

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 75. Oklahoma Bred Program [AMENDED]

SUMMARY:

The proposed amendments revise the standards of care for retired and unwanted Oklahoma-Bred horses and the expenditure of funds from the Oklahoma Breeding Development Fund Special Account to care for retired and unwanted Oklahoma-Bred horses.

AUTHORITY:

3A O.S. § 200 et seq.

COMMENT PERIOD:

Persons may submit written comments to Bennett Abbott at bennett.abbott@ag.ok.gov, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period beginning December 1, 2016 and ending January 5, 2017.

PUBLIC HEARING:

A public hearing will be held at 3:30 p.m., January 5, 2017 in the ODAFF Board Room, located at the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Bennett Abbott at the address listed above during the period beginning December 1, 2016 and ending January 5, 2017.

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

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

CONTACT PERSON:

Bennett Abbott, (405) 522-5803, e-mail address: at bennett.abbott@ag.ok.gov.

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

325:75-1-3. Definition of Accredited Oklahoma-Bred Thoroughbred

As used in this Chapter, an accredited Oklahoma-Bred Thoroughbred horse shall mean a Thoroughbred horse which meets the requirements below:

(1) Stallion. An accredited Oklahoma-Bred stallion is one that is domiciled in Oklahoma, stands for service in Oklahoma, and is enrolled in the Oklahoma-Bred stallion registry. An Oklahoma-Bred stallion that is accredited as racing stock is not accredited as breeding stock in the registry unless the required application is filed and fee paid to Registering Agency. For resulting foals to be eligible for accreditation as Oklahoma-Bred racing stock, the stallion must be accredited in the Oklahoma-Bred stallion registry prior to the service that produces the resulting foal. Except for those foals eligible for accreditation that are sired by non-accredited stallions, any foals conceived prior to the stallion being accredited in the Oklahoma-Bred stallion registry will not be eligible for accreditation. Eligibility for participation in the Oklahoma-Bred Program begins when the application for the stallion registry is submitted, at which time the stallion must be domiciled in Oklahoma, and such application is in substantial compliance with the requirements of the registry. The stallion's application must be filed with the Oklahoma-Bred Registering Agency by February 1 of that breeding season. Late applications will be accepted after February 1 and through June 30 of that season. A stallion's accreditation shall not be forfeited if the stallion leaves Oklahoma for an indefinite period of time for racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. An Oklahoma-Bred stallion may leave Oklahoma for the purpose of being offered in a recognized sale consignment. In the case of a sale consignment, an accredited stallion returned to Oklahoma to resume his domicile within 30 days after the sale date is not required to become re-accredited. Foals conceived after sale date will be ineligible if the stallion fails to resume domicile within thirty (30) days. Should the stallion not meet the return period from the sale, the stallion must be re-accredited upon resuming his domicile in order to be eligible for breeder awards from foals conceived after the date of departure. The burden of proof relating to such race, performance, medical treatment, sale consignment or breeding shall be on the Owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency.

(A) Stallions Leaving Oklahoma for Breeding Purposes in Another Hemisphere: Approved departure for breeding purposes shall be granted by the Registering Agency upon written notification by the stallion Owner or manager as to the destination of the stallion, the anticipated date the stallion will be leaving and the anticipated date of return to Oklahoma. The stallion must re-establish his domicile in Oklahoma prior to servicing any mare for which subsequent foals conceived by service from that stallion are to be eligible for accreditation. The Owner or manager of the stallion must provide written notice of the exact date of stallion's return and re-established domicile location in Oklahoma and the effective date for the stallion's eligibility to earn awards will be the date of return if notice is provided within 30 days of that date, or upon receipt of notice if longer than 30 days after the return of the Stallion.

(B) **Re-Accreditation of Stallions:** If a stallion leaves the State of Oklahoma for any reason other than breeding, sale consignment, performance, or medical treatment and terminates his domicile, that stallion will not be eligible to sire subsequent foals eligible for accreditation as racing stock in the Oklahoma-Bred Program. If the stallion returns to Oklahoma to re-establish his domicile, pays the appropriate fees and meets all other qualifying requirements, the stallion may become re-accredited in the Oklahoma-Bred stallion registry. If a stallion stands for service outside of Oklahoma during the calendar year in which a foal(s) was conceived, any foal conceived after accreditation or re-accreditation in the Oklahoma-Bred stallion registry and while the accredited stallion was standing in Oklahoma and which otherwise may be accredited in the Oklahoma-Bred Program upon presentation of acceptable documentation reflecting that the service producing the foal occurred while the accredited stallion was standing in Oklahoma. The stallion shall be eligible for stallion awards only from those breedings that occurred while the accredited stallion was physically domiciled in Oklahoma. The Registering Agency may require an affidavit for any breeding season during which the stallion is standing as an accredited Oklahoma-Bred stallion. Failure to provide the required documentation for any year shall result in the stallion Owner being ineligible for stallion awards for all foals resulting from that breeding season unless the required documentation is received by the Registering Agency within thirty (30) days after written request. Further, foals conceived during that breeding season shall be ineligible for accreditation unless the required affidavit is received by the Registering Agency not later than thirty (30) days after written request. An accredited stallion who terminates his domicile in Oklahoma and later returns to Oklahoma to resume his domicile, prior to breeding, but fails to re-accredit in the Oklahoma-Bred stallion registry, may qualify for a hardship re-accreditation. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred stallion registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal by the stallion seeking re-accreditation that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon hardship re-accreditation in the Oklahoma-Bred stallion registry. Acceptance of a foal application under these circumstances, by the official Registering Agency, is subject to the stallion being enrolled under a hardship re-accreditation application in the Oklahoma-Bred stallion registry within sixty (60) days from receipt of notice by the stallion Owner that the stallion was not re-accredited in the Oklahoma-Bred stallion registry prior to breeding. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Registering Agency receives the racing stock application. Failure to enroll a stallion under a Hardship Application within sixty (60) days from receipt of notice that the stallion was not re-accredited prior to breeding will result in the rejection of any pending racing stock applications for foals by the stallion. The Owner of an accredited Oklahoma-Bred stallion (for the purpose of qualifying for stallion awards) is the Owner or Lessee of record at the time the offspring is conceived.

(C) **Yearly Re-Certification Fee.** The Owner of the accredited Oklahoma-Bred Stallion must pay a yearly re-certification fee. ~~If paid prior to February~~

~~1, the~~ The yearly recertification fee is \$25.00; and due on or before after February 1, but before June 30, If the yearly recertification fee is paid between February 2 and June 30, the fee is \$50.00. If the yearly recertification fee is paid after between June 30 and December 31, the yearly fee is \$400.00 \$250.00. If the yearly recertification fee is not paid on or before December 31, the stallion will lose its certification as an accredited Oklahoma-Bred stallion. The owner of a stallion may re-certify the stallion as an accredited Oklahoma-Bred stallion by paying a hardship fee of \$500.00 prior to the stallion's foal(s) becoming a yearling or \$1,000.00 prior to the foal(s)' two-year-old year. If the Stallion stallion is not re-certified, the horse stallion loses its accreditation in the Oklahoma-Bred Stallion Registry, and the Owner is ineligible for stallion awards for all foals resulting from that breeding season.

(2) Broodmare. An accredited Oklahoma- Bred broodmare is one that is domiciled in Oklahoma and is enrolled in the Oklahoma-Bred broodmare registry. An Oklahoma-Bred mare that is accredited as racing stock is not accredited as breeding stock in the registry unless the required application is filed and fee paid to Registering Agency. Eligibility for participation in the Oklahoma-Bred Program begins when the application for the broodmare registry is submitted, at which time the broodmare must be domiciled in Oklahoma, and such application is in substantial compliance with the requirements of the registry. The broodmare's application must be filed with the Oklahoma-Bred Registering Agency by December 31 of the year prior to foaling. Late applications will be accepted after December 31, but must be prior to foaling. Hardship Applications are accepted at any time. A broodmare's accreditation shall not be forfeited if the broodmare leaves Oklahoma for an indefinite period of time for racing, medical treatment, performance, or approved departure for breeding purposes in another hemisphere. An Oklahoma-Bred broodmare may leave Oklahoma for the purpose of being offered in a recognized sale consignment. In the case of sale consignment, an accredited broodmare returned to Oklahoma to resume her domicile within 30 days after the sale date is not required to become re-accredited. The burden of proof relating to such race, performance, medical treatment, sale consignment or breeding shall be on the Owner of record who shall produce such evidence to the Oklahoma-Bred Registering Agency.

(A) Broodmares Serviced by Out-of-State Stallions: An accredited Oklahoma-Bred broodmare may be shipped out of Oklahoma to be serviced by a non-accredited stallion, provided she is returned to Oklahoma to resume her domicile not later than August 15 of the calendar year in which she is serviced. Failure of the accredited broodmare to return to Oklahoma to resume her domicile not later than August 15 shall have two results: First, the broodmare loses her accreditation in the program; Second, the resultant foal is ineligible for accreditation in the Oklahoma-Bred Program, unless the broodmare resumes her domicile in Oklahoma and files for re-accreditation prior to the birth of the foal. In order for the broodmare to produce successive foals eligible for accreditation in the Oklahoma-Bred Program, beginning with foals born in 2011, she must produce a foal in Oklahoma in alternating years by an accredited stallion standing in Oklahoma.

(B) Thoroughbred Broodmares Serviced by Non-Thoroughbred Stallions: An accredited Oklahoma-Bred Thoroughbred broodmare that is serviced by a Non-Thoroughbred stallion shall be subject to the same regulations as Quarter Horse, Paint, or Appaloosa broodmares with regard to its accreditation and eligibility to

produce accredited Oklahoma-Bred racing stock so long as the mare is serviced by a Quarter Horse, Paint, or Appaloosa stallion.

(C) Re-accreditation Rule: If a broodmare leaves the State of Oklahoma for any reason other than breeding, performance, sale consignment or medical treatment, the broodmare is deemed terminated and loses broodmare accreditation in the Oklahoma-Bred Program. Such broodmare will not be eligible to produce subsequent foals eligible for accreditation as racing stock in the Oklahoma-Bred Program. If the broodmare returns to Oklahoma to re-establish her domicile, pays the appropriate fees and meets all other qualifying requirements, the broodmare may become re-accredited in the Oklahoma-Bred broodmare registry provided, however, a broodmare re-accredited in consecutive years shall not be eligible to produce accredited foals born in the second or subsequent, consecutive year of back to back re-accreditation, unless the application for re-accreditation includes a valid transfer of Ownership between individuals that are not related by blood or marriage, or that share the same physical address. In the event a re-accredited broodmare produces successive foals by non-accredited Oklahoma-Bred stallions, the broodmare Owner will not receive any breeder awards for the second foal. The Registering Agency may request a copy of the foal report submitted to the official breed registry for any accredited Oklahoma-Bred broodmare. An accredited broodmare who terminates her domicile in Oklahoma and later returns to Oklahoma to resume her domicile, prior to foaling, but fails to re-accredit in the Oklahoma-Bred broodmare registry, may qualify for a hardship re-accreditation. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred broodmare registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal out of the broodmare seeking re-accreditation that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon hardship re-accreditation in the Oklahoma-Bred broodmare registry provided however, a broodmare re-accredited in consecutive years shall not be eligible to produce accredited foals born in the second or subsequent, consecutive year of back to back re-accreditation, unless the application for re-accreditation includes a valid transfer of Ownership between individuals that are not related by blood or marriage, or that share the same physical address. Acceptance of a foal application under these circumstances, by the official Registering Agency, is subject to the broodmare being enrolled under a hardship re-accreditation application in the Oklahoma-Bred broodmare registry within sixty (60) days from receipt of notice by the broodmare Owner that the broodmare was not re-accredited in the Oklahoma-Bred broodmare registry prior to foaling. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Registering Agency receives the racing stock application. Failure to enroll a broodmare under a Hardship Application within sixty (60) days from receipt of notice that the broodmare was not re-accredited prior to foaling will result in the rejection of any pending racing stock applications for foals out of that mare.

(D) Oklahoma broodmares are classified annually as one of the following and are eligible for awards from Oklahoma-Bred funds as defined, and must meet all other eligibility requirements:

- (i) Category A - Accredited Oklahoma-Bred broodmare who is bred to an accredited Oklahoma-Bred stallion receives 100% of the available broodmare awards for that foal [Oklahoma conceived and foaled].
- (ii) Category B - Accredited Oklahoma-Bred broodmare who is bred to a non-Oklahoma-Bred accredited stallion receives 50% of the available broodmare awards for that foal [Oklahoma foaled].
- (iii) Category C - A broodmare who is accredited for the first time in the Oklahoma-Bred Program, whether or not bred to an accredited Oklahoma-Bred stallion, receives 100% of the available breeders awards for her first foal. [Re-accredited broodmares do not qualify for Category C.] All subsequent awards for the broodmare will be based upon the first two foal options listed above.

(E) For Purposes of Qualifying for Broodmare Awards: the Owner of an accredited Oklahoma-Bred Thoroughbred broodmare is the Owner or Lessee of record at the time of foaling.

(3) **Hardship Application.** Notwithstanding other provisions of this Section, a mare accredited in the Oklahoma-Bred Program as a racing stock (with the proper Oklahoma-Bred stamp) but which has not been accredited in the Oklahoma-Bred broodmare registry prior to producing a foal that would otherwise be eligible for accreditation in the Oklahoma-Bred Program may be accredited in the Oklahoma-Bred broodmare registry. In addition to the regular application fee, the applicant shall be charged an additional \$200.00 fee. All other qualifications and requirements of the Oklahoma-Bred broodmare registry must be met as well. The Registering Agency may require proof that all requirements for accreditation have been met. Any foal out of the broodmare that would otherwise be eligible for accreditation as racing stock in the Oklahoma-Bred Program will be eligible for accreditation upon enrollment in the Oklahoma-Bred broodmare registry. Acceptance of a foal application under these circumstances by the official Registering Agency is subject to the broodmare being enrolled under a Hardship Application in the Oklahoma-Bred broodmare registry within sixty (60) days from receipt of notice by the broodmare Owner that the broodmare was not accredited in the Oklahoma-Bred broodmare registry. The fee to enroll the racing stock in the Oklahoma-Bred Program will be based upon the age of the foal on the date the Oklahoma-Bred Registering Agency received the racing stock application. Failure to enroll a broodmare under a Hardship Application within sixty (60) days from receipt of notice from the official Registering Agency that the broodmare was accredited in the Oklahoma-Bred racing stock registry and not in the Oklahoma-Bred broodmare registry, will result in the rejection of any pending racing stock applications for foals out of that mare.

(4) **Racing stock.** An accredited Oklahoma-Bred racehorse is one that foaled in Oklahoma, and meets the following requirements:

(A) Beginning with the foal crop of 2001 there will be two (2) classifications of Thoroughbred foals eligible for accreditation in the Oklahoma-Bred Program. The category for those foals out of an accredited Oklahoma-Bred broodmare and by an accredited Oklahoma-Bred Stallion shall be classified as Oklahoma-Bred Conceived and Foaled. The second category for foals out of an accredited Oklahoma-Bred broodmare and by a non-accredited stallion shall be classified as Oklahoma-Bred Foaled. A foal out of an accredited Oklahoma-Bred broodmare and by a non-accredited stallion may receive accreditation in the Oklahoma-Bred racing stock

registry provided all other requirements are met. In such an event, to be eligible for accreditation, the next foal out of said broodmare presented for accreditation must be by an accredited Oklahoma-Bred stallion and meet all other requirements. Further, in no event can a broodmare produce accredited Oklahoma-Bred foals in succession that are by non-accredited stallions. Except for the initial foal accredited in the Oklahoma-Bred Program, all accredited foals sired by non-accredited stallions must be preceded [by year of birth] in the registry by an accredited foal sired by an accredited stallion. Re-accreditation shall not preclude the listed rule. Provided all other requirements are met, both classifications are eligible for accreditation and may compete in Oklahoma-Bred races.

(B) An Oklahoma-Bred that is accredited as racing stock is not accredited as breeding stock in the registry. The Owner of an accredited Oklahoma-Bred racehorse (for the purpose of qualifying for added purse supplements) is the Owner or Lessee of record at the time of the race.

(5) Late applications.

(A) Broodmare. A broodmare may be accredited in the Oklahoma-Bred broodmare registry after December 31 of the year prior to foaling if the application for accreditation is submitted to the Oklahoma-Bred Registering Agency prior to foaling; and the broodmare is otherwise in substantial compliance with the requirements of the registry. Domicile must be established in Oklahoma when the broodmare's application is filed with the Oklahoma-Bred Registering Agency.

(B) Stallion. A stallion may be accredited in the Oklahoma-Bred stallion registry after February 1 and by June 30 and complete the current breeding season if the stallion is otherwise in substantial compliance with the requirements of the registry. Domicile must be established in Oklahoma when the stallion's application is filed with the Oklahoma-Bred Registering Agency.

(C) Fee. The fee to accredit a broodmare or stallion under a late application is twice the regular fee. The fee will not be refunded if the Registering Agency rejects the application but will be applied to accreditation of the horse for the next ensuing year.

(6) Domicile exception. An Oklahoma-Bred broodmare or stallion may leave Oklahoma for an indefinite period of time for race, performance or for medical treatment. The broodmare or stallion may leave Oklahoma for the purpose of being offered in a recognized sale consignment, and, if returned within thirty (30) days of sale date, is not required to become re-accredited. Should the broodmare or stallion not meet the return period from the sale, it must be re-accredited. The burden of proof shall be on the Owner to notify the Registering Agency of the intent to leave the state for any of the above reasons. The Registering Agency may further require verification of participation, treatment or consignment to a sale. Further, the Owner must report to the Oklahoma-Bred Registering Agency the date the broodmare or stallion returned to Oklahoma.

325:75-1-21. Expenditure of Oklahoma Breeding Development Fund Special Account Monies for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock

The use of monies from the Oklahoma Breeding Development Fund Special Account for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock shall be subject to the following procedures and requirements:

- (1) To be eligible to receive monies from the Oklahoma Breeding Development Fund Special Account for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock, a non-profit entity must:
 - (A) Be exempt from taxation under the United States Internal Revenue Code, 26 U.S.C. § 501(c),
 - (B) The official horsemen's representative organization for a participating breed must request that the non-profit entity receive monies from the Special Account for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock, and
 - (C) The non-profit must have a program developed for the care of retired and/or unwanted horses which meets the program requirements specified in this Rule.
- (2) Two general types of care programs may receive funding for the purpose of caring for retired or unwanted Oklahoma-Bred racing stock:
 - (A) Adoption Programs under which Oklahoma-Bred race horses are rehabilitated and/or rehabilitated and retrained for other uses, such as, but not limited to, polo, dressage, hunter/jumper, and pleasure riding. The purpose and goal of such programs is the adoption of the horse by third parties after rehabilitated and/or retraining; and
 - (i) A horse participating in the "Adoption Program" must be stalled alone or have access to a pen with a constructed shelter to accommodate all horses in said pen.
 - (ii) The Adoption Program shall not include horses that are currently being "let down" will fall under the Pension Program funding until they are actively participating in the Adoption Program. In the event a horse is injured while in the Adoption Program and requires more than two consecutive weeks off, said horse shall only be eligible to receive Pension Program funding until it can return to training. Horses deemed eligible to receive funding for the Adoption Program can only receive said funding for a maximum of twelve (12) months.
 - (B) Pension Programs, for the care and "pasturing" of retired or unwanted race horses who, because of their health or condition, are incapable of being rehabilitated/retrained and adopted.
 - (C) ~~Such~~ Care programs may be operated by the eligible non-profit entity itself and/or through the use of subcontractors.
- (3) Whether conducted by an eligible non-profit entity itself or through the use of subcontractors, to be eligible, a care program must comply with the following requirements:
 - (A) The program must enable horses to have access to clean, palatable, safe water and be able to drink their fill at least twice a day;
 - (B) ~~The program is to maintain all horses in a body condition score of three (3) or more using the body condition scoring system developed by Dr. Don Henneke at Texas A&M University. In establishing this criteria, the Commission recognizes that horses gaining weight and being fed adequately, highly conditioned performance horses and horses with certain chronic health conditions may be in lower body condition scores and still be acceptably nourished, and that horses with more than twenty (20) years of age may not maintain their body condition well, even with special feed~~ The program must be designed to maintain all horses in a healthy body condition, including regularly scheduled de-worming and vaccination programs;

- (C) The program shall permit horses to have free access to natural or constructed shelter that is well-ventilated with adequate space and free of hazards. ~~Stables horses should be allowed exercise daily and provides adequate fencing to ensure the horses' safety;~~
- (D) The program should ensure that horses are free of significant health problems or should be receiving appropriate health care to prevent unnecessary discomfort and promote prompt return to well-being;
- (E) The program must ensure that horses receive adequate hoof care to allow horses to stand in a normal posture and move at all gates without discomfort. ~~In adopting this criterion, the Commission recognizes that some health and hoof problems [such as Heaves or Founder] in horses, particularly those that are long standing, may not be resolved, but this should be determined by a veterinarian~~ have normal movement;
- (F) The program shall maintain adequate dental care to allow a horse to chew and digest the provided feed.
- ~~(F)~~ (G) The non-profit entity and subcontractor participating in the program must agree to and allow random, unannounced inspections of their care operations and facilities by the ~~Commission's Law Enforcement Division~~ OHRC or its representative;
- ~~(G)~~ (H) Non-profit entities and subcontractors participating in the program must agree to and actually file ~~quarterly~~ monthly reports with the Commission on a form provided by the Commission. The reports will include, but are not limited to, an indication of the total number of horses being cared for at the facility during the ~~quarter~~ month, the number of eligible Oklahoma-Bred horses being cared for, and horse mortality rate during the ~~quarter~~ month and the number of adoptions during the ~~quarter~~ month, and
- ~~(H)~~ (I) No horse in the non-profit entity's program shall be sent to slaughter.
- (4) To be eligible to participate in the program, racing stock must meet the following requirements:
- (A) The horse must be registered with a participating breed, named and tattooed;
- (B) The horse must be registered in the Oklahoma-Bred Program;
- (C) ~~The horse's last race or last workout cannot have occurred more than twelve (12) months prior to its entering into care in a program receiving funding under this Rule.~~ The horse must have raced at an Oklahoma Horse Racing Commission (OHRC) licensed racetrack within twelve (12) months of submitting an application for funding or had at least three (3) official workouts at an OHRC licensed racetrack within twelve (12) months of submitting an application for funding;
- (D) Ownership of the horse and its registration papers must be turned over to and become the property of the non-profit entity or its designated subcontractor;
- (E) The horse shall never be raced again, and
- (F) Horses of an owner who has not placed a retired or unwanted horse in an Adoption Program or Pension Program receiving funding authorized in accordance with this Rule will have priority over horses seeking to be placed in such an Adoption or Pension Program whose owners have already placed two (2) or more horses in such an Adoption Program or Pension Program.

(5) The following procedures will be used by the Commission in awarding monies from the Oklahoma Breeding Development Fund Special Account for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock:

(A) No non-profit entity will be eligible to receive monies from the Oklahoma Breeding Development Fund Special Account for the purpose of caring for retired and unwanted Oklahoma-Bred racing stock during any calendar year unless the official horsemen's representative organization for a participating breed requests that the entity receive such from the Special Account during the calendar year. Requests by the official horsemen's representative organization must be made on an annual basis and no matter when made will only make the non-profit entity eligible during the calendar year in question, assuming all other requirements are met by the non-profit entity.

(B) The Commission's Executive Director shall determine whether a non-profit entity and its program are eligible to receive funding for the purpose of caring for retired and unwanted horses. Further, the Executive Director shall determine the amount of funds that each eligible and participating entity shall receive, based upon the number of eligible Oklahoma-Bred horses being cared for or to be cared for by the non-profit entity and how much funding is available, using the following funding parameters:

(i) No more than fifty percent (50%) of funds made available in the Oklahoma Breeding Development Fund Special Account for the purpose of caring for retired or unwanted Oklahoma-Bred racing stock can be used to care for pensioned horses, horses that because of their health or condition are not being rehabilitated and/or retrained for adoption;

(ii) Funding for horses in an Adoption Program, between \$200-\$250 per month, per horse, or an amount within a range established annually by the Commission's Executive Director;

(iii) Funding for horses in a Pension Program, between \$150-\$200 per month, per horse, or an amount within a range established annually by the Commission's Executive Director.

(C) Of the funding made available to a non-profit entity for the purpose of providing care to retired and unwanted horses, the non-profit entity may use up to fifteen percent (15%) of those funds for administrative expenses, which are any expenses not related to directly providing of care to horses in the program.

(D) Before a non-profit entity can receive funding for the care of a horse, whether in an Adoption Program or Pension Program, the horse's eligibility to participate in the program must be established in the following manner: The non-profit entity shall file with the Commission's Oklahoma-Bred Registry Department: (1) an ownership transfer application which transfers ownership of the horse to the non-profit entity or a subcontractor designated by the non-profit entity, together with (2) the horse's original registration papers to be held by the OHRC until the horse is adopted or purchased, (3) documentation showing the horse's last race and/or last workout, and (4) a request that the horse be qualified as retired or unwanted racing stock within its care for the purpose of receiving Oklahoma Breeding Development Fund Special Account monies.

(E) In addition to transferring the ownership based upon the application filed, the Registering Department will also notify both the Commission's Executive Director and the non-profit entity making the application whether the horse is an Oklahoma-Bred racing stock horse and whether the horse is eligible under this Rule.

(F) A non-profit entity must notify the Commission's Executive Director within ~~two (2) weeks on an eligible horse's leaving the non-profit's Adoption or Pension Program by virtue of death, adoption or any other reason~~ forty eight (48) hours of a participating horse leaving their care for reason, including death, sale or adoption.

RULE IMPACT STATEMENT

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

- (A) **PURPOSE OF THE PROPOSED RULE:**
The proposed amendments revise the standards of care for retired and unwanted Oklahoma-Bred horses and the expenditure of funds from the Oklahoma Breeding Development Fund Special Account to care for retired and unwanted Oklahoma-Bred horses. The proposed rule amendments, among other changes, add provisions that permit the recertification of an accredited Oklahoma-Bred stallion after the certification has expired. The proposed fees are new and relate to the recertification of an accredited Oklahoma-Bred stallion after the certification has expired.
- (B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**
The proposed rules affect persons regulated by the Oklahoma Horse Racing Commission caring for retired and unwanted Oklahoma-Bred horses. No cost impacts have been received to date.
- (C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**
Persons who care for retired and unwanted Oklahoma-Bred horses will benefit from the proposed rules. Retired and unwanted Oklahoma-Bred horses will benefit from the proposed rules.
- (D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**
Persons who care for retired and unwanted Oklahoma-Bred horses will have a clear understanding of the requirements to care for retired and unwanted Oklahoma-Bred horses. Retired and unwanted Oklahoma-Bred horses will benefit from improved care.
- (E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**
No additional cost to the Commission is anticipated by the proposed rules.
- (F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**
No effect on any political subdivision is anticipated by the proposed rules.
- (G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**

The proposed rules will have no adverse effect on small business.

(H) DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:

The Commission is unaware of any non-regulatory methods to achieve the purpose of the proposed rules.

(I) DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:

The proposed rules will not detrimentally affect the public health, safety, and environment.

(J) DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:

The Commission is not aware of any detrimental effect the proposed rules will have on public health, safety, and environment.

(K) DATE RULE IMPACT STATEMENT WAS PREPARED:

This rule impact statement was prepared on October 31, 2016 and revised on December 5, 2016.

**OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
ESTABLISHMENT OF FEE REPORT
MANDATED BY 74 O.S. § 3117**

MANDATED LANGUAGE

Prior to the establishment or increase of a fee, the agency, constitutionally or statutorily created state board, bureau, commission, office, authority, public trust in which the state is a beneficiary, or interstate commission, except governing boards for entities within The Oklahoma State System of Higher Education for which fees are reported pursuant to Section 3218.2 of Title 70 of the Oklahoma Statutes, shall notify, in writing, the Governor, the Speaker of the House of Representatives, the Government Operations, Agency Oversight and Administrative Rules Committee and the President Pro Tempore of the Senate of the intended action. The notice shall include justification for the fee or fee increase and all supportive documentation.

RULE:

OAC 325:75-1-3

REPORT PREPARED BY AGENCY:

December 5, 2016

AGENCY INTENT/SUMMARY/JUSTIFICATION:

The proposed rule amendments, among other changes, add provisions that permit the recertification of an accredited Oklahoma-Bred stallion after the certification has expired. The proposed fees are new and relate to the recertification of an accredited Oklahoma-Bred stallion after the certification has expired.

AUTHORITY FOR THE NEW RULES AND FEES:

Okla. Const., Art. 6, § 31; 2 O.S. § 2-4(A)(2) and 2-4(A)(20); 2 O.S. § 6-2; 2 O.S. § 6-91 et seq.; 2 O.S. § 6-121 et seq.; 2 O.S. § 6-131 et seq.; 2 O.S. § 6-141 et seq.; 2 O.S. § 6-150 et seq.; 2 O.S. § 6-400 et seq.; and 2 O.S. § 6-501 et seq.

THE FOLLOWING SUPPORTIVE DOCUMENTATION IS ATTACHED:

- ❖ Summary of Significant Changes to the Fee Schedule
- ❖ Justification of Fee
- ❖ Draft of the Proposed Rule
- ❖ Rule Impact Statement

Summary of Significant Changes to the Fee Schedule:

- ❖ OAC 325:75-1-3
 - The proposed fees are new and relate to the recertification of an accredited Oklahoma-Bred stallion after the certification has expired..

Justification of Fee

Factors that have contributed to the need for a new fee, include, but are not limited to:

1. Currently, Oklahoma-Bred Stallions are recertified annually and the recertification is subject to a fee. The fee for recertification increases if the recertification is not requested by

certain deadlines. The opportunity to recertify an accredited Oklahoma-Bred stallion expires if the horse is not recertified during the calendar year. The proposed new service would permit horse owners to recertify an Oklahoma-Bred stallion after the certification has previously expired. The proposed fee is necessary to support the cost of recertification and to encourage horse owners to timely recertify accredited Oklahoma-Bred stallions annually.