

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

A Public Meeting: 9:30 a.m. Friday, February 17, 2023
 DEQ Multipurpose Room
 707 N. Robinson
 Oklahoma City, Oklahoma 73101-1677

A copy of this notice and agenda has been posted in a prominent location at the offices of the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, on February 15, 2022 at 4:30 p.m. A copy of this agenda is available on the DEQ's website at www.deq.ok.gov.

Please turn off cell phones.

1. **Call to Order** – Dr. Tracy Hammon, Chair
2. **Announcements** – Dr. Tracy Hammon, Chair

Announcements will include the introduction of any new Board members or special meeting guests, as well as general housekeeping matters of interest to the Board. These announcements are for informational purposes only, and no action by the Board is required.

3. **Roll Call** – Quiana Fields, Secretary, Board & Councils
4. **Approval of Minutes** of the November 8, 2022, Regular Meeting
5. **Election of Officers** – Election of Chair and Vice-Chair for Calendar Year 2023
6. **Rulemaking – OAC 252:100 Air Pollution Control**

The Department is proposing to amend OAC 252:100, Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, to adjust the annual operating fee and to update the annual operating fee schedule language to include the use of the Consumer Price Index (CPI) in the adjustment of annual operating fees for minor facilities. Part 70 (major) sources are subject to adjusted annual operating fees based on the CPI.

- Presentation – Laura Lodes, Chair, Air Quality Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s)

7. Rulemaking – OAC 252:100 Air Pollution Control

The Department is proposing to add Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program to OAC 252:100, to implement applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. The act created the "Oklahoma Emission Reduction Technology Rebate Program," administered by the DEQ and the Oklahoma 2 Tax Commission, to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities.

- Presentation – Laura Lodes, Chair, Air Quality Advisory Council
- Questions and discussion by the Board
- Questions, comments, and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s)

8. Rulemaking – OAC 252:205 Hazardous Waste Management

The Department is proposing to amend OAC 252:205 to make DEQ's hazardous waste rules consistent with the federal regulations by incorporating by reference (IBR) the regulations found in 40 CFR Parts 124 and 260-279, revised as of July 1, 2022.

- Presentation – Lee Grater, Chair, Hazardous Waste Management Advisory Council
- Questions and discussion by the Board
- Questions, comments, and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s)

9. Rulemaking – OAC 252:515 Management of Solid Waste

The Department is proposing to revise OAC 252:515-23-3. Disposal of untreated, regulated medical waste, to make clear that regulated medical waste generators, including small quantity generators, are also subject to any additional provisions that may be required by the Oklahoma State Department of Health.

- Presentation – Jim Linn, Chair, Solid Waste Management Advisory Council
- Questions and discussion by the Board
- Questions, comments, and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

10. Rulemaking – OAC 252:730 – Oklahoma's Water Quality Standards

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer Oklahoma's Water Quality Standards (OWQS's) from the Oklahoma Water

Resources Board (OWRB) to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. The legislation became effective November 1, 2022. As a result, DEQ proposed emergency rule OAC 252:730, titled “Oklahoma’s Water Quality Standards”, to replace OWRB rule OAC 785:45. The Environmental Quality Board (EQB) voted to adopt the emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022.

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

11. Rulemaking – OAC 252:740 – Implementation of Oklahoma’s Water Quality Standards

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer OWQS’s to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. The legislation became effective November 1, 2022. As a result, DEQ proposed emergency rule OAC 252:740, titled “Implementation of Oklahoma’s Water Quality Standards”, to replace OWRB’s rule OAC 785:46. The EQB voted to adopt the emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022.

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

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

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer OWQS’s to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. This required emergency rulemaking to promulgate OAC 252:730 and OAC 252:740 and to update 252:606 to ensure that references to the OWRB’s rules were replaced with references to the new rules and that references to OWRB’s authority for administering OWQS’s was updated to denote DEQ as now having this authority. The EQB voted to adopt this emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022. The Department is also proposing an update of the federal rules incorporated by reference from July 19, 2021, to July 1, 2022. The final regulatory change consisted of a technical

amendment to modify the submission location for Continuous Release Reports (CRRs) subject to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

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

13. Rulemaking – OAC 252:611 – General Water Quality

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer OWQS's to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. This required emergency rulemaking to promulgate OAC 252:730 and to update OAC 252:611 to ensure that a reference to the OWRB rule was replaced with a reference to the new rule and that a reference to OWRB's authority for administering OWQS's was updated to denote DEQ as now having this authority.

In addition to these changes, a group of definitions denoted as “Supplemental Information, Glossary of Terms” located at the very end of the rule was consolidated with the list of definitions at the beginning of the chapter to conform with the way definitions and terms are referenced in DEQ's other rules. The EQB voted to adopt the emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022.

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

14. Rulemaking – OAC 252:616 – Industrial Wastewater Systems

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer OWQS's to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. This required emergency rulemaking to promulgate OAC 252:730 and to update OAC 252:616 to ensure that a reference to the OWRB rule was replaced with a reference to the new rule and that a reference to OWRB's authority for administering OWQS's was updated to denote DEQ as now having this authority. The EQB voted to adopt the emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022.

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

15. Rulemaking – OAC 252:621 – Non-Industrial Discharging and Public Water Supply Lagoons

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer OWQS's to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. This required emergency rulemaking to promulgate OAC 252:730 and to update OAC 252:621 to ensure that a reference to the OWRB rule was replaced with a reference to the new rule and that a reference to OWRB's authority for administering OWQS's was updated to denote DEQ as now having this authority. The EQB voted to adopt the emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022.

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

16. Rulemaking – OAC 252:626 – Public Water Supply Construction Standards

The Department is proposing to update the rule to allow Design-build as a project delivery method. On July 1, 2021, House Bill 2402 was enacted authorizing conservancy districts, municipalities, counties, public trusts, and other political subdivisions operating a public water supply system or wastewater treatment system to utilize Design-build. Design-build is defined as a project delivery method in which one entity works under a single contract to provide design and construction services. The measure requires DEQ incorporate a flexible permitting process to allow this Design-build authorization into its rules and to authorize up to 5 pilot projects in the interim before those rules are adopted. This bill was codified in Oklahoma Statutes, Title 61, Section 220.1. DEQ is proposing to update this rule to include definitions for "Design-build", "Design package", and "Flexible permitting process". This also requires updating language for the following subchapters: Construction Permit Applications, Engineering Reports, and Plans and Specifications.

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

17. Rulemaking – OAC 252:628 – Indirect Potable Reuse for Surface Water Augmentation

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer OWQS's to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. This required emergency rulemaking to promulgate OAC 252:730 and OAC 252:740 and to update 252:628 to ensure that references to the OWRB's rules were replaced with references to the new rules and that references to OWRB's authority for administering OWQS's was updated to denote DEQ as now having this authority. The EQB voted to adopt the emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022.

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

18. Rulemaking – OAC 252:631 – Public Water Supply Operation

The Department is proposing to update the rule concerning the date of incorporation by reference of certain federal regulations from July 1, 2021, to August 17, 2022. Changes included EPA's approval of alternative testing methods for measuring the levels of contaminants in drinking water and determining compliance with national primary drinking water regulations. This provides timelier access to new measurement techniques and greater flexibility in the selection of analytical methods, thereby reducing monitoring costs while maintaining public health protection.

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

19. Rulemaking – OAC 252:633 – Drinking Water State Revolving Fund

The Department is proposing to revoke and reissue Appendix A to remove language related to application of the median household income as an element used by DEQ in prioritizing the award of DWSRF funds. This change is intended to clarify that DEQ is to utilize information from the latest census on the median household income when prioritizing the award of DWSRF funds, rather than the dollar amounts currently in the provision. The language DEQ proposes to remove does not reflect the latest census information on median household income and was intended to be illustrative only. It was not intended to prevent DEQ from using information from the latest census. Removing this language will clarify

that DEQ is to utilize the information from the latest census for the household median income and is not required to only use the dollar amounts listed.

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

20. Rulemaking – OAC 252:652 – Underground Injection Control

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer OWQS's to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. This required emergency rulemaking to promulgate OAC 252:730 and to update OAC 252:652 to ensure that a reference to the OWRB rule was replaced with a reference to the new rule and that a reference to OWRB's authority for administering OWQS's was updated to denote DEQ as now having this authority. The EQB voted to adopt the emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022.

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

21. Rulemaking – OAC 252:653 – Aquifer Storage and Recovery

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer OWQS's to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. This required emergency rulemaking to promulgate OAC 252:730 and to update OAC 252:653 to ensure that references to the OWRB rule were replaced with references to the new rule. The EQB voted to adopt the emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022.

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

22. Rulemaking – OAC 252:656 – Water Pollution Control Facility Construction Standards

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer OWQS's to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. This required emergency rulemaking to promulgate OAC 252:730 and to update OAC 252:656 to ensure that a reference to the OWRB rule was replaced with a reference to the new rule. The EQB voted to adopt the emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022.

The Department is also proposing to update the rule to allow Design-build as a project delivery method. On July 1, 2021, House Bill 2402 was enacted authorizing conservancy districts, municipalities, counties, public trusts, and other political subdivisions operating a public water supply system or wastewater treatment system to utilize Design-build.

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

23. Rulemaking – OAC 252:690 – Water Quality Standards Implementation

The Department is proposing to present this rule as a permanent rule. During the 2022 Oklahoma legislative session, Senate Bill No. 1325 was enacted transferring authority to administer OWQS's to DEQ and House Bill No. 3824 was enacted authorizing DEQ to implement WQS Variances. This required emergency rulemaking to promulgate OAC 252:730 and OAC 252:740 and to update 252:690 to ensure that references to the OWRB's rules were replaced with references to the new rules and that references to OWRB's authority for administering OWQS's was updated to denote DEQ as now having this authority. The EQB voted to adopt the emergency rule at the EQB meeting held on September 13, 2022, and the Governor approved the emergency rule on October 25, 2022.

The Department is also proposing an update of the federal rules incorporated by reference from July 19, 2021, to July 1, 2022. The final regulatory change consisted of a technical amendment to modify the submission location for Continuous Release Reports (CRRs) subject to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

The Department is also proposing updates to this rule which include moving the text of Appendix A to the body of the rule as Subchapter 7, consolidating definitions from Appendix A with definitions at the beginning of the rule, correcting outdated citations in Subchapter 5, and correcting a few typographical errors.

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

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

24. Rulemaking – OAC 252:710 – Waterworks and Wastewater Works Operator Certification

The Department is proposing to update the rule to allow DEQ to permanently revoke, or revoke for a set time an operator’s certification; to better define special requirements for instructors of approved training courses; and, to allow recording of laboratory analyses utilizing software applications in addition to bound volumes.

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

25. Executive Director’s Report - Scott Thompson, Executive Director, DEQ

Mr. Thompson’s report may include significant agency accomplishments and activities since the last Board meeting, as well as information pertaining to budgetary and/or legislative matters. This report is for informational purposes only, and no action by the Board is required.

26. Budget Update and Financial Overview (FY 2023) – Kathy Aebischer, DEQ Chief Financial Officer

Ms. Aebischer’s report will include an update and overview of DEQ’s current budget for Fiscal Year 2023. This report is for informational purposes only. Although discussion may occur, no action by the Board is required.

27. Overview of Recent Federal Rulemaking Activity and DEQ’s Response – Robert Singletary, Chief of Staff, DEQ

28. New Business

Under the Open Meeting Act, this agenda item is authorized only for matters not known about or which could not have been reasonably foreseen prior to the time of posting the agenda or any revised agenda.

29. Next Meeting

The next regular meeting of the Environmental Quality Board is scheduled to be held on June 13, 2023, at 9:30 a.m., in the Multipurpose Room of the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73101.

30. Adjournment

Public Forum – Following Adjournment – The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to follow the instructions provided during and at the conclusion of the Board meeting if you would like to speak during the forum. If necessary to accommodate the public, the Board Chair may make a determination to conduct the Forum prior to the Call to Order.

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