

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

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 25. Oklahoma Winter Storm Grant Program [NEW]

35:40-25-1. Purpose [NEW]

35:40-25-2. Definitions [NEW]

35:40-25-3. Applicant eligibility [NEW]

35:40-25-4. Evaluation criteria [NEW]

35:40-25-5. Application requirements [NEW]

AUTHORITY:

Oklahoma Constitution, Article 6, Section 31; State Board of Agriculture; and 2 O.S. §§2-4 and 3-401 et seq.

ADOPTION:

July 21, 2023

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

FINDING OF EMERGENCY:

The proposed emergency rule amendments are consistent with the Oklahoma Legislature's declaration that establishment of the February 2021 Winter Storm Grant Revolving Fund and direction of the Oklahoma Department of Agriculture, Food, and Forestry to develop a program for distribution of grant funds is "necessary for the public peace, health or safety" and that an emergency is declared to exist. See SB 1091 (approved by the Governor on May 26, 2022). This emergency rule restarts the ability to take applications for additional funding as approved by the 2023 Oklahoma Legislature,

GIST/ANALYSIS:

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

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PURSUANT 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 25. OKLAHOMA WINTER STORM GRANT PROGRAM

35:40-25-1. Purpose

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

35:40-25-2. Definitions

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 Agriculture, Food, and Forestry, or its designee.

"Extraordinary costs" means costs incurred by an incorporated municipality's unregulated utility related to the extreme weather that occurred beginning February 7, 2021, and ending February 21, 2021, including but not limited to, fuel-related storage and associated costs, emergency compressed or liquified natural gas supplies, contracts for services providing additional pressurization on lines and transportation pipeline penalties. "Extraordinary costs" shall not include fees for late payments or "Extreme purchase costs", as defined in this section.

"Extreme purchase costs" means expenses incurred for the purchase of fuel, purchased power, natural gas commodity, or any combination thereof, whether at spot pricing, index pricing, or otherwise with delivery beginning February 7, 2021, and ending February 21, 2021.

"Unregulated utility" shall mean any utility, as defined in this section, which is not subject to the regulatory jurisdiction of the Corporation Commission with respect to its rates, charges, and terms and conditions of service.

"Utility" shall mean any person or entity doing business in this state that furnishes natural gas or electric current to its customers located at an address within this state and within the service area of the utility.

35:40-25-3. Applicant eligibility

Each applicant shall meet the following requirements:

(1) The incorporated municipality shall show proof of extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility;

(2) The population of the incorporated municipality shall be no greater than three thousand five hundred (3,500) persons according to the most recent Federal Decennial

Census or most recent annual estimate of the population by the United States Census Bureau; and

(3) The incorporated municipality's owned or controlled unregulated utility shall have had no costs mitigated through securitization as provided by Sections 9070 through 9081 of Title 74 of the Oklahoma Statutes.

35:40-25-4. Evaluation criteria

(a) The Department shall evaluate applications and determine the priority of applicants after considering the following criteria:

(1) The implications of the extraordinary costs and extreme purchase costs regarding an incorporated municipality's solvency; and

(2) The amount of an incorporated municipality's extraordinary costs and extreme purchase costs on a per capita basis.

(b) The Department shall have discretion to award funding based upon its findings and upon its level of available funds.

35:40-25-5. Application requirements

Each applicant for program funds shall:

(1) Execute documents as required by the Department;

(2) Submit the incorporated municipality's energy bills for the five (5) years preceding and ending on February 7, 2021;

(3) Agree to prioritize the use of awarded grant funds for extreme purchase costs when requesting grant funds for both extreme purchase costs and extraordinary costs; and

(4) Submit all required documents electronically to the Oklahoma Department of Agriculture, Food, and Forestry.