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# The Oklahoma Register

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Secretary of State  
Office of Administrative Rules



**Mary Fallin, Governor**  
**V. Glenn Coffee,**  
**Secretary of State**  
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# 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 #12-876]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Subchapter 2. Incorporation By Reference

252:100-2-3. [AMENDED]

Subchapter 13. Open Burning

252:100-13-2. [AMENDED]

252:100-13-7. [AMENDED]

252:100-13-8. [AMENDED]

252:100-13-9. [AMENDED]

252:100-13-10. [AMENDED]

252:100-13-12. [NEW]

Subchapter 25. Visible Emissions and Particulates

252:100-25-5. [AMENDED]

Subchapter 31. Control of Emission of Sulfur Compounds

Part 5. New Equipment Standards

252:100-31-25. [AMENDED]

Appendix Q. Incorporation By Reference [REVOKED]

Appendix Q. Incorporation By Reference [NEW]

### **SUMMARY:**

The Department is proposing to update OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. Included are changes or additions to 40 CFR Part 60, New Source Performance Standards (NSPS), and Part 63, National Emissions Standards for Hazardous Air Pollutants (NESHAP). In addition, the Department is proposing to update language in Subchapter 2, Incorporation By Reference, to reflect the latest date of incorporation of EPA regulations in Appendix Q.

The Department is proposing to amend OAC 252:100-13, Open Burning, to clarify the requirements for "air curtain destructors" also known as "air curtain incinerators" and "open-pit incinerators." Air curtain destructors are combustion units that operate by forcefully projecting a curtain of air across an open, integrated combustion chamber (firebox) or open pit or trench in which the combustion occurs. The proposed rulemaking would primarily affect the owners and operators of air curtain destructors used on a temporary basis to burn trees, brush, and similar materials from land clearing, public health and safety, and disaster response activities. The affected entities include private as well as state, county, and municipal governmental entities. The Department is proposing changes

to add flexibility in the operation of these units, including an extension of the allowed hours of operation. Additionally, the Department proposes to modify the rule to allow, under certain conditions, the transport of materials from the site where they are generated to the site where they would be burned.

The Department is proposing to move an existing continuous opacity monitoring requirement from OAC 252:100-31, Control of Emission of Sulfur Compounds, to OAC 252:100-25, Visible Emissions and Particulates, which is a more appropriate location. The proposal is not intended to add any additional requirement for facilities subject to either subchapter. However, the existing language of OAC 252:100-25-5 has been modified to accommodate the change, to clarify the requirements and applicability, and to remove certain provisions that no longer apply.

### **AUTHORITY:**

The powers and duties of the Environmental Quality Board are set out in 27A O.S. Section 2-2-101 and 27A O.S. Section 2-5-106 and those of the Air Quality Advisory Council in 27A O.S. Section 2-2-201 and 27A O.S. Section 2-5-107. The legal authority authorizing the proposed rules is found in the Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101 through - 117, specifically 27A O.S. Section 2-5-105 for Subchapters 2, 13, 25, and 31 and Appendix Q; 27A O.S. Section 2-5-106.1 for Subchapter 13; 27A O.S. Section 2-5-112 for Subchapters 25 and 31; and 27A O.S. Section 2-5-114 for Subchapter 2 and Appendix Q.

### **COMMENT PERIOD:**

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 17, 2012. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the October 17, 2012 hearing and at the November 7, 2012 Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

A public hearing is scheduled before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 17, 2012, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Also, a public hearing is scheduled before the Environmental Quality Board at 9:30 a.m. on Wednesday, November 7, 2012, at the CETES Center, Conference Room AB, 2800 Gore Blvd, Lawton, Oklahoma 73505.

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

# Notices of Rulemaking Intent

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CFR Section 51.102 and 27A O.S. Section 2-5-107(6)(c), and to the State Title V (Part 70) Implementation Plan under the requirements of 40 CFR Part 70 and 27A O.S. Section 2-5-112(B)(9).

## **REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

The Department requests that business entities or any other members of the public affected by these rules provide the Department, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

## **COPIES OF PROPOSED RULES:**

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

## **RULE IMPACT STATEMENTS:**

The rule impact statements will be available on and after September 17, 2012 on the DEQ Air Quality Division website at [http://www.deq.state.ok.us/AQDnew/council\\_mtgs/index.htm](http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm). Copies also may be obtained from the Department by calling the contact person listed below.

## **CONTACT PERSON:**

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

## **PERSONS WITH DISABILITIES:**

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. 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 #12-876; filed 8-24-12]*

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

*[OAR Docket #12-879]*

## **RULEMAKING ACTION:**

Notice of proposed EMERGENCY rulemaking

## **PROPOSED RULES:**

Subchapter 13. Open Burning  
252:100-13-2. [AMENDED]  
252:100-13-7. [AMENDED]  
252:100-13-8. [AMENDED]  
252:100-13-9. [AMENDED]  
252:100-13-10. [AMENDED]  
252:100-13-12. [NEW]

## **SUMMARY:**

The Department is proposing to amend OAC 252:100-13, Open Burning, to clarify the requirements for "air curtain destructors" also known as "air curtain incinerators" and "open-pit incinerators." Air curtain destructors are combustion units that operate by forcefully projecting a curtain of air across an open, integrated combustion chamber (firebox) or open pit or trench in which the combustion occurs. The proposed rulemaking would primarily affect the owners and operators of air curtain destructors used on a temporary basis to burn trees, brush, and similar materials from land clearing, public health and safety, and disaster response activities. The affected entities include private as well as state, county, and municipal governmental entities. The Department is proposing changes to add flexibility in the operation of these units, including an extension of the allowed hours of operation. Additionally, the Department proposes to modify the rule to allow, under certain conditions, the transport of materials from the site where they are generated to the site where they would be burned.

## **AUTHORITY:**

The powers and duties of the Environmental Quality Board are set out in 27A O.S. Section 2-2-101 and 27A O.S. Section 2-5-106 and those of the Air Quality Advisory Council in 27A O.S. Section 2-2-201 and 27A O.S. Section 2-5-107. The legal authority authorizing the proposed rules is found in the Oklahoma Clean Air Act, 27A O.S. Sections 2-5-101 through - 117, specifically 27A O.S. Section 2-5-105 and 27A O.S. Section 2-5-106.1.

## **COMMENT PERIOD:**

Written comments on the proposed rulemaking will be accepted prior to and at the hearing on October 17, 2012. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the October 17, 2012 hearing and at the November 7, 2012 Environmental Quality Board meeting.

## **PUBLIC HEARINGS:**

A public hearing is scheduled before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 17, 2012, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Also, a public hearing is scheduled before the Environmental Quality Board at 9:30 a.m. on Wednesday, November 7, 2012, at the CETES Center, Conference Room AB, 2800 Gore Blvd., Lawton, Oklahoma 73505.

This hearing shall also serve as a public hearing to receive comments on the proposed revisions to the State

Implementation Plan (SIP) under the requirements of 40 CFR Section 51.102 and 27A O.S. Section 2-5-107(6)(c), and to the State Title V (Part 70) Implementation Plan under the requirements of 40 CFR Part 70 and 27A O.S. Section 2-5-112(B)(9).

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

The Department requests that business entities or any other members of the public affected by these rules provide the Department, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

**COPIES OF PROPOSED RULES:**

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

**RULE IMPACT STATEMENTS:**

The rule impact statement will be available on and after September 17, 2012 on the DEQ Air Quality Division website at [http://www.deq.state.ok.us/AQDnew/council\\_mtgs/index.htm](http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm). Copies also may be obtained from the Department by calling the contact person listed below.

**CONTACT PERSON:**

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

**PERSONS WITH DISABILITIES:**

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4216. 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 #12-879; filed 8-24-12]*

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 205. HAZARDOUS WASTE MANAGEMENT**

*[OAR Docket #12-880]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 3. Incorporation by Reference  
252:205-3-1. [AMENDED]

**SUMMARY:**

The purpose of the proposed amendment is to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2012. Changes to the federal regulations for this time period include a correction of a typographical error in the entry "K107" in a table listing hazardous wastes from specific sources at 40 CFR 261.32; and a conforming change at 40 CFR 266.20(b) to clarify that a recycling facility must keep a one-time certification and notification related to recyclable materials being used in a manner constituting disposal. These changes are neither more nor less stringent than the existing federal rules. Therefore these changes will have no substantive impact on the hazardous waste program implemented by the Department of Environmental Quality.

**AUTHORITY:**

Environmental Quality Board and Hazardous Waste Management Advisory Council powers and duties, 27A O.S. §§ 2-2-101, 2-2-104, 2-2-201, 2-7-105, and 2-7-106.

**COMMENT PERIOD:**

Deliver or mail written comments on the proposed rules to the contact person from September 17, 2012 through October 17, 2012.

**PUBLIC HEARINGS:**

Before the Hazardous Waste Management Advisory Council on October 18, 2012, at 10:00 a.m. at the Department of Environmental Quality, Multipurpose Room, 707 North Robinson, Oklahoma City, OK 73101.

Before the Environmental Quality Board on November 7, 2012, at 9:30 a.m. on the campus of Cameron University, CETES Center, Conference Room AB, 2800 West Gore Boulevard, Lawton, OK 73505.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:**

The DEQ requests that business entities affected by this modification provide the DEQ, within the comment period and in dollar amounts if possible, the increase or decrease 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.

## Notices of Rulemaking Intent

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### COPIES OF PROPOSED RULES:

A copy of the proposed rules may be obtained from the contact person or may be viewed on the DEQ web site at [www.deq.state.ok.us](http://www.deq.state.ok.us) or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

### RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules will be on file at the DEQ and may be requested from the contact person.

### CONTACT PERSON:

Mike Edwards, Hazardous Waste Compliance and Inspection Section, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101 - 1677, e-mail at [mike.edwards@deq.ok.gov](mailto:mike.edwards@deq.ok.gov), phone 405-702-5226, or fax 405-702-5101.

### ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Hazardous Waste Management Advisory Council and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-5226 or by using TDD relay number 1-800-522-8506.

*[OAR Docket #12-880; filed 8-24-12]*

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## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 303. TNI LABORATORY ACCREDITATION

*[OAR Docket #12-877]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. General Provisions  
252:303-1-1. [AMENDED]

### SUMMARY:

The rules proposed in this Chapter provide standards for accreditation of privately and publicly owned laboratories for performance of analyses of water and wastewater, solid and hazardous waste, soil, sludge and petroleum hydrocarbons and apply to laboratories accredited or applying to be accredited by the Department of Environmental Quality (DEQ) consistent with The NELAC Institute (TNI) standards. The implementation date was originally January 2013.

The DEQ has determined that the implementation date of January 2013 should be extended to January 2016 to allow the DEQ to evaluate the enforceability of the The NELAC Institute rules as adopted by reference and to make adjustments as needed to develop an enforceable laboratory accreditation program. The additional time will also allow laboratories to prepare for compliance with an enforceable laboratory accreditation program, whether continuing with the TNI standards as adopted by reference or developing additional state rules consistent with the TNI accreditation program.

### AUTHORITY:

Environmental Quality Board; 27A O.S. § 2-2-101; Laboratory Services Advisory Council, 27A O.S. § 2-2-201; Laboratory Services and Certification, 27A O.S. §§ 2-4-101 *et seq.*

### COMMENT PERIOD:

The comment period has expired. Comments were accepted during the official comment period, from June 15, 2012 through July 20, 2012.

### PUBLIC HEARINGS:

A public hearing was held before the Laboratory Certification Advisory Council at 1:30 p.m. on July 26, 2012 in the 2<sup>nd</sup> floor Training Room of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

Please note the change in date and location. A public hearing will be held before the Environmental Quality Board at 9:30 a.m. on Wednesday, November 7, 2012, at the CETES Center, Conference Room AB, 2800 Gore Blvd. Lawton, Oklahoma, 73505.

### REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these proposed rules provide the DEQ, within the comment period and in dollar amounts if possible, the increase or decrease in the level of direct costs such as fees and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

### COPY OF PROPOSED RULE CHANGES:

A copy of the proposed rules may be obtained from the contact person or may viewed on the DEQ web site at [www.deq.state.ok.us](http://www.deq.state.ok.us) or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

### RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rules will be on file at the DEQ and may be requested from the contact person.

### CONTACT PERSON:

David Caldwell, State Environmental Laboratory Services Division, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at [david.caldwell@deq.ok.gov](mailto:david.caldwell@deq.ok.gov), phone 405-702-1000, or fax 405-702-1001.

### ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Laboratory Services Advisory Council and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-1000 or by using TDD relay number 1-800-522-8506.

*[OAR Docket #12-877; filed 8-24-12]*

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 303. TNI LABORATORY ACCREDITATION**

[OAR Docket #12-878]

**RULEMAKING ACTION:**

Notice of proposed EMERGENCY rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions  
252:303-1-1. [AMENDED]

**SUMMARY:**

The rules proposed in this Chapter provide standards for accreditation of privately and publicly owned laboratories for performance of analyses of water and wastewater, solid and hazardous waste, soil, sludge and petroleum hydrocarbons and apply to laboratories accredited or applying to be accredited by the Department of Environmental Quality (DEQ) consistent with The NELAC Institute (TNI) standards. The implementation date was originally January 2013.

The DEQ has determined that the implementation date of January 2013 should be extended to January 2016 and finds that an emergency rulemaking is necessary to avoid serious injury to the public interest.

**FINDING OF EMERGENCY:**

Publically and privately owned laboratories performing analyses of water and wastewater, solid and hazardous waste, soil, sludge and petroleum hydrocarbons are currently accredited by the Department of Environmental Quality (DEQ) under OAC 252:301. New accreditation rules, OAC 252:303, consistent with a national environmental laboratory accreditation system (The NELAC Institute, i.e. TNI) were promulgated in 2011 with an implementation date of January 1, 2013.

In early March, 2012, the DEQ learned that other states that had adopted rules consistent with the national program found a lack of regulatory language within the TNI standards and were unable to provide effective enforcement due to the ambiguity and uncertainty in the TNI standards. Therefore, the DEQ decided not to submit its application to become a TNI accreditation body until these issues can be resolved and new proposed rules can be developed to address the ambiguity and uncertainty in the TNI standards.

The DEQ discussed these issues with the Laboratory Services Advisory Council in a regular meeting held at the DEQ building in Oklahoma City on March 13, 2012, and the Council scheduled a Special Meeting to consider this proposed rule, which would change the implementation date from January 1, 2013, to January 1, 2016. On March 28, 2012, the DEQ notified TNI that Oklahoma was postponing its application to be recognized as a TNI accreditation body until the recent recognition of a lack of regulatory language within the TNI standards has been resolved.

The DEQ determined that the implementation date of January 2013 should be extended to January 2016 so that

public and private laboratories currently accredited by the DEQ or applying to be accredited by the DEQ will not be subject to unenforceable, ambiguous and uncertain TNI standards in January 2013 and finds that an emergency rulemaking is necessary to extend the implementation date of the TNI Laboratory Accreditation rules until 2016 to avoid serious prejudice to the public interest.

The emergency situation was not created by the DEQ's delay or inaction, nor could it have been averted. DEQ acted in all due haste to bring the issue of regulatory ambiguity and uncertainty to the Council's attention by discussing the situation with the Council in a public meeting within two weeks of learning of other states facing unenforceable TNI accreditation programs and also by notifying TNI of the DEQ's decision to postpone its application to become recognized as a TNI accreditation body until issues are resolved.

The DEQ believes that its evaluation of a known, real problem that other states are facing constitutes credible evidence of sufficient quality and probative value to enable a person of reasonable caution to support the conclusion that an emergency rulemaking is necessary to avoid serious prejudice to the public interest.

In order for the TNI Laboratory Accreditation rules to be postponed for three years, an emergency rulemaking, followed by a permanent rulemaking, is necessary so that the rules will not be implemented in January, 2013. The DEQ therefore finds that serious prejudice to the public interest exists, requiring an emergency rule adoption.

**AUTHORITY:**

Environmental Quality Board; 27A O.S. § 2-2-101, Laboratory Services Advisory Council, 27A O.S. § 2-2-201; Laboratory Services and Certification, 27A O.S. §§ 2-4-101 *et seq.*

**COMMENT PERIOD:**

The comment period has expired. Comments were accepted from June 15, 2012 through July 20, 2012.

**PUBLIC HEARINGS:**

A public hearing was held before the Laboratory Certification Advisory Council at 1:30 p.m. on July 26, 2012 in the 2<sup>nd</sup> floor Training Room of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

Please note the change in date and location. A public hearing will be held before the Environmental Quality Board at 9:30 a.m. on Wednesday, November 7, 2012, at the CETES Center, Conference Room AB, 2800 Gore Blvd. Lawton, Oklahoma, 73505.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

The DEQ requests that business entities affected by these proposed rules provide the DEQ, within the comment period and in dollar amounts if possible, the increase or decrease in the level of direct costs such as fees and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to

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be incurred by a particular entity due to compliance with the proposed rules.

### **COPY OF PROPOSED RULE CHANGES:**

A copy of the proposed rules may be obtained from the contact person, may be viewed on the DEQ web site at [www.deq.state.ok.us](http://www.deq.state.ok.us) or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

### **RULE IMPACT STATEMENT:**

The Rule Impact Statement for the proposed rules will be on file at the DEQ and may be requested from the contact person.

### **CONTACT PERSON:**

David Caldwell, State Environmental Laboratory Services Division, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at [david.caldwell@deq.ok.gov](mailto:david.caldwell@deq.ok.gov), phone 405-702-1000, or fax 405-702-1001.

### **ADDITIONAL INFORMATION:**

Persons with disabilities who desire to attend the public hearing to be held before the Laboratory Services Advisory Council and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-1000 or by using TDD relay number 1-800-522-8506.

*[OAR Docket #12-878; filed 8-24-12]*

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## **TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES CHAPTER 60. STANDARDS AND CRITERIA FOR CERTIFIED EATING DISORDER TREATMENT PROGRAMS**

*[OAR Docket #12-875]*

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

Chapter 60. Standards and Criteria for Certified Eating Disorder Treatment Programs [AMENDED]

### **SUMMARY:**

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 60 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

### **AUTHORITY:**

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-108 and 2-109.

### **COMMENT PERIOD:**

Persons wishing to submit written comments may do so until 5:00 p.m., October 17, 2012, to the attention of Gretchen Geis, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand delivered to the Department at 2401 NW 23<sup>rd</sup> ST. Suite 85, Oklahoma City, OK, facsimile, at (405) 522-0236 or by email at [ggeis@odmhsas.org](mailto:ggeis@odmhsas.org).

### **PUBLIC HEARING:**

The Department will conduct a public hearing on October 24, 2012, 9:00 a.m., in Conference Room A of the Department at 1200 N.E. 13<sup>th</sup> Street, Oklahoma City, OK, 73117.

### **REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information until 5:00 p.m., October 17, 2012, to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, Attention: Gretchen Geis.

### **COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the Department's website at [www.odmhsas.org](http://www.odmhsas.org) or from Gretchen Geis, Administrative Rules Liaison, at the above address or email at [ggeis@odmhsas.org](mailto:ggeis@odmhsas.org).

### **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning October 2, 2012. Copies may be obtained from the Department's website at [www.odmhsas.org](http://www.odmhsas.org) or from Gretchen Geis, Administrative Rules Liaison, at the above address or email at [ggeis@odmhsas.org](mailto:ggeis@odmhsas.org).

### **CONTACT PERSON:**

Gretchen Geis, Administrative Rules Liaison, (405) 521-6365.

*[OAR Docket #12-875; filed 8-22-12]*

# Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

## **TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS**

*[OAR Docket #12-863]*

### **RULEMAKING ACTION:**

Submission for Gubernatorial and Legislative Review

### **RULES:**

Subchapter 1. General Provisions  
140:1-1-2 [AMENDED]

### **SUBMITTED TO GOVERNOR:**

March 23, 2012

### **SUBMITTED TO HOUSE:**

March 23, 2012

### **SUBMITTED TO SENATE:**

March 23, 2012

*[OAR Docket #12-863; filed 8-20-12]*

## **TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 3. DISCIPLINARY PROCEDURES**

*[OAR Docket #12-864]*

### **RULEMAKING ACTION:**

Submission for Gubernatorial and Legislative Review

### **RULES:**

Subchapter 3. Filing and Disposition of Complaints  
140:3-3-2 [AMENDED]  
140:3-3-9 [NEW]

### **SUBMITTED TO GOVERNOR:**

March 23, 2012

### **SUBMITTED TO HOUSE:**

March 23, 2012

### **SUBMITTED TO SENATE:**

March 23, 2012

*[OAR Docket #12-864; filed 8-20-12]*

## **TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 10. LICENSURE OF CHIROPRACTIC PHYSICIANS**

*[OAR Docket #12-865]*

### **RULEMAKING ACTION:**

Submission for Gubernatorial and Legislative Review

### **RULES:**

Subchapter 5. Procedures for Renewal Licenses  
140:10-5-1 [AMENDED]  
Subchapter 8. Administrative Fees  
140:10-8-1 [AMENDED]

### **SUBMITTED TO GOVERNOR:**

March 23, 2012

### **SUBMITTED TO HOUSE:**

March 23, 2012

### **SUBMITTED TO SENATE:**

March 23, 2012

*[OAR Docket #12-865; filed 8-20-12]*

## **TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 30. CERTIFIED CHIROPRACTIC ASSISTANTS**

*[OAR Docket #12-866]*

### **RULEMAKING ACTION:**

Submission for Gubernatorial and Legislative Review

### **RULES:**

Subchapter 1. General Provisions [NEW]  
140:30-1-1 [NEW]  
140:30-1-2 [NEW]  
Subchapter 3. Certified Chiropractic Assistant [NEW]  
140:30-3-1 [NEW]  
140:30-3-2 [NEW]  
140:30-3-3 [NEW]  
140:30-3-4 [NEW]  
140:30-3-5 [NEW]  
140:30-3-6 [NEW]  
140:30-3-7 [NEW]

### **SUBMITTED TO GOVERNOR:**

March 23, 2012

### **SUBMITTED TO HOUSE:**

March 23, 2012

## Submissions for Review

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**SUBMITTED TO SENATE:**

March 23, 2012

*[OAR Docket #12-866; filed 8-20-12]*

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# Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register*.  
For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

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## TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS

*[OAR Docket #12-867]*

### RULEMAKING ACTION:

Gubernatorial approval of Permanent rules

### RULES:

Subchapter 1. General Provisions  
140:1-1-2 [AMENDED]

### GUBERNATORIAL APPROVAL:

May 1, 2012

*[OAR Docket #12-867; filed 8-20-12]*

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## TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 3. DISCIPLINARY PROCEDURES

*[OAR Docket #12-868]*

### RULEMAKING ACTION:

Gubernatorial approval of Permanent rules

### RULES:

Subchapter 3. Filing and Disposition of Complaints  
140:3-3-2 [AMENDED]  
140:3-3-9 [NEW]

### GUBERNATORIAL APPROVAL:

May 1, 2012

*[OAR Docket #12-868; filed 8-20-12]*

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## TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 10. LICENSURE OF CHIROPRACTIC PHYSICIANS

*[OAR Docket #12-869]*

### RULEMAKING ACTION:

Gubernatorial approval of Permanent rules

### RULES:

Subchapter 5. Procedures for Renewal Licenses  
140:10-5-1 [AMENDED]  
Subchapter 8. Administrative Fees  
140:10-8-1 [AMENDED]

### GUBERNATORIAL APPROVAL:

May 1, 2012

*[OAR Docket #12-869; filed 8-20-12]*

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## TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 30. CERTIFIED CHIROPRACTIC ASSISTANTS

*[OAR Docket #12-870]*

### RULEMAKING ACTION:

Gubernatorial approval of Permanent rules

### RULES:

Subchapter 1. General Provisions [NEW]  
140:30-1-1 [NEW]  
140:30-1-2 [NEW]  
Subchapter 3. Certified Chiropractic Assistants [NEW]  
140:30-3-1 [NEW]  
140:30-3-2 [NEW]  
140:30-3-3 [NEW]  
140:30-3-4 [NEW]  
140:30-3-5 [NEW]  
140:30-3-6 [NEW]

### GUBERNATORIAL APPROVAL:

May 1, 2012

*[OAR Docket #12-870; filed 8-20-12]*

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# Legislative Disapprovals

Upon disapproval by the Legislature of an agency's rules, the agency must publish a notice of such legislative disapproval in the Register.

For additional information on legislative disapprovals, see 75 O.S., Section 308.

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## **TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 1. ADMINISTRATIVE ORGANIZATION AND OPERATIONS**

*[OAR Docket #12-871]*

### **RULEMAKING ACTION:**

Legislative disapproval of PERMANENT rules

### **RULES:**

Subchapter 1. General Provisions  
140:1-1-2 [AMENDED]

### **LEGISLATIV DISAPPROVAL:**

Failure of the Legislature to approve the rule by joint resolution prior to the end of session resulted in disapproval on May 25, 2012.

*[OAR Docket #12-871; filed 8-20-12]*

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## **TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 3. DISCIPLINARY PROCEDURES**

*[OAR Docket #12-872]*

### **RULEMAKING ACTION:**

Legislative disapproval of PERMANENT rules

### **RULES:**

Subchapter 3. Filing and Disposition of Complaints  
140:3-3-2 [AMENDED]  
140:3-3-9 [NEW]

### **LEGISLATIV DISAPPROVAL:**

Failure of the Legislature to approve the rule by joint resolution prior to the end of session resulted in disapproval on May 25, 2012.

*[OAR Docket #12-872; filed 8-20-12]*

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## **TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 10. LICENSURE OF CHIROPRACTIC PHYSICIANS**

*[OAR Docket #12-873]*

### **RULEMAKING ACTION:**

Legislative disapproval of PERMANENT rules

### **RULES:**

Subchapter 5. Procedures for Renewal Licenses  
140:10-5-1 [AMENDED]  
Subchapter 8. Administrative Fees  
140:10-8-1 [AMENDED]

### **LEGISLATIV DISAPPROVAL:**

Failure of the Legislature to approve the rule by joint resolution prior to the end of session resulted in disapproval May 25, 2012.

*[OAR Docket #12-873; filed 8-20-12]*

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## **TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS CHAPTER 30. CERTIFIED CHIROPRACTIC ASSISTANTS**

*[OAR Docket #12-874]*

### **RULEMAKING ACTION:**

Legislative disapproval of PERMANENT rules

### **RULES:**

Subchapter 1. General Provisions [NEW]  
140:30-1-1 [NEW]  
140:30-1-2 [NEW]  
Subchapter 3. Certified Chiropractic Assistants [NEW]  
140:30-3-1 [NEW]  
140:30-3-2 [NEW]  
140:30-3-3 [NEW]  
140:30-3-4 [NEW]  
140:30-3-5 [NEW]  
140:30-3-6 [NEW]  
140:30-3-7 [NEW]

### **LEGISLATIV DISAPPROVAL:**

Failure of the Legislature to approve the rule by joint resolution prior to the end of session resulted in disapproval on May 25, 2012.

*[OAR Docket #12-874; filed 8-20-12]*



# Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

## TITLE 1. EXECUTIVE ORDERS

### 1:2012-21A.

#### AMENDED EXECUTIVE ORDER 2012-21

I, Mary Fallin, Governor of the State of Oklahoma, pursuant to the authority vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. Due to Exceptional and Extreme Drought conditions existing in 77 counties in Oklahoma, and the severe wildfires beginning July 22, 2012, and continuing, I issued Executive Order 2012-21 on July 30, 2012, and thereby declared a disaster emergency caused by wildfires and drought in the State of Oklahoma that threatened the lives and property of the people of this State and the public's peace, health, and safety. Because said conditions warranting the issuance of Executive Order 2012-21 remain, I hereby amend Executive Order 2012-21 according to the terms contained herein.

This declaration may be amended as conditions warrant.

2. It maybe necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

4. The State Emergency Operations Plan has been activated and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

Further, pursuant to the authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution and 63 O.S.

§§ 683.1 et seq., hereby declare that because there is a state of emergency existing in the State of Oklahoma due to extremely dry weather and lack of significant rainfall, it is necessary to assist and expedite all efforts of drought relief and wildfire suppression. In order to accommodate this need and to provide assistance to the citizens of Oklahoma in this extraordinary situation, I hereby order the temporary suspension of the following as they apply to vehicles used in the support efforts:

A. The requirements for special permits for use of oversized vehicles under Title 47 only when transporting hay. These vehicles shall not exceed 12' in width and 13' 6" in height.

B. The requirements for licensing/operating authority as required by the Oklahoma Corporation Commission;

C. The requirements for licensing/registration as required by the Oklahoma Tax Commission;

D. The requirements contained in the Motor Carrier Safety Regulations, under the authority of CFR 49, Part 390.23. All other regulations in CFR 49 shall apply.

Due to the severe drought conditions occurring statewide it is necessary to expedite access to hay for livestock. In order to accomodate this need and to provide assistance to our farmers and ranchers in this extraordinary situation, I hereby order the temporary suspension of the requirements for special permits for use of oversized vehicles under Title 47 as they apply to vehicles used to transport round baled hay for livestock as outlined above.

5. This Amended Executive Order shall terminate at the end of thirty (30) days.

Copies of this Amended Executive Order shall be distributed to the Oklahoma Corporation Commission, the Oklahoma Tax Commission, the Commissioner of Public Safety, and the Director of Emergency Management who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

## Executive Orders

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IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 24 day of August, 2012.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Mary Fallin

ATTEST:

Michelle R. Day  
Assistant Secretary of State

*[OAR Docket #12-881; filed 8-24-12]*

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**1:2012-23.**

### EXECUTIVE ORDER 2012-23

I, Todd Lamb, Acting Governor of the State of Oklahoma, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until sunset on Friday, August 31, 2012, in memory of Neil Armstrong, who passed away on Saturday, August 25, 2012.

Neil Armstrong commanded the Apollo 11 space mission. On this mission he would become the first American to land a craft on the moon and subsequently be the first man to walk on the moon. After his space missions he continued working for NASA in several other capacities. He would continue to

champion the exploration of space even after retirement. He is the recipient of : the Presidential Medal of Freedom; the Congressional Space Medal of Honor; the Explorers Club Medal; the Robert H. Goddard Memorial Trophy; the NASA Distinguished Service Medal; the Harmon International Aviation Trophy; the Royal Geographic Society's Gold Medal; the Federation Aeronautique Internationale's Gold Space Medal; the American Astronautical Society Flight Achievement Award; the Robert J. Collier Trophy; the AIAA Astronautics Award; the Octave Chanute Award; and the John J. Montgomery Award.

This executive order shall be forwarded to the Administrator of Central Services who shall cause the provisions of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 28 day of August, 2012.

BY THE GOVERNOR OF THE  
STATE OF OKLAHOMA

Todd Lamb, Acting Governor

ATTEST:

Michelle R. Day  
Assistant Secretary of State

*[OAR Docket #12-882; filed 8-28-12]*

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