

**REGULAR MEETING AGENDA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m. Friday, February 25, 2011
DEQ Multipurpose Room
Oklahoma City, Oklahoma

Please turn off cell phones.

- 1. Call to Order** – Brita Cantrell, Chair
- 2. Roll Call** – Myrna Bruce, Secretary, Board & Councils
- 3. Approval of Minutes** of the November 16, 2010, Regular Meeting
- 4. Election of Officers** – Election of Chair and Vice-Chair for Calendar Year 2011
- 5. Rulemaking - OAC 252:100 Air Pollution Control**
 - A. The DEQ proposes to amend Subchapter 5 by adding a new section at OAC 252:100-5-2.3 that would allow the Department to assess annual operating fees to certain area sources of hazardous air pollutants. Additionally, the DEQ proposes to amend OAC 252:100-7, Part 2 and OAC 252:100-8, Part 3 to increase permit application fees for both minor facilities and Part 70 sources.
 - B. The DEQ proposes to amend Subchapters 1, 7, and 8 to ensure that State rules affected by recent changes to the U.S. Environmental Protection Agency's (EPA's) policies and programs for greenhouse gas (GHG) emissions are not perceived to be more stringent than the corresponding federal requirements.
 - C. The DEQ proposes to amend Subchapter 3 by adding the annual and 24-hour fine particulate matter (PM_{2.5}) increments to OAC 252:100-3-4, Significant deterioration increments. Additionally, the DEQ proposes to amend Subchapter 8 to implement the New Source Review (NSR) program for PM_{2.5} National Ambient Air Quality Standards (NAAQS), which includes updating the incorporation by reference of certain federal rules from July 1, 2009 to December 20, 2010.
 - D. The DEQ proposes to revoke the existing Appendix A and replace it with a new Appendix A to correct an inaccuracy pertaining to the allowable particulate matter emission rate for certain incinerators.
 - E. The DEQ proposes to revoke the existing Appendix E and replace it with a new Appendix E to maintain consistency with the NAAQS. Specifically, the nitrogen dioxide (NO₂) and sulfur dioxide (SO₂) primary standards would be amended to reflect recent changes made by EPA.
 - Presentation – Laura Lodes, Chair, Air Quality Advisory Council
 - Questions and discussion by the Board
 - Questions, comments and discussion by the public
 - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

6. Rulemaking – OAC 252:302 Field Laboratory Accreditation

The DEQ proposes to adopt a new Chapter 302 in order to provide standards for accreditation of privately and publicly owned laboratories for performance of analysis of wastewater. This new Chapter would apply to laboratories accredited or applying to be accredited by the DEQ as a field laboratory. A field laboratory is a small laboratory whose owner does not wish to participate in The NELAC Institute accreditation standards in the proposed new Chapter 303 (TNI Laboratory Accreditation) and is limited to analysis for pH, residual chlorine (total residual chlorine, free chlorine, total oxidants or free oxidants), turbidity, temperature and dissolved oxygen.

- Presentation – Brian Duzan, Chair, Laboratory Certification Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote on permanent adoption

7. Rulemaking – OAC 252:303 TNI Laboratory Accreditation

The DEQ proposes to adopt a new Chapter 303 to provide standards for accreditation of privately and publicly owned laboratories for performance of analysis of water and wastewater, solid and hazardous waste, soil, sludge and petroleum hydrocarbons. Chapter 303 would apply to laboratories accredited or applying to be accredited by the DEQ consistent with The NELAC Institute (TNI) standards.

- Presentation – Brian Duzan, Chair, Laboratory Certification Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote on permanent adoption

8. Rulemaking – OAC 252:301 Laboratory Accreditation

The DEQ proposes to revoke the current Chapter 301, Laboratory Accreditation, and replace it with the new Chapter 303 in order to be consistent with The NELAC¹ Institute (TNI) standards and for ease of reference for the regulated community. In doing so, two subchapters in the current Chapter 301 (Proficiency Testing and Quality Assurance/Quality Control) are proposed to be eliminated in their entirety because TNI standards are to be incorporated by reference. The other subchapters will be included but amended in the new Chapter 303 to come into compliance with TNI standards. This revocation process is progressing in tandem with rulemaking for the new Chapter 303 (TNI Laboratory Accreditation) as well as the new Chapter 302 (Field Laboratory Accreditation).

- Presentation – Brian Duzan, Chair, Laboratory Certification Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote on permanent revocation

¹ “NELAC” is the acronym for National Environmental Laboratory Accreditation Conference.

9. Rulemaking – OAC 252:410 Radiation Management

The DEQ proposes to amend Subchapter 5 (Certification of Industrial Radiographers), Subchapter 7 (Radiation Management Authorizations), Subchapter 10 (Radioactive Materials Program), Subchapter 11 (Use of X-Rays and/or Particles for Therapeutic Purposes in the Healing Arts and Veterinary Medicine). Additionally, the DEQ proposes to revoke the current Appendix A and replace it with an amended Appendix A (Application and Annual Fee Schedule for Radiation Machines). The purpose of the proposed amendments is to increase fees to meet program costs and to provide an annual fee adjustment to assist in meeting rising costs to the DEQ for implementation of radiation management programs.

- Presentation – Steve Woods, Chair, Radiation Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote on permanent adoption

10. Rulemaking – OAC 252:606 Oklahoma Pollutant Discharge Elimination System (OPDES) Standards

- A. The DEQ proposes to amend its rules to increase OPDES annual fees and establish OPDES permit application fees. (Subchapter 3; Appendices B, C, D, and E)
- B. The DEQ also proposes to amend Chapter 606 to: (1) define categorical industries; (2) allow certain stormwater and discharge monitoring report documents to be submitted electronically, provided the submission meets federal requirements; (3) require additional information in applications from facilities that generate or land apply biosolids in the watershed of an Outstanding Resource Water; (4) move the requirements for closure of a biosolids land application site to the biosolids subchapter; (5) establish minimum control testing requirements for industrial wastewater discharging facilities with permit limits for oxygen demanding substances similar to the currently adopted control tests for municipal wastewater discharging facilities (Appendix A); and (6) establish stream monitoring requirements for industrial wastewater discharging facilities with permit limits for oxygen demanding substances similar to the currently adopted stream monitoring requirements for municipal wastewater discharging facilities.
- C. The DEQ proposes to amend Subchapter 1 to update the date of incorporation by reference of certain federal regulations from July 1, 2009, to July 1, 2010.
 - Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
 - Questions and discussion by the Board
 - Questions, comments and discussion by the public
 - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

11. Rulemaking – OAC 252:611 General Water Quality

- A. The DEQ proposes to establish application fees for certifications required to be issued by the State pursuant to Section 401 of the Clean Water Act. Previously, the DEQ reviewed applications for and issued these certifications at no cost to the regulated community. Additionally, the DEQ proposes to have fees increase automatically each year based on the rate of inflation.
- B. The DEQ proposes to amend its rules to update the date of incorporation by reference of certain federal regulations from July 1, 2009, to July 1, 2010.
- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
 - Questions and discussion by the Board
 - Questions, comments and discussion by the public
 - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

12. Rulemaking – OAC 252:616 Industrial Wastewater Systems

The DEQ proposes to increase annual fees for industrial tank systems, surface impoundments, and land application systems, and to make these fees applicable to all industrial wastewater systems. Additionally, the DEQ proposes to establish a permit application fee for industrial tank systems, surface impoundments and land application systems.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

13. Rulemaking – OAC 252:619 Operation and Maintenance of Non-Industrial Total Retention Lagoon Systems and Land Application

The DEQ proposes to increase annual fees for non-industrial total retention lagoon systems and land application sites covered by Chapter 619. The proposed rules include a waiver of 50 percent of the annual fee for public entities. Additionally the DEQ proposes to have the fees increase automatically each year based on the rate of inflation.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

14. Rulemaking – OAC 252:621 Non-Industrial Flow-Through and Public Water Supply Impoundments Including Land Application

The DEQ proposes to amend Chapter 621 to: (1) reduce the maximum slope of a wastewater land application site from 10% to no more than 5%; (2) implement Senate Bill 1695, enacted during the 2010 legislative session, concerning ownership of shared sewage systems; (3) remove references to total retention lagoons now covered in OAC 252:619; (4) replace the words “flow-through” with “discharging” and “impoundments” with “lagoons” throughout Chapter 621, including the Chapter title; and (5) amend the title of the fees section in Chapter 621, without changing the existing fee schedule.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

15. Rulemaking – OAC 252:623 Pretreatment for Central Treatment Trusts

A. The DEQ proposes to establish a fee for the review and issuance of permits to industries that discharge to a Central Treatment Trust [Oklahoma Ordnance Works Authority (OOWA)]. Additionally, the DEQ proposes to increase fees automatically each year based on the rate of inflation.

B. The DEQ proposes to amend Chapter 623 to update the date of incorporation by reference of certain federal regulations from July 1, 2009, to July 1, 2010.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

16. Rulemaking – OAC 252:624 Minor Public Water Supply Systems

The DEQ proposes to amend Chapter 624 to establish a fee schedule to help cover the costs of operating the program, which has historically been supported entirely by appropriated funds. Additionally, the Department proposes to have fees increase automatically each year based on the rate of inflation.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

17. Rulemaking – OAC 252:626 Public Water Supply Construction Standards

- A. The DEQ proposes to increase permitting fees for public water supply construction permits and fees for household well inspections.
- B. The DEQ proposes to amend the requirements for variances from construction standards in this Chapter so that they are consistent with the proposed variance requirements in OAC 252:656 (Water Pollution Control Facility Construction Standards) and to provide additional options in obtaining variances.
 - Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
 - Questions and discussion by the Board
 - Questions, comments and discussion by the public
 - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

18. Rulemaking – OAC 252:631 Public Water Supply Operation

- A. The DEQ proposes to amend Chapter 631 to modify annual fees for public water supply systems.
- B. The DEQ proposes to amend Chapter 631 to update the date of incorporation by reference of certain federal regulations from July 1, 2009, to July 1, 2010.
 - Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
 - Questions and discussion by the Board
 - Questions, comments and discussion by the public
 - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

19. Rulemaking – OAC 252:641 Individual and Small Public On-Site Sewage Treatment Systems

The DEQ proposes to amend Chapter 641 to implement requirements of Senate Bill 1765, enacted during the 2010 legislative session, and which requires the person hiring another to install an on-site sewage treatment system to certify in writing the actual wastewater flow from the residence or business that the proposed system will serve. Additionally, the proposed amendments implement Senate Bill 1695, also passed during the 2010 legislative session, concerning ownership of shared sewage systems.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

20. Rulemaking – OAC 252:656 Water Pollution Control Facility Construction Standards

- A. The DEQ proposes to amend Chapter 656 to increase municipal wastewater construction permit application fees.
- B. The DEQ proposes to amend Chapter 656 to (1) implement legislation modifying 27A O.S. § 2-6-401, effective April 2010, concerning ownership of shared sewage systems; (2) make the requirement for variances from construction standards in this Chapter consistent with the proposed variance requirements in Chapter 626 (Public Water Supply Standards) and provide additional options in obtaining variances; (3) create Appendix E, which contains a county rainfall table that includes data from the Oklahoma Geological Survey; and (4) update Chapter 656 concerning various technical requirements related to construction standards.
- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
 - Questions and discussion by the Board
 - Questions, comments and discussion by the public
 - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

21. Rulemaking – OAC 252:690 Water Quality Standards Implementation

- A. The DEQ proposes to amend Chapter 690 to: (1) establish Appendix B as a list of required minimum quantifiable levels; (2) require facilities that have Whole Effluent Toxicity (WET) limits to pass three consecutive retests within a six-month period following a WET testing failure; (3) require that WET retests cannot substitute for regularly scheduled WET testing; (4) require that WET testing will continue once per quarter for the life of the permit in the event of a sublethal test failure; and (5) clarify that WET biomonitoring frequencies cannot be reduced during the first permit cycle.
- B. The DEQ also proposes to amend Chapter 690 to: (1) allow DEQ to use site specific data to produce a more accurate model for dissolved oxygen criteria; (2) establish secondary body-contact recreational parameters for primary body-contact recreational water bodies during winter months; (3) require industries with permit limits for oxygen demanding substances to conduct control tests that are similar to those currently established for municipalities; (4) require both municipalities and industries to report appropriate control tests in accordance with federal regulations.
- C. The DEQ proposes to amend Chapter 690 to update the date of incorporation by reference of certain federal regulations from July 1, 2009, to July 1, 2010, and to make other minor corrections and clarifications.
- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
 - Questions and discussion by the Board
 - Questions, comments and discussion by the public
 - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

22. **Executive Director's Report** – Steve Thompson, DEQ Executive Director
23. **New Business** (Any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)
24. **Next meeting:** June 14, 2011, Enid, Oklahoma
25. **Adjournment**

Public Forum – Following Adjournment -- The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.

Some members of the Board and senior staff members from DEQ will meet for dinner in Oklahoma City the evening of February 24, 2011. This is a social occasion. It is uncertain whether a majority of the Board will be present, but no Board or DEQ business will be conducted.