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STATE OF OKLAHOMA
OFFICE OF THE
SECRETARY OF ENVIRONMENT

December 27, 2010

Dr. Alfredo Armendariz, Regional Administrator
U.S. Environmental Protection Agency – Region VI (6 PD-L)
1445 Ross Avenue, Suite 1200
Dallas TX 75202-2733

Subject: 2010 Revisions to Oklahoma Air Quality Control Implementation Plan

Dear Dr. Armendariz:

In his letter dated October 5, 2008, Governor Brad Henry appointed me as his designee for the purpose of submitting documents to the U.S. Environmental Protection Agency for approval and incorporation into the State Implementation Plan (SIP) for Oklahoma.

Therefore, the State of Oklahoma submits for your review and approval under Section 110 of the federal Clean Air Act and 40 CFR Part 51 revisions to the Oklahoma Air Quality Control Implementation Plan and the associated evidence as required by 40 CFR 51, Appendix V, 2.1.

This submittal is the 2010 SIP update for Oklahoma and includes the amendments to Subchapters 3 and 15 of OAC 252:100 that became effective July 11, 2010. Appendices E and F were updated to make them consistent with the federal primary and secondary lead NAAQS standards. Subchapter 15, Motor Vehicle Pollution Control Devices, was revoked because the Department lacks the legal authority to enforce these rules. The Oklahoma Department of Public Safety has the sole power to regulate motor vehicles in the State of Oklahoma. Since Subchapter 15 is a partial duplication of the 1990 Federal Clean Air Act, revocation of the rule does not change the prohibition of removal, disconnection, and/or disabling of emission control equipment on motor vehicles in the state of Oklahoma.

These rules were promulgated in compliance with the Oklahoma Administrative Procedures Act and published in the *Oklahoma Register*, the official state publication for rule making actions. We have included five copies of the submittal as required by 40 CFR 51.103(a).

If you have questions, please contact Eddie Terrill, Director, Air Quality Division, Department of Environmental Quality at (405) 702-4154.

Sincerely,

J.D. Strong
Secretary of Environment

6RA.....	Copy	6EN.....
6DRA.....	Copy	6WQ.....
6MD.....		6SF.....
6OEJ.....		6RC.....
6PD.....	Original & Control	6XA..... 3 copies

Enclosures

cc: Steve Thompson, Executive Director, Department of Environmental Quality
Eddie Terrill, Director, DEQ Air Quality Division
Guy Donaldson, Section Chief, Air Planning Section, EPA Region VI (6PD-L)
Jeff Robinson, Section Chief, Air Permits, EPA Region VI (6PD-R)



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AIR QUALITY DIVISION



STEVEN A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

BRAD HENRY
Governor

December 16, 2010

Dr. Alfredo Armendariz, Regional Administrator
U.S. Environmental Protection Agency – Region VI (6 PD-L)
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

RE: 2010 Revisions to the Oklahoma State Implementation Plan (SIP)

Dear Dr. Armendariz:

As Director of the Air Quality Division of the Department of Environmental Quality, I certify that the rule making procedures for all the rules listed below were in compliance with the requirements of the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250.1 through 323, and 40 CFR §§ 51.102(f), 51.102(d), and CFR Part 51, Appendix V, 2.1(g).

Each rule and its public hearing history is listed in the tables below:

**Appendix E. Primary Ambient Air Quality Standards and
Appendix F. Secondary Ambient Air Quality Standards**

NOTICE	PUBLIC HEARING	GOVERNING BOARD
03/16/2009	April 15, 2009	Air Quality Advisory Council
03/16/2009	August 24, 2009	Environmental Quality Board

Subchapter 252:100-15. Motor Vehicle Pollution Control Devices

NOTICE	PUBLIC HEARING	GOVERNING BOARD
03/16/2009	April 15, 2009	Air Quality Advisory Council
03/16/2009	August 24, 2009	Environmental Quality Board

All notices of DEQ’s intent to adopt new or amended rules were published in the *Oklahoma Register*. The *Oklahoma Register* is a semi-monthly publication prescribed by the Oklahoma Administrative Procedures Act in which all rule making actions and the associated documents must be published. (Now accessible @ www.sos.state.ok.us/oar .) Notices of rulemaking intent include the date, time and location of public hearings and information on how the public may submit written or oral comments on proposed rules. The public comment period for all Air



Quality Advisory Council meetings begins on the date of publication of the notice and ends on the date of the AQAC public hearing unless the AQAC extends the comment period. Also, unless the AQAC extends the comment period, the Environmental Quality Board (EQB) accepts comments on the date of the EQB hearing.

If you have questions or require additional information, please contact Cheryl Bradley, Environmental Programs Manager, at (405) 702-4100.

Sincerely,



Eddie Terrill, Director
Air Quality Division

Enclosures

ET:CEB:dh

TITLE 252

OKLAHOMA ADMINISTRATIVE CODE CHAPTER 100

AIR POLLUTION CONTROL INCLUDES EMERGENCY LANGUAGE



2010 EDITION

OKLAHOMA
DEPARTMENT OF ENVIRONMENTAL QUALITY
707 NORTH ROBINSON, P.O. BOX 1677
OKLAHOMA CITY, OKLAHOMA 73101-1677

The format of the following rules is not in strict compliance with the requirements of the Secretary of State's Office of Administrative Rules, but has been compressed to reduce the expense of copying and to save paper.

Codification through the 2010 legislative session
Subchapters 15 and 17
Appendices A, B, E, F and Q
Board adoption - February 26, 2010
Gubernatorial approval - April 14, 2010
Legislative approval and final adoption - May 4, 2010
Effective date - July 11, 2010

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

Subchapter	Section
1. General Provisions	252:100-1-1
2. Incorporation by Reference	252:100-2-1
3. Air Quality Standards and Increments	252:100-3-1
4. New Source Performance Standards [REVOKED]	252:100-4-1
5. Registration, Emission Inventory and Annual Operating Fees	252:100-5-1
6. Permitting [REVOKED]	252:100-6-1
7. Permits for Minor Facilities	252:100-7-1
8. Permits for Part 70 Sources	252:100-8-1
9. Excess Emission Reporting Requirements	252:100-9-1
11. Alternative Emissions Reduction Plans and Authorizations	252:100-11-1
13. Open Burning	252:100-13-1
15. Motor Vehicle Pollution Control Devices [REVOKED]	252:100-15-1
17. Incinerators	252:100-17-1
19. Control of Emission of Particulate Matter	252:100-19-1
21. Particulate Matter Emissions From Wood-Waste Burning Equipment [REVOKED]	252:100-21-1
23. Control of Emissions From Cotton Gins	252:100-23-1
24. Particulate Matter Emissions from Grain, Feed or Seed Operations	252:100-24-1
25. Visible Emissions and Particulates	252:100-25-1
27. Particulate Matter Emissions From Industrial and Other Processes and Operations [REVOKED]	252:100-27-1
29. Control of Fugitive Dust	252:100-29-1
31. Control of Emission of Sulfur Compounds	252:100-31-1
33. Control of Emission of Nitrogen Oxides	252:100-33-1
35. Control of Emission of Carbon Monoxide	252:100-35-1
37. Control of Emission of Volatile Organic Compounds (VOCs)	252:100-37-1
39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas	252:100-39-1
40. Control of Emission of Friable Asbestos During Demolition and Renovation Operations.	252:100-40-1
41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]	252:100-41-1
42. Control of Toxic Air Contaminants	252:100-42-1
43. Testing, Monitoring and Recordkeeping	252:100-43-1
45. Monitoring of Emissions [REVOKED]	252:100-45-1
47. Control of Emissions from Existing Municipal Solid Waste Landfills	252:100-47-1

- Appendix A. Allowable Particulate Matter Emission Rate for Incinerators
- Appendix B. Allowable Emissions for Incinerators with Capacities less than 100 lb/hr [REVOKED]
- Appendix C. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units
- Appendix D. Allowable Particulate Matter Emission Rates for Indirectly Fired Wood Fuel-Burning

Units

- Appendix E. Primary Ambient Air Quality Standards
- Appendix F. Secondary Ambient Air Quality Standards
- Appendix G. Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Process
- Appendix H. De Minimis Facilities
- Appendix I. Insignificant Activities (Registration) List
- Appendix J. Trivial Activities (De Minimis) List
- Appendix K. Average Daily Nitrogen Oxides Emissions
- Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators
- Appendix M. Emission Limits for Hospital/Medical/Infectious Waste Incinerators (HMIWI)
- Appendix N. Specialty Coatings VOC Content Limits
- Appendix O. Toxic Air Contaminants (TAC) Maximum Acceptable Ambient Concentrations (MAAC)
- Appendix P. Regulated Air Pollutants (RAP)
- Appendix Q. Incorporation by Reference

252:100-13-7. Allowed open burning

When not prohibited by law or ordinance, the following types of burning are allowed, provided the conditions and requirements in 252:100-13-9 have been met:

(1) **Fire training.** Open burning of human-made structures for the purpose of fire training is allowed as provided for in Oklahoma Clean Air Act, 27A O.S., § 2-5-106.1. Industrial and commercial facilities and fire training schools conducting on-site live burn fire training are not subject to this provision.

(2) **Elimination of hazards.** Provided prior authorization is obtained from the local fire chief, open burning is allowed for the elimination of:

(A) A fire hazard that cannot be abated by any other means.

(B) A dangerous or hazardous material when there is no other practical or lawful method of abatement or disposal if authorization is also received from the DEQ prior to such burning.

(3) **Recreational and ceremonial fires.** Open burning is allowed for camp fires and other fires used solely for recreational purposes, ceremonial occasions, or non-commercial preparation of food.

(4) **Land management and land clearing operations.** Open burning is allowed for the following land management and land clearing operations.

(A) Fires purposely set to forest, crop or range lands for a specific reason in the management of forests, crops or game, in accordance with practices recommended by the Oklahoma Department of Wildlife Conservation, the Oklahoma State Department of Agriculture, and the United States Forest Service.

(B) Fires purposely set for land clearing operations if conducted at least 500 feet upwind of any occupied residence other than those located on the property on which the burning is conducted, except that such burning must be conducted in open-pit incinerators in counties or areas that are or have been designated nonattainment.

(5) **Burning of domestic refuse.** Where no collection and disposal service is reasonably available, domestic refuse may be burned on the property where the waste is generated.

(6) **Hydrocarbon burning.** Open burning of hydrocarbons is allowed for:

(A) The disposal of spilled hydrocarbons or the waste products of oil exploration, development, refining or processing operations which cannot be feasibly recovered or otherwise disposed of in a legal manner. Notice must be given to the DEQ prior to such burning.

(B) The disposal of waste hydrocarbons through a flare. The owner or operator shall be required to use a smokeless flare if a condition of air pollution is determined to exist by the DEQ.

(7) **Open-pit incinerator.** Except for hazardous material, any combustible material or refuse that is allowed to be burned under this Subchapter

may be burned in an open-pit incinerator that is properly designed and operated for the control of smoke and particulate matter. The owner or operator of the open-pit incinerator shall not accept any material owned by other persons and shall not transport any material to the property where the open-pit incinerator is located in order to burn the material.

(8) **Yard brush.** Yard brush may be burned on the property where the waste is generated.

252:100-13-8. [RESERVED]

252:100-13-9. General conditions and requirements for allowed open burning

The open burning of refuse and other combustible material may be conducted only if the following conditions and requirements are met:

(1) No public nuisance is or will be created.

(2) The burning is controlled so that a visibility hazard is not created on any roadway, rail track or air field as a result of the air contaminants being emitted.

(3) The burning is conducted so that the contaminants do not adversely affect the ambient air quality of a city or town.

(4) The initial burning shall begin only between three hours after sunrise and three hours before sunset and additional fuel shall not be intentionally added to the fire at times outside these limits. This requirement does not apply to the open burning allowed under 252:100-13-7(2), (3), (4)(A) and (6)(B).

252:100-13-10. Disaster relief

Notwithstanding the prohibition in 252:100-13-5, the Executive Director of the DEQ may allow the open burning of debris resulting from a disaster if the Director determines such burning is necessary to protect public health and safety. Such approval, if granted, shall be accompanied by appropriate guidelines for burning the debris.

252:100-13-11. Responsibility for consequences of open burning

Persons who conduct open burning in accordance with the provisions of this Subchapter are not exempt or excused from the consequences, damages, or injuries that may result from such conduct, nor are they exempt or excused from complying with all applicable laws, ordinances, rules, and orders.

SUBCHAPTER 15. MOTOR VEHICLE POLLUTION CONTROL DEVICES [REVOKED]

Section	
252:100-15-1.	Purpose
252:100-15-2.	Definitions
252:100-15-3.	Scope
252:100-15-4.	Prohibitions
252:100-15-5.	Maintenance, repair or testing
252:100-15-6.	Liquified petroleum gas

252:100-15-1. Purpose [REVOKED]

252:100-15-2. Definitions [REVOKED]

- 252:100-15-3. Scope [REVOKED]
- 252:100-15-4. Prohibitions [REVOKED]
- 252:100-15-5. Maintenance, repair, or testing [REVOKED]
- 252:100-15-6. Liquified petroleum gas [REVOKED]

SUBCHAPTER 17. INCINERATORS

PART 1. GENERAL PROVISIONS

- Section
- 252:100-17-1. Purpose
- 252:100-17-1.1. Reference to 40 CFR
- 252:100-17-1.2. Terminology related to 40 CFR [REVOKED]
- 252:100-17-1.3. Incinerators and fuel-burning equipment or units

PART 3. GENERAL PURPOSE INCINERATORS [AMENDED]

- 252:100-17-2. Applicability
- 252:100-17-2.1. Exemptions
- 252:100-17-2.2. Definitions
- 252:100-17-3. Opacity
- 252:100-17-4. Particulate matter
- 252:100-17-5. Incinerator design and operation requirements
- 252:100-17-5.1. Alternative incinerator design requirements
- 252:100-17-6. Allowable emission of particulates [REVOKED]
- 252:100-17-7. Test methods

PART 5. MUNICIPAL WASTE COMBUSTORS

- 252:100-17-14. Effective date; applicability
- 252:100-17-14.1. Definitions
- 252:100-17-14.2. Terminology related to 40 CFR
- 252:100-17-15. Exemptions
- 252:100-17-16. Standards for particulate matter and opacity
- 252:100-17-17. Standards for municipal waste combustor metals
- 252:100-17-18. Standards for municipal waste combustor acid gases expressed as sulfur dioxide and hydrogen chloride
- 252:100-17-19. Standards for municipal waste combustor organics expressed as total mass dioxins/furans
- 252:100-17-20. Standards for nitrogen oxides
- 252:100-17-21. Standards for municipal waste combustor operating practices
- 252:100-17-22. Standards for municipal waste combustor fugitive ash emissions
- 252:100-17-23. Standards for air curtain incinerators
- 252:100-17-24. Standards for municipal waste combustor operator training and certification
- 252:100-17-25. Compliance and performance testing
- 252:100-17-26. Reporting and recordkeeping requirements
- 252:100-17-27. Compliance schedules

PART 7. HOSPITAL, MEDICAL AND INFECTIOUS WASTE INCINERATORS

- 252:100-17-40. Effective date; applicability
- 252:100-17-41. Definitions
- 252:100-17-42. Terminology related to 40 CFR
- 252:100-17-43. Exemptions
- 252:100-17-44. Emission limits
- 252:100-17-45. Standards for HMIWI operator training and certification
- 252:100-17-46. Standards for waste management plans
- 252:100-17-47. Compliance, performance testing and monitoring requirements
- 252:100-17-48. Equipment inspection of small rural HMIWI
- 252:100-17-49. Reporting and recordkeeping requirements
- 252:100-17-50. Part 70 permits
- 252:100-17-51. Compliance schedules

PART 9. COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS

- 252:100-17-60. Effective date; applicability
- 252:100-17-61. Definitions
- 252:100-17-62. Terminology related to 40 CFR
- 252:100-17-63. Exemptions
- 252:100-17-64. Emission limits
- 252:100-17-65. Operating limits
- 252:100-17-66. Standards for CISWI operator training and qualification requirements.
- 252:100-17-67. Standards for waste management plans
- 252:100-17-68. Performance testing
- 252:100-17-69. Initial compliance requirements
- 252:100-17-70. Continuous compliance requirements
- 252:100-17-71. Monitoring
- 252:100-17-72. Reporting and recordkeeping requirements
- 252:100-17-73. Part 70 permits
- 252:100-17-74. Air curtain incinerators
- 252:100-17-75. Compliance schedules
- 252:100-17-76. CISWI closure

PART 11. OTHER SOLID WASTE INCINERATION UNITS

- 252:100-17-90. Effective date; applicability
- 252:100-17-91. Definitions
- 252:100-17-92. Terminology related to 40 CFR
- 252:100-17-93. Exemptions
- 252:100-17-94. Emission limits
- 252:100-17-95. Operating limits
- 252:100-17-96. Standards for CISWI operator training and qualification requirements
- 252:100-17-97. Waste management plans
- 252:100-17-98. Performance testing
- 252:100-17-99. Initial compliance requirements
- 252:100-17-100. Continuous compliance requirements
- 252:100-17-101. Monitoring
- 252:100-17-102. Reporting and recordkeeping requirements

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS

	Sulfur Dioxide	PM-10	PM 2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m ³ (2) 35 ppm			
8-hr. max				10 mg/m ³ (2) 9 ppm	(4) 0.075 ppm		
24-hr. max	365 ug/m ³ (2) 0.14 ppm	(7) 150 ug/m ³	(5) 35 ug/m ³				
Rolling 3- month average							(3) 0.15 ug/m ³
Annual	80 ug/m ³ (1) 0.030 ppm		(6) 15 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Not to be exceeded more than once during a 3-year period as provided in 40 CFR 50, Appendix R.

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.

(5) The standard is attained when the 98th percentile concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(6) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(7) The standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 ug/m³, as determined in accordance with 40 CFR 50, Appendix K is equal to or less than one.

Appendix F. Secondary Ambient Air Quality Standards

	Sulfur Dioxide	⁽⁶⁾ PM-10	PM 2.5	⁽⁶⁾ Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max							
3-hr. max	1300 ug/m ³ ⁽²⁾ 0.5 ppm						
8-hr. max					⁽⁴⁾ 0.075 ppm		
24-hr. max							
Rolling 3-month average							⁽³⁾ 0.15 ug/m ³
Annual			⁽⁵⁾ 15 ug/m ³			100 ug/m ³ ⁽¹⁾ 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Not to be exceeded more than once during a 3-year period as provided in 40 CFR 50, Appendix R.

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.

(5) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(6) PM-10 and carbon monoxide have no secondary standard.

Legal Authority

27A O.S. §2-5-105 designates DEQ as the administrative agency for the Oklahoma Clean Air Act (CAA). DEQ's Air Quality Division (AQD) handles the statutory authorities and responsibilities concerning air quality under OAC 252:4-1-3(c). The AQD has the authority to carry out all duties, requirements, and responsibilities necessary and proper for the implementation of the Oklahoma CAA and fulfilling the requirements of the federal CAA under 27A O.S. §§1-3-101(B)(8), 2-3-101(E)(1), and 2-5-105. Upon recommendation of the Air Quality Advisory Council, the Environmental Quality Board has the authority under Oklahoma statutory law 27A O.S. §2-5-106 to adopt air quality regulations for DEQ. DEQ has the authority under Oklahoma law to:

- Enforce those regulations and orders of DEQ [27A OS §§2-5-105(4) and 2-5-110];
- Maintain and update an inventory of air emissions from stationary sources [27A O.S. §2-5-105(19)];
- Establish a permitting program [27A O.S. §2-5-105(2)]; 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. §§2-5-105(22)].

Specifically, the Environmental Quality Board and DEQ have the existing authority to:

- Adopt emissions standards and regulations to implement the Oklahoma CAA and fulfill requirements of the federal CAA [27A O.S. §§2-2-104, 2-5-105, 2-5-106, 2-5-107, and 2-5-114];
- Enforce the relevant laws, regulations, standards, orders and compliance schedules authorized by the Oklahoma CAA [27A O.S. §§2-5-105(4) and 2-5-110], and seek injunctive relief when necessary [27A O.S. §§2-5-105(14) and 2-5-117(A)];
- 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)];
- 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)];
- Obtain information necessary to determine compliance [27A O.S. §§2-5-105(17), (18)];
- Require recordkeeping, make inspections, and conduct tests

[27A O.S. §2-5-105(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
- Make emissions data available to the public [51 O.S. §§24A.1 through 24A.27].

The appendix contains copies of these referenced statutes.

§27A-1-3-101. State environmental agencies - Jurisdictional areas of environmental responsibilities.

A. The provisions of this section specify the jurisdictional areas of responsibility for each state environmental agency and state agencies with limited environmental responsibility. The jurisdictional areas of environmental responsibility specified in this section shall be in addition to those otherwise provided by law and assigned to the specific state environmental agency; provided that any rule, interagency agreement or executive order enacted or entered into prior to the effective date of this section which conflicts with the assignment of jurisdictional environmental responsibilities specified by this section is hereby superseded. The provisions of this subsection shall not nullify any financial obligation arising from services rendered pursuant to any interagency agreement or executive order entered into prior to July 1, 1993, nor nullify any obligations or agreements with private persons or parties entered into with any state environmental agency before July 1, 1993.

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 CO₂ sequestration facility, including any associated CO₂ 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 Statutes;

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 the use of sources of radiation by diagnostic x-ray facilities;

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; and

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.

C. Oklahoma Water Resources Board. The Oklahoma Water Resources Board shall have the following jurisdictional areas of environmental responsibility:

1. Water quantity including, but not limited to, water rights, surface water and underground water, planning, and interstate stream compacts;

2. Weather modification;

3. Dam safety;

4. Flood plain management;

5. State water/wastewater loans and grants revolving fund and other related financial aid programs;

6. Administration of the federal State Revolving Fund Program including, but not limited to, making application for and receiving capitalization grant awards, wastewater prioritization for funding, technical project reviews, environmental review process, and financial review and administration;

7. Water well drillers/pump installers licensing;

8. Technical lead agency for clean lakes eligible for funding under Section 314 of the federal Clean Water Act or other applicable sections of the federal Clean Water Act or other subsequent state and federal clean lakes programs; administration of a state program for assessing, monitoring, studying and restoring Oklahoma lakes with administration to include, but not be limited to, receipt and expenditure of funds from federal, state and private sources for clean lakes and implementation of a volunteer monitoring program to assess and monitor state water resources, provided such funds from federal Clean Water Act sources are administered and disbursed by the Office of the Secretary of Environment;

9. Statewide water quality standards and their accompanying use support assessment protocols, anti-degradation policy and implementation, and policies generally affecting

Oklahoma Water Quality Standards application and implementation including but not limited to mixing zones, low flows and variances or any modification or change thereof pursuant to Section 1085.30 of Title 82 of the Oklahoma Statutes;

10. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Board;

11. 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;

12. Development of classifications and identification of permitted uses of groundwater, in recognized water rights, and associated groundwater recharge areas;

13. Establishment and implementation of a statewide beneficial use monitoring program for waters of the state in coordination with the other state environmental agencies;

14. Coordination with other state environmental agencies and other public entities of water resource investigations conducted by the federal United States Geological Survey for water quality and quantity monitoring in the state; and

15. Development and submission of a report concerning the status of water quality monitoring in this state pursuant to Section 1-1-202 of this title.

D. Oklahoma Department of Agriculture, Food, and Forestry.

1. The Oklahoma Department of Agriculture, Food, and Forestry shall have the following jurisdictional areas of environmental responsibility except as provided in paragraph 2 of this subsection:

- a. point source discharges and nonpoint source runoff from agricultural crop production, agricultural services, livestock production, silviculture, feed yards, livestock markets and animal waste,
- b. pesticide control,
- c. forestry and nurseries,
- d. fertilizer,
- e. facilities which store grain, feed, seed, fertilizer and agricultural chemicals,
- f. dairy waste and wastewater associated with milk production facilities,
- g. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department,
- h. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents,
- i. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility, and
- j. storm water discharges for activities subject to the jurisdictional areas of environmental responsibility of the Department.

2. In addition to the jurisdictional areas of environmental responsibility specified in subsection B of this section, the Department of Environmental Quality shall have environmental jurisdiction over:

- a. (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,
- (2) slaughterhouses, but not including feedlots at these facilities, and
- (3) aquaculture and fish hatcheries,

including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities, and

- b. facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal NPDES regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

E. Corporation Commission.

1. The Corporation Commission is hereby vested with exclusive jurisdiction, power and authority, and it shall be its duty to promulgate and enforce rules, and issue and enforce orders governing and regulating:

- a. the conservation of oil and gas,
- b. field operations for geologic and geophysical exploration for oil, gas and brine, including seismic survey wells, stratigraphic test wells and core test wells,
- c. the exploration, drilling, development, producing or processing for oil and gas on the lease site,
- d. the exploration, drilling, development, production and operation of wells used in connection with the recovery, injection or disposal of mineral brines,
- e. reclaiming facilities only for the processing of salt water, crude oil, natural gas condensate and tank bottoms or basic sediment from crude oil tanks, pipelines, pits and equipment associated with the exploration, drilling, development, producing or transportation of oil or gas,
- f. underground injection control pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, of:
 - (1) Class II injection wells,
 - (2) Class V injection wells utilized in the remediation of groundwater associated with underground or aboveground storage tanks regulated by the Commission,
 - (3) those wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act, and
 - (4) any aspect of any CO₂ sequestration facility, including any associated CO₂ injection well, over which the Commission is given jurisdiction pursuant to the Oklahoma Carbon Capture and Geologic Sequestration Act.

Any substance that the United States Environmental Protection Agency allows to be injected into a Class II well may continue to be so injected,

- g. tank farms for storage of crude oil and petroleum products which are located outside the boundaries of refineries, petrochemical manufacturing plants, natural gas liquid extraction plants, or other facilities which are subject to the jurisdiction of the Department of Environmental Quality with regard to point source discharges,
- h. the construction and operation of pipelines and associated rights-of-way, equipment, facilities or buildings used in the transportation of oil, gas, petroleum, petroleum products, anhydrous ammonia or mineral brine, or in

the treatment of oil, gas or mineral brine during the course of transportation but not including line pipes in any:

- (1) natural gas liquids extraction plant,
- (2) refinery,
- (3) reclaiming facility other than for those specified within subparagraph e of this subsection,
- (4) mineral brine processing plant, and
- (5) petrochemical manufacturing plant,

i. the handling, transportation, storage and disposition of saltwater, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and operating of oil and gas wells, at:

- (1) any facility or activity specifically listed in paragraphs 1 and 2 of this subsection as being subject to the jurisdiction of the Commission, and
- (2) other oil and gas extraction facilities and activities,

j. spills of deleterious substances associated with facilities and activities specified in paragraph 1 of this subsection or associated with other oil and gas extraction facilities and activities,

k. subsurface storage of oil, natural gas and liquefied petroleum gas in geologic strata,

l. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission,

m. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents, and

n. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility.

2. The exclusive jurisdiction, power and authority of the Commission shall also extend to the construction, operation, maintenance, site remediation, closure and abandonment of the facilities and activities described in paragraph 1 of this subsection.

3. When a deleterious substance from a Commission-regulated facility or activity enters a point source discharge of pollutants or storm water from a facility or activity regulated by the Department of Environmental Quality, the Department shall have sole jurisdiction over the point source discharge of the commingled pollutants and storm water from the two facilities or activities insofar as Department-regulated facilities and activities are concerned.

4. For purposes of the federal Clean Water Act, any facility or activity which is subject to the jurisdiction of the Commission pursuant to paragraph 1 of this subsection and any other oil and gas extraction facility or activity which requires a permit for the discharge of a pollutant or storm water to waters of the United States shall be subject to the direct jurisdiction of the federal Environmental Protection Agency and shall not be required to be permitted by the Department of Environmental Quality or the Commission for such discharge.

5. The Commission shall have jurisdiction over:

- a. underground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at the upstream or intermediate shipment points of pipeline

operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided, that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality,

- b. aboveground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at the upstream or intermediate shipment points of pipeline operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided, that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality, and
- c. the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund, the Oklahoma Petroleum Storage Tank Release Indemnity Program, and the Oklahoma Leaking Underground Storage Tank Trust Fund.

6. The Department of Environmental Quality shall have sole jurisdiction to regulate the transportation, discharge or release of deleterious substances or solid or hazardous waste or other pollutants from rolling stock and rail facilities. The Department of Environmental Quality shall not have any jurisdiction with respect to pipeline transportation of carbon dioxide.

7. The Department of Environmental Quality shall have sole environmental jurisdiction for point and nonpoint source discharges of pollutants and storm water to waters of the state from:

- a. refineries, petrochemical manufacturing plants and natural gas liquid extraction plants,
- b. manufacturing of equipment and products related to oil and gas,
- c. bulk terminals, aboveground and underground storage tanks not subject to the jurisdiction of the Commission pursuant to this subsection, and
- d. other facilities, activities and sources not subject to the jurisdiction of the Commission or the Oklahoma Department of Agriculture, Food, and Forestry as specified by this section.

8. The Department of Environmental Quality shall have sole environmental jurisdiction to regulate air emissions from all facilities and sources subject to operating permit requirements under Title V of the federal Clean Air Act as amended.

F. Oklahoma Conservation Commission. The Oklahoma Conservation Commission shall have the following jurisdictional areas of environmental responsibility:

- 1. Soil conservation, erosion control and nonpoint source management except as otherwise provided by law;
- 2. Monitoring, evaluation and assessment of waters to determine the condition of streams and rivers being impacted by nonpoint source pollution. In carrying out this area of

responsibility, the Oklahoma Conservation Commission shall serve as the technical lead agency for nonpoint source categories as defined in Section 319 of the federal Clean Water Act or other subsequent federal or state nonpoint source programs, except for activities related to industrial and municipal storm water or as otherwise provided by state law;

3. Wetlands strategy;
4. Abandoned mine reclamation;
5. Cost-share program for land use activities;
6. Assessment and conservation plan development and implementation in watersheds of clean lakes, as specified by law;
7. Complaint data management;
8. Coordination of environmental and natural resources education;
9. Federal upstream flood control program;
10. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission;
11. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility;
12. Utilization of Oklahoma Water Quality Standards and Implementation documents; and
13. Verification and certification of carbon sequestration pursuant to the Oklahoma Carbon Sequestration Enhancement Act. This responsibility shall not be superseded by the Oklahoma Carbon Capture and Geologic Sequestration Act.

G. Department of Mines. The Department of Mines shall have the following jurisdictional areas of environmental responsibility:

1. Mining regulation;
2. Mining reclamation of active mines;
3. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission; and
4. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of responsibility.

H. Department of Wildlife Conservation. The Department of Wildlife Conservation shall have the following jurisdictional areas of environmental responsibilities:

1. Investigating wildlife kills;
2. Wildlife protection and seeking wildlife damage claims; and
3. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility.

I. Department of Public Safety. The Department of Public Safety shall have the following jurisdictional areas of environmental responsibilities:

1. Hazardous waste, substances and material transportation inspections as authorized by the Hazardous Materials Transportation Act; and
2. Inspection and audit activities of hazardous waste and materials carriers and handlers as authorized by the Hazardous Materials Transportation Act.

J. Department of Labor. The Department of Labor shall have the following jurisdictional areas of environmental responsibility:

1. Regulation of asbestos in the workplace pursuant to Chapter 11 of Title 40 of the Oklahoma Statutes;

2. Asbestos monitoring in public and private buildings; and
3. Indoor air quality as regulated under the authority of the Oklahoma Occupational Health and Safety Standards Act, except for those indoor air quality issues specifically authorized to be regulated by another agency.

Such programs shall be a function of the Department's occupational safety and health jurisdiction.

K. Oklahoma Department of Emergency Management. The Oklahoma Department of Emergency Management shall have the following jurisdictional areas of environmental responsibilities:

1. Coordination of all emergency resources and activities relating to threats to citizens' lives and property pursuant to the Oklahoma Emergency Resources Management Act of 1967;
2. Administer and enforce the planning requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986 and develop such other emergency operations plans that will enable the state to prepare for, respond to, recover from and mitigate potential environmental emergencies and disasters pursuant to the Oklahoma Hazardous Materials Planning and Notification Act;
3. Administer and conduct periodic exercises of emergency operations plans provided for in this subsection pursuant to the Oklahoma Emergency Resources Management Act of 1967;
4. Administer and facilitate hazardous materials training for state and local emergency planners and first responders pursuant to the Oklahoma Emergency Resources Management Act of 1967; and
5. Maintain a computerized emergency information system allowing state and local access to information regarding hazardous materials' location, quantity and potential threat.

Added by Laws 1992, c. 398, § 6, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 11, eff. July 1, 1993. Renumbered from § 6 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 6, eff. July 1, 1993; Laws 1994, c. 140, § 24, eff. Sept. 1, 1994; Laws 1997, c. 217, § 1, eff. July 1, 1997; Laws 1999, c. 413, § 4, eff. Nov. 1, 1999; Laws 2000, c. 364, § 1, emerg. eff. June 6, 2000; Laws 2002, c. 397, § 1, eff. Nov. 1, 2002; Laws 2004, c. 100, § 2, eff. July 1, 2004; Laws 2004, c. 430, § 11, emerg. eff. June 4, 2004; Laws 2009, c. 429, § 8, emerg. eff. June 1, 2009.

§27A-2-2-104. Board rules incorporating by reference federal provisions - No effect on rules from subsequent changes in federal provisions.

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.

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

§27A-2-3-101. Creation - Powers and duties - Disclosure of interests - Employee classification - Programs - Departmental offices and divisions - Annual report - Environmental Quality Report - Environmental services contracts.

- 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;
2. Water programs which shall be responsible for water quality, including, but not limited to point source and nonpoint source pollution within the jurisdiction of the Department, public and private water supplies, public and private wastewater treatment, water protection and discharges to waters of the state;
3. Land protection programs which shall be responsible for hazardous waste, solid waste, radiation, and municipal, industrial, commercial and other waste within its jurisdictional areas of environmental responsibility pursuant to Section 1-3-101 of this title; and
4. Special projects and services programs which shall be responsible for duties related to planning, interagency coordination, technical assistance programs, laboratory services and laboratory certification, recycling, education and dissemination of information.

F. Within the Department there are hereby created:

1. The complaints program which shall be responsible for intake processing, investigation, mediation and conciliation of inquiries and complaints received by the Department and which shall provide for the expedient resolution of complaints within the jurisdiction of the Department; and
2. The customer assistance program which shall be responsible for advising and providing to licensees, permittees and those persons representing businesses or those persons associated with and representing local political subdivisions desiring a license or permit, the necessary forms and the information necessary to comply with the Oklahoma Environmental Quality Code. The customer assistance program shall coordinate with other programs of the Department to assist businesses and municipalities in complying with state statutes and rules governing environmental areas.

The customer assistance program shall also be responsible for advising and providing assistance to persons desiring information concerning the Department's rules, laws, procedures, licenses or permits, and forms used to comply with the Oklahoma Environmental Quality Code.

G. The Department shall be responsible for holding administrative hearings as defined in Section 2-1-102 of this title and shall provide support services related to them, including, but not limited to, giving required notices, maintaining the docket, scheduling hearings, and maintaining legal records.

H. 1. The Department shall prepare and submit an annual report assessing the status of the Department's programs to the Board, the Governor, the President Pro Tempore of the State Senate, and the Speaker of the Oklahoma House of Representatives by January 1 of each year. The annual status report shall include: the number of environmental inspections made within the various regulatory areas under the Department's jurisdiction; the number of permit applications submitted within the various regulatory areas under the Department's jurisdiction; the number of permits issued within the various regulatory areas under the Department's jurisdiction; the number and type of complaints filed with the Department; the number of resolved and unresolved Department complaints; a list of any permits and complaints which failed to be either completed or resolved within the Department's established time frames and an explanation of why the Department was unable to meet said time frames; the number and kinds of services provided corporations, businesses, cities, towns, schools, citizen groups and individuals by the customer assistance programs; a summary of the Department's environmental education efforts; the number and type of administrative hearings held and their outcomes; a detailed description of any promulgated and pending emergency or permanent rules requested by the Department and the current status of pending rules within the rulemaking process; the number of notices of violations issued by the Department within the various regulatory areas under its jurisdiction; the amount of penalties collected by the Department within the various regulatory areas under its jurisdiction; and any other information which the Department believes is pertinent.

2. Beginning January 1, 1995, and on or before January 1 of every year thereafter, the Department shall prepare an Oklahoma Environmental Quality Report which outlines the Department's annual needs for providing environmental services within its jurisdictional areas. The report shall reflect any new federal mandates and any state statutory or constitutional changes recommended by the Department within its jurisdictional areas. The Oklahoma Environmental Quality Report shall be reviewed, amended, and approved by the Board. The Department shall transmit an approved copy of the Oklahoma Environmental Quality Report to the Governor, President Pro Tempore of the State Senate, and Speaker of the House of Representatives.

3. The Executive Director shall establish such divisions and such other programs and offices as the Executive Director may determine necessary to implement and administer programs and functions within the jurisdiction of the Department pursuant to the Oklahoma Environmental Quality Code.

I. 1. The Department may contract with other governmental entities to provide environmental services. Such contracts may include duties related to providing information to the public regarding state environmental services, resources, permitting requirements and procedures based upon the ability, education and training of state environmental agency employees.

2. The Department, in conjunction with the state environmental agencies, may develop a program for the purpose of training government employees to provide any needed environmental

services; provided, that the investigation of complaints regarding, or inspections of, permitted sites or facilities shall not be performed by employees of other agencies, unless otherwise authorized by law.

Added by Laws 1992, c. 398, § 9, eff. Jan. 1, 1993. Amended by Laws 1993, c. 145, § 16, eff. July 1, 1993. Renumbered from § 9 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 5, eff. July 1, 1993; Laws 1995, c. 246, § 1, eff. Nov. 1, 1995; Laws 2002, c. 139, § 1, emerg. eff. April 29, 2002.

§27A-2-5-105. Administrative agency - Powers and duties.

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.

Added by Laws 1992, c. 215, § 4, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 42, eff. July 1, 1993. Renumbered from § 1-1805.1 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1998, c. 314, § 6, eff. July 1, 1998; Laws 2002, c. 397, § 2, eff. Nov. 1, 2002.

NOTE: Laws 1993, c. 47, § 1 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§27A-2-5-106. Rules and regulations.

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.

Added by Laws 1992, c. 215, § 5, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 43, eff. July 1, 1993. Renumbered from Title 63, § 1-1806.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-107. Air Quality Council - Powers and duties.

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.

Added by Laws 1992, c. 215, § 7, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 44, eff. July 1, 1993. Renumbered from Title 63, § 1-1808.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 7, eff. July 1, 1994.

§27A-2-5-110. Violations - Compliance orders - Administrative penalties - Notice and hearing - Burden of proof - Settlements or consent orders.

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.

Added by Laws 1992, c. 215, § 10, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 47, eff. July 1, 1993. Renumbered from § 1-1811 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 13, eff. July 1, 1993; Laws 1999, c. 131, § 1, eff. Nov. 1, 1999; Laws 2001, c. 109, § 1, emerg. eff. April 18, 2001.

§27A-2-5-112. Comprehensive permitting program - Issuance, denial or renewal.

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. Expeditiously 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.

Added by Laws 1992, c. 215, § 12, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 49, eff. July 1, 1993. Renumbered from § 1-1813 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 16, eff. July 1, 1994; Laws 1995, c. 285, § 2, eff. July 1, 1996; Laws 1999, c. 284, § 1, emerg. eff. May 27, 1999; Laws 2000, c. 6, § 7, emerg. eff. March 20, 2000; Laws 2004, c. 83, § 1, emerg. eff. April 13, 2004; Laws 2004, c. 381, § 4, emerg. eff. June 3, 2004.

NOTE: Laws 1999, c. 131, § 2 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

§27A-2-5-114. Implementation and enforcement of federal emission standards - Oil and gas well and equipment emissions.

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.

Added by Laws 1992, c. 215, § 14, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 51, eff. July 1, 1993. Renumbered from Title 63, § 1-1815 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-117. Civil actions - Injunctions - Abatement - Civil penalties.

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.

Added by Laws 1992, c. 215, § 17, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 54, eff. July 1, 1993. Renumbered from Title 63, § 1-1818 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

OPEN RECORDS ACT

§51-24A.1. Short title.

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

Added by Laws 1985, c. 355, § 1, eff. Nov. 1, 1985. Amended by Laws 1988, c. 68, § 1, eff. Nov. 1, 1988; Laws 1988, c. 187, § 1, emerg. eff. June 6, 1988; Laws 1996, c. 247, § 41, eff. July 1, 1996; Laws 1997, c. 2, § 10, emerg. eff. Feb. 26, 1997.

NOTE: Laws 1996, c. 209, § 1 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997.

§51-24A.2. Public policy - Purpose of act.

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.

Added by Laws 1985, c. 355, § 2, eff. Nov. 1, 1985. Amended by Laws 1988, c. 187, § 2, emerg. eff. June 6, 1988.

§51-24A.3. Definitions.

As used in this 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 the effective date of this act, 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,
 - (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, or
 - (3) audio or video recordings of 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.

Added by Laws 1985, c. 355, § 3, eff. Nov. 1, 1985. Amended by Laws 1987, c. 222, § 117, operative July 1, 1987; Laws 1988, c. 187, § 3, emerg. eff. June 6, 1988; Laws 1993, c. 39, § 1, eff. Sept. 1, 1993; Laws 1996, c. 209, § 2, eff. Nov. 1, 1996; Laws 1998, c. 315, § 4, emerg. eff. May 28, 1998; Laws 1998, c. 368, § 11, eff. July 1, 1998; Laws 2001, c. 355, § 1, emerg. eff. June 1, 2001; Laws 2002, c. 478, § 2, eff. July 1, 2002; Laws 2003, c. 3, § 42, emerg. eff. March 19, 2003; Laws 2004, c. 328, § 1, eff. July 1, 2004; Laws 2005, c. 199, § 4, eff. Nov. 1, 2005.

NOTE: Laws 2002, c. 293, § 3 repealed by Laws 2003, c. 3, § 43, emerg. eff. March 19, 2003.

§51-24A.4. Record of receipts and expenditures.

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.

Added by Laws 1985, c. 355, § 4, eff. Nov. 1, 1985.

§51-24A.5. Inspection, copying and/or mechanical reproduction of records - Exemptions.

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.28 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, Section 301 et seq. of Title 25 of the Oklahoma Statutes,
- c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, or
- 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.

2. 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.

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.

Added by Laws 1985, c. 355, § 5, eff. Nov. 1, 1985. Amended by Laws 1986, c. 213, § 1, emerg. eff. June 6, 1986; Laws 1986, c. 279, § 29, operative July 1, 1986; Laws 1988, c. 187, § 4, emerg. eff. June 6, 1988; Laws 1992, c. 231, § 2, emerg. eff. May 19, 1992; Laws 1993, c. 97, § 7, eff. Sept. 1, 1993; Laws 1996, c. 209, § 3, eff. Nov. 1, 1996; Laws 2000, c. 342, § 8, eff. July 1, 2000; Laws 2001, c. 137, § 1, emerg. eff. April 24, 2001; Laws 2005, c. 199, § 5, eff. Nov. 1, 2005; Laws 2006, c. 16, § 34, emerg. eff. March 29, 2006.

NOTE: Laws 2005, c. 223, § 1 repealed by Laws 2006, c. 16, § 35, emerg. eff. March 29, 2006.

§51-24A.6. Public body maintaining less than 30 hours of regular business per week - Inspection, copying or mechanical reproduction of records.

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.

Added by Laws 1985, c. 355, § 6, eff. Nov. 1, 1985.

§51-24A.7. Personnel records - Confidentiality - Inspection and copying.

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.

Added by Laws 1985, c. 355, § 7, eff. Nov. 1, 1985. Amended by Laws 1990, c. 257, § 6, emerg. eff. May 23, 1990; Laws 1994, c. 177, § 1, eff. Sept. 1, 1994; Laws 2005, c. 116, § 2, eff. Nov. 1, 2005.

§51-24A.8. Law enforcement records - Disclosure.

A. Law enforcement agencies shall make available for public inspection, 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.

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.

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.

Added by Laws 1985, c. 355, § 8, eff. Nov. 1, 1985. Amended by Laws 1989, c. 212, § 8, eff. Nov. 1, 1989; Laws 2000, c. 349, § 2, eff. Nov. 1, 2000; Laws 2001, c. 5, § 29, emerg. eff. March 21, 2001; Laws 2005, c. 199, § 6, eff. Nov. 1, 2005; Laws 2006, c. 16, § 36, emerg. eff. March 29, 2006; Laws 2009, c. 36, § 1, eff. Nov. 1, 2009.

NOTE: Laws 2000, c. 226, § 1 repealed by Laws 2001, c. 5, § 30, emerg. eff. March 21, 2001. Laws 2005, c. 35, § 1 repealed by Laws 2006, c. 16, § 37, emerg. eff. March 29, 2006.

§51-24A.9. Personal notes and personally created material - Confidentiality.

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.

Added by Laws 1985, c. 355, § 9, eff. Nov. 1, 1985.

§51-24A.10. Voluntarily supplied information - Records providing unfair competitive advantage - Department of Commerce, Department of Career and Technology Education, and technology center school districts records - Public utility records - Confidentiality - Disclosure.

A. Any information, records or other material heretofore voluntarily supplied to any state agency, board or commission which was not required to be considered by that agency, board or commission in the performance of its duties may, within thirty (30) days from June 6, 1988, be removed from the files of such agency, board or commission by the person or entity which originally voluntarily supplied such information. Provided, after thirty (30) days from the effective date of this act, any information voluntarily supplied shall be subject to full disclosure pursuant to this act.

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 and the technology center school districts 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 and the technology center school districts 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.

Added by Laws 1985, c. 355, § 10, eff. Nov. 1, 1985. Amended by Laws 1988, c. 187, § 5, emerg. eff. June 6, 1988; Laws 1996, c. 209, § 4, eff. Nov. 1, 1996; Laws 2004, c. 186, § 1, emerg. eff. May 3, 2004; Laws 2006, c. 18, § 1, eff. Nov. 1, 2006; Laws 2007, c. 6, § 1, eff. Nov. 1, 2007; Laws 2008, c. 284, § 1, eff. Nov. 1, 2008; Laws 2009, c. 158, § 1, eff. Nov. 1, 2009.

§51-24A.11. Library, archive or museum materials - Confidentiality.

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. Added by Laws 1985, c. 355, § 11, eff. Nov. 1, 1985. Amended by Laws 1992, c. 231, § 3, emerg. eff. May 19, 1992.

§51-24A.12. Litigation files and investigatory files of Attorney General, district or municipal attorney - Confidentiality.

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.

Added by Laws 1985, c. 355, § 12, eff. Nov. 1, 1985. Amended by Laws 1988, c. 187, § 6, emerg. eff. June 6, 1988.

§51-24A.13. Federal records - Confidentiality.

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.

Added by Laws 1985, c. 355, § 13, eff. Nov. 1, 1985.

§51-24A.14. Personal communications relating to exercise of constitutional rights - Confidentiality.

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.

Added by Laws 1985, c. 355, § 14, eff. Nov. 1, 1985.

§51-24A.15. Crop and livestock reports - Public warehouse financial statements - Confidentiality.

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.

Added by Laws 1985, c. 355, § 15, eff. Nov. 1, 1985. Amended by Laws 1988, c. 259, § 14, emerg. eff. June 29, 1988.

§51-24A.16. Educational records and materials - Confidentiality.

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.

Added by Laws 1985, c. 355, § 16, eff. Nov. 1, 1985. Amended by Laws 1986, c. 116, § 1, emerg. eff. April 9, 1986; Laws 2003, c. 430, § 1, eff. July 1, 2003.

§51-24A.17. Violations - Penalties - Civil liability.

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.

Added by Laws 1985, c. 355, § 17, eff. Nov. 1, 1985. Amended by Laws 2005, c. 199, § 7, eff. Nov. 1, 2005.

§51-24A.18. Additional recordkeeping not required.

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.

Added by Laws 1985, c. 355, § 18, eff. Nov. 1, 1985. Amended by Laws 2005, c. 199, § 8, eff. Nov. 1, 2005.

§51-24A.19. Research records - Confidentiality.

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. Added by Laws 1988, c. 68, § 2, eff. Nov. 1, 1988. Amended by Laws 1999, c. 287, § 1, emerg. eff. May 27, 1999.

§51-24A.20. Records in litigation or investigation file - Access.

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.
Added by Laws 1988, c. 187, § 7, emerg. eff. June 6, 1988.

§51-24A.21. Increment district reports - Exemption from copying fees.

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.

Added by Laws 1992, c. 342, § 21.

§51-24A.22. Public utilities - Confidential books, records and trade secrets.

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.

Added by Laws 1994, c. 315, § 12, eff. July 1, 1994.

§51-24A.25. Order of court for removal of materials from public record.

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.

Added by Laws 2000, c. 172, § 4, eff. Nov. 1, 2000.

§51-24A.26. Intergovernmental self-insurance pools.

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.

Added by Laws 2000, c. 226, § 2, eff. Nov. 1, 2000.

NOTE: Editorially renumbered from § 24A.25 of this title to avoid duplication in numbering.

§51-24A.27. Vulnerability assessments of critical assets in water and wastewater systems.

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.

Added by Laws 2003, c. 166, § 1, emerg. eff. May 5, 2003.

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Number 13
March 16, 2009
Pages 627 - 660

RECEIVED

MAR 16 2009

DEQ LEGAL

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules



Brad Henry, Governor
M. Susan Savage,
Secretary of State
Peggy Coe, Managing Editor

THE OKLAHOMA REGISTER is an official publication of the State of Oklahoma. It is published semi-monthly on the first working day of the month and on the first working day following the 14th day of the month under the authority of 75 O.S., Sections 250 et seq. and OAC 655:10-15-1. The rules of the State of Oklahoma are codified and published in the *Oklahoma Administrative Code*.

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INFORMATION ABOUT THIS PUBLICATION may be obtained by contacting the Oklahoma Secretary of State, Office of Administrative Rules, 2401 North Lincoln Boulevard, Will Rogers Building, Room 220, P.O. Box 53390, Oklahoma City, OK 73152-3390, or by calling (405) 521-4911 or faxing (405) 522-3555. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

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ISSN 0030-1728

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

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

[OAR Docket #09-258]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 15. Motor Vehicle Pollution Control Devices

252:100-15-1. Purpose [REVOKED]

252:100-15-2. Definitions [REVOKED]

252:100-15-3. Scope [REVOKED]

252:100-15-4. Prohibitions [REVOKED]

252:100-15-5. Maintenance, repair or testing [REVOKED]

252:100-15-6. Liquefied petroleum gas [REVOKED]

Subchapter 17. Incinerators

Part 1. General Provisions

252:100-17-1. Purpose [AMENDED]

252:100-17-1.1. Reference to 40 CFR [AMENDED]

252:100-17-1.2. Terminology related to 40 CFR [REVOKED]

Part 3. Incinerators

252:100-17-2. Applicability [AMENDED]

252:100-17-2.1. Exemptions [AMENDED]

252:100-17-2.2. Definitions [AMENDED]

252:100-17-4. Particulate matter [AMENDED]

252:100-17-5. Incinerator design requirements [AMENDED]

252:100-17-5.1. Alternative incinerator design requirements [AMENDED]

252:100-17-7. Test methods [AMENDED]

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

SUMMARY:

The Department proposes to revoke OAC 252:100-15, Motor Vehicle Pollution Control Devices, because the Department does not have the legal authority to enforce these rules.

The Department is proposing changes to several sections of OAC 252:100-17, Incinerators, to remove certain obsolete language and clarify the remaining provisions.

In order to update the ambient air quality standards for lead (Pb), the Department proposes to revoke the current Appendices E and F and add new Appendices E and F to make them consistent with current federal standards.

AUTHORITY:

Environmental Quality Board and Air Quality Advisory Council powers and duties, 27A O.S., §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S., §§ 2-5-101 *et seq.*

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on April 15, 2009. For comments received at least 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. Copies of the written responses will be provided to the Council and the public at that Council meeting. Oral comments may be made at the April 15, 2009, hearing and at the August 25, 2009, Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, April 15, 2009, at the Tulsa Campus of Oklahoma State University, 700 N. Greenwood, Tulsa, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on Tuesday, August 25, 2009, in Tulsa, Oklahoma.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 C.F.R. § 51.102 of the EPA regulations and 27A O.S., § 2-5-107(6)(c).
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, 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 at the Air Quality Division of the Department at http://www.deq.state.ok.us/AQDnew/council_mtg/index.htm, or copies may be obtained from the Department by calling Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained by contacting Cheryl E. Bradley at (405) 702-4100.

Notices of Rulemaking Intent

CONTACT PERSON:

Please send written comments on the proposed rule changes to Cheryl E. 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 Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. 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 #09-258; filed 2-20-09]

TITLE 265. STATE FIRE MARSHAL COMMISSION CHAPTER 25. ADOPTED NATIONAL CODES AND STANDARDS

[OAR Docket #09-230]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

265:25-1-3 [AMENDED]

SUMMARY:

The proposed amendments to 265:25-1-3 redefines a revised fee schedule.

AUTHORITY:

74 O.S. § 324.11.; State Fire Marshal Commission

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 10:00 a.m. on April 17, 2009, at the following address: Susie Cain, State Fire Marshal's Office, 2401 NW 23rd Street, Suite 4, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Friday, April 17, 2009, at the State Fire Marshal's Office, 2401 NW 23rd Street, Suite 4, Oklahoma City, OK 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the State Fire Marshal's Office, 2401 NW 23rd Street, Suite 4, Oklahoma City, OK 73107.

RULE IMPACT STATEMENT:

A Rule Impact Statement will be prepared as required by law and may be obtained from the State Fire Marshal's Office at the above address beginning March 1, 2009.

CONTACT PERSON:

Susie Cain, Executive Secretary to the State Fire Marshal, (405) 522.5009.

[OAR Docket #09-230; filed 2-17-09]

TITLE 265. STATE FIRE MARSHAL COMMISSION CHAPTER 40. FIRE SAFETY STANDARDS FOR CIGARETTES

[OAR Docket #09-231]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

265:40-1-1 [NEW]

265:40-1-2 [NEW]

265:40-1-3 [NEW]

265:40-1-4 [NEW]

265:40-1-5 [NEW]

265:40-1-6 [NEW]

265:40-1-7 [NEW]

265:40-1-8 [NEW]

265:40-1-9 [NEW]

265:40-1-10 [NEW]

265:40-1-11 [NEW]

SUMMARY:

The proposed rules are to define the scope, definitions, test method, performance standard, test data, certification, notification of certification, marking of cigarette packaging, penalties, federal fire safety standards and notification of the State Fire Marshal's Office as set forth in the Fire Safety Standard and Firefighter Protection Act.

AUTHORITY:

74 O.S. § 324.11.; State Fire Marshal Commission

COMMENT PERIOD:

Persons wishing to present their views orally or in writing may do so before 10:00 a.m. on April 17, 2009, at the following address: Susie Cain, State Fire Marshal's Office, 2401 NW 23rd Street, Suite 4, Oklahoma City, OK 73107.

PUBLIC HEARING:

A public hearing will be held at 10:00 a.m. on Friday, April 17, 2009, at the State Fire Marshal's Office, 2401 NW 23rd Street, Suite 4, Oklahoma City, OK 73107.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the State Fire Marshal's Office, 2401 NW 23rd Street, Suite 4, Oklahoma City, OK 73107.

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

**April 15, 2009, 9:00 a.m.
OSU - Tulsa Campus
700 North Greenwood Drive
Tulsa, OK**

Please turn off cell phones.

1. **Call to Order** - Laura Lodes, Chair
2. **Roll Call** - Myrna Bruce
3. **Approval of Minutes** - January 21, 2009 Regular Meeting
4. **Public Rulemaking Hearings**

A. OAC 252:100-15. Motor Vehicle Pollution Control Devices [REVOKED]

The Department proposes to revoke OAC 252:100-15, Motor Vehicle Pollution Control Devices, because the Department does not have the legal authority to enforce these rules.

1. Presentation - Leon Ashford, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

B. OAC 252:100-17. Incinerators [AMENDED]

The Department is proposing changes to several sections of OAC 252:100-17, Incinerators, to remove certain obsolete language and clarify the remaining provisions.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**C. Appendix E. Primary Ambient Air Quality Standards [REVOKED]
Appendix E. Primary Ambient Air Quality Standards [NEW]
Appendix F. Secondary Ambient Air Quality Standards [REVOKED]
Appendix F. Secondary Ambient Air Quality Standards [NEW]**

In order to update the ambient air quality standards for lead (Pb), the Department proposes to revoke the current Appendices E and F and add new Appendices E and F to make them consistent with current federal standards.

1. Presentation - Diana Hinson, Environmental Programs Specialist, DEQ Air Quality Division
 2. Questions and discussion by the Council
 3. Questions, comments and discussion by the public
 4. Discussion and action by the Council, which may include a roll call vote on permanent adoption
-
5. **Presentation - Update on SC 31, Control of Emission of Sulfur Compounds - Max Price**, Environmental Programs Specialist, DEQ Air Quality Division
 6. **Presentation - 2009 Ozone Season** - Scott Thomas, Environmental Programs Manager, DEQ Air Quality Division
 7. **Division Director's Report** - Eddie Terrill
 8. **New Business** - Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.
 9. **Adjournment** - The next regular meeting is proposed for Wednesday, July 15, 2009 in Oklahoma City.

Lunch break if necessary

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4216. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE REGULARLY SCHEDULED
AIR QUALITY COUNCIL MEETING
HELD ON APRIL 15, 2009, AT 9:00 AM
IN TULSA, OKLAHOMA

ITEM 4C

* * * * *

MYERS REPORTING SERVICE
Christy A. Myers, CSR
P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
(405) 721-2882

ORIGINAL

COUNCIL MEMBERS

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DEQ STAFF

7 MYRNA BRUCE
8 BEVERLY BOTCHLET-SMITH
9 EDDIE TERRILL
10 MAX PRICE,
11 CHERYL BRADLEY

OTHERS PRESENT

1 This is the first time the Council has considered
2 these changes.
3 Notice of the proposed rule changes was published in
4 the Oklahoma Register on March 16, 2009, requesting comments
5 from members of the public. On April 10, 2009, Oklahoma DEQ
6 received a letter from the EPA concurring with the proposed
7 revisions to Appendices E and F.
8 Staff requests that the Council vote to send the
9 proposal to the Environmental Quality Board with the
10 recommendation that it be adopted as a permanent rule.
11 Thank you.
12 MS. BOTCHLET-SMITH: Does Council have questions
13 regarding this rule? Montelle.
14 MR. CLARK: I know that EPA was considering this
15 -- we talked about -- the discussion of monitoring sources and
16 whether that monitoring should occur at half ton levels per
17 year or full-time levels per year. Can you address that as far
18 as the practical application here in Oklahoma. Do you have any
19 sources that are greater than a ton a year?
20 MS. HINSON: I'll defer that question to Cheryl
21 Bradley.
22 MS. BRADLEY: I'm Cheryl Bradley with the Air
23 Quality Division, Rules and Planning Section.
24 We do have one source, one potential source in the
25 state of Oklahoma, McAlester Army Ammunition Plant, that may be

PROCEEDINGS

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4 MS. BOTCHLET-SMITH: The next item on the Agenda
5 is Number 4C, Appendix E, Primary Ambient Air Quality
6 Standards, and Appendix F, Secondary Ambient Air Quality
7 Standards. Ms. Diana Hinson of staff will give the
8 presentation.
9 MS. HINSON: Good morning, Madam Chair, Members
10 of the Council, ladies and gentlemen.
11 I am Diana Hinson, an Environmental Programs
12 Specialist in the Rules and Planning Section of the Air Quality
13 Division.
14 In November of 2008, the EPA published a new standard
15 for lead, changing the value from 1.50 to 0.15 micrograms per
16 cubic meter.
17 Additionally, the form of the measurement changed
18 from a quarterly average to a rolling 3-month average.
19 Appendix E is Oklahoma's primary health standard and
20 Appendix F is the state's secondary welfare standard for
21 Ambient Air Quality.
22 At this time, staff would like to revoke old
23 Appendices E and F and replace them with new Appendices E and
24 F, to reflect those changes. These modifications will ensure
25 Oklahoma's rule is as protective as EPA's.

1 subject to the source oriented monitoring. Our monitoring
2 section is currently evaluating the information for that
3 particular source and developing a strategy to address the
4 requirements of the new lead standard.
5 MR. CLARK: Do you know whether -- do we have
6 any sources between a half a ton and a ton?
7 MS. BRADLEY: Let me say it depends upon which
8 years emissions inventory data is evaluated. The quality of
9 the data has continued to improve as heavy metals are of more
10 interest to the source and to the public. I don't believe we
11 have many sources in that range. Most of them are below the
12 400 or 500 pounds that was in the original proposal. As to
13 what those specific sources are, today I'm unprepared to tell
14 you exactly what they were, but we had a very short list. Most
15 of the industries that were emitters of lead no longer -- many
16 of those have gone out of business. The lead battery recycling
17 facilities, as an example, and to my knowledge we have none of
18 those sources.
19 MR. CLARK: Thank you.
20 MS. BOTCHLET-SMITH: Further questions or
21 comments from the Council? Any questions from the public?
22 Hearing none, Laura, you can call for a motion.
23 MS. LODES: Do I hear a motion?
24 MR. BRANECKY: I'll make a motion that we adopt
25 the recommendation to revise the Appendices E and F as proposed

1 by staff.
 2 MR. CLARK: Second.
 3 MS. LODES: I have a motion and a second.
 4 Myrna, will you call the roll.
 5 MS. BRUCE: Montelle Clark.
 6 MR. CLARK: Yes.
 7 MS. BRUCE: Gary Collins.
 8 MR. COLLINS: Yes.
 9 MS. BRUCE: David Branecky.
 10 MR. BRANECKY: Yes.
 11 MS. BRUCE: Jerry Purkaple.
 12 MR. PURKAPLE: Yes.
 13 MS. BRUCE: Sharon Myers.
 14 MS. MYERS: Yes.
 15 MS. BRUCE: Pete White.
 16 MR. WHITE: Yes.
 17 MS. BRUCE: Laura Lodes.
 18 MS. LODES: Yes.
 19 MS. BRUCE: Motion passed.
 20 MS. BOTCHLET-SMITH: And that concludes the
 21 hearing portion of today's meeting.
 22 (Item Number 4C Concluded)
 23 (Hearings Concluded)
 24
 25

1 STATE OF OKLAHOMA)
 2 COUNTY OF OKLAHOMA) ss:
 3 I, CHRISTY A. MYERS, Certified Shorthand Reporter in
 4 and for the State of Oklahoma, do hereby certify that the above
 5 proceeding is the truth, the whole truth, and nothing but the
 6 truth; that the foregoing proceeding was taken down in
 7 shorthand by me and thereafter transcribed under my direction;
 8 that said meeting was taken on the 15th day of April, 2009, at
 9 Tulsa, Oklahoma; and that I am neither attorney for, nor
 10 relative of any of said parties, nor otherwise interested in
 11 said action.
 12 IN WITNESS WHEREOF, I have hereunto set my hand and
 13 official seal on this, the 30th day of May, 2009.
 14
 15
 16 CHRISTY A. MYERS, C.S.R.
 17 Certificate No. 00318
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DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE REGULARLY SCHEDULED
AIR QUALITY COUNCIL MEETING
HELD ON APRIL 15, 2009, AT 9:00 AM
IN TULSA, OKLAHOMA

ITEMS 1-4A

* * * * *

MYERS REPORTING SERVICE
Christy A. Myers, CSR
P.O. Box 721532
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(405) 721-2882

ORIGINAL

COUNCIL MEMBERS

- 1
- 2
- 3 DAVID BRANECKY, MEMBER
- 4 JIM HAUGHT, MEMBER
- 5 SHARON MYERS, MEMBER
- 6 JERRY PURKAPLE, VICE-CHAIR
- 7 LAURA LODES, CHAIR
- 8 MONTELLE CLARK, MEMBER
- 9 PETE WHITE, MEMBER
- 10 GARY COLLINS, MEMBER

DEQ STAFF

- 11
- 12
- 13
- 14 MYRNA BRUCE
- 15 BEVERLY BOTCHLET-SMITH
- 16 EDDIE TERRILL
- 17 MAX PRICE
- 18 CHERYL BRADLEY
- 19
- 20
- 21
- 22
- 23
- 24
- 25

- 1 MR. WHITE: Move for approval.
- 2 MR. BRANECKY: Second.
- 3 MS. LODES: Myrna, will you call the roll,
- 4 please.
- 5 MS. BRUCE: Montelle Clark.
- 6 MR. CLARK: Yes.
- 7 MS. BRUCE: Gary Collins.
- 8 MR. COLLINS: Yes.
- 9 MS. BRUCE: David Branecky.
- 10 MR. BRANECKY: Yes.
- 11 MS. BRUCE: Jerry Purkaple.
- 12 MR. PURKAPLE: Yes.
- 13 MS. BRUCE: Sharon Myers.
- 14 MS. MYERS: Yes.
- 15 MS. BRUCE: Pete White.
- 16 MR. WHITE: Yes.
- 17 MS. BRUCE: Laura Lodes.
- 18 MS. LODES: Yes.
- 19 MS. BRUCE: Motion passed.
- 20 MS. LODES: With that we'll start the public
- 21 hearing portion of the meeting.
- 22 MS. BOTCHLET-SMITH: Good morning. I'm Beverly
- 23 Botchlet-Smith, I'm the Assistant Director of the Air Quality
- 24 Division. As such, I'll serve as the Protocol Officer for
- 25 today's hearings.

PROCEEDINGS

- 1
- 2
- 3
- 4 MS. LODES: We'll go ahead and start the
- 5 meeting. Myrna, would you call the roll, please.
- 6 MS. BRUCE: Montelle Clark.
- 7 MR. CLARK: Present.
- 8 MS. BRUCE: Gary Collins.
- 9 MR. COLLINS: Present.
- 10 MS. BRUCE: Jim Haught. He was expected.
- 11 David Branecky.
- 12 MR. BRANECKY: Present.
- 13 MS. BRUCE: Jerry Purkaple.
- 14 MR. PURKAPLE: Here.
- 15 MS. BRUCE: Sharon Myers.
- 16 MS. MYERS: Here.
- 17 MS. BRUCE: Pete White.
- 18 MR. WHITE: Here.
- 19 MS. BRUCE: Bob Lynch is absent. Laura Lodes.
- 20 MS. LODES: Here.
- 21 MS. BRUCE: We do have a quorum.
- 22 MS. LODES: The next item on today's agenda is
- 23 the Approval of the Minutes from the January 21, 2009 Regular
- 24 Meeting.
- 25 Do we have any comments on the Minutes?

- 1 The hearings will be convened by the Air Quality
- 2 Council in compliance with the Oklahoma Administrative
- 3 Procedures Act and Title 40 of the Code of Federal Regulations,
- 4 Part 51, as well as the authority of Title 27A of the Oklahoma
- 5 Statutes, Section 2-2-201, Sections 2-5-101 through 2-5-118.
- 6 Notice of the April 15, 2009 hearings were advertised
- 7 in the Oklahoma Register for the purpose of receiving comments
- 8 pertaining to the proposed OAC Title 252, Chapter 100 rules as
- 9 listed on the Agenda and will be entered into each record along
- 10 with the Oklahoma Register filing. Notice of the meeting was
- 11 filed with the Secretary of State on October 24, 2008. The
- 12 Agenda was duly posted 24 hours prior to the meeting at this
- 13 facility and also at the DEQ.
- 14 If you wish to make a statement, it is very important
- 15 that you complete the form at the registration table and you
- 16 will be called upon at the appropriate time.
- 17 Audience members, please remember to come to the
- 18 podium for your comments and please state your name prior to
- 19 speaking.
- 20 At this time, we will proceed with what's marked as
- 21 Agenda Item 4A on the Hearing Agenda.
- 22 This is OAC 252:100-15, Motor Vehicle Pollution
- 23 Control Devices. Mr. Leon Ashford will be giving the staff
- 24 presentation.
- 25 MR. ASHFORD: Chair, Members of the Council,

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1 ladies and gentlemen, and members of the public, the Department
2 is proposing to revoke Subchapter 15 because the Department
3 lacks the legal authority to enforce this rule. In the state
4 of Oklahoma, the Oklahoma Department of Public Safety has the
5 sole power to regulate motor vehicles. The current Subchapter
6 15 is a partial duplication of the 1990 Federal Clean Air Act,
7 so revocation of this rule does not change the prohibition of
8 removal, disconnection and/or disabling the emission control
9 equipment on motor vehicles in the state of Oklahoma.

10 Staff requests that the Council recommend this
11 proposal for passage.

12 One comment received, and the only comment received
13 was from EPA. The comment does not approve or disapprove of
14 the request to remove the subchapter, but states that the
15 removal of Subchapter 15 from our SIP will require a
16 demonstration of emission reductions from the Subchapter be
17 replaced by equal or greater reductions in pollution, and then
18 the emissions reductions for Subchapter 15 -- hold on a
19 second -- the letter from EPA states that the removal of
20 Subchapter 15 from our SIP will require a demonstration of
21 emission reductions from the subchapter be replaced by equal or
22 greater reduction. Since Subchapter 15 is not enforceable by
23 us legally and has never attained any pollution reductions,
24 then removing it is not a problem.

25 Since Oklahoma has no current nonattainment or

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1 maintenance areas, reductions from Subchapter 15 are needed to
2 maintain the NAAQS.

3 And I'd like to restate again, the staff requests
4 that the Council recommend this proposal for passage.

5 MS. BOTCHLET-SMITH: Does Council have any
6 questions for Mr. Ashford?

7 MR. BRANECKY: So EPA is not opposing the
8 removal of this rule?

9 MR. ASHFORD: EPA only requires that to remove
10 it from the SIP we have to get equal or greater reductions than
11 what we had from the subchapter. But my logic is that we've
12 got zero reductions from the subchapter. It never has been
13 used and legally it couldn't be used. So we attained no
14 reductions whenever we remove it, we'll have no reductions and
15 that will balance out.

16 MR. BRANECKY: And EPA is okay with that logic?

17 MR. ASHFORD: They will --

18 MR. BRANECKY: We'll find out.

19 MR. ASHFORD: The comment that they gave -- in
20 reality -- since it's not enforceable, it's an appendix
21 basically. It's something that in 1968 it was put on the
22 books, and they thought it would be a good idea and apparently
23 someone didn't really do their homework and figure out that the
24 Department of Public Safety is the only entity that can enforce
25 those rules in the state of Oklahoma.

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1 MR. TERRILL: David, what we'll do is we
2 probably won't have a Board meeting in June. They generally in
3 the last couple of years cancelled that Board meeting. So
4 we'll have until August. We'll work out with EPA what they
5 expect, and we'll tell you what we're planning on sending down
6 and then we'll make a decision as to whether or not we'll take
7 it to the Board or not.

8 I would expect that we probably will, and then work
9 out how we send it down as a SIP provision. We may hold off
10 and see what happens in this ozone season and then if we have
11 to do a SIP provision relative to the new NAAQS, then we'll
12 roll all of this into whatever we send down.

13 This is part of our initial start into the second
14 rewrite/dewrong, for those of you have been around a while, if
15 you remember, we went through there and cleaned up our rules
16 and got rid of redundancy and things that were no longer
17 applicable and tried to make them a little more streamlined
18 and readable by the public and by the regulated community and
19 so this is our second step into that. And I just don't see the
20 value of keeping something in our rules that we don't have any
21 jurisdiction over.

22 MS. BOTCHLET-SMITH: Anyone else on the Council
23 have a question?

24 I didn't receive any notice of anyone from the public
25 wishing to comment on this rule.

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1 MS. LODES: Do we have any public comments for
2 this rule?

3 With no public comment indication, I need a motion.

4 MS. MYERS: I'll make a motion that we follow
5 the Agency guidelines and adopt the recommendation to revoke
6 this rule.

7 MR. WHITE: Second.

8 MS. LODES: I have a motion and a second.
9 Myrna, will you call the roll.

10 MS. BRUCE: Montelle Clark.

11 MR. CLARK: Yes.

12 MS. BRUCE: Gary Collins.

13 MR. COLLINS: Yes.

14 MS. BRUCE: David Branecky.

15 MR. BRANECKY: Yes.

16 MS. BRUCE: Jerry Purkaple.

17 MR. PURKAPLE: Yes.

18 MS. BRUCE: Sharon Myers.

19 MS. MYERS: Yes.

20 MS. BRUCE: Pete White.

21 MR. WHITE: Yes.

22 MS. BRUCE: Laura Lodes.

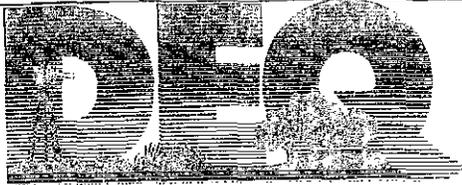
23 MS. LODES: Yes.

24 MS. BRUCE: Motion passed.

25 (Items 1-4A Concluded)

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DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

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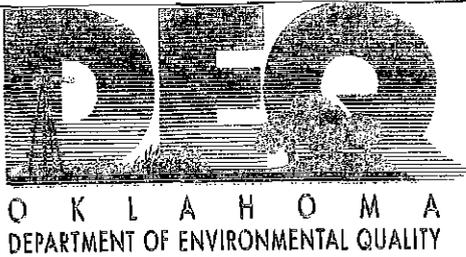
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**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 20. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW**

[OAR Docket #10-670]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

252:20-1-3 [AMENDED]

AUTHORITY:

Environmental Quality Board powers and duties: 27A O.S. §§ 2-2-101 and 4-2-102

DATES:

Comment period:

October 15 through November 16, 2009

Public hearing:

November 19, 2009

Adoption:

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Submitted to Governor:

November 30, 2009

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November 30, 2009

Submitted to Senate:

November 30, 2009

Gubernatorial approval:

December 29, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2010

Final adoption:

March 24, 2010

Effective:

July 1, 2010

UNPERSUED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

Incorporated standards:

References to 40 C.F.R. changed to July 2009

Incorporating rules:

252:20-1-3

Availability:

Copies are available for review at the Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101-1677, Monday through Friday, 8:00 a.m. to 4:30 p.m.

ANALYSIS:

In 2008, EPA finalized several changes to the Emergency Planning and Community Right-to-Know Act (EPCRA) regulations (40 CFR Parts 355 and 370). These changes are being incorporated by reference in this rule amendment by changing the date from 2004 to 2009.

The Tier I and Tier II forms and their instructions have been removed from the code of federal regulations (CFR). They may now be found on EPA's Web site: www.epa.gov/emergencies. The revised regulation includes a description of the requirements for Tier I and Tier II. Facilities are now required to report their North American Industry Classification System (NAICS) code on the Tier I or Tier II form. Also, the chemical or common name of the chemical as provided on the Material Safety Data Sheet must be provided on the Tier II form.

When determining whether the threshold quantity of an extremely hazardous substance (EHS) has been met, facilities must include the total quantity of that EHS present in the pure form as well as in any mixture, even if any mixture including the EHS is also being reported as a hazardous chemical.

For hazardous chemicals that are mixtures and do not contain any extremely hazardous substance, facilities have an option when determining whether the threshold quantity is present: (1) add together the quantity present in its pure form and as a component in all mixtures (even if the mixture is also being reported as a hazardous chemical), or (2) consider the total quantity of the mixture separately.

CONTACT PERSON:

Monty Elder, Customer Services Division, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at monty.elder@deq.ok.gov, phone 405-702-1000, or fax 405-702-1001.

PURSUANT TO THE ACTION DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2010:

252:20-1-3. Incorporations by reference

(a) **Reference to CFR.** Reference to Title 40 of the Code of Federal Regulations (40 CFR) shall mean (unless otherwise specifically provided) the Superfund, Emergency Planning, and Community Right-to-Know Regulations, July, 2004/2009.

(b) **Incorporation.** The following Parts of 40 CFR are, unless otherwise specified, incorporated by reference in their entirety:

- (1) Part 355 (Emergency Planning and Notification);
- (2) Part 370 (Hazardous Chemical Reporting: Community Right -to-Know);
- (3) Part 372 (Toxic Chemical Release Reporting: Community Right-to-Know).

(c) **Interface with CFR.** In the Parts of 40 CFR incorporated by reference, the term "Commission" shall mean the Department.

(d) **References incorporated.** Incorporation by reference of a provision of the Code of Federal Regulations also incorporates all citations and definitions contained therein.

(e) **Penalties.** Penalties cited in 40 CFR are subject to limitations under Oklahoma law.

[OAR Docket #10-670; filed 4-23-10]

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

[OAR Docket #10-671]

RULEMAKING ACTION:

Permanent Final Adoption

RULES:

Subchapter 15. Motor Vehicle Pollution Control Devices [REVOKED]
252:100-15-1 through 252:100-15-6 [REVOKED]
Appendix E. Primary Ambient Air Quality Standards [REVOKED]
Appendix E. Primary Ambient Air Quality Standards [NEW]
Appendix F. Secondary Ambient Air Quality Standards [REVOKED]
Appendix F. Secondary Ambient Air Quality Standards [NEW]

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. §2-5-101 *et seq.*

DATES:

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March 15, 2009 through April 15, 2009
August 24, 2009

Public hearing:

April 15, 2009
August 24, 2009

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Submitted to Governor:

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Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2010

Final adoption:

March 24, 2010

Effective:

July 1, 2010

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The Oklahoma Department of Environmental Quality (DEQ) is proposing to revoke OAC 252:100-15, Motor Vehicle Pollution Control Devices because DEQ does not currently have the legal authority to enforce these rules.

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., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2010:

SUBCHAPTER 15. MOTOR VEHICLE POLLUTION CONTROL DEVICES [REVOKED]

252:100-15-1. Purpose [REVOKED]

~~This Subchapter is for the purpose of preventing, abating, and controlling air pollutants which would otherwise be emitted through the operation of motor vehicles and of motor vehicle engines.~~

252:100-15-2. Definitions [REVOKED]

~~The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:~~

~~"Evaporating loss control system" means a system or device designed and installed in such a manner as to reduce or prevent the emission to the atmosphere of the vapors of the hydrocarbon fuel contained in the fuel tank, carburetor, and/or fuel pump of the motor vehicle.~~

~~"Exhaust emission control system" means a system, device, or engine modification designed and installed in such a manner as to reduce or prevent the emission to the atmosphere of air pollutant gases, vapors, and particulate matter released from the motor vehicle engine through the exhaust manifold and tailpipe.~~

~~"Motor vehicle" means a self-propelled, wheeled vehicle designed for normal use on public streets and highways.~~

~~"Motor vehicle pollution control device" means any or all of the devices or systems referred to in this Subchapter and designed to control or prevent air pollution emissions from motor vehicles.~~

~~"New vehicle" means a motor vehicle which is in the possession of persons in the channels of commerce in such a manner that the vehicle is not subject to registrations with the Oklahoma State Tax Commission by the ultimate purchaser.~~

~~"Positive crankcase ventilator" means a system or device designed and installed in such a manner as to prevent or reduce the release or emission to the outside atmosphere of gases and/or vapors produced or otherwise present in the crankcase of the engine of a motor vehicle.~~

252:100-15-3. Scope [REVOKED]

~~This Subchapter shall apply to all motor vehicles, registered or subject to registration with the Oklahoma State Tax Commission, in which, as new vehicles, motor vehicle pollution control devices have been installed by virtue of federal laws and regulations, in effect now and hereafter, requiring such devices to be installed. However, nothing in this Subchapter shall supersede or otherwise modify such federal laws and rules, nor shall anything in this Subchapter be construed to require the installation of motor vehicle pollution control devices on motor vehicles not referred to by such federal laws and rules.~~

252:100-15-4. Prohibitions [REVOKED]

~~No person shall cause, suffer, allow, or permit the removal, disconnection, and/or disabling of a positive crankcase ventilator, exhaust emission control system, or evaporative loss control system which has been installed on a motor vehicle; nor shall any person defeat the design purpose of any such motor vehicle pollution control device by installing therein or thereto any part or component which is not an authentic replacement part or component of the device.~~

252:100-15-5. Maintenance, repair, or testing [REVOKED]

~~For the purpose of routine maintenance, repair, or testing of the motor vehicle, its components, or the motor vehicle pollution control devices, the motor vehicle or its engine may not be operated on public streets or highways with the motor vehicle pollution control devices removed or otherwise rendered inoperable.~~

252:100-15-6. Liquefied petroleum gas [REVOKED]

~~Operation of a motor vehicle or its engine which uses liquefied petroleum gas as fuel is hereby exempted from provisions of this Subchapter.~~

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	PM 2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m ³ (2) 35 ppm			
8-hr. max				10 mg/m ³ (2) 9 ppm	(4) 0.075 ppm		
24-hr. max	365 ug/m ³ (2) 0.14 ppm	(7) 150 ug/m ³	(5) 35 ug/m ³				
Rolling 3-month average							(3) 0.15 ug/m ³
Annual	80 ug/m ³ (1) 0.030 ppm		(6) 15 ug/m ³			100 ug/m ³ (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Not to be exceeded more than once during a 3-year period as provided in 40 CFR 50, Appendix R.

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.

(5) The standard is attained when the 98th percentile concentration is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(6) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(7) The standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 ug/m³, as determined in accordance with 40 CFR 50, Appendix K is equal to or less than one.

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	⁽⁶⁾ PM-10	PM 2.5	⁽⁶⁾ Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max							
3-hr. max	1300 ug/m ³ ⁽²⁾ 0.5 ppm						
8-hr. max					⁽⁴⁾ 0.075 ppm		
24-hr. max							
Rolling 3-month average							⁽³⁾ 0.15 ug/m ³
Annual			⁽⁵⁾ 15 ug/m ³			100 ug/m ³ ⁽¹⁾ 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Not to be exceeded more than once during a 3-year period as provided in 40 CFR 50, Appendix R.

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.

(5) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

(6) PM-10 and carbon monoxide have no secondary standard.

[OAR Docket #10-671; filed 4-23-10]

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

EXECUTIVE SUMMARY

**APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS
APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS**

Before the Air Quality Advisory Council on April 15, 2009. Before the Environmental Quality Board on August 24, 2009.

EXECUTIVE SUMMARY:

The proposed amendments to Appendices E and F would change the primary and secondary ambient air quality standards for lead to be consistent with the National Ambient Air Quality Standards.

DIFFERENCES FROM ANALOGOUS FEDERAL RULES:

None.

ENVIRONMENTAL BENEFIT STATEMENT:

Not required because these rules are not more stringent than corresponding federal rules.

SUMMARY OF COMMENTS AND RESPONSES:

COMMENT:

EPA Region VI supports this action.

RESPONSE:

None required.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

APR 10 2009

Ms. Cheryl E. Bradley
Environmental Programs Manager
Air Quality Division
Oklahoma Department of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

Dear Ms. Bradley:

Thank you for the opportunity to comment on the proposed revisions to Oklahoma's Air Pollution Control Rules, Oklahoma Administrative Code 252:100, as listed below:

Subchapter 15	Motor Vehicle Pollution Control Devices
Subchapter 17	Incinerators
Appendix E	Primary Ambient Air Quality Standards
Appendix F	Secondary Ambient Air Quality Standards

Subchapter 15

The Oklahoma Department of Environmental Quality (DEQ) is proposing to revoke Subchapter 15 in its entirety. When the DEQ is ready to submit this as a revision to the Oklahoma State Implementation Plan (SIP), the SIP revision must include a demonstration that the emissions reductions from Subchapter 15 have been replaced by equal or greater emissions reductions or that Subchapter 15 did not contribute toward attainment in any of the former nonattainment areas in Oklahoma.

Subchapter 17

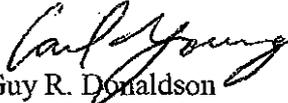
We are concerned that the revision to section 252:100-17-5, titled "Incinerator design requirements," does not address residence time. We have discussed this briefly with your staff and would be happy to discuss further. We concur with the other revisions to this subchapter.

Appendices E and F

We concur with the revisions to Appendices E and F, which are consistent with the 2008 National Ambient Air Quality Standards for lead.

We appreciate the opportunity to review and comment on the proposed rules prior to the public hearing on April 15, 2009. If you have questions regarding any of these comments, please feel free to contact me at (214) 665-7242, or Carrie Paige at (214) 665-6521.

Sincerely yours,

for 
Guy R. Donaldson
Chief
Air Planning Section

Enclosure

cc: Mr. Leon Ashford
Oklahoma Department of Environmental Quality
Ms. Diana Hinson
Oklahoma Department of Environmental Quality
Mr. Max Price
Oklahoma Department of Environmental Quality