**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**CHAPTER 221. BROWNFIELDS**

Before the Hazardous Waste Management Advisory Council October 21, 2021

Before the Environmental Quality Board February 2021

**RULE IMPACT STATEMENT**

**PROPOSED RULES:**

Subchapter 1. General Provisions

252:221-1-4. Terms not defined by the Code or rule [AMENDED]

252:221-1-6. Transitioning from Voluntary Cleanup Program to Brownfield Program [AMENDED]

Subchapter 3. The Brownfield Program

252:221-3-2. Process [AMENDED]

252:221-3-3. Proposal [AMENDED]

252:221-3-5. Public participation [AMENDED]

Subchapter 5. Verification of Brownfields Projects

252:221-5-1. Applicability [AMENDED]

Subchapter 7. Revolving Loan Funds (RLF)

252:221-7-1. Purpose, authority and applicability [AMENDED]

252:221-7-2. Definitions [AMENDED].

252:221-7-3. Borrower eligibility [AMENDED]

252:221-7-4. Eligible uses [AMENDED]

252:221-7-5. Ineligible uses [AMENDED]

252:221-7-7. Project selection criteria [AMENDED]

252:221-7-8. Protocol for demonstrating eligibility [AMENDED]

252:221-7-9. Public Involvement [AMENDED]

252:221-7-10. Final Decision Document [AMENDED]

252:221-7-11. Special terms and conditions [AMENDED

252:221-7-13. Insurance [AMENDED]

**DESCRIPTION:** The Brownfields Rules were codified through the 2011 legislative session, and have not been updated. Since that time, we have moved to an electronic filing system, the internet is now more widely used, EPA has changed our grant requirements, and our processes have changed. Also, the Oklahoma Department of Commerce is no longer our fund manager for the Brownfields Revolving Loan Fund and is mentioned in the rules. DEQ has managed the loan funds in-house for a couple of years. We want to update the Brownfields Rules to remove outdated legal citations, fix typos, reduce the amount of hard copies being sent to DEQ for review, allow for electronic files to be posted on our website, and remove references to Oklahoma Department of Commerce. This will reduce the costs for participants in DEQ’s Brownfields Certificate and Brownfields Revolving Loan Fund Programs. The gist of the rulemaking is to update the rules to be more in alignment with current processes.

**CLASSES OF PERSONS AFFECTED:** Persons who participate in the Brownfields Certificate and Brownfields Revolving Loan Fund, will be affected by these proposed rules.

**CLASSES OF PERSONS WHO WILL BEAR COSTS:** Due to the reduced regulatory burden on the participants in the Brownfields Certificate and Brownfields Revolving Loan Fund that will result from the adoption of these rules, no additional costs are anticipated.

**INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** No additional costs to private or public entities are expected.

**CLASSES OF PERSONS BENEFITTED:** Classes of persons involved in Brownfields Certificate and Brownfields Revolving Loan Fund will benefit due to the rules becoming more in alignment with the current processes of the program.

**PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** Participants in the Brownfields Certificate and Brownfields Revolving Loan Fund are projected to experience no economic impact.

**PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** Political subdivisions involved in Brownfields Certificate and Brownfields Revolving Loan Fund will benefit due to the rules becoming more in alignment with the current processes of the program is anticipated.

**POTENTIAL ADVERSE EFFECTS ON SMALL BUSINESSES:** Small businesses are expected to benefit from these proposed rules and, therefore, no adverse effects are anticipated.

**LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:**

There are no fee changes involved in this rulemaking.

**PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** No increase in DEQ funding is necessary to implement this rulemaking.

**PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** No other agencies will be involved in these proposed rules.

**SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** The rule changes will not require additional revenue for implementation and enforcement.

**PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES IF IT CAN BE PROJECTED:** DEQ does not anticipate any loss or gain in revenues from this rulemaking.

**COOPERATION OF POLITICAL SUBDIVISION REQUIRED TO IMPLEMENT OR ENFORCE RULE:** No cooperation by other political subdivisions is anticipated to implement or enforce the proposed rules.

**EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** No compliance costs are anticipated due to the proposed rule changes. Cost savings are anticipated.

**DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** None. The proposed rule change is to modernize existing rules and to conform state rules to state statutes.

**DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** These rule changes represent modernizations and streamlining of regulatory requirements. An overall benefit is anticipated, as a more accurate regulatory structure will allow the participants in the Brownfields Certificate and Brownfields Revolving Loan Fund to operate in a more efficient manner.

**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 rules should have minimal if any impact on risks associated with pubic health, safety, and environment.

**DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** Failure to pass the proposed revisions to OAC 252:205 will result in the DEQ Brownfield rules not being in alignment with current program practices. While this outcome may not have a detrimental effect on public health, safety, or the environment, it could result in confusion for the participants in the Brownfields Certificate and Brownfields Revolving Loan Fund.

**PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES INCLUDING QUANTIFIABLE DATA WHERE POSSIBLE:**  There is beneficial quantitative and qualitative impact anticipated as this rulemaking will bring regulations into alignment with current processes.

**THIS RULE IMPACT STATEMENT WAS PREPARED ON:** August 20, 2021