

**MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL  
January 11, 2023, 9:00 a.m.  
Department of Environmental Quality  
707 North Robinson Avenue  
Oklahoma City, OK**



*Please turn off cell phones*

1. **Call to Order** – Laura Lodes, Chair
2. **Roll Call** – Quiana Fields
3. **Approval of Minutes** – December 6, 2022 Special Meeting
4. **Election of Officers – Discussion and action by Council**
5. **Public Rulemaking Hearing**
  - A. **Chapter 100. Air Pollution Control**  
**Subchapter 5. Registration, Emission Inventory and Annual Operating Fees**  
**252:100-5-2.2 Annual operating fees [AMENDED]**

The Department is proposing to amend OAC 252:100, Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, to update the annual operating fee schedule language to modify the base fee and include the use of the Consumer Price Index (CPI) in the adjustment of annual operating fees for minor facilities. Part 70 (major) sources are subject to adjusted annual operating fees based on the CPI.

1. Presentation – Christina Hagens, EPS, Rules & Planning Section, AQD
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and possible action by the Council

- B. Chapter 100. Air Pollution Control**
  - Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program [NEW]**
    - 252:100-49-1 Purpose and Applicability [NEW]**
    - 252:100-49-3 Definitions [NEW]**
    - 252:100-49-5 Program criteria and qualification determination [NEW]**
    - 252:100-49-7 Sunset provision [NEW]**

The Department is proposing to add Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program to OAC 252:100, to implement applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. The act created the "Oklahoma Emission Reduction Technology Rebate Program," administered by the DEQ and the Oklahoma Tax Commission, to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities.

- 1. Presentation – Brooks Kirlin, P.E., Rules & Planning Section, AQD
    - 2. Questions and discussion by the Council
    - 3. Questions, comments and discussion by the public
    - 4. Discussion and possible action by the Council
- 6. Division Director's Report** – Kendal Stegmann, Division Director, AQD
- 7. New Business** – Any matter not known about, or which could not have been reasonably foreseen prior to the time of posting the agenda.
- 8. Adjournment** – The next regular meeting is scheduled for Wednesday, June 21, 2023, in Tulsa, Oklahoma.

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4177. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 100. AIR POLLUTION CONTROL**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.2 Annual operating fees [AMENDED]

Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program [NEW]

252:100-49-1 Purpose and Applicability [NEW]

252:100-49-3 Definitions [NEW]

252:100-49-5 Program criteria and qualification determination [NEW]

252:100-49-7 Sunset provision [NEW]

**SUMMARY:**

The Department of Environmental Quality (Department or DEQ) is proposing to amend OAC 252:100, Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, to update the annual operating fee schedule language relating to minor facilities. Part 70 (major) sources are subject to adjusted annual operating fees based on the Consumer Price Index (CPI). The gist of this rule proposal and the underlying reason for the rulemaking is to include the use of the CPI in the adjustment of annual operating fees for minor facilities.

The Department is proposing to add Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program to OAC 252:100, to implement applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. The act created the "Oklahoma Emission Reduction Technology Rebate Program," administered by the DEQ and the Oklahoma Tax Commission, to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department's responsibilities under the Oklahoma Emission Reduction Technology Incentive Act.

**AUTHORITY:**

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-3-402, and 2-5-106.

Air Quality Advisory Council; 27A O.S. §§ 2-2-201 and 2-5-107.

Oklahoma Clean Air Act; 27A O.S. §§ 2-5-101 through 2-5-117.

Oklahoma Uniform Permitting Act; 27A O.S. §§ 2-14-101 through 2-14-304.

Oklahoma Emission Reduction Technology Incentive Act; 68 O.S. § 55011.

**COMMENT PERIOD:**

Written comments may be submitted to the contact person from December 1, 2022, through January 3, 2023. Oral comments may be made at the January 11, 2023 Air Quality Advisory Council special meeting and at the February 17, 2023 Environmental Quality Board meeting.

**PUBLIC HEARINGS:**

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 11, 2023, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

If the Council recommends adoption, the proposed rules will be considered by the Environmental Quality Board at its meeting scheduled for 9:30 a.m. on Friday, February 17, 2023, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 C.F.R. § 51.102 and

27A O.S. § 2-5-107(6)(c), and to the State Title V (Part 70) Implementation Plan under the requirements of 40 C.F.R. Part 70 and 27A O.S. § 2-5-112(B)(9).

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

The Department requests that business entities or any other members of the public affected by these rules provide the Department, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102, or reviewed online at <https://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>.

**RULE IMPACT STATEMENTS:**

Pursuant to 75 O.S. § 303(D), a rule impact statement was prepared and is available on the DEQ website at <https://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>. Copies may also be obtained from the Department by calling the contact person listed below.

**CONTACT PERSON:**

The contact person for this proposal is Melanie Foster, Environmental Programs Manager, who can be reached by phone at (405) 702-4100. Please email written comments to [AQDRuleComments@deq.ok.gov](mailto:AQDRuleComments@deq.ok.gov). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, OK 73101-1677, ATTN: Melanie Foster.

**PERSONS WITH DISABILITIES:**

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4177. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

**DRAFT MINUTES  
AIR QUALITY ADVISORY COUNCIL  
December 6, 2022  
Department of Environmental Quality  
Oklahoma City, Oklahoma**

**Official AQAC Approved  
at January 11, 2023 regular meeting**

**Notice of Public Meeting** – The Air Quality Advisory Council (AQAC) convened for its Special Meeting at 9:00 a.m. on December 6, 2022. Notice of the meeting was forwarded to the Office of Secretary of State on August 12, 2022. The agenda was posted at the DEQ twenty-four hours prior to the meeting. Also, Ms. Beverly Botchlet-Smith acted as Protocol Officer and convened the hearings by the AQAC in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A, Oklahoma Statutes, Sections 2-2-201 and 2-5-101 through 2-5-117. She entered the agenda and the Oklahoma Register Notice into the record and announced that if you wish to make a statement when it’s time for public comments, complete the form at the registration table and you will be called upon at the appropriate time. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present.

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|--|---|
| <p><b>MEMBERS PRESENT</b><br/>Matt Caves<br/>Gary Collins<br/>Robert Delano<br/>Gregory Elliott<br/>Garry Keele<br/>John Privrat<br/>Laura Lodes</p> <p><b>MEMBERS ABSENT</b><br/>Steve Landers<br/>Jeffrey Taylor</p> | <p><b>DEQ STAFF PRESENT</b><br/>Kendal Stegmann<br/>Beverly Botchlet-Smith<br/>Carrie Schroeder<br/>Brooks Kirlin<br/>Melanie Foster<br/>Phillip Fielder<br/>Travis Couch<br/>Jared Milano<br/>Cheryl Bradley<br/>Kathy Aebischer<br/>Ryan Biggerstaff<br/>Michael Ketcham<br/>Camas Frey<br/>Austin Sides<br/>Joseph Daniel<br/>Michelle Wynn<br/>Malcolm Zachariah<br/>Christina Hagens<br/>Quiana Fields</p> |
|--|---|

**Approval of Minutes** – Ms. Lodes called for a motion to approve the Minutes of the October 5, 2022 Regular Meeting. Mr. Elliott moved to approve and Mr. Keele made the second.

*See transcript pages 2 - 3*

Matt Caves	Yes	John Privrat	Yes
Gary Collins	Yes	Laura Lodes	Yes
Robert Delano	Yes		
Gregory Elliott	Yes		
Garry Keele	Yes		

**Public Rulemaking Hearing**

**Chapter 100. Air Pollution Control**

**Subchapter 5. Registration, Emission Inventory and Annual Operating Fees**

**252:100-5-2.2 Annual operating fees [AMENDED]**

Ms. Christina Hagens, Environmental Programs Specialist of the AQD, stated the Department is proposing to amend OAC 252:100, Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, to update the annual operating fee schedule language to include the use of the Consumer Price Index (CPI) in the adjustment of annual operating fees for minor facilities. Part 70 (major) sources are subject to adjusted annual operating fees based on the CPI. The Staff asks the Council not to vote on the proposed rule until the next regular AQAC meeting, scheduled for January 11, 2023.

*See transcript pages 5 - 17*

**Chapter 100. Air Pollution Control**

**Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program [NEW]**

**252:100-49-1. Purpose and Applicability [NEW]**

**252:100-49-3. Definitions [NEW]**

**252:100-49-5. Program criteria and qualification determination [NEW]**

**252:100-49-7. Sunset provision [NEW]**

Mr. Brooks Kirlin, Professional Engineer of the AQD, stated that the Department is proposing to add Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program to OAC 252:100, to implement applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. The act created the “Oklahoma Emission Reduction Technology Rebate Program,” administered by the DEQ and the Oklahoma Tax Commission, to provide an incentive for “Emission Reduction Projects” – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The Staff asks the Council not to vote on the proposed rule until the next regular AQAC meeting, scheduled for January 11, 2023.

*See transcript pages 17 - 47*

**Ms. Botchlet-Smith announced the conclusion of the hearing portion of the meeting.**

*See transcript page 47*

**Division Director's Report** – Ms. Kendal Stegmann, Division Director of the AQD, provided an update on other Division activities.

**New Business** – None

**Adjournment** – Ms. Lodes called for a motion to adjourn the meeting. Mr. Collins moved to adjourn and Mr. Caves made the second. The next scheduled Regular Meeting is on Wednesday, January 11, 2023. Meeting adjourned at 10:00 a.m.

Matt Caves	Yes	John Privrat	Yes
Gary Collins	Yes	Laura Lodes	Yes
Robert Delano	Yes		
Gregory Elliott	Yes		
Garry Keele	Yes		

**Transcript and attendance sheet becomes an official part of these Minutes.**

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1 REGULAR MEETING/HEARING  
 2 AIR QUALITY ADVISORY COUNCIL  
 3 DECEMBER 6, 2022, 9:00 AM  
 4  
 5  
 6 MEMBERS PRESENT  
 7 Laura Lodes  
 8 Garry Keele II  
 9 Matt Caves  
 10 Gary Collins  
 11 Robert Delano  
 12 Gregory Elliott  
 13 John Privrat  
 14  
 15 MEMBERS ABSENT  
 16 Stephen Landers  
 17 Jeffery Taylor  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25 REPORTED BY: Jenny Longley, CSR

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1 PROCEEDINGS  
 2 CHAIRWOMAN LODES: We'll call today's  
 3 meeting of the Air Quality Advisory Council to  
 4 order. Quiana, please call roll.  
 5 MS. FIELDS: Mr. Caves?  
 6 MR. CAVES: Here.  
 7 MS. FIELDS: Mr. Collins?  
 8 MR. COLLINS: Here.  
 9 MS. FIELDS: Dr. Delano?  
 10 DR. DELANO: Here.  
 11 MS. FIELDS: Mr. Elliott?  
 12 MR. ELLIOTT: Here.  
 13 MS. FIELDS: Mr. Keele?  
 14 VICE-CHAIRMAN KEELE: Here.  
 15 MS. FIELDS: Mr. Landers is absent.  
 16 Mr. Privrat?  
 17 MR. PRIVRAT: Here.  
 18 MS. FIELDS: Mr. Taylor is absent.  
 19 Ms. Lodes?  
 20 CHAIRWOMAN LODES: Here.  
 21 MS. FIELDS: We have a quorum.  
 22 CHAIRWOMAN LODES: Thank you.  
 23 The next item on today's Agenda is  
 24 "Approval of Minutes from the October 5, 2022  
 25 Regular Meeting". Do we have any comments or

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1 questions on the minutes for the last meeting?  
 2 Hearing none, do I have a motion to  
 3 approve the minutes of the October 5, 2022 regular  
 4 meeting?  
 5 MR. ELLIOTT: Make a motion to approve.  
 6 VICE-CHAIRMAN KEELE: Second.  
 7 CHAIRWOMAN LODES: I have motion and a  
 8 second.  
 9 Quiana, please call roll.  
 10 MS. FIELDS: Mr. Caves?  
 11 MR. CAVES: Yes.  
 12 MS. FIELDS: Mr. Collins?  
 13 MR. COLLINS: Yes.  
 14 MS. FIELDS: Dr. Delano?  
 15 DR. DELANO: Yes.  
 16 MS. FIELDS: Mr. Elliott?  
 17 MR. ELLIOTT: Yes.  
 18 MS. FIELDS: Mr. Keele?  
 19 VICE-CHAIRMAN KEELE: Here. Yes.  
 20 MS. FIELDS: Mr. Privrat?  
 21 MR. PRIVRAT: Yes.  
 22 MS. FIELDS: Ms. Lodes?  
 23 CHAIRWOMAN LODES: Yes.  
 24 MS. FIELDS: Motion passed.  
 25 CHAIRWOMAN LODES: Thank you. The next

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1 item of today, we will enter our Public Rulemaking  
 2 Hearing.  
 3 MS. BOTCHLET-SMITH: Good Morning. I am  
 4 Beverly Botchlet-Smith, I am the Assistant Director  
 5 of the Air Quality Division, and as such I will  
 6 serve as protocol officer for today's hearings.  
 7 The hearings will be convened by the  
 8 Air Quality Council in compliance with the Oklahoma  
 9 Administrative Procedures Act and Title 40 of the  
 10 Code of Federal Regulations, Part 51, as well as the  
 11 authority of Title 27A of the Oklahoma Statutes,  
 12 Section 2-2-201 and Sections 2-5-101 through  
 13 2-5-117.  
 14 Notice of the December 6, 2022  
 15 hearings were advertised in the OKLAHOMA REGISTER  
 16 for the purpose of receiving comments pertaining to  
 17 the proposed OAC Title 252 Chapter 100 rules as  
 18 listed on the Agenda and will be entered into each  
 19 record along with the Oklahoma Register filing.  
 20 Notice of the Meeting was filed with the Secretary  
 21 of State on August 12, 2022. The Agenda was duly  
 22 posted 24 hours prior to the meeting at the DEQ.  
 23 If you wish to make a statement, it  
 24 is very important that you complete the form at the  
 25 registration table, and you will be called upon at

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1 the appropriate time. Audience members please come  
 2 to the podium for your comments and please state  
 3 your name.  
 4 At this time, we will proceed with  
 5 what's marked as Agenda Item Number 4A on the  
 6 Hearing Agenda. This is "Chapter 100. Air Pollution  
 7 Control", "Subchapter 5. Registration Emission  
 8 Inventory and Annual Operating Fees", "252:100-5-2.2  
 9 Annual operating fees".  
 10 And Christina Hagens, Environmental  
 11 Programs Specialist of our staff, will give the  
 12 presentation.  
 13 MS. HAGENS: Good morning, Madam Chair,  
 14 Members of the Council, and everyone in attendance  
 15 today. My name is Christina Hagens, I am an  
 16 Environmental Programs Specialist in the Air Quality  
 17 Division. This morning the Department is proposing  
 18 to update language in Subchapter 5, Registration,  
 19 Emission Inventory and Annual Operating Fees to  
 20 include the use of the Consumer Price Index (CPI) in  
 21 the adjustment of annual operating fees for minor  
 22 facilities.  
 23 The purpose of the proposed changes  
 24 is to offset budgetary shortfalls in order to cover  
 25 ongoing staff deficits and aid in the retention of

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1 full-time positions. We have identified underfunded  
 2 portions of our programs and estimated current and  
 3 future costs associated with those functions. As  
 4 you heard in the October council meeting, emissions  
 5 are thankfully going down across Oklahoma, but based  
 6 on present staff capacity, our generated revenue is  
 7 unable to keep up with this workload. Without an  
 8 appropriate budget, the lack of funding would likely  
 9 cause a reduction in services which would contribute  
 10 to delays in the programs that rely on this funding  
 11 such as the permitting and emissions inventory  
 12 sections.  
 13 Back in October we presented the need  
 14 to start looking at minor source fees and the  
 15 possibility of the addition of an annual CPI  
 16 adjustment. As the rule stands, minor facilities  
 17 are subject to a base annual operating fee of \$25.12  
 18 per ton of regulated air pollutant with no regard  
 19 for the CPI. We decided that the logical approach  
 20 would be to mirror the existing Part 70 source  
 21 language which includes an annual CPI adjustment in  
 22 the fee calculation. As proposed, minor facilities  
 23 would be subject to the same (b)(3) protocol which  
 24 uses the difference between the CPI for the current  
 25 calendar year and the 2007 base year CPI.

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1 For determining what dollar amount  
 2 this would equate to for the minor source facility  
 3 fee, AQD took the current minor facility fee of  
 4 \$25.12 and added the year-over-year CPI adjustments  
 5 between 2007 and 2024. Because the CPI for 2023 is  
 6 not yet known, AQD used an Excel forecasting tool to  
 7 predict next year's probable CPI based on past  
 8 trends. This resulted in a projected fee value of  
 9 \$36.50. Meaning, the current \$25.12 fee adjusted  
 10 from the 2007 CPI is projected to be \$36.50 for the  
 11 July 1, 2024 invoices.  
 12 However, after receiving some  
 13 feedback, it was evident that this language was not  
 14 sufficiently clear in how to apply the CPI or what  
 15 the fee will ultimately be in 2024. Fortunately, if  
 16 the council revisits this discussion in January, we  
 17 have prepared new proposed rule language that  
 18 expands and defines some of these changes. The new  
 19 Subchapter 5 proposed rule was published on our  
 20 website with the Notice on December 1st and a copy  
 21 of the revised proposal is included in your folder.  
 22 I don't want to add confusion, but I  
 23 would like to discuss this newest language and how  
 24 it compares to the previously proposed rule put  
 25 forth for this meeting.

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1 The proposed changes that will be  
 2 presented in January, and that are shown on this  
 3 slide, include: a new base fee of \$36.50 per ton of  
 4 regulated air pollutant; an end date for the  
 5 existing fee which is \$25.12 until June 30, 2024;  
 6 and new language on the annual CPI adjustment for  
 7 minor facilities. The January proposal will show  
 8 that minor facilities will be annually adjusted by  
 9 the percentage of CPI difference between 2024 and  
 10 the most recent calendar year starting July 1, 2025.  
 11 This last point is notable because minor facilities  
 12 would not be subject to the 2007 CPI for adjustment  
 13 purposes, rather, the new base fee is already  
 14 calculated based on our 2023 projected CPI and  
 15 clearly stated to be \$36.50. Essentially these two  
 16 versions of the rule result in approximately the  
 17 same fee increase, but the January proposal provides  
 18 more clarity to minor facilities.  
 19 This new base fee for minor  
 20 facilities was utilized in the forecasting of  
 21 potential future generated revenue and we believe  
 22 would be sufficient to maintaining an adequate air  
 23 pollution control program. We estimate that the  
 24 proposed rule would generate approximately \$1.5  
 25 million in additional revenue for 2024, which is



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1 when the rule would begin affecting invoices. Now,  
 2 this is the greatest single-year revenue gain that  
 3 would result from this rule change.  
 4       When researching how individual  
 5 facility budgets might be affected by increased  
 6 fees, we looked at the average facility invoice  
 7 change by sector using the most recently available  
 8 data. As would be expected, each sector is affected  
 9 differently, but the median change per facility was  
 10 calculated at \$87 and the median change per company  
 11 was \$352. Some individual facilities and companies  
 12 will, of course, see higher or lower fees than the  
 13 median, but we do not expect emissions to be vastly  
 14 different in the future. Based on these  
 15 calculations, the typical facility would not likely  
 16 see their invoice drastically increased. Moreover,  
 17 since the proposed rule wouldn't start impacting  
 18 invoices until July 1, 2024, this should provide  
 19 minor source facilities reasonable lead time to  
 20 budget for the fee increases.  
 21       Due to the significance of this rule  
 22 change, we would like to get more feedback on the  
 23 proposal and continue working on the language  
 24 especially as we evaluate internal and external  
 25 ramifications. And so, staff requests the Council

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1 not vote on these proposed rule changes until they  
 2 are brought back before you at the January council  
 3 meeting.  
 4       Thank you.  
 5       MS. BOTCHLET-SMITH: So I would like to  
 6 open this up for questions and discussion by the  
 7 council.  
 8       MR. ELLIOTT: So in 2024, when this kicks  
 9 in, so that's -- are they two years in arrear of  
 10 fees the same as the Part 70 sources, right? So --  
 11       MS. STEGMANN: Yes.  
 12       MR. ELLIOTT: -- it'll be for --  
 13       MS. STEGMANN: 2022 emissions.  
 14       MR. ELLIOTT: 2022 emissions? Okay.  
 15       MS. STEGMANN: Yes.  
 16       CHAIRWOMAN LODES: So, yeah, it'll be the  
 17 -- it'll be what we're going to report this coming  
 18 March, right?  
 19       MS. STEGMANN: Correct.  
 20       CHAIRWOMAN LODES: Yeah. So they'll have  
 21 more than enough -- I mean, you should have time to  
 22 put it into a budget before we make the change.  
 23       MS. BOTCHLET-SMITH: Other questions?  
 24       Okay. I've got a couple from the  
 25 public who indicated they'd like to speak.

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1       Bud, would you like to go first?  
 2       MR. GROUND: Morning. This is Bud Ground  
 3 with Environmental Federation of Oklahoma, and I  
 4 would just like to say that EFO supports the DEQ in  
 5 raising funds for an adequate staff. We know that  
 6 when you have an adequate staff it helps our  
 7 operations, and we will support the CPI increase.  
 8 Right now, I do not know -- I can't say on the  
 9 \$36.50 initial starting point, but we do support the  
 10 funding and different ways of increasing funding for  
 11 adequate staff.  
 12       But I will say that, you know, a fee  
 13 increase is going to be hard to get through the  
 14 legislature; so I think you should keep that in mind  
 15 because it won't take very many companies to  
 16 approach legislators and you could have problems.  
 17 So I just thought I would make sure you keep that in  
 18 mind when you're working on this.  
 19       Thank you.  
 20       MS. BOTCHLET-SMITH: Jeremy Jewell, did  
 21 you wish to comment?  
 22       MR. JEWELL: No, no comments.  
 23       MS. BOTCHLET-SMITH: Okay. Thank you.  
 24       Those were the only two from the  
 25 public that had indicated they might comment, so

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1 this is an opportunity for the council for further  
 2 discussion.  
 3       CHAIRWOMAN LODES: Any other discussion?  
 4       MR. ELLIOTT: Well, I believe the need for  
 5 adequate staffing and retaining employees benefits  
 6 the entire State of Oklahoma, I mean, it -- you  
 7 know, being in the industry, we rob the DEQ  
 8 constantly of people, and so I am definitely -- I  
 9 think that is a good move for Oklahoma to try to  
 10 keep staff and to have an adequate number of staff.  
 11       MS. STEGMANN: Yes. For the last five  
 12 years, I think we have lost at least 11 FTEs due to  
 13 budget shortfalls, and just because emissions are  
 14 going down doesn't mean our workload is going down,  
 15 we still have probably more than we have in the  
 16 past. And a lot of our work is on non-Title V  
 17 sources and that's where the shortfall is; so it  
 18 makes sense to ask for this increase, and also, we  
 19 are getting new programs all the time.  
 20       I know several years ago we got the  
 21 audit program, and we have several thousand  
 22 facilities in that audit program alone, we're, I  
 23 mean, very comparable to the State of Texas. Or now  
 24 with the tax rebate, which we'll be -- you know, you  
 25 will be hearing about that next. The methane rule

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1 was proposed today, was published today, and that  
 2 has a likelihood of adding 200,000 new facilities to  
 3 our permitting universe.  
 4       So this fee increase -- which, I  
 5 mean, I will go defend at the legislature as much as  
 6 I can -- is needed for us to just have not just a  
 7 robust program, but just a basic program. I don't  
 8 think we're asking for too much, I think it's  
 9 crucial that -- for us just to do our jobs; so I  
 10 really hope that this fee can get through.  
 11       VICE-CHAIRMAN KEELE: Are we increasing --  
 12 seems like major sources have been becoming less.  
 13 Are we having -- I assume they're falling into minor  
 14 source category more and more?  
 15       MS. STEGMANN: Yes. Yes.  
 16       VICE-CHAIRMAN KEELE: I would also assume  
 17 that by far, though, the industry with the most  
 18 would be oil and gas that fit into this?  
 19       MS. STEGMANN: That is correct. Because I  
 20 think when we had an -- did we have, like, over 350,  
 21 initially, Title V facilities, close to it? And now  
 22 we're down to, like, 270, so -- and people are  
 23 falling out of Title V all the time.  
 24       VICE-CHAIRMAN KEELE: Well, the new  
 25 regulations incentivize people --

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1       MS. STEGMANN: Yeah.  
 2       VICE-CHAIRMAN KEELE: -- or require people  
 3 not to --  
 4       MS. STEGMANN: Right. And just --  
 5       CHAIRWOMAN LODES: Yeah, by the time you  
 6 --  
 7       MS. STEGMANN: -- controls.  
 8       CHAIRWOMAN LODES: Yeah, to comply with  
 9 the new regs, you have to have the controls on; the  
 10 result of the controls is they no longer are in  
 11 Title V.  
 12       MS. STEGMANN: Correct. So for this -- so  
 13 to increase non-Title V fees makes sense to us  
 14 because that's where a lot of our work is.  
 15       MR. CAVES: The minor source has been  
 16 static for over 15 years?  
 17       MS. STEGMANN: Correct.  
 18       CHAIRWOMAN LODES: 2007 was the last time  
 19 we increased the fees on it.  
 20       MS. STEGMANN: Yeah, at that time it makes  
 21 sense because a lot of our work was Title V, and now  
 22 it's flipped, so -- and now we're trying to rectify  
 23 that.  
 24       VICE-CHAIRMAN KEELE: Flipped in trending  
 25 that direction.

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1       MS. STEGMANN: Yes, correct.  
 2       MR. PRIVRAT: I'm not against the  
 3 increase, but I was wondering has there been any  
 4 consideration that's close to a 50 percent increase?  
 5 If that's presented, is there going to be -- I think  
 6 Bud made a good point. Has there been any  
 7 consideration maybe of doing a step increase over  
 8 two or three years?  
 9       MS. STEGMANN: I mean, that is an option.  
 10 I mean, we will look at, you know, all suggestions  
 11 at this point, so -- and that's why we're carrying  
 12 it over to January so we will -- we did -- was it  
 13 December 1st that the new rule was put on our  
 14 website, and that's why we're asking for a lot of  
 15 comments on how this is going to affect businesses,  
 16 if there's other options that we need to do that we  
 17 can tweak our rule to make it more -- I don't --  
 18 user-friendly on the smaller facilities, so -- but,  
 19 I mean, our emissions inventory, you saw in the  
 20 presentation, it shouldn't have that big of an  
 21 impact.  
 22       MR. PRIVRAT: Sure.  
 23       MS. STEGMANN: I think on oil and gas  
 24 because they have so many facilities, one company  
 25 could have hundreds of facilities, and I do

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1 understand that, and that's why we're proposing it  
 2 now and then going to actually use that fee in 2024  
 3 so they have a year of planning to be able to  
 4 accommodate that.  
 5       MR. ELLIOTT: Have you been getting any  
 6 comments from the minor source facilities?  
 7       MS. STEGMANN: No, none.  
 8       VICE-CHAIRMAN KEELE: I think the problem  
 9 is it's not really going to impact the vast  
 10 majority, right, I mean, it's going to be, like, a  
 11 --  
 12       MR. PRIVRAT: It's a small.  
 13       MS. STEGMANN: It's a small, yes.  
 14       VICE-CHAIRMAN KEELE: For most of them,  
 15 but the groups that are going to get hit with that,  
 16 it's going to be a pretty big deal.  
 17       MR. ELLIOTT: They should maybe comment  
 18 more.  
 19       MS. STEGMANN: And, hopefully, maybe The  
 20 Petroleum Alliance can look at it and give us some  
 21 useful information on how it's going to impact those  
 22 companies.  
 23       CHAIRWOMAN LODES: Any other comments or  
 24 questions?  
 25       Okay. The staff has asked that we, I

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1 guess, carry this forward. So, I never remember --  
 2 MS. FOSTER: No vote.  
 3 CHAIRWOMAN LODES: We don't vote on it or  
 4 do anything to carry it forward? Okay.  
 5 MS. BOTCHLET-SMITH: Okay. So we can move  
 6 on to the next item on the Agenda. This is Item 4B,  
 7 "Chapter 100. Air Pollution Control", "Subchapter  
 8 49. Oklahoma Emission Reduction Technology Rebate  
 9 Program" -- this is new -- Section -- or, it's  
 10 "252:100-49-1 Purpose and Applicability",  
 11 "252:100-49-3 Definitions [New]", "252:100-49-5  
 12 Program criteria and qualification determination",  
 13 and "252:100-49-7 Sunset provision".  
 14 And Brooks Kirlin, who is a  
 15 Professional Engineer with the Division, will give  
 16 the presentation for staff.  
 17 MR. KIRLIN: Thank you, Bev.  
 18 Madam Chair, Members of the Council,  
 19 Ladies and Gentlemen, as she stated, I'm Brooks  
 20 Kirlin, an engineer with the Rules and Planning  
 21 Section. The Department is proposing to amend  
 22 Chapter 100 by adding a new Subchapter 49. As you  
 23 may recall, we gave a brief overview of the new  
 24 "Oklahoma Emissions Reduction Technology Rebate  
 25 Program" during the October Air Quality Advisory

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1 Council meeting, and shared some of AQD's  
 2 preliminary plans to implement its part of the  
 3 program.  
 4 This new program was created during  
 5 the 2022 legislative session as an incentive to  
 6 Oklahoma's oil and gas industry to apply new and  
 7 innovative technologies to reduce emissions from  
 8 various segments of the industry.  
 9 The "Oklahoma Emission Reduction  
 10 Technology Incentive Act", which was included as  
 11 Sections 1 through 7 of House Bill 3568, became  
 12 effective July 1, 2022, and is codified in the  
 13 Oklahoma Tax Code - Title 68 of the Oklahoma  
 14 Statutes - as Sections 55006 through 55012. Note  
 15 that a copy of the statute has been included in your  
 16 packet.  
 17 The act created the "Oklahoma  
 18 Emission Reduction Technology Rebate Program". It  
 19 is intended to provide an incentive for "Emission  
 20 Reduction Projects", by allowing for a rebate of up  
 21 to 25 percent of documented costs associated with  
 22 those projects. The program is to be administered  
 23 jointly by DEQ and the Oklahoma Tax Commission.  
 24 Claims will be submitted to DEQ for review and  
 25 approval or disapproval. We will notify OTC of our

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1 decision, and then they will pay claims  
 2 proportionately from funds available in the  
 3 Revolving Fund that was established. Air Quality  
 4 staff has met with OTC staff a couple of times to  
 5 discuss how we will carry on the interaction.  
 6 Section 55011 specifically authorizes  
 7 DEQ and the Tax Commission to promulgate  
 8 implementation rules for the program. Our  
 9 understanding is that the Tax Commission believes  
 10 that between the statutory language and their  
 11 existing rules, they will not need to promulgate a  
 12 rule specific to this program. But Air Quality  
 13 Division and staff has concluded that our best  
 14 approach would be to create a new subchapter in  
 15 Chapter 100 to accommodate the Oklahoma Emission  
 16 Reduction Technology Rebate Program.  
 17 Our proposal includes three main  
 18 sections to cover the program requirements: a  
 19 purpose and applicability section, a definitions  
 20 section, and a program criteria and qualification  
 21 determination section.  
 22 Besides summarizing the purpose and  
 23 statutory basis for the rebate program, Section 49-1  
 24 lays out our understanding of the scope of  
 25 facilities that the program applies to. Subsection

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1 (b) lists the activities included in the statutory  
 2 language, and lists corresponding Standard  
 3 Industrial Classifications or SIC codes.  
 4 So, and of course, a new subchapter  
 5 could hardly be considered complete without a  
 6 definitions section, and Section 49-3 fills that  
 7 role.  
 8 Proposed Section 49-3 references the  
 9 most important definition, which is the statutory  
 10 definition of "Emission Reduction Project" in Title  
 11 68, Section 55008. It describes the types of  
 12 facilities and activities eligible for the program -  
 13 shown here on the left side; and the types of  
 14 projects that reduce emissions - shown on the right  
 15 side.  
 16 The proposed Section 49-3 also states  
 17 that for the purposes of this subchapter, eligible  
 18 "Emission Reduction Projects" do not include  
 19 projects that are required in order to address an  
 20 enforcement issue or are undertaken as a  
 21 "supplemental environmental project" to offset an  
 22 enforcement penalty.  
 23 The remaining definitions in proposed  
 24 Section 49-3 are just a few basic terms related to  
 25 the program.

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1 Section 49-5 lays out program  
 2 criteria and qualification determination  
 3 requirements - what information is required, and the  
 4 steps DEQ will take in implementing the program.  
 5 To be eligible for the rebate, the  
 6 applicant must submit documentation to DEQ no later  
 7 than six months after the end of the fiscal year in  
 8 which the expenditures were made - that is, that  
 9 would be by December 31st. The documentation must  
 10 adequately describe the project, including an  
 11 estimate of actual resulting emissions reductions,  
 12 and an itemization of expenses, with invoices, of  
 13 equipment installed. We would also require the  
 14 claimant to confirm that the project implementation  
 15 is complete. Note that a rebate claim may be  
 16 submitted any time after the project is complete, up  
 17 to that December 31st deadline each year.  
 18 Consistent with the statutory  
 19 language, the documentation must state the amount of  
 20 expenditures made in this state that are directly  
 21 related to the implementation of the qualified  
 22 Emission Reduction Project.  
 23 Paragraphs (5) through (9) would  
 24 include several certifications: Paragraph (5) would  
 25 certify that the project is not required in order to

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1 address an enforcement action or undertaken as a  
 2 supplemental environmental project to offset an  
 3 enforcement penalty; Paragraph (6) would provide a  
 4 certification from the Tax Commission that it has  
 5 filed all Oklahoma tax returns and tax documents  
 6 that are required by the laws of this state;  
 7 Paragraph (7) would provide evidence of a  
 8 certificate of general liability insurance with a  
 9 minimum coverage of \$1 million and a Workers'  
 10 Compensation policy pursuant to the laws of this  
 11 state which shall include coverage of employer's  
 12 liability. These provisions regarding the tax  
 13 returns, liability insurance, and Workers'  
 14 Compensation policy are all specifically required by  
 15 the act.  
 16 Continuing, Paragraph (8) requires  
 17 certification by an Oklahoma licensed PE that the  
 18 project has been designed, installed, and operated  
 19 as described in the claim, and in accordance with  
 20 good engineering practices and the requirements of  
 21 this Chapter; Paragraph (9) is our normal  
 22 certification for permit applications and such by a  
 23 designated responsible official, attesting to the  
 24 truth, accuracy, and completeness of the claim.  
 25 We include the requirement for a PE

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1 certification in the proposal because the  
 2 complexity, volume, and time sensitivity of rebate  
 3 claims have the potential to overwhelm AQD's  
 4 Engineering or Permitting staff resources. I would  
 5 note that we received a comment from Mr. Bud Ground,  
 6 Director of Regulatory Affairs, of the Petroleum  
 7 Alliance of Oklahoma, regarding the PE certification  
 8 requirement. A copy of the comment is in the  
 9 Council packet. Mr. Ground requested that the  
 10 proposed rule be amended to allow such certification  
 11 be performed by "an in-house engineer with relevant  
 12 expertise", under at least certain circumstances.  
 13 AQD staff will need to further evaluate the request  
 14 and its ramifications. Among the considerations is  
 15 how that request lines up with the requirements of  
 16 the Oklahoma Board of Licensure for Professional  
 17 Engineers and Land Surveyors. AQD staff would be  
 18 interested in further discussion on this comment by  
 19 the Council and the public at the end of this  
 20 presentation.  
 21 In Subsection 49-5(a)(10), the  
 22 proposal includes a \$1,000 fee to help offset costs  
 23 for DEQ to administer the review of a rebate claim  
 24 under this rule. The program will represent an  
 25 increased workload for AQD staff, which is distinct

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1 from the duties supported by the existing Air  
 2 Quality annual operating and permit application  
 3 fees. Since no legislative appropriations or other  
 4 funding sources have been provided for DEQ's  
 5 responsibility under the rebate program, DEQ  
 6 believes the fee proposal is the most appropriate  
 7 approach.  
 8 Subsection 49-5(b), in that, the  
 9 statute requires DEQ to approve or disapprove each  
 10 rebate claim and to notify the Tax Commission, and  
 11 of course we also intend to notify the claimant.  
 12 And then proposed Subsection 49-5(c)  
 13 simply states that "Nothing in this section shall  
 14 limit or otherwise affect OTC's authority or  
 15 responsibilities under the Act, including the  
 16 authority to request submittal of additional  
 17 information by the claimant".  
 18 Finally, proposed Section 49-7 is a  
 19 sunset provision, reflecting Section 55012 of the  
 20 act. Section 55012, titled "Termination Date of  
 21 Rebate Program", states that "The Oklahoma Emission  
 22 Reduction Technology Rebate Program shall cease on  
 23 July 1, 2027." Section 49-7 is written to make our  
 24 corresponding rules no longer effective after that  
 25 date, unless the program is extended by a change in

Page 25

1 the statute.

2 Notice of the proposed rule changes

3 was published in the Oklahoma Register on

4 November 1, 2022, and comments were requested from

5 members of the public. As I mentioned, comments on

6 the proposal have been received from one stakeholder

7 - The Petroleum Alliance of Oklahoma. This is the

8 first time this proposal has been presented to the

9 Council for consideration.

10 In order to allow the Council and the

11 public an adequate time to fully consider the

12 proposal and comments, and to provide for additional

13 comments and feedback, we are not requesting that

14 the Council recommend the rule to the Board at this

15 time. Therefore, Staff asks the Council not to vote

16 on the proposed rules until the next regular Air

17 Quality Advisory Council Meeting, scheduled for

18 January 11, 2023. At that time, it will be

19 important to move a proposal forward, since the

20 Program is technically in effect, the Legislature

21 will have the opportunity to consider providing

22 funding for the Revolving Fund, and we may expect to

23 begin receiving rebate claims for Fiscal Year 2023

24 anytime between now and December 31, 2023. Note

25 that due to the short turnaround between today's

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1 meeting and the January 11th meeting, a Notice of

2 Rulemaking Intent was published in the Oklahoma

3 Register on December 1st. A copy of the "January"

4 version of the proposed Subchapter 49 (with the same

5 rule text as today's proposal) - along with the Rule

6 Impact Statement - were submitted to the Governor's

7 office and the Office of Administrative Rules, and

8 were posted on DEQ's website, again, on

9 December 1st.

10 Thank you, and then are there any

11 questions for me?

12 MS. BOTCHLET-SMITH: Questions from the

13 council?

14 MR. COLLINS: Brooks, I thought when we

15 talked about this last time there was going to be a

16 cap on the -- how much the claim could be or how

17 much the rebate could be?

18 MR. KIRLIN: There is the -- okay. This

19 is a -- figured I'd keep this old slide around.

20 Yes, there is a limit. Total rebates can be -- are

21 limited to \$10 million per fiscal year, so -- and

22 there are provisions for partial and eventual full

23 payment if the approved claims exceed what's in the

24 fund -- exceed that limit or the amount that's in

25 the fund at the time.

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1 CHAIRWOMAN LODES: That's just a total

2 fund balance, not a limit per facility --

3 MR. KIRLIN: Right. Right.

4 MR. COLLINS: Okay. Thank you.

5 VICE-CHAIRMAN KEELE: Do we have an idea

6 of what kind of projects people are going to be

7 asking for?

8 MR. ELLIOTT: Low NOx burners on fired

9 heaters would be one that I would come up with.

10 CHAIRWOMAN LODES: Honestly, for the oil

11 and gas industry, it'll be -- my gut, it'll be the

12 stuff that's in Quad Oc that rolled out. The open

13 -- it's open for comment officially, as of this

14 morning, so that would be the easiest one. Low NOx

15 burners, these are little burners, that's not going

16 to get you much.

17 MR. ELLIOTT: No.

18 CHAIRWOMAN LODES: I mean, they're half a

19 million BTU/hour burners that are already only one

20 ton.

21 MR. ELLIOTT: I was thinking refineries.

22 CHAIRWOMAN LODES: You're thinking yours,

23 which are much larger. These are little baby ones,

24 for the most part. I mean, there might be a

25 10 million; it's not like yours.

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1 VICE-CHAIRMAN KEELE: So if there's a fee

2 per time that's going to be asked, what if a company

3 comes and says, 'We want to do this at 10

4 facilities', is that one application or is that

5 multiple applications?

6 MR. KIRLIN: I would say that it's

7 probably -- I mean, I thought it was -- I always

8 assumed it was facility based, I don't know --

9 MS. STEGMANN: I do, too, I would -- to

10 make it easier on staff, I would say it's per

11 facility.

12 MR. KIRLIN: I would say that it's a

13 separate project, so I don't know if that's --

14 MS. STEGMANN: Per project, yeah. It's

15 per project, so...

16 VICE-CHAIRMAN KEELE: We're going to see

17 multiple projects that are going to look --

18 eventually, you're going to have covered, a lot of

19 this stuff will be repetitive in nature. Will there

20 be a -- maybe a clearinghouse or something where if

21 this has already been done so it's going to go

22 faster or it will take less requirements?

23 MS. STEGMANN: We haven't gotten that far

24 yet.

25 VICE-CHAIRMAN KEELE: Okay. The

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1 restriction on enforcement, is that out of the  
 2 statute or is that something you guys just didn't  
 3 want to mess with --  
 4 MS. STEGMANN: That was -- yeah.  
 5 VICE-CHAIRMAN KEELE: -- with the SEP  
 6 provisions that have been around for forever?  
 7 MS. STEGMANN: Usually -- the way I was  
 8 looking at it is, you had to comply -- if you were  
 9 out of compliance with a certain regulation, you had  
 10 to install a piece of control equipment, an Emission  
 11 Reduction Project, it wasn't a SEP, it was to get  
 12 you back into compliance. That's what I envisioned  
 13 as not qualifying.  
 14 VICE-CHAIRMAN KEELE: But it's not a  
 15 statutory requirement, it's just --  
 16 MS. STEGMANN: It's not a --  
 17 VICE-CHAIRMAN KEELE: -- something you  
 18 guys don't want to commingle?  
 19 MS. STEGMANN: Correct.  
 20 CHAIRWOMAN LODES: But it must be a  
 21 voluntary reduction of emissions, right?  
 22 MS. STEGMANN: Correct.  
 23 CHAIRWOMAN LODES: Yes?  
 24 MS. STEGMANN: Yes.  
 25 VICE-CHAIRMAN KEELE: Yeah, that's kind of

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1 where I'm aiming here.  
 2 MS. STEGMANN: Right. You want to know if  
 3 a SEP is going to qualify?  
 4 VICE-CHAIRMAN KEELE: Or why you couldn't  
 5 choose one or the other, but that would make  
 6 enforcement resolutions more difficult, most likely.  
 7 MS. STEGMANN: And I don't think you  
 8 should be -- in my opinion, if you're going to  
 9 benefit for being out of compliance and be able to  
 10 get any kind of money back.  
 11 CHAIRWOMAN LODES: They just aren't going  
 12 to approve your SEP, Garry, if you came in the other  
 13 way. That's pretty much how that's going to work.  
 14 VICE-CHAIRMAN KEELE: I was just curious.  
 15 It was an interesting --  
 16 MR. ELLIOTT: So, something to think  
 17 about. So we have a limited \$10 million per fiscal  
 18 year, let's say a company comes in and December the  
 19 26th -- or, the 28th of the fiscal year and they  
 20 submit and they pay the \$1,000 fee for you to review  
 21 that and there's no money left. Will that carry  
 22 over to the next year when the fund replenishes, or  
 23 are they just out \$1,000 and too bad?  
 24 MR. KIRLIN: No. No, the statute does say  
 25 the claims -- if a claim isn't paid or fully paid in

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1 one year, it would be paid in another one.  
 2 MR. ELLIOTT: Okay.  
 3 MR. KIRLIN: In subsequent years.  
 4 MR. ELLIOTT: Okay.  
 5 MR. KIRLIN: And again, it's -- the way  
 6 it's worded, their payments -- like, if we -- they  
 7 received \$10 million worth and there's only 40 or a  
 8 couple million dollars' worth, you would pay it  
 9 proportionally. In other words, if you got 50  
 10 claims, you know, or different numbers, you pay --  
 11 each one would get the portion, relatively speaking.  
 12 MS. STEGMANN: And I would like to  
 13 emphasize, we -- DEQ is only responsible for the  
 14 technical review of these projects, it's going to be  
 15 up to the Tax Commission to decide how much and how  
 16 that's going to be distributed. We're just --  
 17 MR. ELLIOTT: Is there going to be tax  
 18 credits?  
 19 MS. STEGMANN: I --  
 20 MR. ELLIOTT: We don't know?  
 21 MS. STEGMANN: They're not going to do any  
 22 rulemaking, from what I understand, they're just  
 23 going to solely rely on the statute. But that's if  
 24 -- the money portion is theirs, we're just looking  
 25 at the technical aspects and to see if the project

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1 qualifies.  
 2 VICE-CHAIRMAN KEELE: Earlier, you said  
 3 there were potentially 200,000 new facilities. I  
 4 assume they're all the ones that are the upstream,  
 5 midstream segment we're aiming at here?  
 6 MS. STEGMANN: Yeah.  
 7 VICE-CHAIRMAN KEELE: Are the -- how many  
 8 do we have right now that we're already aware of?  
 9 MS. FOSTER: Rephrase that question.  
 10 MS. STEGMANN: 12,000?  
 11 VICE-CHAIRMAN KEELE: There were --  
 12 earlier, it was said that the new rulemaking that  
 13 was today on, what was it, Quad Oc?  
 14 MS. STEGMANN: Yeah. I'm thinking --  
 15 VICE-CHAIRMAN KEELE: 200,000?  
 16 MS. STEGMANN: Yeah.  
 17 VICE-CHAIRMAN KEELE: New or potential?  
 18 MS. STEGMANN: I'm thinking 9,000 to  
 19 12,000, what we currently have on --  
 20 MS. FOSTER: Of minor.  
 21 MS. STEGMANN: -- minor.  
 22 MS. FOSTER: Of minor facilities.  
 23 MS. STEGMANN: Yeah, that were always --  
 24 that already pulled in due to Quad O.  
 25 VICE-CHAIRMAN KEELE: But that fits the

<p style="text-align: right;">Page 33</p> <p>1 midstream, upstream.</p> <p>2 CHAIRWOMAN LODES: Quad O, Quad Oa, it's</p> <p>3 probably that, and a lot of Quad Ob and c.</p> <p>4 MS. FOSTER: EI says there's about 13,000</p> <p>5 oil and gas minor facilities in our --</p> <p>6 VICE-CHAIRMAN KEELE: That might --</p> <p>7 MS. FOSTER: -- in the --</p> <p>8 VICE-CHAIRMAN KEELE: -- try to use this?</p> <p>9 CHAIRWOMAN LODES: Well, there's a whole</p> <p>10 lot more that are not permitted, they're permit</p> <p>11 exempt today.</p> <p>12 VICE-CHAIRMAN KEELE: Right, that's --</p> <p>13 CHAIRWOMAN LODES: Yeah.</p> <p>14 VICE-CHAIRMAN KEELE: Yeah. I'm just</p> <p>15 trying to get a feel for how many.</p> <p>16 CHAIRWOMAN LODES: But because they're</p> <p>17 permit exempt today, they're pretty low emitters to</p> <p>18 begin with.</p> <p>19 MR. CAVES: You'd mentioned Mr. Ground's</p> <p>20 comment and you said the requirement for the PE is</p> <p>21 because of staff. Are there some specific concerns</p> <p>22 with the review with a PE? Because I know the</p> <p>23 statute's silent on all that and that's in addition</p> <p>24 to the statutory requirement as far as the PE</p> <p>25 requirement and the certification. So I'm curious,</p>	<p style="text-align: right;">Page 35</p> <p>1 Petroleum Alliance who proposed the \$1,000 fee.</p> <p>2 MR. CAVES: Okay.</p> <p>3 MS. STEGMANN: So -- and I hate to have</p> <p>4 two different types of application fees and make</p> <p>5 things even more confusing and complicated.</p> <p>6 MR. ELLIOTT: I don't want this to be</p> <p>7 taken the wrong way. I really like this idea and</p> <p>8 I've already, you know, broached this subject with</p> <p>9 the higher-ups in our corporation. That's -- what</p> <p>10 you said just a minute ago, Melanie, is the -- take</p> <p>11 staff away from permitting. So there again, this is</p> <p>12 -- which is really good legislation, it just really</p> <p>13 reiterates the need for the previous one that we</p> <p>14 discussed.</p> <p>15 MS. STEGMANN: Thank you, yes.</p> <p>16 MR. ELLIOTT: So I like this subchapter</p> <p>17 and I like this, but the legislature needs to be</p> <p>18 made aware that it's good for Oklahoma, it's good</p> <p>19 for industry, you know, but we need the people to</p> <p>20 manage these programs and we need the -- when I say</p> <p>21 "we", I'm a citizen of Oklahoma. We need, in</p> <p>22 Oklahoma, the ability to adequately manage all of</p> <p>23 our programs.</p> <p>24 MS. STEGMANN: Yeah. And I'll give you an</p> <p>25 idea because I think we have about 12 permit writers</p>
<p style="text-align: right;">Page 34</p> <p>1 I guess, about --</p> <p>2 MS. STEGMANN: This was my --</p> <p>3 MR. CAVES: -- the basis.</p> <p>4 MS. STEGMANN: -- idea. I -- because this</p> <p>5 is going to -- I don't know how many applications</p> <p>6 we're going to get, and every application that we</p> <p>7 get to review, it's going to take somebody off a</p> <p>8 permit. So my idea was to put a PE certification on</p> <p>9 it to give our staff a comfortability on the</p> <p>10 application and it would process it faster.</p> <p>11 I don't think -- if it had a PE</p> <p>12 stamp, I don't think it would be -- take as much</p> <p>13 scrutiny, if it did not. And this is not statutory,</p> <p>14 this was just my idea to be able to work through</p> <p>15 these applications in a timely manner.</p> <p>16 MR. CAVES: Is \$1,000 application fee</p> <p>17 statutory?</p> <p>18 MS. STEGMANN: No.</p> <p>19 MR. CAVES: Okay. Would there be any</p> <p>20 incentive to maybe have a stepped fee, that if they</p> <p>21 submit it with a PE it's a different amount than</p> <p>22 without? And that possibly addresses concerns on</p> <p>23 both sides, to have an option, or is that just a</p> <p>24 Pandora's box?</p> <p>25 MS. STEGMANN: Well, currently, it was the</p>	<p style="text-align: right;">Page 36</p> <p>1 on staff right now, 12 or 13. So when you introduce</p> <p>2 the new methane rule with all these new sources and</p> <p>3 you also introduce all of these new applications</p> <p>4 and, plus, on top of just normal, our permitting</p> <p>5 work, it's going to be difficult without adding new</p> <p>6 staff.</p> <p>7 MR. ELLIOTT: And then a reduction of</p> <p>8 emissions, which reduces your air emissions</p> <p>9 inventory fees.</p> <p>10 MS. STEGMANN: Yeah. Yeah, it is a</p> <p>11 vicious circle, yes.</p> <p>12 MR. ELLIOTT: It is.</p> <p>13 MR. PRIVRAT: The \$1,000 one-time fee, you</p> <p>14 said that was suggested by who?</p> <p>15 MS. STEGMANN: The Petroleum Alliance.</p> <p>16 MR. PRIVRAT: Is that enough, is that too</p> <p>17 much, what do you think, is that --</p> <p>18 MS. STEGMANN: I haven't crunched those</p> <p>19 numbers. Since that was the number that was</p> <p>20 suggested, we just put it in there, we're hoping it</p> <p>21 will. So -- and Beverly just told me, our usual</p> <p>22 staff is 19 permit writers; so we're down seven.</p> <p>23 MR. ELLIOTT: And more to come, right? I</p> <p>24 mean --</p> <p>25 MS. STEGMANN: Probably.</p>

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1 MS. BOTCHLET-SMITH: We had one individual  
 2 from the public that wanted to speak on this.  
 3 So, Bud, if you're ready to do your  
 4 comment, and then we can come back to some  
 5 additional discussion with the council.  
 6 MR. GROUND: Bud Ground with Environmental  
 7 Federation of Oklahoma, but really I'm going to talk  
 8 to you on behalf of The Petroleum Alliance of  
 9 Oklahoma. I work on their regulatory requirements,  
 10 as well, and that's -- since this is, you know,  
 11 aimed at the oil and gas industry, that's who -- I  
 12 provided the comments.  
 13 So I just wanted to mention a couple  
 14 things. One, you have my comments, and you can see  
 15 that even Quad O is not requiring a PE, they  
 16 specifically went in several areas in there and just  
 17 said that that is not going to be a requirement.  
 18 And a lot of the oil and gas  
 19 companies are not located in Oklahoma, they're not  
 20 headquartered in Oklahoma, they're engineered out of  
 21 other states, and they saw it as a -- you know, as  
 22 an unnecessary requirement to require a PE to  
 23 certify the change of what could be a controller on  
 24 a -- you know, on a pipeline system. But they do  
 25 feel like the responsible official, who we all, you

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1 know, kind of know is the one that really is the  
 2 responsible person for what is being submitted and  
 3 can be held accountable for all of that is a good  
 4 requirement, but we do ask that the Professional  
 5 Engineer requirement be taken out.  
 6 I was wanting to mention a couple  
 7 other things. One, the way the statute is written,  
 8 we, being The Petroleum Alliance, think it's a  
 9 little unclear in several areas, one being we don't  
 10 believe that it actually applies to refineries. And  
 11 the way that the timing is, it looks like it's a  
 12 four-year program and not a five.  
 13 So we are going to ask for a  
 14 legislative change this session to make -- to  
 15 specifically include refineries and to increase the  
 16 amount to \$25 million because we also believe that,  
 17 you know, with Quad O that that money's going to go  
 18 very quickly and we do want to have an adequate  
 19 funding that -- for the oil and gas upstream,  
 20 midstream, and downstream to have an adequate  
 21 funding for projects.  
 22 And the way it carries over, it could  
 23 be difficult, it could be a lot of applications, we  
 24 realize that. And I actually, just this morning,  
 25 was questioned on the \$1,000, which I think is -- if

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1 you're asking for several million, that's nothing.  
 2 If you were asking for, you know, \$2,000, \$3,000,  
 3 that could be something, or if you're asking and you  
 4 maybe won't receive that funding for a year or two  
 5 or if they sunset this program at the end of five,  
 6 you may never receive it, if there's enough in the  
 7 pipeline.  
 8 I don't know if that needs to be  
 9 taken up or not, to say if -- well, I don't know how  
 10 it would be worded on the \$1,000 that could never be  
 11 -- you know, be recouped from them or even if it was  
 12 turned down by the DEQ, I don't know what the  
 13 grounds would be that it would be turned down.  
 14 But I also want to say the -- and I  
 15 don't know if Jeremy was going to get up and say  
 16 anything, but I mean, we believe that this was --  
 17 one of the main intents of this is because of new  
 18 requirements in federal regulations that are going  
 19 to require a lot of changes, and Quad O is -- was  
 20 the main driver. But there could be changes in  
 21 other clean air requirements that were -- that do  
 22 require large-scale, high-dollar retrofits such as  
 23 low NOx burners and such that we also believe that  
 24 that should all be included in this, and that is the  
 25 reason that we are going to ask for more money.

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1 But I also want to make sure that you  
 2 understand that even though it says \$10 million and  
 3 entered into law, if the legislature does not fund  
 4 it, there will be no money. They have to actually  
 5 put the money into the account before anything will  
 6 happen, so I just want to make sure you kept that --  
 7 that you realize that, that there's actually several  
 8 things that are never funded at the legislature.  
 9 I believe that was all the comments  
 10 I'm going to make, I don't know if you had any  
 11 questions, so -- thank you.  
 12 CHAIRWOMAN LODES: So on Bud's note, if it  
 13 never does get funded and people have paid in the  
 14 \$1,000 fee, what happens then?  
 15 VICE-CHAIRMAN KEELE: Almost feels like we  
 16 need a trigger, we're not going to accept  
 17 applications until there's funding.  
 18 CHAIRWOMAN LODES: Yeah. Melanie?  
 19 MS. FOSTER: So, remember this rule won't  
 20 go into effect until September 15th of next year;  
 21 so, theoretically, we'll know at the end of this  
 22 legislative session whether we've got money or not  
 23 and we'll be able to then -- if the rule goes into  
 24 effect, we'll be able to say, 'No, we're not, you  
 25 know, accepting applications'. So, theoretically,



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1 somebody could try to apply before the rule goes  
 2 into effect, but we won't have all the required  
 3 forms and stuff out there until that time; so we'll  
 4 be asking people to wait because we won't have the  
 5 mechanisms in place until the rule's in place to  
 6 address that. Does that make sense?  
 7 CHAIRWOMAN LODES: Yeah, so there's -- I  
 8 mean, even if we put this on the books it won't go  
 9 into effect, and so there's no point in somebody  
 10 applying in April of 2023 because we don't know if  
 11 it's going to be funded and we're not going to put  
 12 anything out there for the -- or have a mechanism to  
 13 accept the \$1,000 fee until the legislature's funded  
 14 it.  
 15 MS. FOSTER: Right.  
 16 VICE-CHAIRMAN KEELE: Okay. But let's say  
 17 we put it in there and we run the rule in January,  
 18 pass as it goes up, you still don't get funding at  
 19 the end of the deal and you've got this program on  
 20 the books. Do we not need something that says we  
 21 can't -- we're not going to accept if there's not  
 22 money in the program?  
 23 MS. FOSTER: I mean, Kendal obviously will  
 24 have the final say, but I think if the rule went  
 25 into effect in September, but no money was allocated

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1 this legislative session, then I think we would put  
 2 things on our website that say, 'There's no money in  
 3 this fund, you know, applying does not -- you know,  
 4 you will not get reimbursed if you apply', and so  
 5 we'd basically discourage any applications.  
 6 Now, somebody might still choose to  
 7 apply because they have a deadline, right, and if  
 8 they think the money's going to come the next year;  
 9 so that would kind of be an at their own risk at  
 10 that point, but I think we probably will be working  
 11 with The Petroleum Alliance to know what was the  
 12 horizon looking like for the next legislative  
 13 session, how likely would it be that funding would  
 14 come up the next year. Does that sound accurate,  
 15 Kendal?  
 16 MS. STEGMANN: I think so, yes. Yeah, and  
 17 I want to apologize for all this confusion. We --  
 18 when this bill was introduced, we weren't part of  
 19 this conversation; so we had -- I had no idea that  
 20 this was coming down until after it was passed. So  
 21 we're trying to figure out the intent and a path  
 22 forward the best that we can because we did not  
 23 anticipate this until after it was passed. So we're  
 24 just trying to figure it out the best that we can.  
 25 MS. BOTCHLET-SMITH: Did we have anyone

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1 else from the public that wanted to comment on this?  
 2 MR. JEWELL: Yes.  
 3 CHAIRWOMAN LODES: Looks like Jeremy  
 4 Jewell.  
 5 MS. BOTCHLET-SMITH: I thought Jeremy  
 6 might.  
 7 MR. JEWELL: I didn't fill out a card for  
 8 this one, but Madam Chair, Members of the Board,  
 9 Jeremy Jewell, also from the Environmental  
 10 Federation of Oklahoma.  
 11 So, Garry's comment about enforcement  
 12 reminded me of something. So it's essentially a  
 13 comment about credibility, and there's another  
 14 layer to that, I guess. So, different air programs  
 15 treat credibility different, specifically of,  
 16 like, new NSPS rules or MACT rules or, say, a SIP or  
 17 a FIP change that is coming, no one's out of  
 18 compliance, but if you maintain status quo, you will  
 19 be at some point.  
 20 So are reductions taken to address  
 21 new requirements creditable under this rebate  
 22 program, we don't have to answer that question  
 23 today, but I think it's something that the rules  
 24 need to address.  
 25 CHAIRWOMAN LODES: That was exactly my

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1 question to Kendal a minute ago where I said if we  
 2 know Quad Oc is published today as a draft, so we  
 3 know it's coming at some point -- not finalized  
 4 today, obviously -- can we go ahead and put in  
 5 no-bleed pneumatics and take credit for it, would be  
 6 my -- I mean, that's --  
 7 MR. JEWELL: Or, you know --  
 8 CHAIRWOMAN LODES: Anything else that's in  
 9 that rule.  
 10 MR. JEWELL: Some of the old compressor  
 11 engines will eventually be replaced, right.  
 12 MS. STEGMANN: I would say yes.  
 13 CHAIRWOMAN LODES: The old compressor  
 14 engines, I would argue that's a matter of when you  
 15 want to swing them, and then when you swing them and  
 16 put in a newer model, then they'll have to be  
 17 replaced. I would say it would be more things like  
 18 going to no-bleed pneumatics that would be  
 19 questionable. Switching an engine out --  
 20 MR. JEWELL: I was trying to think of the  
 21 large -- the possible large requests for rebates. I  
 22 mean, you're talking millions of dollars when you  
 23 replace some of those engines, so --  
 24 CHAIRWOMAN LODES: You are -- but really,  
 25 those, to me, are easier to, say, qualify because

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1 let's say I'm replacing a 1976 engine, I'm doing an  
 2 engine swing and I'm going to drop in a Quad J, and  
 3 that's an easier argument than I would say, well,  
 4 I'm going to put the controls -- the vapor recovery  
 5 units on tanks because I know for Quad Oc I've got  
 6 to get my methane emissions down.  
 7 MR. JEWELL: I agree, I just want to make  
 8 sure that DEQ's thinking about this --  
 9 MS. STEGMANN: We are. Because I'm more  
 10 focused on things that will not qualify it is if you  
 11 have an active enforcement action.  
 12 MR. JEWELL: Yeah, very good. Thank you.  
 13 CHAIRWOMAN LODES: Yeah, that's -- but  
 14 Jeremy, yes, my question is the same. We now have a  
 15 rule, proposed rule out there on the -- federal rule  
 16 on the books, is that going to eliminate any of  
 17 those. Because that's most of the credit -- most of  
 18 reductions in the oil and gas industry would have a  
 19 mechanism to go after are the things that are now on  
 20 that last methane --  
 21 MR. JEWELL: Well, yeah, and NSPS and  
 22 MACT, you know, who knows, are one thing, but you  
 23 know, I'm thinking Ozone Transport Rule, Regional  
 24 Haze, different things that are a little less  
 25 well-known at the moment, even though Quad Oc is


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1 sort of unknown, as well, but --  
 2 VICE-CHAIRMAN KEELE: Potential future  
 3 nonattainment and what that can do.  
 4 MR. JEWELL: Sure, that's another example.  
 5 Yeah.  
 6 MS. STEGMANN: And I think if we do have,  
 7 you know, ongoing, you know, different compliance  
 8 measures coming in, I think that would alleviate,  
 9 you know, the bite of it, I guess, for installing  
 10 these controls that this rebate program can help  
 11 out. That makes sense to me.  
 12 MR. JEWELL: Yeah. Thank you.  
 13 MS. BOTCHLET-SMITH: Any other comments  
 14 from the public?  
 15 Randy?  
 16 MR. WARD: It's really just a question,  
 17 but -- Randy Ward, Air Quality alumnus and just a  
 18 public citizen. I did have a question. Is this  
 19 just hardware or is it, like, total cost? Like, the  
 20 engineering to look into, like, a new engine --  
 21 MS. STEGMANN: That has come up in our  
 22 discussion.  
 23 MR. WARD: -- and the installation cost  
 24 and, you know, all that.  
 25 MS. STEGMANN: We haven't settled on that

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1 yet, it's a project cost.  
 2 MR. WARD: I was going to say because you  
 3 could roll the PE into that, I mean, if the total  
 4 cost of the project would then be "X". So, anyway,  
 5 I was just listening, but -- so --  
 6 MS. STEGMANN: I appreciate that, yeah,  
 7 that's a good point. Thank you.  
 8 MS. BOTCHLET-SMITH: Thank you, Randy.  
 9 Anyone else?  
 10 Okay. Hearing none, we do have an  
 11 opportunity for some additional discussion by the  
 12 council or questions.  
 13 Okay. Brooks, you might restate what  
 14 staff had expected for action today.  
 15 MR. KIRLIN: Yes, ma'am.  
 16 Basically, it's the same approach as  
 17 the Subchapter 5, we're just asking the council not  
 18 to vote on this at this time and we will plan to  
 19 bring it back to the January Air Quality Council  
 20 Meeting, so...  
 21 MS. BOTCHLET-SMITH: So no vote on this  
 22 one, either? Okay.  
 23 And that concludes the hearing  
 24 portion of today's meeting.  
 25 (HEARING ADJOURNED AT 9:58 AM)

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1 CERTIFICATE  
 2 I, Jenny Longley, Certified Shorthand  
 3 Reporter within and for the State of Oklahoma, do  
 4 hereby certify that the above and foregoing hearing  
 5 was by me taken in shorthand and thereafter  
 6 transcribed; and that I am not an attorney for nor  
 7 relative of any of said parties or otherwise  
 8 interested in the event of said action.  
 9 IN WITNESS WHEREOF, I have hereunto  
 10 set my hand and official seal this 12th day of  
 11 December, 2022.  
 12  
 13   
 14 \_\_\_\_\_  
 15 Jenny Longley, CSR  
 16 CSR # 1903  
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# AIR QUALITY ADVISORY COUNCIL

Attendance Record

December 6, 2022

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

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Christina Hagens	DEQ - AQD		
MELANIE FOSTER	AQD		
Cheryl Bradley	AQD		
Kendal Stegmann	AQD		
Jared Milano	AQD		<del>Jared Milano @ DEQ not 1982</del>
Malcolm Zachariah	AQD		
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Beverly Batchlet Smith	DEQ		
Greg Elliott	AQAC		
Garry Keede	McAfee Eft		garry.keede@mcfeet.com
Kathy Aebischer	DEQ		
Bud Ground	EFO		
Matt Cales	AQAC		
Michael Ketcham	AQD		
Quiana Fields	ODEQ		
Camie Schroeder	AQD		
Ryan Biggerstaff	AQD		
Garas Frey	AQD		
Laura Lodes	AQC		
Randy Ward	Public		
John Mivet	Duit		
Travis Coch	DEQ		
Laura Finley	WFEC		
Ashienne Burchett	WFEC		
Austin Sides	DEQ		



# AIR QUALITY ADVISORY COUNCIL

Attendance Record

December 6, 2022

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Phillip Fielder AQD  
Joseph Daniel AQD Legal  
Bob Delano  
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**MEMORANDUM**

**DATE:** December 28, 2022

**TO:** Members of the Air Quality Advisory Council

**FROM:** Kendal Stegmann, Director *KS*  
Air Quality Division

**SUBJECT:** Proposed Update of OAC 252:100-5-2.2

The Department of Environmental Quality (Department or DEQ) is proposing to amend OAC 252:100, Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, to update the annual operating fee schedule language relating to minor facilities. Part 70 (major) sources are subject to adjusted annual operating fees based on the Consumer Price Index (CPI). The gist of this rule proposal and the underlying reason for the rulemaking is to include the use of the CPI in the adjustment of annual operating fees for minor facilities.

Emissions and annual operating fees have been trending down over the last few years. The funding generated from this fee adjustment is needed to offset budgetary shortfalls and aid in the retention of full-time positions in the Air Quality Division. Also, the proposed changes are necessary to cover costs from unfunded mandates.

Copies of the proposed rule changes, Rule Impact Statement, and Summary of Comments and Responses are enclosed. Notice of the proposed rule changes was published in the *Oklahoma Register* on December 1, 2022. The notice requested written comments from the public and other interested parties. No written comments have been received to date; an oral comment was received at the December Air Quality Advisory Council (AQAC) meeting.

This will be the second time this rule proposal will be presented to the Council. At the January AQAC meeting, staff will ask the Council to recommend the proposed rule changes to the Environmental Quality Board for adoption as a permanent rule.

**Enclosures:** Proposed Amendments to OAC 252:100-5-2.2  
Rule Impact Statement  
Summary of Comments and Responses

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 100. AIR POLLUTION CONTROL  
SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL  
OPERATING FEES**

**252:100-5-2.2. Annual operating fees**

**(a) Applicability.**

(1) OAC 252:100-5-2.2 applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by OAC 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2) OAC 252:100-5-2.2 does not apply to de minimis facilities or to permit exempt facilities.

**(b) Fee schedule.**

(1) **Minor facilities.** ~~Beginning July 1, 2008~~Until June 30, 2024, annual operating fees invoiced for minor facilities shall be \$25.12 per ton of regulated air pollutant (for fee calculation). Starting July 1, 2024, the annual operating fees invoiced for minor facilities shall be \$36.50 per ton of regulated air pollutant (for fee calculation) and shall be adjusted each year thereafter based on the CPI pursuant to (b)(3)(A) of this section. The invoiced, CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

(2) **Part 70 Sources.** Beginning July 1, 2008, annual operating fees invoiced for Part 70 sources shall be \$32.30 per ton of regulated air pollutant (for fee calculation) and shall be adjusted each year pursuant to (b)(3)(~~B~~) of this section. The invoiced, CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

**(3) Use of Consumer Price Index (CPI) to adjust annual operating fees.**

**(A) Minor facilities.** Annual operating fees for minor facilities shall be adjusted automatically each year by the percentage, if any, by which the CPI for the most recent calendar year ending before the beginning of such a year differs from the CPI for the calendar year 2024.

**(B) Part 70 Sources.** Annual operating fees for Part 70 sources shall be adjusted automatically each year by the percentage, if any, by which the CPI for the most recent calendar year ending before the beginning of such year differs from the CPI for the calendar year 2007.

**(C) Consumer Price Index.** The CPI for any calendar year is the average of the CPI for all-urban consumers published by the Department of Labor, as of the close of the twelve-month period ending on August 31 of each calendar year.

**(c) Payment.**

(1) Fees are due and payable on the invoice due date(s). Fees shall be considered delinquent 30 days after the invoice due date(s). Within five (5) years but not before a grace period of

120 days from the invoice due date, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*, to an owner or operator of a facility who has failed to pay or has underpaid such fees.

(2) If an owner or operator has failed to submit the required annual emission inventory, the DEQ may issue an administrative order to recover fees that would have been invoiced had the emission inventory been submitted when due. The DEQ may issue such order within five (5) years from the date of billing and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*

(3) When a fee overpayment has been made as a result of an error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ.

(d) **Basis for annual operating fees.**

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions.

(2) Regulated pollutants (for fee calculation) in excess of 4,000 tons per year per pollutant for a Part 70 source shall not be considered in the calculation of the annual fee.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 100. AIR POLLUTION CONTROL**

Before the Air Quality Advisory Council on December 6, 2022 & January 11, 2023  
Before the Environmental Quality Board on February 17, 2023

**RULE IMPACT STATEMENT**

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees  
252:100-5-2.2 Annual operating fees [AMENDED]

**DESCRIPTION:** The Department of Environmental Quality (Department or DEQ) is proposing to amend OAC 252:100, Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, to update the annual operating fee schedule language relating to minor facilities. Part 70 (major) sources are subject to adjusted annual operating fees based on the Consumer Price Index (CPI). The gist of this rule proposal and the underlying reason for the rulemaking is to include the use of the CPI in the adjustment of annual operating fees for minor facilities.

**CLASSES OF PERSONS AFFECTED:** The classes of persons affected are the owners and operators of minor facilities that are sources of air pollution, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility.

**CLASSES OF PERSONS WHO WILL BEAR COSTS:** The classes of persons who will bear costs are the owners and operators of minor facilities that are sources of air pollution subject to annual operating fees.

**INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** The Department has not received any information on cost impacts as of this date.

**CLASSES OF PERSONS BENEFITTED:** The citizens of Oklahoma and the owners and operators of the minor facilities subject to these regulations will benefit from an adequately funded air pollution control program that is in place to protect public health and welfare. The owners and operators will benefit from consistency within state rules.

**PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** Annual operating fees will increase for owners and operators of minor source facilities.

**PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** The Department anticipates no economic impact on political subdivisions.

**POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:** For owners and operators of small businesses that are minor sources of air pollution, annual operating fees will be increasing.

**LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** The proposed rule would adjust the minor source annual operating fee



from \$25.12 per ton of regulated air pollutant to \$36.50 per ton of regulated air pollutant starting July 1, 2024. The proposed rule would also annually adjust the rate thereafter, based on the Consumer Price Index (CPI). This fee adjustment is needed to offset budgetary shortfalls, alleviate ongoing staffing deficits, and aid in the retention of full-time positions.

**PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** The Department anticipates there will be no significant increased costs associated with the implementation and enforcement of these proposed amendments. The Department will benefit from the proposal financially as it would allow the air pollution control program to be adequately funded thereby protecting air quality in the State of Oklahoma.

**PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** There are none. No other agencies will be implementing or enforcing these regulations.

**SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** Fees and federal grants will continue to be used to implement and enforce these regulations.

**PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** The Department estimates that the proposed rule would generate \$1,566,767 in additional revenue for 2024, when the changes would go into effect. This is the greatest single-year revenue gain that would result from this rule change. Since emissions and collected fees are trending down, this generated revenue is needed to offset budgetary shortfalls, alleviate ongoing staffing deficits, and aid in the retention of full-time positions.

**COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE:** None is required. The Department will be responsible for all aspects of implementation and enforcement of these regulations.

**EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** The Department has identified underfunded portions of the air pollution control program and estimated current and future costs associated with those functions. Increasing the base fee to \$36.50 beginning July 1, 2024, and adding an annual CPI adjustment thereafter, will provide minor sources reasonable lead-time to budget for the fee changes. Regardless of the fee increase, the proposed rule change would not have an impact on the cost of compliance with program requirements.

**DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** The Department has determined that there are no less costly or nonregulatory or less intrusive methods of achieving the purpose of the proposed rule.

**DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The proposed changes will have a positive effect on public health, safety,

and the environment by funding the existing air pollution control program; adequately funded programs can better serve and protect the State of Oklahoma.

**IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK:** The Department has identified underfunded portions of the air pollution control program and estimated current and future costs associated with those functions. The proposed changes will minimize the future costs that would result from underfunded programs. The proposed changes will have a positive effect on public health, safety, and the environment by adequately funding the existing air pollution control program that was established to protect public health and welfare.

**DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** If the proposed changes are not implemented, the lack of funding would likely cause a reduction in services intended to protect the public health and environment from the effects of air pollution.

**PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** The owners and operators of businesses subject to these fees will benefit from a better funded air pollution control program that was established to protect the public health and environment. The impact on business entities that are minor facilities will be an increased annual operating fee.

**THIS RULE IMPACT STATEMENT WAS PREPARED ON:** November 1, 2022  
**MODIFIED ON:** December 1, 2022

**SUMMARY OF COMMENTS AND STAFF RESPONSES  
FOR PROPOSED REVISION TO  
CHAPTER 100. AIR POLLUTION CONTROL, SUBCHAPTER 5**

**COMMENTS RECEIVED PRIOR TO AND DURING THE *DECEMBER 6, 2022*  
AIR QUALITY ADVISORY COUNCIL MEETING**

**Written Comments**

The Department did not receive any written comments on the proposed rule changes prior to or during the December 6, 2022 meeting.

**Oral Comments**

**Bud Ground – Environmental Federation of Oklahoma (EFO)** – Submitted as an oral comment at the December 6, 2022 Air Quality Advisory Council (AQAC) meeting.

1. **COMMENT:** Mr. Ground conveyed EFO’s support for the proposed fee increase to minor source facilities using a CPI-adjustment. He emphasized the importance of adequate staffing and acknowledged that more funds are necessary, but he appeared hesitant to support \$36.50 as the initial raised fee and warned that a significant increase will be difficult to get through the legislature.

**RESPONSE:** The Department appreciates the support of a fee increase and recognizes that a change could be difficult for some companies as they prepare their budgets. However, the minor source fee has been stagnant since 2008 and has not kept up with the rising number of minor facilities, the associated workload, nor has it kept up with inflation. The fee rate of \$36.50 was proposed based on the Consumer Price Index’s rate of change going back to 2007. This increased fee would generate approximately \$1.5 million of additional revenue for the first year this rule would begin affecting invoices (i.e., 2024). This revenue is the estimated minimum amount needed to fund 14 full time positions in the Air Quality Division (AQD), many of which have been lost over the years, have not been filled due to budgetary shortfalls, or are needed for programs that benefit minor facilities.

**COMMENTS RECEIVED PRIOR TO AND AT THE *JANUARY 11, 2023*  
AIR QUALITY ADVISORY COUNCIL MEETING**

**Written Comments**

No additional written comments have been received as of December 28, 2022.

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**MEMORANDUM**

**DATE:** December 28, 2022

**TO:** Members of the Air Quality Advisory Council

**FROM:** Kendal Stegmann, Director *KS*  
Air Quality Division

**SUBJECT:** Proposed New Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program

The Department is proposing to add Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program to OAC 252:100, to implement applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, *et seq.* The act created the "Oklahoma Emission Reduction Technology Rebate Program," ("Rebate Program") administered by the DEQ and the Oklahoma Tax Commission (OTC), to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department's responsibilities under the Oklahoma Emission Reduction Technology Incentive Act.

The statute requires DEQ to review each rebate claim submitted, approve or disapprove the claim, and notify the OTC. The Oklahoma Tax Commission will pay out the rebates from the newly created Oklahoma Emission Reduction Technology Incentive Revolving Fund. The SC 49 rule proposal includes a fee to help offset the costs for DEQ to administer the review of rebate claims, since no funding is provided in the statute for implementation of the program. Copies of the proposed rule and the Rule Impact Statement are enclosed, as well as a copy of the enabling statute.

Notice of the proposed rules was published in the *Oklahoma Register* on December 1, 2022. The notice requested written comments from the public and other interested parties. Written comments from one individual were received prior to the December AQAC special meeting, and three individuals delivered oral comments at the meeting. A Response to Comments document has been created and is included. No additional comments have been received as of December 28, 2022. At the January meeting, staff will ask the Council to recommend the proposed rules the Environmental Quality Board for adoption as permanent rules.

**Enclosures:** Proposed OAC 252:100-49 [NEW]  
Rule Impact Statement  
Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, *et seq.*  
Summary of Comments and Staff Responses, 12/28/2022

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**CHAPTER 100. AIR POLLUTION CONTROL**  
**SUBCHAPTER 49. OKLAHOMA EMISSION REDUCTION TECHNOLOGY REBATE**  
**PROGRAM [NEW]**

Section

252:100-49-1. Purpose and applicability [NEW]

252:100-49-3. Definitions [NEW]

252:100-49-5. Program criteria and qualification determination [NEW]

252:100-49-7. Sunset provision [NEW]

**252:100-49-1. Purpose and applicability [NEW]**

(a) The purpose of this Subchapter is to implement applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. The act created the "Oklahoma Emission Reduction Technology Rebate Program," administered by the Department of Environmental Quality and the Oklahoma Tax Commission, to provide a rebate of up to 25% of expenditures for implementation of a qualified "Emission Reduction Project." The program is intended to encourage implementation of new and innovative technologies for reduction of emissions from oil and gas activities, specifically those listed in subsection (b).

(b) This program applies only to emissions from upstream and midstream oil and gas production, exploration, completions, gatherings, storage, processing, and transmission activities. Activities in the following SIC codes are generally considered to qualify within the scope of eligibility for this program: 1311, 1321, 1381, 4612, 4613, 4922, 4923, 4924, and 4925. DEQ may determine whether an activity identified by a particular NAICS code would qualify under an equivalent SIC code.

**252:100-49-3. Definitions [NEW]**

The term "Emission Reduction Project" as defined in 68 O.S. §§ 55008 shall apply under this Subchapter, and used in determining eligibility. For the purposes of this subchapter, "Emission Reduction Projects" do not include projects that are required to address an enforcement action or undertaken as a supplemental environmental project to offset an enforcement penalty.

In addition, the following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq.

"Commission" or "OTC" means the Oklahoma Tax Commission or its successor entity.

"Department" or "DEQ" means the Oklahoma Department of Environmental Quality.

"Rebate claim" means the package submitted to DEQ documenting all criteria for a rebate has been met. Upon approval by DEQ, the package is forwarded to OTC as the formal request for OTC to issue a rebate under the Rebate Program.

"Rebate Program" or "OERTRP" means the Oklahoma Emission Reduction Technology Rebate Program, 68 O.S. § 55009, et seq.

**252:100-49-5. Program criteria and qualification determination** [NEW]

**(a) Applying for rebate eligibility.** An applicant responsible for the implementation of a qualified Emission Reduction Project may submit a rebate claim to DEQ for review and determination whether the project qualifies under the program.

(1) The rebate claim shall be submitted on forms provided for this purpose, or as otherwise specified by DEQ.

(2) The rebate claim shall be submitted to DEQ no later than six (6) months after the end of the fiscal year in which the expenditures were made. The fiscal year ends on June 30 each year.

(3) Project documentation shall include:

(A) a project description that provides information in sufficient detail to determine that it qualifies as an Emission Reduction Project as defined in 68 O.S. §§ 55008;

(B) an estimation of actual resulting emission reductions;

(C) a statement that the project implementation is complete; and

(D) an itemization of expenses, with invoices, for all equipment installed to implement the project.

(4) Project documentation shall state the amount of expenditures made in this state directly related to the implementation of the qualified Emission Reduction Project.

(5) The applicant shall certify that the project is not required to address an enforcement action or undertaken as a supplemental environmental project to offset an enforcement penalty.

(6) The applicant shall provide a certification from OTC that it has filed all Oklahoma tax returns and tax documents which are required by the laws of this state.

(7) The applicant shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars (\$1,000,000.00) and a workers' compensation policy pursuant to the laws of this state which shall include coverage of employer's liability.

(8) The rebate claim shall include a certification, signed and sealed by a Professional Engineer (PE) licensed to practice engineering in Oklahoma, attesting that the project has been designed, installed, and operated as described in the claim, and in accordance with good engineering practices and the requirements of this Chapter.

(9) The rebate claim shall include certification, signed by a responsible official, attesting to the truth, accuracy, and completeness of the claim. This certification shall contain the following language: "I certify that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

(10) The applicant will be assessed a one-time fee of \$1,000 that must accompany the rebate claim. A rebate claim without the appropriate fee is incomplete.

**(b) DEQ review of rebate claim.** DEQ will review the rebate claim information to determine if the described project is a qualified Emission Reduction Project, and will the notify the applicant and OTC of its approval or disapproval of the claim for a rebate payment.

**(c) Effect on OTC authority.** Nothing in this section shall limit or otherwise affect OTC's authority or responsibilities under the Act, including the authority to request submittal of additional information by the claimant.

**252:100-49-7. Sunset provision** [NEW]

This Subchapter shall cease to be in effect if and when the Oklahoma Emission Reduction Technology Rebate Program ceases on July 1, 2027, or as otherwise stipulated in 68 O.S. § 55012 or its successor.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 100. AIR POLLUTION CONTROL**

Before the Air Quality Advisory Council on December 6, 2022 and January 11, 2023  
Before the Environmental Quality Board on February 17, 2023

**RULE IMPACT STATEMENT**

Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program [NEW]  
252:100-49-1 Purpose and Applicability [NEW]  
252:100-49-3 Definitions [NEW]  
252:100-49-5 Program criteria and qualification determination [NEW]  
252:100-49-7 Sunset provision [NEW]

**DESCRIPTION:** The Department is proposing to add Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program to OAC 252:100, to implement applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. The act created the "Oklahoma Emission Reduction Technology Rebate Program," administered by the DEQ and the Oklahoma Tax Commission (OTC), to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department's responsibilities under the Oklahoma Emission Reduction Technology Incentive Act.

**CLASSES OF PERSONS AFFECTED:** The classes of persons affected are the owners and operators of facilities that have implemented a qualifying Emissions Reduction Project and are potentially eligible for a rebate for associated expenses.

**CLASSES OF PERSONS WHO WILL BEAR COSTS:** The classes of persons who will bear costs are the owners and operators of facilities that prepare and submit a rebate claim under the program.

**INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** The Department has not received any information on cost impacts as of this date.

**CLASSES OF PERSONS BENEFITTED:** The citizens of Oklahoma will benefit from implementation of qualifying Emissions Reduction Projects, and owners and operators of facilities that have implemented a qualifying Emissions Reduction Project will benefit if they are eligible for a rebate for associated expenses.

**PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** There should be positive economic impacts on affected classes of persons potentially eligible for a rebate under this program.

**PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** The Department anticipates no economic impact on political subdivisions.

**POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:** The Department anticipates no adverse effect on small business.

**LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** The Department is proposing a \$1,000 fee to help offset costs for DEQ to administer the review of a rebate claim under this rule. This fee is comparable to those charged for similar actions.

**PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** The Department anticipates there will be increased costs associated with the implementation of the program associated with the proposed amendments. The proposed fee will help offset costs for DEQ to meet its statutory obligations under the rebate program. The Department may benefit from any emissions reductions that result from projects that are potentially eligible under the rebate program associated with the proposal.

**PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** Although no other agencies will be implementing these proposed DEQ regulations, OTC will likely incur costs in meeting its statutory obligations under the rebate program. DEQ did not evaluate any possible benefits to the OTC.

**SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** The Department is proposing a \$1,000 fee to help offset costs for DEQ to administer the review of rebate claims under this rule. Other program fees and federal grants will be used to fund the remaining costs to implement these regulations.

**PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** The Department has not attempted to estimate a net change in revenues from these proposed rules for either DEQ or OTC, because it does not have data to project how many rebate claims are likely to be received in a given year.

**COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE:** None is required. The Department will be responsible for all aspects of implementation regarding its obligations under these regulations.

**EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** The proposed rule will entail a minimal cost for facilities to document implementation of potentially eligible projects, including the associated expenditures and the actual emissions reduction achieved.

**DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** The Department has determined that there are no less costly or nonregulatory or less intrusive methods of achieving the purpose of the proposed rule.



**DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The proposed rule will have a positive effect on public health, safety, and the environment if the rebate program serves as an incentive for facilities to implement Emission Reduction Projects.

**IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK:** The proposed rule will have a positive effect on public health, safety, and the environment if the rebate program serves as an incentive for facilities to voluntarily implement new Emission Reduction Projects, but is not designed to reduce specifically identified risks.

**DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** If the proposed rule is not implemented, facilities will have less certainty of required documentation, qualifications, and procedures under the Act. That could result in implementation of fewer new voluntary Emission Reduction Projects, and loss of any potential benefits of such projects on the public health, safety and environment.

**PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** There will be a positive impact on business entities, since the proposed rule will assist in implementing a 25% rebate program for the costs of eligible voluntary Emission Reduction Projects that have been completed.

**THIS RULE IMPACT STATEMENT WAS PREPARED ON:** November 1, 2022

**MODIFIED ON:** December 1, 2022

 **Oklahoma Statutes Citationized**

 **Title 68. Revenue and Taxation**

 **Chapter 2 - Miscellaneous Tax Provisions**

 **Oklahoma Emission Reduction Technology Incentive Act**

 **Section 55006 - Short Title**

Cite as: 68 O.S. § 55006 (OSCN 2022), Oklahoma Emission Reduction Technology Incentive Act

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Sections 1 through 7 of this act shall be known and may be cited as the "Oklahoma Emission Reduction Technology Incentive Act".

***Historical Data***

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Laws 2022, HB 3568, c. 346, § 1, emerg. eff. July 1, 2022.


Title 68. Revenue and Taxation

 Oklahoma Statutes Citationized

 Title 68. Revenue and Taxation

 Chapter 2 - Miscellaneous Tax Provisions

 Oklahoma Emission Reduction Technology Incentive Act

 Section 55007 - Purpose

Cite as: 68 O.S. § 55007 (OSCN 2022), Oklahoma Emission Reduction Technology Incentive Act

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The Legislature hereby finds that the reduction of emissions from upstream and midstream oil and gas production, exploration, completions, gatherings, storage, processing, and transmission activities serves the interests of the citizens of Oklahoma and such emission reduction activities with new and innovative technologies should be encouraged and incentivized.

**Historical Data**

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Laws 2022, HB 3568, c. 346, § 2, emerg. eff. July 1, 2022.

**Citationizer<sup>®</sup> Summary of Documents Citing This Document**

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<i>Cite</i>	<i>Name Level</i>
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None Found.

**Citationizer: Table of Authority**

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<i>Cite</i>	<i>Name Level</i>
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None Found.


Title 68. Revenue and Taxation

 Oklahoma Statutes Citationized

 Title 68. Revenue and Taxation

 Chapter 2 - Miscellaneous Tax Provisions

 Oklahoma Emission Reduction Technology Incentive Act

 Section 55008 - Definitions

Cite as: 68 O.S. § 55008 (OSCN 2022), Oklahoma Emission Reduction Technology Incentive Act

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As used in the Oklahoma Emission Reduction Technology Incentive Act, "Emission Reduction Project" means and includes, but is not limited to:

1. Existing and new technology projects that reduce emissions of regulated pollutants from stationary sources; and
2. Existing and new technology projects that reduce emissions from upstream and midstream oil and gas exploration, production, completions, gathering, storage, processing, and transmission activities through the following:
  - a. the replacement, repair, or retrofit of stationary compressor engines,
  - b. the installation of systems and/or equipment to reduce or eliminate the loss of gas, venting of gas, flaring of gas, or burning of gas using other combustion control devices, or
  - c. the installation of emissions monitoring equipment or devices.

**Historical Data**

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Laws 2022, HB 3568, c. 346, § 3, emerg. eff. July 1, 2022.

**Citationizer<sup>®</sup> Summary of Documents Citing This Document**

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*None Found.*

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*None Found.*

Title 68. Revenue and Taxation

 Oklahoma Statutes Citationized

 Title 68. Revenue and Taxation

 Chapter 2 - Miscellaneous Tax Provisions

 Oklahoma Emission Reduction Technology Incentive Act

 Section 55009 - Oklahoma Emission Reduction Technology Rebate Program

Cite as: 68 O.S. § 55009 (OSCN 2022), Oklahoma Emission Reduction Technology Incentive Act

- A. Upon the effective date of this act, there is hereby created the Oklahoma Emission Reduction Technology Rebate Program. There is hereby created a rebate in the amount of up to twenty-five percent (25%) of documented expenditures made in this state directly attributable to the implementation of a qualified Emission Reduction Project.
- B. The rebate program shall be administered by the Department of Environmental Quality and the Oklahoma Tax Commission, as provided in the Oklahoma Emission Reduction Technology Incentive Act.
- C. To be eligible for a rebate payment:
1. The applicant responsible for the implementation of a qualified Emission Reduction Project in this state shall submit documentation to the Department of Environmental Quality no later than six (6) months after the end of the fiscal year in which the expenditures were made stating the amount of expenditures made in this state directly related to the implementation of the qualified Emission Reduction Project;
  2. The applicant has filed all Oklahoma tax returns and tax documents which are required by the laws of this state; and
  3. The applicant shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars (\$1,000,000.00) and a workers' compensation policy pursuant to the laws of this state which shall include coverage of employer's liability.
- D. The Department of Environmental Quality shall approve or disapprove all claims for a rebate payment and shall notify the Oklahoma Tax Commission. The Tax Commission shall, upon notification of approval from the Department of Environmental Quality, issue a rebate payment for all approved claims from funds in the Oklahoma Emission Reduction Technology Incentive Revolving Fund created in Section 5 of this act. Rebate payments from the fund shall not exceed Ten Million Dollars (\$10,000,000.00) in any fiscal year. If the amount of approved claims exceeds the amount specified in this subsection in a fiscal year, payments shall be made proportionately to all of the parties making a claim prior to the deadline which is approved by the Department of Environmental Quality with the amount to be paid to each approved party being product of the individual claim amount times the percentage resulting from Ten Million Dollars (\$10,000,000.00) divided by the total amount of approved claims for the period. If an approved claim is not paid in whole or in part, the unpaid claim or unpaid portion shall be paid in the following fiscal years in the order in which the claims are approved by the Department.
- E. Approved claims for rebate that exceed the balance of the Oklahoma Emission Reduction Technology Incentive Revolving Fund created in Section 5 of this act may be paid in part and the unpaid portion shall be paid upon the fund reaching a sufficient balance in the order in which the claims are approved by the Department.

**Historical Data**

Laws 2022, HB 3568, c. 346, § 4, emerg. eff. July 1, 2022.

**Citationizer<sup>®</sup> Summary of Documents Citing This Document**

**Cite**      **Name Level**

None Found.

**Citationizer: Table of Authority**

**Cite**      **Name Level**

None Found.

Title 68. Revenue and Taxation

 Oklahoma Statutes Citationized

 Title 68. Revenue and Taxation

 Chapter 2 - Miscellaneous Tax Provisions

 Oklahoma Emission Reduction Technology Incentive Act

 Section 55010 - Oklahoma Emission Reduction Technology Incentive Revolving Fund

Cite as: 68 O.S. § 55010 (OSCN 2022), Oklahoma Emission Reduction Technology Incentive Act

There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be designated the "Oklahoma Emission Reduction Technology Incentive Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Tax Commission from any public or private donations, contributions, and gifts received for the benefit of the fund and any amounts appropriated by the Oklahoma Legislature designated for deposit in the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Tax Commission for the purpose of paying rebates as provided in this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. Any remaining unencumbered balance upon the cessation of the Oklahoma Emission Reduction Technology Rebate Program, as provided in Section 7 of this act, shall be transferred to the General Revenue Fund of the State of Oklahoma.

**Historical Data**

Laws 2022, HB 3568, c. 346, § 5, emerg. eff. July 1, 2022.

**Citationizer<sup>®</sup> Summary of Documents Citing This Document**

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None Found.

**Citationizer: Table of Authority**

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None Found.

Title 68. Revenue and Taxation

 Oklahoma Statutes Citationized

 Title 68. Revenue and Taxation

 Chapter 2 - Miscellaneous Tax Provisions

 Oklahoma Emission Reduction Technology Incentive Act

 Section 55011 - Promulgation of Rules

Cite as: 68 O.S. § 55011 (OSCN 2022), Oklahoma Emission Reduction Technology Incentive Act

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The Department of Environmental Quality and the Oklahoma Tax Commission shall promulgate rules necessary to implement the provisions of this act.

***Historical Data***

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Laws 2022, HB 3568, c. 346, § 6, emerg. eff. July 1, 2022.

***Citationizer<sup>®</sup> Summary of Documents Citing This Document***

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*None Found.*

***Citationizer: Table of Authority***

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<i>Cite</i>	<i>Name Level</i>
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*None Found.*

Title 68. Revenue and Taxation

 Oklahoma Statutes Citationized

 Title 68. Revenue and Taxation

 Chapter 2 - Miscellaneous Tax Provisions

 Oklahoma Emission Reduction Technology Incentive Act

 Section 55012 - Termination Date of Rebate Program

Cite as: 68 O.S. § 55012 (OSCN 2022), Oklahoma Emission Reduction Technology Incentive Act

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The Oklahoma Emission Reduction Technology Rebate Program shall cease on July 1, 2027.

**Historical Data**

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Laws 2022, HB 3568, c. 346, § 7, emerg. eff. July 1, 2022.

**Citationizer<sup>®</sup> Summary of Documents Citing This Document**

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*None Found.*

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*None Found.*



**SUMMARY OF COMMENTS AND STAFF RESPONSES  
FOR PROPOSED REVISION TO  
CHAPTER 100. AIR POLLUTION CONTROL, SUBCHAPTER 49**

**COMMENTS RECEIVED PRIOR TO AND AT THE *DECEMBER 6, 2022*  
AIR QUALITY ADVISORY COUNCIL MEETING**

**Written Comments**

**Howard L. (Bud) Ground – Environmental Federation of Oklahoma (EFO) and The Petroleum Alliance of Oklahoma ("The Petroleum Alliance")**

1. **COMMENT:** Mr. Ground, as Director of Regulatory affairs for The Petroleum Alliance, requested that the requirement for certification of rebate claims by an Oklahoma licensed Professional Engineer (PE) in proposed OAC 252:100-49-5(a)(8) be changed to allow for certification by either a qualified professional engineer or an in-house engineer with relevant expertise. Mr. Ground noted that the U.S. Environmental Protection Agency (EPA) used this phrase in its since-published (87 *FR* 74702, December 6, 2022) proposed "Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review." EPA cited a concern over a potential shortage of PEs with specific expertise required under the proposed standards. Mr. Ground also requested flexibility considering the number of oil & gas companies that are located outside the State of Oklahoma and may not employ an Oklahoma-licensed PE with the pertinent expertise.

**RESPONSE:** The Department recognizes The Petroleum Alliance's concerns. DEQ staff is concerned that the suggested language may not be suitable under the requirements of the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors. DEQ staff have revised OAC 252:100-49-5(a) to address the concerns expressed by Mr. Ground. The updated proposal would remove paragraph (8), and revise subparagraph (3)(C) by adding a portion of the previous wording, and now reads:

"(3) Project documentation shall include:

\*\*\*

(C) a statement that the project has been designed, installed, and operated as described in the claim and in accordance with good engineering practices and the requirements of this Chapter, and that implementation of the project is complete; and ..."

As a result, DEQ's review of the rebate claim would rely on the Responsible Official's certification to assure that the project was designed, installed, and operated appropriately.

## Oral Comments

### **Howard L. (Bud) Ground – EFO and The Petroleum Alliance**

2. **COMMENT:** Mr. Ground, representing The Petroleum Alliance, reiterated the concerns regarding the PE certification requirement expressed in his written comments. Mr. Ground also referred to several concerns that The Petroleum Alliance has with the existing statutory language, and their intent to request corresponding legislative changes, as well as funding of the Revolving Fund. An additional concern is related to handling of rebate claims (and corresponding fees) for projects that are completed before funds are available in the Revolving Fund.

**RESPONSE:** The Department acknowledges The Petroleum Alliance's concerns. DEQ's response to Comment #1 outlines changes proposed by Staff to address the PE certification issue. Any potential changes to the relevant statutory provision and funding are beyond the scope of DEQ rulemaking.

DEQ believes it would be most appropriate for the Department to review and provide a decision on timely and complete rebate claims for Emission Reduction Projects in accordance with the timing anticipated in the statute – regardless of whether rebate funds are available at that time. The application fee will help offset the costs of DEQ's review of the application and therefore must be included with the rebate claim. This will ensure that DEQ meets its obligations under the statute and that the information provided by the applicant is properly tracked and reviewed when it is as current as possible.

### **Jeremy Jewell – Trinity Consultants and EFO**

3. **COMMENT:** Mr. Jewell, on behalf of EFO, requested clarification of eligibility of emission reduction projects that are undertaken to meet the requirements of new federal standards, such as new or revised New Source Performance Standards (NSPS) or Emission Guidelines (EGs) under 40 CFR Part 60, or National Emission Standards for Hazardous Air Pollutants (NESHAPs) under 40 CFR Part 61 or 63. Mr. Jewell also mentioned other program elements that may prompt emission reduction projects, such as the ozone transport rule, the Regional Haze Program, or other SIP or FIP (State or Federal Implementation Plans, respectively) changes.

**RESPONSE:** The Department notes that the proposal clearly states that "For the purposes of this subchapter, 'Emission Reduction Projects' do not include projects that are required and/or undertaken to address an enforcement action." However, the types of emission reduction projects Mr. Jewell referenced are not enforcement actions, even if the project implements requirements under a program designed to correct deficiencies in the Air Quality Program (e.g., under a FIP). Emission Reduction Projects undertaken to meet the requirements of an NSPS, EG, or NESHAP – and not compelled by an enforcement action – would be eligible to apply for a rebate. DEQ staff does not believe that any further clarification in the language of the proposal is needed.

4. **COMMENT:** Mr. Jewell expressed concern regarding the potential effects of rebate claims for large projects (e.g., multi-million-dollar engine replacement projects) on the program.

**RESPONSE:** The Department recognizes EFO's concern. However, legislative funding and allocation decisions are beyond the scope of DEQ rulemaking.

**Randy Ward – Private citizen**

5. **COMMENT:** Mr. Ward asked if eligible expenditures under the program would only include the purchased equipment ("hardware"), or the total cost, including the costs of engineering analysis, installation, etc. Mr. Ward suggested that, in the latter case, perhaps the cost of the PE certification could be included in the rebate claim.

**RESPONSE:** The Department is continuing to study the statutory intent for the breadth of eligible project expenditures. Regardless, DEQ intends to remove the requirement for PE certification from the proposal. (*See* Response to Comment #1.)

**COMMENTS RECEIVED PRIOR TO AND AT THE *JANUARY 11, 2023*  
AIR QUALITY ADVISORY COUNCIL MEETING**

**Written Comments**

No additional written comments have been received as of December 28, 2022.