sativa L. plants and plant parts from the growing area in question. Upon the destruction of the crop, the institutional licensee shall be subject to no additional fines or penalties.

(C) If the calculated average of delta-9 tetrahydrocannabinol concentrations in test samples collected from a growing area exceeds one percent (1%) on a dry weight basis, the institutional licensee shall destroy all plants and plant parts planted, grown, or harvested from the growing area in question. The Department may impose additional fines or penalties including the denial, suspension or revocation of a license by the Department.

(f) Failure to disclose different varieties of Cannabis sativa L. plants in a single growing area shall be a violation. A difference of delta-9 tetrahydrocannabinol concentrations exceeding two percent (2%) on a dry weight basis between test samples collected from different sections of the same growing area shall be prima facie evidence that more than one variety of the Cannabis sativa L. plant was planted in a single growing area and that a violation occurred. The institutional licensee shall have the burden of proof to contradict such evidence.

35:30-24-13. Destruction

(a) The institutional licensee shall destroy all Cannabis sativa L. plants or plant parts if required by the rules of this subchapter or by order of the Department.

(b) Incineration is the only acceptable method of destruction unless the Department provides the institutional licensee written authorization for an alternate method of destruction.

(c) The institutional licensee shall document the destruction of Cannabis sativa L. plants or plant parts, as follows:

(1) The institutional licensee shall submit a notification of intended destruction to the Department not less than ten (10) days prior to the date that the institutional licensee undertakes the destruction of the Cannabis sativa L. plants or plant parts, communicate the time and date of the destruction, and allow Department inspectors to be present during the destruction;

(2) The institutional licensee shall make and retain a date-stamped electronic video recording the collection, ignition, and incineration of the Cannabis sativa L. plants or plant parts. The video recording shall be retained as a record relating to the destruction of industrial hemp for not less than five (5) years. The date stamp need not be displayed on the video recording but shall, at a minimum, appear in the electronic file name. The electronic video recording shall consist of sufficient duration and detail to verify that the destruction occurred and was complete;

(3) An officer or employee of the institutional licensee or subcontractor responsible for oversight of the Oklahoma Industrial Hemp Agricultural Pilot Program and shall submit an affidavit to the Department affirming the destruction not more than ten (10) days following such destruction.

(d) Destruction shall be conducted safely and shall be conducted in a manner consistent with the requirements for prescribed burning at 2 O.S. §16-28.2. The institutional licensee shall delay the destruction required by this subchapter or by order of the Department until the risk of starting a wildfire is minimal.

35:30-24-14. Hearings and contests

(a) All administrative actions brought by the Department seeking the imposition of a penalty for the violation of this subchapter and all contests brought by an institutional licensee or subcontractor shall be considered individual proceedings and shall comply with the Administrative Procedures Act, 75 O.S. § 250 et seq., and the rules of the Department.

(b) The Department shall grant subcontractors legal standing to participate in individual proceedings if the subcontractor is authorized to do so by the institutional licensee that is the subject of the individual proceeding.

(c) The Department shall initiate an individual proceeding by serving a notice of violation on the institutional licensee and any associated subcontractor listed in the Department's records for the cultivation site in question. An individual proceeding initiated by the Department shall be required for the Department to suspend or revoke a license or impose a fine. The Department shall not be required to initiate an individual proceeding for the denial of an application for a license or to enforce the rules of this subchapter, including but not limited to, ordering the destruction of Cannabis sativa L. plants as specified herein.

(d) An institutional licensee or authorized subcontractor may initiate an individual proceeding contesting the denial of an application, conditions or limitations placed on a license, or order of destruction by filing a petition with the Department. The petition shall state with particularity the factual grounds, arguments, and citation of legal authorities for the contest.

(e) All individual proceedings shall be heard by an administrative law judge. All evidence and legal arguments shall be offered to the administrative law judge consistent with the regular practices and rules of the Department. The findings and

recommendation of the administrative law judge shall be presented to the State Board of Agriculture for a final decision. No new evidence or arguments shall be presented to the State Board of Agriculture.

[OAR Docket #18-371; filed 5-23-18]

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

1:2015-7D.

FOURTH AMENDED EXECUTIVE ORDER 2015-7

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the authority vested in me by the Executive Branch Reform Act of 1986, hereby create the Cabinet System. Pursuant to Section 10.3 of Title 74 of the Oklahoma Statutes, it is hereby ordered:

The Cabinet shall be comprised of the following Secretaries:

1. Secretary of Agriculture;
2. Secretary of Commerce and Tourism;
3. Secretary of Education and Workforce Development;
4. Secretary of Energy and Environment;
5. Secretary of Finance, Administration, and Information Technology;
6. Secretary of Health and Human Services;
7. Secretary of the Military;
8. Secretary of Safety and Security;
9. Secretary of Science and Technology;
10. Secretary of State;
11. Secretary of Transportation;
12. Secretary of Veterans Affairs; and
13. Secretary of Native American Affairs.

The **Secretary of Agriculture** shall be responsible for the following executive entities or their successors:

Agriculture, State Board of, and Agriculture, Food and Forestry, Department of
Apiary Committee
Boll Weevil Eradication Organization
Commodity Commissions and entities (Peanut, Oilseed, Sheep and Wool, Sorghum and Wheat)
Conservation Commission, Oklahoma
Emergency Drought Commission
Horse Racing Commission, Oklahoma
Industry Advisory Committee
South Central Interstate Forest Fire Protection Compact and Advisory Committee
Southern Dairy Compact
Standards, Bureau of
Veterinary Medical Examiners, State Board of

The **Secretary of Commerce and Tourism** shall be responsible for the following executive entities or their successors:

1921 Tulsa Race Riot Memorial of Reconciliation Design Committee
African-American Centennial Plaza Design Committee
Alarm and Locksmith Industry Committee
Arts Council, Oklahoma
Commerce, Oklahoma Department of
Employment Security Commission, Oklahoma, and State Advisory Council and Board of Review
Geographic Information Council, State
Greenwood Area Redevelopment Authority
Historic Preservation Review Committee, Oklahoma
Historical Records Advisory Board
Historical Society, Oklahoma
Housing Finance Agency, Oklahoma
Industrial Finance Authority, Oklahoma
J.M. Davis Memorial Commission
Jazz Hall of Fame Board, Oklahoma
Midwestern Oklahoma Development Authority
Northeast Oklahoma Public Facilities Authority
Office for Minority and Disadvantaged Business Enterprises
Ordinance Works Authority, Oklahoma
Quartz Mountain Arts and Conference Center and Nature Park, Board of Trustees, and Quartz Mountain Arts and Conference Center and Nature Park
Register of Natural Heritage Areas, State
Rural Action Partnership Program
Rural Area Development Task Force
Rural Development, Center for
Sam Noble Museum of Natural History, Oklahoma
Tourism and Recreation Commission, Oklahoma, and Department of Tourism and Recreation
Tourism Promotion Advisory Committee, Oklahoma
Will Rogers Memorial Commission

The **Secretary of Education and Workforce Development** shall be responsible for the following executive entities or their successors:

Accrediting Agency, State
Anatomical Board, State
Career and Technology Education, State Board of, and Department of Career and Technology Education
College and University Boards of Regents or Trustees
Dyslexia Teacher Training Pilot Program Advisory Committee

Executive Orders

Education Commission of the States
Educational Quality and Accountability, Office of, and Commission for Educational Quality and Accountability
Education, State Board of,
Superintendent of Public Instruction and State Department of Education
Educational Television Authority (OETA), Oklahoma
Governor's Council for Workforce and Economic Development
Labor Commissioner and Department of Labor
Municipal Clerks and Treasurers Division of the Oklahoma Career and Technology Education, Advisory Committee to the Partnership for School Readiness Board, Oklahoma
Physician Manpower Training Commission
Private Vocational Schools, Oklahoma Board of
School and County Funds Management, Commission on
School of Science and Mathematics, Oklahoma Board of Trustees of, and Oklahoma School of Science and Mathematics
State Regents for Higher Education, Oklahoma
Student Loan Authority
Teacher and Leader Effectiveness Commission
Textbook Committee, State
Virtual Charter School Board, Statewide

The **Secretary of Energy and Environment** shall be responsible for the following executive entities or their successors:

Arkansas River Basin Compact Commission, Arkansas-Oklahoma
Arkansas River Basin Compact and Commission, Kansas-Oklahoma
Canadian River Commission
Central Interstate Low-Level Radioactive Waste Compact and Commission
Climatological Survey
Corporation Commission, Oklahoma
Energy Resources Board, Oklahoma
Energy Initiative and Energy Initiative Board, Oklahoma
Energy Office, Oklahoma State
Environmental Quality Board and
Air Quality Advisory Council
Hazardous Materials Emergency Response Commission
Hazardous Waste Management Advisory Council
Radiation Management Advisory Council
Solid Waste Management Advisory Council
Water Quality Management Advisory Council
Department of Environmental Quality
Grand River Dam Authority Board of Directors and Grand River Dam Authority
Geological Survey
Interstate Oil Compact Commission
Liquefied Petroleum Gas (LPG) Board, Oklahoma
Mining Commission, Interstate
Mining Commission, Oklahoma, and Department of Mines
Miner Training Institute, Oklahoma

Municipal Power Authority Board, Oklahoma
Oil and Gas Compact Commission, Interstate
Red River Compact and Commission, Arkansas-Louisiana-Oklahoma-Texas
Southern States Energy Compact and Southern States Energy Board
Storage Tank Advisory Council
Sustaining Oklahoma's Energy Resources, Committee
Water for 2060 Advisory Council
Water Resources Board, Oklahoma
Well Drillers and Pump Installers Advisory Council
Wildlife Conservation Commission and Department of Wildlife Conservation

The **Secretary of Finance, Administration, and Information Technology** shall be responsible for the following executive entities or their successors:

Abstractors Board, Oklahoma
Accountancy Board, Oklahoma
Alternative Fuels Technician Examiners and Board, Oklahoma
Auditor and Inspector, State
Banking Board, State, and State Banking Department
Bipartisan Legislative Apportionment Commission
Bond Advisor, State
Bond Oversight, Council of
Building Bonds Commission
Capital Investment Board, Oklahoma
Capitol-Medical Center Improvement and Zoning Commission
Capitol Preservation Commission, State
Cash Management Oversight Committee
Compensation and Unclassified Positions Review Board, Oklahoma
Construction Industries Board
Consumer Credit Commission and Department of Consumer Credit
Contingency Review Board
Development Finance Authority, Oklahoma
Election Board, State
Electronic and Information Technology Accessibility Advisory Council
Employee Assistance Program, State, and Advisory Council
Employee Insurance & Benefits Board, Oklahoma
Equalization, State Board of
Ethics Commission, Oklahoma
Firefighters Pension and Retirement System and Board
Home Inspector Examiners, Committee of
Incentive Approval Committee
Incentive Awards for State Employees, Committee for
Insurance Commissioner and State Insurance Department
Interstate Cooperation, Oklahoma Commission on
Judicial Complaints, Council on
Land Office, Commissioners of the
Law Enforcement Retirement System and Board, Oklahoma
Legislative Compensation, Board on

Life and Health Insurance Guaranty Association and Board of Directors, Oklahoma
 Long-Range Capital Planning Commission
 Lottery Commission and Board of Trustees, Oklahoma
 Management and Enterprise Services, Office of
 Manufactured Home Advisory Committee
 Market Assistance Association and Board of Directors
 Merit Protection Commission
 Motor Vehicle Commission, Oklahoma
 Oversight Committee for State Employee Charitable Contributions
 Pension Commission, Oklahoma State
 Police Pension and Retirement System and Board, Oklahoma
 Program Development and Credit Review Committee
 Public Employees Relations Board
 Public Employees Retirement System and Board, Oklahoma
 Securities Commission, Oklahoma, and Department of Securities
 State Credit Union Board, Oklahoma
 State Governmental Technology Applications Review Board
 Tax Commission, Oklahoma
 Teachers' Retirement System, Board of Trustees of the, and Teachers' Retirement System
 Treasurer, State
 Used Motor Vehicle and Parts Commission, Oklahoma

The **Secretary of Health and Human Services** shall be responsible for the following executive entities or their successors:

Advancement of Wellness Advisory Council
 Agent Orange Outreach Committee
 Alcohol and Drug Counselors, Oklahoma Board of Licensed Alcohol, Drug Abuse and Community Mental Health Planning and Coordination Boards
 Alzheimer's Research Advisory Council
 Athletic Commission, Oklahoma State
 Athletic Trainers Advisory Committee
 Behavioral Health Licensure, Board of
 Blind Vendors, Committee of
 Catastrophic Health Emergency Planning Task Force, Oklahoma
 Cerebral Palsy Commission and J.D. McCarty Center for Children with Developmental Disabilities
 Child Abuse Examination, Board of
 Child Abuse Prevention, Office of
 Child Abuse Prevention, Training, and Coordination Council
 Child Death Review Board
 Children and Youth, Oklahoma Commission on
 Chiropractic Examiners, Board of
 Community Hospitals Authority
 Community Social Services Center Authority
 Cosmetology and Barbering, State Board of
 Consumer Advocacy, Office of
 Consumer Protection Licensing Advisory Council
 Dentistry, Board of
 Dietetic Registration, Advisory Committee on

Developmental Disabilities Council
 Disability Concerns, Governor's Advisory Committee to the Office of, and Office of Disability Concerns
 Early Childhood Intervention, Interagency Coordinating Council for
 Employment of People with Disabilities, Governor's Advisory Committee on
 Faith-based and Community Initiatives
 Food Service Advisory Council
 Funeral Board, Oklahoma
 Group Homes for Persons with Developmental or Physical Disabilities Advisory Board
 Health Care Authority, Oklahoma
 Health Care Information Advisory Committee
 Health, State Board of, and Department of Health
 Home Care and Hospice Advisory Council
 Hospital Advisory Committee, Oklahoma
 Hospital Advisory Council, Oklahoma
 Human Services, Department of
 Infant and Children's Health Advisory Council
 Juvenile Affairs, Board of, and Office of Juvenile Affairs
 Juvenile Justice, State Advisory Group on
 Licensed Social Workers, State Board of
 Long-Term Care Administrators, Oklahoma State Board of Examiners for
 Long-Term Care Facility Advisory Board
 Medical Care for Public Assistance Recipients, Advisory Committee for
 Medical Licensure and Supervision, Board of
 Mental Health and Substance Abuse, Board of, and Department of Mental Health and Substance Abuse
 Mental Health, Interstate Compact on
 Nursing, Board of, and Formulary Advisory Council
 Occupational Therapy Advisory Committee, Oklahoma
 Oklahoma State University Medical Authority
 Optometry, Board of Examiners in
 Osteopathic Examiners, State Board of
 Partnership for Children's Behavioral Health
 Perfusionists, State Board of Examiners of
 Pharmacy, Board of
 Physical Therapy Committee
 Physician's Assistant Advisory Committee
 Placement of Children, Interstate Compact on the
 Podiatric Medical Examiners, Board of
 Post Adjudication Review Advisory Board
 Prevention of Adolescent Pregnancy and Sexually Transmitted Diseases, Interagency Coordinating Council for Coordination of Efforts for
 Psychologists, State Board of Examiners of
 Public Guardian, Office of
 Registered Electrologists, Advisory Committee of
 Rehabilitation Services Commission, Oklahoma
 Rehabilitation Services, Department of
 Residents and Family State Council
 Respiratory Care Advisory Committee
 Sanitarian and Environmental Specialist Registration Advisory Council
 Santa Claus Commission

Executive Orders

Self-Directed Services Program Committee
Speech Pathology and Audiology, Board of Examiners for
Statewide Independent Living Council
Suicide Prevention Council, Oklahoma
Tobacco Settlement Endowment Trust Fund Board of Directors
Trauma and Emergency Response Advisory Council
Traumatic Spinal Cord and Traumatic Brain Injury, Advisory
Council on
University Hospitals Authority
Vulnerable Adult Intervention Task Force

The **Secretary of the Military** shall be responsible for the following executive entities or their successors:

Adjutant General, State
Military Department, Oklahoma

The **Secretary of Safety and Security** shall be responsible for the following executive entities or their successors:

Adult Offender Supervision, Oklahoma State Council for Interstate
Alcohol and Drug Influence, Board of Tests for
Alcoholic Beverage Laws Enforcement
Bureau of Investigation Commission, Oklahoma State, and Oklahoma State Bureau of Investigation
Bureau of Narcotics and Dangerous Drugs Control Commission, Oklahoma State, and Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
Chief Medical Examiner, Office of, and Board of Medicolegal Investigations
Corrections, Department of, and Board of Corrections
Domestic Violence Fatality Review Board
Driver License Compact
Driver's License Medical Advisory Committee
Emergency Management, Oklahoma Department of
Homeland Security Director, Office of
Indigent Defense System Board and Appellate Indigent Defender System
Law Enforcement Education and Training, Council on (CLEET), and CLEET Advisory Council
Motorcycle Safety and Education, Committee for
National Crime Prevention and Privacy Compact Council
Nonresident Violator Compact Board of Administrators
Pardon and Parole Board, Oklahoma
Polygraph Examiners Board
Public Safety, Department of
State Fire Marshal Commission, and State Fire Marshal, Office of
Statewide Nine-One-One Advisory Board

The **Secretary of Science and Technology** shall be responsible for the following executive entities or their successors:

Center for the Advancement of Science and Technology, Oklahoma, and Oklahoma Health Research Committee
Experimental Program to Stimulate Competitive Research Advisory Committee
Science and Technology Council
Science and Technology Research and Development Board, Oklahoma
Space Industry Development Authority, Oklahoma

The **Secretary of State** shall be responsible for the following executive entities or their successors:

Access to Justice Commission, Oklahoma
Archives and Records Commission
Attorney General
County Government Personnel Education and Training, Commission on
Crime Victims Compensation Board
District Attorneys Council
Indigent Defense System Board and Appellate Indigent Defender System
Judicial Compensation, Board of
Judicial Nominating Commission
Library Board, State, and Department of Libraries
Licensed Architects, Landscape Architects and Interior Designers of Oklahoma, Board of Governors of
National Conference of Commissioners on Uniform State Laws
Professional Engineers and Land Surveyors, State Board of Registration for
Professional Responsibility Tribunal
Real Estate Appraiser Board
Real Estate Commission, Oklahoma
Real Estate Contract Form Committee, Oklahoma
Secretary of State
Workers' Compensation, Advisory Council on
Workers' Compensation Commission

The **Secretary of Transportation** shall be responsible for the following executive entities or their successors:

Aeronautics Commission
Highway Construction Materials Technician Certification Board
Port Authorities
Tourism Signage Advisory Task Force, Oklahoma
Transportation Commission and Department of Transportation
Transportation County Advisory Board, Department of
Transportation Tribal Advisory Board, Department of
Turnpike Authority, Oklahoma
Waterways Advisory Board

The **Secretary of Veterans Affairs** shall be responsible for the following executive entities or their successors:

Strategic Military Planning Commission, Oklahoma
Veterans Affairs, Department of
Veterans Commission

The **Secretary of Native American Affairs** shall be responsible for the following executive entities or their successors:

Native American Cultural and Educational Authority
Native American Liaison, Oklahoma

It shall be the duty of each board, commission, agency or other entity of the executive branch of state government to facilitate the purposes of this Order and the Executive Branch Reform Act of 1986 and to cooperate fully with designated cabinet secretaries.

The State Chief Information Officer shall remain an appointee of the Governor and an employee of the Office of Management and Enterprise Services pursuant to 62 O.S. §34.11.1. The CIO shall continue to administer the OMES Information Services Division and the statewide plan to reform, streamline, and consolidate the state of Oklahoma's information technology and telecommunications structure, operations, and purchasing procedures in order to reduce the size of government and ensure that essential public services are delivered to Oklahoma taxpayers in the most efficient, cost-effective manner possible. The information technology consolidation has brought positive attention to Oklahoma as a progressive state in the information technology arena and the legislative intent of the consolidation effort remains a priority of this administration.

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 1st day of June, 2018.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
James A. Williamson
Secretary of State

[OAR Docket #18-373; filed 6-1-18]

1:2018-16.

EXECUTIVE ORDER 2018-16

I, Todd Lamb, Governor of the State of Oklahoma, hereby direct that appropriate steps be taken to fly all American and Oklahoma flags on State property, and upon all public

buildings and grounds in Oklahoma, at half-staff until sunset Tuesday, May 22, 2018, as a mark of respect for the victims of the terrible act of violence perpetrated at Santa Fe High School in Texas.

This executive order shall be forwarded to the Division of Capitol Assets Management who shall cause the provision 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 18th day of May, 2018.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Todd Lamb

ATTEST:
Tod Wall
Secretary of State

[OAR Docket #18-370; filed 5-18-18]

1:2018-17.

EXECUTIVE ORDER 2018-17

I, Mary Fallin, Governor of the State of Oklahoma, in recognition of Memorial Day, 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 Monday, May 28, 2018, to honor America's service members who have made the ultimate sacrifice to protect our freedoms. On this national holiday, we remember the fallen and we honor these protectors of our inalienable rights.

This executive order shall be forwarded to the Division of Capital Assets 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 25th day of May, 2018.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Amy Canton
Acting Assistant Secretary of State

[OAR Docket #18-372; filed 5-25-18]

