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OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

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September 30, 2020

Ken McQueen, Regional Administrator (ORA)  
U.S. Environmental Protection Agency, Region 6  
1201 Elm St., Suite 500  
Dallas, TX 75270

Subject: Revisions to Oklahoma’s Commercial and Industrial Solid Waste Incinerators  
111(d)/129 Plan

Dear Administrator McQueen:

The Oklahoma Department of Environmental Quality (DEQ) is pleased to submit for your review and approval revisions to the Oklahoma Air Quality State Plan for Commercial and Industrial Solid Waste Incinerators (CISWI) under Sections 111(d) and 129 of the federal Clean Air Act. The proposed State plan is the result of our efforts toward adopting and implementing 40 C.F.R. Part 60, Subpart DDDD, Emission Guidelines for CISWI.

Oklahoma’s State plan includes the adopted rule OAC 252:100-17, Part 9, Commercial and Industrial Solid Waste Incinerators and applicable appendices. The amendments to the rule were accomplished through the adoption of permanent rules by DEQ. The rule was approved for recommendation by the Air Quality Advisory Council on January 15, 2020, approved by the Environmental Quality Board on February 21, 2020, and became effective September 15, 2020. The hearing on the State 111(d)/129 Plan was held on January 15, 2020, during the Air Quality Air Council meeting. The CISWI rule and corresponding public hearing history are listed in the table below:

**CHAPTER 100, AIR POLLUTION CONTROL**  
**OAC 252:100, Subchapter 17, Incinerators, Part 9**

| <b>NOTICE</b>    | <b>PUBLIC HEARING</b> | <b>GOVERNING BOARD</b>       |
|------------------|-----------------------|------------------------------|
| December 2, 2019 | January 15, 2020      | Air Quality Advisory Council |
| December 2, 2019 | February 21, 2020     | Environmental Quality Board  |

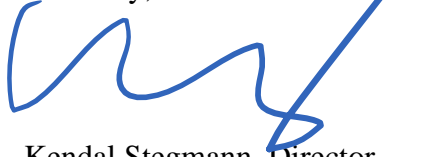


DEQ certifies that the rulemaking procedures for OAC 252:100-17, Part 9 were in compliance with the requirements of the Oklahoma Administrative Procedures Act, 75 O.S. 250.1 through 323 and 40 C.F.R. §§ 51.102(a), (d), and (f), and 40 C.F.R. Part 51, Appendix V, 2.1(g). State public participation procedures for SIP submittals were submitted to EPA for review under 40 C.F.R. § 51.102. In a letter dated August 23, 2012, EPA concurred that the procedures are consistent with the requirements of 40 C.F.R. § 51.102 and associated guidance.

The notice of DEQ's intent to adopt the amended rule was published in the Oklahoma Register. The Oklahoma Register is a semi-monthly publication prescribed by the Oklahoma Administrative Procedures Act in which all rulemaking actions and the associated documents must be published (now accessible at [www.sos.state.ok.us/oar](http://www.sos.state.ok.us/oar)). The notice of rulemaking intent includes the date, time, and location of the public hearing and information on how the public may submit written or oral comments on the proposed rule. The public comment period for the proposed rule begins on the date of publication of the notice and ends at the conclusion of the public hearing before the Air Quality Advisory Council. In addition, the Environmental Quality Board accepts comments on the date of its meeting.

Please consider the transmission of this document through SPeCS for SIPs as the official submittal. No hard copy will be transmitted. If you have any questions regarding the State Plan, please contact Melanie Foster at (405) 702-4218.

Sincerely,



Kendal Stegmann, Director  
Air Quality Division

Attachment

ec: Ken Wagner, Secretary of Energy and Environment  
Scott Thompson, Executive Director, Department of Environmental Quality  
Guy Donaldson, Chief, SIP Branch (ARS), EPA Region 6



# State of Oklahoma Commercial and Industrial Solid Waste Incinerators 111(d)/129 Plan

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September 17, 2020

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## TABLE OF CONTENTS

|      |  |    |
|------|--|----|
| I.   | Introduction.....  | 2  |
| II.  | Background.....  | 2  |
| III. | Plan Requirements .....  | 5  |
|      | A.    Source Inventory.....  | 5  |
|      | B.    Emissions Inventory.....   | 6  |
|      | C.    Compliance Schedules .....   | 6  |
| IV.  | Emission Limitations, Operator Training, and Qualification Requirements, Waste Management Plan, and Operating limitations..... | 7  |
|      | A.    Emission Limitations .....   | 7  |
|      | B.    Operator Training and Qualification Requirements .....   | 7  |
|      | C.    Waste Management Plans .....   | 7  |
|      | D.    Operating Limitations .....  | 7  |
|      | E.    Performance Testing, Monitoring, Recordkeeping, and Reporting.....   | 8  |
|      | F.    Air Curtain Incinerator.....   | 8  |
|      | G.    Record of Public Hearings.....   | 9  |
|      | H.    Annual Progress Reports to EPA.....  | 9  |
|      | I.    Enforcement.....   | 9  |
|      | 1.    Enforceable State Mechanism.....   | 9  |
|      | 2.    Title V Permit .....   | 10 |
|      | J.    Demonstration of Legal Authority.....  | 10 |
|      | Appendix A.....  | 11 |
|      | Appendix B.....  | 39 |
|      | Appendix C.....  | 65 |
|      | Appendix D.....  | 68 |

## **I. INTRODUCTION**

The 1990 Clean Air Act (CAA) amendments direct the EPA to establish regulations for certain industrial activities that emit significant air pollutants in order to control air pollutant emissions. These requirements, known as New Source Performance Standards (NSPS), regulate air pollutants. The pollutants regulated include metals (cadmium (Cd), lead (Pb), and mercury (Hg)); particulate matter (PM); acid gases (sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and hydrogen chloride (HCl)); organic compounds (dioxins and furans); carbon monoxide (CO); and opacity.

Section 111 of the CAA addresses Standards of Performance for Stationary Sources and Section 129 addresses Solid Waste Combustion. The EPA codified regulations governing emissions from new and existing Commercial and Industrial Solid Waste Incinerators (CISWI) under the authority of these two sections in Title 40 of the Code of Federal Regulations (C.F.R.) Part 60, Subparts CCCC and DDDD, respectively. Under these sections, EPA is required to set technology-based standards for certain criteria and toxic air pollutants, reflective of levels achieved by the best performing sources. The CAA requires state agencies to implement the emission guidelines and compliance times using a state plan developed under Sections 111(d) and 129.

A CISWI unit is defined as any distinct operating combustion unit of any commercial or industrial facility that combusts, or has combusted in the preceding six months, any solid waste as that term is defined in 40 C.F.R. Part 241. The state plan applies to each individual CISWI unit that meets the criteria in Oklahoma Administrative Code (OAC) 252:100-17-60(a)(1)-(3) as shown below:

1. Any CISWI unit for which construction commenced on or before June 4, 2010, or for which modification or reconstruction commenced after June 4, 2010 but no later than August 7, 2013.
2. Incineration units that meet the definition of a CISWI unit as defined in 40 C.F.R. § 60.2875.
3. Incineration units that do not qualify as exempt under OAC 252:100-17-63.

## **II. BACKGROUND**

On December 1, 2000, the EPA promulgated NSPS and Emission Guidelines for incinerators used by commercial and industrial facilities to burn non-hazardous solid waste, otherwise known as CISWI units. The NSPS and Emission Guidelines were designed to substantially reduce emissions of a number of harmful air pollutants such as Pb, Cd, Hg, and dioxins/furans, which are known or suspected to cause adverse health and environmental effects.

EPA issued a revision to the NSPS and Emission Guidelines on March 21, 2011, addressing a voluntary remand that was granted in 2001 and the vacatur of the CISWI definition rule in 2007 by the District of Columbia Circuit Court of Appeals. Concurrently, EPA initiated by the reconsideration process affecting the rule in order to address technical issues that arose from public comments and to give the public ample opportunity to comment on changes to the rules that were not in the proposal.

On May 16, 2011, EPA announced a stay for the CISWI rule and solicited additional input through July 15, 2011. EPA proposed reconsiderations of specific issues on December 2, 2011, which are listed below:

- Revision of the proposed subcategory for Energy Recovery Units
- New limitations on fuel switching provisions for CISWI units
- Revision to the proposed definition of CISWI to exclude cyclonic burn barrels
- Providing an affirmative defense for malfunction events for CISWI units
- Revisions to the proposed monitoring requirements for CO

The final rule was signed December 20, 2012. EPA received additional petitions to further reconsider certain provisions of the 2013 NSPS and Emission Guidelines for CISWI units.

EPA promulgated amendments to these standards and guidelines on February 7, 2013, followed by reconsiderations on January 21, 2015. Then, on June 23, 2016, the EPA finalized decisions on four issues:

1. The definition of continuous emission monitoring system (CEMS) data during startup and shutdown periods,
2. Particulate matter (PM) limit for the waste-burning kiln subcategory,
3. Fuel variability factor (FVF) for coal-burning energy recovery units (ERUs), and
4. The definition of “kiln.”

Additionally, EPA denied the requests for reconsideration of all other issues raised in the petitions for reconsideration of the 2013 final CISWI rule. The amendments to 40 C.F.R. Part 60, Subpart DDDD, became effective June 23, 2016. The amendments to 40 C.F.R. Part 60, Subpart CCCC, became effective December 23, 2016.

Following promulgation of the June 2016 final action, the EPA received requests from industry stakeholders and implementing agencies to clarify various issues with implementation of the standards. In addition, the EPA identified certain testing and monitoring issues and inconsistencies within the rules that required further clarification or correction. To address these issues, the EPA published proposed amendments to several provisions of the 2016 CISWI NSPS and Emission Guidelines on June 15, 2018. In addition, the EPA identified regulatory provisions that required clarification and editorial correction to address inconsistencies and errors in the final rules. This action was finalized on April 16, 2019.

In addition, EPA determined that air curtain incinerators (ACIs) located at commercial and industrial facilities are CISWI-affected sources that must be included in state plans and regulated consistent with the final CISWI standards applicable to such units according to CAA Section 111. To address the uncertainty created by the CISWI rule, the EPA clarified the affected source status of ACIs by revising the regulations to make clear that “air curtain incinerators” do not need to meet the definition of a “CISWI unit” to be subject to the CISWI rule (40 C.F.R. § 60.2010 of the NSPS and 40 C.F.R. § 60.2500 and § 60.2550 of the Emission Guidelines).

Pursuant to CAA Section 502(a), sources subject to standards or regulations under CAA Section 111 must obtain a Title V permit; therefore, ACIs are required to obtain a Title V permit. EPA was inclined to treat all ACIs in the same manner and declined to consider a Title V exemption for minor and area source ACIs at commercial and industrial facilities.

The Model Rule is the portion of the Emission Guidelines (40 C.F.R. §§ 60.2575 – 60.2875) addressing the requirements applicable to CISWI units in regulatory format. As required in the Emission Guidelines, DEQ adopted a state rule, OAC 252:100-17, Part 9, which implements the provisions of the Emission Guidelines and is as protective as the guidelines promulgated by the EPA. The rule was adopted by the Department of Environmental Quality (DEQ) on February 21, 2014, and became effective September 12, 2014. The rulemaking documentation is included as Appendix A of the State Plan. The June 23, 2016 revisions to the federal rules were also incorporated by reference into OAC 252:100-2-3 and became effective September 15, 2017.

The April 16, 2019 federal CISWI Rule requires DEQ to incorporate the changes EPA made to the Emission Guidelines and the Model Rule. Therefore, DEQ presented these changes as a proposal to amend OAC 252:100-17, Incinerators, to clarify the applicability of Part 9, CISWI, to existing ACIs at the Air Quality Advisory Council (AQAC) meeting on January 15, 2020. The AQAC recommended adoption and the proposed rules were approved by the Environmental Quality Board at its meeting on Friday, February 21, 2020. The revised rules became effective September 15, 2020. The rulemaking documentation is included as Appendix B of the State Plan. The April 16, 2019 revisions to the federal CISWI rules were also incorporated by reference into OAC 252:100-2-3 and also became effective September 15, 2020.

Changes to the CISWI rule necessitated states to submit a revised State 111(d)/129 Plan (henceforth referred to as the “State Plan”) and conduct a public hearing as directed by 40 C.F.R. §§ 60.2575 – 60.2875. Therefore, this document serves as a revision to the 2005 Oklahoma CISWI State Plan § 111(d)/129 plan for CISWI units. The revised State Plan addresses the final action on reconsideration and the technical amendments made by the EPA on the *Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units* published at 81 Fed. Reg. 49056, June 23, 2016 and 84 Fed. Reg. 15846, April 16, 2019.

The AQAC meeting also served as the public hearing 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); to the State Plan under the requirements of the federal Clean Air Act, §§ 111(d) and 129, 40 C.F.R. Part 60, Subparts B and DDDD, and 27A O.S. § 2-5-107; 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). No comments were received during the hearing.

This State Plan revision incorporates changes made to rule OAC 252:100-17, Incinerators, Part 9, CISWI. OAC 252:100-17 provides the mechanism DEQ uses to implement and enforce the Emission Guidelines requirements for existing CISWI either directly through administrative action requiring compliance with OAC 252:100-17, or by including such requirements in State permits, where applicable. Additionally, the State Plan includes DEQ’s list of CISWI sources from the original 2005 State Plan as well as the 2019 CISWI sources and the 2018 Emissions Inventory in Appendix C.

40 C.F.R. § 60.2555 exempts certain types of CISWI units from 40 C.F.R. Part 60, DDDD and from the State Plan. In addition, the definitions in 40 C.F.R. § 60.2875 describe certain units that are not considered to be an incinerator, waste-burning kiln, an energy recovery unit, or a small remote incinerator. For these reasons, the following units are not part of the State Plan:

1. Pathological waste incineration units
2. Burn-off oven
3. Municipal waste combustion units
4. Medical waste incineration units
5. Small power production facilities
6. Cogeneration facilities
7. Hazardous waste combustion units
8. Material recovery units
9. Cyclonic burn barrels
10. Foundry sand thermal reclamation units
11. Soil treatment units
12. Sewage treatment plans
13. Sewage sludge incinerators
14. Chemical recovery units
15. Laboratory analysis units
16. Space heaters

### **III. PLAN REQUIREMENTS**

#### **A. Source Inventory**

In accordance with 40 C.F.R. § 60.2515(a)(1), the State Plan addresses air emissions from existing CISWI units by the inclusion of a source inventory of regulated sources in Oklahoma. The State Plan must address incineration units that meet all three criteria described in 40 C.F.R. § 60.2550(a)(1) through (3):

- (1) Commercial and industrial solid waste incineration units and ACIs in [Oklahoma] that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010 but no later than August 7, 2013;
- (2) Incineration units that meet the definition of a CISWI as defined in §60.2875 or an ACI as defined in §60.2875; and
- (3) Incineration units not exempt under §60.2555.

As established in OAC 252:100-17-60(a), an “existing CISWI” is each individual CISWI unit for which construction was commenced on or before June 4, 2010 or commenced modification or reconstruction after June 4, 2010 but no later than August 7, 2013.

Existing CISWI units modified or reconstructed on or after August 7, 2013 are subject to NSPS, under 40 C.F.R. Part 60 Subpart CCCC, and cease to be subject to the provisions of the State Plan.



After an extensive search for sources and a review of previous sources, it has been determined Henryetta Pallet Company (HPC) in Henryetta, Oklahoma, is currently the only remaining CISWI unit to inventory in Oklahoma. HPC builds new pallets or rebuilds pallets to customer specifications. HPC operates a McPherson System Inc., Model M10E refractory-lined incinerator to dispose of wood waste from the pallets. Wood waste is limited to that generated on site and consists only of untreated lumber. All the other CISWI units from the source inventory in the 2005 State Plan have either been shut down or the facility has closed, as shown on the Source Status Table located in Appendix C.

The State Plan applies broadly to the state of Oklahoma. Should the DEQ discover another existing, affected facility, as defined in 40 C.F.R. Part 60, Subpart DDDD, §§ 60.2550 and 60.2555, the State Plan need not be reopened since any newly discovered sources will be subject to the requirements of OAC 252:100-17, Part 9.

**B. Emissions Inventory**

Under the provisions of 40 C.F.R. § 60.2515(a)(2), an emissions inventory from the affected CISWI in Oklahoma is provided in Appendix C. The emissions inventory data was obtained from electronic submission of affected sources, which are required on an annual basis.

**C. Compliance Schedules**

As required by 40 C.F.R. § 60.2515(a)(3), the DEQ must include in the State Plan a compliance schedule for each existing CISWI unit. Facilities must achieve compliance within three years of the effective date of EPA’s approval of the State Plan or February 7, 2018, whichever occurs first. If a compliance schedule extends beyond one year from the effective date of the State Plan, the schedule must include measurable and enforceable incremental steps of progress as listed in 40 C.F.R. Part 60, Subpart DDDD, Table 1 and shown below:

| Increments of Progress and Compliance Schedules |  |
|---|--|
| Increments of Progress                          | Compliance Date  |
| Submit a final control plan                     | As expeditiously as practicable, but no later than February 7, 2016. |
| Final Compliance                                | February 7, 2018   |

Table 1. Increments of Progress and Compliance Schedules.

As stated previously, HPC, located in Henryetta, Oklahoma is the only CISWI unit that has been identified in Oklahoma. Upon identification of any other affected CISWI units, the newly identified facility will be expected to bring the CISWI unit into compliance as expeditiously as possible.

## **IV. EMISSION LIMITATIONS, OPERATOR TRAINING, AND QUALIFICATION REQUIREMENTS, WASTE MANAGEMENT PLAN, AND OPERATING LIMITATIONS**

### **A. Emission Limitations**

As stated in 40 C.F.R. § 60.2670, the State Plan includes emission limitations for existing CISWI units in the enforceable mechanism, OAC 252:100-17, Part 9, and has incorporated by reference Table 2 and Tables 6 through 9 of 40 C.F.R. Part 60, Subpart DDDD. The State Plan requires existing CISWI units to comply with the emission limits by the final compliance date. The standards mirror the federal guidelines and are neither less nor more stringent. The emission limitations apply at all times the unit is operating including and not limited to startup, shutdown, or malfunction. The emission limitations are applicable to all existing CISWI units, even those that are not operating unless they are rendered inoperable. A unit is rendered inoperable if the waste charge door is welded shut, the stack/bypass stack is removed, combustion air blowers are removed, and the burners or fuel supply is removed. A unit may be rendered inoperable by other means, but the DEQ will make those determinations on a case-by-case basis.

### **B. Operator Training and Qualification Requirements**

The standards for CISWI operator training certifications and operating training deadlines included in 40 C.F.R. §§ 60.2635, 60.2640, 60.2645, 60.2650, and 60.2655 are adopted in OAC 252:100-17-60(d) and incorporated by reference in OAC 252:100-2-3.

### **C. Waste Management Plans**

The owner or operator of the existing CISWI units shall prepare a waste management plan that meets the requirements of 40 C.F.R. §§ 60.2620, 60.2625, and 60.2630 from the Model Rule. These requirements have been adopted in OAC 252:100-17-60(d) and incorporated by reference in OAC 252:100-2-3. In accordance with 40 C.F.R. § 60.2625 and Table 1 of 40 C.F.R. Part 60, Subpart DDDD, the waste management plan must be submitted to the DEQ no later than February 7, 2018.

### **D. Operating Limitations**

Pursuant to 40 C.F.R. § 60.2675, if the owner or operator of the existing CISWI unit uses a wet scrubber(s) to comply with the emission limitations, operating limits must be established for up to four operating parameters as specified in Table 3 of 40 C.F.R. Part 60, Subpart DDDD and described in 40 C.F.R. § 60.2675(a)(1) through (3) during the initial performance test. If the owner or operator of the existing CISWI unit uses a fabric filter, electrostatic precipitator, activated carbon injection, selective noncatalytic reduction, or a dry scrubber to comply with the emission limitations, the owner or operator must follow the operating limitations specified for that control device in 40 C.F.R. § 60.2675(c) through (g).

Per 40 C.F.R. § 60.2680, if the existing CISWI unit utilizes an air pollution control device other than a wet scrubber, activated carbon injection, selective noncatalytic reduction, fabric filter, an electrostatic precipitator, or a dry scrubber; or limits emissions in some other manner, including mass balances, to comply with the emission limitations under 40 C.F.R. § 60.2670, the owner or operator must petition the EPA Administrator for specific operating limits to be established during the initial performance test and continuously monitored thereafter. You must submit the petition at least sixty days before the performance test is scheduled to begin and include the five items listed in 40 C.F.R. § 60.2680(a)(1) through (5).

### **E. Performance Testing, Monitoring, Recordkeeping, and Reporting**

In accordance with 40 C.F.R. § 60.2515(a)(5), the State Plan must include testing, recordkeeping, and reporting requirements. To satisfy these requirements, DEQ has adopted the Model Rule in OAC 252:100-17-60(d) and incorporated the Model Rule by reference in OAC 252:100-2-3. Furthermore, the State Plan meets the requirements of 40 C.F.R. §§ 60.2565 and 60.2515(a)(4) and (5) by satisfying the following:

1. Legally enforceable requirements for owners and operators to keep records of the nature and amount of emissions and any other information that may be necessary to enable the DEQ to judge compliance. This information is required to be reported to the DEQ on a prescribed schedule;
2. Legally enforceable requirements that provide for periodic inspection and testing; and
3. Provisions for making reports of emission data, correlated with the emission standards that the DEQ has determined apply, available to the general public.

### **F. Air Curtain Incinerators**

Air curtain incinerators that burn only 100 percent wood waste, 100 percent clean lumber, or a mixture of wood waste, clean lumber, and/or yard waste are only required to meet the air curtain incinerator requirements under 40 C.F.R. § 60.2805 and under §§ 60.2810 through 60.2870 as incorporated by reference into OAC 252:100-2-3.

After an initial stack test, air curtain incinerators must maintain opacity to less than or equal to 10 percent opacity, except during startup where opacity must be maintained to less than or equal to 35 percent opacity. Air curtain incinerators must keep records of all opacity and make such records available.

Air curtain incinerators that plan to achieve compliance more than one year following the effective date of the approval of this 111(d) plan must meet two increments of progress, submit a final control plan and achieve final compliance.

## **G. Record of Public Hearings**

The DEQ allowed for public participation during the rulemaking and prior to the adoption of the State Plan as required in 40 C.F.R. §§ 60.2515(a)(6) and 60.23. This allowed the opportunity for public comment prior to and during the public hearing.

A notice of the January 15, 2014 public hearing for the State Plan was published in the *Oklahoma Register* on December 16, 2013 in accordance with 40 C.F.R. § 60.23(d). OAC 252:100-17, Part 9 was presented to the AQAC on January 15, 2014. The Environmental Quality Board approved adoption of the proposed permanent rule on February 21, 2014, which became effective on September 12, 2014. Copies of the notice, the official record of the public hearing, the sign-in sheets, and the final rule are included in Appendix A.

On December 2, 2019, a notice was published in the *Oklahoma Register* to announce a public hearing set for January 15, 2020, in accordance with 40 C.F.R. § 60.23(d). OAC 252:100-17, Incinerators, was presented to the AQAC on January 15, 2020 to clarify the applicability of Part 9, CISWI and existing ACIs. Additionally, the hearing provided opportunity for public participation prior to the adoption of the State Plan for CISWI as required in 40 C.F.R. §§ 60.2515(a)(6) and 60.23. This allowed the opportunity for public comment prior to and during the public hearing. No public comments were received prior to or during the public hearing. Copies of the notice, the official record of the public hearing, the sign-in sheets, and the final rule are included in Appendix B.

## **H. Annual Progress Reports to EPA**

40 C.F.R. § 60.2515(a)(7) requires that the state submit progress reports as part of its annual reporting to EPA. The annual report must include enforcement actions, identification of the achievement of any increment of progress, and updates of the emission inventory for sources that achieve compliance, that are new or modified, that have shut down, and whose emissions have changed more than 5 percent from the most recently submitted emission data. The DEQ will commence annual reporting pursuant to 40 C.F.R. § 60.2515(a)(7) one year after EPA publishes approval in the Federal Register of the State Plan if DEQ has identified an applicable CISWI unit. The manner and form of reporting will be coordinated with the State 111(d)/129 Plan Coordinator at EPA Region 6. The status of the facilities reported to EPA in the Oklahoma 111(d)/129 State Plan from 2005 are located in Appendix C.

## **I. Enforcement**

### **1. ENFORCEABLE STATE MECHANISM**

The DEQ promulgated OAC 252:100-17, Part 9, Commercial and Industrial Solid Waste Incineration Units, and incorporated by reference the Model Rule from 40 C.F.R. Part 60, Subpart DDDD in OAC 252:100-2-3 and Appendix Q to provide the enforceable mechanism in the State Plan. The new rules establish compliance schedules, emission standards, testing, monitoring, recordkeeping, and reporting requirements that are consistent with the Emission Guidelines. All

existing CISWI units, whether they are included in the source inventory in the State Plan or not, are subject to the new requirements.

## **2. TITLE V PERMIT**

Each CISWI unit and air curtain incinerator subject to standards under 40 C.F.R. Part 60, Subpart DDDD, must operate pursuant to a permit issued under the CAA Section 129(e) and Title V of the CAA. Any CISWI unit or air curtain incinerator, which is not currently operating under a permit issued under Title V of the CAA, must submit a permit application to operate under Title V of the CAA to the DEQ as expeditiously as possible. This provision, as well as the incorporation of 40 C.F.R. §§ 60.2805 and 60.2810, are included and incorporated by reference in OAC 252:100-2-3.

### **J. Demonstration of Legal Authority**

Upon recommendation of the AQAC, the Environmental Quality Board has the authority under Oklahoma law to adopt air quality regulations for the DEQ. Under Oklahoma law, the DEQ has the authority to enforce those regulations and orders of the DEQ, to maintain and update an inventory of air emissions from stationary sources, to establish a permitting program, and to carry out all other duties, requirements, and responsibilities necessary and proper for the implementation of the Oklahoma Clean Air Act and the fulfillment of the requirements of the Federal Clean Air Act. Specifically, the Board and the DEQ have the existing authority to:

1. Adopt emission standards (including stack opacity), enforceable conditions, and compliance schedules applicable to designated CISWI units and the pollutants for which the State Plan is submitted;
2. Enforce the relevant laws, regulations, standards, and compliance schedules referenced in Sections 111(d) and 129 of the Clean Air Act and seek injunctive relief and prevent restart of CISWI units that have shut down;
3. Require reporting, recordkeeping, operator training and qualifications, equipment inspections, and testing;
4. Require the use of monitors and require emission reports of CISWI owners or operators;
5. Conduct inspections and testing;
6. Obtain information necessary to determine compliance;
7. Make emission data available to the public; and
8. Require a Waste Management Plan through their rulemaking authority.

The laws that give the Environmental Quality Board and the DEQ these authorities are located in Title 27A OS §§ 1-3-101, 2-2-101 and -104, 2-3-101, 2-5-105, -106, -107, -110, -112, -114, -117, and 4-1-3. Copies can be found in Appendix D. In addition, the Oklahoma Open Records Act, 51 OS §§ 24A.1 through 24A.30, which requires records of State agencies to be open for public inspection and copying is included in Appendix D. The legal authorities and Oklahoma Open Records Act were in effect on the date of the submission of the State Plan.

# **APPENDIX A**

## **Oklahoma Air Quality Air Council Meeting**

**January 15, 2014**

**Rule**

**Proposal**

**Agenda**

**Sign-in**

**Minutes**

**Transcript**

**Final**

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY

### CHAPTER 100. AIR POLLUTION CONTROL

#### SUBCHAPTER 17. INCINERATORS

#### PART 3. GENERAL PURPOSE INCINERATORS

##### **252:100-17-2. Applicability**

This part applies to any new and existing incinerator not subject to 40 CFR Part 60, Subparts E, Ea, Eb, Ec, AAAA, CCCC, or EEEE, or Parts 4, 5, 7, 9, or 11 of this subchapter.

#### PART 9. COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

##### **252:100-17-60. Effective date; applicability; requirements**

(a) This Part applies to each individual commercial and industrial solid waste incineration (CISWI) unit ~~for which construction was commenced on or before November 30, 1999.~~ that meets the criteria in paragraphs (a)(1) through (3) of this Section.

(1) Any CISWI unit for which construction commenced on or before June 4, 2010, or for which modification or reconstruction commenced after June 4, 2010 but no later than August 7, 2013.

(2) Incineration units that meet the definition of a CISWI unit as defined in 40 CFR Section 60.2875.

(3) Incineration units that do not qualify as exempt under OAC 252:100-17-63.

(b) If the owner or operator of a CISWI unit makes changes that meet the definition of modification or reconstruction on or after June 1, 2001, the CISWI unit is no longer subject to this Part and becomes subject to 40 CFR Part 60, Subpart CCCC, that has been ~~adopted~~ incorporated by reference at ~~OAC 252:100-4-5.~~ 252:100-2-3.

(c) If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with this Part, such changes do not qualify as a modification or reconstruction.

(d) The owner or operator of a CISWI unit subject to this Part shall comply with applicable portions of 40 CFR Part 60, Subpart DDDD (Sections 60.2575 through 60.2875) incorporated by reference in 252:100-2-3.

(1) CISWI units in the incinerator subcategory that commenced construction on or before November 30, 1999 shall achieve final compliance by December 1, 2005.

(2) CISWI units that commenced construction after November 30, 1999, but on or before June 4, 2010, and CISWI units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories that commenced construction before June 4, 2010 shall achieve final compliance as expeditiously as practicable after approval of the State Plan but not later than the earlier of the two dates specified in paragraphs (d)(2)(A) and (B) of this subsection.

(A) February 7, 2018.

(B) Three years after the effective date of State Plan approval.

(C) For compliance schedules approved under 40 CFR Section 60.2575 or 60.2815, the CISWI unit shall submit a final control plan not more than 1 year following the effective date of State Plan approval, and shall achieve final compliance as expeditiously as practicable, but not later than February 7, 2018 or three years after the effective date of State plan approval, whichever is earlier. Within the appropriate context, these dates shall be considered the "date(s) to be

specified in the State Plan" wherever that phrase appears in the model rule and associated tables.

### **252:100-17-61. Definitions [REVOKED]**

The definitions in 40 CFR 60.2265 are hereby incorporated by reference, as they exist on September 22, 2005.

### **252:100-17-62. Terminology related to 40 CFR**

(a) For purposes of interfacing with 40 CFR, the following terms apply:

~~"Affected facility" is synonymous with "commercial and industrial solid waste incinerator (CISWI)" or "CISWI unit".~~

~~(1) "Administrator" is synonymous with "Executive Director".~~

~~(2) "Affected facility" is synonymous with "commercial and industrial solid waste incinerator (CISWI)" or "CISWI unit".~~

~~(b) The term "you" in the Model Rule of 40 CFR Sections 60.2575 through 60.2875, means the owner or operator of a CISWI unit.~~

### **252:100-17-63. Exemptions**

~~(a) Except as provided in subsections (b) through (p) of this section, each for required notifications as specified, the following types of individual CISWI is subject to units are exempt from the requirements in of this Part.~~

~~(b)(1) **Pathological waste incineration units.** Incineration units burning 90 percent 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 40 CFR 60.2265 Section 60.2875, are not subject to this Part if the owner or operator meets the two requirements specified in paragraphs subparagraphs (b)(1) (1)(A) and (2) (B) of this section Section.~~

~~(1)(A) Notifies the DEQ that the unit meets these criteria.~~

~~(2)(B) Keeps records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.~~

~~(c) **Agricultural waste incineration units.** Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of agricultural wastes as defined in 40 CFR 60.2265 are not subject to this Part if the owner or operator meets the two requirements specified in paragraphs (c)(1) and (2) of this section.~~

~~(1) Notifies the DEQ that the unit meets these criteria.~~

~~(2) Keeps records on a calendar quarter basis of the weight of agricultural waste burned, and the weight of all other fuels and wastes burned in the unit.~~

~~(d)(2) **Municipal waste combustion units.** Incineration units that meet either of the two criteria specified in paragraphs (d)(1) or (2) of this section are not subject to this Part.~~

~~(1) Are regulated under are subject to Part 5 of this Subchapter or 40 CFR Part 60, Subpart Ea (Standards of Performance for Municipal Waste Combustors); Subpart Eb (Standards of Performance for Large Municipal Waste Combustors, for Which Construction is Commenced After September 20, 1994); or Subpart AAAA (Standards of Performance for New Stationary Sources: Small Municipal Waste Combustion Units).~~

~~(2) Burn greater than 30 percent municipal solid waste or refuse-derived fuel, as defined in 40 CFR 60, Subpart Ea, Subpart Eb, or Subpart AAAA, and that have the capacity to burn less than~~



~~35 tons (32 megagrams) per day of municipal solid waste or refuse-derived fuel, if the owner or operator meets the two requirements in paragraphs (d)(2)(A) and (B) of this section.~~

~~(A) Notifies the DEQ that the unit meets these criteria.~~

~~(B) Keeps records on a calendar quarter basis of the weight of municipal solid waste burned, and the weight of all other fuels and wastes burned in the unit.~~

~~(e)(3) **Medical waste incineration units.** Incineration units regulated under subject to Part 7 of the this Subchapter or 40 CFR Part 60, Subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996) are not subject to this Part.~~

~~(f)(4) **Small power production facilities.** Units that meet the three requirements specified in paragraphs (f)(1) through (3) subparagraphs (4)(A) through (D) of this section Section are not subject to this Part.~~

~~(1)(A) The unit qualifies as a small power-production facility under section Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).~~

~~(2)(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.~~

~~(3)(C) The owner or operator notifies the DEQ that the unit meets all of these criteria.~~

~~(D) The owner or operator maintains the records specified in 40 CFR Section 60.2740(v).~~

~~(g)(5) **Cogeneration facilities.** Units that meet the three requirements specified in paragraphs (g)(1) through (3) subparagraphs (5)(A) through (D) of this section Section are not subject to this Part.~~

~~(1)(A) The unit qualifies as a cogeneration facility under section Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).~~

~~(2)(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.~~

~~(3)(C) The owner or operator notifies the DEQ that the unit meets all of these criteria.~~

~~(D) The owner or operator maintains the records specified in 40 CFR Section 60.2740(w).~~

~~(h)(6) **Hazardous waste combustion units.** Units that meet either of the two criteria specified in paragraph (h)(1) or (2) of this section are not subject to this Part.~~

~~(1) Units Incineration units for which the owner or operators operator is required to get a permit under section Section 3005 of the Solid Waste Disposal Act.~~

~~(2) Units regulated under 40 CFR part 63, Subpart EEEE (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors).~~

~~(i)(7) **Materials recovery units.** Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters, are not subject to this Part.~~

~~(j)(8) **Air curtain incinerators.** Certain air curtain incinerators are exempt from portions of this Part (see 252:100-17-74), that burn only the materials listed in paragraphs (j)(1) through (3) of this section are only required to meet the requirements under 40 CFR Sections 60.2245 through 60.2260 and the requirements of OAC 252:100-17-73.~~

~~(1) 100 percent wood waste.~~

~~(2) 100 percent clean lumber.~~

~~(3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.~~

~~(k) **Cyclonic barrel burners.**~~

~~(l) **Rack, part, and drum reclamation units.**~~

~~(m) **Cement kilns.** Kilns regulated under 40 CFR 63, Subpart LLL, (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry) are not subject to this Part.~~

~~(n)(9) **Sewage sludge incinerators treatment plants.** Incineration units regulated under 40 CFR Part 60, Subpart O (Standards of Performance for Sewage Treatment Plants) are not subject to this Part.~~

~~(o) **Chemical recovery units.** Combustion units burning materials to recover chemical constituents or to produce chemical compounds where there is an existing commercial market for such recovered chemical constituents or compounds are not subject to this Part. The seven types of units described in paragraphs (o)(1) through (7) of this section are considered chemical recovery units.~~

~~(1) Units burning only pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process.~~

~~(2) Units burning only spent sulfuric acid used to produce virgin sulfuric acid.~~

~~(3) Units burning only wood or coal feedstock for the production of charcoal.~~

~~(4) Units burning only manufacturing byproduct streams/residues containing catalyst metals which are reclaimed and reused as catalysts or used to produce commercial grade catalysts.~~

~~(5) Units burning only coke to produce purified carbon monoxide that is used as an intermediate in the production of other chemical compounds.~~

~~(6) Units burning only hydrocarbon liquids or solids to produce hydrogen, carbon monoxide, synthesis gas, or other gases for use in other manufacturing processes.~~

~~(7) Units burning only photographic film to recover silver.~~

~~(10) **Sewage sludge incineration units.** Incineration units that combust sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter and that are subject to 40 CFR Part 60, Subpart LLLL (Standards of Performance for Sewage Sludge Incineration Units).~~

~~(p) **Laboratory analysis units.** Units that burn samples of materials for the purpose of chemical or physical analysis are not subject to this Part.~~

~~(11) **Other solid waste incineration units.** Incineration units that are subject to Part 11 of this Subchapter or 40 CFR Part 60, Subpart EEEE (Standards of Performance for Other Solid Waste Incineration Units).~~

#### **252:100-17-64. Emission limits [REVOKED]**

~~On and after the date on which the initial performance test is completed or is required to be completed, whichever date comes first, no CISWI subject to this Part shall discharge into the atmosphere from that facility any gases that contain stack emissions in excess of the emission limits in Table 1 of 40 CFR 60, CCCC, which is hereby incorporated by reference as it exists on July 1, 2002.~~

#### **252:100-17-65. Operating limits [REVOKED]**

~~(a) Except for 40 CFR 60.2110(b), a CISWI shall comply with all of the requirements specified 40 CFR 60.2110, 60.2115 and 60.2120 and Table 2 of 40 CFR 60, Subpart CCCC, which are hereby incorporated by reference, as they exist on July 1, 2002.~~

~~(b) The CISWI must be operated within the operating limits established during initial performance test.~~

**252:100-17-66. Standards for CISWI operator training and qualification requirements [REVOKED]**

~~(a) The CISWI operator training and qualification requirements in 40 CFR 60.2070, 60.2080, 60.2085, 60.2090, 60.2095 and 60.2100 are hereby incorporated by reference, as they exist on July 1, 2002.~~

~~(b) The operator training course must be completed by the latest of the three dates specified in (1) through (3) of this paragraph.~~

~~(1) December 1, 2005.~~

~~(2) Six months after CISWI unit startup.~~

~~(3) Six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit.~~

**252:100-17-67. Standards for waste management plans [REVOKED]**

~~(a) The CISWI waste management plan requirements in 40 CFR 60.2055 and 60.2065, are hereby incorporated by reference, as they exist on July 1, 2002.~~

~~(b) The waste management plan must be submitted to the DEQ no later than April 1, 2004.~~

**252:100-17-68. Performance testing [REVOKED]**

~~40 CFR 60.2125 and 60.2130 are hereby incorporated by reference as they exist on July 1, 2002.~~

**252:100-17-69. Initial compliance requirements [REVOKED]**

~~(a) 40 CFR 60.2135 is hereby incorporated by reference, as it exists on July 1, 2002.~~

~~(b) The initial performance test must be conducted no later than 180 days after the final compliance date or December 1, 2005, whichever is earlier.~~

**252:100-17-70. Continuous compliance requirements [REVOKED]**

~~40 CFR 60.2145, 60.2150, 60.2155, and 60.2160 are hereby incorporated by reference, as they exist on July 1, 2002.~~

**252:100-17-71. Monitoring [REVOKED]**

~~40 CFR 60.2165 and 60.2170 are hereby incorporated by reference, as they exist on July 1, 2002.~~

**252:100-17-72. Reporting and recordkeeping requirements [REVOKED]**

~~Except for 40 CFR 60.2175(g), 40 CFR 60.2175, 60.2180, 60.2200, 60.2205, 60.2210, 60.2215, 60.2220, 60.2225, 60.2230, 60.2235 and 60.2240 are hereby incorporated by reference, as they exist on July 1, 2002.~~

**252:100-17-73. Part 70 permits [REVOKED]**

~~(a) The owner or operator of a CISWI, that is not otherwise a Part 70 source, must submit to the DEQ a complete application for a Part 70 operating permit on or before December 1, 2003.~~

~~(b) 40 CFR 60.2242 is hereby incorporated by reference, as it exists on July 1, 2002.~~

**252:100-17-74. Air curtain incinerators [AMENDED]**

~~(a) 40 CFR 60.2245, 60.2255 and 60.2260 are hereby incorporated by reference, as they exist on July 1, 2002. Air curtain incinerators that burn only the materials listed in paragraphs (1) through (3) of this subsection are only required to meet the requirements set forth in 40 CFR Sections 60.2805 through 60.2870.~~

(1) 100 percent wood waste.

(2) 100 percent clean lumber.

(3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

~~(b) After the date the initial stack test is required or completed (whichever is earlier), the owner or operator must meet the limitations in paragraphs (b)(1) and (2) of this section.~~

~~(1) The opacity limitation is 10 percent (6 minute average), except as described in paragraph (b)(2) of this section.~~

~~(2) The opacity limitation is 35 percent (6 minute average) during the startup period that is within the first 30 minutes of operation.~~

~~(c) Except during malfunctions, the requirements of OAC 252:100-17-74(b) apply at all times, and each malfunction must not exceed 3 hours.~~

### **252:100-17-75. Compliance schedules [REVOKED]**

~~(a) Except as provided in paragraphs (b) and (c) of this section, the owner or operator of any CISWI unit, including air curtain incinerators, shall comply with all the requirements of this Part or shall close the CISWI unit(s) and take any steps necessary to render the unit(s) inoperable by December 1, 2003.~~

~~(b) The DEQ may grant an extension to December 1, 2005, for closing a CISWI if the owner or operator demonstrates that no waste disposal options exist other than onsite incineration. The owner or operator shall:~~

~~(1) Submit to the DEQ documentation of the analyses undertaken to support the need for an extension, including an explanation of why 1 year after approval of the State Plan is not sufficient time to close the CISWI.~~

~~(2) Submit to the DEQ an evaluation of the option to transport the waste offsite to a commercial waste treatment and/or disposal facility on a temporary or permanent basis.~~

~~(3) Enter into a consent order to close. The closure order must include the date of plant closure.~~

~~(c) The DEQ will allow an extension to December 1, 2005, for the installation of air pollution control equipment to comply with the requirements of this Part provided the owner or operator of the CISWI:~~

~~(1) Submits a final control plan by January 1, 2004. The final control plan must include a description of the control the source will use to comply with the emission limitations and other requirements.~~

~~(2) Achieves final compliance with the emission limitations and other requirements by December 1, 2005.~~

~~(d) The owner or operator of the CISWI shall send written notification to the DEQ to confirm achievement of the events specified in (c)(2) of this section.~~

~~(1) The notification shall be postmarked no later than 10 business days after the compliance date for the requirement.~~

~~(2) The notification shall include the signature of the owner or operator.~~

~~(e) If the owner or operator fails to meet any of the compliance requirements specified in OAC 252:100-17-75(c), he shall notify the DEQ in writing within 10 business days after the compliance deadline and continue to submit reports each subsequent calendar month until compliance with that requirement is achieved.~~

### **252:100-17-76. CISWI closure [REVOKED]**

~~(a) If the CISWI unit is closed but will be restarted prior to December 1, 2005, the owner or operator shall meet the increments of progress specified in OAC 252:100-17-75.~~

- ~~(b) If the CISWI unit is closed but will be restarted on or after December 1, 2005, the owner or operator shall complete emission control retrofits and meet the emission limitations and operating limits on the date the CISWI unit restarts operations.~~
- ~~(c) If the CISWI unit is permanently closed, the owner or operator shall submit a closure notification, including the date of closure, to the DEQ by January 1, 2004.~~

Volume 31  
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December 16, 2013  
Pages 169 - 198

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules



Mary Fallin, Governor  
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Peggy Coc, Editor-in-Chief

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175:10-5-5 [NEW]  
 Subchapter 7. Sanitation and Safety Standards for  
 Cosmetology and Barber Establishments, Salons and  
 Schools

- 175:10-7-1 [AMENDED]
- 175:10-7-2 [AMENDED]
- 175:10-7-3 [AMENDED]
- 175:10-7-4 [AMENDED]
- 175:10-7-5 [AMENDED]
- 175:10-7-6 [AMENDED]
- 175:10-7-7 [AMENDED]
- 175:10-7-12 [AMENDED]
- 175:10-7-17 [AMENDED]
- 175:10-7-18 [AMENDED]
- 175:10-7-19 [AMENDED]
- 175:10-7-20 [AMENDED]
- 175:10-7-25 [AMENDED]
- 175:10-7-29 [AMENDED]

Subchapter 9. Licensure of Cosmetologists, Barbers and  
 Related Occupations

Part 1. Apprenticeship

- 175:10-9-1. [AMENDED]
- 175:10-9-2. [AMENDED]
- 175:10-9-3 [AMENDED]
- 175:10-9-5 [AMENDED]

Part 3. State Board Examination

- 175:10-9-25 [AMENDED]
- 175:10-9-26 [AMENDED]
- 175:10-9-28 [AMENDED]
- 175:10-9-29 [AMENDED]
- 175:10-9-32 [AMENDED]
- 175:10-9-33 [AMENDED]

Part 5. Demonstrators; Cosmetic Studios; Trade Shows;  
 Guests Artists; Wig Dressing

- 175:10-9-50 [AMENDED]
- 175:10-9-52 [AMENDED]
- 175:10-9-53 [AMENDED]
- 175:10-9-54 [AMENDED]
- 175:10-9-55 [AMENDED]

Subchapter 11. License Renewal, Fees and Penalties

- 175:10-11-1 [AMENDED]
- 175:10-11-2 [AMENDED]

Subchapter 13. Reciprocal and Crossover Licensing

- 175:10-13-1 [AMENDED]
- 175:10-13-2 [AMENDED]

Subchapter 15. Inspections, Violations and Enforcement

- 175:10-15-2 [AMENDED]

Subchapter 17. Emergency Cosmetology and Barbering  
 Service

- 175:10-17-1 [AMENDED]

**SUMMARY:**

House Bill 1467 was passed during the 2013 legislative session and became effective November 1, 2013. The Bill combined the Barber Advisory Board with the Board of Cosmetology. The Board is proposing to amend the rules and add new rules in order to continue the regulation of the

two profession and ensure the protection of the public when cosmetology and barbering services are performed on the public by regulating sanitation and safety procedures.

**AUTHORITY:**

59 O.S., § 199.3 (A); State Board of Cosmetology and Barbering

**COMMENT PERIOD:**

Persons wishing to present their views orally or in writing may do so before 4:00 p.m. on January 17, 2014 at the following address: Sherry G. Lewelling, Executive Director, Oklahoma State Board of Cosmetology, 2401 NW 23<sup>rd</sup> Street, Suite 84, Oklahoma City, OK 73107, during the comment period December 16, 2013 to January 17, 2014.

**PUBLIC HEARING:**

A public hearing will be held at 10:00 a.m. on Monday, January 20, 2014 at the Oklahoma State Board of Cosmetology and Barbering, 2401 NW 23<sup>rd</sup> Street, Suite 84, Oklahoma City, OK 73107 in the Testing Center. Anyone wishing to speak must sign in at the door by 10:05 a.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

There are no known business entities affect by these rules other than barber establishments not already licensed by the Board.

**COPIES OF PROPOSED RULES:**

Copies of proposed rule may be obtained from the Oklahoma State Board of Cosmetology, 2401 NW 23<sup>rd</sup> Street, Suite 84, Oklahoma City, Oklahoma. Copies may be obtained by email written request to the attention of Sherry G. Lewelling, Executive Director at slewelling@cosmo.ok.gov or in writing to Ms. Lewelling at the address above.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after December 16, 2013 at the office of the Oklahoma State Board of Cosmetology, 2401 NW 23<sup>rd</sup> Street, Suite 84, Oklahoma City, OK 73107.

**CONTACT PERSON(S):**

Sherry G. Lewelling, Executive Director (405) 522-7615 and Jennifer McRee, Principal Assistant, (405) 522-7616.

*[OAR Docket #13-1310, filed 11-19-13]*

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

*[OAR Docket #13-1313]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

- Subchapter 2. Incorporation By Reference
- 252:100-2-3. [AMENDED]
- Subchapter 17. Incinerators
- Part 3. General Purpose Incinerators



## Notices of Rulemaking Intent

252:100-17-2. [AMENDED]  
Part 9. Commercial and Industrial Solid Waste Incineration Units  
252:100-17-60. [AMENDED]  
252:100-17-61. [REVOKED]  
252:100-17-62. [AMENDED]  
252:100-17-63. [AMENDED]  
252:100-17-64. [REVOKED]  
252:100-17-65. [REVOKED]  
252:100-17-66. [REVOKED]  
252:100-17-67. [REVOKED]  
252:100-17-68. [REVOKED]  
252:100-17-69. [REVOKED]  
252:100-17-70. [REVOKED]  
252:100-17-71. [REVOKED]  
252:100-17-72. [REVOKED]  
252:100-17-73. [REVOKED]  
252:100-17-74. [AMENDED]  
252:100-17-75. [REVOKED]  
252:100-17-76. [REVOKED]  
Appendix Q. Incorporation By Reference [REVOKED]  
Appendix Q. Incorporation By Reference [NEW]

### SUMMARY:

The Department is proposing to modify OAC 252:100-17, Part 3, General Purpose Incinerators and Part 9, Commercial and Industrial Solid Waste Incineration Units (CISWI), to adjust enforceable requirements and compliance dates consistent with federal requirements that were revised February 7, 2013. The proposal incorporates changes required as a result of revisions to the emission guidelines in 40 CFR Part 60, Subpart DDDD for state plans under Sections 111(d) and 129 of the federal Clean Air Act (CAA), applicable to existing CISWI units. The proposed changes to Subchapter 17 would be included as part of the required update to Oklahoma's Section 111(d)/129 plan.

The Department is proposing to update OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. Among the changes proposed will be the addition of the model CISWI rule in 40 CFR Part 60, Subpart DDDD, and 40 CFR Part 241, Solid Wastes Used as Fuels or Ingredients in Combustion Units, to coincide with the proposed modification of Subchapter 17. Also, the update will include other changes or additions to 40 CFR Part 60, New Source Performance Standards (NSPS) including the recent amendment to the oil and natural gas NSPS in 40 CFR Part 60, Subpart OOOO; Part 63, National Emissions Standards for Hazardous Air Pollutants (NESHAP); and other EPA regulations referenced in Chapter 100. The update includes the recent amendment to the definition of volatile organic compound (VOC) in 40 CFR 51.100(s)(1). In addition, the Department is proposing to update language in Subchapter 2, Incorporation By Reference, to reflect the latest date of incorporation of EPA regulations in Appendix Q.

### AUTHORITY:

The powers and duties of the Environmental Quality Board are set out in 27A O.S. Section 2-2-101 and 27A O.S. Section

2-5-106 and those of the Air Quality Advisory Council in 27A O.S. Section 2-2-201 and 27A O.S. Section 2-5-107. The legal authority authorizing the proposed rules is found in the Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101 through -117, specifically 27A O.S. Section 2-5-105, and 27A O.S. Section 2-5-114 for Subchapter 2 and Appendix Q, and 27A O.S. Section 2-5-105 for Subchapter 17.

### COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 15, 2014. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the January 15, 2014 meeting and at the February 21, 2014 Environmental Quality Board meeting.

### PUBLIC HEARINGS:

A public hearing is scheduled before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 15, 2014, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

If the Council recommends adoption of the proposed rules, an additional public hearing will be held before the Environmental Quality Board at its next meeting, currently scheduled for 9:30 a.m. on Friday, February 21, 2014, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

These meetings shall also serve as public hearings to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 CFR Section 51.102 and 27A O.S. Section 2-5-107; to the CISWI State Plan under the requirements of the CAA, Sections 111(d) and 129, 40 CFR Part 60, Subparts B and DDDD, and 27A O.S. Section 2-5-107; and to the State Title V (Part 70) Implementation Plan under the requirements of 40 CFR Part 70 and 27A O.S. Section 2-5-112.

### 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, record keeping, 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:

The proposed rules are available for review 30 days prior to the hearing on the DEQ Air Quality Division website at [http://www.deq.state.ok.us/AQDnew/council\\_mtg/index.htm](http://www.deq.state.ok.us/AQDnew/council_mtg/index.htm). Copies also may be obtained from the Department by calling the contact person listed below.

### RULE IMPACT STATEMENTS:

The rule impact statements will be available on and after December 16, 2013 on the DEQ Air Quality Division website at

http://www.deq.state.ok.us/AQDnew/council\_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

**CONTACT PERSON:**

The contact person for these proposals is Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4218. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

**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)702-4172. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

*[OAR Docket #13-1313; filed 11-19-13]*

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY  
CHAPTER 25. SOONERCARE CHOICE**

*[OAR Docket #13-1315]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 9. Health Access Networks  
317:25-9-2. [AMENDED]  
(Reference APA WF # 13-04)

**SUMMARY:**

Policy is being revised to give providers greater flexibility in the populations with complex health care needs that can receive care management services through HANs. Policy is also amended to remove the HMP care management component as a responsibility of the HAN and to allow HMP to provide health coaching services to "high risk" or "at risk" members that are in the HAN but not receiving care management services through the HAN. These changes streamline policy in the waiver, contract, and OHCA rules.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 and Section 5051.3 of Title 63 of Oklahoma Statutes; Section 1011.6 of Title 56 of Oklahoma Statutes; House Bill 2842

**COMMENT PERIOD:**

Written and oral comments will be accepted December 16, 2013, through January 15, 2014, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority,

2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Monday, January 27, 2014, at 1:00 p.m., at the Oklahoma Health Care Authority, 2401 N.W. 23rd, Suite 1A, Oklahoma City, Oklahoma, 73107.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, 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 the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 15, 2014.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 503(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Tywanda Cox, Director, Policy Development, (405)522-7153.

*[OAR Docket #13-1315; filed 11-21-13]*

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY  
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

*[OAR Docket #13-1316]*

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 17. Medical Supplies  
317:30-5-211.15. Supplies [AMENDED]  
(Reference APA WF # 13-07)

**SUMMARY:**

Rules are revised to clarify diabetic supplies (e.g., test strips and lancets) are covered items when medically necessary and prescribed by a physician using the appropriate diagnostic certification. In addition, the amended proposed rule change will allow OHCA flexibility to manage the dispensed quality and refill limit of glucose testing supplies related to gestational diabetes.

**REGULAR MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL**

**January 15, 2014, 9:00 a.m.**

**DEQ Multipurpose Room  
707 North Robinson Avenue  
Oklahoma City, OK**

1. **Call to Order** - Laura Lodes, Chair
2. **Roll Call** - Quiana Fields
3. **Approval of Minutes** - July 17, 2013 Regular Meeting
4. **Election of Officers** - Discussion and action by Council
5. **Public Rulemaking Hearings**

**A. OAC 252:100-17. Incinerators**

The Department is proposing to modify OAC 252:100-17, Part 3, General Purpose Incinerators and Part 9, Commercial and Industrial Solid Waste Incineration Units (CISWI), to adjust CISWI enforceable requirements and compliance dates consistent with federal requirements that were revised February 7, 2013.

1. Presentation - Diana Hinson, Environmental Programs Specialist, 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. OAC 252:100-2. Incorporation By Reference [AMENDED]**

**Appendix Q. Incorporation By Reference [REVOKED]**

**Appendix Q. Incorporation By Reference [NEW]**

The Department is proposing to update OAC 252:100, Appendix Q, Incorporation By Reference, 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). In addition, the Department is proposing to update language in Subchapter 2, Incorporation By Reference, to reflect the latest date of incorporation of EPA regulations in Appendix Q.

1. Presentation - Nancy Marshment, Environmental Programs Specialist, 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. **Presentation - Revisions to Emissions Inventory Reporting Thresholds**  
Mark Gibbs, Environmental Programs Manager, Emissions Inventory Section, AQD
7. **Presentation - Impact of Executive Order 2013-34 on the Rulemaking Process**  
Cheryl Bradley, Environmental Programs Manager, Rules & Planning Section, AQD



**AIR QUALITY COUNCIL**  
**Attendance Record**  
**January 15, 2014**  
**Oklahoma City, Oklahoma**

| <u>NAME and/or AFFILIATION</u> | <u>Address and/or Phone and/or E-Mail</u> |
|--------------------------------|---|
| Nancy Marshment                | AQD - DEQ                                 |
| Matt Thomas                    | " "                                       |
| Christina Fielder              |   |
| Eddie Terrill                  | DEQ                                       |
| Laura Lodes                    | AQC                                       |
| Gerald Brucher                 | AQC                                       |
| Jim Haught                     | AQC                                       |
| Gary Wade                      | AQC akeek@hallowstill.com                 |
| Deirdre Shepherd               | deirdre.shepherd@dvn.com                  |
| Joe Grossman                   | Joe.Grossman@dvn.com                      |
| Beverly Elizabeth Smith        | DEQ                                       |
| DAVE DANBLE                    | PHILLIPS 66                               |
| Cheryl BRADLEY                 | DEQ                                       |
| Heather Lerch                  | DEQ                                       |
| Randy Ward                     | DEQ                                       |
| WILSON ASHPOND                 | DEQ                                       |
| Joyce Sheedy                   | DEQ                                       |
| Sharon Myers                   | AQC                                       |
| Don Whitney                    | TRINITY                                   |
| Brooks Kirkin                  | DEQ - AQD                                 |
| Ford Berham                    | OGE berhamf@oge.com                       |
| Laura Herron                   | OGE herronl@oge.com                       |
| Mike Hixon                     | OGE hixonm@oge.com                        |
| Randal Stegmann                | DEQ                                       |
| Joseph Williams                | DEQ                                       |
| Laura Finley                   | DEQ                                       |

**DRAFT MINUTES  
AIR QUALITY ADVISORY COUNCIL  
January 15, 2014  
Department of Environmental Quality  
Multipurpose Room  
Oklahoma City, Oklahoma**

**Official AQAC Approved  
at October 15, 2014 meeting**

**Notice of Public Meeting** – The Air Quality Advisory Council (AQAC) convened for its Regular Meeting at 9:00 a.m. on January 15, 2014, in the Multipurpose Room of the Department of Environmental (DEQ), 707 N. Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of Secretary of State on November 18, 2013. The agenda was posted at the DEQ twenty-four hours prior to the meeting. Mr. Eddie Terrill, Division Director of the Air Quality Division, introduced Mr. Scott Thompson, the new Executive Director of DEQ. Mr. Thompson spoke briefly to the Council on his new position. Ms. Beverly Botchlet-Smith, Assistant Division Director of the AQD, introduced the new court reporter, Lori Roberts to the Council. Also, Ms. 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**

Gerald Butcher  
David Gamble  
Jim Haught  
Laura Lodes  
Robert Lynch  
Sharon Myers

**MEMBERS ABSENT**

Montelle Clark  
Gary Collins  
J. Kelly Dunkerley

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Cheryl Bradley  
Rob Singletary  
Laura Finley  
Randy Ward  
Scott Thomas  
Heather Lerch  
Leon Ashford  
Brooks Kirilin  
Kendal Stegmann  
Mark Gibbs  
Joyce Sheedy  
Nancy Marshment  
Quiana Fields

**OTHERS PRESENT**

Lori Roberts, Court Reporter

**Approval of Minutes** – Ms. Lodes called for a motion to approve the Minutes of the July 17, 2013 Regular Meeting. Mr. Gamble moved to approve and Ms. Myers made the second.

*See transcript pages 5 - 6*

|                |     |              |     |
|----------------|-----|--------------|-----|
| Gerald Butcher | Yes | Robert Lynch | Yes |
| David Gamble   | Yes | Sharon Myers | Yes |
| Jim Haught     | Yes | Laura Lodes  | Yes |

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TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY ADVISORY COUNCIL MEETING  
ON JANUARY 15, 2014, AT 9:00 A.M.  
HELD IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

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|---|---|
| <p style="text-align: right;">Page 2</p> <p>1</p> <p>2 MEMBERS OF THE COUNCIL:</p> <p>3</p> <p>4 MR. GERALD BUTCHER</p> <p>5 MR. MONTELLE CLARK</p> <p>6 MR. GARY COLLINS</p> <p>7 MS. LAURA LODES</p> <p>8 MR. JIM HAUGHT</p> <p>9 MR. DAVID GAMBLE</p> <p>10 MR. ROBERT LYNCH</p> <p>11 MS. SHARON MYERS</p> <p>12 MR. J. KELLY DUNKERLEY</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>   | <p style="text-align: right;">Page 4</p> <p>1 about an issue, then there will be a group to go to, to</p> <p>2 have a less formal sort of appeal or objective look at</p> <p>3 something and then the Agency can make sure that we feel</p> <p>4 like we're on the right path or explain things better to</p> <p>5 some folks.</p> <p>6 So I expect to do that fairly soon. And try to</p> <p>7 survive this session, see if we can get through</p> <p>8 unscathed. I'm going to play the card that I'm the new</p> <p>9 guy, you know, and it's going to take me a year to</p> <p>10 figure out the budget, so maybe we should stay level</p> <p>11 this year. And, you know, I'm going to be pretty open</p> <p>12 and accessible to folks for a while, to the degree that</p> <p>13 I can, although it's been pretty busy the first three</p> <p>14 weeks and I expect it to be pretty busy until June. So</p> <p>15 we'll see what we can do. But looking forward to it and</p> <p>16 look forward to working with you guys, and Eddie will</p> <p>17 keep me straight. Don't worry about that. So thank you</p> <p>18 all.</p> <p>19 MR. TERRILL: Thank you, Scott.</p> <p>20 Laura, turn it over to you.</p> <p>21 MS. LODES: I would like to call today's meeting</p> <p>22 to order. The first item on our agenda is roll call.</p> <p>23 Quiana?</p> <p>24 MS. FIELDS: Mr. Butcher.</p> <p>25 MR. BUTCHER: Here.</p> |
| <p style="text-align: right;">Page 3</p> <p>1 MR. TERRILL: I want to introduce Scott</p> <p>2 Thompson. He's our new executive director as of about</p> <p>3 three weeks ago, and I thought he might want to say just</p> <p>4 a little bit before he has to go and do other things and</p> <p>5 we start our meeting.</p> <p>6 So, Scott, it's all yours.</p> <p>7 MR. THOMPSON: How are you doing? I'm Scott</p> <p>8 Thompson. I've been with the Agency or the State of</p> <p>9 Oklahoma essentially since '84, mostly in the Superfund,</p> <p>10 hazardous waste world, solid waste, and I'm looking</p> <p>11 forward to the challenge. Eddie tricked me into taking</p> <p>12 this job. I'm starting to figure out what he has done</p> <p>13 to me in the last three weeks.</p> <p>14 MR. TERRILL: All you need to know, Scott, this</p> <p>15 is the most important Council of all of them, and the</p> <p>16 smartest Council and best-looking Council.</p> <p>17 MR. THOMPSON: This is what it's like dealing</p> <p>18 with Eddie every day.</p> <p>19 We are going to have some changes here fairly</p> <p>20 soon, some things will stay the same but we're going to</p> <p>21 try to innovate a little bit. We're going to revive the</p> <p>22 customer assistance function that the Agency started out</p> <p>23 with in '93, and put some senior staff on that and do a</p> <p>24 little more outreach type actives with folks, and maybe</p> <p>25 have an ombudsman type function. If there's a concern</p> | <p style="text-align: right;">Page 5</p> <p>1 MS. FIELDS: Mr. Clark is absent. Mr. Collins</p> <p>2 is absent. Mr. Dunkerley is absent.</p> <p>3 Mr. Gamble?</p> <p>4 MR. GAMBLE: Here.</p> <p>5 MS. FIELDS: Mr. Haught?</p> <p>6 MR. HAUGHT: Here.</p> <p>7 MS. FIELDS: Mr. Lynch?</p> <p>8 MR. LYNCH: Here.</p> <p>9 MS. FIELDS: Ms. Myers?</p> <p>10 MS. MYERS: Here.</p> <p>11 MS. FIELDS: Ms. Lodes?</p> <p>12 MS. LODES: Here.</p> <p>13 MS. FIELDS: We have a quorum.</p> <p>14 MS. LODES: Thank you.</p> <p>15 The next item on today's agenda is approval of</p> <p>16 the minutes from the July 17th, 2013, regular meeting.</p> <p>17 Do we have any comments or questions regarding the</p> <p>18 minutes?</p> <p>19 Seeing no comments or questions regarding the</p> <p>20 minutes, do we have a motion to approve the minutes?</p> <p>21 MR. GAMBLE: I move we approve the minutes.</p> <p>22 MS. MYERS: Okay. I second.</p> <p>23 MS. LODES: I have a motion to approve and a</p> <p>24 second.</p> <p>25 Quiana, please call roll.</p>   |

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| <p style="text-align: right;">Page 6</p> <p>1 MS. FIELDS: Mr. Butcher?<br/>                 2 MR. BUTCHER: Yes.<br/>                 3 MS. FIELDS: Mr. Gamble?<br/>                 4 MR. GAMBLE: Yes.<br/>                 5 MS. FIELDS: Mr. Haught?<br/>                 6 MR. HAUGHT: Yes.<br/>                 7 MS. FIELDS: Mr. Lynch?<br/>                 8 MR. LYNCH: Yes.<br/>                 9 MS. FIELDS: Ms. Meyers?<br/>                 10 MS MYERS: Yes.<br/>                 11 MS. FIELDS: Ms. Lodes?<br/>                 12 MS. LODES: Yes.<br/>                 13 MS. FIELDS: Motion passed.<br/>                 14 MS. LODES: The next item on today's agenda is<br/>                 15 election of officers. Do we have any discussion by the<br/>                 16 Council for officers?<br/>                 17 MR. HAUGHT: I would like to move that Council<br/>                 18 elect Sharon Myers as Chair and Gerald Butcher as<br/>                 19 Vice-Chair.<br/>                 20 MS. LODES: I will second that.<br/>                 21 MS. BOTCHLET-SMITH: I don't think you can<br/>                 22 second it.<br/>                 23 MS. LODES: I can't second it?<br/>                 24 MALE SPEAKER: Okay. I'll second it.<br/>                 25 MS. LODES: Okay. I have a motion and a second.</p> | <p style="text-align: right;">Page 8</p> <p>1 Agenda, we have the Public Rulemaking Hearings -- thank<br/>                 2 you. The Public Rulemaking Hearings first on the Agenda<br/>                 3 under that is OAC 252:100-17, incinerators.<br/>                 4 MS. BOTCHLET-SMITH: I need to read protocol.<br/>                 5 MS. MYERS: Okay. Well, I was going to turn it<br/>                 6 over to you.<br/>                 7 MS. BOTCHLET-SMITH: We're going to get this<br/>                 8 down as we get in sync. I'm sorry, Sharon.<br/>                 9 Before I read protocol, I do want to just make<br/>                 10 one quick announcement. We have a new court reporter<br/>                 11 with us today, Lori Roberts, and she doesn't know all of<br/>                 12 us yet. And while we do have our name plates, to kind<br/>                 13 of help her out before we get into discussion, if even<br/>                 14 the Council as we kind of get started could announce<br/>                 15 your name before you speak, that would really help her<br/>                 16 for the minutes and the transcript. And, of course, I<br/>                 17 will address this in the protocol, it's really critical<br/>                 18 anyone, including staff, do the same.<br/>                 19 Okay. Now I will get started. Good morning.<br/>                 20 I'm Beverly Botchlet-Smith and I'm the Assistant<br/>                 21 Director of the Air Quality Division, and as such I'll<br/>                 22 serve as a protocol officer for today's hearings.<br/>                 23 The hearings will be convened by the Air Quality<br/>                 24 Council in compliance with the Oklahoma Administrative<br/>                 25 Procedures Act and Title 40 of the Code of Federal</p> |
| <p style="text-align: right;">Page 7</p> <p>1 Will you please call roll?<br/>                 2 MS. FIELDS: Mr. Butcher?<br/>                 3 MR. BUTCHER: I will abstain.<br/>                 4 MS. MYERS: You can't.<br/>                 5 MR. BUTCHER: I can't? Okay. I will vote yes,<br/>                 6 then.<br/>                 7 MS. FIELDS: Mr. Gamble?<br/>                 8 MR. GAMBLE: Yes.<br/>                 9 MS. FIELDS: Mr. Haught?<br/>                 10 MR. HAUGHT: Yes.<br/>                 11 MS. FIELDS: Mr. Lynch?<br/>                 12 MR. LYNCH: Yes.<br/>                 13 MS. FIELDS: Ms. Meyers?<br/>                 14 MS. MYERS: Yes.<br/>                 15 MS. FIELDS: Ms. Lodes?<br/>                 16 MS. LODES: Yes.<br/>                 17 MS. FIELDS: Motion passed.<br/>                 18 MS. LODES: Then I will turn this over to<br/>                 19 Sharon.<br/>                 20 MS. MYERS: Are we shuffling or do you want to<br/>                 21 just give me the hammer?<br/>                 22 MS. LODES: I will let you come sit next to<br/>                 23 Eddie so can he cough on you.<br/>                 24 (A discussion was had off the record.)<br/>                 25 MS. MYERS: All right. So moving on through the</p>                                      | <p style="text-align: right;">Page 9</p> <p>1 Regulations, Part 51, as well as the authority of Title<br/>                 2 27 A of the Oklahoma Statutes, Section 2-2-201 and<br/>                 3 Sections 2-5-101 through 2-5-117.<br/>                 4 Notice of the January 15th, 2014, hearings were<br/>                 5 advertised in the Oklahoma Register for the purpose of<br/>                 6 receiving comments pertaining to the proposed OAC Title<br/>                 7 252 Chapter 100 rules as listed on the Agenda and will<br/>                 8 be entered into each record along with the Oklahoma<br/>                 9 Registered filing. Notice of the meeting was filed with<br/>                 10 the Secretary of State on November 18, 2013, and the<br/>                 11 Agenda was duly posted 24 hours prior to the meeting<br/>                 12 here at the DEQ.<br/>                 13 If you wish to make a statement, it is very<br/>                 14 important to complete the form at the registration<br/>                 15 table, and then you'll be called upon at the appropriate<br/>                 16 time. And, again, audience members, please come to the<br/>                 17 podium for your comments and please remember to state<br/>                 18 your name prior to those comments.<br/>                 19 And at this time we'll start with the Agenda<br/>                 20 with what's marked as Agenda Item Number 5 A. This is<br/>                 21 OAC 252-100-17, incinerators. And Mr. Brooks Kirlin who<br/>                 22 is one of our professional engineers will be making the<br/>                 23 presentation for staff.<br/>                 24 MR. KIRLIN: Good morning, Madam Chairman,<br/>                 25 Members of the Council, ladies and gentlemen. As she</p>           |



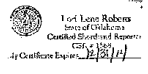
|  |   |
|--|---|
| <p style="text-align: right;">Page 10</p> <p>1 stated, I'm Brooks Kirlin. I'm an engineer with the Air<br/>                 2 Qualities Rules and Planning Section and I'm filling in<br/>                 3 today for Ms. Diane Henson who is ill.<br/>                 4 The Department is proposing to amend Part 9 of<br/>                 5 Subchapter 17, the portion of the incinerators<br/>                 6 subchapter that covers requirements for existing<br/>                 7 commercial and industrial solid waste incineration<br/>                 8 units, or CISWI units. For context, if you're familiar<br/>                 9 with the process for implementing NSPS, or New Source<br/>                 10 Performance Standards, you may know that the Federal<br/>                 11 Clean Air Act takes a different approach to regulating<br/>                 12 the existing facilities and corresponding industry<br/>                 13 groups. Whereas NSPS directly regulates new, modified,<br/>                 14 or reconstructed facilities through either the State's<br/>                 15 program or the Environmental Protection Agency's --<br/>                 16 Environmental Protection Agency.<br/>                 17 The Act may require States to implement a plan<br/>                 18 to regulate a group of facilities that were built before<br/>                 19 our corresponding NSPS was proposed. The EPA will then<br/>                 20 develop so-called emission guidelines for the States to<br/>                 21 adopt into their Section 111 D, Section 129 plan named<br/>                 22 after the Clean Air Act sections.<br/>                 23 Emission guidelines have been developed only for<br/>                 24 certain industry categories and have frequently been<br/>                 25 developed in tandem with the corresponding NSPS for that</p>                      | <p style="text-align: right;">Page 12</p> <p>1 Subchapter 17 parts that stand in place of the general<br/>                 2 purpose incinerator departments. So that's what that<br/>                 3 department is.<br/>                 4 The primary approach we have taken in the<br/>                 5 proposal for Subchapter 17 Part 9 is to replace many of<br/>                 6 the existing sections by adopting the model rule<br/>                 7 sections of Subpart Quad D, emission guidelines for<br/>                 8 CISWI units. The model rule requirements are contained<br/>                 9 in 40 CFR Sections 60.2575 through 60.2875. And we're<br/>                 10 proposing to adopt these sections by reference in<br/>                 11 Appendix Q under today's next agenda item. And then<br/>                 12 reference them in new paragraph 17-16 D.<br/>                 13 This approach is a bit different from sections<br/>                 14 -- the existing rules. Under the current structure and<br/>                 15 language of Part 9, most of the sections we adopt one or<br/>                 16 more sections of NSPS Quad C by reference as they<br/>                 17 existed on July 1st, 2002, for a related group of<br/>                 18 requirements. For instance, 17-61 adopts the<br/>                 19 definitions of 40 CFR Section 60.2265 by reference.<br/>                 20 Similarly Sections 17-64 through 17-74 adopt the<br/>                 21 corresponding NSPS Quad C sections by reference that<br/>                 22 deal with emissions and operating limits and monitoring,<br/>                 23 reporting, recordkeeping, and other requirements.<br/>                 24 In the current Section 17-60, 62, 63, 75, and 76<br/>                 25 actually spell out the applicability for 40 CFR</p>                                  |
| <p style="text-align: right;">Page 11</p> <p>1 industry group. The CISWI rules currently in Subchapter<br/>                 2 17 are based on the emission guidelines in 40 CFR Part<br/>                 3 60, Subpart Quad DDDD, and the NSPS in Subpart Quad C,<br/>                 4 both originally issued in December of 2000.<br/>                 5 After years of litigation, revision, and<br/>                 6 reconsideration, EPA finalized changes to the emission<br/>                 7 guidelines for CISWI units on February 7, 2013. EPA's<br/>                 8 final rule moves the commence construction date for<br/>                 9 CISWI units to be considered existing from<br/>                 10 November 30th, 1999, the old rules, to June 4th, 2010,<br/>                 11 and covers a modification or reconstruction that<br/>                 12 commenced after June 4th, 2010, but no later than<br/>                 13 August 7 of 2013. Therefore the department is proposing<br/>                 14 modifications to Part 9 of Subchapter 17 for existing<br/>                 15 CISWI units to meet the revised requirements, emission<br/>                 16 guidelines, and compliance dates of Subpart Quad D.<br/>                 17 I'll go through the proposed Part 9 changes in a<br/>                 18 moment, but I wanted to first point out a minor change<br/>                 19 proposed for Subchapter 17 Part 3, general purpose<br/>                 20 incinerators. As suggested by that part titled<br/>                 21 Section 100-17-2 states that Part 3 applies to new and<br/>                 22 existing incinerators that are not subject to<br/>                 23 requirements for a specific type of incinerator. The<br/>                 24 minor proposed change today would add NSPS Quad A and<br/>                 25 Quad C to the list of the various Federal standards and</p> | <p style="text-align: right;">Page 13</p> <p>1 terminology, exemptions, compliance schedules, and CISWI<br/>                 2 unit closure requirements respectively for the current<br/>                 3 -- for the corresponding standards.<br/>                 4 Note that the current rules use the NSPS Quad C<br/>                 5 section for incorporation by reference rather than the<br/>                 6 emissions guidelines in Quad D because the language is<br/>                 7 identical, and historically the emissions guidelines<br/>                 8 have not been structured in a way that would allow<br/>                 9 incorporation by reference. Our proposal would take<br/>                 10 advantage of the model rule in Subpart Quad D, which was<br/>                 11 promulgated specifically with this issue in mind.<br/>                 12 We have retained the -- retained and amended the<br/>                 13 exemption section in 17-63 since corresponding section<br/>                 14 Quad D isn't structured as part of the model rule. We<br/>                 15 have also retained and amended Section 17-74 for air<br/>                 16 curtain incinerators because the cross-references<br/>                 17 between the relating language in Quad D was confusing.<br/>                 18 We still have some and we hope our approach will clarify<br/>                 19 that a bit.<br/>                 20 I need to note two typographical errors in our<br/>                 21 proposal which we have found identified this week.<br/>                 22 First in Section 17-60 D (1), the last phrase should<br/>                 23 read "shall achieve compliance by December 1st, 2005".<br/>                 24 There is an extra "the" word that should be removed.<br/>                 25 And then secondly in 63 -- 17-63-5(D), large "D", which</p> |

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| <p style="text-align: right;">Page 14</p> <p>1 is under the exemptions, specifically for cogeneration<br/>                 2 facilities, the statement should read, "the owner or<br/>                 3 operator maintains the records," and so on, and there is<br/>                 4 just a missing "S" on the end of the word "maintain".<br/>                 5 So you can make those corrections.<br/>                 6 Once the Department's rules are updated to meet<br/>                 7 the requirements of 40 CFR Part 60, Subpart Quad D, the<br/>                 8 staff will finalize an update for Oklahoma's<br/>                 9 Section 111-D 129 Plan for submittal to EPA as required<br/>                 10 under 40 CFR Section 60.2505. Oklahoma's previous plan<br/>                 11 submitted and approved in 2005 was to -- for existing<br/>                 12 CISWI unites. We have not as yet identified any<br/>                 13 additional facilities that would be affected because of<br/>                 14 the changes in the effective date or the requirements<br/>                 15 themselves.<br/>                 16 Notice the proposed rule was published in the<br/>                 17 Oklahoma Register on December 16, 2013. We have<br/>                 18 received one comment of support from EPA which is in<br/>                 19 your folder during the comment period. And staff asked<br/>                 20 that Council recommend the proposed rules to the<br/>                 21 Environmental Quality Board for adoption as permanent<br/>                 22 changes. Thank you.<br/>                 23 MS. BOTCHLET-SMITH: At this time we can take<br/>                 24 questions for Mr. Kirlin from the Council.<br/>                 25 MS. LODES: Okay. Your first typographical</p> | <p style="text-align: right;">Page 16</p> <p>1 second?<br/>                 2 MR. BUTCHER: Second.<br/>                 3 MS. MYERS: We have a motion and second.<br/>                 4 Would you call roll, please?<br/>                 5 MS. FIELDS: Mr. Butcher?<br/>                 6 MR. BUTCHER: Yes.<br/>                 7 MS. FIELDS: Mr. Gamble?<br/>                 8 MR. GAMBLE: Yes.<br/>                 9 MS. FIELDS: Mr. Haught?<br/>                 10 MR. HAUGHT: Yes.<br/>                 11 MS. FIELDS: Mr. Lynch?<br/>                 12 MR. LYNCH: Yes.<br/>                 13 MS. FIELDS: Ms. Lodes?<br/>                 14 MS. LODES: Yes.<br/>                 15 MS. FIELDS: Ms. Meyers?<br/>                 16 MS. MYERS: Yes.<br/>                 17 MS. FIELDS: Motion passed.<br/>                 18 MS. BOTCHLET-SMITH: The next item on the Agenda<br/>                 19 is Number 5 B. This is OAC 252:100-2 incorporation by<br/>                 20 reference as well as Appendix Q. Ms. Nancy Marshment,<br/>                 21 one of our environmental program specialist, will be<br/>                 22 giving the staff presentation.<br/>                 23 MS. MARSHMENT: Good morning, Madam Chair,<br/>                 24 Members of the Council, ladies and gentlemen. I'm Nancy<br/>                 25 Marshment, Environmental Program Specialist with the Air</p>   |
| <p style="text-align: right;">Page 15</p> <p>1 correction --<br/>                 2 MR. KIRLIN: Yes.<br/>                 3 MS. LODES: I was trying to write, that's 17-60<br/>                 4 D(1)?<br/>                 5 MR. KIRLIN: Yes.<br/>                 6 MS. LODES: And we're just taking out the word<br/>                 7 "the" before December.<br/>                 8 MR. KIRLIN: Correct.<br/>                 9 MS. BOTCHLET-SMITH: Any other questions from<br/>                 10 the Council?<br/>                 11 Okay. I have not received anyone -- any forms<br/>                 12 indicating that anyone from the public wish to comment<br/>                 13 on this rule. If you would just raise your hand if<br/>                 14 you're interested in doing that.<br/>                 15 And seeing none, it appears there are no<br/>                 16 comments or questions from the public. If there are<br/>                 17 none from the Council, it's to you, Sharon.<br/>                 18 MS. MYERS: If there's no further questions or<br/>                 19 discussion, I would entertain a motion on what we need<br/>                 20 to do with this.<br/>                 21 MS. LODES: The Agency has recommended that we<br/>                 22 approve it with the two corrections to the typographical<br/>                 23 errors, and I move to approve it with those corrections<br/>                 24 noted.<br/>                 25 MS. MYERS: We have a motion. Do we have a</p>   | <p style="text-align: right;">Page 17</p> <p>1 Quality Division. The Department is proposing to update<br/>                 2 language in Subchapter 2 incorporation by reference to<br/>                 3 reflect the new date of incorporation for Appendix Q.<br/>                 4 In addition, the Department is proposing to revoke the<br/>                 5 current Chapter 100, Appendix Q incorporation by<br/>                 6 reference and adopt a new Appendix Q. This proposal is<br/>                 7 part of the annual update of Title 40, Code of Federal<br/>                 8 Regulations incorporations by reference in Chapter 100.<br/>                 9 The Oklahoma rules on rulemaking dictate the<br/>                 10 procedure of revoking the old and creating an entirely<br/>                 11 new appendix. Changes to Appendix Q have been updated<br/>                 12 to reflect federal regulation that have been implemented<br/>                 13 as of November 1, 2013. The update would also<br/>                 14 incorporate any amendments to standards currently listed<br/>                 15 in Appendix Q. A copy of the new appendix highlighting<br/>                 16 all changes to standards that have been made since<br/>                 17 September 13, 2012, is provided in your folders.<br/>                 18 This is a little bit of a change. We usually<br/>                 19 just highlight the most significant changes. Now we<br/>                 20 have highlighted everything and I'm not going to go into<br/>                 21 detail on all of them.<br/>                 22 Specific significant changes and additions are<br/>                 23 as follows. The 40 CFR rules that are being proposed<br/>                 24 for incorporation by reference in Appendix Q include 40<br/>                 25 CFR Part 60, Subpart GA, standards of performance for</p> |

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| <p>1 MS. FIELDS: Mr. Gamble?<br/> 2 MR. GAMBLE: Yes.<br/> 3 MS. FIELDS: Mr. Haught?<br/> 4 MR. HAUGHT: Yes.<br/> 5 MS. FIELDS: Mr. Lynch?<br/> 6 MR. LYNCH: Yes.<br/> 7 MS. FIELDS: Ms. Lodes?<br/> 8 MS. LODES: Yes.<br/> 9 MS. FIELDS: Ms. Meyers?<br/> 10 MS. MYERS: Yes.<br/> 11 MS. FIELDS: Motion passed.<br/> 12 MS. BOTCHLET-SMITH: And that will conclude the<br/> 13 hearing portion of today's meeting.<br/> 14 (Hearing portion concluded at 9:35 a.m.)<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23<br/> 24<br/> 25</p>  | <p>Page 22</p> |
| <p>1 -- CERTIFICATE --<br/> 2 I, Lori L. Roberts, Certified Shorthand<br/> 3 Reporter for the State of Oklahoma, certify that the<br/> 4 above and foregoing hearing was by me taken in steno-type<br/> 5 and thereafter transcribed and is a true and correct<br/> 6 transcript of the hearing; that the hearing was taken on<br/> 7 January 15, 2014, at 9:00 a.m., in Oklahoma City,<br/> 8 Oklahoma; that I am not an attorney for nor relative of<br/> 9 any of said parties, or otherwise interested in the<br/> 10 event of said action.<br/> 11 IN WITNESS WHEREOF, I have hereunto set my hand<br/> 12 and seal of office this 27th day of January, 2014.<br/> 13<br/> 14<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23<br/> 24<br/> 25</p> | <p>Page 23</p> |

*Lori Roberts*

Lori L. Roberts  
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# The Oklahoma Register

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Secretary of State  
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Mary Fallin, Governor  
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## Permanent Final Adoptions

### INCORPORATIONS BY REFERENCE:

N/A

### ANALYSIS:

The Department is proposing to modify OAC 252:100-17, Part 3, General Purpose Incinerators and Part 9, Commercial and Industrial Solid Waste Incineration Units (CISWI), to adjust enforceable requirements and compliance dates consistent with federal requirements that were revised February 7, 2013.

The proposal incorporates changes required as a result of revisions to the emission guidelines in 40 CFR Part 60, Subpart DDDD for state plans under Sections 111(d) and 129 of the federal Clean Air Act (CAA), applicable to existing CISWI units. The proposed changes to Subchapter 17 would be included as part of the required update to Oklahoma's Section 111(d)/129 plan.

### CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4218

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 12, 2014:

### SUBCHAPTER 17. INCINERATORS

#### PART 3. GENERAL PURPOSE INCINERATORS

##### 252:100-17-2. Applicability

This part applies to any new and existing incinerator not subject to 40 CFR Part 60, Subparts E, Ea, Eb, Ec, ~~AAA~~, ~~CCCC~~, or ~~EEEE~~, or Parts 4, 5, 7, 9, or 11 of this subchapter.

#### PART 9. COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

##### 252:100-17-60. Effective date; applicability; requirements

(a) This Part applies to each individual commercial and industrial solid waste incineration (CISWI) unit ~~for which construction was commenced on or before November 30, 1999 that meets the criteria in paragraphs (a)(1) through (3) of this Section.~~

(1) Any CISWI unit for which construction commenced on or before June 4, 2010, or for which modification or reconstruction commenced after June 4, 2010 but no later than August 7, 2013.

(2) Incineration units that meet the definition of a CISWI unit as defined in 40 CFR Section 60.2875.

(3) Incineration units that do not qualify as exempt under OAC 252:100-17-63.

(b) If the owner or operator of a CISWI unit makes changes that meet the definition of modification or reconstruction on or after June 1, 2001, the CISWI unit is no longer subject to this Part and becomes subject to 40 CFR ~~Part~~ 60, Subpart ~~CCCC~~, that has been ~~adopted~~ incorporated by reference at ~~OAC 252:100-4-5, 252:100-2-3.~~

(c) If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with this Part, such changes do not qualify as a modification or reconstruction.

(d) The owner or operator of a CISWI unit subject to this Part shall comply with applicable portions of 40 CFR Part 60, Subpart DDDD (Sections 60.2575 through 60.2875) incorporated by reference in 252:100-2-3.

(1) CISWI units in the incinerator subcategory that commenced construction on or before November 30, 1999 shall achieve final compliance by the December 1, 2005.

(2) CISWI units that commenced construction after November 30, 1999, but on or before June 4, 2010, and CISWI units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories that commenced construction before June 4, 2010 shall achieve final compliance as expeditiously as practicable after approval of the state plan but not later than the earlier of the two dates specified in paragraphs (d)(2)(A) and (B) of this subsection.

(A) February 7, 2018.

(B) Three years after the effective date of State plan approval.

(C) For compliance schedules approved under 40 CFR Section 60.2575 or 60.2815, the CISWI unit shall submit a final control plan not more than 1 year following the effective date of State plan approval, and shall achieve final compliance as expeditiously as practicable, but not later than February 7, 2018 or three years after the effective date of State plan approval, whichever is earlier. Within the appropriate context, these dates shall be considered the "date(s) to be specified in state plan" wherever that phrase appears in the model rule and associated tables.

##### 252:100-17-61. Definitions [REVOKED]

~~The definitions in 40 CFR 60.2265 are hereby incorporated by reference, as they exist on September 22, 2005.~~

##### 252:100-17-62. Terminology related to 40 CFR

(a) For purposes of interfacing with 40 CFR, the following terms apply:

~~"Affected facility" is synonymous with "commercial and industrial solid waste incinerator (CISWI)" or "CISWI unit".~~

(1) "Affected facility" is synonymous with "commercial and industrial solid waste incinerator (CISWI)" or "CISWI unit".

(2) "Administrator" is synonymous with "Executive Director".

(b) The term "you" in the Model Rule of 40 CFR Sections 60.2575 through 60.2875, means the owner or operator of a CISWI unit.

252:100-17-63. Exemptions

~~(a) Except as provided in subsections (b) through (p) of this section, each for required notifications as specified, the following types of individual CISWI is subject to units are exempt from the requirements in of this Part.~~

~~(b1) Pathological waste incineration units. Incineration units burning 90 percent 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 40 CFR 60.2265-Section 60.2875, are not subject to this Part if the owner or operator meets the two requirements specified in paragraphs subparagraphs (b)(1)(A) and (2)(B) of this section-Section.~~

~~(1A) Notifies the DEQ that the unit meets these criteria.~~

~~(2B) Keeps records on a calendar quarter basis of the weight of pathological waste, low level radioactive waste and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.~~

~~(c) Agricultural waste incineration units. Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of agricultural wastes as defined in 40 CFR 60.2265 are not subject to this Part if the owner or operator meets the two requirements specified in paragraphs (c)(1) and (2) of this section.~~

~~(1) Notifies the DEQ that the unit meets these criteria.~~

~~(2) Keeps records on a calendar quarter basis of the weight of agricultural waste burned, and the weight of all other fuels and wastes burned in the unit.~~

~~(d2) Municipal waste combustion units. Incineration units that meet either of the two criteria specified in paragraphs (d)(1) or (2) of this section are not subject to this Part.~~

~~(1) Are regulated under are subject to Part 5 of this Subchapter or 40 CFR Part 60, Subpart Ea (Standards of Performance for Municipal Waste Combustors); Subpart Eb (Standards of Performance for Large Municipal Waste Combustors, for Which Construction is Commenced After September 20, 1994); or Subpart AAAA (Standards of Performance for New Stationary Sources—Small Municipal Waste Combustion Units).~~

~~(2) Burn greater than 30 percent municipal solid waste or refuse-derived fuel, as defined in 40 CFR 60, Subpart Ea, Subpart Eb, or Subpart AAAA, and that have the capacity to burn less than 35 tons (32 megagrams) per day of municipal solid waste or refuse-derived fuel, if the owner or operator meets the two requirements in paragraphs (d)(2)(A) and (B) of this section.~~

~~(A) Notifies the DEQ that the unit meets these criteria.~~

~~(B) Keeps records on a calendar quarter basis of the weight of municipal solid waste burned, and the weight of all other fuels and wastes burned in the unit.~~

~~(e3) Medical waste incineration units. Incineration units regulated under subject to Part 7 of the this Subchapter or 40 CFR Part 60, Subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996) are not subject to this Part.~~

~~(f4) Small power production facilities. Units that meet the three requirements specified in paragraphs (f)(1) through (2) subparagraphs (4)(A) through (D) of this section-Section are not subject to this Part.~~

~~(1A) The unit qualifies as a small power-production facility under section Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).~~

~~(1A) The unit qualifies as a small power-production facility under section Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)).~~

~~(2B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.~~

~~(3C) The owner or operator notifies the DEQ that the unit meets all of these criteria.~~

~~(D) The owner or operator maintains the records specified in 40 CFR Section 60.2740(v).~~

~~(g5) Cogeneration facilities. Units that meet the three requirements specified in paragraphs (g)(1) through (3) subparagraphs (5)(A) through (D) of this section Section are not subject to this Part.~~

~~(1A) The unit qualifies as a cogeneration facility under section Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)).~~

~~(2B) 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.~~

~~(3C) The owner or operator notifies the DEQ that the unit meets all of these criteria.~~

~~(D) The owner or operator maintains the records specified in 40 CFR Section 60.2740(w).~~

~~(h6) Hazardous waste combustion units. Units that meet either of the two criteria specified in paragraph (h)(1) or (2) of this section are not subject to this Part.~~

~~(1) Units incineration units for which the owner or operators operator is required to get a permit under section Section 3005 of the Solid Waste Disposal Act.~~

~~(2) Units regulated under 40 CFR part 63, Subpart EEEE (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors).~~

~~(i7) Materials recovery units. Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters, are not subject to this Part.~~

~~(j8) Air curtain incinerators. Certain air curtain incinerators are exempt from portions of this Part (see 252:100-17-74) that burn only the materials listed in paragraphs (j)(1) through (3) of this section are only required to meet the requirements under 40 CFR Sections 60.2245 through 60.2260 and the requirements of OAC 252:100-17-73.~~

~~(1) 100 percent wood waste.~~

## Permanent Final Adoptions

- (2) 100 percent clean lumber.
- (2) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.
- (k) Cyclonic barrel burners.
- (l) Rack, part, and drum reclamation units.
- (m) Cement kilns. Kilns regulated under 40 CFR 63, Subpart LLL, (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry) are not subject to this Part.
- (n) ~~Sewage sludge incinerators treatment plants.~~ Incineration units regulated under 40 CFR Part 60, Subpart O (Standards of Performance for Sewage Treatment Plants) are not subject to this Part.
- (o) ~~Chemical recovery units.~~ Combustion units burning materials to recover chemical constituents or to produce chemical compounds where there is an existing commercial market for such recovered chemical constituents or compounds are not subject to this Part. The seven types of units described in paragraphs (o)(1) through (7) of this section are considered chemical recovery units. Units burning only pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process. Units burning only spent sulfuric acid used to produce virgin sulfuric acid. Units burning only wood or coal feedstock for the production of charcoal. Units burning only manufacturing byproduct streams/residues containing catalyst metals which are reclaimed and reused as catalysts or used to produce commercial grade catalysts.
- (1) Units burning only pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process.
- (2) Units burning only spent sulfuric acid used to produce virgin sulfuric acid.
- (3) Units burning only wood or coal feedstock for the production of charcoal.
- (4) Units burning only manufacturing byproduct streams/residues containing catalyst metals which are reclaimed and reused as catalysts or used to produce commercial grade catalysts.
- (5) Units burning only coke to produce purified carbon monoxide that is used as an intermediate in the production of other chemical compounds.
- (6) Units burning only hydrocarbon liquids or solids to produce hydrogen, carbon monoxide, synthesis gas, or other gases for use in other manufacturing processes.
- (7) Units burning only photographic film to recover silver.
- (10) Sewage sludge incineration units. Incineration units that combust sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter and that are subject to 40 CFR Part 60, Subpart LLLL (Standards of Performance for Sewage Sludge Incineration Units).
- (p) Laboratory analysis units. Units that burn samples of materials for the purpose of chemical or physical analysis are not subject to this Part.
- (11) Other solid waste incineration units. Incineration units that are subject to Part 11 of this Subchapter or

### 40 CFR Part 60, Subpart EEEE (Standards of Performance for Other Solid Waste Incineration Units).

#### 252:100-17-64. Emission limits [REVOKED]

On and after the date on which the initial performance test is completed or is required to be completed, whichever date comes first, no CISWI subject to this Part shall discharge into the atmosphere from that facility any gases that contain stack emissions in excess of the emission limits in Table 1 of 40 CFR 60, CCCC, which is hereby incorporated by reference as it exists on July 1, 2002.

#### 252:100-17-65. Operating limits [REVOKED]

(a) Except for 40 CFR 60.2110(b), a CISWI shall comply with all of the requirements specified 40 CFR 60.2110, 60.2115 and 60.2120 and Table 2 of 40 CFR 60, Subpart CCCC, which are hereby incorporated by reference, as they exist on July 1, 2002.

(b) The CISWI must be operated within the operating limits established during initial performance test.

#### 252:100-17-66. Standards for CISWI operator training and qualification requirements [REVOKED]

(a) The CISWI operator training and qualification requirements in 40 CFR 60.2070, 60.2080, 60.2085, 60.2090, 60.2095 and 60.2100 are hereby incorporated by reference, as they exist on July 1, 2002.

(b) The operator training course must be completed by the latest of the three dates specified in (1) through (3) of this paragraph.

(1) December 1, 2005.

(2) Six months after CISWI unit startup.

(3) Six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit.

#### 252:100-17-67. Standards for waste management plans [REVOKED]

(a) The CISWI waste management plan requirements in 40 CFR 60.2055 and 60.2065, are hereby incorporated by reference, as they exist on July 1, 2002.

(b) The waste management plan must be submitted to the DEQ no later than April 1, 2004.

#### 252:100-17-68. Performance testing [REVOKED]

40 CFR 60.2125 and 60.2130 are hereby incorporated by reference as they exist on July 1, 2002.

#### 252:100-17-69. Initial compliance requirements [REVOKED]

(a) 40 CFR 60.2135 is hereby incorporated by reference, as it exists on July 1, 2002.



(b) ~~The initial performance test must be conducted no later than 180 days after the final compliance date or December 1, 2005, whichever is earlier.~~

**252:100-17-70. Continuous compliance requirements [REVOKED]**

~~40 CFR 60.2145, 60.2150, 60.2155, and 60.2160 are hereby incorporated by reference, as they exist on July 1, 2002.~~

**252:100-17-71. Monitoring [REVOKED]**

~~40 CFR 60.2165 and 60.2170 are hereby incorporated by reference, as they exist on July 1, 2002.~~

**252:100-17-72. Reporting and recordkeeping requirements [REVOKED]**

~~Except for 40 CFR 60.2175(g), 40 CFR 60.2175, 60.2180, 60.2200, 60.2205, 60.2210, 60.2215, 60.2220, 60.2225, 60.2230, 60.2235 and 60.2240 are hereby incorporated by reference, as they exist on July 1, 2002.~~

**252:100-17-73. Part 70 permits [REVOKED]**

~~(a) The owner or operator of a CISWI, that is not otherwise a Part 70 source, must submit to the DEQ a complete application for a Part 70 operating permit on or before December 1, 2003.  
(b) 40 CFR 60.2242 is hereby incorporated by reference, as it exists on July 1, 2002.~~

**252:100-17-74. Air curtain incinerators**

~~(a) 40 CFR 60.2245, 60.2255 and 60.2260 are hereby incorporated by reference, as they exist on July 1, 2002. Air curtain incinerators that burn only the materials listed in paragraphs (1) through (3) of this subsection are only required to meet the requirements set forth in 40 CFR Sections 60.2805 through 60.2870.~~

- ~~(1) 100 percent wood waste.~~
- ~~(2) 100 percent clean lumber.~~
- ~~(3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.~~

~~(b) After the date the initial stack test is required or completed (whichever is earlier), the owner or operator must meet the limitations in paragraphs (b)(1) and (2) of this section.~~

- ~~(1) The opacity limitation is 10 percent (6 minute average), except as described in paragraph (b)(2) of this section.~~
- ~~(2) The opacity limitation is 35 percent (6 minute average) during the startup period that is within the first 30 minutes of operation.~~

~~(e) Except during malfunctions, the requirements of OAC 252:100-17-74(b) apply at all times, and each malfunction must not exceed 3 hours.~~

**252:100-17-75. Compliance schedules [REVOKED]**

~~(a) Except as provided in paragraphs (b) and (c) of this section, the owner or operator of any CISWI unit, including air~~

~~curtain incinerators, shall comply with all the requirements of this Part or shall close the CISWI unit(s) and take any steps necessary to render the unit(s) inoperable by December 1, 2003.~~

~~(b) The DEQ may grant an extension to December 1, 2005, for closing a CISWI if the owner or operator demonstrates that no waste disposal options exist other than onsite incineration. The owner or operator shall:~~

- ~~(1) Submit to the DEQ documentation of the analyses undertaken to support the need for an extension, including an explanation of why 1 year after approval of the State plan is not sufficient time to close the CISWI.~~
- ~~(2) Submit to the DEQ an evaluation of the option to transport the waste offsite to a commercial waste treatment and/or disposal facility on a temporary or permanent basis.~~
- ~~(3) Enter into a consent order to close. The closure order must include the date of plant closure.~~

~~(c) The DEQ will allow an extension to December 1, 2005, for the installation of air pollution control equipment to comply with the requirements of this Part provided the owner or operator of the CISWI:~~

- ~~(1) Submits a final control plan by January 1, 2004. The final control plan must include a description of the control the source will use to comply with the emission limitations and other requirements.~~
- ~~(2) Achieves final compliance with the emission limitations and other requirements by December 1, 2005.~~

~~(d) The owner or operator of the CISWI shall send written notification to the DEQ to confirm achievement of the events specified in (c)(2) of this section:~~

- ~~(1) The notification shall be postmarked no later than 10 business days after the compliance date for the requirement.~~
- ~~(2) The notification shall include the signature of the owner or operator.~~

~~(e) If the owner or operator fails to meet any of the compliance requirements specified in OAC 252:100-17-75(e), he shall notify the DEQ in writing within 10 business days after the compliance deadline and continue to submit reports each subsequent calendar month until compliance with that requirement is achieved.~~

**252:100-17-76. CISWI closure [REVOKED]**

~~(a) If the CISWI unit is closed but will be restarted prior to December 1, 2005, the owner or operator shall meet the increments of progress specified in OAC 252:100-17-75.~~

~~(b) If the CISWI unit is closed but will be restarted on or after December 1, 2005, the owner or operator shall complete emission control retrofits and meet the emission limitations and operating limits on the date the CISWI unit restarts operations.~~

~~(c) If the CISWI unit is permanently closed, the owner or operator shall submit a closure notification, including the date of closure, to the DEQ by January 1, 2004.~~

*[OAR Docket #14-631; filed 7-2-14]*

# **APPENDIX B**

## **Oklahoma Air Quality Air Council Meeting**

**January 15, 2020**

**Rule**

**Proposal**

**Agenda**

**Sign-in**

**Minutes**

**Transcript**

**Final**

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

**PART 9. COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS**

**252:100-17-60. Effective date; applicability; requirements**

(a) This Part applies to each individual commercial and industrial solid waste incineration (CISWI) unit that meets the criteria in paragraphs (a)(1) through (3) of this Section.

(1) Any CISWI unit or air curtain incinerator for which construction commenced on or before June 4, 2010, or for which modification or reconstruction commenced after June 4, 2010 but no later than August 7, 2013.

(2) ~~Any incineration~~ incineration units that meet the definition of a CISWI unit or an air curtain incinerator as both are defined in 40 CFR Section 60.2875.

(3) Incineration units that do not qualify as exempt under OAC 252:100-17-63.

(b) If the owner or operator of a CISWI unit or air curtain incinerator makes changes that meet the definition of modification or reconstruction on or after June 1, 2001, the CISWI unit is no longer subject to this Part and becomes subject to 40 CFR Part 60, Subpart CCCC, that has been incorporated by reference at 252:100-2-3.

(c) If the owner or operator of a CISWI unit or air curtain incinerator makes physical or operational changes to an existing CISWI unit or air curtain incinerator primarily to comply with this Part, such changes do not qualify as a modification or reconstruction.

(d) The owner or operator of a CISWI unit or air curtain incinerator subject to this Part shall comply with applicable portions of 40 CFR Part 60, Subpart DDDD (Sections 60.2575 through 60.2875) incorporated by reference in 252:100-2-3.

(1) CISWI units in the incinerator subcategory and air curtain incinerators that commenced construction on or before November 30, 1999 shall achieve final compliance by the December 1, 2005.

(2) CISWI units and air curtain incinerators that commenced construction after November 30, 1999, but on or before June 4, 2010, and CISWI units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories that commenced construction before June 4, 2010 shall achieve final compliance as expeditiously as practicable after approval of the state plan but not later than the earlier of the two dates specified in paragraphs (d)(2)(A) and (B) of this subsection.

(A) February 7, 2018.

(B) Three years after the effective date of State plan approval.

(C) For compliance schedules approved under 40 CFR Section 60.2575 or 60.2815, the owner or operator ~~CISWI unit~~ shall submit a final control plan not more than 1 year following the effective date of State plan approval, and shall achieve final compliance as expeditiously as practicable, but not later than February 7, 2018 or three years after the effective date of State plan approval, whichever is earlier. Within the appropriate context, these dates shall be considered the "date(s) to be specified in state plan" wherever that phrase appears in the model rule and associated tables.

**252:100-17-62. Terminology related to 40 CFR**

- (a) For purposes of interfacing with 40 CFR, the following terms apply:
- (1) "**Affected facility**" is synonymous with "commercial and industrial solid waste incinerator (CISWI)" or "CISWI unit" and "air curtain incinerator" or "ACI."
  - (2) "**Administrator**" is synonymous with "Executive Director."
- (b) The term "you" in the Model Rule of 40 CFR Sections 60.2575 through 60.2875, means the owner or operator of a CISWI unit or air curtain incinerator.

**252:100-17-63. Exemptions**

Except for required notifications as specified, the following types of individual combustionCISWI units are exempt from the requirements of this Part.

- (1) **Pathological waste incineration units.** Incineration units burning 90 percent 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 40 CFR Section 60.2875, if the owner or operator meets the two requirements specified in subparagraphs (1)(A) and (B) of this Section.
  - (A) Notifies the DEQ that the unit meets these criteria.
  - (B) Keeps records on a calendar quarter basis of the weight of pathological waste, low level radioactive waste and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.
- (2) **Municipal waste combustion units.** Incineration units that are subject to Part 5 of this Subchapter or 40 CFR Part 60, Subpart Ea (Standards of Performance for Municipal Waste Combustors); Subpart Eb (Standards of Performance for Large Municipal Waste Combustors); or Subpart AAAA (Standards of Performance for Small Municipal Waste Combustion Units).
- (3) **Medical waste incineration units.** Incineration subject to Part 7 of this Subchapter or 40 CFR Part 60, Subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996).
- (4) **Small power production facilities.** Units that meet the three requirements specified in subparagraphs (4)(A) through (D) of Section.
  - (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 notifies the DEQ that the unit meets all of these criteria.
  - (D) The owner or operator maintains the records specified in 40 CFR Section 60.2740(v).
- (5) **Cogeneration facilities.** Units that meet the three requirements specified in subparagraphs (5)(A) through (D) of this Section.
  - (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 notifies the DEQ that the unit meets all of these criteria.
  - (D) The owner or operator maintains the records specified in 40 CFR Section 60.2740(w).
- (6) **Hazardous waste combustion units.** Incineration units for which the owner or operator is required to get a permit under Section 3005 of the Solid Waste Disposal Act.

(7) **Materials recovery units.** Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters.

~~(8) **Air curtain incinerators.** Certain air curtain incinerators are exempt from portions of this Part (see 252:100-17-74).~~

~~(8)~~(9) **Sewage treatment plants.** Incineration units regulated under 40 CFR Part 60, Subpart O (Standards of Performance for Sewage Treatment Plants).

~~(9)~~(10) **Sewage sludge incineration units.** Incineration units that combust sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter and that are subject to 40 CFR Part 60, Subpart LLLL (Standards of Performance for Sewage Sludge Incineration Units).

~~(10)~~(11) **Other solid waste incineration units.** Incineration units that are subject to Part 11 of this Subchapter or 40 CFR Part 60, Subpart EEEE (Standards of Performance for Other Solid Waste Incineration Units).

**252:100-17-74. Air curtain incinerators**

Air curtain incinerators that burn only the materials listed in paragraphs (1) through (3) of this subsection are only required to meet the requirements set forth in 40 CFR Sections 60.2805 and 60.2810 through 60.2870.

- (1) 100 percent wood waste.
- (2) 100 percent clean lumber.
- (3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

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Number 6  
December 2, 2019  
Pages 153 - 224

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules



**Kevin Stitt, Governor**  
**Michael Rogers,**  
**Secretary of State**  
**Peggy Coe, Editor-in-Chief**

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ISSN 0030-1728

## Notices of Rulemaking Intent

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

[OAR Docket #19-821]

#### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

#### PROPOSED RULES:

Subchapter 17. Incinerators

Part 9. Commercial and Industrial Solid Waste Incineration Units

252:100-17-60 [AMENDED]

252:100-17-62 [AMENDED]

252:100-17-63 [AMENDED]

252:100-17-74 [AMENDED]

#### SUMMARY:

The Department of Environmental Quality (DEQ) is proposing to amend Oklahoma Administrative Code (OAC) 252:100-17, Incinerators, to clarify the applicability of Part 9, Commercial and industrial solid waste incineration units (CISWI), to existing air curtain incinerators and to modify the State 111(d)/129 plan for CISWI. The gist of the proposed rulemaking is to update the rule and state plan in accordance with recent changes to the federal emission guidelines.

#### AUTHORITY:

Environmental Quality Board; 27A Okla. Stat. (O.S.) Sections 2-2-101, 2-2-201, and 2-5-106.

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

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

#### COMMENT PERIOD:

Written comments may be submitted to the contact person from December 2, 2019, through January 6, 2020. Oral comments may be made at the January 15, 2020 hearing (or on the alternate date of January 22, 2020 in the event of inclement weather) and at the February 21, 2020 Environmental Quality Board hearing.

#### PUBLIC HEARING:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 15, 2020, at the DEQ Headquarters, 707 N. Robinson Avenue, Oklahoma City, OK 73102. In case of inclement weather, an alternate date is scheduled for Wednesday, January 22, 2020 at the same location. In the event the alternate date is needed, the comment period will extend to include that date.

If due to inclement weather the public hearing scheduled for January 15, 2020 is canceled, notice announcing the hearing cancellation will be posted on the DEQ web site (<https://www.deq.ok.gov/council-meeting-single/?meetingid=MTA5NjQ=>) at least 24 hours prior to the scheduled time for the hearing. Interested parties may call (405) 702-4100 to find out if the hearing has been canceled.

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 21, 2020, at the DEQ Headquarters, 707 N. Robinson Avenue, Oklahoma City, OK 73102.

The Air Quality Advisory Council hearing shall also serve as the public hearing to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 CFR Section 51.102 and 27A O.S. Section 2-5-107(6)(c); to the CISWI State Plan under the requirements of the federal Clean Air Act, Sections 111(d) and 129, 40 CFR Part 60, Subparts B and DDDD, and 27A O.S. Section 2-5-107; and to the State Title V (Part 70) Implementation Plan under the requirements of 40 CFR Part 70 and 27A O.S. Section 2-5-112(B)(9).

#### REQUESTS 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 DEQ Headquarters, 707 N. Robinson Avenue, Oklahoma City, OK 73102, or reviewed online at <https://www.deq.ok.gov/council-meeting-single/?meetingid=MTA5NjQ=>.

#### RULE IMPACT STATEMENT:

Pursuant to 75 O.S. Section 303(D), a rule impact statement will be prepared and available on and after December 2, 2019, on the DEQ Air Quality Division website at <https://www.deq.ok.gov/council-meeting-single/?meetingid=MTA5NjQ=>. 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. The Air Quality Division fax number is (405) 702-4101.

#### 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.

[OAR Docket #19-821; filed 11-6-19]



**REGULAR MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL  
January 15, 2020, 9:00 a.m.  
Department of Environmental Quality  
707 North Robinson Avenue  
Oklahoma City, OK**

**\*\*REVISED AGENDA\*\***

*Please turn off cell phones*

1. **Call to Order** – Laura Lodes, Chair
2. **Roll Call** – Quiana Fields
3. **Approval of Minutes** – October 16, 2019 Regular Meeting
4. **Resolution for Mr. Haught** – Laura Lodes, Chair
5. **Election of Officers** - Discussion and action by Council
6. **Public Rulemaking Hearing**
  - A. **Chapter 100. Air Pollution Control**  
**OAC 252:100-17. Incinerators**  
**Part 9. Commercial and industrial solid waste incineration units**  
**252:100-17-60. [AMENDED]**  
**252:100-17-62. [AMENDED]**  
**252:100-17-63. [AMENDED]**  
**252:100-17-74. [AMENDED]**

The Department is proposing to amend OAC 252:100-17, Incinerators, to clarify the applicability of Part 9, Commercial and industrial solid waste incineration units (CISWI), to existing air curtain incinerators, and to modify the State 111(d)/129 plan for CISWI. The gist of the proposed rulemaking is to update the rule and state plan in accordance with recent changes to the federal emission guidelines.

1. Presentation – Melanie Foster, Manager, 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
7. **Budget Resolution Draft**
  1. Presentation - Melanie Foster, Manager, 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

8. **Presentation** – State Implementation Plan (SIP) update – Melanie Foster, Manager, Rules & Planning Section, AQD
9. **Presentation** - Regional Haze Update – Cooper Garbe, EPS, Rules & Planning Section, AQD
10. **Division Director's Report** – Eddie Terrill, Division Director
11. **New Business** - Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.
12. **Adjournment** – The next regular meeting is scheduled for Wednesday, May 13, 2020 in Owasso, Oklahoma.

**Public Forum – Following Adjournment** –The Council has been notified that someone would like to speak. This opportunity is informal, and we invite anyone that wishes to speak to register at the sign-in table. In the interest of time, comments may be limited at the Council Chair's discretion.

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.



**AIR QUALITY ADVISORY COUNCIL**

**Attendance Record  
January 15, 2020  
Oklahoma City, Oklahoma**

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

|                        |  |
|------------------------|--|
| MELANIE FOSTER         | AQD-DEQ                                |
| Nancy Pearce           | DEQ-AQD                                |
| LIZON ASHFORD          | DEQ-AQD                                |
| Eddie Teal             | DEQ-AQD                                |
| JOSE BLANCO            | DEQ AQD                                |
| Jeremy Jewell          | Trinity Consultants                    |
| Cheryl Bradley         | DEQ-AQD                                |
| Malcolm Encarnacion    | DEQ AQD                                |
| Alex Petty             | ODOT - Environmental Programs Division |
| Jim Haught             | AQC                                    |
| Beverly Batchlet-Smith | DEQ                                    |
| Quiana Fields          | DEQ                                    |
| Cooper Garbe           | DEQ-ADD                                |
| Beanda Plumlee         |  |
| Bud Ground             | EFO                                    |
| Michael Watt           | OMPA                                   |
| RICK GLOSTON           | ODEQ                                   |
| Tom Richardson         | ODEQ                                   |
| Barbara VanHauken      | Sierra Club                            |
| Jeff Gray              | ODEQ                                   |
| Greg Elliott           | AQC                                    |
| Carlas Frey            | DEQ-AQD                                |
| Nancy Moran            | IAHAC ANHE                             |
| MADISON MILLER         | ODEQ                                   |
| Heather Lerch          | DEQ-AQD                                |
| Christina Hagens       | DEQ-ADD                                |
| Michelle Wynne         | DEQ                                    |



**AIR QUALITY ADVISORY COUNCIL**

**Attendance Record**

**January 15, 2020**

**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> |
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| GARY COLLINS AQC                      | gcollins@cfindustries.com                               |
| Curt Gueller DEQ                      | curt.gueller@deq.ok.gov                                 |
| Garry Keele McAfee & Tott             | garry.keele@mcateandt.com                               |
| Bryan Sims DEQ                        | bryan.sims@deq.ok.gov                                   |
| Brian McKibben OGE                    |   |
| Mike Hixon OGE                        |   |
| Phillip Frazier DEQ                   | phillip.frazier@deq.ok.gov                              |
| Stephen Baldridge USEE                | stephen.baldridge@ee.ok.gov                             |
| Dara Schultz DEQ                      | dara.schultz@deq.ok.gov                                 |
| Bob Delano                            |   |
| Gerald Burchar AQC                    |   |
| Brooks Kirlik DEQ                     |   |
| Grant Loney DEQ                       |   |
| Michael Kerstrom DEQ                  |   |
| ANGIE BURCKHALTER <del>DEQ</del> CLR  | ANGIE.BURCKHALTER@CLR.COM                               |
| MIKE MATHIS CLR                       | MIKE.MATHIS@CLR.COM                                     |
| Candace McMinis OPMCA                 | Candace@opmca4ym.com                                    |
| Carrie Schroeder DEQ                  |   |
| Greg Phillips Covanta                 |   |
| Lisa Grechu Tetra Tech                | lisagrechu@tetratech.com                                |
| Rachel Langdon Tetra Tech             | rachel.langdon@tetratech.com                            |
| Laura Finley WFEC                     | laura.finley@wfec.com                                   |
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**MINUTES  
AIR QUALITY ADVISORY COUNCIL  
January 15, 2020  
Department of Environmental Quality  
Oklahoma City, Oklahoma**

**Official AQAC Approved  
at June 17, 2020 virtual meeting**

**Notice of Public Meeting** – The Air Quality Advisory Council (AQAC) convened for its Regular Meeting at 9:00 a.m. on January 15, 2020, at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of Secretary of State on October 16, 2019. 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**

Gerald Butcher  
Gary Collins  
Robert Delano  
Gregory Elliott  
Jim Haught  
Garry Keele II  
Jeffrey Taylor  
Laura Lodes

**MEMBERS ABSENT**

Steve Landers

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Leon Ashford  
Michelle Wynn  
Madison Miller  
Brooks Kirlin  
Kent Stafford  
Nancy Pearce  
Quiana Fields  
Lee Warden  
Phillip Fielder  
Tom Richardson  
Malcolm Zachariah  
Jose Blanco  
Jonathan Truong

Cecelia Kleman  
Shelby Willeby  
Carrie Shroeder  
Michael Ketcham  
Grant Loney  
Dara Schultz  
Bryan Sims  
Curt Goeller  
Christina Hagens  
Heather Lerch  
Camas Frey  
Cheryl Bradley  
Cooper Garbe  
Melanie Foster  
Rick Groshong

**OTHERS PRESENT**

Brenda Plumbtree, Court Reporter

**Approval of Minutes** – Ms. Lodes called for a motion to approve the Minutes of the October 16, 2019 Regular Meeting. Mr. Butcher moved to approve and Mr. Taylor made the second.

*See transcript pages 4 – 5*

|                 |     |                |     |
|-----------------|-----|----------------|-----|
| Gerald Butcher  | Yes | Jim Haught     | Yes |
| Gary Collins    | Yes | Garry Keele II | Yes |
| Robert Delano   | Yes | Jeffrey Taylor | Yes |
| Gregory Elliott | Yes | Laura Lodes    | Yes |

**Resolution for Mr. Haught** – Ms. Lodes read the resolution for Mr. Haught.

*See transcript pages 5 – 6*

**Election of Officers** – Mr. Taylor nominated Ms. Lodes to remain as Chair. Mr. Elliott made the second.

|                 |                                   |                |     |  |
|-----------------|-----------------------------------|----------------|-----|--|
|                 | <i>See transcript pages 6 – 7</i> |                |     |  |
| Gerald Butcher  | Yes                               | Jim Haught     | Yes |  |
| Gary Collins    | Yes                               | Garry Keele II | Yes |  |
| Robert Delano   | Yes                               | Jeffrey Taylor | Yes |  |
| Gregory Elliott | Yes                               | Laura Lodes    | Yes |  |

Mr. Butcher nominated Mr. Collins to remain as Vice-Chair. Mr. Taylor made the second.

|                 |                                   |                |     |  |
|-----------------|-----------------------------------|----------------|-----|--|
|                 | <i>See transcript pages 7 – 8</i> |                |     |  |
| Gerald Butcher  | Yes                               | Jim Haught     | Yes |  |
| Gary Collins    | Yes                               | Garry Keele II | Yes |  |
| Robert Delano   | Yes                               | Jeffrey Taylor | Yes |  |
| Gregory Elliott | Yes                               | Laura Lodes    | Yes |  |

**Chapter 100. Air Pollution Control**

**OAC 252:100-17. Incinerators**

**Part 9. Commercial and industrial solid waste incineration units**

**252:100-17-60. [AMENDED]**

**252:100-17-62. [AMENDED]**

**252:100-17-63. [AMENDED]**

**252:100-17-74. [AMENDED]**

Ms. Melanie Foster, Manager, Rules & Planning Section of the Air Quality Division (AQD), stated the Department is proposing to amend OAC 252:100-17, Incinerators, to clarify the applicability of Part 9, Commercial and industrial solid waste incineration units (CISWI), to existing air curtain incinerators, and to modify the State 111(d)/129 plan for CISWI. The gist of the proposed rulemaking is to update the rule and state plan in accordance with recent changes to the federal emissions guidelines. Following discussion by the Council and none by the public, Ms. Lodes called for a motion. Mr. Butcher moved to approve and Mr. Taylor made the second. Ms. Madison Miller, Environmental Attorney, advised Mr. Butcher to make the motion more specific and to amend his motion. Mr. Butcher made a motion to amend his motion previously, that the Council approves the rule as it is presented at the January 15, 2020 Council meeting and in the folder. Mr. Delano made the second.

|                 |                                     |                |     |  |
|-----------------|-------------------------------------|----------------|-----|--|
|                 | <i>See transcript pages 10 – 19</i> |                |     |  |
| Gerald Butcher  | Yes                                 | Jim Haught     | Yes |  |
| Gary Collins    | Yes                                 | Garry Keele II | Yes |  |
| Robert Delano   | Yes                                 | Jeffrey Taylor | Yes |  |
| Gregory Elliott | Yes                                 | Laura Lodes    | Yes |  |

**Budget Resolution Draft** – Ms. Foster stated that at the Council’s request the staff is presenting a budget resolution for the Council to affirm and bring to the 2020 legislature. Following discussion by the Council and none by the public, Ms. Lodes called for a motion to pass the resolution. Mr. Elliott made a motion to pass the resolution as presented at the January 15, 2020 Council meeting. Mr. Taylor made the second.

|                 |                                     |                |     |  |
|-----------------|-------------------------------------|----------------|-----|--|
|                 | <i>See transcript pages 19 – 26</i> |                |     |  |
| Gerald Butcher  | Yes                                 | Jim Haught     | Yes |  |
| Gary Collins    | Yes                                 | Garry Keele II | Yes |  |
| Robert Delano   | Yes                                 | Jeffrey Taylor | Yes |  |
| Gregory Elliott | Yes                                 | Laura Lodes    | Yes |  |

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

*See transcript page 26*

**Presentation** – Ms. Foster gave a presentation on State Implementation Plan (SIP) update.

**Presentation** – Mr. Cooper Garbe, EPS, Rules & Planning Section of the AQD, gave a presentation on Regional Haze update.

**Division Director's Report** – Mr. Eddie Terrill, Division Director of the AQD, provided an update on other Division activities.

**New Business** – None

**Adjournment** – Ms. Lodes called for a motion to adjourn. Mr. Taylor moved to adjourn and Mr. Butcher made the second.

|                 |     |                |     |
|-----------------|-----|----------------|-----|
| Gerald Butcher  | Yes | Jim Haught     | Yes |
| Gary Collins    | Yes | Garry Keele II | Yes |
| Robert Delano   | Yes | Jeffrey Taylor | Yes |
| Gregory Elliott | Yes | Laura Lodes    | Yes |

The next scheduled Regular Meeting is on Wednesday, May 13, 2020 in Owasso, Oklahoma. Meeting adjourned at 10:15 a.m.

**Public Forum** – Ms. Nancy Moran spoke on Air Pollution.

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



DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY ADVISORY COUNCIL

JANUARY 15th, 2020 at 9:00 A.M.

DEQ BUILDING  
707 NORTH ROBINSON, 1ST FLOOR  
MULTI-PURPOSE ROOM  
OKLAHOMA CITY, OKLAHOMA 73012

REPORTED BY: BRENDA PLUMBTREE, CSR

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|   |   |
|---|---|
| <p style="text-align: right;">Page 2</p> <p>1 COUNCIL MEMBERS PRESENT<br/>2 Ms. Laura Lodes - Chair<br/>Mr. Gary Collins - Vice Chair<br/>3 Dr. Delano<br/>Mr. Gerald Butcher<br/>4 Mr. Gregory Elliott<br/>Mr. Jim Haught<br/>5 Mr. Garry Keele II<br/>Mr. Jeffrey Taylor<br/>6<br/>7 OTHERS PRESENT<br/>8 Mr. Eddie Terrill<br/>9 Ms. Quiana Fields<br/>Ms. Beverly Botchlet-Smith<br/>10 Ms. Michelle Wynn<br/>Ms. Madison Miller<br/>11 Ms. Melanie Foster<br/>12 ABSENT COUNCIL MEMBERS<br/>13 Mr. Steve Landers<br/>14<br/>15<br/>16 REPORTED BY: BRENDA PLUMB TREE, CSR<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>   | <p style="text-align: right;">Page 3</p> <p>1 MS. LODES: Hello everyone. I'd like to<br/>2 call today's meeting of the Air Quality Advisory<br/>3 Council to order. Quiana, would you please call<br/>4 roll?<br/>5 MS. FIELDS: Mr. Butcher.<br/>6 MR. BUTCHER: Here.<br/>7 MS. FIELDS: Mr. Collins.<br/>8 MR. COLLINS: Here.<br/>9 MS. FIELDS: Dr. Delano.<br/>10 DR. DELANO: Here.<br/>11 MS. FIELDS: Mr. Elliott.<br/>12 MR. ELLIOTT: Here.<br/>13 MS. FIELDS: Mr. Haught.<br/>14 MR. HAUGHT: Here.<br/>15 MS. FIELDS: Mr. Keele.<br/>16 Mr. KEELE: Here.<br/>17 MS. FIELDS: Mr. Landers is absent.<br/>18 Mr. Taylor.<br/>19 MR. TAYLOR: Here.<br/>20 MS. FIELDS: Ms. Lodes.<br/>21 MS. LODES: Here.<br/>22 MS. FIELDS: We have a quorum.<br/>23 MS. LODES: Thank you. The next item on<br/>24 today's agenda is approval of the minutes from the<br/>25 October 16, 2019 regular meeting. Do we have any</p>   |
| <p style="text-align: right;">Page 4</p> <p>1 comments or questions on the minutes? Hearing none.<br/>2 do I have a motion to approve the minutes?<br/>3 MR. BUTCHER: I'll make the motion to<br/>4 approve the minutes.<br/>5 MS. LODES: I have a motion, do I have a<br/>6 second?<br/>7 MR. TAYLOR: Second.<br/>8 MS. LODES: I have a motion and a second.<br/>9 Would you please call roll.<br/>10 MS. FIELDS: Mr. Butcher.<br/>11 MR. BUTCHER: Yes.<br/>12 MS. FIELDS: Mr. Collins.<br/>13 MR. COLLINS: Yes.<br/>14 MS. FIELDS: Dr. Delano.<br/>15 DR. DELANO: Yes.<br/>16 MS. FIELDS: Mr. Elliott.<br/>17 MR. ELLIOTT: Yes.<br/>18 MS. FIELDS: Mr. Haught.<br/>19 MR. HAUGHT: Yes.<br/>20 MS. FIELDS: Mr. Keele.<br/>21 Mr. KEELE: Yes.<br/>22 MS. FIELDS: Mr. Taylor.<br/>23 MR. TAYLOR: Yes.<br/>24 MS. FIELDS: Ms. Lodes.<br/>25 MS. LODES: Yes.</p> | <p style="text-align: right;">Page 5</p> <p>1 MS. FIELDS: Motion passed.<br/>2 MS. LODES: The next item on today's agenda<br/>3 is, the resolution for Mr. Haught.<br/>4 Jim Haught was appointed to the Air -- Oklahoma<br/>5 Air Quality Advisory Council in 2007. Jim Haught<br/>6 was a dedicated member of the Air Quality Advisory<br/>7 Council and he's played an active role in the<br/>8 development, the rules, regulations that were passed<br/>9 by the Air Quality Advisory Council to promote clean<br/>10 air in Oklahoma.<br/>11 And whereas during his tenure as a member of the<br/>12 council this body has met the legislative charter to<br/>13 obtain and preserve clean air in Oklahoma. Now,<br/>14 therefore, be it resolved that the members of the<br/>15 Oklahoma Air Quality Advisory Council recognize and<br/>16 thank Jim Haught for his years of service toward<br/>17 making Oklahoma a better place to live (inaudible)<br/>18 making a motion on it?<br/>19 MR. TERRILL: No, this is just a<br/>20 recognition of Jim's service. Can't do justice, but<br/>21 it's best we can do.<br/>22 MS. LODES: Do y'all need a copy of it?<br/>23 MR. TERRILL: No, that's for him.<br/>24 MS. LODES: I know, thank you.<br/>25 MR. HAUGHT: Last one.</p> |

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|--|---|
| <p style="text-align: right;">Page 6</p> <p>1 MS. LODES: I know, I can't believe you're<br/>2 leaving us.<br/>3 MR. HAUGHT: I'll still show up some. I<br/>4 just won't be on this side of the table.<br/>5 MS. LODES: You are welcome to attend.<br/>6 (Council claps)<br/>7 MS. LODES: I'd like to thank Jim for his<br/>8 many years of service now. It's been 12, right?<br/>9 Yeah, it's been a long time.<br/>10 MR. HAUGHT: And a lot of memories.<br/>11 MS. LODES: There has been, that's for<br/>12 sure.<br/>13 Okay. The next item on today's agenda is the<br/>14 election of officers. So we need a chair and a vice<br/>15 chair, gentleman.<br/>16 MR. TAYLOR: I'd like to nominate Laura<br/>17 Lodes for Chair.<br/>18 MR. ELLIOTT: I second that.<br/>19 MS. LODES: What about a vice chair? I<br/>20 guess we'll vote on the first one.<br/>21 (Inaudible)<br/>22 MS. FIELDS: Mr. Butcher.<br/>23 MR. BUTCHER: Yes.<br/>24 MS. FIELDS: Mr. Collins.<br/>25 MR. COLLINS: Yes.</p> | <p style="text-align: right;">Page 7</p> <p>1 MS. FIELDS: Dr. Delano.<br/>2 DR. DELANO: Yes.<br/>3 MS. FIELDS: Mr. Elliott.<br/>4 MR. ELLIOTT: Yes.<br/>5 MS. FIELDS: Mr. Haught.<br/>6 MR. HAUGHT: Yes.<br/>7 MS. FIELDS: Mr. Keele.<br/>8 Mr. KEELE: Yes.<br/>9 MS. FIELDS: Mr. Taylor.<br/>10 MR. TAYLOR: Yes.<br/>11 MS. FIELDS: Ms. Lodes.<br/>12 MS. LODES: I'll abstain.<br/>13 MS. FIELDS: Motion passed.<br/>14 MS. LODES: Well, thank you, gentlemen.<br/>15 Now, we need a vice chair. On the off chance I like<br/>16 get sick and don't make it to something. Jim's out,<br/>17 so it's one of you gentleman who is going to be our<br/>18 vice chair.<br/>19 MR. BUTCHER: Will you?<br/>20 MR. COLLINS: I obviously will, but --<br/>21 MR. TAYLOR: I'll second that.<br/>22 MS. LODES: Okay. We have a motion and<br/>23 second.<br/>24 MS. FIELDS: Who motioned, I didn't hear?<br/>25 MS. LODES: Gerald made the motion.</p>   |
| <p style="text-align: right;">Page 8</p> <p>1 We have a motion and a second. Will you please<br/>2 call roll?<br/>3 MS. FIELDS: Mr. Butcher.<br/>4 MR. BUTCHER: Yes.<br/>5 MS. FIELDS: Mr. Collins.<br/>6 MR. COLLINS: How do I vote on this?<br/>7 MR. HAUGHT: You abstain.<br/>8 MR. COLLINS: I abstain.<br/>9 MS. FIELDS: Dr. Delano.<br/>10 DR. DELANO: Yes.<br/>11 MS. FIELDS: Mr. Elliott.<br/>12 MR. ELLIOTT: Yes.<br/>13 MS. FIELDS: Mr. Haught.<br/>14 MR. HAUGHT: Yes.<br/>15 MS. FIELDS: Mr. Keele.<br/>16 Mr. KEELE: Yes.<br/>17 MS. FIELDS: Mr. Taylor.<br/>18 MR. TAYLOR: Yes.<br/>19 MS. FIELDS: Ms. Lodes.<br/>20 MS. LODES: Yes.<br/>21 MS. FIELDS: Motion passed.<br/>22 MS. LODES: Well, thank you, Gary, you get<br/>23 to do this again with me.<br/>24 Okay. We will now enter the public rulemaking<br/>25 portion of our hearing.</p>  | <p style="text-align: right;">Page 9</p> <p>1 MS. BOTCHLET-SMITH: Good morning. I'm<br/>2 Beverly Botchlet-Smith, I'm the assistant director<br/>3 of the Air Quality Division. And as such I'll act<br/>4 as the protocol officer for today's hearing.<br/>5 The hearing will be convened by the Air Quality<br/>6 Council in compliance with the Oklahoma<br/>7 Administrative Procedures Act and Title 40 of the<br/>8 Code of Federal Regulations, Part 51, as well as<br/>9 authority of Title 27A of the Oklahoma Statutes,<br/>10 Section 2-2-201 and Sections 2-5-101 through<br/>11 2-5-117.<br/>12 Notice of the January 15th, 2020 hearing was<br/>13 advertised in the Oklahoma Register for the purpose<br/>14 of receiving comments pertaining to the proposed<br/>15 OAC Title 252, Chapter 100 rules as listed on the<br/>16 agenda and will be entered into each record along<br/>17 with the Oklahoma Register filing.<br/>18 Notice of the meeting was filed with the<br/>19 Secretary of State on October 16th, 2019. The<br/>20 agenda was dually posted 24 hours prior to the<br/>21 meeting at the DEQ.<br/>22 If you wish to make a statement, it's very<br/>23 important to complete the form at the registration<br/>24 table and you'll be called upon at the appropriate<br/>25 time. Audience members, please come to the podium</p> |

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|--|--|
| <p style="text-align: right;">Page 10</p> <p>1 for your comments and please state your name.<br/>2 At this time we'll proceed with what's marked as<br/>3 Agenda 6A on the hearing agenda item. This is<br/>4 Chapter 100 Air Pollution Control OAC 252:100-17<br/>5 Part 9, commercial and industrial solid waste<br/>6 incineration units. The presentation today will be<br/>7 given by Melanie Foster, who is manager of the Rules<br/>8 and Planning Section. Thank you.<br/>9 MS. FOSTER: Madame Chair, members of the<br/>10 Council, members of the public, my name is Melanie<br/>11 Foster. I'm the rules and planning section manager.<br/>12 And today I'm presenting proposed rule changes to<br/>13 OAC:252 Chapter 100, Subchapter 17, incinerators.<br/>14 Specifically the changes I'm proposing are to the<br/>15 Commercial and Industrial Solid Waste Incinerator<br/>16 rules, also known as "CISWI," in part 9 of<br/>17 subchapter 17. Before we get started on the<br/>18 specifics of the changes we are proposing, please<br/>19 refer to your folders. Inside your folder is a copy<br/>20 of a revised version of Subchapter 17 with<br/>21 additional changes from what was public noticed<br/>22 highlighted in yellow. I'll be referring to this<br/>23 version of Subchapter 17 in my presentation today.<br/>24 We believe these additional changes are a<br/>25 logical outgrowth of what was published in the</p> | <p style="text-align: right;">Page 11</p> <p>1 notice and that the notice still apprised interested<br/>2 parties of the subject and issues to be discussed<br/>3 here today. So, therefore, I will still be asking<br/>4 you to vote to recommend the proposed revisions to<br/>5 the Environmental Quality Board for permanent<br/>6 adoption at the conclusion of my presentation.<br/>7 The changes to Supchapter 17 that you have<br/>8 before you are being proposed in response to recent<br/>9 changes in 40 CFR Part 60, Subpart DDDD, or 4D,<br/>10 which are the Emission Guidelines and Compliance<br/>11 Times for Commercial and Industrial Solid Waste<br/>12 Incineration Units.<br/>13 In the preamble of EPA's April 16th, 2019<br/>14 revision to Subpart 4D, EPA clarified that the CISWI<br/>15 emission guidelines applied to existing air curtain<br/>16 incinerators, or ACIs, located at commercial and<br/>17 industrial facilities. Specifically EPA stated<br/>18 that, and I quote, "EPA determined that ACIs located<br/>19 at commercial and industrial facilities are<br/>20 CISWI-affected sources that must be included in<br/>21 state plans and regulated consistent with the final<br/>22 CISWI standards applicable to such units."<br/>23 EPA went on to say that in the rule revision it<br/>24 was, "Clarifying the affected source status of ACIs<br/>25 by revising the regulations to make clear that 'air</p> |
| <p style="text-align: right;">Page 12</p> <p>1 curtain incinerators do not need to meet the<br/>2 definition of a 'CISWI unit' to be subject to the<br/>3 CISWI rule."<br/>4 To this end, EPA added terminology such "and air<br/>5 curtain incinerators" and "or ACI" behind the term<br/>6 "CISWI" in a number of places in Part 60,<br/>7 Subpart 4D. Because of EPA's changes, DEQ felt it<br/>8 was necessary to clarify these terms in its rule as<br/>9 well to ensure that it was clear that existing ACIs<br/>10 were subject to Subchapter 17.<br/>11 As you will see in 17-60(a) (1) and (a) (2) on the<br/>12 first page, we had added the terminology "or air<br/>13 curtain incinerator" behind "CISWI unit." We went<br/>14 on to add this terminology behind "CISWI unit" in<br/>15 17-60(b), (c) and (d). You will see these same<br/>16 additions in 17-62(a) and (b) on the top of Page 2,<br/>17 as well. We feel these changes are necessary to<br/>18 ensure the regulated community understands EPA's<br/>19 intention regarding of the regulation of ACIs under<br/>20 the CISWI Emission Guidelines and therefore DEQ's<br/>21 intention to follow the model rule's applicability.<br/>22 We made a few additional changes, as well. Back<br/>23 on Page 1 in 17-60(d) (2) (C) we corrected that the<br/>24 owner operator is who is responsible for submitting<br/>25 the control plan, clearly the CISWI unit itself</p>  | <p style="text-align: right;">Page 13</p> <p>1 isn't submitting anything.<br/>2 And in the first paragraph of 17-63 on Page 2,<br/>3 we changed "CISWI" to "combustion" since the<br/>4 exemptions list different types of combustion or<br/>5 incineration units, not CISWI units. In 17-63, we<br/>6 also removed the current Number 8 for air curtain<br/>7 incinerators from the list of exemptions, as they<br/>8 are not considered by EPA to be an exempt category.<br/>9 We did leave 17-74, which more directly spells out<br/>10 the limited requirements that certain ACIs may be<br/>11 subject to under the CISWI Emission Guidelines.<br/>12 The changes that were made here in 17-74 are<br/>13 non-substantive since the applicable regulations are<br/>14 not actually changed. The revisions simply mirror<br/>15 EPA language.<br/>16 Concurrent with the proposed changes to<br/>17 Subchapter 17, AQD made revisions to its 111(d)/129<br/>18 State Plan for CISWIs. The plan was noticed<br/>19 concurrently with the rule revision and the meeting<br/>20 today also serves as a hearing for the Plan.<br/>21 A copy of the draft Plan was included in your<br/>22 folder and has been made available on our website<br/>23 since December 2nd, 2019. The Plan is updated with<br/>24 the recent EPA rule changes and includes a revised<br/>25 review of existing facilities within Oklahoma.</p>                                  |

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|---|---|
| <p style="text-align: right;">Page 14</p> <p>1 Of the list of seven facilities in the original<br/>2 111(d)/129 plan from 2005, only one applicable unit<br/>3 still remains in operation. The affected facility<br/>4 is Henryetta Pallet and it operates an air curtain<br/>5 incinerator.<br/>6 Although I have not covered all the history of<br/>7 the CISWI rule changes here today, the CISWI rules<br/>8 have undergone many legal challenges and revisions<br/>9 since the original rule was promulgated in 1999 and<br/>10 since that first State Plan was submitted in 2005.<br/>11 Due to this protracted process, most of the<br/>12 timeframes in the State Plan have long been<br/>13 eclipsed. It is now more of a technicality to get<br/>14 to EPA this revised 111(d)/129 State Plan that<br/>15 reflects all the changes in 4D and the current list<br/>16 of affected facilities.<br/>17 Notice of the proposed rule change and the<br/>18 revised 111(d)/129 Plan was published in the<br/>19 Oklahoma Register on December 2, 2019. As of this<br/>20 morning, no comments were received on the rule or<br/>21 the Plan.<br/>22 DEQ requests the Council recommend<br/>23 Subchapter 17, as it was presented today with the<br/>24 changes found in your folder from what was<br/>25 originally published to the Environmental Quality</p> | <p style="text-align: right;">Page 15</p> <p>1 Board for adoption as permanent rules. No action is<br/>2 needed by the Council on the 111(d)/129 State Plan<br/>3 for CISWIs. The Plan will be finalized and sent to<br/>4 EPA if the Subchapter 17 changes pass the Council<br/>5 and the Environmental Quality Board. Thank you.<br/>6 MS. BOTCHLET-SMITH: Do we have any<br/>7 questions or discussion by the Council?<br/>8 MR. HAUGHT: I've got a quick question.<br/>9 And I think this is the business here. But at the<br/>10 top is 17-60(a)(1) about the applicability. Says<br/>11 any CISWI unit or air curtain incinerator for which<br/>12 construction commenced on or before. And if you<br/>13 drop down to (b) or (c)(2) --<br/>14 MS. FOSTER: (d)(2)?<br/>15 MR. HAUGHT: Yeah, (d)(2).<br/>16 MS. FOSTER: Okay.<br/>17 MR. HAUGHT: The term that's used there is<br/>18 CISWI unit and air curtain incinerators. Is there a<br/>19 reason that commenced construction after that same<br/>20 date? Any reason for the difference in those? And<br/>21 you can read them -- and I think the meaning is the<br/>22 same in both, but they're just not consistent.<br/>23 MS. FOSTER: Between the and and the or?<br/>24 MR. HAUGHT: Between the and and the or.<br/>25 So is there anything about that and being inclusive</p> |
| <p style="text-align: right;">Page 16</p> <p>1 that might change the meaning of that?<br/>2 MS. FOSTER: I don't think so. Council, do<br/>3 you all have any thoughts on that? You can<br/>4 certainly make that one in (d)(2).<br/>5 MR. HAUGHT: When I read them independently<br/>6 I came up with the same applicability.<br/>7 MS. FOSTER: Yeah, that's what I think,<br/>8 too.<br/>9 MR. HAUGHT: I just wanted to make sure<br/>10 that there wasn't a reason for that.<br/>11 MS. FOSTER: There was not on my part.<br/>12 MR. HAUGHT: All right. That answers my<br/>13 question then.<br/>14 MS. LODES: Is there -- there's a<br/>15 similar -- and in the one right above it.<br/>16 MS. FOSTER: In (d)(1)?<br/>17 MS. LODES: Uh-huh. I don't know that<br/>18 either makes a difference.<br/>19 MS. FOSTER: I think in the first part, you<br/>20 know, applicability is saying or to make sure that<br/>21 you knew that either one of them could be. But then<br/>22 when you're further down, I think you used and<br/>23 because it mirrored more EPA's language and it was<br/>24 to be inclusive that both could be changed and<br/>25 included, but -- again, maybe a difference without</p>   | <p style="text-align: right;">Page 17</p> <p>1 distinction.<br/>2 MR. HAUGHT: But they both don't have to be<br/>3 present in order to be applicable?<br/>4 MS. FOSTER: Right.<br/>5 MS. BOTCHLET-SMITH: Other questions from<br/>6 the Council? We haven't received notice of comment<br/>7 from the public. Is there anyone who wishes to<br/>8 comment on this rule? Seeing none, if there are<br/>9 other comments from the Council?<br/>10 MS. LODES: Any thoughts changing that and<br/>11 to an or, gentleman? Okay. The DEQ has recommended<br/>12 that we put this rule through for approval --<br/>13 MS. FOSTER: As it exists in the folder.<br/>14 MS. LODES: -- as it exists in the folder.<br/>15 MS. FOSTER: And was presented here today.<br/>16 MS. LODES: And as presented here today.<br/>17 So do we have a motion?<br/>18 MR. BUTCHER: I'll make that motion.<br/>19 MR. TAYLOR: I'll second.<br/>20 MS. MILLER: Can we make the motion a<br/>21 little bit more specific? Maybe saying that we move<br/>22 to approve the rule as in the folder and presented<br/>23 here today.<br/>24 MR. BUTCHER: I move.<br/>25 MS. MILLER: And amend your motion.</p>  |

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|   |   |
|---|---|
| <p style="text-align: right;">Page 18</p> <p>1 MR. BUTCHER: Yeah, I do that. I move to<br/>2 make a motion --<br/>3 MS. LODES: Move to amend your motion.<br/>4 MR. BUTCHER: I need to amend it?<br/>5 MS. LODES: I think we have to act on the<br/>6 first one.<br/>7 MS. MILLER: If you want to be really to<br/>8 the T, you guys could go ahead and call for a vote<br/>9 and vote down the original motion and then we can<br/>10 make a new motion and just make it very clear.<br/>11 MS. LODES: Or is it okay if we just amend<br/>12 it?<br/>13 MS. MILLER: I think it's fine if you just<br/>14 amend it.<br/>15 MS. LODES: Okay. I'm going to say we can<br/>16 just amend it. It's not like there was a mistake in<br/>17 the motion, we just weren't clear on the motion.<br/>18 MR. BUTCHER: I make a motion to amend that<br/>19 motion and that we approve it as presented here<br/>20 today and in the folder.<br/>21 DR. DELANO: I'll second.<br/>22 MS. LODES: Okay. We have a motion and a<br/>23 second. Please call roll.<br/>24 MS. FIELDS: Mr. Butcher.<br/>25 MR. BUTCHER: Yes.</p>  | <p style="text-align: right;">Page 19</p> <p>1 MS. FIELDS: Mr. Collins.<br/>2 MR. COLLINS: Yes.<br/>3 MS. FIELDS: Dr. Delano.<br/>4 DR. DELANO: Yes.<br/>5 MS. FIELDS: Mr. Elliott.<br/>6 MR. ELLIOTT: Yes.<br/>7 MS. FIELDS: Mr. Haught.<br/>8 MR. HAUGHT: Yes.<br/>9 MS. FIELDS: Mr. Keele.<br/>10 Mr. KEELE: Yes.<br/>11 MS. FIELDS: Mr. Taylor.<br/>12 MR. TAYLOR: Yes.<br/>13 MS. FIELDS: Ms. Lodes.<br/>14 MS. LODES: Yes.<br/>15 MS. FIELDS: Motion passed.<br/>16 MS. LODES: Thank you.<br/>17 MS. BOTCHLET-SMITH: The next item on the<br/>18 agenda is presentation of a budget resolution draft,<br/>19 also by Ms. Melanie Foster.<br/>20 MS. FOSTER: Madam Chair, members of the<br/>21 Council, ladies and gentlemen, so today at the<br/>22 Council's request I'm also send a budget resolution<br/>23 for you to affirm and bring to the 2020 legislature.<br/>24 As you may recall, a similar budget resolution<br/>25 was signed in October 2017 and was submitted to the</p>   |
| <p style="text-align: right;">Page 20</p> <p>1 2018 legislature. The budget resolution is also<br/>2 similar to what the Solid Waste Management Advisory<br/>3 Council annually signs and provides to the<br/>4 legislature.<br/>5 The resolution affirms the Council's support<br/>6 that fees collected by the Division be used for<br/>7 their intended purpose. Voting to finalize the<br/>8 resolution today will allow us to submit the budget<br/>9 resolution to the legislature for the 2020 session.<br/>10 In your packet you will find a copy of the<br/>11 budget resolution. This is identical to the<br/>12 resolution that was approved by the Council in<br/>13 October 2017 except for the update of Council<br/>14 members and dates. For members of the public, I<br/>15 will read the resolution in to the record.<br/>16 Resolution of the Air Quality Advisory Council.<br/>17 "Whereas, the Oklahoma Clean Air Act (27A O.S.<br/>18 2-5-107) gives the Air Quality Advisory Council the<br/>19 power and duty to recommend rules or amendments,<br/>20 thereto for the prevention, control and prohibition<br/>21 of air pollution and for the establishment of health<br/>22 and safety tolerances for discharge of air<br/>23 contaminants in the state; and<br/>24 Whereas, this Council is given the power and<br/>25 duty to recommend rules or amendments thereto for</p> | <p style="text-align: right;">Page 21</p> <p>1 implementing a system of assessing and collecting<br/>2 fees; Whereas, this Council supports the statutory<br/>3 direction that permit application fees, annual<br/>4 operating fees, and other environmental fees, be<br/>5 used only for the purposes for which they were<br/>6 collected and balances of the fund carry over from<br/>7 one year to the next for the same purpose with<br/>8 expenditures being limited to purposes defined by<br/>9 the law.<br/>10 Whereas, the legislature has continually made<br/>11 budget decisions that required DEQ to reduce<br/>12 revolving fund balances, hindering DEQ's ability to<br/>13 plan appropriately to fund programs that were<br/>14 designed to directly support statewide improvements<br/>15 to air quality that protect public health and the<br/>16 environment; therefore, be it resolved that the<br/>17 Oklahoma Air Quality Advisory Council, that this<br/>18 Council strongly endorses DEQ's need for fees and<br/>19 revolving funds to be utilized for purposes defined<br/>20 by law, thereby protecting public health and the<br/>21 environment.<br/>22 That copies of this Resolution be distributed to<br/>23 the Governor of Oklahoma, The Speaker of the<br/>24 Oklahoma House of Representatives, The President Pro<br/>25 Tempore of the Oklahoma State Senate, Appropriations</p> |

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Page 26

1 MR. HAUGHT: Yes.  
2 MS. FIELDS: Mr. Keele.  
3 Mr. KEELE: Yes.  
4 MS. FIELDS: Mr. Taylor.  
5 MR. TAYLOR: Yes.  
6 MS. FIELDS: Ms. Lodes.  
7 MS. LODES: Yes.  
8 MS. FIELDS: Motion passed.  
9 MS. BOTCHLET-SMITH: We've concluded the  
10 hearing portion of today's meeting.  
11 (Hearing concluded)  
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Page 27

1 CERTIFICATE  
2 STATE OF OKLAHOMA )  
3 OKLAHOMA COUNTY ) SS:  
4  
5 I, Brenda Plumbtree, Certified Shorthand  
6 Reporter within and for the State of Oklahoma, do  
7 hereby certify that the above AIR QUALITY ADVISORY  
8 COUNCIL was by me taken in shorthand and thereafter  
9 transcribed; that the same is true and correct; and  
10 that it was taken on the 15th day of January, 2020  
11 at the time of 9:00 A.M. in the City of Oklahoma  
12 City, County of Oklahoma, State of Oklahoma. And  
13 that I am not attorney for or relative of any of  
14 said parties or otherwise interested in the event of  
15 said action.  
16 IN WITNESS WHEREOF, I have hereunto set my hand  
17 and official seal this 20th day of January, 2020.  
18  
19 *Brenda Plumbtree*  
20  
21 BRENDA PLUMBTREE, CSR  
22 Oklahoma Certified Shorthand Reporter  
23 Certificate No. 01434  
24 Expires: December 31, 2020  
25

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# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules





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ISSN 0030-1728

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

*[OAR Docket #20-704]*

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 17. Incinerators  
Part 9. Commercial and Industrial Solid Waste Incineration Units  
252:100-17-60 [AMENDED]  
252:100-17-62 [AMENDED]  
252:100-17-63 [AMENDED]  
252:100-17-74 [AMENDED]

**AUTHORITY:**

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 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 -117.

**SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:**

November 6, 2019

**COMMENT PERIOD:**

December 2, 2019 through January 6, 2020

**PUBLIC HEARING(S):**

January 15, 2020, Air Quality Advisory Council  
February 21, 2020, Environmental Quality Board

**ADOPTION:**

February 21, 2020

**SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:**

February 28, 2020

**APPROVED BY GOVERNOR'S DECLARATION:**

Approved by Governor's declaration on June 25, 2020

**FINAL ADOPTION:**

June 25, 2020

**EFFECTIVE:**

September 15, 2020

**SUPERSEDED EMERGENCY ACTIONS:**

n/a

**INCORPORATIONS BY REFERENCE:**

n/a

**GIST/ANALYSIS:**

The Department is proposing to amend Oklahoma Administrative Code (OAC) 252:100-17, Incinerators, to clarify the applicability of Part 9, Commercial and industrial solid waste incineration units (CISWI), to existing air curtain incinerators. The proposed changes to Subchapter 17 will be included as part of the required update to Oklahoma's Section 111(d)/129 plan. The gist of the proposed rulemaking is to update the rule in accordance with recent changes to the federal emission guidelines in 40 CFR Part 60, Subpart DDDD.

**CONTACT PERSON:**

Melanie Foster, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2020:**

**SUBCHAPTER 17. INCINERATORS**

**PART 9. COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS**

**252:100-17-60. Effective date; applicability; requirements**

(a) This Part applies to each individual commercial and industrial solid waste incineration (CISWI) unit that meets the criteria in paragraphs (a)(1) through (3) of this Section.

(1) Any CISWI unit or air curtain incinerator for which construction commenced on or before June 4, 2010, or for which modification or reconstruction commenced after June 4, 2010 but no later than August 7, 2013.

(2) Any incineration unit that ~~meets~~ meets the definition of a CISWI unit or an air curtain incinerator as both are defined in 40 CFR Section 60.2875.

(3) Incineration units that do not qualify as exempt under OAC 252:100-17-63.

(b) If the owner or operator of a CISWI unit or air curtain incinerator makes changes that meet the definition of modification or reconstruction on or after June 1, 2001, the CISWI unit is no longer subject to this Part and becomes subject to 40 CFR Part 60, Subpart CCCC, that has been incorporated by reference at 252:100-2-3.

(c) If the owner or operator of a CISWI unit or air curtain incinerator makes physical or operational changes to an existing CISWI unit or air curtain incinerator primarily to comply with this Part, such changes do not qualify as a modification or reconstruction.

(d) The owner or operator of a CISWI unit or air curtain incinerator subject to this Part shall comply with applicable portions of 40 CFR Part 60, Subpart DDDD (Sections 60.2575 through 60.2875) incorporated by reference in 252:100-2-3.

(1) CISWI units in the incinerator subcategory and air curtain incinerators that commenced construction on or before November 30, 1999 shall achieve final compliance by the December 1, 2005.

(2) CISWI units and air curtain incinerators that commenced construction after November 30, 1999, but on or before June 4, 2010, and CISWI units in the small remote incinerator, energy recovery unit, and waste-burning kiln subcategories that commenced construction before June 4, 2010 shall achieve final compliance as expeditiously as practicable after approval of the state plan but not later than the earlier of the two dates specified in paragraphs (d)(2)(A) and (B) of this subsection.

(A) February 7, 2018.

(B) Three years after the effective date of State plan approval.

(C) For compliance schedules approved under 40 CFR Section 60.2575 or 60.2815, the owner or operator ~~CISWI unit~~ shall submit a final control plan not more than 1 year following the effective date of State plan approval, and shall achieve final compliance as expeditiously as practicable, but not later than February 7, 2018 or three years after the effective date of State plan approval, whichever is earlier. Within the appropriate context, these dates shall be considered the "date(s) to be specified in state plan" wherever that phrase appears in the model rule and associated tables.

## Permanent Final Adoptions

### 252:100-17-62. Terminology related to 40 CFR

(a) For purposes of interfacing with 40 CFR, the following terms apply:

- (1) "Affected facility" is synonymous with "commercial and industrial solid waste incinerator (CISWI)" or "CISWI unit" and "air curtain incinerator" or "ACL."
- (2) "Administrator" is synonymous with "Executive Director."

(b) The term "you" in the Model Rule of 40 CFR Sections 60.2575 through 60.2875, means the owner or operator of a CISWI unit or air curtain incinerator.

### 252:100-17-63. Exemptions

Except for required notifications as specified, the following types of individual ~~combustion~~CISWI units are exempt from the requirements of this Part.

- (1) **Pathological waste incineration units.** Incineration units burning 90 percent 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 40 CFR Section 60.2875, if the owner or operator meets the two requirements specified in subparagraphs (1)(A) and (B) of this Section.

(A) Notifies the DEQ that the unit meets these criteria.

(B) Keeps records on a calendar quarter basis of the weight of pathological waste, low level radioactive waste and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

- (2) **Municipal waste combustion units.** Incineration units that are subject to Part 5 of this Subchapter or 40 CFR Part 60, Subpart Ea (Standards of Performance for Municipal Waste Combustors); Subpart Eb (Standards of Performance for Large Municipal Waste Combustors); or Subpart AAAA (Standards of Performance for Small Municipal Waste Combustion Units).

- (3) **Medical waste incineration units.** Incineration subject to Part 7 of this Subchapter or 40 CFR Part 60, Subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996).

- (4) **Small power production facilities.** Units that meet the three requirements specified in subparagraphs (4)(A) through (D) of Section.

(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 notifies the DEQ that the unit meets all of these criteria.

(D) The owner or operator maintains the records specified in 40 CFR Section 60.2740(v).

- (5) **Cogeneration facilities.** Units that meet the three requirements specified in subparagraphs (5)(A) through (D) of this Section.

(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 notifies the DEQ that the unit meets all of these criteria.

(D) The owner or operator maintains the records specified in 40 CFR Section 60.2740(w).

- (6) **Hazardous waste combustion units.** Incineration units for which the owner or operator is required to get a permit under Section 3005 of the Solid Waste Disposal Act.

- (7) **Materials recovery units.** Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters.

~~(8) Air curtain incinerators. Certain air curtain incinerators are exempt from portions of this Part (see 252:100-17-74).~~

- ~~(8)~~ **Sewage treatment plants.** Incineration units regulated under 40 CFR Part 60, Subpart O (Standards of Performance for Sewage Treatment Plants).

- ~~(9)~~ **Sewage sludge incineration units.** Incineration units that combust sewage sludge for the purpose of reducing the volume of the sewage sludge by removing combustible matter and that are subject to 40 CFR Part 60, Subpart LLLL (Standards of Performance for Sewage Sludge Incineration Units).

- ~~(10)~~ **Other solid waste incineration units.** Incineration units that are subject to Part 11 of this Subchapter or 40 CFR Part 60, Subpart EEEE (Standards of Performance for Other Solid Waste Incineration Units).

### 252:100-17-74. Air curtain incinerators

Air curtain incinerators that burn only the materials listed in paragraphs (1) through (3) of this subsection are only required to meet the requirements set forth in 40 CFR Sections 60.2805 and 60.2810 through 60.2870.

- (1) 100 percent wood waste.
- (2) 100 percent clean lumber.
- (3) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

[OAR Docket #20-704; filed 7-27-20]

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

[OAR Docket #20-705]

RULEMAKING ACTION:  
PERMANENT Final adoption

RULES:  
Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs)

# **APPENDIX C**

**2005 Source Status Table Inventory**  
**2019 Source Status Table Inventory**  
**2018 Emissions Inventory Table**

For the purposes of this State Plan, an existing affected facility is a CISWI unit that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010, but no later than August 7, 2013. DEQ has prepared a source inventory to identify CISWI that are, or were, subject to Subpart DDDD by utilizing an internal database. The database contains permit, compliance, enforcement, and inspection information. In addition, the database houses required air pollution emissions inventories. The following tables identify the facility, categorize the CISWI type, and provide the CISWI unit's status.

Table 2 identifies the facilities from the original 2005. Table 3 identifies HPC as the one operating CISWI in Oklahoma and Table 4 lists the emissions inventory for their ACI.

| <b>2005 Oklahoma CISWI Source Status Table</b> |                                |                             |  |
|--|--------------------------------|-----------------------------|--|
| <b>Number</b>                                  | <b>Facility Name</b>           | <b>Unit Type</b>            | <b>Status</b>  |
| 1  | A&A Enterprises                | Warehouse Waste Incinerator | Facility is Closed<br>07/06/2007   |
| 2  | Henryetta Pallet Company, Inc. | Air Curtain Incinerator     | Operating  |
| 3  | Pallet Logistics of America    | Air Curtain Incinerator     | ACI Unit is Shutdown<br>06/06/2019   |
| 4  | Oklahoma Publishing Company    | Heater                      | Not Subject to DDDD – Unit is a Heater not an Incinerator<br>(2004 Inspection) |
| 5  | Pallet World, Inc.             | Air Curtain Incinerator     | Facility is Closed<br>04/12/2004   |
| 6  | Pioneer Telephone Company      | Multi-Service Incinerator   | Facility is Closed<br>07/11/2018   |
| 7  | Simer Pallet Recycling, Inc.   | Air Curtain Incinerator     | Facility is Closed<br>10/19/2014   |

Table 2. 2005 Oklahoma CISWI Source Status

| <b>2019 Oklahoma CISWI Source Status Table</b> |                                |                         |               |
|--|--------------------------------|-------------------------|---------------|
| <b>Number</b>                                  | <b>Facility Name</b>           | <b>Unit Type</b>        | <b>Status</b> |
| 1  | Henryetta Pallet Company, Inc. | Air Curtain Incinerator | Operating     |

Table 3. 2019 Oklahoma CISWI Source Status.

| <b>2018 Oklahoma CISWI Source Emissions Inventory Table</b> |   |      |       |       |       |       |                                      |
|---|---|------|-------|-------|-------|-------|--------------------------------------|
| <b>Facility</b>   | <b>Actual Emissions (Tons Per Year)</b> |      |       |       |       |       | <b>Emission Determination Method</b> |
| Henryetta Pallet  | CO                                      | NO2  | PM2.5 | PM10  | SO2   | VOC   | Emission Factors                     |
|   | 0.696                                   | 1.98 | 0.547 | 0.995 | 0.049 | 0.049 |                                      |

Table 4. 2018 Oklahoma CISWI Source Emissions Inventory

# **APPENDIX D**

## **Legal Authority**

## OKLAHOMA LEGAL AUTHORITY

27A O.S. §§ 1-3-101(B) and 2-5-105 give the Department of Environmental Quality (DEQ) jurisdiction over air quality in the state of Oklahoma, and, specifically, designate it as the administrative agency for the Oklahoma Clean Air Act (CAA) and the implementing state agency for the federal CAA. Additionally, upon recommendation of the Air Quality Advisory Council, the Environmental Quality Board has the authority, under 27A O.S. § 2-5-106, to adopt air quality regulations, for which DEQ is also the responsible administrative agency. In accordance with 27A O.S. § 2-3-101(E)(1) and OAC 252:4-1-3(c), DEQ has an Air Quality Division (AQD) that implements and carries out these statutory and regulatory authorities and responsibilities for the agency; the AQD has the authority to carry out all duties, requirements, and responsibilities necessary and proper for the implementation of the Oklahoma CAA, for fulfilling the requirements of the federal CAA, and for the implementation of all air quality regulations adopted by the Environmental Quality Board. More specifically, DEQ's AQD, has the statutory authority to:

- Enforce the Oklahoma CAA, applicable portions of the federal CAA, air quality regulations, compliance schedules, and orders of DEQ [27A O.S. §§ 1-1-202(A)(1), 2-3-202, 2-3-502, 2-3-504, 2-5-105(4) and (14), 2-5-110, and 2-5-117];
- Establish and implement a permitting program [27A O.S. §§ 2-5-105(2), and 2-5-112(B)];
- Prevent construction, modification, or operation of a source in violation of the requirement to have a permit, or in violation of any substantive provision or condition of any permit issued pursuant to the Oklahoma CAA [27A O.S. § 2-5-117(A)(2)];
- Abate pollutant emissions on evidence that the source is presenting an immediate, imminent and substantial endangerment to human health [27A O.S. § 2-5-105(15)];
- Obtain information necessary to determine compliance [27A O.S. §§ 2-5-105(17) and (18)];
- Require recordkeeping, make inspections, and conduct tests [27A O.S. § 2-5-105(16) and (17)];
- Require the installation, maintenance and use of monitors and require emissions reports of owners or operators [27A O.S. §§ 2-5-112(B)(5) and 2-5-105(17)];
- Maintain and update an inventory of air emissions from stationary sources [27A O.S. § 2-5-105(18)];
- Make emissions data available to the public [51 O.S. §§ 24A.1 through 24A.30, subject to the exceptions outlined in §§ 24A.9, 24A.10a, 24A.11 through 24A.16a, 24A.19, 24A.22 through 24A.24, 24A.27, 24A.28, and 24A.30]; and
- Carry out all other duties, requirements and responsibilities necessary and proper for the implementation of the Oklahoma CAA and the fulfillment of the requirements of the federal CAA [27A O.S. §§ 1-1-202(A), 2-3-202, 2-5-105(20), 2-5-114, and 2-5-117].

Specifically, the Environmental Quality Board has the authority to:



- Adopt regulations, including emissions standards, which enable DEQ to implement the Oklahoma CAA and fulfill requirements of the federal CAA, and adopt all other rules necessary for the DEQ to implement its other duties and responsibilities [27A O.S. §§ 2-2-101(G)(2) and (H), 2-2-104, 2-5-106, 2-5-107, 2-5-112(C), 2-5-113(A) and (C), and 2-5-114];
- Assist the DEQ in conducting reviews and planning activities to establish goals, objectives, priorities, and policies of the DEQ [27A O.S. § 2-2-101(G)(4)];
- Review and evaluate the need for amendments or additions to the Oklahoma Statutes, including the Oklahoma CAA, regarding the programs and functions of the DEQ and make recommendations to the Legislature [27A O.S. § 2-2-101(G)(6)]; and
- Approve the DEQ's budget requests [27A O.S. § 2-2-101(G)(3)].

## **LEGAL AUTHORITY**

### **Text of Referenced Rules & Statutes**

#### **Oklahoma Statutes:**

**Title 27A. Environment and Natural Resources  
Chapter 1 - Oklahoma Environmental Quality Act  
Article 1 – Environmental Offices and Agencies  
Section 1-1-202:**

**27A O.S. § 1-1-202:**

A. Each state environmental agency shall:

1. Be responsible for fully implementing and enforcing the laws and rules within its jurisdictional areas of environmental responsibility;
2. Utilize and enforce the Oklahoma Water Quality Standards established by the Oklahoma Water Resources Board;
3. Seek to strengthen relationships between state, regional, local and federal environmental planning, development and management programs;
4. Specifically facilitate cooperation across jurisdictional lines of authority with other state environmental agencies regarding programs to resolve environmental concerns;
5. Cooperate with all state environmental agencies, other state agencies and local or federal governmental entities to protect, foster, and promote the general welfare, and the environment and natural resources of this state;
6. Have the authority to engage in environmental and natural resource information dissemination and education activities within their respective areas of environmental jurisdiction; and

7. Participate in every hearing conducted by the Oklahoma Water Resources Board for the consideration, adoption or amendment of the classification of waters of the state and standards of purity and quality thereof, and shall have the opportunity to present written comment to the members of the Oklahoma Water Resources Board at the same time staff recommendations are submitted to those members for Board review and consideration.

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Added by Laws 1993, HB 1002, c. 145, § 4, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 1, emerg. eff. July 1, 1993; Amended by Laws 1999, SB 549, c. 413, § 2, eff. November 1, 1999; Amended by Laws 2013, HB 1455, c. 227, § 5, eff. November 1, 2013.

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**Title 27A. Environment and Natural Resources**  
**Chapter 1 - Oklahoma Environmental Quality Act**  
**Article III - Jurisdiction of Environmental Agencies**  
**Section 1-3-101 - Responsibilities and Jurisdiction of State Environmental Agencies**

**27A O.S. § 1-3-101(B):**

B. Department of Environmental Quality. The Department of Environmental Quality shall have the following jurisdictional areas of environmental responsibility:

1. All point source discharges of pollutants and storm water to waters of the state which originate from municipal, industrial, commercial, mining, transportation and utilities, construction, trade, real estate and finance, services, public administration, manufacturing and other sources, facilities and activities, except as provided in subsections D and E of this section;
2. All nonpoint source discharges and pollution except as provided in subsections D, E and F of this section;
3. Technical lead agency for point source, nonpoint source and storm water pollution control programs funded under Section 106 of the federal Clean Water Act, for areas within the Department's jurisdiction as provided in this subsection;
4. Surface water and groundwater quality and protection and water quality certifications;
5. Waterworks and wastewater works operator certification;
6. Public and private water supplies;
7. Underground injection control pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, except for:
  - a. Class II injection wells,
  - b. Class V injection wells utilized in the remediation of groundwater associated with underground or aboveground storage tanks regulated by the Corporation Commission,
  - c. those wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act regulated by the Commission, and
  - d. any aspect of any CO<sub>2</sub> sequestration facility, including any associated CO<sub>2</sub> injection well, over which the Commission is given jurisdiction pursuant to the Oklahoma Carbon Capture and Geologic Sequestration Act;

8. Notwithstanding any other provision in this section or other environmental jurisdiction statute, sole and exclusive jurisdiction for air quality under the federal Clean Air Act and applicable state law, except for indoor air quality and asbestos as regulated for worker safety by the federal Occupational Safety and Health Act and by Chapter 11 of Title 40 of the Oklahoma Statute;
9. Hazardous waste and solid waste, including industrial, commercial and municipal waste;
10. Superfund responsibilities of the state under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and amendments thereto, except the planning requirements of Title III of the Superfund Amendment and Reauthorization Act of 1986;
11. Radioactive waste and all regulatory activities for the use of atomic energy and sources of radiation except for electronic products used for diagnosis by diagnostic x-ray facilities and electronic products used for bomb detection by public safety bomb squads within law enforcement agencies of this state or within law enforcement agencies of any political subdivision of this state;
12. Water, waste, and wastewater treatment systems including, but not limited to, septic tanks or other public or private waste disposal systems;
13. Emergency response as specified by law;
14. Environmental laboratory services and laboratory certification;
15. Hazardous substances other than branding, package and labeling requirements;
16. Freshwater wellhead protection;
17. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department;
18. Utilization and enforcement of Oklahoma Water Quality Standards and implementation documents;
19. Environmental regulation of any entity or activity, and the prevention, control and abatement of any pollution, not subject to the specific statutory authority of another state environmental agency;
20. Development and maintenance of a computerized information system relating to water quality pursuant to Section 1-4-107 of this title;
21. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional area of environmental responsibility; and
22. Development and utilization of policies and requirements necessary for the implementation of Oklahoma Groundwater Quality Standards to the extent that the implementation of such standards are within the scope of the Department's jurisdiction, including but not limited to the establishment of points of compliance when warranted.

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Added by Laws 1992, HB 2227, c. 398, § 6, eff. July 1, 1993; Amended by Laws 1993, HB 1002, c. 145, § 11, emerg. eff. July 1, 1993; Renumbered from 27A O.S § 6 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 6, emerg. eff. July 1, 1993; Amended by Laws 1994, HB 1916, c. 140, § 24, eff. September 1, 1994; Amended by Laws 1997, SB 365, c. 217, § 1, emerg. eff. July 1, 1997); Amended by Laws 1999, SB 549, c. 413, § 4, eff. November 1, 1999); Amended by Laws 2000, SB 1223, c. 364, § 1, emerg. eff. June 6, 2000; Amended by Laws 2002, HB 2302, c. 397, § 1, eff. November 1, 2002; Amended by Laws 2004, SB 1204, c. 100, § 2, emerg. eff. July 1, 2004; Amended by Laws 2004, HB 2616, c. 430, § 11, emerg. eff. June 4, 2004; Amended by Laws 2009, SB 610, c. 429, § 8, emerg. eff. June 1, 2009; Amended by Laws 2012, HB 2365 c. 110, § 1, eff. November 1, 2012; Amended by Laws 2017 SB 287, c. 129, § 1, eff. November 1, 2017; Amended by Laws 2018, SB 1147, c. 137, § 1 eff. November 1, 2018.

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**Title 27A. Environment and Natural Resources**  
**Chapter 2 - Oklahoma Environmental Quality Code**  
**Article II - Environmental Quality Board and Councils**  
**Article Part 1. - Environmental Quality Board**  
**Section 2-1-101 – Creation of the Environmental Quality Board - Members**

**27A O.S. § 2-2-101(G) and (H):**

G. The Board shall:

1. Appoint and fix the compensation of the Executive Director of the Department of Environmental Quality;
2. Be the rulemaking body for the Department of Environmental Quality;
3. Review and approve the budget request of the Department to the Governor;
4. Assist the Department in conducting periodic reviews and planning activities related to the goals, objectives, priorities and policies of the Department;
5. In conjunction with each regular meeting of the Board pursuant to subsection F and at such other times as the Board may determine to be necessary and appropriate, provide a public forum for receiving comments and disseminating information to the public and the regulated community regarding goals, objectives, priorities, and policies of the Department. The Board shall have the authority to adopt nonbinding resolutions requesting action by the Department in response to comments received or upon the Board's own initiative; and
6. Review and evaluate the need for amendments or additions to the Oklahoma Statutes regarding the programs and functions of the Department and make legislative recommendations to the Legislature.

H. As the rulemaking body for the Department of Environmental Quality, the Board is specifically charged with the duty of promulgating rules which will implement the duties and responsibilities of the Department pursuant to this Code. Except as provided in this subsection, rules within the jurisdiction of a Council provided for by this act shall be promulgated with the advice of such Council. Proposed permanent rules within the jurisdiction of a Council shall not be considered by the Board for promulgation until receipt of the appropriate Council's recommendation on such promulgation; however, the Board may promulgate emergency rules without the advice of the appropriate Council when the time constraints of the emergency, as determined by the Board, do not permit the timely development of recommendations by the Council. All actions of the Councils with regard to rulemaking shall be deemed actions of the Board for the purposes of complying with the Administrative Procedures Act.

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Added by Laws 1992, HB 2227, c. 398, § 7, eff. January 1, 1993; Amended by Laws 1993, HB 1002, c. 145, § 14, emerg. eff. July 1, 1993; Renumbered from 27A O.S § 7 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 55, eff. July 1, 1993; Amended by Laws 2001, SB 366, c. 110, § 1, emerg. eff. April 18, 2001; Amended by Laws 2005, SB 599, c. 20, § 1, emerg. eff. April 5, 2005.

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**Title 27A. Environment and Natural Resources**  
**Chapter 2 - Oklahoma Environmental Quality Code**  
**Article II - Environmental Quality Board and Councils**  
**Article Part 1. - Environmental Quality Board**  
**Section 2-2-104 - Incorporation by Reference**

**27A O.S. § 2-2-104:**

Insofar as permitted by law and upon recommendation from the appropriate Council, rules promulgated by the Environmental Quality Board may incorporate a federal statute or regulation by reference. Any Board rule which incorporates a federal provision by reference incorporates the language of the federal provision as it existed at the time of the incorporation by reference. Any subsequent modification, repeal or invalidation of the federal provision shall not be deemed to affect the incorporating Board rule.

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Added by Laws 1994, SB 832, c. 353, § 3, emerg. eff. July 1, 1994.

**Title 27A. Environment and Natural Resources  
Chapter 2 - Oklahoma Environmental Quality Code**

**Article III - Department of Environmental Quality and Executive Director**

**Article Part 1. Department of Environmental Quality**

**Section 2-3-101 - Creation of Department of Environmental Quality**

**27A O.S. § 2-3-101:**

A. There is hereby created the Department of Environmental Quality.

B. Within its jurisdictional areas of environmental responsibility, the Department of Environmental Quality, through its duly designated employees or representatives, shall have the power and duty to:

1. Perform such duties as required by law; and

2. Be the official agency of the State of Oklahoma, as designated by law, to cooperate with federal agencies for point source pollution, solid waste, hazardous materials, pollution, Superfund, water quality, hazardous waste, radioactive waste, air quality, drinking water supplies, wastewater treatment and any other program authorized by law or executive order.

C. Any employee of the Department in a technical, supervisory or administrative position relating to the review, issuance or enforcement of permits pursuant to this Code who is an owner, stockholder, employee or officer of, or who receives compensation from, any corporation, partnership, or other business or entity which is subject to regulation by the Department of Environmental Quality shall disclose such interest to the Executive Director. Such disclosure shall be submitted for Board review and shall be made a part of the Board minutes available to the public. This subsection shall not apply to financial interests occurring by reason of an employee's participation in the Oklahoma State Employees Deferred Compensation Plan or publicly traded mutual funds.

D. The Executive Director, Deputy Director, and all other positions and employees of the Department at the Division Director level or higher shall be in the unclassified service.

E. The following programs are hereby established within the Department of Environmental Quality:

1. An air quality program which shall be responsible for air quality;

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Added by Laws 1992, HB 2227, c. 398, § 9, eff. January 1, 1993; Amended by Laws 1993, HB 1002, c. 145, § 16, emerg. eff. July 1, 1993; Renumbered from 27A O.S. § 9 by Laws 1993, HB

1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 5, emerg. eff. July 1, 1993; Amended by Laws 1995, HB 1027, c. 246, § 1, eff. November 1, 1995; Amended by Laws 2002, HB 1980, c. 139, § 1, emerg. eff. April 29, 2002.

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**Title 27A. Environment and Natural Resources**  
**Chapter 2 - Oklahoma Environmental Quality Code**

**Article III - Department of Environmental Quality and Executive Director**

**Article Part 1. Department of Environmental Quality**

**Section 2-3-202 – Powers and Duties of Department**

**27A O.S. § 2-3-202:**

A. Within its jurisdictional areas of responsibility, the Department, acting through the Executive Director, or persons authorized by law, rule or designated by the Executive Director to perform such acts, shall have the power and duty to:

1. Access any premises at any reasonable time upon presentation of identification for purposes of administering this Code, and the right to apply to and obtain from a judge of the district court, an administrative or other warrant as necessary to enforce such access;
2. Determine and assess administrative penalties, take or request civil action, request criminal prosecution or take other administrative or civil action as specifically authorized by this Code or other law against any person or entity who has violated any of the provisions of this Code, rules promulgated thereunder, or any permit, license or order issued pursuant thereto;
3. Investigate or cause to be investigated alleged violations of this Code, rules promulgated thereunder, or permits, licenses or orders issued pursuant thereto;
4. Conduct investigations, inquiries and inspections, including but not limited to, the review of records and the collection of samples for laboratory analyses;
5. Conduct hearings and issue subpoenas according to the Administrative Procedures Act, this Code and rules promulgated by the Board, and file contempt proceedings against any person disobeying or refusing to comply with such subpoena;
6. Advise, consult, cooperate and enter into agreements with agencies of the state, municipalities and counties, industries, other states and the federal government, and other persons;
7. Enter into agreements for, accept, administer and use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program relating to environmental services or pollution control;



8. Require the establishment and maintenance of records and reports, and the installation, use, and maintenance of monitoring equipment or methods, and the provision of such information to the Department upon request;
9. Establish a system of training for all personnel who render review and inspection services in order to assure uniform statewide application of law and rules;
10. Enforce the provisions of this Code and rules promulgated thereunder and orders, permits and licenses issued pursuant thereto;
11. Charge and receive fees pursuant to fee schedules promulgated by the Board;
12. Register persons, property and activities as required by this Code or rules promulgated by the Board;
13. Conduct studies, research and planning of programs and functions, pursuant to the authority granted by this Code;
14. Collect and disseminate information and engage in environmental education activities relating to the provisions of this Code;
15. Provide a toll-free hot line for environmental complaints;
16. Enter into interagency agreements;
17. Sell films, educational materials and other items produced by the Department and sell, exchange or otherwise dispose of obsolete personal property belonging to the Department unless otherwise required by terms of federal grants;
18. Provide administrative and support services to the Board and the Councils as necessary to assist them in the performance of their duties; and
19. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of this Code.

B. The provisions of this part shall extend to all programs administered by the Department regardless of whether the statutes creating such program are codified in Title 27A of the Oklahoma Statutes.

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Added by Laws 1993, HB 1002, c. 145, § 21, emerg. eff. July 1, 1993.

**Title 27A. Environment and Natural Resources  
Chapter 2 - Oklahoma Environmental Quality Code**

**Article III - Department of Environmental Quality and Executive Director**

**Article Part 1. Department of Environmental Quality**

**Section 2-3-502 – Violations of the Code**

**27A O.S. § 2-3-502:**

A. If upon inspection or investigation, or whenever the Department determines that there are reasonable grounds to believe that any person is in violation of this Code or any rule promulgated thereunder or of any order, permit or license issued pursuant thereto, the Department may give written notice to the alleged violator of the specific violation and of the alleged violator's duty to correct such violation immediately or within a set time period or both and that the failure to do so will result in the issuance of a compliance order.

B. In addition to any other remedies provided by law, the Department may, after service of the notice of violation, issue a proposed compliance order to such person. A proposed compliance order shall become a final order unless, no later than fifteen (15) days after the order is served, any respondent named therein requests an administrative enforcement hearing.

1. The proposed compliance order may, pursuant to subsection K of this section:

a. assess an administrative penalty for past violations of this Code, rules promulgated thereunder, or the terms and conditions of permits or licenses issued pursuant thereto, and

b. propose the assessment of an administrative penalty for each day the respondent fails to comply with the compliance order.

2. Such proposed order may specify compliance requirements and schedules, or mandate corrective action, or both.

C. Failure to comply with a final compliance order, in part or in whole, may result in the issuance of an assessment order assessing an administrative penalty as authorized by law, or a supplementary order imposing additional requirements, or both. Any proposed order issued pursuant to this subsection shall become final unless, no later than seven (7) days after its service, any respondent named therein requests an administrative enforcement hearing.

D. Notwithstanding the provisions of subsection A and B of this section, the Executive Director, after notice and opportunity for an administrative hearing, may revoke, modify or suspend the holder's permit or license in part or in whole for cause, including but not limited to the holder's:

1. Flagrant or consistent violations of this Code, of rules promulgated thereunder or of final orders, permits or licenses issued pursuant thereto;

2. Reckless disregard for the protection of the public and the environment as demonstrated by noncompliance with environmental laws and rules resulting in endangerment of human health or the environment; or

3. Actions causing, continuing, or contributing to the release or threatened release of pollutants or contaminants to the environment.

E. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or welfare or the environment, the Executive Director may without notice or hearing issue an order, effective upon issuance, reciting the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency. Any person to whom such an order is directed shall comply therewith immediately but may request an administrative enforcement hearing thereon within fifteen (15) days after the order is served. Such hearing shall be held by the Department within ten (10) days after receipt of the request. On the basis of the hearing record, the Executive Director shall sustain or modify such order.

F. Except as otherwise expressly provided by law, any notice of violation, order, or other instrument issued by or pursuant to authority of the Department may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by certified mail return-receipt requested directed to such person at his last-known post office address as shown by the files or records of the Department. Proof of service shall be made as in the case of service of a summons or by publication in a civil action. Such proof of service shall be filed in the Office of Administrative Hearings.

G. Every certificate or affidavit of service made and filed shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

H. 1. The administrative hearings provided for in this section shall be conducted as individual proceedings in accordance with, and a record thereof maintained pursuant to, Article II of the Administrative Procedures Act, this Code and rules promulgated thereunder. When a hearing is timely requested by a respondent pursuant to this section, the Department shall promptly conduct such hearing.

2. Such hearing shall be conducted by an Administrative Law Judge or by the Executive Director. When an Administrative Law Judge holds the hearing, such Judge shall prepare a proposed order and shall:

a. serve it on the parties, by regular mail, and may offer an opportunity for parties to file exceptions to the proposed order before a final order is entered in the event the Executive Director does not review the record, and

b. present the proposed order, the exceptions, if any, and the record of the matter to the Executive Director, or

c. present the proposed order and the record of the matter to the Executive Director for review and entry of a final order for any default, failure to appear at the hearing or if the parties by written stipulation waive compliance with subparagraph a of this paragraph.

3. For administrative proceedings conducted by an Administrative Law Judge pursuant to this section, the Executive Director may adopt, amend or reject any findings or conclusions of the Administrative Law Judge or exceptions of any party and issue a final order accordingly, or may in his discretion remand the proceeding for additional argument or the introduction of additional evidence at a hearing held for the purpose. A final order shall not be issued by the Executive Director until after:

a. the opportunity for exceptions has lapsed without receiving exceptions, or after exceptions, briefs and oral arguments, if any, are made, or

b. review of the record by the Executive Director.

4. Any order issued by the Department shall become final upon service.

I. Any party aggrieved by a final order may petition the Department for rehearing, reopening or reconsideration within ten (10) days from the date of the entry of the final order. Any party aggrieved by a final order, including the Attorney General on behalf of the state, may, pursuant to the Administrative Procedures Act, petition for a judicial review thereof.

J. If the Attorney General seeks redress on behalf of the state, as provided for in subsection I of this section, the Executive Director is empowered to appoint a special counsel for such proceedings.

K. 1. Unless specified otherwise in this Code, any penalty assessed or proposed in an order shall not exceed Ten Thousand Dollars (\$10,000.00) per day of noncompliance.

2. The determination of the amount of an administrative penalty shall include, but not be limited to, the consideration of such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the respondent from the violation, the history of such violations and respondent's degree of culpability and good faith compliance efforts. For purposes of this section, each day, or part of a day, upon which such violation occurs shall constitute a separate violation.

L. Notwithstanding the provisions of subsections A and B of this section, the Department may, within three (3) years of discovery, apply for the assessment of an administrative penalty for any violation of this Code, or rules promulgated thereunder or permits or licenses issued pursuant thereto.

M. Any order issued pursuant to this section may require that corrective action be taken. If corrective action must be taken on adjoining property, the owner of such adjoining property shall not give up any right to recover damages from the responsible party by allowing corrective action to occur.

N. Inspections, investigations, administrative enforcement hearings and other administrative actions or proceedings pursuant to the Code shall not be the basis for delaying judicial proceedings between private parties involving the same subject matter.

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Added by Laws 1993, HB 1002, c. 145, § 26, emerg. eff. July 1, 1993; Amended by Laws 1994, SB 832, c. 353, § 6, emerg. eff. July 1, 1994; Amended by Laws 1999, SB 241, c. 381, § 5 emerg. eff. June 8, 1999.

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**Title 27A. Environment and Natural Resources**  
**Chapter 2 - Oklahoma Environmental Quality Code**

**Article III - Department of Environmental Quality and Executive Director**

**Article Part 1. Department of Environmental Quality**

**Section 2-3-504 – Penalties for Violations of the Code**

**27A O.S. § 2-3-504:**

A. Except as otherwise specifically provided by law, any person who violates any of the provisions of, or who fails to perform any duty imposed by, the Oklahoma Environmental Quality Code or who violates any order, permit or license issued by the Department of Environmental Quality or rule promulgated by the Environmental Quality Board pursuant to this Code:

1. Shall be guilty of a misdemeanor and upon conviction thereof may be punished by a fine of not less than Two Hundred Dollars (\$200.00) for each violation and not more than Ten Thousand Dollars (\$10,000.00) for each violation or by imprisonment in the county jail for not more than six (6) months or by both such fine and imprisonment;

2. May be punished in civil proceedings in district court by assessment of a civil penalty of not more than Ten Thousand Dollars (\$10,000.00) for each violation;

3. May be assessed an administrative penalty pursuant to Section 2-3-502 of this title not to exceed Ten Thousand Dollars (\$10,000.00) per day of noncompliance; or

4. May be subject to injunctive relief granted by a district court. A district court may grant injunctive relief to prevent a violation of, or to compel a compliance with, any of the provisions of this Code or any rule promulgated thereunder or order, license or permit issued pursuant to this Code.

B. Nothing in this part shall preclude the Department from seeking penalties in District Court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil or criminal penalties for violations of this Code.

C. Any person assessed an administrative or civil penalty shall be required to pay, in addition to such penalty amount and interest thereon, attorneys fees and costs associated with the collection of such penalties.

D. For purposes of this section, each day or part of a day upon which such violation occurs shall constitute a separate violation.

E. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of this Code or any rule promulgated thereunder, or order, license or permit issued pursuant thereto.

F. 1. Any action for injunctive relief to redress or restrain a violation by any person of this Code or of any rule promulgated thereunder, or order, license, or permit issued pursuant thereto or for recovery of any administrative or civil penalty assessed pursuant to this Code may be brought by:

- a. the district attorney of the appropriate district court of the State of Oklahoma,
- b. the Attorney General on behalf of the State of Oklahoma, or
- c. the Department on behalf of the State of Oklahoma.

2. The court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

3. In any judicial action in which the Department seeks injunctive relief and alleges by verified petition that:

- a. the defendant's actions or omissions constitute a violation of the Code or a rule, order, license or permit, and
- b. the actions or omissions present an imminent and substantial endangerment to health or the environment if allowed to continue during the pendency of the action,

the Department shall be entitled to obtain a temporary order or injunction to prohibit such acts or omissions to the extent they present an imminent and substantial endangerment to health or the environment. Such temporary order or injunction shall remain in effect during the pendency of the judicial action until superceded or until such time as the court finds that the criteria of subparagraphs a and b of this paragraph no longer exist. If a temporary order or injunction has been issued without prior hearing, the court shall schedule a hearing within twenty (20) days after issuance of the temporary order to determine whether the temporary order should be lifted and a preliminary injunction should issue. The Department shall bear the burden of proof at such hearing.

4. It shall be the duty of the Attorney General and district attorney to bring such actions, if requested by the Executive Director of the Department.

G. Except as otherwise provided by law, administrative and civil penalties shall be paid into the Department of Environmental Quality Revolving Fund.

H. In determining the amount of a civil penalty the court shall consider such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the defendant from the violation, the history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the defendant, the defendant's degree of culpability, and such other matters as justice may require.

I. In addition to or in lieu of any administrative enforcement proceedings available to the Department, the Department may take or request civil action or request criminal prosecution, or both, as provided by law for any violation of this Code, rules promulgated thereunder, or orders issued, or conditions of permits, licenses, certificates or other authorizations prescribed pursuant thereto.

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Added by Laws 1993, HB 1002, c. 145, § 28, emerg. eff. July 1, 1993; Amended by Laws 1998, SB 992, c. 186, § 1, emerg. eff. November 1, 1998.

**Title 27A. Environment and Natural Resources**  
**Chapter 2 - Oklahoma Environmental Quality Code**

**Article V - Oklahoma Clean Air Act**

**Section 2-5-105 - Department Designated Administrative Agency for Oklahoma Clean Air Act for State - Powers**

**27A O.S. § 2-5-105:**

The Department of Environmental Quality is hereby designated the administrative agency for the Oklahoma Clean Air Act for the state. The Department is empowered to:

1. Establish, in accordance with its provisions, those programs specified elsewhere in the Oklahoma Clean Air Act;
2. Establish, in accordance with the Oklahoma Clean Air Act, a permitting program for the state which will contain the flexible source operation provisions required by Section 502(b)(10) of the Federal Clean Air Act Amendments of 1990;
3. Prepare and develop a general plan for proper air quality management in the state in accordance with the Oklahoma Clean Air Act;
4. Enforce rules of the Board and orders of the Department and the Council;
5. Advise, consult and cooperate with other agencies of the state, towns, cities and counties, industries, other states and the federal government, and with affected groups in the prevention and control of new and existing air contamination sources within the state;

6. Encourage and conduct studies, seminars, workshops, investigations and research relating to air pollution and its causes, effects, prevention, control and abatement;
7. Collect and disseminate information relating to air pollution, its prevention and control;
8. Encourage voluntary cooperation by persons, towns, cities and counties, or other affected groups in restoring and preserving a reasonable degree of purity of air within the state;
9. Represent the State of Oklahoma in any and all matters pertaining to plans, procedures or negotiations for the interstate compacts in relation to the control of air pollution;
10. Provide such technical, scientific or other services, including laboratory and other facilities, as may be required for the purpose of carrying out the provisions of the Oklahoma Clean Air Act, from funds available for such purposes;
11. Employ and compensate, within funds available therefor, such consultants and technical assistants and such other employees on a full- or part-time basis as may be necessary to carry out the provisions of the Oklahoma Clean Air Act and prescribe their powers and duties;
12. Accept and administer grants or other funds or gifts for the purpose of carrying out any of the functions of the Oklahoma Clean Air Act;
13. Budget and receive duly appropriated monies and all other monies available for expenditures to carry out the provisions and purposes of the Oklahoma Clean Air Act;
14. Bring appropriate court action to enforce the Oklahoma Clean Air Act and final orders of the Department, and to obtain injunctive or other proper relief in the district court of the county where any alleged violation occurs or where such relief is determined necessary. The Department, in furtherance of its statutory powers, shall have the independent authority to file an action pursuant to the Oklahoma Clean Air Act in district court. Such action shall be brought in the name of the Department of Environmental Quality;
15. Take such action as may be necessary to abate the alleged pollution upon receipt of evidence that a source of pollution or a combination of sources of pollution is presenting an immediate, imminent and substantial endangerment to the health of persons;
16. Periodically enter and inspect at reasonable times or during regular business hours, any source, facility or premises permitted or regulated by the Department, for the purpose of obtaining samples or determining compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder or permit condition prescribed pursuant thereto, or to examine any records kept or required to be kept pursuant to the Oklahoma Clean Air Act. Such inspections shall be conducted with reasonable promptness and shall be confined to those areas, sources, facilities or premises reasonably expected to emit, control, or contribute to the emission of any air contaminant;
17. Require the submission or the production and examination, within a reasonable amount of time, of any information, record, document, test or monitoring results or emission data, including trade secrets necessary to determine compliance with the Oklahoma Clean Air Act or any rule



promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto. The Department shall hold and keep as confidential any information declared by the provider to be a trade secret and may only release such information upon authorization by the person providing such information, or as directed by court order. Any documents submitted pursuant to the Oklahoma Clean Air Act and declared to be trade secrets, to be so considered, must be plainly labeled by the provider, and be in a form whereby the confidential information may be easily removed intact without disturbing the continuity of any remaining documents. The remaining document, or documents, as submitted, shall contain a notation indicating, at the place where the particular information was originally located, that confidential information has been removed. Nothing in this section shall preclude an in-camera examination of confidential information by an Administrative Law Judge during the course of a contested hearing;

18. Maintain and update at least annually an inventory of air emissions from stationary sources;

19. Accept any authority delegated from the federal government necessary to carry out any portion of the Oklahoma Clean Air Act; and

20. Carry out all other duties, requirements and responsibilities necessary and proper for the implementation of the Oklahoma Clean Air Act and fulfilling the requirements of the Federal Clean Air Act.

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Added by Laws 1992, HB 2251, c. 215, § 4, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 42, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1805.1 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 104, c. 47, § 1 (repealed by Laws 1994, HB 2299, c. 2, § 34, emerg. eff. March 2, 1994); Amended by Laws 1998, SB 986, c. 314, § 6, emerg. eff. July 1, 1998; Amended by Laws 2002, HB 2302, c. 397, § 2, eff. November 1, 2002.

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**Title 27A. Environment and Natural Resources**  
**Chapter 2 - Oklahoma Environmental Quality Code**

**Article V - Oklahoma Clean Air Act**

**Section 2-5-106 - Authorizations of Board**

**27A O.S. § 2-5-106:**

The Board is hereby authorized, after public rulemaking hearing and approval by the Council, to:

1. Promulgate, amend or repeal rules for the prevention, control and abatement of air pollution and for establishment of health and safety tolerance standards for discharge of air contaminants to the atmosphere; and

2. Promulgate such additional rules including but not limited to permit fees, as it deems necessary to protect the health, safety and welfare of the public and fulfill the intent and purpose of these provisions.

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Added by Laws 1992, HB 2251, c. 215, § 5, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 43, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1806.1 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993.

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**Title 27A. Environment and Natural Resources**  
**Chapter 2 - Oklahoma Environmental Quality Code**

**Article V - Oklahoma Clean Air Act**

**Section 2-5-107 – Powers and Duties**

**27A O.S. § 2-5-107:**

The powers and duties of the Council shall be as follows:

1. The Council shall recommend to the Board rules or amendments thereto for the prevention, control and prohibition of air pollution and for the establishment of health and safety tolerances for discharge of air contaminants in the state as may be consistent with the general intent and purposes of the Oklahoma Clean Air Act. The recommendations may include, but need not be limited to, rules required to implement the following:

- a. a comprehensive state air permitting program,
- b. an accidental release prevention program,
- c. a program for the regulation and control of toxic and hazardous air contaminants,
- d. a program for the regulation and control of acid deposition,
- e. a small business program, and
- f. a system of assessing and collecting fees;

2. The Council shall recommend rules of practice and procedure applicable to proceedings before the Council;

3. Before recommending any permanent rules, or any amendment or repeal thereof to the Board, the Council shall hold a public rulemaking hearing. The Council shall have full authority to conduct such hearings, and may appoint a hearing officer;

4. A rule, or any amendment thereof, recommended by the Council may differ in its terms and provisions as between particular conditions, particular sources, and particular areas of the state. In considering rules, the Council shall give due recognition to the evidence presented that the quantity or characteristic of air contaminants or the duration of their presence in the atmosphere, which may cause a need for air control in one area of the state, may not cause need for air control in another area of the state. The Council shall take into consideration, in this connection, all factors found by it to be proper and just, including but not limited to existing physical conditions, economic impact, topography, population, prevailing wind directions and velocities, and the fact

that a rule and the degrees of conformance therewith which may be proper as to an essentially residential area of the state may not be proper either as to a highly developed industrial area of the state or as to a relatively unpopulated area of the state;

5. Recommendations to the Board shall be in writing and concurred upon by at least five members of the Council;

6. The Council shall have the authority and the discretion to provide a public forum for the discussion of issues it considers relevant to the air quality of the state, and to:

a. pass nonbinding resolutions expressing the sense of the Council,

b. make recommendations to the Department concerning the need and the desirability of conducting public meetings, workshops and seminars, and

c. hold public hearings to receive public comment in fulfillment of federal requirements regarding the State Implementation Plan and make recommendations to the Department concerning the plan; and

7. The Council shall have the authority to conduct individual proceedings, to issue notices of hearings and subpoenas requiring the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony and receive such pertinent and relevant proof as it may deem to be necessary, proper or desirable in order that it may effectively discharge its duties and responsibilities under the Oklahoma Clean Air Act. The Council is also empowered to appoint an Administrative Law Judge to conduct individual proceedings and prepare such findings of fact, conclusions of law and proposed orders as they may require. Upon issuance of a proposed order, the Council shall request that the Executive Director issue a final order in accordance with their findings or take such action as indicated and notify the respondent thereof in writing.

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Added by Laws 1992, HB 2251, c. 215, § 7, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 44, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1808.1 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1994, SB 832, c. 353, § 7, emerg. eff. July 1, 1994.



**Title 27A. Environment and Natural Resources  
Chapter 2 - Oklahoma Environmental Quality Code**

**Article V - Oklahoma Clean Air Act**

**Section 2-5-110 – Written Order to Violator of Oklahoma Clean Air Act**

**27A O.S. § 2-5-110:**

A. In addition to any other remedy provided for by law, the Department may issue a written order to any person whom the Department has reason to believe has violated, or is presently in violation of, the Oklahoma Clean Air Act or any rule promulgated by the Board, any order of the Department or Council, or any condition of any permit issued by the Department pursuant to the Oklahoma Clean Air Act, and to whom the Department has served, no less than fifteen (15) days previously, a written notice of violation. The Department shall by conference, conciliation and persuasion provide the person a reasonable opportunity to eliminate such violations, but may, however, reduce the fifteen-day notice period as in the opinion of the Department may be necessary to render the order reasonably effectual.

B. Such order may require compliance immediately or within a specified time period or both. The order, notwithstanding any restriction contained in subsection A of this section, may also assess an administrative penalty for past violations occurring no more than five (5) years prior to the date the order is filed with the Department, and for each day or part of a day that such person fails to comply with the order.

C. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations, and may impose such requirements, procedures or conditions as may be necessary to correct the violations. The Department may also order any environmental contamination having the potential to adversely affect the public health, when caused by the violations, to be corrected by the person or persons responsible.

D. Any penalty assessed in the order shall not exceed Ten Thousand Dollars (\$10,000.00) per day for each violation. In assessing such penalties, the Department shall consider the seriousness of the violation or violations, any good faith efforts to comply, and other factors determined by rule to be relevant. A final order following an enforcement hearing may assess an administrative penalty of an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.

E. Any order issued pursuant to this section shall become a final order, unless no later than fifteen (15) days after the order is served the person or persons named therein request in writing an enforcement hearing. Said order shall contain language to that effect. Upon such request, the Department shall promptly schedule the enforcement hearing before an Administrative Law Judge for the Department and notify the respondent .

F. At all proceedings with respect to any alleged violation of the Oklahoma Clean Air Act, or any rule promulgated thereunder, the burden of proof shall be upon the Department.

G. Nothing in this section shall be construed to limit the authority of the Department to enter into an agreed settlement or consent order with any respondent.

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Added by Laws 1992, HB 2251, c. 215, § 10, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 47, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1811 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 13, emerg. eff. July 1, 1993; Amended by Laws 1999, HB 1781, c. 131, § 1, eff. November 1, 1999; Amended by Laws 2001, SB 199, c. 109, § 1, emerg. eff. April 18, 2001.

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**Title 27A. Environment and Natural Resources**  
**Chapter 2 - Oklahoma Environmental Quality Code**

**Article V - Oklahoma Clean Air Act**

**Section 2-5-112 - Implementation of Comprehensive Permitting Program**

**27A O.S. § 2-5-112:**

A. Upon the effective date of permitting rules promulgated pursuant to the Oklahoma Clean Air Act, it shall be unlawful for any person to construct any new source, or to modify or operate any new or existing source of emission of air contaminants except in compliance with a permit issued by the Department of Environmental Quality, unless the source has been exempted or deferred or is in compliance with an applicable deadline for submission of an application for such permit.

B. The Department shall have the authority and the responsibility, in accordance with rules of the Environmental Quality Board, to implement a comprehensive permitting program for the state consistent with the requirements of the Oklahoma Clean Air Act. Such authority shall include but shall not be limited to the authority to:

1. Expediently issue, reissue, modify and reopen for cause, permits for new and existing sources for the emission of air contaminants, and to grant a reasonable measure of priority to the processing of applications for new construction or modifications. The Department may also revoke, suspend, deny, refuse to issue or to reissue a permit upon a determination that any permittee or applicant is in violation of any substantive provisions of the Oklahoma Clean Air Act, or any rule promulgated thereunder or any permit issued pursuant thereto;
2. Refrain from issuing a permit when issuance has been objected to by the Environmental Protection Agency in accordance with Title V of the Federal Clean Air Act;
3. Revise any permit for cause or automatically reopen it to incorporate newly applicable rules or requirements if the remaining permit term is greater than three (3) years; or incorporate insignificant changes into a permit without requiring a revision;
4. Establish and enforce reasonable permit conditions which may include, but not be limited to:

- a. emission limitations for regulated air contaminants,
  - b. operating procedures when related to emissions,
  - c. performance standards,
  - d. provisions relating to entry and inspections, and
  - e. compliance plans and schedules;
5. Require, if necessary, at the expense of the permittee or applicant:
- a. installation and utilization of continuous monitoring devices,
  - b. sampling, testing and monitoring of emissions as needed to determine compliance,
  - c. submission of reports and test results, and
  - d. ambient air modeling and monitoring;
6. Issue:
- a. general permits covering similar sources, and
  - b. permits to sources in violation, when compliance plans, which shall be enforceable by the Department, are incorporated into the permit;
7. Require, at a minimum, that emission control devices on stationary sources be reasonably maintained and properly operated;
8. Require that a permittee certify that the facility is in compliance with all applicable requirements of the permit and to promptly report any deviations therefrom to the Department;
9. Issue permits to sources requiring permits under Title V of the Federal Clean Air Act for a term not to exceed five (5) years, except that solid waste incinerators may be allowed a term of up to twelve (12) years provided that the permit shall be reviewed no less frequently than every five (5) years;
10. Specify requirements and conditions applicable to the content and submittal of permit applications; set by rule, a reasonable time in which the Department must determine the completeness of such applications; and
11. Determine the form and content of emission inventories and require their submittal by any source or potential source of air contaminant emissions.
- C. Rules of the Board may set limits below which a source of air contaminants may be exempted from the requirement to obtain a permit or to pay any fee. Any source so exempted, however, shall

remain under jurisdiction of the Department and shall be subject to any applicable rules or general permit requirements. Such rules shall not prohibit sawmill facilities from open burning any wood waste resulting from the milling of untreated cottonwood lumber in areas that have always attained ambient air quality standards.

D. To ensure against unreasonable delay on the part of the Department, the failure of the Department to act in either the issuance, denial or renewal of a permit in a reasonable time, as determined by rule, shall be deemed to be a final permit action solely for purpose of judicial review under the Administrative Procedures Act, with regard to the applicant or any person who participated in the public review process. The Supreme Court or the district court, as the case may be, may require that action be taken by the Department on the application without additional delay. No permit, however, may be issued by default.

E. The Department shall notify, or require that any applicant notify, all states whose air quality may be affected and that are contiguous to the State of Oklahoma, or are within fifty (50) miles of the source of each permit application or proposed permit for those sources requiring permits under Title V of the Federal Clean Air Act, and shall provide an opportunity for such states to submit written recommendations respecting the issuance of the permit and its terms and conditions.

F. No person, including but not limited to the applicant, shall raise any reasonably ascertainable issue in any future proceeding, unless the same issues have been raised and documented before the close of the public comment period on the draft permit.

G. A change in ownership of any facility or source subject to permitting requirements under this section shall not necessitate any action by the Department not otherwise required by the Oklahoma Clean Air Act. Any permit applicable to such source at the time of transfer shall be enforceable in its entirety against the transferee in the same manner as it would have been against the transferor, as shall any requirement contained in any rule, or compliance schedule set forth in any variance or order regarding or applicable to such source. Provided, however, no transferee in good faith shall be held liable for penalties for violations of the transferor unless the transferee assumes all assets and liabilities through contract or other means. For the purposes of this subsection, good faith shall be construed to mean neither having actual knowledge of a previous violation nor constructive knowledge which would lead a reasonable person to know of the violation. It shall be the responsibility of the transferor to notify the Department in writing within thirty (30) days of the change in ownership.

H. Operating permits may be issued to new sources without public review upon a proper determination by the Department that:

1. The construction permit was issued pursuant to the public review requirements of the Code and rules promulgated thereunder; and
2. The operating permit, as issued, does not differ from the construction permit in any manner which would otherwise subject the permit to public review.



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Added by Laws 1992, HB 2251, c. 215, § 12, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 49, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1813 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1994, SB 997, c. 373, § 16, emerg. eff. July 1, 1994; Amended by Laws 1995, SB 247, c. 285, § 2, emerg. eff. July 1, 1996; Amended by Laws 1999, SB 417, c. 284, § 1, emerg. eff. May 27, 1999; Amended by Laws 1999, HB 1781, c. 131, § 2, eff. November 1, 1999 (repealed by Laws 2000, HB 2711, c. 6, § 33, emerg. eff. March 20, 2000); Amended by Laws 2000, HB 2711, c. 6, § 7, emerg. eff. March 20, 2000; Amended by Laws 2004, HB 1876, c. 83, § 1, emerg. eff. April 13, 2004; Amended by Laws 2004, HB 2198, c. 381, § 4, emerg. eff. June 3, 2004.

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**Title 27A. Environment and Natural Resources**  
**Chapter 2 - Oklahoma Environmental Quality Code**

**Article V - Oklahoma Clean Air Act**

**Section 2-5-113 – Permit Fees**

**27A O.S. § 2-5-113:**

A. Upon the effective date of rules promulgated pursuant to the Oklahoma Clean Air Act establishing a schedule of permit fees, the owner or operator of any source required to have a permit shall be subject to pay to the Department or, upon delegation, the appropriate city-county authority:

1. A fee sufficient to cover the reasonable cost of reviewing and acting upon any application for a construction or operating permit for any new source or for the modification of any existing source;
2. An annual operating permit fee sufficient to cover the reasonable costs, both direct and indirect, of implementing and enforcing the permit program authorized by the Oklahoma Clean Air Act and the Federal Clean Air Act, including, but not to be limited to:
  - a. the costs of reviewing and acting upon any permit renewal,
  - b. emissions and ambient monitoring, for those costs incurred under the permitting program,
  - c. preparing generally applicable rules or guidance,
  - d. modeling, monitoring, analyses and demonstrations,
  - e. preparing inventories and tracking emissions, and
  - f. inspections and enforcement.

B. The annual operating fee may be imposed in graduated yearly increases as necessary to cover the above costs, but for any major source, affected source, or any source, including an area source, subject to standards or regulations under Section 111 or 112 of the Federal Clean Air Act, any source required to have a permit under parts C or D of Title I of the Federal Clean Air Act, or any other source as may be required to have a permit pursuant to the Federal Clean Air Act, the fee, beginning January 1, 1993, shall be Ten Dollars (\$10.00) per ton of regulated air contaminant, due and payable upon receipt of invoice. Thereafter, following rulemaking, the annual operating fee shall be Twenty-five Dollars (\$25.00) per ton or such amount, either higher or lower, as is determined to adequately reflect the demonstrated reasonable costs of the operating permit program. Fees may be based upon the amount of regulated air contaminant allowed by permit to be emitted, or upon actual emissions properly determined, or both; provided, however, that the rate per ton shall be the same whether applied to actual or to allowable emissions. The applicant shall annually have the option to elect either actual or allowable emissions as the basis for calculating the operating fee. For other sources subject to permitting requirements, fees may be assessed consistent with the criteria in subsection A of this section. No fee, however, shall be required for the emission of carbon monoxide and no assessment shall be made for emissions in excess of four thousand (4,000) tons per contaminant per year per source, or any group or stationary sources located within a contiguous area and under common control.

C. The fees authorized in this section shall be set forth by rule and shall preclude collection of any additional permitting fees by any other state or local governmental authority for emission of the same air contaminants. Provided further, in the event that a particular substance may exhibit the characteristics of more than one type of regulated air contaminant, and to prevent a double fee from being assessed, the Department may assign only one single classification to that particular substance for fee assessment purposes. For those sources subject to the fee specified in subsection B of this section, the rule shall further provide for the annual operating fee to be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. For the purposes of this subsection:

1. The Consumer Price Index for any calendar year is the average of the Consumer Price Index 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; and

2. The revision of the Consumer Price Index which is the most consistent with the Consumer Price Index for calendar year 1989 shall be used.

D. Any fee not received by the Department within the prescribed time period allotted for payment, unless a lesser amount shall be provided for by rule, shall be subject to a one and one-half percent (1 1/2%) per month penalty.

E. There is hereby created within the Department of Environmental Quality Revolving Fund, a subaccount which shall consist of all permit fees collected by the Department pursuant to Title V of the federal Clean Air Act as authorized by the Oklahoma Clean Air Act. All monies accruing to the credit of such subaccount shall be budgeted and expended by the Department for the sole purpose of implementing the permit program as set forth in Title V of the Federal Clean Air Act and the Oklahoma Clean Air Act.

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Added by Laws 1992, HB 2251, c. 215, § 13, emerg. eff. May 15, 1992; Added by Laws 1993, HB 1002, c. 145, § 50, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1814 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993; Amended by Laws 1993, SB 361, c. 324, § 15, emerg. eff. July 1, 1993.

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**Title 27A. Environment and Natural Resources**  
**Chapter 2 - Oklahoma Environmental Quality Code**

**Article V - Oklahoma Clean Air Act**

**Section 2-5-114 – Establishment of Program for Implementation and Enforcement of Federal Emission Standards**

**27A O.S. § 2-5-114:**

A. The Department shall have the authority to establish a program for the implementation and enforcement of the federal emission standards and other requirements under Section 112 of the Federal Clean Air Act for hazardous air pollutants and for the prevention and mitigation of accidental releases of regulated substances under Section 112(r) of the Federal Clean Air Act.

1. Except as otherwise provided by paragraph 2 of this subsection, to assure that such program shall be consistent with, and not more stringent than, federal requirements:

a. any rule recommended by the Council and promulgated by the Board regarding hazardous air pollutants and regulated substances shall only be by adoption by reference of final federal rules, and

b. shall include the federal early reduction program under Section 112(i) (5) of the Federal Clean Air Act.

2. The Board may promulgate, pursuant to recommendation by the Council, rules which establish emission limitations for hazardous air pollutants which are more stringent than the applicable federal standards, upon a determination by the Council that more stringent standards are necessary to protect the public health or the environment.

B. The Department shall also have the authority to establish a separate and distinct program only for the control of the emission of those toxic air contaminants not otherwise regulated by a final emission standard under Section 112(d) of the Federal Clean Air Act.

1. Such program shall consist of permanent rules establishing:

a. appropriate emission limitations, work practice standards, maximum acceptable ambient concentrations or control technology standards necessary for the protection of the public health or the environment, and

b. emissions monitoring or process monitoring requirements necessary to assure compliance with the requirements of this section.

2. Paragraph 1 of this subsection shall not be construed as requiring readoption of existing rules regarding toxic air contaminants.

C. Regulation of any hazardous air pollutant pursuant to a final emission standard promulgated under Section 112(d) of the Federal Clean Air Act, shall preclude its regulation as a toxic air contaminant under subsection B of this section.

D. Emissions from any oil or gas exploration or production well with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources, and in the case of any oil or gas exploration or production well with its associated equipment, such emissions shall not be aggregated for any purpose under this section.

E. The Department shall not list oil and gas production wells with their associated equipment as an area source category, except that the Department may establish an area source category for oil and gas production wells located in any metropolitan statistical area or consolidated metropolitan statistical area with a population in excess of one million (1,000,000) if the Department determines that emissions of hazardous air pollutants from such wells present more than a negligible risk of adverse effects to public health.

F. Nothing in this section shall be construed to limit authority established elsewhere in the Oklahoma Clean Air Act.

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Added by Laws 1992, HB 2251, c. 215, § 14, emerg. eff. May 15, 1992; Amended by Laws 1993, HB 1002, c. 145, § 51, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1815 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993.

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**Title 27A. Environment and Natural Resources  
Chapter 2 - Oklahoma Environmental Quality Code**

**Article V - Oklahoma Clean Air Act**

**Section 2-5-117 – Authority to Commence Civil Actions**

**27A O.S. § 2-5-117:**

A. The Department shall have the authority to commence a civil action for a permanent or temporary injunction or other appropriate relief, or to require abatement of any emission or correction of any contamination, or to seek and recover a civil penalty of not more than Ten

Thousand Dollars (\$10,000.00) per day for each violation, or all of the above, in any of the following instances:

1. Whenever any person has violated or is in violation of any applicable provision of the Oklahoma Clean Air Act, or any rule promulgated thereunder;
2. Whenever any person has commenced construction, modification or operation of any source, or operates any source in violation of the requirement to have a permit, or violates or is in violation of any substantive provision or condition of any permit issued pursuant to the Oklahoma Clean Air Act; or
3. Whenever any person has violated any order of the Department or the Council or any requirement to pay any fee, fine or penalty owed to the state pursuant to the Oklahoma Clean Air Act.

B. The district attorney or attorneys having jurisdiction shall have primary authority and responsibility for prosecution of any civil or criminal violations under the Oklahoma Clean Air Act and for the collection of any delinquent fees, penalties or fines assessed pursuant to the Oklahoma Clean Air Act and shall be entitled to recover reasonable costs of collection, including attorney fees, and an appropriate fee of up to fifty percent (50%) for collecting delinquent fees, penalties or fines.

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Added by Laws 1992, HB 2251, c. 215, § 17, emerg. eff. May 15, 1992. Amended by Laws 1993, HB 1002, c. 145, § 54, emerg. eff. July 1, 1993; Renumbered from 63 O.S. § 1-1818 by Laws 1993, HB 1002, c. 145, § 359, emerg. eff. July 1, 1993.

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**Oklahoma Administrative Rules:**

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY**

**CHAPTER 4. RULES OF PRACTICE AND PROCEDURE**

**252:4-1-3. Organization**

(a) **Environmental Quality Board.** The Environmental Quality Board consists of thirteen (13) members, appointed by the Governor with the advice and consent of the Senate, selected from the environmental profession, general industry, hazardous waste industry, solid waste industry, water usage, petroleum industries, agriculture industries, conservation districts, local city or town governments, rural water districts, and statewide nonprofit environmental organizations. (See further 27A O.S. § 2-2-101.)

(b) **Advisory Councils.** There are five advisory councils. Each council consists of nine to twelve members appointed by the Speaker of the House of Representatives, the President Pro Tempore of the Senate or the Governor. (See further 27A O.S. §2-2-201)

(c) **DEQ.** The DEQ consists of the following divisions: Administrative Services, Air Quality, Land Protection, Water Quality, Environmental Complaints and Local Services, External Affairs, and State Environmental Laboratory Services.

Effective date – September 15, 2016

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.1 – Short Title**

**51 O.S. § 24A.1:**

Section 24A.1 et seq. of this title shall be known and may be cited as the "Oklahoma Open Records Act"

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Added by Laws 1985, SB 276, c. 355, § 1, eff. November 1, 1985; Amended by Laws 1988, HB 1803, c. 68, § 1, eff. November 1, 1988; Amended by Laws 1988, HB 1846, c. 187, § 1, emerg. eff. June 6, 1988; Amended by Laws 1996, HB 2692, c. 247, § 41, emerg. eff. July 1, 1996; Amended by Laws 1997, HB 1436, c. 2, § 10, emerg. eff. February 26, 1997.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.2 – Political Power – Public Policy and Purpose of Act**

**51 O.S. § 24A.2:**

As the Oklahoma Constitution recognizes and guarantees, all political power is inherent in the people. Thus, it is the public policy of the State of Oklahoma that the people are vested with the inherent right to know and be fully informed about their government. The Oklahoma Open Records Act shall not create, directly or indirectly, any rights of privacy or any remedies for violation of any rights of privacy; nor shall the Oklahoma Open Records Act, except as specifically set forth in the Oklahoma Open Records Act, establish any procedures for protecting any person from release of information contained in public records. The purpose of this act is to ensure and facilitate the public's right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power. The privacy interests of individuals are

adequately protected in the specific exceptions to the Oklahoma Open Records Act or in the statutes which authorize, create or require the records. Except where specific state or federal statutes create a confidential privilege, persons who submit information to public bodies have no right to keep this information from public access nor reasonable expectation that this information will be kept from public access; provided, the person, agency or political subdivision shall at all times bear the burden of establishing such records are protected by such a confidential privilege. Except as may be required by other statutes, public bodies do not need to follow any procedures for providing access to public records except those specifically required by the Oklahoma Open Records Act.

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Added by Laws 1985, SB 276, c. 355, § 2, eff. November 1, 1985; Amended by Laws 1988, HB 1846, c. 187, § 2, emerg. eff. June 6, 1988.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.3 – Definitions**

**51 O.S. § 24A.3:**

As used in the Oklahoma Open Records Act:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" does not mean:

a. computer software,

b. nongovernment personal effects,

c. unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Transportation Authority obtained in connection with the Authority's electronic toll collection system,

d. personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body,

e. any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority,

f. any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department or the Board of Trustees of the Quartz Mountain Arts and Conference Center and Nature Park to obtain any service at the facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department or the Quartz Mountain Arts and Conference Center and Nature Park,

g. a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before July 1, 2002, or

h. except as provided for in Section 2-110 of Title 47 of the Oklahoma Statutes,

(1) any record in connection with a Motor Vehicle Report issued by the Department of Public Safety, as prescribed in Section 6-117 of Title 47 of the Oklahoma Statutes, or

(2) personal information within driver records, as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, which are stored and maintained by the Department of Public Safety;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, "public body" does not mean judges, justices, the Council on Judicial Complaints, the Legislature, or legislators;

3. "Public office" means the physical location where public bodies conduct business or keep records;

4. "Public official" means any official or employee of any public body as defined herein; and

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation.

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Added by Laws 1985, SB 276, c. 355, § 3, eff. November 1, 1985; Amended by Laws 1987, HB 1444, c. 222, § 117, emerg. eff. July 1, 1987; Amended by Laws 1988, HB 1846, c. 187, § 3, emerg. eff. June 6, 1988; Amended by Laws 1993, HB 1471, c. 39, § 1, eff. September 1, 1993; Amended by Laws 1996, SB 719, c. 209, § 2, eff. November 1, 1996; Amended by Laws 1998, SB 996, c. 315, § 4, emerg. eff. May 28, 1998; Amended by Laws 1998, HB 3063, c. 368, § 11,



emerg. eff. July 1, 1998; Amended by Laws 2001, SB 748, c. 355, § 1, emerg. eff. June 1, 2001; Amended by Laws 2002, HB 2738, c. 293, § 3, emerg. eff. May 22, 2002 (repealed by Laws 2003, HB 1816, c. 3, § 43, emerg. eff. March 19, 2003); Amended by SB 960, c. 478, § 2, emerg. eff. July 1, 2002; Amended by Laws 2003, HB 1816, c. 3, § 42, emerg. eff. March 19, 2003; Amended by Laws 2004, HB 1695, c. 328, § 1, emerg. eff. July 1, 2004; Amended by Laws 2005, HB 1553, c. 199, § 4, eff. November 1, 2005; Amended by Laws 2014, HB 2676, c. 266, § 2, eff. November 1, 2014.

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## **Title 51. Officers**

### **Chapter 1 – General Provisions**

#### **Oklahoma Open Records Act**

##### **Section 24A.4 – Duty to Keep and Maintain Complete Records of Receipt and Expenditure of Funds**

###### **51 O.S. § 24A.4:**

In addition to other records which are kept or maintained, every public body and public official has a specific duty to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial and business transactions relating thereto, except that such records may be disposed of as provided by law.

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Added by Laws 1985, SB 276, c. 355, § 4, eff. November 1, 1985.

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## **Title 51. Officers**

### **Chapter 1 – General Provisions**

#### **Oklahoma Open Records Act**

##### **Section 24A.5 – Open and Confidential Records**

###### **51 O.S. § 24A.5:**

All records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.30 of this title, does not apply to records specifically required by law to be kept confidential including:

a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges,

b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act,

c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725,

d. information in the files of the Board of Medicolegal Investigations obtained pursuant to Sections 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay, preliminary unsubstantiated investigation-related findings, or confidential medical information, or

e. any test forms, question banks and answer keys developed for state licensure examinations, but specifically excluding test preparation materials or study guides;

2. All Social Security numbers included in a record may be confidential regardless of the person's status as a public employee or private individual and may be redacted or deleted prior to release of the record by the public body;

3. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions; provided however, the Department of Public Safety shall not be required to assemble for the requesting person specific information, in any format, from driving records relating to any person whose name and date of birth or whose driver license number is not furnished by the requesting person.

The Oklahoma State Bureau of Investigation shall not be required to assemble for the requesting person any criminal history records relating to persons whose names, dates of birth, and other identifying information required by the Oklahoma State Bureau of Investigation pursuant to administrative rule are not furnished by the requesting person;

3. Any request for a record which contains individual records of persons, and the cost of copying, reproducing or certifying each individual record is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of record copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall the record copying fee exceed twenty-five cents (\$0.25) per page for records having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00) per copied page for a certified copy. However, if the request:

a. is solely for commercial purpose, or

b. would clearly cause excessive disruption of the essential functions of the public body,

then the public body may charge a reasonable fee to recover the direct cost of record search and copying; however, publication in a newspaper or broadcast by news media for news purposes shall not constitute a resale or use of a record for trade or commercial purpose and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy. The fee charged by the Department of Public Safety for a copy in a computerized

format of a record of the Department shall not exceed the direct cost of making the copy unless the fee for the record is otherwise set by law.

Any public body establishing fees under this act shall post a written schedule of the fees at its principal office and with the county clerk.

In no case shall a search fee be charged when the release of records is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

The fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information;

4. The land description tract index of all recorded instruments concerning real property required to be kept by the county clerk of any county shall be available for inspection or copying in accordance with the provisions of the Oklahoma Open Records Act; provided, however, the index shall not be copied or mechanically reproduced for the purpose of sale of the information;

5. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions; and

6. A public body shall designate certain persons who are authorized to release records of the public body for inspection, copying, or mechanical reproduction. At least one person shall be available at all times to release records during the regular business hours of the public body.

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Added by Laws 1985, SB 276, c. 355, § 5, eff. November 1, 1985; Amended by Laws 1986, SB 487, c. 213, § 1, emerg. eff. June 6, 1986; Amended by Laws 1986, HB 1633, c. 279, § 29, emerg. eff. July 1, 1986; Amended by Laws 1988, HB 1846, c. 187, § 4, emerg. eff. June 6, 1988; Amended by Laws 1992, HB 2142, c. 231, § 2, emerg. eff. May 19, 1992; Amended by Laws 1993, HB 1053, c. 97, § 7, eff. September 1, 1993; Amended by Laws 1996, SB 719, c. 209, § 3, eff. November 1, 1996; Amended by Laws 2000, HB 2100, c. 342, § 8, emerg. eff. July 1, 2000; Amended by Laws 2001, SB 665, c. 137, § 1, emerg. eff. April 24, 2001; Amended by Laws 2005, HB 1553, c. 199, § 5, eff. November 1, 2005; Amended by Laws 2005, HB 1318, c. 223, § 1, eff. November 1, 2005 (repealed by Laws 2006, HB 3139, c. 16, § 35, emerg. eff. March 29, 2006); Amended by Laws 2006, HB 3139, c. 16, § 34, emerg. eff. March 29, 2006; Amended by Laws 2015, HB 1037, c. 370, § 1, emerg. eff. June 4, 2015; Amended by Laws 2016, HB 2281, c. 54, § 1, eff. November 1, 2016; Amended by Laws 2016, HB 2510, c. 192, § 1, eff. November 1, 2016 .

**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.6 – Written Notice of Business Hours of Public Bodies - Inspection, Copying, or  
Reproduction of Records of Public Body**

**51 O.S. § 24A.6:**

A. If a public body or its office does not have regular business hours of at least thirty (30) hours a week, the public body shall post and maintain a written notice at its principal office and with the county clerk where the public body is located which notice shall:

1. Designate the days of the week when records are available for inspection, copying or mechanical reproduction;
2. Set forth the name, mailing address, and telephone number of the individual in charge of the records; and
3. Describe in detail the procedures for obtaining access to the records at least two days of the week, excluding Sunday.

B. The person requesting the record and the person authorized to release the records of the public body may agree to inspection, copying, or mechanical reproduction on a day and at a time other than that designated in the notice.

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Added by Laws 1985, SB 276, c. 355, § 6, eff. November 1, 1985.

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**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.7 – Confidential Personnel Records of Public Body**

**51 O.S. § 24A.7:**

A. A public body may keep personnel records confidential:

1. Which relate to internal personnel investigations including examination and selection material for employment, hiring, appointment, promotion, demotion, discipline, or resignation; or

2. Where disclosure would constitute a clearly unwarranted invasion of personal privacy such as employee evaluations, payroll deductions, employment applications submitted by persons not hired by the public body, and transcripts from institutions of higher education maintained in the personnel files of certified public school employees; provided, however, that nothing in this subsection shall be construed to exempt from disclosure the degree obtained and the curriculum on the transcripts of certified public school employees.

B. All personnel records not specifically falling within the exceptions provided in subsection A of this section shall be available for public inspection and copying including, but not limited to, records of:

1. An employment application of a person who becomes a public official;
2. The gross receipts of public funds;
3. The dates of employment, title or position; and
4. Any final disciplinary action resulting in loss of pay, suspension, demotion of position, or termination.

C. Except as may otherwise be made confidential by statute, an employee of a public body shall have a right of access to his own personnel file.

D. Public bodies shall keep confidential the home address, telephone numbers and social security numbers of any person employed or formerly employed by the public body.

E. Except as otherwise required by Section 6–101.16 of Title 70 of the Oklahoma Statutes, public bodies shall keep confidential all records created pursuant to the Oklahoma Teacher and Leader Effectiveness Evaluation System (TLE) which identify a current or former public employee and contain any evaluation, observation or other TLE record of such employee.

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Added by Laws 1985, SB 276, c. 355, § 7, eff. November 1, 1985; Amended by Laws 1990, HB 1883, c. 257, § 6, emerg. eff. May 23, 1990; Amended by Laws 1994, HB 2268, c. 177, § 1, eff. September 1, 1994; Amended by Laws 2005, HB 1728, c. 116, § 2, eff. November 1, 2005; Amended by Laws 2014, HB 3173, c. 130, § 1, eff. November 1, 2014.

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**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.8 – Law Enforcement Agency Records Available for Public Inspection**

**51 O.S. § 24A.8:**

A. Law enforcement agencies shall make available for public inspection and copying, if kept, the following records:

1. An arrestee description, including the name, date of birth, address, race, sex, physical description, and occupation of the arrestee;
2. Facts concerning the arrest, including the cause of arrest and the name of the arresting officer;
3. A chronological list of all incidents, including initial offense report information showing the offense, date, time, general location, officer, and a brief summary of what occurred;
4. Radio logs, including a chronological listing of the calls dispatched;
5. Conviction information, including the name of any person convicted of a criminal offense;
6. Disposition of all warrants, including orders signed by a judge of any court commanding a law enforcement officer to arrest a particular person;
7. A crime summary, including an agency summary of crimes reported and public calls for service by classification or nature and number; and
8. Jail registers, including jail blotter data or jail booking information recorded on persons at the time of incarceration showing the name of each prisoner with the date and cause of commitment, the authority committing the prisoner, whether committed for a criminal offense, a description of the prisoner, and the date or manner of discharge or escape of the prisoner.
9. Audio and video recordings from recording equipment attached to law enforcement vehicles and/or on the person of a law enforcement officer; provided, the law enforcement agency may, before releasing any audio or video recording, redact or obscure specific portions of the recording which:
  - a. depict the death of a person or a dead body, unless the death was effected by a law enforcement officer,
  - b. depict nudity,
  - c. would identify minors under the age of sixteen (16) years or would undermine any requirement to keep certain juvenile records confidential as provided for in Title 10A of the Oklahoma Statutes

d. depict acts of severe violence resulting in great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, against persons that are clearly visible, unless the act of severe violence was effected by a law enforcement officer,

e. depict great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, unless the great bodily injury was effected by a law enforcement officer,

f. include personal medical information that is not already public,

g. would undermine the assertion of a privilege provided in Section 1-109 or Section 3-428 of Title 43A of the Oklahoma Statutes for detention or transportation for mental health evaluation or treatment or drug or alcohol detoxification purposes,

h. include personal information other than the name or license plate number of a person not arrested, cited, charged or issued a written warning. Such personal information shall include any government-issued identification number, date of birth, address or financial information, or

i. reveal the identity of law enforcement officers who have become subject to internal investigation by the law enforcement agency as a result of an event depicted in the recording. The option to protect the identity of a law enforcement officer shall not be available to the law enforcement agency after the law enforcement agency has concluded the investigation and rendered a decision as to final disciplinary action. At such time when an investigation has concluded and the law enforcement agency has rendered its decision as to final disciplinary action, the portions of the recordings previously withheld as provided for in this subparagraph shall be available for public inspection and copying. The audio and video recordings withheld as provided for in this subparagraph shall be available for public inspection and copying before the conclusion of the investigation if the investigation lasts for an unreasonable amount of time; and

10. a. Audio and video recordings from recording equipment attached to the person of a law enforcement officer that depict:

(1) the use of any physical force or violence by a law enforcement officer,

(2) pursuits of any kind,

(3) traffic stops

(4) any person being arrested, cited, charged or issued a written warning,

(5) events that directly led to any person being arrested, cited, charged or receiving a written warning,

(6) detentions of any length for the purpose of investigation,

(7) any exercise of authority by a law enforcement officer that deprives a citizen of his or her liberty,

(8) actions by a law enforcement officer that have become the cause of an investigation or charges being filed,

(9) recordings in the public interest that may materially aid a determination of whether law enforcement officers are appropriately performing their duties as public servants, or

(10) any contextual events occurring before or after the events depicted in divisions (1) through (9) of this subparagraph.

b. Notwithstanding the provisions of subparagraph a of this paragraph, the law enforcement agency may, before releasing any audio or video recording provided for in this paragraph, redact or obscure specific portions of the recording that:

(1) depict the death of a person or a dead body, unless the death was effected by a law enforcement officer,

(2) depict nudity,

(3) would identify minors under the age of sixteen (16) years or would undermine any requirement to keep certain juvenile records confidential as provided for in Title 10A of the Oklahoma Statutes

(4) depict acts of severe violence resulting in great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, against persons that are clearly visible, unless the act of severe violence was effected by a law enforcement officer,

(5) depict great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, unless the great bodily injury was effected by a law enforcement officer,

(6) include personal medical information that is not already public,

(7) would undermine the assertion of a privilege provided in Section 1-109 or Section 3-428 of Title 43A of the Oklahoma Statutes for detention or transportation for mental health evaluation or treatment or drug or alcohol detoxification purposes,

(8) identify alleged victims of sex crimes or domestic violence,

(9) identify any person who provides information to law enforcement or the information provided by that person when that person requests anonymity or where disclosure of the identity of the person or the information provided could reasonably be expected to threaten or endanger the physical safety or property of the person or the physical safety or property of others,

(10) undermine the assertion of a privilege to keep the identity of an informer confidential as provided for in Section 2510 of Title 12 of the Oklahoma Statutes,

(11) include personal information other than the name or license plate number of a person not officially arrested, cited, charged or issued a written warning. Such personal information shall



include any government-issued identification number, date of birth, address or financial information,

(12) include information that would materially compromise an ongoing criminal investigation or ongoing criminal prosecution, provided that:

(a) ten (10) days following the formal arraignment or initial appearance, whichever occurs first, of a person charged in the case in question, the recording shall be made available for public inspection and copying with no redaction of the portions that were temporarily withheld by reliance on this division. Provided, before potential release of a recording as provided for in this subdivision, the prosecutor or legal representative of the person charged may request from the appropriate district court an extension of time during which the recording may be withheld under the provisions of this division. When a request for an extension of time has been filed with the court, the recording in question may be withheld until the court has issued a ruling. Such requests for an extension of the time during which the recording may be withheld may be made on the grounds that release of the recording will materially compromise an ongoing criminal investigation or criminal prosecution or on the grounds that release of the recording will materially compromise the right of an accused to a fair trial that has yet to begin. Courts considering such requests shall conduct a hearing and consider whether the interests of the public outweigh the interests asserted by the parties. In response to such requests, the court shall order that the recording be made available for public inspection and copying with no redaction of the portions that were temporarily withheld by reliance on this division or order an extension of time during which the recording may be withheld under the provisions of this division. Provided further, each such time extension shall only be ordered by the court for an additional six-month period of time or less and cumulative time extensions shall not add up to more than eighteen (18) months, or

(b) in the event that one hundred twenty (120) days expire from the date of the events depicted in the recording without any person being criminally charged in the case in question and release of a recording or portions of a recording have been denied on the grounds provided for in this division, an appeal of such denial may be made to the appropriate district court. In situations where one hundred twenty (120) days have expired since the creation of the recording, criminal charges have not been filed against a person and the recording is being withheld on the grounds provided for in this division, courts considering appeals to the use of the provisions of this division for temporarily withholding a recording shall conduct a hearing and consider whether the interests of the public outweigh the interests of the parties protected by this division. In response to such appeals, the district court shall order that the recording be made available for public inspection and copying with no redaction of the portions that were temporarily withheld by reliance on this division or order an extension of time during which the recording may be withheld under the provisions of this division. An order granting an extension of time shall be applicable to the recording against all appellants for the duration of the extension. Provided, each such time extension shall only be ordered by the district court for an additional twelve-month period of time or less and cumulative time extensions shall not add up to more than three (3) years. Provided, charges being filed against a person in the case in question automatically cancels any extension of time. A new request for an extension of time following an arraignment or initial appearance may be requested by the parties on the grounds and under the terms provided for in subdivision (a) of this division.

The options presented in this division to potentially withhold a recording or portions of a recording on the grounds provided for in this division shall expire in totality four (4) years after the recording was made at which time all recordings previously withheld on the grounds provided for in this division shall be made available for public inspection and copying, or

(13) reveal the identity of law enforcement officers who have become subject to internal investigation by the law enforcement agency as a result of an event depicted in the recording. The option to protect the identity of a law enforcement officer shall not be available to the law enforcement agency after the law enforcement agency has concluded the investigation and rendered a decision as to final disciplinary action. At such time when an investigation has concluded and the law enforcement agency has rendered its decision as to final disciplinary action, the portions of the recordings previously withheld as provided for in this division shall be available for public inspection and copying. The audio and video recordings withheld on the grounds provided for in this division shall be available for public inspection and copying before the conclusion of the investigation if the investigation lasts for an unreasonable amount of time.

B. Except for the records listed in subsection A of this section and those made open by other state or local laws, law enforcement agencies may deny access to law enforcement records except where a court finds that the public interest or the interest of an individual outweighs the reason for denial. The provisions of this section shall not operate to deny access to law enforcement records if such records have been previously made available to the public as provided in the Oklahoma Open Records Act or as otherwise provided by law.

C. Nothing contained in this section imposes any new recordkeeping requirements. Law enforcement records shall be kept for as long as is now or may hereafter be specified by law. Absent a legal requirement for the keeping of a law enforcement record for a specific time period, law enforcement agencies shall maintain their records for so long as needed for administrative purposes.

D. Registration files maintained by the Department of Corrections pursuant to the provisions of the Sex Offenders Registration Act shall be made available for public inspection in a manner to be determined by the Department.

E. The Council on Law Enforcement Education and Training (C.L.E.E.T.) shall keep confidential all records it maintains pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and deny release of records relating to any employed or certified full-time officer, reserve officer, retired officer or other person; teacher lesson plans, tests and other teaching materials; and personal communications concerning individual students except under the following circumstances:

1. To verify the current certification status of any peace officer;
2. As may be required to perform the duties imposed by Section 3311 of Title 70 of the Oklahoma Statutes;
3. To provide to any peace officer copies of the records of that peace officer upon submitting a written request;

4. To provide, upon written request, to any law enforcement agency conducting an official investigation, copies of the records of any peace officer who is the subject of such investigation;
5. To provide final orders of administrative proceedings where an adverse action was taken against a peace officer; and
6. Pursuant to an order of the district court of the State of Oklahoma.

F. The Department of Public Safety shall keep confidential:

1. All records it maintains pursuant to its authority under Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway Patrol Division, the Communications Division, and other divisions of the Department relating to:

- a. training, lesson plans, teaching materials, tests, and test results,
- b. policies, procedures, and operations, any of which are of a tactical nature, and
- c. the following information from radio logs:

- (1) telephone numbers,
- (2) addresses other than the location of incidents to which officers are dispatched, and
- (3) personal information which is contrary to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725; and

2. For the purpose of preventing identity theft and invasion of law enforcement computer systems, except as provided in Title 47 of the Oklahoma Statutes, all driving records.

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Added by Laws 1985, SB 276, c. 355, § 8, eff. November 1, 1985; Amended by Laws 1989, HB 1136, c. 212, § 8, eff. November 1, 1989; Amended by Laws 2000, HB 2428, c. 226, § 1, eff. November 1, 2000 (repealed by Laws 2001, HB 1965, c. 5, § 30, emerg. eff. March 21, 2001) ; Amended by Laws 2000, HB 2552, c. 349, § 2, eff. November 1, 2000; Amended by Laws 2001, HB 1965, c. 5, § 29, emerg. eff. March 21, 2001; Amended by Laws 2005, SB 13, c. 35, § 1, emerg. eff. April 12, 2005 (repealed by Laws 2006, HB 3139, c. 16, § 37, emerg. eff. March 29, 2006); Amended by Laws 2005, HB 1553, c. 199, § 6, eff. November 1, 2005; Amended by Laws 2006, HB 3139, c. 16, § 36, emerg. eff. March 29, 2006; Amended by Laws 2009, HB 1049, c. 36, § 1, eff. November 1, 2009; Amended by Laws 2014, HB 2676, c. 266, § 3, eff. November 1, 2014; Amended by Laws 2015, HB 1037, c. 370, § 2, emerg. eff. June 4, 2015.

**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.9 – Confidential Personal Notes and Personally Created Materials of Public Official Making Recommendation**

**51 O.S. § 24A.9:**

Prior to taking action, including making a recommendation or issuing a report, a public official may keep confidential his or her personal notes and personally created materials other than departmental budget requests of a public body prepared as an aid to memory or research leading to the adoption of a public policy or the implementation of a public project.

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Added by Laws 1985, SB 276, c. 355, § 9, eff. November 1, 1985.

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**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.10 – Disclosure of Information Voluntarily Supplied**

**51 O.S. § 24A.10:**

A. Any information, records or other material heretofore voluntarily supplied to any state agency, board or commission shall be subject to full disclosure pursuant to Section 24A.1 et seq. of this title.

B. If disclosure would give an unfair advantage to competitors or bidders, a public body may keep confidential records relating to:

1. Bid specifications for competitive bidding prior to publication by the public body; or
2. Contents of sealed bids prior to the opening of bids by a public body; or
3. Computer programs or software but not data thereon; or
4. Appraisals relating to the sale or acquisition of real estate by a public body prior to award of a contract; or
5. The prospective location of a private business or industry prior to public disclosure of such prospect except for records otherwise open to inspection such as applications for permits or licenses.

C. Except as set forth hereafter, the Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, the technology center school districts, the Oklahoma Film and Music Office, institutions within the Oklahoma State System of Higher Education, and the Department of Corrections may keep confidential:

1. Business plans, feasibility studies, financing proposals, marketing plans, financial statements or trade secrets submitted by a person or entity seeking economic advice, business development or customized training from such Departments or school districts;
2. Proprietary information of the business submitted to the Department or school districts for the purpose of business development or customized training, and related confidentiality agreements detailing the information or records designated as confidential; and
3. Information compiled by such Departments or school districts in response to those submissions.

The Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, the technology center school districts, the Oklahoma Film and Music Office, institutions within the Oklahoma State System of Higher Education, and the Department of Corrections may not keep confidential that submitted information when and to the extent the person or entity submitting the information consents to disclosure.

D. Although they must provide public access to their records, including records of the address, rate paid for services, charges, consumption rates, adjustments to the bill, reasons for adjustment, the name of the person that authorized the adjustment, and payment for each customer, public bodies that provide utility services to the public may keep confidential credit information, credit card numbers, telephone numbers, social security numbers, bank account information for individual customers, and utility supply and utility equipment supply contracts for any industrial customer with a connected electric load in excess of two thousand five hundred (2,500) kilowatts if public access to such contracts would give an unfair advantage to competitors of the customer; provided that, where a public body performs billing or collection services for a utility regulated by the Corporation Commission pursuant to a contractual agreement, any customer or individual payment data obtained or created by the public body in performance of the agreement shall not be a record for purposes of this act.

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Added by Laws 1985, SB 276, c. 355, § 10, eff. November 1, 1985; Amended by Laws 1988, HB 1846, c. 187, § 5, emerg. eff. June 6, 1988; Amended by Laws 1996, SB 719, c. 209, § 4, eff. November 1, 1996; Amended by Laws 2004, SB 1108, c. 186, § 1, emerg. eff. May 3, 2004; Amended by Laws 2006, HB 2396, c. 18, § 1, eff. November 1, 2006; Amended by Laws 2007, HB 1038, c. 6, § 1, eff. November 1, 2007; Amended by Laws 2008, HB 2250, c. 284, § 1, eff. November 1, 2008; Amended by Laws 2009, SB 285, c. 158, § 1, eff. November 1, 2009; Amended by Laws 2010, SB 1351, c. 161, § 1; Amended by Laws 2015, SB 23, c. 41, § 1, eff. November 1, 2015; Amended by Laws 2018, SB 1153, c. 197, §1, eff August 2, 2018.

**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.10a – Confidential Market Research and Marketing Plans**

**51 O.S. § 24A.10a:**

The Oklahoma Medical Center may keep confidential market research conducted by and marketing plans developed by the Oklahoma Medical Center if the Center determines that disclosure of such research or plans would give an unfair advantage to competitors of the Oklahoma Medical Center regarding marketing research and planning, public education, and advertising and promotion of special and general services provided by the Oklahoma Medical Center.

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Added by Laws 1988, HB 1567, c. 266, § 22, emerg. eff. July 1, 1988.

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**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.11 – Confidential Library, Archive, or Museum Materials**

**51 O.S. § 24A.11:**

A. A public body may keep confidential library, archive, or museum materials donated to the public body to the extent of any limitations imposed as a condition of the donation and any information which would reveal the identity of an individual who lawfully makes a donation to or on behalf of a public body including, but not limited to, donations made through a foundation operated in compliance with Sections 5-145 and 4306 of Title 70 of the Oklahoma Statutes.

B. If library, archive, or museum materials are donated to a public body and the donation may be claimed as a tax deduction, the public body may keep confidential any information required as a condition of the donation except the date of the donation, the appraised value claimed for the donation, and a general description of the materials donated and their quantity.

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Added by Laws 1985, SB 276, c. 355, § 11, eff. November 1, 1985; Amended by Laws 1992, HB 2142, c. 231, § 3, emerg. eff. May 19, 1992.

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**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.12 – Confidential Litigation Files and Investigatory Reports**

**51 O.S. § 24A.12:**

Except as otherwise provided by state or local law, the Attorney General of the State of Oklahoma and agency attorneys authorized by law, the office of the district attorney of any county of the state, and the office of the municipal attorney of any municipality may keep its litigation files and investigatory reports confidential.

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Added by Laws 1985, SB 276, c. 355, § 12, eff. November 1, 1985; Amended by Laws 1988, HB 1846, c. 187, § 6, emerg. eff. June 6, 1988.

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**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.13 – Confidential Federal Legislation Records**

**51 O.S. § 24A.13:**

Records coming into the possession of a public body from the federal government or records generated or gathered as a result of federal legislation may be kept confidential to the extent required by federal law.

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Added by Laws 1985, SB 276, c. 355, § 13, eff. November 1, 1985.

**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.14 – Confidential Personal Communications Exercising Constitutional Rights**

**51 O.S. § 24A.14:**

Except for the fact that a communication has been received and that it is or is not a complaint, a public official may keep confidential personal communications received by the public official from a person exercising rights secured by the Constitution of the State of Oklahoma or the Constitution of the United States. The public official's written response to this personal communication may be kept confidential only to the extent necessary to protect the identity of the person exercising the right.

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Added by Laws 1985, SB 276, c. 355, § 14, eff. November 1, 1985.

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**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.15 – Confidential Crop and Livestock Reports Provided by Farmers, Ranchers, and Agribusinesses**

**51 O.S. § 24A.15:**

A. The Division of Agricultural Statistics, Oklahoma Department of Agriculture, also known as the Oklahoma Crop and Livestock Reporting Service, may keep confidential crop and livestock reports provided by farmers, ranchers, and agribusinesses to the extent the reports individually identify the providers.

B. The State Board of Agriculture is authorized to provide for the confidentiality of any financial statement filed pursuant to Section 9-22 of Title 2 of the Oklahoma Statutes. Copies of such financial statements may only be obtained upon written request to the Commissioner of Agriculture.

Upon good cause shown, and at the discretion of the Commissioner of Agriculture, such financial statements may be released.

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Added by Laws 1985, SB 276, c. 355, § 15, eff. November 1, 1985; Amended by Laws 1988, HB 1830, c. 259, § 14, emerg. eff. June 29, 1988.



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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.16 – Confidential Records of Public Educational Institutions – Statistical and Directory Information**

**51 O.S. § 24A.16:**

A. Except as set forth in subsection B of this section, public educational institutions and their employees may keep confidential:

1. Individual student records;
2. Teacher lesson plans, tests and other teaching material; and
3. Personal communications concerning individual students.

B. If kept, statistical information not identified with a particular student and directory information shall be open for inspection and copying. "Directory information" includes a student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational institution attended by the student. Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as directory information with respect to each student attending the institution or agency and shall allow a reasonable period of time after the notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without prior consent of the parent or guardian or the student if the student is eighteen (18) years of age or older.

C. A public school district may release individual student records for the current or previous school year to a school district at which the student was previously enrolled for purposes of evaluating educational programs and school effectiveness.

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Added by Laws 1985, SB 276, c. 355, § 16, eff. November 1, 1985; Amended by Laws 1986, SB 371, c. 116, § 1, emerg. eff. April 9, 1986; Amended by Laws 2003, HB 1646, c. 430, § 1, emerg. eff. July 1, 2003.

**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.16a – Confidentiality of Information Pertaining to Donors and Prospective Donors**

**51 O.S. § 24A.16a:**

Institutions or agencies of The Oklahoma State System of Higher Education may keep confidential all information pertaining to donors and prospective donors to or for the benefit of the institutions or agencies.

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Added by Laws 2007, HB 1384, c. 170, § 2, eff. May 31, 2007.

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**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.17 – Violations of Oklahoma Open Records Act – Civil Liability**

**51 O.S. § 24A.17:**

A. Any public official who willfully violates any provision of the Oklahoma Open Records Act, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding one (1) year, or by both such fine and imprisonment.

B. Any person denied access to records of a public body or public official:

1. May bring a civil suit for declarative or injunctive relief, or both, but such civil suit shall be limited to records requested and denied prior to filing of the civil suit; and

2. If successful, shall be entitled to reasonable attorney fees.

C. If the public body or public official successfully defends a civil suit and the court finds that the suit was clearly frivolous, the public body or public official shall be entitled to reasonable attorney fees.

D. A public body or public official shall not be civilly liable for damages for providing access to records as allowed under the Oklahoma Open Records Act.

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Added by Laws 1985, SB 276, c. 355, § 17, eff. November 1, 1985; Amended by Laws 2005, HB 1553, c. 199, § 7, eff. November 1, 2005.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.18 – Additional Recordkeeping Requirements on Public Bodies or Public Officials not Imposed**

**51 O.S. § 24A.18:**

Except as may be required in Section 24A.4 of this title, this act does not impose any additional recordkeeping requirements on public bodies or public officials.

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Added by Laws 1985, SB 276, c. 355, § 18, eff. November 1, 1985; Amended by Laws 2005, HB 1553, c. 199, § 8, eff. November 1, 2005.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.19 – Confidential Nature of Research Information**

**51 O.S. § 24A.19:**

In addition to other records that a public body may keep confidential pursuant to the provisions of the Oklahoma Open Records Act, a public body may keep confidential:

1. Any information related to research, the disclosure of which could affect the conduct or outcome of the research, the ability to patent or copyright the research, or any other proprietary rights any entity may have in the research or the results of the research including, but not limited to, trade secrets and commercial or financial information obtained from an entity financing or cooperating in the research, research protocols, and research notes, data, results, or other writings about the research; and
2. The specific terms and conditions of any license or other commercialization agreement relating to state owned or controlled technology or the development, transfer, or commercialization of the technology. Any other information relating to state owned or controlled technology or the development, transfer, or commercialization of the technology which, if disclosed, will adversely affect or give other persons or entities an advantage over public bodies in negotiating terms and

conditions for the development, transfer, or commercialization of the technology. However, institutions within The Oklahoma State System of Higher Education shall:

a. report to the Oklahoma State Regents for Higher Education as requested, on forms provided by the Regents, research activities funded by external entities or the institutions, the results of which have generated new intellectual property, and

b. report to the Oklahoma State Regents for Higher Education annually on forms provided:

(1) expenditures for research and development supported by the institution,

(2) any financial relationships between the institution and private business entities,

(3) any acquisition of an equity interest by the institution in a private business,

(4) the receipt of royalty or other income related to the sale of products, processes, or ideas by the institution or a private business entity with which the institution has established a financial arrangement,

(5) the gains or losses upon the sale or other disposition of equity interests in private business entities, and

(6) any other information regarding technology transfer required by the Oklahoma State Regents for Higher Education.

The reports required in subparagraphs a and b of this paragraph shall not be deemed confidential and shall be subject to full disclosure pursuant to the Oklahoma Open Records Act.

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Added by Laws 1988, HB 1803, c. 68, § 2, eff. November 1, 1988; Amended by Laws 1999, SB 480, c. 287, § 1, emerg. eff. May 27, 1999.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.20 – Access to Records in Possession of Public Body or Official for Investigatory Purposes**

**51 O.S. § 24A.20:**

Access to records which, under the Oklahoma Open Records Act, would otherwise be available for public inspection and copying, shall not be denied because a public body or public official is using or has taken possession of such records for investigatory purposes or has placed the records in a litigation or investigation file. However, a law enforcement agency may deny access to a copy

of such a record in an investigative file if the record or a true and complete copy thereof is available for public inspection and copying at another public body.

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Added by Laws 1988, HB 1846, c. 187, § 7, emerg. eff. June 6, 1988.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.21 – Fees Charged State Agency or Taxing Entity**

**51 O.S. § 24A.21:**

The fees that may be charged by a public body pursuant to the provisions of paragraph 3 of Section 24A.5 of Title 51 of the Oklahoma Statutes shall not be charged when a state agency or taxing entity located within the boundaries of any district created pursuant to the provisions of the Local Development Act request a copy of the reports required by subsections A and B of Section 18 of this act.

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Added by Laws 1992, HB 1525, c. 342, § 21, emerg. eff. July 1, 1992.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.22 – Confidential Nature of Public Utility Records**

**51 O.S. § 24A.22:**

A. The Corporation Commission shall keep confidential those records of a public utility, its affiliates, suppliers and customers which the Commission determines are confidential books and records or trade secrets.

B. As used in this section, "public utility" means any entity regulated by the Corporation Commission, owning or operating for compensation in this state equipment or facilities for:

1. Producing, generating, transmitting, distributing, selling or furnishing electricity;
2. The conveyance, transmission, or reception of communication over a telephone system; or

3. Transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public.

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Added by Laws 1994, SB 1160, c. 315, § 12, emerg. eff. July 1, 1994.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.23 – Confidential Nature of Information Provided to Department of Wildlife Conservation for Holding Permit or License to Extent Information Identifies Person**

**51 O.S. § 24A.23:**

A. The Department of Wildlife Conservation shall keep confidential the information provided by persons, including the name and address of the person, applying for or holding any permit or license issued by the Department, to the extent the information individually identifies the person. The Department may use the information for Department purposes or allow the United States Fish and Wildlife Service to use the information for survey purposes only. The Department shall allow any public body to have access to the information for purposes specifically related to the public body's function.

B. The provisions of subsection A of this section shall not apply to information provided by persons applying for or holding a commercial hunting or fishing license.

C. The provisions of subsection A of this section shall not apply to information voluntarily provided by persons for promotional purposes by the Department.

D. Based upon the information required to be submitted through the electronic game harvest check system for harvested deer, the Department shall publicly disclose, in a timely manner, online or in published listings, by county of harvest, an antler description of each deer harvested and the name of the hunter who harvested the deer. The hunter shall be allowed to choose when entering the harvest information whether or not the name of the hunter is released. The Department shall not release the name of the hunter if the hunter elects not to release that information.

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Added by Laws 1996, HB 2292, c. 32, § 1, emerg. eff. July 1, 1996; Amended by Laws 2013, HB 1594, c. 288, § 2, emerg. eff. May 15, 2013.

**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.24 – Confidential Investigatory Records and Notes of Juvenile System Oversight**

**51 O.S. § 24A.24:**

Unless otherwise provided by law, the Office of Juvenile System Oversight may keep its investigatory records and notes confidential, unless ordered by a court of competent jurisdiction to disclose the information.

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Added by Laws 1996, HB 2692, c. 247, § 42, emerg. eff. July 1, 1996.

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**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.25 – Removal of Materials from the Public Record**

**51 O.S. § 24A.25:**

Any order of the court for removal of materials from the public record shall require compliance with the provisions of paragraphs 2 through 7 of subsection C of Section 3226 of Title 12 of the Oklahoma Statutes.

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Added by Laws 2000, SB 1329, c. 172, § 4, eff. November 1, 2000.

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**Title 51. Officers  
Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.26 – Intergovernmental Self-Insurance Pools**

**51 O.S. § 24A.26:**

An intergovernmental self-insurance pool may keep confidential proprietary information, such as actuarial reports, underwriting calculations, rating information and records that are created based on conclusions of such information that are developed through the operation of the intergovernmental self-insurance pool.

**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.27 – Confidentiality Vulnerability Assessments**

**51 O.S. § 24A.27:**

A. Any state environmental agency or public utility shall keep confidential vulnerability assessments of critical assets in both water and wastewater systems. State environmental agencies or public utilities may use the information for internal purposes or allow the information to be used for survey purposes only. The state environmental agencies or public utilities shall allow any public body to have access to the information for purposes specifically related to the public bodies function.

B. For purposes of this section:

1. “State environmental agencies” includes the:

- a. Oklahoma Water Resources Board,
- b. Oklahoma Corporation Commission,
- c. State Department of Agriculture,
- d. Oklahoma Conservation Commission,
- e. Department of Wildlife Conservation,
- f. Department of Mines, and
- g. Department of Environmental Quality;

2. “Public Utility” means any individual, firm, association, partnership, corporation or any combination thereof, municipal corporations or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

- a. producing, generating, transmitting, distributing, selling or furnishing electricity,
- b. the conveyance, transmission, reception or communications over a telephone system,



- c. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public, or
- d. the transportation, delivery or furnishing of water for domestic purposes or for power.

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Added by Laws 2003, HB 1146, c. 166, § 1, emerg. eff. May 5, 2003.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.28 – Confidentiality of Information Relating to Terrorism**

**51 O.S. § 24A.28:**

A. The following information may be kept confidential:

1. Investigative evidence of a plan or scheme to commit an act of terrorism;
2. Assessments of the vulnerability of government facilities or public improvements to an act of terrorism and work papers directly related to preparing the assessment of vulnerability;
3. Records including details for deterrence or prevention of or protection from an act or threat of an act of terrorism;
4. Records including details for response or remediation after an act of terrorism;
5. Information technology of a public body or public official but only if the information specifically identifies:
  - a. design or functional schematics that demonstrate the relationship or connections between devices or systems,
  - b. system configuration information,
  - c. security monitoring and response equipment placement and configuration,
  - d. specific location or placement of systems, components or devices,
  - e. system identification numbers, names, or connecting circuits,
  - f. business continuity and disaster planning, or response plans, or
  - g. investigative information directly related to security penetrations or denial of services;

6. Investigation evidence of an act of terrorism that has already been committed;
7. Records received, maintained or generated by the Oklahoma Office of Homeland Security which include confidential private business information or an individual's private records;
8. Records received by the Oklahoma Office of Homeland Security from the United States Department of Homeland Security or records maintained or generated by the Oklahoma Office of Homeland Security involving the United States Department of Homeland Security;
9. Records received, maintained or generated by the Department of Environmental Quality that contain information regarding sources of radiation in quantities determined by the United States Nuclear Regulatory Commission to be significant to public health and safety, by whomever possessed, whether in transit or at fixed sites, when the information could reasonably be expected to have an adverse effect on the health and safety of the public by increasing the likelihood of theft, diversion or sabotage of the radiation sources or facilities. The information may include but is not limited to information:
  - a. from or relating to radioactive material licensees identifying the exact location of the radioactive material,
  - b. describing how the radioactive material is secured from unauthorized removal or access when it is in storage,
  - c. describing the control and maintenance of constant surveillance of the radioactive material when it is not in storage,
  - d. describing specific policies and procedures for actions to physically protect the radioactive material,
  - e. identifying possession limits or actual inventories of radionuclides,
  - f. containing or describing assessments or analyses that could reveal vulnerabilities,
  - g. identifying specific locations of safety and security equipment,
  - h. describing emergency planning, emergency response and fire protection, and
  - i. containing or describing other information that could reasonably be expected to be useful to persons with malevolent intent;
10. The names of school district personnel who have been designated to carry a firearm pursuant to Section 5-149.2 of Title 70 of the Oklahoma Statutes; and
11. Information technology of the State Election Board or a county election board which is determined jointly by the Secretary of the State Election Board and the State Chief Information Officer to be technology that could reasonably be expected to be useful to persons with intent to interfere with the conduct of an election, voter registration or other election processes.

B. The following information shall not be kept confidential:

1. Records related to federal grants administered by the Oklahoma Office of Homeland Security or the Department of Environmental Quality;
2. Records related to the receipt and expenditure of public funds; or
3. Records related to the financial performance or financial administration of the Oklahoma Office of Homeland Security or the Department of Environmental Quality.

C. For the purposes of this section, the term "terrorism" means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes.

D. 1. Public educational institutions may keep confidential campus security plans. An institution or agency may in its discretion release information contained in or related to the campus security plan in order to design or implement the plan.

2. Nothing in this subsection shall preclude an institution or agency within The Oklahoma State System of Higher Education from collecting and releasing information relating to campus crime statistics and campus security policies as is required pursuant to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f).

3. For purposes of this subsection, "campus security plan" shall include, but is not limited to, prevention and response procedures to and notification procedures for perceived or actual security threats and incidents on or impacting the campus.

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Added by Laws 2003, SB 395, c. 174, § 2, emerg. eff. May 5, 2003; Amended by Laws 2005, SB 28, c. 14, § 1, emerg. eff. June 6, 2005; Amended by Laws 2009, SB 585, c. 166, § 1, emerg. eff. July 1, 2009; Amended by Laws 2013, SB 489, c. 14, § 1, emerg. eff. April 8, 2014; Amended by Laws 2016, SB 1036, c. 231, § 1, emerg. eff. July 1, 2016; Amended by Laws 2019, SB 261, c. 163 § 9, eff. November 1, 2019.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.29 – Protected Materials – Protective Orders – Orders Directing Withholding, Removal of Pleadings or Other Material from Public Record**

**51 O.S. § 24A.29:**

A. Unless confidentiality is specifically required by law, any order directing the withholding or removal of pleadings or other material from a public record shall contain:

1. A statement that the court has determined it is necessary in the interests of justice to remove the material from the public record and in those instances where such withholding is required by law, the order shall so indicate;

2. Specific identification of the material which is to be withheld, removed or withdrawn from the public record, or which is to be filed but not placed in the public record; and

3. A requirement that any party seeking to file protected materials place such materials in a sealed manila envelope clearly marked with the caption and case number, the word "CONFIDENTIAL", and stating the date the order was entered and the name of the judge entering the order. This requirement may also be satisfied by requiring the party to file the documents pursuant to the procedure for electronically filing sealed or confidential documents approved for electronic filing in the courts of this state.

B. No protective order entered after the filing and microfilming of documents of any kind shall be construed to require the microfilm record of such filing to be amended in any fashion, and no other accounting entries may be affected by such order.

C. The party or counsel who has received the protective order shall be responsible for promptly presenting the order to appropriate supervisory court clerk personnel for action.

D. All documents produced or testimony given under a protective order shall be retained in the office of counsel until required by the court to be filed in the case.

E. Counsel for the respective parties shall be responsible for informing witnesses and other persons, as necessary, of the contents of the protective order.

F. When a case is filed in which a party intends to seek an order withholding removing material from the public record, the parties shall be initially designated on the petition under a pseudonym such as "John or Jane Doe", or "Roe", and the petition shall clearly indicate that the party designations are fictitious. The party seeking confidentiality or other order withholding or removing the case, in whole or in part from the public record, shall immediately present application to the court, seeking instructions for the conduct of the case, including confidentiality of the records.

G. It shall be the duty of the party filing confidential materials with the court to remove the materials from the custody of the court clerk within sixty (60) days after dismissal or other disposition of the main case in which the materials were filed. If the party fails to remove confidential documents, the court clerk shall be authorized to destroy without notice such materials after a period of one (1) year has elapsed since the dismissal or other disposition of the main case in which materials were filed.

H. Municipal courts shall keep confidential all personal identifying information of the parties involved in any case in municipal court, except where such information is provided to the Oklahoma Tax Commission for purposes of collection of municipal court fees. The personal identifying information that shall be kept confidential includes the following:

1. Credit card numbers;
2. Social security numbers; and
3. Bank account numbers.

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Added by Laws 2005, SB 967, c. 72, § 1, eff. November 1, 2005; Amended by Laws 2010, HB 2541, c. 193, § 1, eff. November 1, 2010; Amended by Laws 2012, HB 2192, c. 278, § 7, eff. November 1, 2012.

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**Title 51. Officers**  
**Chapter 1 – General Provisions**

**Oklahoma Open Records Act**

**Section 24A.30 – Court Records - Authority of the Court to Seal a Record**

**51 O.S. § 24A.30:**

All court records, as defined by Section 32.1 of Title 12 of the Oklahoma Statutes, shall be considered public records and shall be subject to the provisions of the Oklahoma Open Records Act, unless otherwise identified by statute to be confidential. If confidentiality is not required by statute, the court may seal a record or portion of a record only if a compelling privacy interest exists which outweighs the public's interest in the record. In all cases where the court is sealing a record or portion of a record, the court shall enter an order which shall be public and shall:

1. Make findings of fact which identify the facts which the court relied upon in entering its order;
2. Make conclusions of law specific enough so that the public is aware of the legal basis for the sealing of the record;
3. Utilize the least restrictive means for achieving confidentiality; and
4. Be narrowly tailored so that only the portions of the record subject to confidentiality are sealed and the remainder of the record is kept open.

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Added Laws 2014, HB 2998, c. 87, § 1, eff. November 1, 2014.