

**MEETING/HEARING AGENDA
AIR QUALITY ADVISORY COUNCIL
June 21, 2023, 9:00 a.m.
Tulsa Tech – Owasso Campus
10800 N 137th E Avenue
Owasso, OK 74055**



Please turn off cell phones

- 1. Call to Order** – Laura Lodes, Chair
- 2. Roll Call** – Quiana Fields
- 3. Approval of Minutes** – January 11, 2023 Meeting
- 4. Public Rulemaking Hearing**
 - A. Chapter 100. Air Pollution Control**
 - Subchapter 17. Incinerators**
 - 252:100-17-93 Exemptions [AMENDED]**
 - 252:100-17-103 Part 70 permits [AMENDED]**
 - Subchapter 23. Control of Emissions From Cotton Gins**
 - 252:100-23-3 Applicability, general requirements [AMENDED]**
 - Subchapter 35. Control of Emission of Carbon Monoxide**
 - 252:100-35-1 Purpose [AMENDED]**

The Department of Environmental Quality (Department or DEQ) is proposing to make revisions in Subchapters 17, 23, and 35 as part of the Department’s review of Chapter 100 in response to Governor Stitt’s Executive Order 2020-03. The Department is proposing to correct typographical errors in citations found in OAC 252:100-17-93, OAC 252:100-17-103, and OAC 252:100-23-3. In addition, the Department is proposing to correct the reference to the air quality standard in OAC 252:100-35-1. The gist of this rule proposal and the underlying reason for the rulemaking is to revise inaccurate rule language.

1. Presentation – Melanie Foster, EPM, 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
-
5. **Presentation** – Anticipated NAAQS Revisions and Monitoring Network Changes– Ryan Biggerstaff, EPM, Monitoring Section East, AQD & Bryan Sims, EPM, Monitoring Section West, AQD
 6. **Presentation** – EPA's Good Neighbor Ozone Federal Implementation Plan (FIP) – Travis Couch, AQD Supervising Attorney, Legal Division & Tom Richardson, P.E., Rules & Planning Section, AQD
 7. **Division Director's Report** – Kendal Stegmann, Division Director, AQD
 8. **New Business** – Any matter not known about, or which could not have been reasonably foreseen prior to the time of posting the agenda.
 9. **Adjournment** – The next regular meeting is scheduled for Wednesday, October 4, 2023, in Oklahoma City, 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 17. Incinerators

252:100-17-93 Exemptions [AMENDED]

252:100-17-103 Part 70 permits [AMENDED]

Subchapter 23. Control of Emissions From Cotton Gins

252:100-23-3 Applicability, general requirements [AMENDED]

Subchapter 35. Control of Emission of Carbon Monoxide

252:100-35-1 Purpose [AMENDED]

SUMMARY:

The Department of Environmental Quality (Department or DEQ) is proposing to make revisions in Subchapters 17, 23, and 35 as part of the Department's review of Chapter 100 in response to Governor Stitt's Executive Order 2020-03. The Department is proposing to correct typographical errors in citations found in OAC 252:100-17-93, OAC 252:100-17-103, and OAC 252:100-23-3. In addition, the Department is proposing to correct the reference to the air quality standard in OAC 252:100-35-1. The gist of this rule proposal and the underlying reason for the rulemaking is to revise inaccurate rule language.

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 2-5-130.

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

COMMENT PERIOD:

Written comments may be submitted to the contact person from May 15, 2023, through June 15, 2023. Oral comments may be made at the June 21, 2023 Air Quality Advisory Council meeting and at the September 12, 2023 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, June 21, 2023, at the Tulsa Tech – Owasso Campus, 10800 N 137th E Ave., Owasso, OK 74055.

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 Tuesday, September 12, 2023, at the Vinterra Event Venue, 14515 S Yale Ave., Bixby, OK 74008.

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. 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
January 11, 2023
Department of Environmental Quality
Oklahoma City, Oklahoma

Official AQAC Approved
at June 21, 2023 meeting

Notice of Public Meeting – The Air Quality Advisory Council (AQAC) convened for its Regular Meeting at 9:00 a.m. on January 11, 2023. Notice of the meeting was forwarded to the Office of Secretary of State on November 1, 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 forms were available at the registration table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present.

MEMBERS PRESENT

Matt Caves
Robert Delano
Gregory Elliott
Garry Keele II
Steve Landers
John Privrat
Jeffrey Taylor
Laura Lodes

MEMBERS ABSENT

Gary Collins

DEQ STAFF PRESENT

Kendal Stegmann
Beverly Botchlet-Smith
Cheryl Bradley
Christina Hagens
Melanie Foster
Jared Milano
Kathy Aebischer
Brooks Kirlin
Carrie Schroeder
Camas Frey
Teresa Sikorski
Michael Ketcham
Rick Groshong
Austin Sides
Erin Hatfield
Malcolm Zachariah
Travis Couch
Rob Singletary
Joe Daniel
Michelle Wynn
Quiana Fields

OTHERS PRESENT

Jenny Longley, Court Reporter

Approval of Minutes – Ms. Lodes called for a motion to approve the Minutes of the December 6, 2022 Special Meeting. Mr. Privrat moved to approve and Mr. Caves made the second.

See transcript pages 3 - 4

Matt Caves	Yes	Steve Landers	Abstain
Robert Delano	Yes	John Privrat	Yes
Gregory Elliot	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Laura Lodes	Yes

Election of Officers – Mr. Taylor nominated Ms. Lodes to remain as Chair and Mr. Keele to remain as Vice-Chair. Mr. Elliott made the second.

See transcript pages 4 - 5

Matt Caves	Yes	Steve Landers	Yes
Robert Delano	Yes	John Privrat	Yes

Gregory Elliot	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Laura Lodes	Yes

Chapter 100. Air Pollution Control

Subchapter 5. Registration, Emission Inventory and Annual Operation Fees

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

Ms. Christina Hagens, Environmental Programs Specialist of the Air Quality Division, 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 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. Hearing comments by the public and none by the Council, Ms. Lodes called for a motion, Mr. Elliott moved to approve and Mr. Taylor made the second.

See transcript pages 6 - 13

Matt Caves	Yes	Steve Landers	Yes
Robert Delano	Yes	John Privrat	Yes
Gregory Elliot	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Laura Lodes	Yes

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 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. Following questions by the Council and by the public, Ms. Lodes called for a motion, Mr. Caves moved to approve and Dr. Delano made the second.

See transcript pages 13 - 28

Matt Caves	Yes	Steve Landers	Yes
Robert Delano	Yes	John Privrat	Yes
Gregory Elliot	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Laura Lodes	Yes

Ms. Bradley announced the conclusion of the hearing portion of the meeting.

See transcript page 28

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. Taylor moved to approve and Dr. Delano made the second. The next scheduled regular meeting is on Wednesday, June 21, 2023 in Tulsa, Oklahoma.

Matt Caves	Yes	Steve Landers	Yes
Robert Delano	Yes	John Privrat	Yes
Gregory Elliot	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Laura Lodes	Yes

Transcript and attendance sheet are attached as an official part of these Minutes.

<p style="text-align: right;">Page 1</p> <p>1 REGULAR MEETING/HEARING</p> <p>2 AIR QUALITY ADVISORY COUNCIL</p> <p>3 JANUARY 11, 2023, 9:00 AM</p> <p>4</p> <p>5</p> <p>6 MEMBERS PRESENT</p> <p>7 Laura Lodes</p> <p>8 Garry Keele II</p> <p>9 Matt Caves</p> <p>10 Robert Delano</p> <p>11 Gregory Elliott</p> <p>12 John Privrat</p> <p>13 Stephen Landers</p> <p>14 Jeffrey Taylor</p> <p>15</p> <p>16 MEMBERS ABSENT</p> <p>17 Gary Collins</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 REPORTED BY: Jenny Longley, CSR</p>	<p style="text-align: right;">Page 3</p> <p>1 approval of the minutes from the December 6, 2022</p> <p>2 special meeting. Do we have any comments or</p> <p>3 discussion on the minutes?</p> <p>4 Seeing no comments or discussions on</p> <p>5 the minutes, do we have a motion to approve?</p> <p>6 MR. PRIVRAT: Make a motion to approve.</p> <p>7 MR. CAVES: I'll second.</p> <p>8 CHAIRWOMAN LODES: I have a motion and a</p> <p>9 second.</p> <p>10 Quiana, will you please call roll?</p> <p>11 MS. FIELDS: Mr. Caves?</p> <p>12 MR. CAVES: Yes.</p> <p>13 MS. FIELDS: Dr. Delano?</p> <p>14 DR. DELANO: Yes.</p> <p>15 MS. FIELDS: Mr. Elliott?</p> <p>16 MR. ELLIOTT: Yes.</p> <p>17 MS. FIELDS: Mr. Keele?</p> <p>18 VICE-CHAIRMAN KEELE: Yes.</p> <p>19 MS. FIELDS: Mr. Landers?</p> <p>20 MR. LANDERS: Abstain.</p> <p>21 MS. FIELDS: Mr. Privrat?</p> <p>22 MR. PRIVRAT: Yes.</p> <p>23 MS. FIELDS: Mr. Taylor?</p> <p>24 MR. TAYLOR: Yes.</p> <p>25 MS. FIELDS: Ms. Lodes?</p>
<p style="text-align: right;">Page 2</p> <p>1 PROCEEDINGS</p> <p>2 CHAIRWOMAN LODES: Ready to call today's</p> <p>3 meeting of the Air Quality Advisory Council to</p> <p>4 order.</p> <p>5 Quiana, will you please call roll?</p> <p>6 MS. FIELDS: Mr. Caves?</p> <p>7 MR. CAVES: Present.</p> <p>8 MS. FIELDS: Mr. Collins is absent.</p> <p>9 Dr. Delano?</p> <p>10 DR. DELANO: Present.</p> <p>11 MS. FIELDS: Mr. Elliott?</p> <p>12 MR. ELLIOTT: Present.</p> <p>13 MS. FIELDS: Mr. Keele?</p> <p>14 VICE-CHAIRMAN KEELE: Present.</p> <p>15 MS. FIELDS: Mr. Landers?</p> <p>16 MR. LANDERS: Present.</p> <p>17 MS. FIELDS: Mr. Privrat?</p> <p>18 MR. PRIVRAT: Present.</p> <p>19 MS. FIELDS: Mr. Taylor?</p> <p>20 MR. TAYLOR: Present.</p> <p>21 MS. FIELDS: Ms. Lodes?</p> <p>22 CHAIRWOMAN LODES: Present.</p> <p>23 MS. FIELDS: We have a quorum.</p> <p>24 CHAIRWOMAN LODES: Thank you.</p> <p>25 The next item on today's Agenda is</p>	<p style="text-align: right;">Page 4</p> <p>1 CHAIRWOMAN LODES: Yes.</p> <p>2 MS. FIELDS: Motion passed.</p> <p>3 CHAIRWOMAN LODES: Thank you.</p> <p>4 The next item on today's Agenda is</p> <p>5 the election of officers. Do we have any</p> <p>6 discussion?</p> <p>7 MR. TAYLOR: I'll make a motion that Laura</p> <p>8 Lodes stays as the chair.</p> <p>9 CHAIRWOMAN LODES: We need a vice-chair,</p> <p>10 too.</p> <p>11 MR. TAYLOR: Okay. I'm sorry about that.</p> <p>12 And then Garry, would you do the vice-chair?</p> <p>13 VICE-CHAIRMAN KEELE: (Nodded head).</p> <p>14 MR. TAYLOR: Okay. Make Garry the</p> <p>15 vice-chair.</p> <p>16 MR. ELLIOTT: I second that.</p> <p>17 CHAIRWOMAN LODES: Okay. I have a motion</p> <p>18 and a second. Quiana, will you please call roll?</p> <p>19 MS. FIELDS: Mr. Caves?</p> <p>20 MR. CAVES: Yes.</p> <p>21 MS. FIELDS: Dr. Delano?</p> <p>22 DR. DELANO: Yes.</p> <p>23 MS. FIELDS: Mr. Elliott?</p> <p>24 MR. ELLIOTT: Yes.</p> <p>25 MS. FIELDS: Mr. Keele?</p>

Page 5

1 VICE-CHAIRMAN KEELE: Yes.
 2 MS. FIELDS: Mr. Landers?
 3 MR. LANDERS: Yes.
 4 MS. FIELDS: Mr. Privrat?
 5 MR. PRIVRAT: Yes.
 6 MS. FIELDS: Mr. Taylor?
 7 MR. TAYLOR: Yes.
 8 MS. FIELDS: Ms. Lodes?
 9 CHAIRWOMAN LODES: Yes.
 10 MS. FIELDS: Motion passed.
 11 CHAIRWOMAN LODES: Thank you, gentlemen.
 12 We will now enter the public rulemaking portion.
 13 MS. BOTCHLET-SMITH: Thanks, Laura.
 14 Good morning, I am Beverly
 15 Botchlet-Smith, I'm the Assistant Director of the
 16 Air Quality Division. As such, I will serve as a
 17 protocol officer for today's hearings.
 18 The hearings will be convened by the
 19 Air Quality Council in compliance with the Oklahoma
 20 Administrative Procedures Act and Title 40 of the
 21 Code of Federal Regulations, Part 51, as well as the
 22 authority of Title 27A of the Oklahoma Statutes,
 23 Section 2-2-201 and Sections 2-5-101 through
 24 2-5-117.
 25 Notice of the January 11, 2023

Page 6

1 hearings were advertised in the Oklahoma Register
 2 for the purpose of receiving comments pertaining to
 3 the proposed OAC Title 252 Chapter 100 rules as
 4 listed on the Agenda and will be entered into each
 5 record along with the Oklahoma Register filing.
 6 Notice of the meeting was filed with the Secretary
 7 of State on November 1, 2022. The Agenda was duly
 8 posted 24 hours prior to the meeting at the DEQ.
 9 If you wish to make a statement, it
 10 is very important for you to complete the form at
 11 the registration table and you will be called upon
 12 at the appropriate time. Audience members, please
 13 come to the podium for your comments and please
 14 state your name prior to making your comments.
 15 At this time, we will proceed with
 16 what's marked as Agenda Item 5A on the Hearing
 17 Agenda. This is Chapter 100, Air Pollution Control;
 18 Subchapter 5, Registration, Emission Inventory and
 19 Annual Operating Fees; 252:100-5-2.2, Annual
 20 Operating Fees.
 21 The presentation will be given by our
 22 staff member, Environmental Programs Specialist
 23 Christina Hagens.
 24 MS. HAGENS: Thank you, Beverly.
 25 Good morning, Madam Chair, Members of

Page 7

1 the Council, and everyone in attendance today. My
 2 name is Christina Hagens, and as Beverly said, I am
 3 an Environmental Programs Specialist in the Air
 4 Quality Division, and this morning I will be again
 5 presenting on Subchapter 5, Registration, Emission
 6 Inventory and Annual Operating Fees.
 7 A Notice of the proposed changes was
 8 published in the Oklahoma Register on December 1,
 9 2022. Written comments from the public and other
 10 interested parties were requested in the Notice, and
 11 no written comments have been received as of today.
 12 In December, I introduced the
 13 proposed rule changes that would be brought forth
 14 for this January meeting, which I will briefly
 15 reiterate. These changes for minor source
 16 facilities include a new base fee of \$36.50 per ton
 17 of regulated air pollutant; an end date for the
 18 existing fee, which is \$25.12 until June 30, 2024;
 19 and new language on the annual CPI adjustment for
 20 minor facilities. This new language emphasizes that
 21 the CPI will not be applied until July 1, 2024,
 22 which is also when the new base fee of \$36.50 would
 23 go into effect.
 24 Since the details of the rule have
 25 already been presented to you, I want to focus on

Page 8

1 the purpose of the rule change and provide some
 2 context for the rule itself. Let's look back to the
 3 last time this rule was changed for a minor source
 4 fee adjustment. So, back in 2008, which was 15
 5 years ago, the minor source fee was raised by
 6 46.7 percent, from \$17.12 to what it's now at,
 7 \$25.12, and ever since then it has remained
 8 stagnant. This fee rate is no longer representative
 9 of current minor source functions in Oklahoma.
 10 Revenue generated by this fee rate has not kept up
 11 with the rising number of minor facilities, the
 12 associated workload, nor has it kept up with
 13 inflation.
 14 This graph pictured here was pulled
 15 from the Bureau of Labor Statistics and it shows the
 16 CPI going back to 2008. And not only do you see
 17 that the CPI has been increasing since 2008, but the
 18 last few years it's been increasing at a higher
 19 rate.
 20 Now, looking around us, we can see
 21 how different states bill their emissions and you
 22 can see the existing and proposed fee rates are here
 23 in blue and green, and even though it can be
 24 difficult to compare fee rates between states
 25 because each state, you know, has a different

Page 9

1 program, they'll either use the same fee across the
 2 board, bill by pollutant type, or not bill minor
 3 source facilities at all.
 4 But even with our proposed increase,
 5 Oklahoma would continue to have one of the lowest
 6 minor source fee rates compared to our neighboring
 7 states. Additionally, our emission billing
 8 threshold of 5 tons per company excludes many
 9 smaller operations from these fee requirements.
 10 As you heard in December, the
 11 increased fee would generate approximately \$1.5
 12 million in additional revenue for the first year the
 13 rule would begin affecting invoices. This is the
 14 estimated minimum amount needed to fund 14 full-time
 15 positions in the Air Quality Division, or AQD, many
 16 of which have either been lost over the years, not
 17 been filled due to budgetary shortfalls, or are
 18 needed for new programs that benefit minor
 19 facilities.
 20 Council Members, you'll see in your
 21 folder that we have provided a copy of the AQD
 22 organization chart, and this shows all of our filled
 23 and vacant positions. The highlighted sections
 24 represent the vacant full-time employees, or FTEs,
 25 whose responsibilities include what's listed here

Page 10

1 and a breakdown of those responsibilities up here on
 2 the slide.
 3 So there are -- the green highlights
 4 are the funded vacant positions, and these are ones
 5 that we are actively trying to fill, and then the
 6 reddish-pink highlighted positions are those that
 7 are lost, vacant positions which we are looking to
 8 get back and eventually fill with this additional
 9 revenue.
 10 As you can see, this represents 11
 11 unfunded FTEs, six of which are permit engineers.
 12 And not only do we need to recoup these previously
 13 lost positions, but now we have new unfunded
 14 required programs that necessitate additional staff.
 15 For the audit program, we will need to hire two
 16 environmental programs specialists, or EPSs, and one
 17 manager, which means three new FTEs on top of the
 18 existing 11, and that's how we get the 14 total
 19 unfunded FTEs.
 20 As our budget has gotten tighter and
 21 tighter, we have looked for any money-saving
 22 opportunities and taken full advantage of the funds
 23 that we do have. We have exhausted every other
 24 option before looking to this rule and proposing a
 25 fee increase, which is a decision not taken lightly.

Page 11

1 In conclusion, the fee adjustment is
 2 a long time coming. We are being hit by inflation
 3 on different fronts like everyone else, but since
 4 this has been put off for so long, we are at a
 5 significant disadvantage. AQD has recognized this
 6 need for a while and mentioned this many times in
 7 past council meetings and reports. Without this
 8 generated revenue, we will start to see some
 9 negative changes and further loss of funded
 10 positions. And thus, staff requests the council
 11 recommend these proposed rule changes to the EQB for
 12 adoption as a permanent rule. Thank you.
 13 MS. BOTCHLET-SMITH: Do we have any
 14 questions or discussion from the council?
 15 CHAIRWOMAN LODES: I saw no further
 16 comment in our packet and such. We didn't receive
 17 any further comment from the public; did we?
 18 MS. HAGENS: No written comments.
 19 MS. BOTCHLET-SMITH: We have a couple from
 20 the public that would like to comment, if we want to
 21 move to that, and then the council will have another
 22 opportunity. Mike Smith from Devon?
 23 MR. SMITH: My name is Mike Smith with
 24 Devon Energy, I'm a Senior Policy Advisor. Devon
 25 Energy understands the need for adequately funded

Page 12

1 and staffed agencies and supports the proposed
 2 changes to OAC 252, Chapter 100, Subchapter 5.
 3 Thank you.
 4 MS. BOTCHLET-SMITH: Will Houser?
 5 MR. HOUSER: Hello, thanks for letting us
 6 comment today. I am the Director of Regulatory
 7 Affairs for Continental Resources and just would
 8 actually echo what Mike said, that we support this
 9 fee increase.
 10 And, you know, don't take that
 11 lightly, it's not an easy thing for us to ever get
 12 on board with a fee increase, but we understand the
 13 value of this and we actually think it's a pretty
 14 common-sense thing to do, so, thank you.
 15 MS. BOTCHLET-SMITH: Is there anyone else
 16 in the audience that would like to comment today?
 17 Okay. Seeing none, I'll give the
 18 opportunity for the council.
 19 CHAIRWOMAN LODES: No questions or
 20 comments?
 21 Hearing no further questions or
 22 comments from the council or the public, the Air
 23 Quality Division has proposed that we pass the rule
 24 as proposed in these minutes. Do I have a motion?
 25 MR. ELLIOTT: Make a motion to approve the

Page 13

1 rules as presented.

2 CHAIRWOMAN LODES: Thank you.

3 Do I have a second?

4 MR. TAYLOR: Second.

5 CHAIRWOMAN LODES: I have a motion and a

6 second, please call roll.

7 MS. FIELDS: Mr. Caves?

8 MR. CAVES: Yes.

9 MS. FIELDS: Dr. Delano?

10 DR. DELANO: Yes.

11 MS. FIELDS: Mr. Elliott?

12 MR. ELLIOTT: Yes.

13 MS. FIELDS: Mr. Keele?

14 VICE-CHAIRMAN KEELE: Yes.

15 MS. FIELDS: Mr. Landers?

16 MR. LANDERS: Yes.

17 MS. FIELDS: Mr. Privrat?

18 MR. PRIVRAT: Yes.

19 MS. FIELDS: Mr. Taylor?

20 MR. TAYLOR: Yes.

21 MS. FIELDS: Ms. Lodes?

22 CHAIRWOMAN LODES: Yes.

23 MS. FIELDS: Motion passed.

24 MS. STEGMANN: Thank you.

25 MS. BOTCHLET-SMITH: The next item on

Page 14

1 today's Agenda is Item 5B. This is Chapter 100, Air

2 Pollution Control; Subchapter 49, Oklahoma Emission

3 Reduction Technology Rebate Program; several

4 sections here, 252:100-49-1, 252:100-49-3,

5 252:100-49-5, and 252:100-49-7.

6 Mr. Brooks Kirlin, one of our

7 engineers, will give the presentation today.

8 MR. KIRLIN: Thank you, Bev.

9 Madam Chair, Members of the Council,

10 Ladies and Gentlemen, I'm Brooks Kirlin, as she

11 said, an engineer with the Rules & Planning Section.

12 The Department is proposing to amend Chapter 100 by

13 adding a new Subchapter 49. As you may recall, we

14 presented a brief overview of the new "Oklahoma

15 Emissions Reduction Technology Rebate Program" and

16 proposed implementation rules during the December

17 special Air Quality Advisory Council meeting.

18 This new program was created during

19 the 2022 legislative session as an incentive to

20 Oklahoma's oil and gas industry to apply new and

21 innovative technologies to reduce emissions from

22 various segments of the industry.

23 The "Oklahoma Emissions Reduction

24 Technology Incentive Act", effective July 1, 2022,

25 is codified in the Oklahoma Tax Code, Title 68 of

Page 15

1 the Oklahoma Statutes, and you might note that a

2 copy of the statute is included in the packet.

3 The act is intended to provide an

4 incentive for "Emission Reduction Projects", in the

5 form of a rebate of up to 25 percent of the

6 documented costs associated with the project. The

7 program is to be administered jointly by DEQ and the

8 Oklahoma Tax Commission. Claims are submitted to

9 DEQ for review and approval or disapproval. We

10 notify OTC of our decision and they pay claims

11 proportionately from funds available in the

12 Revolving Fund.

13 The statute specifically authorizes

14 DEQ and the Tax Commission to promulgate rules to

15 implement the program. AQD staff prepared a new

16 Subchapter 49 in Chapter 100 to accommodate the

17 Rebate Program. Our understanding is that OTC does

18 not intend to promulgate rules specific to this

19 program.

20 The proposed Subchapter 49 in your

21 council packet is the version posted for public

22 review on our website on December 1, 2022, and the

23 language is identical to the proposal presented at

24 the December special AQAC meeting. Today's folder

25 contains an updated version of the Subchapter 49

Page 16

1 proposal, dated December 20th, which includes one

2 substantive change made in response to comments and

3 discussion at the December meeting. A copy of this

4 "as presented" version was posted on our website

5 Monday afternoon.

6 I will briefly go through the three

7 main sections that cover the program requirements:

8 Purpose & Applicability, Definitions, and a Program

9 Criteria and Qualification Determination section.

10 And I will point out the change in today's proposal,

11 which is outlined in our Summary of Comments and

12 Staff Responses that is also included in your

13 packet.

14 Besides summarizing the purpose and

15 statutory basis for the rebate program, Section 49-1

16 lays out our understanding of the scope of

17 facilities that the program applies to. Subsection

18 (b) lists the activities included in the statutory

19 language and lists corresponding Standard Industrial

20 Classification or SIC codes.

21 Proposed Section 49-3 is our

22 Definitions section. So, Section 49-3 defers to the

23 statutory definition of "Emissions Reduction

24 Project". Title 68, Section 55008 describes the

25 types of facilities and activities eligible for the

Page 17

1 program, shown here on the left side, and the types
 2 of projects that reduce emissions, shown on the
 3 right side.
 4 The proposed 49-3 also states that
 5 for the purposes of this subchapter, eligible
 6 "Emission Reduction Projects" do not include
 7 projects that are required in order to address
 8 enforcement action or are undertaken as a
 9 "supplemental environmental project" to offset an
 10 enforcement penalty.
 11 The remaining definitions in proposed
 12 Section 49-3 are just a few basic terms related to
 13 the program.
 14 Section 49-5 lays out the program
 15 criteria and the qualification determination
 16 requirements, what information is required and the
 17 steps DEQ will take in implementing the program.
 18 To be eligible for the rebate, the
 19 applicant must submit a claim with documentation to
 20 DEQ no later than six months after the end of the
 21 fiscal year in which the expenditures were made,
 22 that is, by December 31st. The documentation must
 23 adequately describe the project, include an estimate
 24 of actual resulting emission reductions, and an
 25 itemization of expenses, with invoices, of equipment

Page 18

1 installed. We would also require a statement that
 2 the project implementation is complete. A rebate
 3 claim may be submitted anytime after the project is
 4 complete, up to that December 31st deadline.
 5 You may note that today's proposal
 6 contains a change to language in one of the items
 7 under Paragraph (3) of Subsection (a), the project
 8 documentation.
 9 This change is part of our response
 10 to comments from The Petroleum Alliance of Oklahoma
 11 regarding a Professional Engineer certification
 12 requirement that was included in Paragraph 8 of
 13 Subsection (a) of the previous version. A copy of
 14 the comment is in the council packet. AQD staff
 15 considered those comments and discussions at the
 16 December council meeting and developed the updated
 17 proposal as we are presenting today.
 18 We had included the PE certification
 19 requirement in our December meeting proposal because
 20 the complexity, volume, and time sensitivity of
 21 rebate claims have the potential to overwhelm AQD's
 22 engineering staff resources. The Petroleum Alliance
 23 requested that the proposed rule be amended to allow
 24 the engineering certification to be performed by "an
 25 in-house engineer with relevant expertise". AQD

Page 19

1 staff recognizes their concern over a potential
 2 shortage of Oklahoma-licensed PEs with the required
 3 specific expertise, particularly for oil and gas
 4 companies that are headquartered outside of
 5 Oklahoma. Our staff was concerned, however, over
 6 how the requested flexibility would line up with
 7 Oklahoma's PE Board requirements. Today's proposal
 8 would remove Paragraph 8, the PE Certification
 9 Requirement, and renumber Paragraphs 9 and 10
 10 accordingly.
 11 A portion of the previous wording
 12 from Paragraph 8 would be added to Subparagraph
 13 (3)(C). As a result, the DEQ's review of the rebate
 14 claim would rely on the responsible official's
 15 overall certification to assure that the project was
 16 designed, installed, and operated appropriately.
 17 Continuing with Paragraph (a)(4) of
 18 Section 49-5, consistent with the regulatory
 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 8 would require
 24 several certifications: Paragraph 5 is certify that
 25 the project is not required to address the

Page 20

1 enforcement action, or undertaken as a supplemental
 2 environmental project to offset an enforcement
 3 penalty; Paragraph 6 is to provide a certification
 4 from Tax Commission that it has filed all required
 5 Oklahoma tax returns and tax documents; Paragraph 7
 6 would require the company to provide evidence of a
 7 certificate of general liability insurance with a
 8 minimum coverage of \$1 million and a workers'
 9 compensation policy that includes coverage of the
 10 employer's liability. The tax, liability insurance,
 11 and workers' comp provisions in Paragraphs 6 and 7
 12 are all specifically required by the act. And,
 13 finally, Paragraph 8 is our normal certification by
 14 a designated responsible official attesting to the
 15 truth, accuracy, and completeness of the claim.
 16 In Paragraph 100-49-5(a)(9), the
 17 proposal includes a \$1,000 fee to help offset costs
 18 for DEQ to administer the review of a rebate claim
 19 under this rule. The program will represent an
 20 increased workload for AQD staff which is distinct
 21 from the duties supported by the existing Air
 22 Quality permit application and annual operating
 23 fees. Since no legislative appropriations or other
 24 funding sources have been provided for DEQ's
 25 responsibilities under the rebate program, DEQ

Page 21

1 believes the fee proposal is the most appropriate
 2 option.
 3 Next, Subsection 100-49-5(b), the
 4 statute requires DEQ to approve or disapprove each
 5 rebate claim and to notify the Tax Commission, and
 6 of course we also intend to notify the claimant.
 7 And 49-5(c) simply states that,
 8 "Nothing in this section shall limit or otherwise
 9 affect OTC's authority or responsibilities under the
 10 Act, including the authority to request submittal of
 11 additional information by the claimant".
 12 And, finally, proposed Section 49-7
 13 is a sunset provision, reflecting Section 55012 of
 14 the act. Titled "Termination Date of Rebate
 15 Program", that section states that "The Oklahoma
 16 Emission Reduction Technology Rebate Program shall
 17 cease on July 1, 2027". Section 49-7 is written to
 18 make our corresponding rules no longer effective
 19 after that date, unless the program is extended by a
 20 change in the statute.
 21 You may recall that during December's
 22 special council meeting, some of the discussions
 23 centered on the timing of rebate claim reviews and
 24 distribution, considering both the current lack of
 25 funding in the Revolving Fund and the sunseting

Page 22

1 provisions. After further staff discussions, AQD
 2 believes it would be most appropriate to review
 3 claims as anticipated in the statutes, regardless of
 4 available funds, and pass our decision over to OTC.
 5 It is our understanding that stakeholders are
 6 working to secure initial and ongoing funding and
 7 perhaps clarification of legislative intent
 8 regarding the sunset provision.
 9 Notice of the proposed rule changes
 10 was published in the Oklahoma Register on
 11 December 1, 2022, and comments were requested from
 12 members of the public. This is the second time this
 13 proposal has been presented to the council for
 14 consideration. As described in the Summary of
 15 Comments and Staff Responses, comments on the
 16 proposal were received prior to and during the
 17 December AQAC meeting. No additional comments have
 18 been received during the current comment period.
 19 Staff is requesting that the council
 20 recommend the rule to the Environmental Quality
 21 Board for adoption as permanent rules. The next EQB
 22 meeting is scheduled for February 17, 2023. Staff
 23 believes that it is important to move a proposal
 24 forward, since the program is technically in effect.
 25 We expect to have forms available on the AQD website

Page 23

1 by the expected effective date of the rules in
 2 September so that we can begin receiving rebate
 3 claims for Fiscal Year 2023 before the first
 4 December 31st deadline.
 5 And that is my presentation. Thank
 6 you, and are there any questions?
 7 MS. BOTCHLET-SMITH: Do we have questions
 8 from the council?
 9 Okay. I have one comment from the
 10 public. Stacey Murphy? Sorry, Murray. Sorry.
 11 MS. MURRAY: Good morning. My name's
 12 Stacey Murray, I'm the Environmental Manager at WEBCO
 13 Industries. We are a heavy metal manufacturing
 14 facility located in Northeast Oklahoma, we also have
 15 locations across the nation. We're a main supplier
 16 of the upstream industry, we produce downhole and
 17 umbilical products to a lot of oil and gas companies
 18 doing offshore drilling.
 19 My question today is, would this tax
 20 reduction incentive be expanded possibly to those
 21 that supply the upstream and midstream industry?
 22 CHAIRWOMAN LODES: Say, probably Brooks or
 23 -- who's the right one to answer that question on --
 24 yeah, it's really a legislative question. The rule
 25 as it's written today is very specific to a group of

Page 24

1 SIC codes, is my understanding of it.
 2 MS. STEGMANN: There would need to be a
 3 legislative change.
 4 CHAIRWOMAN LODES: There would need to be
 5 a legislative change before it could come down to
 6 the DEQ Division.
 7 Thank you.
 8 MS. BOTCHLET-SMITH: Do we have anyone
 9 else from the public? Or, I'm sorry, Brooks.
 10 MR. KIRLIN: Yeah, I just would -- I guess
 11 I need to make sure to point out that the statute
 12 lists the types of facilities and types of
 13 activities, it doesn't specifically list SIC codes.
 14 MS. BOTCHLET-SMITH: Okay.
 15 MR. KIRLIN: So, I mean, we'd have to
 16 double-check the language and if it's not included
 17 then it would -- again, like you say, it would have
 18 to be a legislative issue.
 19 MS. BOTCHLET-SMITH: Okay. Is there
 20 anyone else from the public that wants to speak?
 21 Seeing no hands, I put this back to
 22 the council for any further discussion.
 23 CHAIRWOMAN LODES: Is there any other
 24 comments or questions or discussion?
 25 VICE-CHAIRMAN KEELE: Okay. So to her

Page 25

1 point, so the SIC codes aren't listed in the
 2 statute. There is a description that we have
 3 already evaluated, "we" being the agency, has
 4 already evaluated it and surmised that it was the
 5 SIC codes or the group; correct?
 6 CHAIRWOMAN LODES: Thank you for sharing
 7 your packet. "The Legislature hereby finds that the
 8 reduction of emissions from upstream and midstream
 9 oil and gas production, exploration, completions,
 10 gatherings, storage, processing, and transmission
 11 activities", is what it specifically says.
 12 VICE-CHAIRMAN KEELE: That's the statute?
 13 CHAIRWOMAN LODES: That's what the statute
 14 says.
 15 VICE-CHAIRMAN KEELE: Fair enough.
 16 CHAIRWOMAN LODES: So I think that
 17 correlates to this SIC codes.
 18 Is Bud here? There's Bud.
 19 MS. BOTCHLET-SMITH: I couldn't see him.
 20 CHAIRWOMAN LODES: Bud's hiding.
 21 VICE-CHAIRMAN KEELE: You've been
 22 summoned.
 23 CHAIRWOMAN LODES: Say, Bud, you're
 24 getting summoned.
 25 VICE-CHAIRMAN KEELE: Better than a

Page 26

1 subpoena.
 2 MR. GROUND: Good morning.
 3 CHAIRWOMAN LODES: So you worked more with
 4 the legislature.
 5 MR. GROUND: Yes, and I represent The
 6 Petroleum Alliance, Bud Ground, and not that I
 7 really worked on this legislation, it really just
 8 kind of appeared and passed and we got very little
 9 say in how it was changed, but I have worked quite a
 10 bit on it since then.
 11 And it was very specific to emission
 12 reduction and they wanted it to be innovative-type
 13 emission reduction, not just your standard, you
 14 know, add-on piece of equipment. That was the
 15 intent, but it does apply to, basically, any and all
 16 for those types -- that industry, which, like I said
 17 in December, right now it does not include
 18 refineries. So it's not complete upstream,
 19 midstream, downstream, it's really upstream,
 20 midstream, and it will apply at a time where there's
 21 going to be a lot of emission reductions for both of
 22 those, the upstream and midstream, for the methane.
 23 Did you have another question? Well,
 24 and I did say that we will be working on this, this
 25 session, to make sure there is funding, increase

Page 27

1 that funding, and add refineries. Now, to go to
 2 another industry, that might be more difficult, and
 3 I will have to talk to her and find out what she --
 4 what they have in mind at WEBCO, but --
 5 MS. STEGMANN: But at this time, that
 6 wasn't the intent of the statute to include those
 7 services?
 8 MR. GROUND: It was not, it was -- like,
 9 it was for incenting the oil and gas industry to --
 10 (A short disruption occurred.)
 11 MR. GROUND: Was there another question?
 12 I apologize.
 13 CHAIRWOMAN LODES: I don't believe so.
 14 VICE-CHAIRMAN KEELE: Thank you.
 15 MR. GROUND: Okay. Thank you.
 16 CHAIRWOMAN LODES: Thank you.
 17 MS. STEGMANN: Thanks, Bud.
 18 MS. BOTCHLET-SMITH: Okay. Hopefully,
 19 that answered some questions. Are there any other
 20 questions from the council?
 21 Hearing none, Laura.
 22 CHAIRWOMAN LODES: Hearing no other
 23 questions from the council, the agency has requested
 24 that we approve the rule as presented. Do I have a
 25 motion?

Page 28

1 MR. CAVES: I'll make the motion.
 2 CHAIRWOMAN LODES: Do I have a second?
 3 DR. DELANO: I second.
 4 CHAIRWOMAN LODES: I have a motion and a
 5 second, please call the roll.
 6 MS. FIELDS: Mr. Caves?
 7 MR. CAVES: Yes.
 8 MS. FIELDS: Dr. Delano?
 9 DR. DELANO: Yes.
 10 MS. FIELDS: Mr. Elliott?
 11 MR. ELLIOTT: Yes.
 12 MS. FIELDS: Mr. Keele?
 13 VICE-CHAIRMAN KEELE: Yes.
 14 MS. FIELDS: Mr. Landers?
 15 MR. LANDERS: Yes.
 16 MS. FIELDS: Mr. Privrat?
 17 MR. PRIVRAT: Yes.
 18 MS. FIELDS: Mr. Taylor?
 19 MR. TAYLOR: Yes.
 20 MS. FIELDS: Ms. Lodes?
 21 CHAIRWOMAN LODES: Yes.
 22 MS. FIELDS: Motion passed.
 23 MS. BOTCHLET-SMITH: That concludes the
 24 hearing portion of today's meeting.
 25 (HEARING ADJOURNED AT 9:37 AM)

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CERTIFICATE

I, Jenny Longley, Certified Shorthand Reporter within and for the State of Oklahoma, do hereby certify that the above and foregoing hearing was by me taken in shorthand and thereafter transcribed; and that I am not an attorney for nor relative of any of said parties or otherwise interested in the event of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 19th day of January, 2023.



Jenny Longley, CSR
CSR # 1903



AIR QUALITY ADVISORY COUNCIL

Attendance Record

January 11, 2023

Oklahoma City, Oklahoma

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
MELANIE FOSTER	DEQ-AQD
Christina Hagens	AQD
Jobs Reinkens	Trinity Consultants 570.339.1288
Kendal Stegmann	
Cheryl Bradley	AQD
Jeff Taylor	AQD
Jared Milano	AQD
Jenny Longley	Professional Reporters
Greg Elliott	AQAC
Jeremy Jewel	Trinity Consultants
Beverly Potchuet-Simkin	DEQ
Bud Ground	The Petroleum Alliance
Michael Bobo	Continental
Will Housek	CLR
Matt Caves	AQAC
Travis Couch	DEQ
Kathy Hebischer	DEQ
Malcolm Zachariah	DEQ
Brooks Kirlin	DEQ
Quiana Fields	DEQ
Carrie Schroeder	DEQ-AQD
Comas Frk	DEQ
Ford Benham	OG&E
Jeff Everett	OG&E
Steve Landers	G-P
Mike Smith DUN	DUN



AIR QUALITY ADVISORY COUNCIL

Attendance Record

January 11, 2023

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Bob Delano	
John Pruvett	AQAC
Michael Ketchum	AQD
Randoff Ward	Public
Cary Kell	McAfee & Telf
Rick Georntone	DEQ
BRIAN McQuinn	OSE
Teresa Sikorski	DEQ
Arthur Sides	DEQ
ERIN HATFIELD	DEQ
Michelle Wynn	DEQ
Rebecca Vaughan	Webco industries
Lauren Branum	Webco
James Abraham	webco
Clark Watson	WBCO
STACEY MURRAY	WBCO
Laura Finley	WFEC
Bob Singleton	DEQ
Joe Darrel	DEQ

MEMORANDUM

DATE: June 2, 2023

TO: Members of the Air Quality Advisory Council

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

SUBJECT: Proposed Rule Cleanup in OAC 252:100-17-93, -17-103, -23-3, and -35-1

The Department of Environmental Quality (DEQ) is proposing to make revisions in Subchapters 17, 23, and 35 as part of the Department's review of Chapter 100 in response to Governor Stitt's Executive Order 2020-03. Corrections that could be easily addressed were selected for revision at the June AQAC meeting. They are:

1. OAC 252:100-17-93: DEQ is proposing to revise OAC 252:100-17-93(13) and (16) to correct typographical errors in two citations.
2. OAC 252:100-17-103: DEQ is proposing to revise OAC 252:100-17-103 to correct the referenced citation.
3. OAC 252:100-23-3: DEQ is proposing to revise OAC 252:100-23-3(a) and (b)(2) to correct the referenced citations.
4. OAC 252:100-35-1: DEQ is proposing to correct the reference to the air quality standard in OAC 252:100-35-1.

The underlying reason for the rulemaking is to revise inaccurate rule language. Copies of the proposed rules are enclosed along with a copy of the Rule Impact Statement.

Notice of the proposed rule changes was published in the *Oklahoma Register* on May 15, 2023. The notice requested written comments from the public and other interested parties. No comments have been received as of June 2, 2023. At the June meeting, staff will ask the Council to recommend the proposed rule changes as a single rulemaking package to the Environmental Quality Board for adoption as permanent rules.

Enclosures: Proposed Amendments to OAC 252:100-17-93(13) and (16), -17-103, -23-3(b)(2), and -35-1.
Rule Impact Statement

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 17. INCINERATORS**

252:100-17-93. Exemptions

This Part does not apply to the types of units described in OAC 252:100-17-93(1) through (16) if the owner or operator meets the requirements of this Section.

(1) **Cement kilns.** The unit is excluded if it is regulated under 40 CFR 63, subpart LLL (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry).

(2) **Co-fired combustors.** The unit, that would otherwise be considered a very small municipal waste combustion unit, is excluded if the owner or operator of the unit meets the five requirements specified in OAC 252:100-17-93(2)(A) through (E).

(A) Has a Federally enforceable permit limiting the combustion of municipal solid waste to 30% of the total fuel input by weight.

(B) Notifies the Director that the unit qualifies for the exclusion.

(C) Provides the Administrator with a copy of the federally enforceable permit.

(D) Records the weights, each calendar quarter, of municipal solid waste and of all other fuels combusted.

(E) Keeps each report for 5 years. These records must be kept on site for at least 2 years, but may be kept off site for the remaining 3 years.

(3) **Cogeneration facilities.** The unit is excluded if it meets the three requirements specified in OAC 252:100-17-93(3)(A) through (C).

(A) The unit qualifies as a cogeneration facility under section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) The owner or operator of the unit notifies the Director that the unit meets all of these criteria.

(4) **Commercial and industrial solid waste incineration units.** The unit is excluded if it is regulated under 40 CFR 60, subparts CCCC or DDDD or 40 CFR 62, subpart III and is required to meet the emission limitations established in those subparts.

(5) **Hazardous waste combustion units.** The unit is excluded if it meets either of the two criteria specified OAC 252:100-17-93(5)(A) or (B).

(A) The owner/operator of the unit is required to get a permit for the unit under section 3005 of the Solid Waste Disposal Act.

(B) The unit is regulated under 40 CFR part 63, subpart EEE (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors).

(6) **Hospital/medical/infectious waste incinerators.** The unit is excluded if it is regulated under 40 CFR 60, subparts Ce or Ec (New Source Performance Standards and Emission Guidelines for Hospital/Medical/Infectious Waste Incinerators) or 40 CFR 62, subpart HHH (Federal Plan for Hospital/Medical/ Infectious Waste Incinerators constructed on or before June 20, 1996).

(7) **Rural institutional waste incinerators.** The incineration unit is excluded if it is an institutional waste incinerator, as defined in OAC 252:100-17-91, and the application for exclusion described in OAC 252:100-17-93(7)(A) and (B) has been approved by the Director.

(A) Prior to 1 year before the final compliance date, an application and supporting documentation demonstrating that the institutional waste incineration unit meets the two requirements specified in OAC 252:100-17-93(7)(A)(i) and (ii) must be submitted to the Director for approval.

(i) The unit is located more than 50 miles from the boundary of the nearest Metropolitan Statistical Area,

(ii) Alternative disposal options are not available or are economically infeasible.

(B) The application described in OAC 252:100-17-93(7)(A) must be revised and resubmitted to the Director for approval every 5 years following the initial approval of the exclusion for the unit.

(C) If the owner or operator re-applied for an exclusion pursuant to OAC 252:100-17-93(7)(B) and was denied exclusion by the Director, the owner or operator has 3 years from the expiration date of the current exclusion to comply with the emission limits and all other applicable requirements of this subpart.

(8) **Institutional boilers and process heaters.** The unit is excluded if it is regulated under 40 CFR part 63, subpart DDDDD (National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters).

(9) **Laboratory Analysis Units.** The unit is excluded if it burns samples of materials only for the purpose of chemical or physical analysis.

(10) **Materials recovery units.** The unit is excluded if it combusts waste for the primary purpose of recovering metals. Examples include primary and secondary smelters.

(11) **Pathological waste incineration units.** The institutional waste incineration unit or very small municipal waste combustion unit is excluded from this subpart if it burns 90% or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in OAC 252:100-17-91 and the owner or operator of the unit notifies the Director that the unit meets these criteria.

(12) **Small or large municipal waste combustion units.** The unit is excluded if it is regulated under 40 CFR 60, AAAA, BBBB, Ea, Eb, or Cb, 40 CFR 62, subparts FFF or JJJ and is required to meet the emission limitations established in those subparts.

(13) **Small power production facilities.** The unit is excluded if it meets the three requirements specified in ~~OAC 252:100-93(13)(A)~~ OAC 252:100-17-93(13)(A) through (C).

(A) The unit qualifies as a small power-production facility under section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(C) The owner or operator of the unit notifies the Director that the unit meets all of these criteria.

(14) **Temporary-use incinerators and air curtain incinerators used in disaster recovery.** The incineration unit is excluded if it is used on a temporary basis to combust debris from a disaster or emergency such as a tornado, hurricane, flood, ice storm, high winds, or act of bioterrorism and complies with the requirements in 40 CFR 60.2969.

(15) **Units that combust contraband or prohibited goods.** The incineration unit is excluded if the unit is owned or operated by a government agency such as police, customs, agricultural inspection, or a similar agency to destroy only illegal or prohibited goods such as illegal drugs, or agricultural food products that can not be transported into the country or across state lines to prevent biocontamination. The exclusion does not apply to items either confiscated or incinerated by private, industrial, or commercial entities.

(16) **Incinerators used for national security.** The incineration unit is excluded if it meets the requirements specified in either ~~OAC 252:100-17-93(A)~~OAC 252:100-17-93(16)(A) or (B).

(A) The incineration unit is used solely during military training field exercises to destroy national security materials integral to the field exercises.

(B) The incineration unit is used solely to incinerate national security materials, its use is necessary to safeguard national security, the owner or operator follows the exclusion request requirements in OAC 252:100-17-93(16)(B)(i) and (ii), and the Director has approved the request for exclusion.

(i) The request for exclusion and supporting documentation must demonstrate both that the incineration unit is used solely to destroy national security materials and that a reliable alternative to incineration that ensures acceptable destruction of national security materials is unavailable, on either a permanent or temporary basis.

(ii) The request for exclusion must be submitted to the Director prior to 1 year before the final compliance date.

252:100-17-103. Part 70 permits

The owner or operator of an OSWI that does not meet requirements for exemption as listed in ~~252:100-17-92~~OAC 252:100-17-93 must submit to the Director a complete application for a Part 70 operating permit on or before December 1, 2008.

SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

252:100-23-3. Applicability, general requirements

(a) **Applicability.** Effective May 1, 1993, the provisions of this Subchapter are applicable to all new, modified, and existing cotton gins operating in the State of Oklahoma. Cotton gins in compliance with this Subchapter are exempt from the requirements of OAC 252:100-25, 252:100-19-12, and 252:100-29.

(b) **General requirements.**

(1) **Permits required.** In addition to the requirements of this Subchapter, each new or modified cotton gin shall comply with the permitting requirements of OAC 252:100-7.

(2) **Air toxics emissions.** The requirements of this Subchapter are in addition to any which may be required under ~~252:100-44~~OAC 252:100-42.

(3) **Recordkeeping.** The owner or operator of a cotton gin shall maintain a log documenting the daily process weight and hours of operation. Air emission control equipment replacement/repair costs shall also be recorded. These records shall be maintained for a period of two years and shall be made available for inspection by DEQ personnel during normal business hours.

(4) **Test methods.**

(A) Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A. Testing shall be performed by a Certified Visible Emissions Evaluator.

(B) Dispersion modeling for PM-10 shall be performed using an EPA approved modeling method.

SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

252:100-35-1. Purpose

The purpose of this Subchapter is to control emissions of carbon monoxide from stationary sources to prevent the ~~Oklahoma~~ Ambient Air Quality Standard from being exceeded and ensure that the present level of air quality in Oklahoma is not degraded.

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

Before the Air Quality Advisory Council on June 21, 2023
Before the Environmental Quality Board on September 12, 2023

RULE IMPACT STATEMENT

Subchapter 17. Incinerators

Part 11. Other Solid Waste Incineration Units

252:100-17-93 Exemptions [AMENDED]

252:100-17-103 Part 70 permits [AMENDED]

Subchapter 23. Control of Emissions From Cotton Gins

252:100-23-3 Applicability, general requirements [AMENDED]

Subchapter 35. Control of Emission of Carbon Monoxide

252:100-35-1 Purpose [AMENDED]

DESCRIPTION: The Department of Environmental Quality (Department or DEQ) is proposing to make revisions in Subchapters 17, 23, and 35 as part of the Department’s review of Chapter 100 in response to Governor Stitt's Executive Order 2020-03. The Department is proposing to correct typographical errors in citations found in OAC 252:100-17-93, OAC 252:100-17-103, and OAC 252:100-23-3. In addition, the Department is proposing to correct the reference to the air quality standard in OAC 252:100-35-1. The gist of this rule proposal and the underlying reason for the rulemaking is to revise inaccurate rule language.

CLASSES OF PERSONS AFFECTED: Classes of persons affected are the owners and operators of facilities that are subject to the requirements in OAC 252:100-17, -23, and -35.

CLASSES OF PERSONS WHO WILL BEAR COSTS: The owners and operators of facilities that are subject to the requirements in OAC 252:100-17, -23, and -35 will bear the costs.

INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES: The Department has received no information on cost impacts from private or public entities pertaining to the proposed rule.

CLASSES OF PERSONS BENEFITTED: The proposed changes will benefit the owners and operators of the facilities subject to these regulations by revising outdated language and/or providing regulatory clarity.

PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS: The Department anticipates no significant economic impact as a result of the proposed changes.

PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: The Department anticipates no economic impact on political subdivisions as a result of the proposed changes.

POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS: The Department expects no adverse effect on small business as a result of the proposed changes.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: No fee changes are included in the proposed amendment.

PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE: The Department anticipates there will be minimal costs associated with the implementation and enforcement of these proposed amendments.

PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE: There are none. No other agencies will be implementing or enforcing the proposed rules.

SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE: Federal grants and fees will continue to be used as the sources of revenue to implement and enforce the proposed rules.

PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED: The proposed revisions should have little effect on net revenues for the Department and/or other agencies.

COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE: Cooperation of political subdivisions will not be required to implement or enforce the proposed rules.

EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS: The proposed amendments are intended to minimize compliance costs by correcting inaccurate rule citations and adding regulatory clarity.

DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE: The Department is not aware of any less costly or nonregulatory or less intrusive methods of achieving the purpose of the proposed rules.

DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT: The proposed revision will have minimal effect on public health, safety, and the environment.

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 changes are clarifying in nature and are not designed to reduce significant risks to the public health, safety, and the environment.

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 Department does not anticipate any detrimental effect on the public health, safety, and the environment.

PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): There will be minimal impact on business entities since the proposed changes are removing outdated requirements and/or adding regulatory clarity.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: May 3, 2023
MODIFIED ON: