

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

A Public Meeting: 9:30 a.m. Friday, February 22, 2013
DEQ Multipurpose Room
Oklahoma City, Oklahoma

Please turn off cell phones.

- 1. Call to Order** – Jerry Johnston, Chair
- 2. Roll Call** – Jeanette Nance, Board Secretary
- 3. Approval of Minutes** of the November 7, 2012, Regular Meeting
- 4. Election of Officers** – Election of Chair and Vice-Chair for Calendar Year 2013
- 5. Rulemaking – OAC 252:4 Rules of Practice and Procedure**

The DEQ proposes to amend OAC 252:4, Subchapters 1, 7 and 9 in order to: (1) update DEQ’s Rules of Practice and Procedure due to recent statutory changes made by the Legislature; (2) to correct errors in the text of the rules; (3) to clarify permit review and correction opportunities for an applicant prior to issuance of a draft permit by the DEQ; (4) to clarify the process for a permit applicant who wishes to seek agency review of a final permit decision and what constitutes the administrative record for such a review; and (5) to clarify that a declaratory ruling request is a prerequisite to seeking judicial review of a final permit decision. These proposed changes are of general applicability to DEQ programs and are not within the jurisdiction of a particular advisory council.

- Presentation – Martha Penisten, DEQ General Counsel
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote on permanent adoption

6. Rulemaking - OAC 252:100 Air Pollution Control

- A.** The DEQ proposes to update OAC 252:100, Subchapter 2, Incorporation by Reference, to reflect the latest date of incorporation of EPA regulations. Additionally, the DEQ is proposing to update Appendix Q, Incorporation by Reference, by revoking the existing Appendix Q and adding a new Appendix Q to incorporate the latest changes to EPA regulations. Included are changes or additions to 40 CFR Part 60, New Source Performance Standards (NSPS), and Part 63, National Emissions Standards for Hazardous Air Pollutants (NESHAP).
- B.** Additionally, the DEQ proposes to amend OAC 252:100-13, Open Burning, to modify the requirements for “air curtain incinerators” (“ACIs”) (also known as “air curtain destructors”), which are combustion units that operate by forcefully projecting a curtain of air across an open, integrated combustion chamber (firebox) or open pit or trench in which the combustion occurs. The proposed rulemaking would primarily affect the owners and operators of ACIs that are used on a temporary basis to burn trees, brush, and similar materials from land clearing, public health, safety, and

disaster response activities. The affected entities include private as well as state, county, and municipal governmental entities. The DEQ is proposing changes to add flexibility in the operation of these units, including an extension of the allowed hours of operation. The existing rule requires land clearing operations in current and former nonattainment areas (Tulsa and Oklahoma Counties) to use ACIs. The proposal would expand this requirement to all counties in the Oklahoma City and Tulsa Metropolitan Statistical Areas, and would prohibit open burning in areas under an Ozone or Particulate Matter Watch. Additionally, the DEQ proposes to amend the rule to allow, under certain conditions, the transport of materials from the site where they are generated to the site where they would be burned.

- C. The DEQ is proposing to move an existing continuous opacity monitoring requirement from OAC 252:100-31, Control of Emission of Sulfur Compounds, to OAC 252:100-25, Visible Emissions and Particulates, which is a more appropriate location.
- Presentation – Laura Lodes, Chair, Air Quality Advisory Council
 - Questions and discussion by the Board
 - Questions, comments and discussion by the public
 - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

7. Rulemaking – OAC 252:515 Solid Waste Management

- A. The DEQ proposes to amend OAC 252:515, Subchapters 1 (General Provisions). The proposed amendments include removing the phrases “roofing material recycling facilities” and “used tire recycling facilities” from the definition of “Land Disposal Facility” in Subchapter 1.
- B. The DEQ proposes to amend OAC 252:515, Subchapter 19 by adding a new section at OAC 252:515-19-50, in response to recent legislative changes to the Solid Waste Management Act at 27A O.S. § 2-10-801.2, pertaining to exterior and interior slopes of solid waste landfills.
- C. The DEQ proposes to amend OAC 252:515 by adding a new Subchapter 41 in response to recent legislative changes to the Solid Waste Management Act at 27A O.S. § 2-10-802.2, pertaining to the components required for a roofing material recycling facility.
- Presentation – Jeffrey Shepherd, Chair, Solid Waste Management Advisory Council
 - Questions and discussion by the Board
 - Questions, comments and discussion by the public
 - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

8. Rulemaking – OAC 252:4 Rules of Practice and Procedure (Water Quality Tier Rules)

The DEQ proposes to amend the Water Quality permitting rules in Chapter 4, Rules of Practice and Procedure, to correct unintended consequences from amendments made during last year’s rulemaking effort to include reclaimed water permits in the Tier classifications. By replacing “wastewater” with “reclaimed water,” the DEQ inadvertently caused the land application of “biosolids” and “industrial wastewater” to be omitted from the Tier classifications.

- Presentation – Michel Paque, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public

- Discussion and possible action by the Board, which may include roll call vote on permanent adoption

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

The DEQ proposes to amend OAC 252:606 to update its rules concerning the date of the incorporation by reference for federal regulations from July 1, 2011 to July 1, 2012. There are no federal rules being incorporated at this time that will have a significant impact on the DEQ’s OPDES program.

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

10. Rulemaking - OAC 252:616 Industrial Wastewater Systems

The DEQ proposes to amend OAC 252:616 to do the following: update the definitions; clarify that the application fees and annual fees for Class III systems apply to applications for coverage under general permits; change the term “flexible membrane liner” to “synthetic liner” throughout the Chapter; eliminate the use of lateral lines for new industrial tank systems; clarify and update the recordkeeping and reporting requirements for land application systems; and update Appendix C with the latest rainfall and evaporation data (revoke current Appendix C and adopt proposed Appendix C).

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

11. Rulemaking - OAC 252:631 Public Water Supply Operation

A. The DEQ proposes to amend OAC 252:631 to do the following: update the date of incorporation by reference of certain federal regulations from July 1, 2011 to July 1, 2012, including incorporation of the federal regulations relating to the Ground Water Rule, the Long-term 2 Enhanced Surface Water Treatment Rule, and the Stage 2 Disinfectants and Disinfection Byproducts Rule; and update the analytical testing methods when using chloramines as a disinfectant.

B. The DEQ also proposes to amend OAC 252:631 to increase the annual fees for public water supply systems. The proposed fee increase along with additional general revenue appropriations will allow DEQ to generate sufficient resources to continue regulating public water supply systems at the current level plus take on existing rules currently under EPA’s authority.

- Presentation – Michel Paque, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public

- Discussion and possible action by the Board, which may include roll call vote on permanent adoption

12. Rulemaking - OAC 252:690 Water Quality Standards Implementation

- A. The DEQ proposes to amend OAC 252:690 to do update the publication date of the federal rules incorporated by reference from July 1, 2010 to July 1, 2012. There are no federal rules being incorporated at this time that will have a significant impact on the implementation of water quality standards in Oklahoma.
- B. The DEQ also proposes to amend OAC 252:690 to clarify when and how to use geometric and arithmetic means for determining “reasonable potential” for pollutants; update formulas used to determine when background monitoring is required; clarify testing requirements for facilities with Whole Effluent Toxicity (WET) limits during a Toxicity Identification Evaluation (TIE) or Toxicity Reduction Evaluation (TRE); update bacteriological indicators to reflect water quality standards for E. coli and Enterococci; require permittees to monitor for bacteria once a week if the receiving stream has a Secondary Body Contact Recreation beneficial use and is impaired for bacteria; eliminate monitoring frequency reductions for bacteriological testing to be consistent with Oklahoma Water Resources Board rules; and make other minor clarifications.
- Presentation – Michel Paque, Chair, Water Quality Management Advisory Council
 - Questions and discussion by the Board
 - Questions, comments and discussion by the public
 - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

13. Executive Director’s Report – Steve Thompson, DEQ Executive Director

14. New Business (Any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

15. Next meeting: June 18, 2013, Frederick, Oklahoma

16. Adjournment

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

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

Some members of the Board and senior staff members from DEQ will meet for dinner in Oklahoma City the evening of February 21, 2013. This is a social occasion. It is uncertain whether a majority of the Board will be present, but no Board or DEQ business will be conducted.