**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY**

 **CHAPTER 205. HAZARDOUS WASTE MANAGEMENT**

Before the Hazardous Waste Management Advisory Council October 21, 2021

Before the Environmental Quality Board February 2021

**RULE IMPACT STATEMENT**

**PROPOSED RULES:**

 Subchapter 3. Incorporation by Reference

 252:205-3-1. Reference to 40 CFR [AMENDED]

Subchapter 5. Additional Generator Requirements

 252:205-5-1. Disposal Plans [REVOKED]

 252:205-5-3. Quarterly Reporting Requirements [AMENDED]

Subchapter 21. Fees

 252:205-21-1. General Fee Provisions [AMENDED]

 252:205-21-2. Generator Fees [AMENDED]

 252:205-21-4Treatment, storage, off-site recycling, and disposal facility fees

 252:205 APPENDIX C. ANNUAL FACILITY MONITORING FEES [AMENDED]

**DESCRIPTION:** The Department is proposing to amend DEQ's hazardous waste rules to make them consistent with the federal regulations by incorporating by reference (IBR) the regulations found in 40 CFR Parts 124 and 260-279, revised as of July 1, 2021. The significant rule change for this IBR modernizes the rules governing determinations for ignitable liquid hazardous wastes. The modification will allow labs testing for the characteristic to use non-mercury thermometers. It finalizes the codification of existing guidance defining “aqueous” as “50% water by weight”. And it corrects cross references to DOT regulations and removes obsolete information. This rulemaking ensures that Oklahoma's hazardous waste rules are at least equivalent to the federal rules, as required to maintain program Authorization. Additionally, statute changes that became effective July 1, 2021 have rendered certain state rules obsolete. Therefore, the DEQ is modifying those state rules that have been affected by the statute changes.

**CLASSES OF PERSONS AFFECTED:** Persons who generate, transport, treat, recycle, or dispose of hazardous waste, unless those persons are households or very small quantity generators, will be affected by these proposed rules.

**CLASSES OF PERSONS WHO WILL BEAR COSTS:** Due to the reduced regulatory burden on generators of hazardous waste 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:** Generators of hazardous waste will benefit due to a reduction in hazardous waste management effort and reporting. Alterations to fees were designed to maintain revenue while reducing the burden on the regulated community. Generators of ignitable hazardous wastes should derive benefit from the additional flexibility.

**PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** Generators who manage ignitable hazardous waste are expected to benefit from this proposed rule. Generators that previously paid a disposal plan fee or submitted quarterly reports are expected to benefit. All other classes of affected persons are projected to experience no economic impact.

**PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** No impact on political subdivisions 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:**

1. Per ton disposal fee changed from $9/ton to $9.50/ton.

**Justification:** this fee was changed at the statutory level. The reference in the state rules in Appendix C is being changed to conform with the statute.

1. Disposal Plan fee removed.

**Justification:** this fee was removed at the statutory level and therefore must be removed at the rule level to ensure equivalency with statutes.

1. LQG Monitoring fee range changed to $300-$2000 by statute.

**Justification:** this fee was changed at the statutory level. The floor was raised, and the ceiling was lowered. Therefore, the corresponding state rule must be changed to conform with the statute.

**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. Entities within agencies that generate hazardous wastes (such as building and vehicle maintenance departments) will benefit from this rulemaking.

**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 maintain equivalency with federal regulations, 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 more time can be devoted to compliance at both the generator and regulator level and additional flexibilities should help generators to properly manage their ignitable hazardous waste 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 hazardous waste management. They should make it easier and less costly for facilities to comply with the regulations. They simplify the fee structure associated with LQGs.

**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 hazardous waste rules not being equivalent to the federal regulations. While this outcome may not have a detrimental effect on public health, safety, or the environment, it could result in higher costs to businesses that would not receive the regulatory relief provided for in the new rules.

**PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES INCLUDING QUANTIFIABLE DATA WHERE POSSIBLE:**  Projected quantitative and qualitative impacts at the federal level are available in the respective Regulatory Impact Analyses available for the applicable rule.

**THIS RULE IMPACT STATEMENT WAS PREPARED ON:** August 4, 2021