

**REGULAR MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL  
April 22, 2026, 9:30 a.m.  
Department of Environmental Quality  
707 North Robinson Avenue  
Oklahoma City, OK 73102**

*Please silence cell phones*



1. **Call to Order** – Laura Lodes, Chair
2. **Roll Call** – Quiana Fields
3. **Resolution for Mr. Elliott** – Laura Lodes, Chair
4. **Approval of Minutes** – October 16, 2025, Regular Meeting
5. **Election of Officers** – Discussion and action by Council
6. **Public Rulemaking Hearing**
  - A. **Chapter 100. Air Pollution Control**
    - Subchapter 1. General Provisions**  
252:100-1-3 [AMENDED]
    - Subchapter 3. Air Quality Standards and Increments**  
252:100-3-1 [AMENDED]  
252:100-3-2 [AMENDED]  
252:100-3-3 [AMENDED]
    - Subchapter 7. Permits for Minor Facilities**  
252:100-7-15 [AMENDED]
    - Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources**  
252:100-8-1.5 [AMENDED]  
252:100-8-52 [AMENDED]  
252:100-8-54 [AMENDED]  
252:100-8-54.1 [AMENDED]

**252:100-8-73 [AMENDED]**  
**Subchapter 19. Control of Emission of Particulate Matter**  
**252:100-19-1.1 [AMENDED]**  
**Subchapter 23. Control of Emissions from Cotton Gins**  
**252:100-23-3 [AMENDED]**  
**252:100-23-4 [AMENDED]**  
**Subchapter 24. Particulate Matter Emissions from Grain, Feed or Seed Operations**  
**252:100-24-4 [AMENDED]**  
**252:100-24-7 [AMENDED]**  
**Subchapter 25. Visible Emissions and Particulates**  
**252:100-25-4 [AMENDED]**  
**Subchapter 35. Control of Emission of Carbon Monoxide**  
**252:100-35-1 [AMENDED]**  
**Appendix E. Primary Ambient Air Quality Standards [REVOKED]**  
**Appendix F. Secondary Ambient Air Quality Standards [REVOKED]**

DEQ is proposing to amend multiple rules (Subchapters 1, 3, 7, 8, 19, 23, 24, 25, and 35) and revoke two appendices (Appendices E and F) to ensure accuracy and consistency of terminology and standards throughout Chapter 100. The intent of this rulemaking is to ensure that references to the National Ambient Air Quality Standards (NAAQS) are up to date, consistent, and accurate. The final collection of proposed amendments reflects a long-needed cleanup in which outdated terms and formatting are updated to be in line with newer rules and accurate language. The gist of this rulemaking action and the purpose of the proposed rules is to ensure the federal standards are reflected accurately and to standardize terminology regarding such standards.

1. Presentation – Christina Hagens, EPS, Rules & Planning Section, AQD
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and possible action by the Council

**B. Chapter 100. Air Pollution Control**  
**Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources**  
**252:100-8-6 [AMENDED]**

DEQ is proposing to amend Subchapter 8, Permits for Part 70 Sources and Major New Source Review (NSR) Sources, in OAC 252:100, to improve language at OAC 252:100-8-6(f). The gist of this rule proposal is to provide greater clarity to permitted facilities on the subject of operational flexibility.

1. Presentation – Xander Teets, EPS, Rules & Planning Section, AQD
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and possible action by the Council

7. **Presentation** – New Website Walkthrough – Malcolm Zachariah, EPS, Rules & Planning Section, AQD and Christina Hagens, EPS, Rules & Planning Section, AQD
8. **Presentation** – Ozone & PM Monitoring Update – Bryan Sims, EPM, Monitoring Section West, AQD and Ryan Biggerstaff, EPM, Monitoring Section East, AQD
9. **Division Director's Report** – Kendal Stegmann, Division Director, AQD
10. **New Business** – Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.
11. **Adjournment** – The next regular meeting is scheduled for Wednesday, July 22, 2026, in Tulsa, Oklahoma.

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4177. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

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

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Provisions

252:100-1-3 [AMENDED]

Subchapter 3. Air Quality Standards and Increments

252:100-3-1 [AMENDED]

252:100-3-2 [AMENDED]

252:100-3-3 [AMENDED]

Subchapter 7. Permits for Minor Facilities

252:100-7-15 [AMENDED]

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

252:100-8-1.5 [AMENDED]

252:100-8-52 [AMENDED]

252:100-8-54 [AMENDED]

252:100-8-54.1 [AMENDED]

252:100-8-73 [AMENDED]

Subchapter 19. Control of Emission of Particulate Matter

252:100-19-1.1 [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins

252:100-23-3 [AMENDED]

252:100-23-4 [AMENDED]

Subchapter 24. Particulate Matter Emissions from Grain, Feed or Seed Operations

252:100-24-4 [AMENDED]

252:100-24-7 [AMENDED]

Subchapter 25. Visible Emissions and Particulates

252:100-25-4 [AMENDED]

Subchapter 35. Control of Emission of Carbon Monoxide

252:100-35-1 [AMENDED]

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

**SUMMARY:**

The Department of Environmental Quality (Department or DEQ) is proposing to amend multiple rules (Subchapters 1, 3, 7, 8, 19, 23, 24, 25, and 35) and revoke two appendices (Appendices E and F) to ensure accuracy and consistency of terminology and standards throughout Chapter 100. The intent of this rulemaking is to ensure that references to the National Ambient Air Quality Standards (NAAQS) are up to date, consistent, and accurate.

This rulemaking's original purpose was to address the NAAQS in Subchapter 3, Appendix E, and Appendix F by replacing the written standards with a direct reference and citation to federal standards. The table of primary and secondary NAAQS, Appendices E and F respectively, was a beneficial resource in the past, but now it has become a cumbersome process to maintain consistency with federal standards. With today's technology the federal NAAQS are easier to access on the internet rather than searching outdated state rules which validates the obsolescence of Appendices E and F.

In addition, there were multiple inconsistencies in the language that became apparent throughout Chapter 100. The terminology for NAAQS was not consistent in Subchapters 1, 3, 7, 8, 23, and 35. The word “Advisory” was missing from multiple mentions of the “Air Quality Advisory Council” in Subchapters 23, 24, and 25 which is an outdated title. The format of the two sizes of Particulate Matter (PM) was inconsistent; instead of the numerical subscript there were mentions of “PM-10” and “PM-2.5” in Subchapters 8, 19, 23, 24, and 25. Lastly, there was a typo in OAC 252:100-8-73 where a space was missing between two words.

The final collection of proposed amendments reflects a long-needed cleanup in which outdated terms and formatting are updated to be in line with newer rules and accurate language. The gist of this rulemaking action and the purpose of the proposed rules is to ensure the federal standards are reflected accurately and to standardize terminology regarding such standards.

**AUTHORITY:**

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-3-402, and 2-5-106.

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

Oklahoma Clean Air Act; 27A O.S. §§ 2-5-101 through 2-5-130.

Oklahoma Uniform Permitting Act; 27A O.S. §§ 2-14-101 through 2-14-304.

**COMMENT PERIOD:**

Written comments may be submitted to the contact person from March 16, 2026, through April 16, 2026. Oral comments may be made at the April 22, 2026, Air Quality Advisory Council meeting and at the June 9, 2026, Environmental Quality Board meeting.

**PUBLIC HEARINGS:**

Before the Air Quality Advisory Council at 9:30 a.m. on April 22, 2026, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

If the Council recommends adoption, the proposed rules will be considered by the Environmental Quality Board at its meeting scheduled for 9:30 a.m. on June 9, 2026, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

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

**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, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules.

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102, or reviewed online at <https://oklahoma.gov/deq/divisions/executive-offices/office-of-communication-and-education/events/2026/april/aqac-4-22-26.html>.

**RULE IMPACT STATEMENTS:**

Pursuant to 75 O.S. § 303(D), a rule impact statement was prepared and is available on the DEQ website at <https://oklahoma.gov/deq/divisions/executive-offices/office-of-communication-and-education/events/2026/april/aqac-4-22-26.html>. Copies may also be obtained from the Department by calling the contact person listed below.

**CONTACT PERSON:**

The contact person for this proposal is Melanie Foster, Environmental Programs Manager, who can be reached by phone at (405) 702-4100. Please email written comments to [AQDRuleComments@deq.ok.gov](mailto:AQDRuleComments@deq.ok.gov). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, OK 73101-1677, ATTN: Melanie Foster.

**PERSONS WITH DISABILITIES:**

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4177. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

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

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources  
252:100-8-6 [AMENDED]

**SUMMARY:**

The Department of Environmental Quality (Department or DEQ) is proposing to amend Subchapter 8, Permits for Part 70 Sources and Major New Source Review (NSR) Sources, in OAC 252:100, to improve language at OAC 252:100-8-6(f). The gist of this rule proposal is to provide greater clarity to permitted facilities on the subject of operational flexibility.

**AUTHORITY:**

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-3-402, and 2-5-106.  
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**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, 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.

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**DRAFT MINUTES  
 AIR QUALITY ADVISORY COUNCIL  
 October 16, 2025  
 Department of Environmental Quality  
 707 North Robinson Avenue  
 Oklahoma City, Oklahoma**

**Official AQAC Approved  
 at April 22, 2026 Meeting**

**Notice of Public Meeting** – The Air Quality Advisory Council (AQAC) convened for its Regular Meeting at 9:00 a.m. on October 16, 2025. Notice of the meeting was forwarded to the Office of Secretary of State on October 24, 2024. The agenda was posted at the DEQ twenty-four hours prior to the meeting. Also, Ms. Melanie Foster acted as Protocol Officer and convened the hearings by the AQAC in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A, Oklahoma Statutes, Sections 2-2-201 and 2-5-101 through 2-5-117. She entered the agenda and the Oklahoma Register Notice into the record and announced that if you wish to make a statement when it’s time for public comments, complete the form at the registration table and you will be called upon at the appropriate time. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present.

**MEMBERS PRESENT**

Gregory Elliott  
 James Farrell  
 Garry Keele  
 John Privrat  
 Jeffrey Taylor  
 Michael Thayer  
 Jefferson Wilber  
 Laura Lodes

**DEQ STAFF PRESENT**

Kendal Stegmann  
 Melanie Foster  
 Jared Milano  
 Christina Hagens  
 Tom Richardson  
 Cheryl Bradley  
 Lee Warden  
 Austin Sides  
 Rick Groshong  
 Ivan Ma  
 Gary Henry  
 Ryan McIntosh  
 Jonathan Allen  
 Camas Frey  
 Carrie Schroeder  
 Sidonie Quick  
 Alexander Teets  
 Travis Couch  
 Joe Daniel  
 Phillip Fielder  
 Isabella Moreno  
 Malcolm Zachariah  
 Quiana Fields

**MEMBERS ABSENT**

Matt Caves

**Approval of Minutes** – Ms. Lodes called for a motion to approve the Minutes of the July 30, 2025 Regular Meeting. Dr. Thayer moved to approve and Mr. Keele made the second.

*See transcript page 3 - 4*

Gregory Elliott	Yes	Jeffrey Taylor	Yes
James Farrell	Yes	Michael Thayer	Yes
Garry Keele	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

**Meeting Schedule for Calendar Year 2026** – Ms. Lodes stated that we are adjusting the time to 9:30 a.m. for the upcoming Council meetings and the proposed meeting scheduled dates are: April 22 in Oklahoma City, July 22 in Tulsa and December 9 in Oklahoma City. Mr. Taylor moved to approve and Mr. Keele made the second.

*See transcript page 4 – 6*

Gregory Elliott	Yes	Jeffrey Taylor	Yes
James Farrell	Yes	Michael Thayer	Yes
Garry Keele	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

**Public Rulemaking Hearing**

**Chapter 100. Air Pollution Control**

**Subchapter 2. Incorporation by Reference [AMENDED]**

**Appendix Q. Incorporation by Reference [AMENDED]**

Mr. Jared Milano, EPS, Rules & Planning Section of the AQD, stated the Department is proposing to update language in Subchapter 2, Incorporation by Reference, to reflect the latest date of incorporation of EPA regulations. The Department is also proposing to update the content in OAC 252:100, Appendix Q, Incorporation by Reference, to incorporate the latest changes to EPA regulation. The gist of these rule proposals and the underlying reason for the rulemaking is to incorporate the latest changes or additions to 40 C.F.R. Part 60, New Source Performance Standards (NSPS), 40 C.F.R. Parts 61 and 63, National Emission Standards for Hazardous Air Pollutants (NESHAP), and other EPA regulations referenced in Chapter 100. Hearing a question by the Council and none by the public, Ms. Lodes called for a motion, Mr. Elliott moved to approve the rule and Mr. Taylor made the second.

*See transcript pages 7 – 10*

Gregory Elliott	Yes	Jeffrey Taylor	Yes
James Farrell	Yes	Michael Thayer	Yes
Garry Keele	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

**Subchapter 11. Alternative Emissions Reduction Plans and Authorizations [REVOKED]**

**252:100-11-1 [REVOKED]**

**252:100-11-2 [REVOKED]**

**252:100-11-3 [REVOKED]**

**252:100-11-4 [REVOKED]**

**252:100-11-5 [REVOKED]**

**252:100-11-6 [REVOKED]**

**252:100-11-7 [REVOKED]**

**Subchapter 33. Control of Emissions of Nitrogen Oxides [REVOKED]**

**252:100-33-1 [REVOKED]**

**252:100-33-1.1 [REVOKED]**

**252:100-33-1.2 [REVOKED]**

**252:100-33-2 [REVOKED]**

Ms. Christina Hagens, EPS, Rules & Planning Section of the AQD, stated that the Department is proposing to revoke Subchapter 11. Alternative Emissions Reduction Plans and Authorizations and Subchapter 33. Control of Emission of Nitrogen Oxides as they have been identified as

outdated and ineffective. On February 3, 2020, Governor Stitt signed Executive Order 2020-03, which directed all state agencies to review “agency’s administrative rules to identify costly, ineffective, duplicative, and outdated regulations,” During DEQ’s comprehensive rule review, Subchapter 11 and Subchapter 33 were both identified as being potentially obsolete and ineffective. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Executive Order by “streamlining state government” through revocation of unnecessary rules. Hearing questions and comments by the Council and by the public, Ms. Lodes called for a motion. Mr. Farrell moved to approve and Mr. Elliott made the second.

*See transcript pages 10 – 21*

Gregory Elliott	Yes	Jeffrey Taylor	Yes
James Farrell	Yes	Michael Thayer	Yes
Garry Keele	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

### **Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program**

**[AMENDED]**

**252:100-49-5 [AMENDED]**

**252:100-49-7 [AMENDED]**

Mr. Tom Richardson, P.E., Rules & Planning Section, AQD, stated that the Department is proposing to amend Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program in OAC 252:100, to implement recent changes to applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et. seq. DEQ and the Oklahoma Tax Commission jointly administer the “Oklahoma Emission Reduction Technology Rebate Program” to provide an incentive for “Emission Reduction Projects” – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department’s continuing responsibilities under the Oklahoma Emission Reduction Technology Incentive Act as revised during the 2025 Oklahoma Legislation Session. Hearing no questions or comments by the Council and none by the public, Ms. Lodes called for a motion. Mr. Keele moved to approve and Dr. Thayer made the second.

*See transcript pages 21 – 25*

Gregory Elliott	Yes	Jeffrey Taylor	Yes
James Farrell	Yes	Michael Thayer	Yes
Garry Keele	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

**Ms. Foster announced the conclusion of the hearing portion of the meeting.**

*See transcript page 25*

**Presentation** – Mr. Jonathan Allen, General Counsel of the DEQ gave a presentation on upcoming proposed changes to Chapter 4.

**Presentation** – Ms. Sidonie Quick, Chief Financial Officer of the ASD gave a presentation on the Fiscal Report.

**Division Director's Report** – Ms. Kendal Stegmann, Division Director of the AQD, provided an update on other Division activities.

**New Business** – None

**Adjournment** – The next regular meeting is scheduled for Wednesday, April 22, 2026 in Oklahoma City, Oklahoma. Ms. Lodes called for a motion to adjourn the meeting, Dr. Thayer moved to adjourn and Mr. Keele made the second. Meeting adjourned at 10:02 a.m.

Gregory Elliott	Yes	Jeffrey Taylor	Yes
James Farrell	Yes	Michael Thayer	Yes
Garry Keele	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

**Transcript and attendance sheet becomes an official part of these Minutes.**

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1

2

3

4 HEARING

5 AIR QUALITY ADVISORY COUNCIL

6 OCTOBER 16, 2025, 9:00 AM

7

8 MEMBERS PRESENT

9 Laura Lodes

10 Garry Keele II

11 John Privrat

12 James Farrell

13 Jeffrey Taylor

14 Michael Thayer

15 Gregory Elliott

16 Jefferson Wilber

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18 MEMBERS ABSENT

19 Matt Caves

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25 REPORTED BY: Jenny Longley, CSR

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1 PROCEEDINGS

2 CHAIRWOMAN LODES: I'd like to bring

3 today's Regular Meeting of the Air Quality Advisory

4 Council to order.

5 Quiana, will you please call roll?

6 MS. FIELDS: Yes.

7 Mr. Caves is absent.

8 Mr. Elliott?

9 MR. ELLIOTT: Present.

10 MS. FIELDS: Mr. Farrell?

11 MR. FARRELL: Here.

12 MS. FIELDS: Mr. Keele?

13 MR. KEELE: Here.

14 MS. FIELDS: Mr. Privrat?

15 MR. PRIVRAT: Here.

16 MS. FIELDS: Mr. Taylor?

17 MR. TAYLOR: Here.

18 MS. FIELDS: Dr. Thayer?

19 DR. THAYER: Here.

20 MS. FIELDS: Mr. Wilber?

21 MR. WILBER: Here.

22 MS. FIELDS: Ms. Lodes?

23 CHAIRWOMAN LODES: Here.

24 MS. FIELDS: We have a quorum.

25 CHAIRWOMAN LODES: Thank you.

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1 The next item on today's agenda is

2 Approval of the Minutes from the July 30, 2025

3 Regular Meeting. Do we have any comments or

4 discussion on the minutes?

5 Seeing none, do I have a motion to

6 approve the minutes?

7 DR. THAYER: Motion to approve.

8 MR. KEELE: Second.

9 CHAIRWOMAN LODES: I have a motion and a

10 second.

11 Quiana, will you please call roll?

12 CHAIRWOMAN LODES: Mr. Elliott?

13 MR. ELLIOTT: Yes.

14 MS. FIELDS: Mr. Farrell?

15 MR. FARRELL: Yes.

16 MS. FIELDS: Mr. Keele?

17 MR. KEELE: Yes.

18 MS. FIELDS: Mr. Privrat?

19 MR. PRIVRAT: Yes.

20 MS. FIELDS: Mr. Taylor?

21 MR. TAYLOR: Yes.

22 MS. FIELDS: Dr. Thayer?

23 DR. THAYER: Yes.

24 MS. FIELDS: Mr. Wilber?

25 MR. WILBER: Yes.

Page 4

1 MS. FIELDS: Ms. Lodes?

2 CHAIRWOMAN LODES: Yes.

3 MS. FIELDS: Motion passed.

4 CHAIRWOMAN LODES: The next item on

5 today's agenda is the Meeting Schedule for Calendar

6 Year 2026. If y'all will look at it, a couple

7 things to note. One, we're adjusting the time to

8 9:30 so that it's the same timeframe as the

9 Environmental Quality Board meeting, so figured that

10 gave people 30 more minutes to get in if you're

11 traveling from elsewhere.

12 Also, there's no January meeting on

13 the schedule. Because of the way that EQB and the

14 legislature aligns, it was -- we decided to forego a

15 January meeting and we have an April 22nd meeting;

16 the July 22nd in Tulsa; and then if you'll notice,

17 instead of always being in October, we've moved the

18 meeting to December 9th.

19 That aligns better, gives us more

20 time for the January EQB meeting to be kind of our

21 last-ditch effort for this December meeting. Also,

22 personally, I like the fact that it gets us away

23 from EFO and fall break and some of the issues we

24 always seem to have scheduling in October with it

25 being busy.

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1 Are there any questions or  
 2 discussions regarding the proposed meeting schedule?  
 3 Hearing none, do I have a motion to  
 4 approve the proposed meeting schedule for next year?  
 5 MR. TAYLOR: Motion to approve.  
 6 MR. KEELE: Second.  
 7 CHAIRWOMAN LODES: Thank you, I have a  
 8 motion and a second.  
 9 Quiana, will you please call roll?  
 10 MS. FIELDS: Mr. Elliott?  
 11 MR. ELLIOTT: Yes.  
 12 MS. FIELDS: Mr. Farrell?  
 13 MR. FARRELL: Yes.  
 14 MS. FIELDS: Mr. Keele?  
 15 MR. KEELE: Yes.  
 16 MS. FIELDS: Mr. Privrat?  
 17 MR. PRIVRAT: Yes.  
 18 MS. FIELDS: Mr. Taylor?  
 19 MR. TAYLOR: Yes.  
 20 MS. FIELDS: Dr. Thayer?  
 21 DR. THAYER: Yes.  
 22 MS. FIELDS: Mr. Wilber?  
 23 MR. WILBER: Yes.  
 24 MS. FIELDS: Ms. Lodes?  
 25 CHAIRWOMAN LODES: Yes.

Page 6

1 MS. FIELDS: Motion passed.  
 2 CHAIRWOMAN LODES: We shall now enter the  
 3 Public Rulemaking portion.  
 4 MS. FOSTER: Thank you, Laura.  
 5 Good morning. I'm Melanie Foster, of  
 6 the Rules & Planning Section of the Air Quality  
 7 Division, and I will serve as today's protocol  
 8 officer for the hearing today.  
 9 The hearings will be convened by the  
 10 Air Quality Council in compliance with the Oklahoma  
 11 Administrative Procedures Act and Title 40 of the  
 12 Code of Federal Regulations, Part 51, as well as the  
 13 authority of Title 27A of the Oklahoma Statutes,  
 14 Section 2-2-201 and Sections 2-5-101 through  
 15 2-5-117.  
 16 Notice of the October 16, 2025  
 17 hearings were advertised in the Oklahoma Register  
 18 for the purpose of receiving comments pertaining to  
 19 the proposed OAC Title 252 Chapter 100 rules as  
 20 listed on the Agenda and will be entered into each  
 21 record along with the Oklahoma Register filing.  
 22 Notice of the Meeting was filed with the Secretary  
 23 of State on October 24, 2024. The Agenda was duly  
 24 posted 24 hours prior to the meeting at DEQ.  
 25 If you wish to make a statement, it

Page 7

1 is very important that you complete the form at the  
 2 registration table and you will be called upon at  
 3 the appropriate time. Audience members, please come  
 4 to the podium for your comments and please state  
 5 your name.  
 6 At this time, we will proceed with  
 7 what's marked as Agenda Item No. 5A on the Hearing  
 8 Agenda: Chapter 100, Air Pollution Control;  
 9 Subchapter 2, Incorporation by Reference [Amended];  
 10 Appendix Q, Incorporation by Reference [Amended].  
 11 And Jared Milano will make the staff  
 12 presentation.  
 13 MR. MILANO: Good morning, Council  
 14 Members. My name is Jared Milano, an Environmental  
 15 Programs Specialist with AQD, and I'll be proposing  
 16 changes to Oklahoma Administrative Code Title 252,  
 17 Chapter 100 Subchapter 2 and Appendix Q.  
 18 Okay. So some proposed changes.  
 19 There are several proposed amendments to Subchapter  
 20 2 and Appendix Q, which are listed in your packets.  
 21 But please note one thing, that a  
 22 revised notice was published on October 15, 2025 to  
 23 amend the Environmental Quality Board meeting date.  
 24 And should the Council recommend the proposed  
 25 changes, these rules will be considered by the EQB

Page 8

1 in January.  
 2 So DEQ is requesting that the Air  
 3 Quality Advisory Council recommend these proposed  
 4 changes to Subchapter 2 and Appendix Q to the  
 5 Environmental Quality Board for adoption.  
 6 Any questions?  
 7 MS. FOSTER: Thank you, Jared.  
 8 Questions and discussion by the  
 9 Council?  
 10 MR. KEELE: So no new subparts, it's all  
 11 just modifications that they made --  
 12 MR. MILANO: Correct. No new subparts,  
 13 yeah, just amendments to the language.  
 14 MR. KEELE: Thank you.  
 15 MS. FOSTER: Any other questions? Sorry.  
 16 Laura?  
 17 CHAIRWOMAN LODES: It's okay.  
 18 Any questions or comments from the  
 19 Council?  
 20 MS. FOSTER: Okay. Questions, comments or  
 21 discussion by the public? I have not received any  
 22 notifications anybody wants to speak, but if you do,  
 23 please raise your hand and come to the podium.  
 24 Seeing none, I'll ask for discussion  
 25 and action by the Council.

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1 CHAIRWOMAN LODES: Seeing no further  
 2 comments or discussion by the Council, do I have a  
 3 motion to approve Subchapter 2 and Appendix Q as  
 4 presented by the DEQ?  
 5 MR. ELLIOTT: I make that motion.  
 6 MR. TAYLOR: Second.  
 7 CHAIRWOMAN LODES: I have a motion and a  
 8 second.  
 9 Quiana, will you please call roll?  
 10 MS. FIELDS: Mr. Elliott?  
 11 MR. ELLIOTT: Yes.  
 12 MS. FIELDS: Mr. Farrell?  
 13 MR. FARRELL: Yes.  
 14 MS. FIELDS: Mr. Keele?  
 15 MR. KEELE: Yes.  
 16 MS. FIELDS: Mr. Privrat?  
 17 MR. PRIVRAT: Yes.  
 18 MS. FIELDS: Mr. Taylor?  
 19 MR. TAYLOR: Yes.  
 20 MS. FIELDS: Dr. Thayer?  
 21 DR. THAYER: Yes.  
 22 MS. FIELDS: Mr. Wilber?  
 23 MR. WILBER: Yes.  
 24 MS. FIELDS: Ms. Lodes?  
 25 CHAIRWOMAN LODES: Yes.

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1 MS. FIELDS: Motion passed.  
 2 MS. FOSTER: All right. Now we will  
 3 proceed with what's marked as Agenda Item 5B on the  
 4 Hearing Agenda. This is Chapter 100, Air Pollution  
 5 Control; Subchapter 11, Alternative Emissions  
 6 Reduction Plans and Authorizations [Revoked], and  
 7 that revokes 252:100-11-1, 252:100-11-2,  
 8 252:100-11-3, 252:100-11-4, 252:100-11-5,  
 9 252:100-11-6, and 252:100-11-7; as well as  
 10 Subchapter 33, Control of Emission of Nitrogen  
 11 Oxides [Revoked] that revokes 252:100-33-1,  
 12 252:100-33-1.1, 252:100-33-1.2, and 252:100-33-2.  
 13 Christina Hagens will make the staff  
 14 presentation.  
 15 MS. HAGENS: Good morning, Madam Chair,  
 16 Members of the Council, and everyone in attendance  
 17 today. My name is Christina Hagens, and I will be  
 18 presenting on the revocation of OAC 252:100-11 and  
 19 OAC 252:100-33. A notice of the rule change was  
 20 published in the Oklahoma Register on September 15,  
 21 2025, and the notice requested written comments from  
 22 the public and other interested parties. No  
 23 comments have been received to date, and please note  
 24 that a revised Notice was published on October 15,  
 25 2025 to amend the EQB meeting date. Should the

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1 Council recommend these proposed changes, these  
 2 rules will be considered by the EQB in January.  
 3 So what initially necessitated this  
 4 rulemaking was a Governor-issued Executive Order.  
 5 On February 3, 2020, Governor Stitt signed Executive  
 6 Order 2020-03, which directed all state agencies to  
 7 review "agency administrative rules to identify  
 8 costly, ineffective, duplicative, and outdated  
 9 regulations". During DEQ's comprehensive rule  
 10 review, Subchapter 11 and Subchapter 33 were both  
 11 identified as being potentially obsolete and  
 12 ineffective.  
 13 I will now go over why each rule was  
 14 identified as such, starting with Subchapter 11,  
 15 Alternative Emission Reduction Plans and  
 16 Authorizations.  
 17 Subchapter 11 provides the mechanism  
 18 by which a facility may be allowed to comply with an  
 19 alternate standard in exchange for an overall  
 20 reduction in emissions. This rule was created to  
 21 allow companies flexibility and cost-effectiveness  
 22 to offset limits on emissions if other processes  
 23 within the facility could reduce emissions more than  
 24 this increase. Subchapter 11 was first published in  
 25 1982, which was before DEQ was even established, and

Page 12

1 this rule has been brought before the council a few  
 2 times to be updated for refining language and making  
 3 the program easier to understand and implement.  
 4 So a proposed plan under this rule  
 5 requires a source-specific State Implementation Plan  
 6 - or SIP - revision and approval from the Council.  
 7 Since its inception, there's only been one  
 8 documented use of the Alternative Emissions  
 9 Reduction Plan which was never officially submitted.  
 10 Over these past 43 years this rule was partially  
 11 used once. Subchapter 11 clearly meets the  
 12 Governor's target for rule cleanup so removal of  
 13 this rule would ensure that staff time is not wasted  
 14 on maintaining an obsolete rule that was never truly  
 15 utilized. Revocation would also bring simplicity as  
 16 facilities will be acting on the actual emissions.  
 17 There is no equivalent federal  
 18 regulation to Subchapter 11. This rule was  
 19 initially added to provide facilities flexibility  
 20 and emission reduction by allowing offsets between  
 21 emission points within the facility. The revocation  
 22 of this rule would remove this option of internal  
 23 trading and require facilities to adhere to the  
 24 actual emission point limits as required under their  
 25 permit and as expected by EPA for all individual

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1 permits.

2           And lastly, Subchapter 11 is not

3 currently in our SIP, so removing this rule would

4 not have any impact to the Oklahoma SIP or require a

5 demonstration of any kind.

6           Moving on to Subchapter 33, Control

7 of Emission of Nitrogen Oxides. Subchapter 33 was

8 created to "control the emission of nitrogen oxides

9 from stationary sources to prevent the Oklahoma air

10 quality standards from being exceeded". This rule

11 was first drafted in October of 1971, a time when

12 there was very little federal NOx requirements and

13 Oklahoma was in need of an applicable rule. For

14 context, the first NAAQS and the original six

15 criteria pollutants, were finalized April 30th of

16 1971, which was less than six months prior to when

17 Subchapter 33 was before the public. So we

18 basically had a federal rulemaking and a state

19 rulemaking on NOx happening almost concurrently.

20 Subchapter 33 was sufficient for the time and

21 context of its creation, but over the years the

22 federal NOx research and regulations have continued

23 to develop while the state rule has mostly

24 stagnated.

25           This rule has been amended a few

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1 times over the years for simplicity, clarification,

2 and even as the industrial makeup of Oklahoma has

3 changed. However, this rule remains out of date as

4 many changes were made as needed rather than

5 ensuring that the rule is effectively controlling

6 NOx emissions.

7           Should the revocation be adopted, DEQ

8 will continue to evaluate the need for a new NOx

9 rule in the future especially as it relates to NOx

10 concerns as a precursor to ozone formation.

11           To evaluate the potential impact of

12 the rulemaking, staff reviewed the latest data on

13 applicable facilities. As you can see on this map,

14 there are currently 10 facilities limited by

15 Subchapter 33, which includes 20 affected units.

16 And I will note that the units in Tulsa County,

17 there are two almost overlapping; so that's why if

18 you count it, it should add up to 10, but there are

19 two it's kind of hard to see from here. So "limited

20 by" means that this is the limiting factor for that

21 facility, so in this case Subchapter 33 is providing

22 the backstop emission level.

23           Most of these facilities are

24 operating well below the limit, although DEQ is

25 aware that a couple facilities have had issues

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1 complying with the standard.

2           Removing Subchapter 33 does not mean

3 that these facilities would not have any limit

4 because they are subject to federal standards

5 regardless. Additionally, removal of Subchapter 33

6 would not automatically remove limits that would

7 result in a permit change.

8           So on the map, the counties in green

9 represent the Metropolitan Statistical Areas, or

10 MSAs, and of the identified 10 facilities, seven are

11 within an MSA and the other three are not, but do

12 border the county of one. So of these facilities,

13 only one is located in an area that would not impact

14 an Oklahoma MSA airshed, which is the one down at

15 the very bottom.

16           There are multiple existing federal

17 regulations under New Source Performance Standards,

18 or NSPS, in 40 C.F.R. Part 60 that address

19 activities similar to Subchapter 33. The affected

20 facilities impacted by this rulemaking are subject

21 to the equivalent federal requirements as required

22 under their permit and as required by EPA. Compared

23 to these federal standards, Subchapter 33 does not

24 provide the intended backstop on NOx emissions and

25 has not demonstrated a true benefit to preventing

Page 16

1 NOx violations.

2           Now, on the SIP side, a version of

3 Subchapter 33 does exist in the Oklahoma SIP back

4 when NOx revisions were submitted in 2010, but

5 eventually these got caught up in the SIP backlog at

6 EPA. Recently, on September 17, 2025, Secretary

7 Starling submitted a letter to Administrator Mason

8 pulling back these revisions from consideration and

9 preventing EPA from unnecessarily reviewing outdated

10 provisions.

11           If the revocation of Subchapter 33

12 proceeds to the EQB and is accepted, then DEQ will

13 begin work to remove this rule from the SIP through

14 a demonstration of noninterference under Section

15 110(I) of the Clean Air Act. This process will

16 begin with a justification before EPA that DEQ's

17 rulemaking is not interfering with (designated)

18 attainment of the NAAQS or any other applicable

19 requirement of the Clean Air Act. This provision

20 will ensure that we are not harming the NAAQS and

21 that there will be no impact to the airshed as a

22 result of this rulemaking.

23           In summary, both rules were marked

24 for cleanup due to being outdated and ineffective.

25 Subchapter 11 was only partially used once in over

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1 40 years of being effective. Subchapter 33 was  
 2 drafted when Oklahoma needed such a rule, since then  
 3 staff has updated it as needed, but it has not kept  
 4 up with federal rules as they have developed over  
 5 the years.  
 6       And thus, staff requests that the  
 7 council recommend revocation of Subchapter 11 and  
 8 Subchapter 33 to the EQB for adoption.  
 9       Thank you.  
 10       MS. FOSTER: Questions and discussion by  
 11 the Council?  
 12       CHAIRWOMAN LODES: So to clarify, if  
 13 industry has Subchapter 33 in their permit, this is  
 14 not going to mean they have to automatically reopen  
 15 their permit, it will just be addressed at the next  
 16 modification for those 10 facilities that have it in  
 17 their permit, correct?  
 18       MS. HAGENS: Correct.  
 19       CHAIRWOMAN LODES: Okay. Any other  
 20 questions or comments? Melanie, I see one comment  
 21 from the public.  
 22       MS. FOSTER: Yes, thank you. If you will  
 23 announce yourself and who you're with.  
 24       MR. GROUND: Bud Ground with Environmental  
 25 Federation of Oklahoma, and my question is really

Page 18

1 I'd like to know what those 10 facilities are and I  
 2 was wondering if they've been notified of this,  
 3 specifically. I mean, I just heard you say that you  
 4 were not going to open their permits, so I was just  
 5 wondering if they knew this was happening.  
 6       MS. FOSTER: Thank you, Bud.  
 7       MS. HAGENS: Yes, so we -- I believe our  
 8 Legal has been in contact with these -- nope? Okay.  
 9       MS. FOSTER: Do you want me to just  
 10 answer?  
 11       MS. HAGENS: Yes.  
 12       MS. FOSTER: No, other than the normal  
 13 public notice process, they have not been contacted  
 14 directly. This was a -- to find the facilities that  
 15 were subject to basically just Subchapter 33, it was  
 16 a data mining process that Permitting did within  
 17 their permits.  
 18       And so through the normal process of  
 19 public notice we expect that they may be aware of  
 20 this, but I'm not -- there have been no direct  
 21 outreach to those individual facilities. There may  
 22 be one that is aware that we're doing this because  
 23 of some ongoing discussions with them, but  
 24 otherwise, no.  
 25       And again, back to the point of

Page 19

1 Laura, removing Subchapter 33, their permit will  
 2 still stand with the permit limit that was set by  
 3 Subchapter 33 unless and until they come to us and  
 4 ask for a change, and then they would have to go  
 5 through the normal permitting process to request  
 6 that permit limit change. So we're not expecting  
 7 any direct impact on those facilities.  
 8       MS. HAGENS: No automatic triggers as a  
 9 result of this revocation on the permits.  
 10       MS. FOSTER: Any other questions, comments  
 11 or discussion by the public?  
 12       Seeing none, discussion and action by  
 13 the Council.  
 14       CHAIRWOMAN LODES: Staff has recommended  
 15 that we revoke Subchapters 11 and 33. Do I have a  
 16 motion?  
 17       DR. THAYER: I have a question.  
 18       CHAIRWOMAN LODES: Yes.  
 19       DR. THAYER: Are there -- so you said you  
 20 haven't reached out to these facilities. Are there  
 21 now plans -- are there plans to do that or just kind  
 22 of let it organically filter down to them?  
 23       MS. FOSTER: So I would say we've not made  
 24 plans thus far to do that; we certainly can. Again,  
 25 the expectation is that they would retain the limit,

Page 20

1 and so we do not necessarily expect or want them to  
 2 come in and request a change to their permit.  
 3       DR. THAYER: Right. Okay.  
 4       CHAIRWOMAN LODES: Any other questions or  
 5 comments from the Council?  
 6       Do I have a motion to approve  
 7 revoking Subchapters 11 and 33?  
 8       MR. FARRELL: So moved.  
 9       CHAIRWOMAN LODES: I have a motion. Do I  
 10 have a second?  
 11       MR. ELLIOTT: I'll second.  
 12       CHAIRWOMAN LODES: I have a motion and a  
 13 second.  
 14       Quiana, will you please call roll?  
 15       MS. FIELDS: Mr. Elliott?  
 16       MR. ELLIOTT: Yes.  
 17       MS. FIELDS: Mr. Farrell?  
 18       MR. FARRELL: Yes.  
 19       MS. FIELDS: Mr. Keele?  
 20       MR. KEELE: Yes.  
 21       MS. FIELDS: Mr. Privrat?  
 22       MR. PRIVRAT: Yes.  
 23       MS. FIELDS: Mr. Taylor?  
 24       MR. TAYLOR: Yes.  
 25       MS. FIELDS: Dr. Thayer?

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1 DR. THAYER: Yes.

2 MS. FIELDS: Mr. Wilber?

3 MR. WILBER: Yes.

4 MS. FIELDS: Ms. Lodes?

5 CHAIRWOMAN LODES: Yes.

6 MS. FIELDS: Motion passed.

7 MS. FOSTER: So now we will proceed with

8 what's marked as agenda item 5C on the Hearing

9 Agenda for today: Chapter 100, Air Pollution

10 Control; Subchapter 49, Oklahoma Emission Reduction

11 Technology Rebate Program [Amended]; 252:100-49-5

12 [Amended] and 252:100-49-7 [Amended].

13 And Tom Richardson will make the

14 staff presentation.

15 MR. RICHARDSON: Thank you, Melanie. Good

16 morning, Madam Chair, Members of the Council, Ladies

17 and Gentlemen. I am Tom Richardson, an engineer in

18 the Air Quality's Division's Rules & Planning

19 Section. My purpose today is to present proposed

20 changes to our rules governing the Oklahoma Emission

21 Reduction Technology Rebate Program.

22 Next slide. This slide summarizes

23 the topics I will cover. First, I will say a few

24 words about the changes made to the statute that

25 prompted the need to change the rule language; then

Page 22

1 I will give an overview of the rule language we are

2 proposing; finally, I will give staff's

3 recommendation to the Council.

4 Next slide. So on the slide, you can

5 see a screenshot of the first page of the Act. It's

6 enrolled bill Senate No. 469, it was passed by the

7 legislature and signed by the Governor in April of

8 this year. It amends the language authorizing

9 rebates for the altered projects two ways: "All

10 applications for rebates shall be submitted no later

11 than six months after the end of the fiscal year in

12 which the project was completed", and, "All

13 applications for rebates shall be submitted no later

14 than six months prior to the date that the program

15 will be terminated or the cessation of the program".

16 Next slide. Chapter 100 changes,

17 again the Title 252 Chapter 100, Subchapter 49. And

18 I think I'm the third one to point out that the

19 notice of permanent proposed rulemaking was

20 published on September 15th, a revised version of

21 the notice was published on October 15th, and that

22 revision stated that rather than taking it to the

23 EQB if it is proposed by this group, it will

24 actually be taken to EQB in January instead of in

25 November. So those of you following with your

Page 23

1 packet, please turn to the appropriate location in

2 your packet.

3 Next slide. Rule language changes.

4 The first change is to mirror the language in the

5 legislation. So the language will be amended to

6 clarify that the application for a rebate must be

7 submitted no later than six months after the date of

8 the fiscal year in which the project was completed.

9 Next slide. The second and the last

10 change again mirrors the legislation. So the

11 language will address sunseting the program, so

12 we've amended the language to state that, "All

13 applications must be submitted no later than six

14 months prior to the date of cessation of the

15 program".

16 Next slide. We received no comments

17 addressing the proposed or written comments in

18 advance addressing these proposed changes.

19 Next slide. And our staff

20 recommendation. Staff are requesting that the Air

21 Quality Council recommend proposed rule revisions to

22 Subchapter 49 as presented today to the EQB during

23 the January meeting for adoption as a permanent

24 rule. That's the end of my question.

25 Melanie?

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1 MS. FOSTER: Questions and discussion by

2 the Council?

3 Seeing none, questions, comments,

4 discussion by the public? I didn't receive any

5 written comments, but if anybody would like to make

6 a comment on the rule?

7 Seeing none, discussion and action by

8 the Council.

9 CHAIRWOMAN LODES: Any further questions

10 or comments on the proposed changes to Subchapter 49

11 from the Council?

12 Staff has recommended that we move to

13 approve the recommended changes to Subchapter 49.

14 Do I have a motion?

15 MR. KEELE: Motion to approve.

16 CHAIRWOMAN LODES: Do I have a second?

17 DR. THAYER: Second.

18 CHAIRWOMAN LODES: I have a motion and a

19 second.

20 Quiana, please call roll.

21 MS. FIELDS: Mr. Elliott?

22 MR. ELLIOTT: Yes.

23 MS. FIELDS: Mr. Farrell?

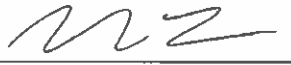
24 MR. FARRELL: Yes.

25 MS. FIELDS: Mr. Keele?

Page 25

1 MR. KEELE: Yes.  
 2 MS. FIELDS: Mr. Privrat?  
 3 MR. PRIVRAT: Yes.  
 4 MS. FIELDS: Mr. Taylor?  
 5 MR. TAYLOR: Yes.  
 6 MS. FIELDS: Dr. Thayer?  
 7 DR. THAYER: Yes.  
 8 MS. FIELDS: Mr. Wilber?  
 9 MR. WILBER: Yes.  
 10 MS. FIELDS: Ms. Lodes?  
 11 CHAIRWOMAN LODES: Yes.  
 12 MS. FIELDS: Motion passed.  
 13 MS. FOSTER: And that concludes the  
 14 hearing portion of our meeting.  
 15 (HEARING ADJOURNED AT 9:25 AM)  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1 CERTIFICATE  
 2 I, Jenny Longley, Certified Shorthand  
 3 Reporter within and for the State of Oklahoma, do  
 4 hereby certify that the above and foregoing meeting  
 5 was by me taken in shorthand and thereafter  
 6 transcribed; and that I am not an attorney for nor  
 7 relative of any of said parties or otherwise  
 8 interested in the event of said action.  
 9 IN WITNESS WHEREOF, I have hereunto  
 10 set my hand and official seal this 24th day of  
 11 October, 2025.  
 12   
 13 \_\_\_\_\_  
 14 Jenny Longley, CSR  
 15 CSR # 1903  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
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 24  
 25



**AIR QUALITY ADVISORY COUNCIL**  
 Attendance Record  
**October 16, 2025**  
 Oklahoma City, Oklahoma

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**AIR QUALITY ADVISORY COUNCIL**  
 Attendance Record  
**October 16, 2025**  
 Oklahoma City, Oklahoma

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**AIR QUALITY ADVISORY COUNCIL**  
 Attendance Record  
**October 16, 2025**  
 Oklahoma City, Oklahoma

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**AIR QUALITY ADVISORY COUNCIL**  
Attendance Record  
**October 16, 2025**  
Oklahoma City, Oklahoma

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Cheryl Bradley	AQD	
Jared Milow	AQD	
MELANIE FOSTER	AQD	
Kendal Segmann	AQD	
Joff Daye	AQD	

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**MEMORANDUM**

**DATE:** April 8, 2026

**TO:** Members of the Air Quality Advisory Council

**FROM:** Kendal Stegmann, Director *KS*  
Air Quality Division

**SUBJECT:** Proposed Rule Amendments to Subchapters 1, 3, 7, 8, 19, 23, 24, 25, and 35 and Proposed Revocation of Appendices E and F

The Department of Environmental Quality (DEQ) is proposing to amend multiple rules (Subchapters 1, 3, 7, 8, 19, 23, 24, 25, and 35) and revoke two appendices (Appendices E and F) to ensure accuracy and consistency of terminology and standards throughout Chapter 100. The intent of this rulemaking is to ensure that references to the National Ambient Air Quality Standards (NAAQS) are up to date, consistent, and accurate.

This rulemaking's original purpose was to address the NAAQS in Subchapter 3, Appendix E, and Appendix F by replacing the written standards with a direct reference and citation to federal standards. In addition, there were multiple inconsistencies in the language that became apparent throughout Chapter 100. The final collection of proposed amendments reflects a long-needed cleanup in which outdated terms and formatting are updated to be in line with newer rules and accurate language. The gist of this rulemaking action and the purpose of the proposed rules is to ensure the federal standards are reflected accurately and to standardize terminology regarding such standards.

Notice of the proposed rule changes was published in the *Oklahoma Register* on March 16, 2026. The notice requested comments from members of the public and other interested parties and as of the date of this memo, no comments have been received. A copy of the proposed rules revision is enclosed, along with a copy of the Rule Impact Statement.

This is the first time this proposal has been presented to the Council for consideration. At the April 22, 2026, AQAC meeting, staff will ask the Council to recommend the rule to the Environmental Quality Board for adoption as a permanent rule at its June 9, 2026, meeting.

**Enclosures:** Proposed amendments to Subchapters 1, 3, 7, 8, 19, 23, 24, 25, and 35  
Proposed revocation of Appendices E and F  
Rule Impact Statement

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

**SUBCHAPTER 1. GENERAL PROVISIONS**

**252:100-1-3. Definitions**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise or unless defined specifically for a Subchapter, section, or subsection in the Subchapter, section, or subsection.

**"Act"** means the Federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq.

**"Administrator"** means, unless specifically defined otherwise, the Administrator of the United States Environmental Protection Agency (EPA) or the Administrator's designee.

**"Air contaminant source"** means any and all sources of emission of air contaminants (pollutants), whether privately or publicly owned or operated, or person contributing to emission of air contaminants. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops and stores, heating and power plants or stations, buildings and other structures of all types.

**"Air pollution abatement operation"** means any operation which has as its essential purpose a significant reduction in:

- (A) the emission of air contaminants, or
- (B) the effect of such emission.

**"Air pollution episode"** means high levels of air pollution existing for an extended period (24 hours or more) of time which may cause acute harmful health effects during periods of atmospheric stagnation, without vertical or horizontal ventilation. This occurs when there is a high pressure air mass over an area, a low wind speed and there is a temperature inversion. Other factors such as humidity may also affect the episode conditions.

~~**"Ambient air standards"** or **"Ambient air quality standards"** means levels of air quality as codified in OAC 252:100-3.~~

**"Atmosphere"** means the air that envelops or surrounds the earth.

**"Best available control technology"** or **"BACT"** means the best control technology that is currently available as determined by the Director on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs of alternative control systems.

**"Building, structure, facility, or installation"** means:

(A) all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

(B) notwithstanding the provisions of subparagraph (A), for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered adjacent if they are located on the same surface site; or if they are located on surface sites that are located within 1/4 mile of one another (measured from the center of the equipment on

the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators, or emissions control devices. Surface site, as used in this definition, has the same meaning as in 40 CFR 63.761.

**"Carbon dioxide equivalent emissions" or "CO<sub>2</sub>e"** means an amount of GHG emitted, and shall be computed by multiplying the mass amount of emissions, for each of the six greenhouse gases in the pollutant GHG, by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR Part 98 - Global Warming Potentials, and summing the resultant value for each to compute a CO<sub>2</sub>e.

**"Catalytic cracking unit"** means a unit composed of a reactor, regenerator and fractionating towers which is used to convert certain petroleum fractions into more valuable products by passing the material through or commingled with a bed of catalyst in the reactor. Coke deposits produced on the catalyst during cracking are removed by burning off in the regenerator.

**"Combustible materials"** means any substance which will readily burn and shall include those substances which, although generally considered incombustible, are or may be included in the mass of the material burned or to be burned.

**"Commence"** means, unless specifically defined otherwise, that the owner or operator of a facility to which neither a NSPS or NESHAP applies has begun the construction or installation of the emitting units on a pad or in the final location at the facility.

**"Commencement of operation" or "commencing operation"** means the owner or operator of the stationary source has begun, or caused to begin, emitting a regulated air pollutant from any activity for which the stationary source is designed and/or permitted.

**"Complete"** means in reference to an application for a permit, the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Director from requesting or accepting any additional information.

**"Construction"** means, unless specifically defined otherwise, fabrication, erection, or installation of a source.

**"Crude oil"** means a naturally occurring hydrocarbon mixture which is a liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

**"Direct fired"** means that the hot gasses produced by the flame or heat source come into direct contact with the material being processed or heated.

**"Division"** means Air Quality Division, Oklahoma State Department of Environmental Quality.

**"Dust"** means solid particulate matter released into or carried in the air by natural forces, by any fuel-burning, combustion, process equipment or device, construction work, mechanical or industrial processes.

**"EPA"** means the United States Environmental Protection Agency.

**"Excess emissions"** means the emission of regulated air pollutants in excess of an applicable limitation or requirement as specified in the applicable limiting Subchapter, permit, or order of the DEQ. This term does not include fugitive VOC emissions covered by an existing leak detection and repair program that is required by a federal or state regulation.

**"Existing source"** means, unless specifically defined otherwise, an air contaminant source which is in being on the effective date of the appropriate Subchapter, section, or paragraph of these rules.

**"Facility"** means all of the pollutant-emitting activities that meet all the following conditions:

- (A) Are under common control.
- (B) Are located on one or more contiguous or adjacent properties.
- (C) Have the same two-digit primary SIC Code (as described in the Standard Industrial Classification Manual, 1987).

**"Federally enforceable"** means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State implementation plan, any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the State implementation plan and expressly requires adherence to any permit issued under such program.

**"Fossil fuel"** means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

**"Fuel-burning equipment"** means any one or more of boilers, furnaces, gas turbines or other combustion devices and all appurtenances thereto used to convert fuel or waste to usable heat or power.

**"Fugitive dust"** means solid airborne particulate matter emitted from any source other than a stack or chimney.

**"Fugitive emissions"** means, unless specifically defined otherwise, those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

**"Fume"** means minute solid particles generated by the condensation of vapors to solid matter after volatilization from the molten state, or generated by sublimation, distillation, calcination, or chemical reaction when these processes create airborne particles.

**"Garbage"** means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

**"Greenhouse gas"** or **"GHG"** means the air pollutant defined in 40 CFR § 86.1818-12(a) as the aggregate group of six greenhouse gases: carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O), methane (CH<sub>4</sub>), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>).

**"Gross particulate matter"** or **"GPM"** means particulate matter with an aerodynamic diameter greater than 10 micrometers.

**"In being"** means as used in the definitions of New Installation and Existing Source that an owner or operator has undertaken a continuous program of construction or modification or the owner or operator has entered into a binding agreement or contractual obligation to undertake and complete within a reasonable time a continuous program of construction or modification prior to the compliance date for installation as specified by the applicable regulation.

**"Incinerator"** means a combustion device specifically designed for the destruction, by high temperature burning, of solid, semi-solid, liquid, or gaseous combustible wastes and from which the solid residues contain little or no combustible material.

**"Indirect fired"** means that the hot gasses produced by the flame or heat source do not come into direct contact with the material, excluding air, being processed or heated.

**"Installation"** means an identifiable piece of process equipment.

**"Lowest achievable emissions rate" or "LAER"** means, for any source, the more stringent rate of emissions based on paragraphs (A) and (B) of this definition. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of LAER allow a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable standard of performance for the new source.

(A) LAER means the most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable, or

(B) LAER means the most stringent emissions limitation which is achieved in practice by such class or category of stationary sources.

**"Major source"** means any new or modified stationary source which directly emits or has the capability at maximum design capacity and, if appropriately permitted, authority to emit 100 tons per year or more of a given pollutant. (OAC 252:100-8, Part 3)

**"Malfunction"** means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

**"Minor NSR"** means any NSR permit action under Subchapter 7 or 8 that is not Prevention of Significant Deterioration or Nonattainment NSR.

**"Mist"** means a suspension of any finely divided liquid in any gas or atmosphere excepting uncombined water.

**"Modification"** means any physical change in, or change in the method of operation of, a source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted, except that:

(A) routine maintenance, repair and replacement shall not be considered physical changes; and,

(B) the following shall not be considered a change in the method of operation, unless such change is prohibited under an existing permit condition or exceeds such limitation:

(i) any increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(ii) an increase in hours of operation;

(iii) use of alternative fuel or raw material if, prior to the date any standard under this part becomes applicable to such source the affected facility is designed to accommodate such alternative use.

**"National Ambient Air Quality Standards" or "NAAQS"** means those primary and secondary standards established by the EPA pursuant to section 109 of the Act and defined by 40 CFR Part 50. It includes standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO<sub>2</sub>) or oxides of nitrogen (NO<sub>x</sub>), ozone (O<sub>3</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), and sulfur dioxide (SO<sub>2</sub>) or sulfur oxides (SO<sub>x</sub>).

**"National Emission Standards for Hazardous Air Pollutants" or "NESHAP"** means those standards found in 40 CFR Parts 61 and 63.

**"New installation", "New source", or "New equipment"** means an air contaminant source which is not in being on the effective date of these regulations and any existing source which is

modified, replaced, or reconstructed after the effective date of the regulations such that the amount of air contaminant emissions is increased.

**"New Source Performance Standards"** or **"NSPS"** means those standards found in 40 CFR Part 60.

**"New source review"** or **"NSR"** means a process of evaluation performed by the DEQ to determine the applicable requirements that must be incorporated into a construction permit issued by the DEQ as necessary to authorize construction, modification, or change in the method of operation of a new or existing stationary source. DEQ's NSR program, at a minimum, must meet the requirements of 40 CFR Part 51, Subpart I.

**"Nonmethane organic compounds"** or **"NMOC"** means nonmethane organic compounds, as defined in 40 CFR 60.754.

**"NSR permit"** means a construction permit issued by the DEQ as necessary to authorize construction, modification, or change in the method of operation of a new or existing stationary source.

**"Opacity"** means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

**"Open burning"** means the burning of combustible materials in such a manner that the products of combustion are emitted directly to the outside atmosphere.

**"Organic compound"** means any chemical compound containing the element carbon.

**"Owner or operator"** means any person who owns, leases, operates, controls or supervises a source.

**"Part 70 permit"** means (unless the context suggests otherwise) any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Chapter.

**"Part 70 program"** means a program approved by the Administrator under 40 CFR Part 70.

**"Part 70 source"** means any source subject to the permitting requirements of Part 5 of Subchapter 8, as provided in OAC 252:100-8-3(a) and (b).

**"PM<sub>10</sub> emissions"** means particulate matter emitted to the ambient air with an aerodynamic diameter of 10 micrometers or less as measured by applicable reference methods, or an equivalent or alternative method.

**"PM<sub>10</sub>"** means particulate matter with an aerodynamic diameter of 10 micrometers or less.

**"PM<sub>2.5</sub>"** means particulate matter with an aerodynamic diameter of 2.5 micrometers or less.

**"Particulate matter"** or **"PM"** means any material that exists in a finely divided form as a liquid or a solid.

**"Particulate matter emissions"** means particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method.

**"Potential to emit"** means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

**"Prevention of significant deterioration"** or **"PSD"** means increments for the protection of attainment areas as codified in OAC 252:100-3.

**"Process equipment"** means any equipment, device or contrivance for changing any materials or for storage or handling of any materials, the use or existence of which may cause

any discharge of air contaminants into the open air, but not including that equipment specifically defined as fuel-burning equipment, or refuse-burning equipment.

**"Process weight"** means the weight of all materials introduced in a source operation, including solid fuels, but excluding liquids and gases used solely as fuels, and excluding air introduced for the purposes of combustion. Process weight rate means a rate established as follows:

(A) for continuous or long-run, steady-state, operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(B) for cyclical or batch source operations, the total process weight for a period which covers a complete or an integral number of cycles, divided by the hours of actual process operation during such period.

(C) where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, that interpretation which results in the minimum value for allowable emission shall apply.

**"Reasonably available control technology" or "RACT"** means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

(A) The necessity of imposing such controls in order to attain and maintain a national ambient air quality standard;

(B) The social, environmental, and economic impact of such controls; and

(C) Alternative means of providing for attainment and maintenance of such standard.

**"Reconstruction"** means

(A) the replacement of components of an existing source to the extent that will be determined by the Executive Director based on:

(i) the fixed capital cost (the capital needed to provide all the depreciable components of the new components exceeds 50 percent of the fixed capital cost of a comparable entirely new source);

(ii) the estimated life of the source after the replacements is comparable to the life of an entirely new source; and,

(iii) the extent to which the components being replaced cause or contribute to the emissions from the source.

(B) a reconstructed source will be treated as a new source for purposes of OAC 252:100-8, Part 9.

**"Refinery"** means any facility engaged in producing gasoline, kerosene, fuel oils or other products through distillation of crude oil or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

**"Refuse"** means, unless specifically defined otherwise, the inclusive term for solid, liquid or gaseous waste products which are composed wholly or partly of such materials as garbage, sweepings, cleanings, trash, rubbish, litter, industrial, commercial and domestic solid, liquid or gaseous waste; trees or shrubs; tree or shrub trimmings; grass clippings; brick, plaster, lumber or other waste resulting from the demolition, alteration or construction of buildings or structures; accumulated waste material, cans, containers, tires, junk or other such substances.

**"Refuse-burning equipment"** means any equipment, device, or contrivance, and all appurtenances thereto, used for the destruction of combustible refuse or other combustible wastes by burning.

**"Regulated air pollutant"** means any substance or group of substances listed in Appendix P of this Chapter, or any substance regulated as an air pollutant under any federal regulation for which the Department has been given authority, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit.

**"Responsible official"** means one of the following:

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representatives is approved in advance by the DEQ;

(B) For the partnership or sole proprietorship: a general partner or the proprietor, respectively;

(C) For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For purposes of this Chapter, a principal executive officer or installation commander of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(D) For affected sources:

(i) The designated representative insofar as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and

(ii) The designated representative for any other purposes under this Chapter.

**"Shutdown"** means the cessation of operation of any process, process equipment, or air pollution control equipment.

**"Smoke"** means small gas-borne or air-borne particles resulting from combustion operations and consisting of carbon, ash, and other matter any or all of which is present in sufficient quantity to be observable.

**"Source operation"** means the last operation preceding the emission of an air contaminant, which operation:

(A) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion of fuel; and,

(B) is not an air pollution abatement operation.

**"Stack"** means, unless specifically defined otherwise, any chimney, flue, duct, conduit, exhaust, pipe, vent or opening, excluding flares, designed or specifically intended to conduct emissions to the atmosphere.

**"Standard conditions"** means a gas temperature of 68 degrees Fahrenheit (20° Centigrade) and a gas pressure of 14.7 pounds per square inch absolute.

**"Startup"** means the setting into operation of any process, process equipment, or air pollution control equipment.

**"Stationary source"** means, unless specifically defined otherwise, any building, structure, facility, or installation either fixed or portable, whose design and intended use is at a fixed location and emits or may emit an air pollutant subject to OAC 252:100.

**"Temperature inversion"** means a phenomenon in which the temperature in a layer of air increases with height and the cool heavy air below is trapped by the warmer air above and cannot rise.

**"Title V permit"** means (unless the context suggests otherwise) an operating permit for a Part 70 source.

**"Total Suspended Particulates"** or **"TSP"** means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50.

**"Visible emission"** means any air contaminant, vapor or gas stream which contains or may contain an air contaminant which is passed into the atmosphere and which is perceptible to the human eye.

**"Volatile organic compound"** or **"VOC"** means any organic compound that participates in atmospheric photochemical reactions resulting in the formation of tropospheric ozone. Carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, ammonium carbonates, tert-butyl acetate and compounds listed in 40 CFR 51.100(s)(1) are presumed to have negligible photochemical reactivity and are not considered to be VOC.

### SUBCHAPTER 3. AIR QUALITY STANDARDS AND INCREMENTS

#### **252:100-3-1. Purpose**

The purpose of this Subchapter is to enumerate the primary and secondary national ambient air quality standards and the significant deterioration increments.

#### **252:100-3-2. Primary standards**

The ~~table in Appendix E of this chapter enumerates the~~ primary national ambient air quality standards are those promulgated by EPA in 40 CFR Part 50, as of the effective date January 27, 2025.

#### **252:100-3-3. Secondary standards**

The ~~table in Appendix F of this Chapter enumerates the~~ secondary national ambient air quality standards are those promulgated by EPA in 40 CFR Part 50, as of the effective date January 27, 2025.

### SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

#### PART 3. CONSTRUCTION PERMITS

#### **252:100-7-15. Construction permit**

(a) **Construction permit required.** Except as provided in OAC 252:100-7-2(b)(5), a construction permit is required to commence construction or installation of a new facility or the modification of an existing facility as specified in OAC 252:100-7-15(a)(1) and (2).

(1) **New Facility.** No person shall cause or allow the construction or installation of any new minor facility other than a de minimis facility or a permit exempt facility as defined in OAC 252:100-7-1.1 without first obtaining a DEQ-issued air quality construction permit.

(2) **Modification of an existing facility.**

(A) A construction permit is required for any modification that would cause an existing facility to no longer qualify for de minimis status, permit exempt facility status, or its current permit category.

(B) A construction permit is required for an existing facility covered by an individual permit:

(i) to add an "affected facility," "affected source," or "new source" as those terms are defined in 40 CFR Section 60.2, 40 CFR Section 63.2, and 40 CFR Section 61.02, respectively, that is subject to an emission standard, equipment standard, or work practice standard in a federal NSPS (40 CFR Part 60) or a federal NESHAP (40 CFR Parts 61 and 63) or

(ii) to add or physically modify a piece of equipment or a process that results in a permitted emissions increase of any one regulated air pollutant (excluding GHGs as individual pollutants and as an aggregate) by more than 5 TPY.

(C) The requirement to obtain a construction permit under OAC 252:100-7-15(a)(2)(B)(i) does not apply to replacement of a piece of equipment, provided the replacement unit does not require a change in any emission limit in the existing permit, and the owner or operator notifies the DEQ in writing within fifteen (15) days of the startup of the replacement unit, and/or as otherwise specified by the permit.

(b) **Permit categories.** Three types of construction permits are available: permit by rule, general permit, and individual permit. A permit by rule may be adopted or a general permit may be issued for an industry if there are a sufficient number of facilities that have the same or substantially similar operations, emissions, and activities that are subject to the same standards, limitations, and operating and monitoring requirements.

(1) **Permit by rule.** An owner or operator of a minor facility may apply for registration under a permit by rule if the following criteria are met:

(A) The facility has actual emissions of 40 TPY or less of each regulated air pollutant, except HAPs and GHGs (as individual pollutants and as an aggregate).

(B) The facility does not emit or have the potential to emit 10 TPY or more of any single HAP or 25 TPY or more of any combination of HAPs.

(C) The DEQ has established a permit by rule for the industry in Part 9 of this Subchapter.

(D) The owner or operator of the facility certifies that it will comply with the applicable permit by rule.

(E) The facility is not operated in conjunction with another facility or source that is subject to air quality permitting.

(2) **General permit.** Minor facilities may qualify for authorization under a general permit if the following criteria are met:

(A) The facility has actual emissions less than 100 TPY of each regulated air pollutant, except for HAPs and GHGs (as individual pollutants and as an aggregate).

(B) The facility does not emit or have the potential to emit 10 TPY or more of any single HAP or 25 TPY or more of any combination of HAPs.

(C) The DEQ has issued a general permit for the industry.

(3) **Individual permit.** The owners or operators of minor facilities requiring permits under this Subchapter which do not qualify for permit by rule or a general permit shall obtain individual permits. An owner or operator may apply for an individual permit even if the facility qualifies for a permit by rule or a general permit.

(c) **Content of construction permit application.** Construction permit applications shall contain at least the data and information listed in OAC 252:100-7-15(c)(1) and (2).

(1) **Individual permit.** An applicant for an individual construction permit shall provide data and information required by this Chapter on an application form available from the DEQ. Such data and information should include but not be limited to:

(A) site information,

(B) process description,

(C) emission data,

(D) BACT when required,

(E) sampling point data and

(F) modeling data when required.

(2) **General permit.** An applicant for authorization under a general permit shall provide data and information required by that permit on a form available from the DEQ. For general permits that provide for application through the filing of a notice of intent (NOI), authorization under the general permit is effective upon receipt of the NOI.

(d) **Permit contents.** The construction permit:

(1) Shall require the permittee to comply with all applicable air pollution rules.

(2) Shall prohibit the exceedance of national ambient air quality standards contained in OAC 252:100-3.

(3) May establish permit conditions and limitations as necessary to assure compliance with all rules.

(e) **Duty to comply with the construction permit.** The permittee shall comply with all limitations and conditions of the construction permit. A violation of the limitations or conditions contained in the construction permit shall subject the owner or operator of a facility to any or all enforcement penalties, including permit revocation, available under the Oklahoma Clean Air Act and Air Pollution Control Rules. No operating permit will be issued until the violation has been resolved to the satisfaction of the DEQ.

(f) **Cancellation of authority to construct or modify.** The authority to construct or modify granted by a duly issued construction permit will terminate (unless extended as provided below) if the construction is not commenced within 18 months of the permit issuance date, or if work is suspended for more than 18 months after it has commenced.

(g) **Extension of authorization to construct or modify.**

(1) Prior to the permit expiration date, a permittee may apply for extension of the permit by written request of the DEQ stating the reasons for the delay/suspension and providing justification for the extension. The DEQ may grant:

(A) one extension of 18 months or less or

(B) one extension of up to 36 months where the applicant is proposing to expand an already existing facility to accommodate the proposed new construction or the applicant has expended a significant amount of money (1% of total project cost as identified in the original application, not including land cost) in preparation for meeting the definition of "commence construction" at the proposed site.

(2) If construction has not commenced within three (3) years of the effective date of the original permit, the permittee must undertake and complete an appropriate available control technology review and an air quality analysis. This review must be approved by the DEQ before construction may commence.

(h) **Expiration of authorization to construct or modify.** The authorization to construct or modify under the construction permit shall expire upon completion of the construction or modification, or as otherwise provided in (e), (f), or (g). However, the requirements established under (d) shall continue in effect until and unless the facility or affected unit ceases operations, was never constructed in the first place, or the requirement is superseded under a subsequently-issued construction permit or a FESOP that has undergone public review.

## **SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES AND MAJOR NEW SOURCE REVIEW (NSR) SOURCES**

### **PART 1. GENERAL PROVISIONS**

#### **252:100-8-1.5. Stack height limitations**

(a) **Stack height exclusion.** Air quality modeling or ambient impact evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineering practice or the effect of any other dispersion techniques.

(b) **Determination of good engineering practice (GEP) stack height.** GEP stack height shall be the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack; or

(2) The height under either OAC 252:100-8-1.5(b)(2)(A) or (B):

(A) for stacks in existence on January 12, 1979 and for which the owner or operator had obtained all applicable permits or approvals required under OAC 252:100-8 or 40 CFR Part 52,  $H_g = 2.5H$ , provided the owner or operator can demonstrate that this equation was relied upon in establishing an emission limitation;

(B) for all other stacks,  $H_g = H + 1.5L$ , where:

(i)  $H_g$  = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

(ii)  $H$  = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

(iii)  $L$  = lesser dimension (height or projected width) of nearby structure(s), provided that the owner or operator may be required to verify such GEP stack height by the use of a field study or fluid model as the Executive Director shall determine; or

(3) The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive

concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

**(c) Nearby.**

**(1) For the formulae in OAC 252:100-8-1.5(b)(2).** A structure or terrain feature shall be considered nearby if it is located within a distance of up to five times the lesser of the height or the width of a structure, but not more than 0.5 miles (0.8 km).

**(2) For demonstration in OAC 252:100-8-1.5(b)(3).**

(A) A structure or terrain feature shall be considered nearby if located at a distance not greater than 0.5 mile (0.8 km), except that

(B) A portion of a terrain feature may be considered nearby if:

(i) It falls within a distance (not to exceed 2 miles) of up to 10 times the maximum height (Ht) of the feature, and

(ii) At a distance of 0.5 mile, the height of such feature is at least 40 percent of the GEP stack height determined by the formulae provided in OAC 252:100-8-1.5(b)(2)(B) or 85.3 feet (26 meters), whichever is greater, as measured from the base of the stack.

**(3) Measurement of height of structure or terrain.** The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

**(d) Excessive concentrations.** When utilized for the purpose of determining GEP stack height under OAC 252:100-8-1.5(b)(3), excessive concentrations shall be as follows:

(1) For sources seeking credit for stack height exceeding that calculated under OAC 252:100-8-1.5(b)(2), a maximum ground-level pollutant concentration from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which, when combined with the impacts due to all sources, produces a concentration in excess of ~~an~~ a national ambient air quality standard. For sources subject to the prevention of significant deterioration program (Part 7 of this Subchapter or Federal 40 CFR 52.21), the same criteria apply except that a concurrent exceedance of a prevention of significant deterioration increment is experienced. In making demonstrations under this part, the allowable emission rate shall conform to the new source performance standard that is applicable to the source category unless the owner or operator can demonstrate that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the owner or operator;

(2) For sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under OAC 252:100-8-1.5(b)(2) either:

(A) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as specified in OAC 252:100-8-1.5(b)(2), except that the emission rate specified by any applicable state implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or

(B) the actual presence of a local nuisance caused by the existing stack, as determined by the Director; and

(3) For sources seeking credit after January 12, 1979 for a stack height determined under OAC 252:100-8-1.5(b)(2) where the Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking

stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the formulae in OAC 252:100-8-1.5(b)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes or eddy effects.

## **PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS**

### **252:100-8-52. Applicability determination for sources in attainment areas causing or contributing to NAAQS violation**

- (a) The requirements in 40 CFR 51.165(b) regarding a source located in an attainment or unclassifiable area but causing or contributing to a NAAQS violation are hereby incorporated by reference as they exist on December 20, 2010.
- (b) Sources of VOC located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.
- (c) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in OAC 252:100-8-52(a) are exempted from the condition of OAC 252:100-8-54(4)(A).
- (d) The determination whether a source or modification will cause or contribute to a violation of an applicable national ambient air quality standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case-by-case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.
- (e) The determination as to whether a source would cause or contribute to a violation of applicable national ambient air quality standards will be made on a case-by-case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

### **252:100-8-54. Requirements for sources located in nonattainment areas**

In the event a major source or modification would be constructed in an area designated as nonattainment for a pollutant for which the source or modification is major, approval shall be granted only if the following conditions are met:

- (1) The new source must demonstrate that it has applied control technology which the Director, on a case-by-case basis, determines is achievable for a source based on the lowest achievable emission rate (LAER) achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Act).
- (2) If the Director determines that imposition of an enforceable numerical emission standard is infeasible due to technological or economic limitations on measurement

methodology, a design, equipment, work practice or operational standard, or combination thereof, may be prescribed as the emission limitation rate.

(3) The owner or operator of the new source must demonstrate that all other major sources owned or operated by such person in Oklahoma are in compliance, or are meeting all steps on a schedule for compliance, with all applicable limitations and standards under Oklahoma and Federal Clean Air Acts.

(4) The owner or operator of the new source must demonstrate that upon commencing operations:

(A) The emissions from the proposed source and all other sources permitted in the area do not exceed the planned growth allowable for the area designated in the State Implementation Plan; or,

(B) The total allowable emissions from existing sources in the region and the emissions from the proposed source will be sufficiently less than the total emissions from existing sources allowed under the State Implementation Plan at the date of construction permit application so as to represent further progress toward attainment or maintenance of the national ambient air quality standards in the problem area.

(5) The owner or operator may present with the application an analysis of alternate sites, sizes and production processes for such proposed source.

#### **252:100-8-54.1. Ozone and PM<sub>10-10</sub> precursors**

(a) **Ozone.** The requirements of Part 9 of OAC 252:100-8 applicable to major stationary sources and major modifications of VOCs shall apply to NO<sub>x</sub> emissions from major stationary sources and major modifications of NO<sub>x</sub> in an ozone transport region (as defined in 42 U.S.C. § 7511c) or in any ozone nonattainment area, except in ozone nonattainment areas or in portions of an ozone transport region where the Administrator has granted a NO<sub>x</sub> waiver applying the standards set forth under section 182(f) of the Act and the waiver continues to apply.

(b) **PM<sub>10-10</sub> precursors.** The requirements of Part 9 of OAC 252:100-8 applicable to major stationary sources and major modifications of PM<sub>10-10</sub> shall also apply to major stationary sources and major modifications of PM<sub>10-10</sub> precursors, except where the Administrator determines that such sources do not contribute significantly to PM<sub>10-10</sub> levels that exceed the PM<sub>10-10</sub> national ambient air quality standards in the area.

#### **252:100-8-73. BART applicability**

(a) Each BART-eligible source that emits any air pollutant which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area is subject to BART. This shall be determined using the criteria in Section III of Appendix Y of 40 CFR 51 in effect on July 6, 2005. Thresholds for visibility impairment are set forth in OAC 252:100-8-73(a)(1) and (2).

(1) A source that is responsible for an impact of 1.0 deciview or more is considered to cause visibility impairment.

(2) A source that causes an impact greater than 0.5 deciviews contributes to visibility impairment.

(b) Air pollutants emitted by sources in Oklahoma which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area are NO<sub>x</sub>, SO<sub>2</sub>, PM<sub>10-10</sub>, and PM<sub>2.5-2.5</sub>.

(c) The owner or operator of a BART-eligible source may request and obtain a waiver from the Department that a BART determination is not required:

- (1) for SO<sub>2</sub> or for NO<sub>x</sub> if the BART-eligible source has the potential to emit less than 40 TPY of such pollutant(s),
- (2) for PM<sub>10-10</sub> if the BART-eligible source has the potential to emit less than 15 TPY of such pollutant, or
- (3) if the owner or operator of the BART-eligible source demonstrates by modeling, in accordance with a protocol approved by the Director, that a source does not emit any air pollutant which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area.

## SUBCHAPTER 19. CONTROL OF EMISSION OF PARTICULATE MATTER

### 252:100-19-1.1. Definitions

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

**"Condensable particulate matter"** means material that is vapor phase at stack conditions, but which condenses and/or reacts upon cooling and dilution in the ambient air to form solid or liquid particulate matter immediately after discharge from the stack. Condensable particulate matter is considered PM<sub>2.5-2.5</sub>.

**"Filterable particulate matter"** means particles that are directly emitted by a source as a solid or liquid at stack or release conditions and captured on the filter of a stack test train.

**"Fuel-Burning unit"** means any internal combustion engine or gas turbine, or other combustion device used to convert the combustion of fuel into usable energy.

**"Fossil fuel"** means coal, petroleum, natural gas, or any fuel derived from coal, petroleum, or natural gas.

**"Haul road"** means a road on private property used to transport material or equipment by motorized vehicles.

**"Industrial process"** means any source, activity or equipment, excluding fuel-burning units, which can reasonably be expected to emit particulate matter. The term includes, but is not limited to crushing, milling, screening, mixing and conveying. The term does not include maintenance activities unless maintenance is the primary activity of the facility.

**"Particulate matter facility"** means a facility from which particulate matter is the predominant emission, excluding fugitive emissions and emissions resulting from control equipment malfunctions.

**"Total particulate matter"** means the sum of all filterable and condensable particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method.

**"Wood fuel"** means any fuel which, excluding air and water, is at least 80 percent by weight cellulose, hemicellulose and lignin, and has a heat value of less than 9,500 BTU per pound; or any wood derived fuel as approved by the Division.

## SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

### 252:100-23-3. Applicability, general requirements

(a) **Applicability.** Effective May 1, 1993, the provisions of this Subchapter are applicable to all new, modified, and existing cotton gins operating in the State of Oklahoma. Cotton gins in compliance with this Subchapter are exempt from the requirements of OAC 252:100-25, 252:100-19-12, and 252:100-29.

#### (b) General requirements.

(1) **Permits required.** In addition to the requirements of this Subchapter, each new or modified cotton gin shall comply with the permitting requirements of OAC 252:100-7.

(2) **Air toxics emissions.** The requirements of this Subchapter are in addition to any which may be required under OAC 252:100-42.

(3) **Recordkeeping.** The owner or operator of a cotton gin shall maintain a log documenting the daily process weight and hours of operation. Air emission control equipment replacement/repair costs shall also be recorded. These records shall be maintained for a period of two years and shall be made available for inspection by DEQ personnel during normal business hours.

#### (4) Test methods.

(A) Visible emissions testing shall be conducted using EPA reference method 9 contained in 40 CFR Part 60, Appendix A. Testing shall be performed by a Certified Visible Emissions Evaluator.

(B) Dispersion modeling for  $PM_{10-10}$  shall be performed using an EPA approved modeling method.

### 252:100-23-4. Visible emissions (opacity) and particulates

(a) **Opacity limit.** No person shall allow the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof exhibiting greater than 20% opacity. This requirement shall not apply to visible emissions exhibiting greater than 20% opacity emitted during short-term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.

(b) **Alternative opacity limit.** The 20% opacity limit as required under 252:100-23-4(a) may be increased for particulates only provided that the owner or operator demonstrates to the satisfaction of the Air Quality Advisory Council at public hearing that those requirements listed in 252:100-25-4(a) through (c) have been met.

(c)  **$PM_{10-10}$  emissions limit.** No cotton gin shall be operated so as to cause or contribute to a violation of the  $PM_{10-10}$  national ambient air quality standards or any other national ambient air quality standard established in 252:100-3.

## SUBCHAPTER 24. PARTICULATE MATTER EMISSIONS FROM GRAIN, FEED OR SEED OPERATIONS

### 252:100-24-4. Visible emissions (opacity) limit

(a) **Opacity limit.** No person shall allow the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter or any combination thereof exhibiting greater than 20% opacity. This requirement shall not apply to visible emissions exhibiting greater than 20% opacity emitted during short-term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours, during which the average of any six-minute period shall not exceed 60% opacity.

(b) **Alternate opacity limit.** The 20% opacity limit required under 252:100-24-4 (a) may be increased for particulates only provided that the owner or operator demonstrates to the satisfaction of the Air Quality Advisory Council at public hearing that those requirements listed in 252:100-25-4 (a) through (c) have been met.

(c) **Exceptions.** Exceptions to the 20% opacity limit described in 252:100-24-4 (a) are provided as follows:

- (1) Visible emissions from loading-out (shipping) shall be no more than sixty-five percent (65%) opacity, and visible emissions from unloading (receiving) shall be no more than fifty-five percent (55%) opacity.
- (2) Emissions from pressurized vents or openings without control devices shall either be enclosed, exhausted through a control device, or shall be limited to no greater than ten percent (10%) opacity.
- (3) Emissions from non-pressurized vents or openings without control devices shall be limited to no greater than 10% opacity.

### 252:100-24-7. Permit by rule

(a) **Applicability.** Any new or existing source may be constructed or operated under this section if it meets the requirements of 252:100-7-60(a), (b), and (c) and has the Standard Industrial Classification (SIC) code 5153, Grain and Field Beans.

#### (b) Requirements.

- (1) In addition to the requirements in 252:100-7-60(a), (b), and (c), an owner or operator of a facility subject to this section shall comply with all of the requirements of this Subchapter, with the exception of 252:100-24-5(a) and (b).
- (2) The total annual emissions of  $PM_{10-40}$  shall be calculated using the equation provided in Appendix L, which was derived from AP-42 9.9.1, Grain Elevators and Processes.
- (3) For grain storage elevators located at any wheat flour mill, wet corn mill, dry corn mill, rice mill or soybean oil extraction plant, with a permanent grain storage capacity of 35,200 m<sup>3</sup>, or grain terminal elevators with a permanent storage capacity of more than 88,100 m<sup>3</sup>, which have commenced construction, modification, or reconstruction after August 3, 1978, the requirements of 40 CFR, Part 60, Subpart DD are also applicable.

## SUBCHAPTER 25. VISIBLE EMISSIONS AND PARTICULATES

### **252:100-25-4. Alternative for particulates**

(a) The 20% opacity limit required under 252:100-25-3 may be increased for particulates only, provided that the owner or operator demonstrates to the satisfaction of the Air Quality Advisory Council at public hearing that:

(1) The owner or operator has installed air pollution control equipment to attempt to control both visible and particulate matter emissions to the limit required by applicable Subchapters.

(2) The pollution control equipment installed:

(A) Has been properly maintained.

(B) Is in good working order.

(C) Is operated to minimize emissions.

(3) The installed control equipment does not control opacity to the limit required in 252:100-25-3.

(4) The owner or operator has conducted stack test (s) using appropriate test methods as approved by the Division to determine mass emissions at maximum allowed capacity and has determined such emissions meet all applicable particulate matter requirements (i. e., permit limit, rule limit, process limit).

(5) The owner or operator has conducted detailed modeling and other measures (e. g., monitoring) deemed necessary by the Executive Director to demonstrate that the maximum impact of any increase of opacity will not exceed 5 ug/m<sup>3</sup> PM<sub>10-10</sub> 24-hour average at any point of impact or 1 ug/m<sup>3</sup> PM<sub>10-10</sub> annual average at any point of impact.

(b) Upon completion of the demonstration specified in (a) of this Section, the opacity allowed will be based on the opacity read by a Certified Visible Emission Evaluator at the time of the maximum operation stack test.

(c) Applications for an alternative under 252:100-25-4 will be submitted to the Director of the Division for review and recommendation to the Air Quality Advisory Council for final action.

## SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

### **252:100-35-1. Purpose**

The purpose of this Subchapter is to control emissions of carbon monoxide from stationary sources to prevent the National Ambient Air Quality Standard from being exceeded and ensure that the present level of air quality in Oklahoma is not degraded.

**APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]**

	<b>Sulfur Dioxide</b>	<b>PM<sub>10</sub></b>	<b>PM<sub>2.5</sub></b>	<b>Carbon Monoxide</b>	<b>Ozone</b>	<b>Nitrogen Dioxide</b>	<b>Lead</b>
<b>1-hr. max</b>	75 ppb <sup>(1)</sup>			40 mg/m <sup>3</sup> 35 ppm <sup>(2)</sup>		100 ppb <sup>(3)</sup>	
<b>8-hr. max</b>				10 mg/m <sup>3</sup> 9 ppm <sup>(2)</sup>	0.070 ppm <sup>(4)</sup>		
<b>24-hr. max</b>		150 ug/m <sup>3</sup> <sup>(5)</sup>	35 ug/m <sup>3</sup> <sup>(6)</sup>				
<b>3-month average</b>							0.15 ug/m <sup>3</sup> <sup>(7)</sup>
<b>Annual</b>			12.0 ug/m <sup>3</sup> <sup>(8)</sup>			53 ppb <sup>(9)</sup>	

<sup>(1)</sup> The standard is attained when the 3 year average of the 99th percentile of the daily maximum 1 hour average at each monitor within an area does not exceed 75 ppb, as determined in accordance with 40 CFR Part 50, Appendix T.

<sup>(2)</sup> The standard is attained when the 1 hour average concentration does not exceed 35 ppm and the 8 hour average concentration does not exceed 9 ppm as provided in 40 CFR 50.8.

<sup>(3)</sup> The standard is attained when the 3 year average of the 98th percentile of the daily maximum 1 hour average concentration at each monitor within an area does not exceed 100 ppb as determined in accordance with 40 CFR Part 50, Appendix S.

<sup>(4)</sup> The standard is attained when the computed 3 year average of the annual 4th highest daily maximum 8 hour average does not exceed 0.070 ppm, as provided in 40 CFR 50.19.

<sup>(5)</sup> The standard is attained when the expected number of days per calendar year with a 24 hour average concentration above 150 ug/m<sup>3</sup>, as determined in accordance with 40 CFR Part 50, Appendix K is equal to or less than one.

<sup>(6)</sup> The standard is attained when the 98th percentile concentration is equal to or less than the numerical standard as determined by 40 CFR Part 50, Appendix N.

<sup>(7)</sup> The standard is attained when the rolling 3 month maximum average does not exceed 0.15 ug/m<sup>3</sup> more than once during a 3 year period as provided in 40 CFR 50.16.

<sup>(8)</sup> The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR Part 50, Appendix N.

<sup>(9)</sup> The standard is attained when the annual arithmetic mean does not exceed 53 ppb as provided in 40 CFR 50.11.

**APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [REVOKED]**

	<b>Sulfur Dioxide</b>	<b>PM<sub>10</sub><sup>(1)</sup></b>	<b>PM<sub>2.5</sub></b>	<b>Carbon Monoxide<sup>(1)</sup></b>	<b>Ozone</b>	<b>Nitrogen Dioxide</b>	<b>Lead</b>
<b>1-hr. max</b>							
<b>3-hr. max</b>	1300 ug/m <sup>3</sup> <sup>(2)</sup> 0.5 ppm						
<b>8-hr. max</b>					0.070 ppm <sup>(3)</sup>		
<b>24-hr. max</b>							
<b>3-month average</b>							0.15 ug/m <sup>3</sup> <sup>(4)</sup>
<b>Annual</b>			15.0 ug/m <sup>3</sup> <sup>(5)</sup>			100 ug/m <sup>3</sup> 0.053 ppm <sup>(6)</sup>	

<sup>(1)</sup> ~~PM<sub>10</sub> and carbon monoxide have no secondary standard.~~

<sup>(2)</sup> ~~Not to be exceeded more than once per year~~

<sup>(3)</sup> ~~The standard is attained when the computed 3-year average of the annual 4th highest daily maximum 8-hour average does not exceed 0.070 ppm, as provided in 40 CFR 50.19.~~

<sup>(4)</sup> ~~The standard is attained when the rolling 3-month maximum average does not exceed 0.15 ug/m<sup>3</sup> more than once during a 3-year period as provided in 40 CFR 50.16.~~

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

<sup>(6)</sup> ~~Annual arithmetic mean~~

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

Before the Air Quality Advisory Council on April 22, 2026  
Before the Environmental Quality Board on June 9, 2026

**RULE IMPACT STATEMENT**

Subchapter 1. General Provisions

252:100-1-3 [AMENDED]

Subchapter 3. Air Quality Standards and Increments

252:100-3-1 [AMENDED]

252:100-3-2 [AMENDED]

252:100-3-3 [AMENDED]

Subchapter 7. Permits for Minor Facilities

252:100-7-15 [AMENDED]

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

252:100-8-1.5 [AMENDED]

252:100-8-52 [AMENDED]

252:100-8-54 [AMENDED]

252:100-8-54.1 [AMENDED]

252:100-8-73 [AMENDED]

Subchapter 19. Control of Emission of Particulate Matter

252:100-19-1.1 [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins

252:100-23-3 [AMENDED]

252:100-23-4 [AMENDED]

Subchapter 24. Particulate Matter Emissions from Grain, Feed or Seed Operations

252:100-24-4 [AMENDED]

252:100-24-7 [AMENDED]

Subchapter 25. Visible Emissions and Particulates

252:100-25-4 [AMENDED]

Subchapter 35. Control of Emission of Carbon Monoxide

252:100-35-1 [AMENDED]

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

**A. Statement of need for the rule change and legal basis supporting it.**

The Department of Environmental Quality (DEQ) is proposing to amend multiple rules (Subchapters 1, 3, 7, 8, 19, 23, 24, 25, and 35) and revoke two appendices (Appendices E and F) to ensure accuracy and consistency of terminology and standards throughout Chapter 100. The intent of this rulemaking is to ensure that references to the National Ambient Air Quality Standards (NAAQS) are up to date, consistent, and accurate.

The legal basis for the rulemaking is supported by:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-3-402, and 2-5-106.

Air Quality Advisory Council; 27A O.S. §§ 2-2-201 and 2-5-107.  
Oklahoma Clean Air Act; 27A O.S. §§ 2-5-101 through 2-5-130.  
Oklahoma Uniform Permitting Act; 27A O.S. §§ 2-14-101 through 2-14-304.

**B. Classification of rule change (major/non-major), justification for that classification, and business cost estimate over the first five (5) years.**

The rulemaking is a non-major rule change because no new costs are expected with this rulemaking and thus the business cost estimate will not exceed the threshold of \$1,000,000 over the initial five-year period following the promulgation of the rule, as defined in 75 O.S. Section 303(D)(3)(b). The rule change would update rule language and therefore there are no associated compliance costs that are reasonably expected to be incurred by or passed along to businesses, state or local government units, or individuals.

**C. Description of the purpose of the proposed rule change, whether the change is mandated by federal law or is required to participate in or implement a federal program, and whether the change exceeds the requirements of the federal law.**

This rulemaking reflects a long-needed cleanup in which outdated terms and formatting are updated to be in line with newer rules and accurate language. This rulemaking's primary purpose is to address the NAAQS in Subchapter 3, Appendix E, and Appendix F by replacing the written standards with a direct reference and citation to federal standards. In addition, there were multiple inconsistencies in the language that became apparent throughout Chapter 100. Specifically, the terminology for NAAQS, "Air Quality Advisory Council," and "Particulate Matter" varied across subchapters.

The gist of this rulemaking action and the purpose of the rule change is to ensure the federal standards are reflected accurately and to standardize terminology regarding such standards. The rule changes are not mandated by federal law, not required to participate in or implement a federal program, and do not exceed the federal requirements.

**D. Description of the classes of persons who most likely will be affected by the proposed rule(s), including classes that will bear the costs of the proposed rule(s), and any information on cost impacts received by the agency from any private or public entities.**

The classes of persons affected by the rulemaking would be the owners and operators of regulated sources of air emissions and the citizens of Oklahoma. These classes would ultimately bear the costs of the rule changes; however, there are no new costs associated with this rulemaking and DEQ has received no additional information on cost impacts from private or public entities.

**E. Description of the classes of persons who will benefit from the proposed rule(s).**

The owners and operators of regulated sources of air emissions and the citizens of Oklahoma will benefit from clear and standardized rule language which is the purpose of the rulemaking.

**F. Comprehensive analysis of the rule change's economic impact, including impacts to the full-time-employee count of the agency, costs or benefits, a quantification of**

**implementation and compliance costs on the affected businesses, business sectors, public utility ratepayers, individuals, state or local governments, and on the state as a whole, with a listing of all fee changes and justification for each fee change.**

DEQ expects negligible economic impact on the affected classes of persons (including businesses, business sectors, public utility ratepayers, individuals, state or local governments, and the state as a whole) from this rulemaking activity. There are no fee changes included in this rulemaking and DEQ expects no net loss or gain in revenues as a result. There will be no new quantitative impact on business entities and no expected change to the full-time-employee count of the agency from this rule proposal.

**G. Detailed explanation of methodology and assumptions used to determine the economic impact, including dollar amounts calculated.**

The economic impact of this rulemaking was determined to be negligible as the rulemaking addresses surface-level language and text corrections. As there is no assumed cost associated with the rulemaking, there is no methodology nor assumptions used to determine this impact.

**H. Determination of whether implementation of the proposed rule(s) will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule(s).**

DEQ anticipates no economic impact on political subdivisions due to this rulemaking activity and thus does not require their cooperation in implementation or enforcement.

**I. Determination of whether implementation of the proposed rule(s) may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.**

No adverse economic effects on owners and operators of small businesses are expected as a result of this rulemaking.

**J. Any measures taken by the agency to minimize cost and impact of the proposed rule change on business and economic development in the state, local governmental units, and for individuals.**

There are no additional compliance costs expected due to this rule, and thus no additional measures were taken by DEQ.

**K. Determination of the effect of the proposed rule(s) on the public health, safety and environment and, if the proposed rule(s) is/are designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk.**

The rule changes are not designed to reduce significant risk and will have a negligible effect on public health, safety, and the environment as a result of the rulemaking.

**L. Determination of any detrimental effect on the public health, safety and environment if the proposed rule(s) is/are not implemented.**

If the rule is not implemented there are no anticipated detrimental effects on public health, safety, and the environment.

**M. Analysis of alternatives to adopting the rule.**

DEQ has determined that there are no less costly or nonregulatory methods of achieving the purpose of the proposed change.

**N. Estimates of the amount of time that would be spent by state employees to develop the rule and of the amount of other resources that would be utilized to develop the rule.**

Approximately 136 hours would be spent on the research and development of this rule proposal by full-time state employees. Existing resources would be utilized to develop the rule, and no additional resources would be necessary.

**O. Summary and preliminary comparison of any existing or proposed federal regulations that are intended to address the activities to be regulated by the proposed rule.**

The rulemaking is intended to address the NAAQS in Subchapter 3, Appendix E, and Appendix F by replacing the written standards with a direct reference to federal standards in 40 CFR Part 50. Since this is a direct reference there are no other existing or proposed federal regulations that would address the activities covered by this rulemaking.

**P. This rule impact statement was prepared on: March 16, 2026**

**Modified on:**

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**MEMORANDUM**

**DATE:** April 8, 2026

**TO:** Members of the Air Quality Advisory Council

**FROM:** Kendal Stegmann, Director *KS*  
Air Quality Division

**SUBJECT:** Proposed Rule Amendments to Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

The Department of Environmental Quality (DEQ) is proposing to modify language in OAC 252-100-8-6 to correct typographical errors and provide greater clarity to permitted facilities on the subject of operational flexibility. This proposed rule revision does not change DEQ's current policy or practice related to operational flexibility. It only seeks to reduce ambiguity by better aligning the existing rule with federal language concerning operational flexibility as contained in 40 CFR 70.4(b)(12)(i).

Notice of the proposed rule changes was published in the *Oklahoma Register* on March 16, 2026. As of the date of this memo, no comments have been received. A copy of the proposed rule revision is enclosed, along with a copy of the Rule Impact Statement.

This is the first time this proposal has been presented to the Council for consideration. At the April 22, 2026, AQAC meeting, staff will ask the Council to recommend the rule to the Environmental Quality Board for adoption as a permanent rule at its June 9, 2026, meeting.

Enclosures: Proposed amendments to OAC 252:100-8-6  
Rule Impact Statement

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

**SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES AND MAJOR NEW SOURCE  
REVIEW (NSR) SOURCES**

**252:100-8-6. Permit Content**

(a) **Standard permit requirements.** Part 70 permits issued under this Chapter shall include all applicable requirements and state-only requirements (as defined in OAC 252:100-8-2) that apply to the permitted source at the time of issuance. Each permit shall include the elements in paragraphs (1) through (4) of subsection (a) of this Section.

(1) **Emission limitations and standards.** The permit shall specify emissions limitations and standards that constitute applicable requirements and state-only requirements and shall include those operational conditions and limitations necessary to assure compliance with all such requirements.

(A) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement or state-only requirement upon which the term or condition is based.

(B) The permit shall state that, where an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by EPA.

(C) If the State implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.

(2) **Permit duration.**

(A) **Operating permits.** The permit shall specify a fixed term. The DEQ shall issue permits for any fixed period requested in the permit application, not to exceed five years, except as follows:

(i) Permits issued to affected sources shall in all cases have a fixed term of five years.

(ii) Permits issued to solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act shall have a term not to exceed 12 years. Such permits shall be reviewed every five years.

(B) **Construction permits.** See OAC 252:100-8-1.4.

(3) **Monitoring and related recordkeeping and reporting requirements.**

(A) **Monitoring requirements.**

(i) The permit shall specify all emissions monitoring and analysis procedures or test methods required under applicable requirements and state-only requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act.

(ii) The permit shall specify periodic monitoring during the relevant time period sufficient to yield reliable data that are representative of the source's compliance with the permit, as reported pursuant to (a)(3)(C) of this section when an applicable requirement or state-only requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring). Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement or state-only requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subparagraph.

(iii) The permit shall specify as necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(iv) The permit shall contain provisions for the permittee to request the use of alternative test methods or analysis procedures, and provisions for the DEQ to approve or disapprove the request within 60 days.

**(B) Recordkeeping requirements.** The permit shall incorporate all applicable recordkeeping requirements.

(i) When applicable the permit shall require records of required monitoring information that include:

(I) the date, place as defined in the permit, and time of sampling or measurements;

(II) the date(s) analyses were performed;

(III) the company or entity that performed the analyses;

(IV) the analytical techniques or methods used;

(V) the results of such analyses; and

(VI) the operating conditions existing at the time of sampling or measurement.

(ii) When applicable, the permit shall require retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original stripchart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Where appropriate, the permit may specify that records may be maintained in computerized form.

**(C) Reporting requirements.** The permit shall incorporate all applicable reporting requirements and contain the following requirements.

(i) A permit issued under this Part shall require the permittee to submit a report of any required monitoring at least every six months. To the extent possible, the schedule for submission of such reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification. However, the reports may be submitted at any time within the reporting period, as stipulated in the permit.

(ii) Each report submitted under (C)(i) of this paragraph shall identify any exceedances from permit limits since the previous report that have been

monitored by the monitoring systems required under the permit, and any deviation from the testing, monitoring, operating, recordkeeping and reporting requirements under the permit.

(iii) In addition to semiannual monitoring reports, each permittee shall be required to submit the following supplemental reports.

(I) Any exceedance resulting from an emergency as defined in OAC 252:100-8-2 or upset conditions as defined in the permit shall be reported promptly but no later than 4:30 p.m. on the next working day after the permittee first becomes aware of the exceedance. The initial report must contain a description of the emergency or upset conditions, any steps taken to mitigate emissions, and corrective actions taken. Quantification of exceedances attributable to emergencies or upset conditions shall be made by the best available method.

a. In accordance with OAC 252:100-9-7, the permittee shall submit a follow-up written excess emission report. This is a state-only requirement.

b. If the permittee wishes to request consideration of mitigating factors for excess emissions, the report must include all information necessary to establish the emergency under OAC 252:100-9-8. This is a state-only provision.

(II) Any exceedance that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable; but under no circumstance shall notification be more than 24 hours after exceedance.

(III) Any other exceedances that are identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

(IV) All reports of exceedances shall identify the probable cause of the exceedances and any corrective actions or preventive measures taken.

(iv) Every report submitted under this subsection shall be certified by a responsible official or designee.

**(4) Risk management plans.** If the source is required to develop and register a risk management plan pursuant to section 112(r) of the Act, the permit need only specify that the permittee will comply with the requirement to register such a plan. Although the requirement to have a risk management plan may be a term of the permit, the risk management plan contents are not part of the permit.

**(5) Title IV allowances.**

(A) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(B) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(C) The permit shall prohibit emissions exceeding any allowance that the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder. Compliance with this paragraph will be determined on January 31st of any given year and be based on actual emissions and the number of allowances held for the previous calendar year.

(6) **Severability clause.** The permit shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

(7) **General requirements.** The permit shall include the following provisions.

(A) The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Oklahoma Clean Air Act and is grounds for:

(i) enforcement action;

(ii) permit termination, revocation and reissuance, or modification; or

(iii) denial of a permit renewal application.

(B) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. However, nothing in this subsection shall be construed as precluding consideration of a need to halt or reduce activity as a mitigating factor in assessing penalties for noncompliance if the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations.

(C) The permit may be modified, revoked, reopened, and reissued, or terminated for cause. Except as provided under OAC 252:100-8-7.2(b)(1) for minor permit modifications, the filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(D) The permit does not convey any property rights of any sort or any exclusive privilege.

(E) The permittee shall furnish to the DEQ, upon receipt of a written request and within a reasonable time, any information that the DEQ may request to determine whether cause exists for modifying, reopening, or revoking and reissuing or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the DEQ copies of records required to be kept by the permit. The permittee may make a claim of confidentiality pursuant to 27A O.S. § 2-5-105.18 for any information or records submitted under this paragraph.

(8) **Fees.** The permit shall provide that the permittee will pay fees to the DEQ consistent with the fee schedule established under OAC 252:100-5-2.2.

(9) **Emissions trading.** The permit shall provide that no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.

(10) **Operating scenarios.** The permit shall include terms and conditions applicable to all operating scenarios described in the permit application and eligible for approval under applicable requirements and state-only requirements. The permit shall authorize the permittee to make changes among operating scenarios authorized in the permit without notice, but shall require the permittee contemporaneously with making a change from one

operating scenario to another to record in a log at the permitted facility the scenario under which it is operating.

(11) **Emissions averaging.** The permit shall include terms and conditions, if the permit applicant requests them, for the trading or averaging of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading or averaging such increases and decreases. Such terms and conditions shall include terms under subsections (a) and (c) of this Section to determine compliance and shall satisfy all requirements of the applicable requirements authorizing such trading or averaging.

**(b) Federally enforceable requirements.**

(1) Except as provided in paragraph (b)(2) of this Section, all terms and conditions in a permit issued under this Section, including any provisions designed to limit a source's potential to emit, are enforceable by the DEQ, by EPA, and by citizens under section 304 of the Act.

(2) Notwithstanding paragraph (b)(1) of this Section, the DEQ shall designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or any of its applicable requirements, and such terms and conditions shall not be enforceable by EPA and citizens under section 304 of the Act.

**(c) Compliance requirements.** All permits issued under this Part shall contain the following elements with respect to compliance.

(1) Consistent with paragraph (a)(3) of this Section, the permit shall contain compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this Part shall contain a certification by a responsible official as to the results of the required monitoring.

(2) The permit shall contain inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized officials of the DEQ to:

(A) enter upon the permittee's premises during reasonable/normal working hours where a source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(B) have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(C) inspect at reasonable times and using reasonable safety practices any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(D) as authorized by the Oklahoma Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit.

(3) The permit shall contain a schedule of compliance if required under OAC 252:100-8-5(e)(8)(B).

(4) To the extent required under an applicable schedule of compliance and OAC 252:100-8-5(e)(8), the permit shall contain the requirement for progress reports to be submitted semiannually or more frequently if specified in the applicable requirement or by the DEQ. Such progress reports shall contain:

- (A) dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and
  - (B) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- (5) The permit shall contain requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall contain all of the following specifications and requirements.
- (A) Each permit shall specify the frequency (which shall be annually unless the applicable requirement or state-only requirement specifies submission more frequently) of submissions of compliance certifications.
  - (B) Each permit shall specify in accordance with paragraph (a)(3) of this Section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices.
  - (C) Each permit shall include a requirement that the compliance certification include:
    - (i) the identification of each term or condition of the permit that is the basis of the certification;
    - (ii) the permittee's current compliance status, as shown by monitoring data and other information available to the permittee;
    - (iii) whether compliance was continuous or intermittent;
    - (iv) the method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a)(3) of this Section; and
    - (v) such other facts as the DEQ may require to determine the compliance status of the source.
  - (D) Each permit shall contain a requirement that all compliance certifications be submitted to EPA as well as to the DEQ.
  - (E) Each permit shall contain such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act.
- (6) Each permit shall contain such other provisions as the DEQ may require.

**(d) Permit shield.**

- (1) Each operating permit issued under this Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.
- (2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to

extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

(3) A Part 70 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(4) Nothing in this Section or in the permit shall alter or affect:

(A) the provisions of section 303 of the Act, including the authority of the Administrator under that section;

(B) the liability of an owner or operator of a source for any violation of applicable requirements or state-only requirements prior to or at the time of permit issuance;

(C) the applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(D) the ability of EPA to obtain information from a source pursuant to section 114 of the Act.

**(e) Emergencies.**

(1) An emergency may qualify for consideration of mitigating factors for excess emissions during malfunctions, as authorized in OAC 252:100-9-8, in an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph (e)(3) of this Section and the reporting requirements of OAC 252:100-8-6(a)(3)(C)(iii)(I) are met.

(2) Qualification for consideration of mitigating factors shall be demonstrated through properly signed, contemporaneous operating logs or other relevant evidence that:

(A) an emergency occurred and that the permittee can identify the cause(s) of the emergency;

(B) the permitted facility was at the time being properly operated;

(C) during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or other requirements in the permit.

(3) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(4) The provision in this subsection is in addition to any emergency or upset provision contained in any applicable requirement or OAC 252:100-9.

**(f) Operational flexibility.**

(1) **Applicant's duty to apply for alternative scenarios.** A facility may implement any alternative operating scenario allowed for in its Part 70 permit without the need for any permit revision or any notification to the permitting authority. It is incumbent upon the Part 70 permit applicant to apply for any reasonably anticipated alternative facility operating scenarios at the time of initial or renewal permit application.

(2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make the following changes within the facility without the need for any permit revision, provided (A), (B), and (C) below are met:-

(A) ~~Such a source may make~~ The changes that are not modifications under any provision of Title I of the Act.

(B) ~~Such a source may make~~ The changes that do not cause any hourly or annual permitted emission rate of any existing emissions unit to be exceeded.

(C) ~~Such a source may make changes that result in a net change in emissions of zero, provided that the~~ The facility notifies the DEQ and EPA in writing at least 7

days in advance of the proposed changes. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The source, DEQ, and EPA shall attach each such notice to their copy of the relevant permit. ~~For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in OAC 252:100-8-6(d) does not apply to any change made pursuant to this subsection.~~

**(3) Permit shield applicability.** The permit shield described in OAC 252:100-8-6(d) does not apply to any change made pursuant to OAC 252:100-8-6(f)(2) above.

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

Before the Air Quality Advisory Council on April 22, 2026  
Before the Environmental Quality Board on June 9, 2026

**RULE IMPACT STATEMENT**

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources  
252:100-8-6 [AMENDED]

**A. Statement of need for the rule change and legal basis supporting it.**

This rulemaking proposes to update language in OAC 252:100-8-6 to correct typographical errors and improve rule language. The gist of this proposal is to provide greater clarity to permitted facilities on the subject of operational flexibility.

The legal basis for the proposed changes is supported by:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-3-402, and 2-5-106.

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

Oklahoma Clean Air Act; 27A O.S. §§ 2-5-101 through 2-5-130.

Oklahoma Uniform Permitting Act; 27A O.S. §§ 2-14-101 through 2-14-304.

**B. Classification of rule change (major/non-major), justification for that classification, and business cost estimate over the first five (5) years.**

The proposed rule change is a non-major rule change because no new costs are expected with this rulemaking and thus the business cost estimate will not exceed the threshold of \$1,000,000 over the initial five-year period following the promulgation of the proposed rule, as defined in 75 O.S. Section 303(D)(3)(b).

**C. Description of the purpose of the proposed rule change, whether the change is mandated by federal law or is required to participate in or implement a federal program, and whether the change exceeds the requirements of the federal law.**

The Department of Environmental Quality (DEQ) is proposing to amend OAC 252:100-8-6(f), which describes operational flexibility for Part 70 sources. The purpose of the revision is to better align the existing rule with the language concerning operational flexibility as contained in 40 CFR 70.4(b)(12)(i), which draws from the federal Clean Air Act (CAA) Section 502(b)(10).

In addition, DEQ is proposing to correct two instances of a missing space between words in OAC 252:100-8-6. These two typos and the language improvements to subsection (f) are not substantive changes in terms of rule interpretation.

**D. Description of the classes of persons who most likely will be affected by the proposed rule(s), including classes that will bear the costs of the proposed rule(s), and any information on cost impacts received by the agency from any private or public entities.**

The classes of persons affected by the proposed changes would be the owners and operators of regulated sources of air emissions. These classes would ultimately bear the costs of the proposed rule changes; however, there are no new costs associated with this rulemaking, and DEQ has received no additional information on cost impacts from private or public entities.

**E. Description of the classes of persons who will benefit from the proposed rule(s).**

The owners and operators of regulated sources of air emissions will benefit from the improved clarity this rulemaking will provide.

**F. Comprehensive analysis of the rule change's economic impact, including impacts to the full-time-employee count of the agency, costs or benefits, a quantification of implementation and compliance costs on the affected businesses, business sectors, public utility ratepayers, individuals, state or local governments, and on the state as a whole, with a listing of all fee changes and justification for each fee change.**

DEQ expects negligible economic impact on the affected classes of persons (including businesses, business sectors, public utility ratepayers, individuals, state or local governments, and the state as a whole) from this rulemaking activity. There are no fee changes included in this rulemaking and DEQ expects no net loss or gain in revenue as a result. There will be no new quantitative impact on business entities and no expected change to the full-time-employee count of the agency from this rule proposal.

**G. Detailed explanation of methodology and assumptions used to determine the economic impact, including dollar amounts calculated.**

The economic impact of this rulemaking was determined to be negligible, as the rulemaking does not create or remove any obligation under OAC 252:100. As there is no assumed cost associated with this rulemaking, there was no methodology or assumption used to determine this negligible impact.

**H. Determination of whether implementation of the proposed rule(s) will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule(s).**

DEQ anticipates no economic impact on political subdivisions due to this rulemaking activity and thus does not require their cooperation in implementation or enforcement.

**I. Determination of whether implementation of the proposed rule(s) may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.**

DEQ anticipates no adverse economic effects on owners and operators of small business due to this rulemaking.

**J. Any measures taken by the agency to minimize cost and impact of the proposed rule change on business and economic development in the state, local governmental units, and for individuals.**

DEQ anticipates no additional compliance costs due to this rulemaking and has therefore not taken any additional measures.

**K. Determination of the effect of the proposed rule(s) on the public health, safety and environment and, if the proposed rule(s) is/are designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk.**

This rulemaking is not designed to reduce significant risk and will have a negligible effect on public health, safety, and the environment.

**L. Determination of any detrimental effect on the public health, safety and environment if the proposed rule(s) is/are not implemented.**

DEQ anticipates no detrimental effect on public health, safety, or the environment if the rulemaking is not implemented.

**M. Analysis of alternatives to adopting the rule.**

DEQ has determined that there are no less costly or nonregulatory methods of achieving the purpose of the proposed change.

**N. Estimates of the amount of time that would be spent by state employees to develop the rule and of the amount of other resources that would be utilized to develop the rule.**

Approximately 60 hours would be spent on the research and development of this rulemaking proposal by full-time state employees. Existing resources would be utilized to develop the rule, and no additional resources would be necessary.

**O. Summary and preliminary comparison of any existing or proposed federal regulations that are intended to address the activities to be regulated by the proposed rule.**

This rulemaking addresses operational flexibility for Part 70 sources, which are allowed to make certain changes without a permit revision under 40 CFR 70.4(b)(12)(i). The changes that are deemed permissible under Part 70 are codified at CAA Section 502(b)(10). The intent of this rulemaking is to better align the existing rule with the language contained in 40 CFR Part 70 and CAA Section 502.

**P. This rule impact statement was prepared on: March 16, 2026  
Modified on:**