

**REGULAR MEETING/HEARING AGENDA
AIR QUALITY ADVISORY COUNCIL
July 24, 2024, 9:00 a.m.
Tulsa Tech – Owasso Campus
10800 N 137th East Avenue
Owasso, OK 74055**

Please turn off cell phones



1. **Call to Order** – Laura Lodes, Chair
2. **Roll Call** – Quiana Fields
3. **Resolution for Mr. Collins** – Laura Lodes, Chair
4. **Approval of Minutes** – April 24, 2024 Special Meeting
5. **Election of Officers** - Discussion and action by Council
6. **Public Rulemaking Hearing**

**A. Chapter 100. Air Pollution Control
Appendix E. Primary Ambient Air Quality Standards [AMENDED]**

The Department of Environmental Quality (Department or DEQ) is proposing to amend Appendix E to maintain consistency with the National Ambient Air Quality Standards (NAAQS). Specifically, the PM_{2.5} Primary Standard is being amended to reflect recent changes made by EPA in lowering the annual standard from 12.0 µg/m³ to 9.0 µg/m³. The gist of the proposed rule is to ensure Appendix E is consistent with the federal NAAQS.

1. Presentation – Leon Ashford, 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 1. General Provisions
252:100-1-3. Definitions [AMENDED]
Subchapter 7. Permits for Minor Facilities
Part 9. PERMITS BY RULE
252:100-7-60. Permit by rule [AMENDED]
Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources
Part 5. PERMITS FOR PART 70 SOURCES
252:100-8-4. Requirements for construction and operating permits [AMENDED]

The Department is proposing to amend existing rule language in sections 252:100-7-60, Permit by rule, and 252:100-8-4, Requirements for construction and operating permits, to clarify requirements for electronic submission of applications for air quality permits. The Department is proposing to amend additional existing rule language in 252:100-8-4, as well as section 252:100-1-3, Definitions, to clarify construction and operating permit requirements associated with modification of an existing minor facility (i.e., subject to Subchapter 7) such that it will become a Part 70 source (i.e., subject to Subchapter 8). The gist of the proposed rule is to clarify air quality permit requirements related to electronic submission of applications, and to minor facilities that are transitioning to Part 70 sources.

1. Presentation – Brooks Kirlin, P.E., 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

C. Chapter 100. Air Pollution Control
Subchapter 7. Permits for Minor Facilities
Part 9. PERMITS BY RULE
252:100-7-60.5 Oil and natural gas sector [AMENDED]

The Department is proposing to amend the Permit By Rule (PBR) in OAC 252:100-7-60.5, Oil and natural gas sector, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated requirements in 40 C.F.R. Part 60, Subpart OOOOb Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After December 6, 2022 (NSPS Subpart OOOOb). Additionally, the proposed amendment would allow the use of legally and practicably enforceable (LPE) limits when determining a facility's eligibility for the PBR. The gist of the proposed rule is to clarify source eligibility criteria for the PBR and ensure that the current PBR allows facilities potentially subject to NSPS Subpart OOOOb to take LPE limits to avoid applicability of the federal requirements for certain equipment.

1. Presentation – Tom Richardson, P.E., 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. **Division Director's Report** – Kendal Stegmann, Division Director, AQD
8. **New Business** – Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.
9. **Adjournment** – The next regular meeting is scheduled for Wednesday, October 2, 2024, in Oklahoma City, 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:

Appendix E. Primary Ambient Air Quality Standards [AMENDED]

SUMMARY:

The Department is proposing to amend Appendix E to maintain consistency with the National Ambient Air Quality Standards (NAAQS). Specifically, the PM_{2.5} Primary Standard is being amended to reflect recent changes made by EPA in lowering the annual standard from 12.0 µg/m³ to 9.0 µg/m³. The gist of the proposed rule is to ensure Appendix E is consistent with the federal NAAQS.

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 June 17, 2024, through July 17, 2024. Oral comments may be made at the July 24, 2024 Air Quality Advisory Council meeting and at the September 10, 2024 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, July 24, 2024, at the Tulsa Tech-Owasso Campus, 10800 North 137th East Avenue, Owasso, OK 74055.

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 Tuesday, September 10, 2024, at the Choctaw Nation of Oklahoma Headquarters, 1802 Chukka Hina Drive, Durant, OK 74701.

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://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>.

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://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>. 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. 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 1. General Provisions

252:100-1-3. Definitions [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 9. PERMITS BY RULE

252:100-7-60. Permit by rule [AMENDED]

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

Part 5. PERMITS FOR PART 70 SOURCES

252:100-8-4. Requirements for construction and operating permits [AMENDED]

SUMMARY:

The Department is proposing to amend existing rule language in sections 252:100-7-60, Permit by rule, and 252:100-8-4, Requirements for construction and operating permits, to clarify requirements for electronic submission of applications for air quality permits. The Department is proposing to amend additional existing rule language in 252:100-8-4, as well as section 252:100-1-3, Definitions, to clarify construction and operating permit requirements associated with modification of an existing minor facility (i.e., subject to Subchapter 7) such that it will become a Part 70 source (i.e., subject to Subchapter 8). The gist of the proposed rule is to clarify air quality permit requirements related to electronic submission of applications, and to minor facilities that are transitioning to Part 70 sources.

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 June 17, 2024, through July 17, 2024. Oral comments may be made at the July 24, 2024 Air Quality Advisory Council meeting and at the September 10, 2024 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, July 24, 2024, at the Tulsa Tech-Owasso Campus, 10800 North 137th East Avenue, Owasso, OK 74055.

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 Tuesday, September 10, 2024, at the Choctaw Nation of Oklahoma Headquarters, 1802 Chukka Hina Drive, Durant, OK 74701.

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://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>.

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://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>. 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. 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 7. Permits for Minor Facilities

Part 9. PERMITS BY RULE

252:100-7-60.5 Oil and natural gas sector [AMENDED]

SUMMARY:

The Department of Environmental Quality (Department or DEQ) is proposing to amend the Permit By Rule (PBR) in OAC 252:100-7-60.5, Oil and natural gas sector, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated requirements in 40 C.F.R. Part 60, Subpart OOOOb Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After December 6, 2022 (NSPS Subpart OOOOb). Additionally, the proposed amendment would allow the use of legally and practicably enforceable (LPE) limits when determining a facility's eligibility for the PBR. The gist of the proposed rule is to clarify source eligibility criteria for the PBR and ensure that the current PBR allows facilities potentially subject to NSPS Subpart OOOOb to take LPE limits to avoid applicability of the federal requirements for certain equipment.

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 June 17, 2024, through July 17, 2024. Oral comments may be made at the July 24, 2024 Air Quality Advisory Council meeting and at the September 10, 2024 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, July 24, 2024, at the Tulsa Tech-Owasso Campus, 10800 North 137th East Avenue, Owasso, OK 74055.

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 Tuesday, September 10, 2024, at the Choctaw Nation of Oklahoma Headquarters, 1802 Chukka Hina Drive, Durant, OK 74701.

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://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>.

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://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>. 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. 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.

**DRAFT MINUTES
AIR QUALITY ADVISORY COUNCIL
SPECIAL MEETING
April 24, 2024
Department of Environmental Quality
Oklahoma City, Oklahoma**

Official AQAC Approved
at July 24, 2024 Meeting

Notice of Public Meeting – The Air Quality Advisory Council (AQAC) convened for its Special Meeting at 9:00 a.m. on April 24, 2024. Notice of the meeting was forwarded to the Office of Secretary of State on February 5, 2024. The agenda was posted at the DEQ twenty-four hours prior to the meeting. Also, Ms. Beverly Botchlet-Smith acted as Protocol Officer and convened the hearings by the AQAC in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A, Oklahoma Statutes, Sections 2-2-201 and 2-5-101 through 2-5-117. She entered the agenda and the Oklahoma Register Notice into the record and announced that 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

Matt Caves
Gregory Elliott
James Farrell
Garry Keele
John Privrat
Jeffrey Taylor
Laura Lodes

MEMBERS ABSENT

Gary Collins

DEQ STAFF PRESENT

Beverly Botchlet-Smith
Kendal Stegmann
Jennifer Boyle
Tom Richardson
Brooks Kirlin
Melanie Foster
Lee Warden
Eli Klimek
Phillip Fielder
Rick Groshong
Phil Martin
Austin Sides
Travis Couch
Jared Milano
Cheryl Bradley
Camas Frey
Malcolm Zachariah
Quiana Fields

Approval of Minutes – Ms. Lodes called for a motion to approve the Minutes of the October 4, 2023 Regular Meeting. Mr. Taylor moved to approve and Mr. Keele made the second.

See transcript pages 2 - 4

Matt Caves	Yes	John Privrat	Yes
Gregory Elliott	Yes	Jeffrey Taylor	Yes
James Farrell	Yes	Laura Lodes	Yes
Garry Keele	Yes		

Public Rulemaking Hearing

Chapter 100. Air Pollution Control

Subchapter 7. Permits for Minor Facilities

Part 9. Permits by rule

252:100-7-60.5 Oil and natural gas sector [AMENDED]

Mr. Tom Richardson, Professional Engineer, Rules & Planning Section of the AQD, stated the Department of Environmental Quality (Department or DEQ) is proposing to amend the Permit By Rule (PBR) in OAC 252:100-7-60.5, Oil and natural gas sector, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated requirements in 40 C.F.R. Part 60, Subpart OOOOb Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After December 6, 2022 (NSPS Subpart OOOOb). Additionally, the proposed amendment would allow the use of legally and practicably enforceable (LPE) limits when determining a facility's eligibility for the PBR. The gist of the proposed rule is to clarify source eligibility criteria for the PBR and ensure that the current PBR allows facilities potentially subject to NSPS Subpart OOOOb to take LPE limits to avoid applicability of the federal requirements for certain equipment. Hearing questions and comments by the Council and by the public, Ms. Lodes called for a motion, Mr. Farrell moved to approve the rule with the amendment to subparagraph (E), Recordkeeping, with the revision to subparagraph (5), moving "and" down to 6 and placing a comma after 6, followed by "and". Subject to those edits, move approval the rule and Mr. Caves made the second.

See transcript pages 5 - 33

Matt Caves	Yes	John Privrat	Yes
Gregory Elliott	Yes	Jeffrey Taylor	Yes
James Farrell	Yes	Laura Lodes	Yes
Garry Keele	Yes		

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

See transcript page 34

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

New Business – None

Adjournment – Ms. Lodes called for a motion to adjourn the meeting. Mr. Elliott moved to adjourn and Mr. Keele made the second. The next scheduled Regular Meeting is on Wednesday, July 24, 2024, in Tulsa/Owasso, Oklahoma. Meeting adjourned at 9:43 a.m.

Matt Caves	Yes	John Privrat	Yes
Gregory Elliott	Yes	Jeffrey Taylor	Yes
James Farrell	Yes	Laura Lodes	Yes
Garry Keele	Yes		

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

<p>Page 1</p> <p>1</p> <p>2 SPECIAL MEETING/HEARING</p> <p>3 AIR QUALITY ADVISORY COUNCIL</p> <p>4 APRIL 24, 2024, 9:00 AM</p> <p>5</p> <p>6 MEMBERS PRESENT</p> <p>7 Laura Lodes</p> <p>8 Garry Keele II</p> <p>9 Matt Caves</p> <p>10 Gregory Elliott</p> <p>11 John Privrat</p> <p>12 James Farrell</p> <p>13 Jeffrey Taylor</p> <p>14</p> <p>15 MEMBERS ABSENT</p> <p>16 Gary Collins</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 REPORTED BY: Jenny Longley, CSR</p>	<p>Page 3</p> <p>1 Do we have any comments or discussion</p> <p>2 on the minutes?</p> <p>3 Hearing none, do I have a motion to</p> <p>4 approve the minutes?</p> <p>5 MR. TAYLOR: I'll make that motion to</p> <p>6 approve the October 4th minutes.</p> <p>7 CHAIRWOMAN LODES: Thank you.</p> <p>8 Do I have a second?</p> <p>9 MR. KEELE: Second.</p> <p>10 CHAIRWOMAN LODES: I have a motion and a</p> <p>11 second. Will you please call roll?</p> <p>12 MS. FIELDS: Mr. Caves?</p> <p>13 MR. CAVES: Yes.</p> <p>14 MS. FIELDS: Mr. Elliott?</p> <p>15 MR. ELLIOTT: Yes.</p> <p>16 MS. FIELDS: Mr. Farrell?</p> <p>17 MR. FARRELL: Yes.</p> <p>18 MS. FIELDS: Mr. Keele?</p> <p>19 MR. KEELE: Yes.</p> <p>20 MS. FIELDS: Mr. Privrat?</p> <p>21 MR. PRIVRAT: Yes.</p> <p>22 MS. FIELDS: Mr. Taylor?</p> <p>23 MR. TAYLOR: Yes.</p> <p>24 MS. FIELDS: Ms. Lodes?</p> <p>25 CHAIRWOMAN LODES: Yes.</p>
<p>Page 2</p> <p>1 PROCEEDINGS</p> <p>2 CHAIRWOMAN LODES: Hello. We will call</p> <p>3 today's meeting of the Air Quality Advisory Council</p> <p>4 to order.</p> <p>5 Quiana, will you please call roll?</p> <p>6 MS. FIELDS: Mr. Caves?</p> <p>7 MR. CAVES: Here.</p> <p>8 MS. FIELDS: Mr. Collins is absent.</p> <p>9 Mr. Elliott?</p> <p>10 MR. ELLIOTT: Here.</p> <p>11 MS. FIELDS: Mr. Farrell?</p> <p>12 MR. FARRELL: Here.</p> <p>13 MS. FIELDS: Mr. Keele?</p> <p>14 MR. KEELE: Here.</p> <p>15 MS. FIELDS: Mr. Privrat?</p> <p>16 MR. PRIVRAT: Here.</p> <p>17 MS. FIELDS: Mr. Taylor?</p> <p>18 MR. TAYLOR: Here.</p> <p>19 MS. FIELDS: Ms. Lodes?</p> <p>20 CHAIRWOMAN LODES: Here.</p> <p>21 MS. FIELDS: We have a quorum.</p> <p>22 CHAIRWOMAN LODES: Thank you.</p> <p>23 The next item on today's agenda is</p> <p>24 approval of the minutes from the October 4, 2023</p> <p>25 regular meeting.</p>	<p>Page 4</p> <p>1 MS. FIELDS: Motion passed.</p> <p>2 CHAIRWOMAN LODES: Thank you.</p> <p>3 The next item on today's agenda is</p> <p>4 the Public Rulemaking Hearing portion.</p> <p>5 MS. BOTCHLET-SMITH: Good morning. I am</p> <p>6 Beverly Botchlet-Smith, Assistant Director of the</p> <p>7 Air Quality Division, and I will serve as the</p> <p>8 protocol officer for today's hearings.</p> <p>9 The hearings will be convened by the</p> <p>10 Air Quality Council in compliance with the Oklahoma</p> <p>11 Administrative Procedures Act and Title 40 of the</p> <p>12 Code of Federal Regulations, Part 51, as well as the</p> <p>13 authority of Title 27A of the Oklahoma Statutes,</p> <p>14 Section 2-2-201 and Sections 2-5-101 through</p> <p>15 2-5-117.</p> <p>16 Notice of the April 24, 2024 hearings</p> <p>17 were advertised in the Oklahoma Register for the</p> <p>18 purpose of receiving comments pertaining to the</p> <p>19 proposed OAC Title 252 Chapter 100 rules as listed</p> <p>20 on the Agenda and will be entered into each record</p> <p>21 along with the Oklahoma Register filing. Notice of</p> <p>22 the Meeting was filed with the Secretary of State on</p> <p>23 February 5, 2024. The agenda was duly posted 24</p> <p>24 hours prior to the meeting here at the DEQ.</p> <p>25 If you wish to make a statement, it</p>

<p>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 prior to making those comments. 6 At this time, we will proceed with 7 what's marked as Agenda Item 4-A on the hearing 8 agenda. This is Chapter 100, Air Pollution Control; 9 Subchapter 7, Permits for Minor Facilities; Part 9, 10 Permits by rule; 252:100-7-60.5, Oil and natural gas 11 sector (Amended). 12 And Mr. Tom Richardson, who's a 13 Professional Engineer in the Rules Section, will 14 give the staff presentation today. 15 MR. RICHARDSON: Thank you, Beverly. Is 16 the microphone on? Excellent. 17 Good morning, Madam Chair, Members of 18 the Council, Ladies and Gentlemen. I am Tom 19 Richardson, an engineer in the Air Quality 20 Division's Rules & Planning Section, and my purpose 21 today is to present proposed changes to our state 22 permitting rules, specifically to the Oil and 23 Natural Gas Permit By Rule or PBR in Subchapter 7 of 24 Chapter 100. 25 Next slide.</p>	<p>Page 5</p> <p>1 today will be the development of legally and 2 practicably enforceable limits for tank batteries. 3 Next slide. 4 This slide includes language from the 5 rule defining "storage vessel affected facility". 6 It is notable that this definition includes the 7 entire tank battery within the definition of this 8 emission unit, not just the individual tank. 9 Therefore, if you have a facility with multiple 10 tanks manifolded together, the entire tank battery 11 is considered to be a single "storage vessel 12 affected facility" under this rule. 13 Next slide. 14 Slide 6 shows the definition of 15 legally and practicably enforceable limits provided 16 in the Preamble to the Final Rule. While I will not 17 read this definition, I do wish to point out the 18 expanded criteria included in this definition. 19 Next slide. 20 It's important, when it comes to the 21 legally and practicably enforceable limits in this 22 rule, to note that there are a number of key 23 required elements. Those elements are shown here, 24 again, and I won't read those elements, but this is 25 definitely an increase in the rigor that's required</p> <p>Page 7</p>
<p>1 This slide summarizes the topics I 2 will cover. First, I will say a few words about 3 EPA's New Source Performance Standards or NSPS, 4 Subpart OOOOb that addresses emissions from the oil 5 and natural gas sector. Then I will discuss legally 6 and practicably enforceable limits or LPE limits on 7 tank batteries, giving the DEQ's interpretation and 8 also the interpretation EPA provided to us in an 9 informal, verbal manner. I will give an overview of 10 the rule language we are proposing, I will summarize 11 our responses to written comments, and lastly, I 12 will discuss next steps. 13 Next slide. 14 This slide shows the first page of 15 the Final Rule Federal Register notice for the NSPS 16 Subpart OOOOb and the image of a table showing the 17 emission units that will be covered by the rule. 18 The Final Rule was published on March 8, 2024, and 19 the effective date is May 7, 2024. 20 Next slide. 21 NSPS OOOOb covers a number of 22 different types of sources and introduces a number 23 of new requirements. We are adding a reference to 24 NSPS Subpart OOOOb in our proposed changes to the 25 Oil and Gas PBR, but the focus of our discussion</p> <p>Page 6</p>	<p>1 from the previous rules that covered this sector. 2 Next slide. 3 Steps in the process. This is an 4 outline of the steps in the process that an 5 applicant would follow to secure these legally and 6 practicably enforceable limits. Of course, first, 7 submit an application for an authorization to 8 construct under the Oil and Gas PBR that establishes 9 the limits in advance; second, demonstration of 10 initial compliance; third, demonstration of 11 continuous compliance; fourth, recordkeeping; and 5, 12 the requirement to reassess on either modification 13 or reconstruction. 14 Next slide. 15 This is an important issue. Oklahoma 16 DEQ sets a permit-limited cap on emissions, and the 17 question becomes is that sufficient as a 18 demonstration of initial compliance, that is, does 19 the acceptance of a cap short-circuit the 20 requirement to demonstrate initial compliance during 21 the first 30 days that the tank battery received 22 liquids. 23 DEQ's answer, our response to that 24 question, is yes. It is our interpretation that a 25 cap on emissions (accepted in advance of operation)</p> <p>Page 8</p>

<p>Page 9</p> <p>1 that is established in the federally enforceable New</p> <p>2 Source Review (NSR) permit - which is also referred</p> <p>3 to by us as a DEQ-issued construction permit - that</p> <p>4 that is a sufficient mechanism to limit potential to</p> <p>5 emit so that a tank battery will not meet the</p> <p>6 definition of "storage vessel affected facility"</p> <p>7 under NSPS Subpart OOOOb.</p> <p>8 Next slide.</p> <p>9 We did reach out to EPA, and our</p> <p>10 colleagues at EPA Region 6 reached out to the permit</p> <p>11 -- rather, to the rule writers and gave us their</p> <p>12 feedback. Their answer differs from ours. EPA's</p> <p>13 answer is that the rule writers intended that the</p> <p>14 owner-operator demonstrate initial compliance using</p> <p>15 the "maximum average daily throughput" during the</p> <p>16 first 30 days of production.</p> <p>17 Then, after the initial compliance</p> <p>18 demonstration, they believe it is acceptable to</p> <p>19 demonstrate continuous compliance with the LPE</p> <p>20 limits each calendar month, recording actual monthly</p> <p>21 throughput and calculating monthly and 12-month</p> <p>22 rolling total emissions of VOCs and methane.</p> <p>23 Next slide.</p> <p>24 Now I'm going to transition to the</p> <p>25 Chapter 100 changes, specifically changes to</p>	<p>Page 11</p> <p>1 that the Permit By Rule, even if it isn't amended,</p> <p>2 still can authorize that construction and operation.</p> <p>3 Further, the additional language has been added for</p> <p>4 clarification and for completeness.</p> <p>5 Next slide.</p> <p>6 This language amends the eligibility</p> <p>7 criteria for the Oil and Gas PBR by exempting</p> <p>8 greenhouse gases for the 40 TPY eligibility</p> <p>9 threshold, and that's in the "A" under "1".</p> <p>10 This language was amended -- the</p> <p>11 language below was amended to clarify that the</p> <p>12 limitations on emissions imposed by any federal New</p> <p>13 Source Performance Standard (NSPS) or National</p> <p>14 Emissions Standard for Hazardous Air Pollutants</p> <p>15 (NESHAP) may be used to determine eligibility for</p> <p>16 the Oil and Natural Gas PBR. Limits accepted under</p> <p>17 the Oil and Natural Gas PBR, which will be discussed</p> <p>18 later, are imposed under the Oil and Gas PBR and are</p> <p>19 discussed in more detail, again, later.</p> <p>20 Next slide.</p> <p>21 The language here adds a reference to</p> <p>22 Subpart NSPS OOOOb and clarifies that all emission</p> <p>23 units addressed by that rule may be covered by the</p> <p>24 Oil and Natural Gas PBR. Again, while this</p> <p>25 clarification is not strictly necessary to ensure</p>
<p>Page 10</p> <p>1 Subchapter 7, Permits for Minor Facilities, the</p> <p>2 Permits By Rule under Part 9. So please, Council</p> <p>3 Members, turn in your folder to the proposed</p> <p>4 amendments to the rule text in Chapter 100,</p> <p>5 Subchapter 7.</p> <p>6 By the way, this document is</p> <p>7 available on the web and there is a link provided in</p> <p>8 the presentation, and I think we do intend to post</p> <p>9 the presentation later? Yes, we will post the</p> <p>10 presentation later.</p> <p>11 Next slide.</p> <p>12 So, first of all, I'd like to point</p> <p>13 out that all changes proposed today address the</p> <p>14 Permit by Rule, or PBR, for the Oil and Natural Gas</p> <p>15 Sector (also known as the Oil and Gas PBR).</p> <p>16 The current language in the Oil and</p> <p>17 Natural Gas PBR allows facilities to be constructed</p> <p>18 and operated even if those facilities will be</p> <p>19 subject to NSPS Subpart OOOOb.</p> <p>20 And I would like to maybe just</p> <p>21 restate that. We do believe that our current PBR</p> <p>22 does allow new facilities to be constructed and</p> <p>23 operated. Even though the current PBR language does</p> <p>24 not specifically call out OOOOb, we do believe that</p> <p>25 it is a mechanism for ensuring ongoing compliance</p>	<p>Page 12</p> <p>1 coverage, including this language is less likely to</p> <p>2 lead to confusion.</p> <p>3 Next slide.</p> <p>4 The vast majority of the new rule</p> <p>5 language is included in this new subsection (d).</p> <p>6 This subsection provides the mechanism for</p> <p>7 facilities to accept legally and practicably</p> <p>8 enforceable limits (LPE limits) on tank batteries to</p> <p>9 keep those tank batteries from becoming classified</p> <p>10 as "storage vessel affected facilities" under NSPS</p> <p>11 Subpart OOOOb.</p> <p>12 Note, new language under paragraph</p> <p>13 (1) under subsection (d) establishes limits on a</p> <p>14 volatile organic compounds (VOCs), and also on</p> <p>15 methane emissions.</p> <p>16 Further, new subparagraph (A)</p> <p>17 establishes the foundational elements that will be</p> <p>18 used for the demonstration of compliance with these</p> <p>19 LPE limits.</p> <p>20 And please note, the information</p> <p>21 highlighted in yellow has been added after the</p> <p>22 proposed rule changes were posted on March 15th. So</p> <p>23 on March 15th, the language has been amended and any</p> <p>24 language amended since March 15th will show up</p> <p>25 highlighted in yellow here on the screen and, for</p>


<p>Page 13</p> <p>1 Council Members, will also show up in your packets.</p> <p>2 Next slide.</p> <p>3 Note, new subparagraph (B), shown,</p> <p>4 provides the control options and control</p> <p>5 requirements. The applicant must submit forms - and</p> <p>6 those forms are currently under development - which</p> <p>7 specify which control option (or options) will be</p> <p>8 used. If, for example, an applicant elects to use a</p> <p>9 vapor recovery unit, or VRU, with a flare as a</p> <p>10 back-up control device, the applicant must specify</p> <p>11 both options. In that case, requirements for both</p> <p>12 options would apply.</p> <p>13 Further, compliance options for the</p> <p>14 LPE limits under the Oil and Gas PBR are limited to</p> <p>15 VRUs and - again highlighted in red - nonassisted</p> <p>16 flares and nonassisted enclosed combustion devices,</p> <p>17 but for other purposes (not for the LPE limits),</p> <p>18 other types of flares will be allowed if those</p> <p>19 flares are operated in accordance with NSPS Subpart</p> <p>20 OOOOb.</p> <p>21 Next slide.</p> <p>22 New subparagraph (C), as shown on the</p> <p>23 screen, provides the requirements to demonstrate</p> <p>24 initial and continuous compliance with the LPE</p> <p>25 limits, and then units (i) for nonassisted flares</p>	<p>Page 13</p> <p>1 Then new subparagraph (E) establishes</p> <p>2 recordkeeping requirements, and the recordkeeping,</p> <p>3 again, is a backstop for all of the requirements</p> <p>4 mentioned in the language above. (2), below, is</p> <p>5 just a placeholder.</p> <p>6 Next slide.</p> <p>7 New subsection (e) carves out</p> <p>8 exceptions from other state-only rule language in</p> <p>9 Chapter 100, and we would note these are state-only</p> <p>10 requirements.</p> <p>11 Because this is an emergency</p> <p>12 rulemaking, these exceptions are meant to isolate</p> <p>13 the amended Oil and Gas PBR from restrictions</p> <p>14 included in other parts of Chapter 100, where those</p> <p>15 restrictions might contradict authorities that we</p> <p>16 are endorsing here in this revised Permit By Rule.</p> <p>17 It is anticipated that these issues</p> <p>18 will be addressed, in other words, we will go into</p> <p>19 the other components of Chapter 100 and address</p> <p>20 those issues more completely when (and if) a</p> <p>21 permanent rule change is brought before the Council.</p> <p>22 Next slide.</p> <p>23 Summary of Comments and DEQ</p> <p>24 Responses. As shown on this slide, the DEQ received</p> <p>25 written comments from a single stakeholder, the</p>
<p>Page 14</p> <p>1 and enclosed combustion devices and (ii) for VRU</p> <p>2 provides the specific requirements for the operation</p> <p>3 of those units.</p> <p>4 In response to a comment on the</p> <p>5 proposed rule - and the comments will be discussed</p> <p>6 later - the DEQ added Gas Processors Association, or</p> <p>7 GPA, Method 2261 as an alternative for determining</p> <p>8 net heating value, and other approved methods will</p> <p>9 also be allowed.</p> <p>10 And then below, the language in</p> <p>11 subunit (VI) is added for completeness. Again,</p> <p>12 whenever the closed vent system is not in operation,</p> <p>13 then those emissions would be calculated separate</p> <p>14 from applying the controls required -- or, accepted</p> <p>15 above.</p> <p>16 Next slide.</p> <p>17 New subparagraph (D) shown at the top</p> <p>18 requires reporting of any exceedances. This</p> <p>19 approach was chosen rather than a more cumbersome</p> <p>20 requirement to report continued compliance, that is,</p> <p>21 we're not requiring continued compliance to be</p> <p>22 reported, we are actually requiring any exceedances</p> <p>23 to be reported to confirm that those exceedances</p> <p>24 have occurred, and the absence of that reporting</p> <p>25 would show continued compliance.</p>	<p>Page 15</p> <p>1 Petroleum Alliance of Oklahoma.</p> <p>2 Comments were submitted as an</p> <p>3 attachment to an email from Bud Ground, and that</p> <p>4 email was received on April 10th of 2024.</p> <p>5 We do have a Response to Comments</p> <p>6 document - I believe that was posted this morning,</p> <p>7 is that right - posted on the web, and a copy has</p> <p>8 been placed in each of the folders for the Council</p> <p>9 Members.</p> <p>10 And here, I will provide a brief</p> <p>11 summary of the comments and DEQ's response to each</p> <p>12 comment.</p> <p>13 Next slide.</p> <p>14 I'm not going to read the comments or go</p> <p>15 into much detail, and some of these issues were</p> <p>16 addressed earlier in my slides.</p> <p>17 But the first comment really goes to the</p> <p>18 heart of the matter, and that is, can the</p> <p>19 owner-operator actually use annual average emissions</p> <p>20 to determine compliance.</p> <p>21 Our response is broken into two parts.</p> <p>22 The first is the DEQ's position, and the DEQ's</p> <p>23 position is that demonstration of continued</p> <p>24 compliance requires monthly and 12-month rolling</p> <p>25 total calculations of emissions to demonstrate</p>

<p>Page 17</p> <p>1 initial and ongoing compliance. That's a</p> <p>2 longstanding practice under the Oil and Gas PBR, and</p> <p>3 this practice will be carried forward under this</p> <p>4 PBR.</p> <p>5 Next slide.</p> <p>6 However, we did reach out to our</p> <p>7 colleagues at EPA Region 6, and they were able to</p> <p>8 give us verbal feedback. Again, this is verbal</p> <p>9 feedback, it's in an informal basis, we have not yet</p> <p>10 received written comment from our colleagues at EPA</p> <p>11 Region 6.</p> <p>12 But they did reach out to the rule</p> <p>13 writers, and they came back with a different</p> <p>14 interpretation. The interpretation we've received</p> <p>15 is that there is a requirement for an initial</p> <p>16 compliance determination that occurs during the</p> <p>17 first 30 days that an individual tank or tank</p> <p>18 battery receives fluids and that that determination</p> <p>19 should be based on the maximum average daily</p> <p>20 throughput, annualized, and plugged into some sort</p> <p>21 of method of determining emissions on a ton/year</p> <p>22 basis. That's the information received from EPA</p> <p>23 Region 6.</p> <p>24 By the way, we would contend - and that's</p> <p>25 the paragraph below - as an important note, we</p>	<p>Page 19</p> <p>1 are considered generally acceptable, and we will</p> <p>2 address those with our guidance.</p> <p>3 Next slide.</p> <p>4 The third comment refers to methane, and</p> <p>5 again, methane hasn't been used and it hasn't been</p> <p>6 necessary to demonstrate compliance with the Oil and</p> <p>7 Gas PBR or the PBR before amendment. To demonstrate</p> <p>8 compliance, we do believe that methane calculations</p> <p>9 using process simulators will be sufficient.</p> <p>10 Comment 4 is with regard to the VRU and</p> <p>11 whether a flare can be used as a back-up control</p> <p>12 device, and we referenced that above when we were</p> <p>13 talking about the forms that are under development.</p> <p>14 Yes, we do believe that the Oil and Gas PBR, as</p> <p>15 amended, provides a mechanism for both the VRU to be</p> <p>16 used and the flare as a back-up.</p> <p>17 Next slide.</p> <p>18 Comment 5 addresses a question about flow</p> <p>19 meters on low pressure streams. We have looked at</p> <p>20 the EPA requirements for legally and practicably</p> <p>21 enforceable limits, and because we're limiting this</p> <p>22 PBR to nonassisted flares and nonassisted enclosed</p> <p>23 combustors, we do not see any requirement to monitor</p> <p>24 or record the flow to the flares. There is a</p> <p>25 requirement to demonstrate the pilot light is</p>
<p>Page 18</p> <p>1 believe that the language we've developed for this</p> <p>2 emergency rulemaking is capable of being used to</p> <p>3 develop guidance that would follow either pathway.</p> <p>4 So while we believe that our interpretation is</p> <p>5 correct, if necessary we believe we could issue</p> <p>6 guidance that would require an adjustment to the</p> <p>7 method of demonstrating compliance to fall in line</p> <p>8 with this EPA feedback, and we have not yet</p> <p>9 developed that guidance, so just wanted to make that</p> <p>10 clear.</p> <p>11 Next slide.</p> <p>12 The Petroleum Alliance allowed whether</p> <p>13 there will be different calculation methods</p> <p>14 required, our response is no. The calculation</p> <p>15 methods currently used to demonstrate compliance</p> <p>16 with both the Oil and Gas GP and the Oil and Gas PBR</p> <p>17 are the methods we would expect companies to use to</p> <p>18 comply with this new Oil and Gas PBR.</p> <p>19 We would point out - and this will come up</p> <p>20 again in a later comment - with regard to methane,</p> <p>21 typically methane has not been required, but that</p> <p>22 there are process simulators that have the ability</p> <p>23 to estimate emissions. We would anticipate many</p> <p>24 applicants will use those process simulators,</p> <p>25 further, there may be other methods developed that</p>	<p>Page 20</p> <p>1 operating and other requirements, but this</p> <p>2 requirement we do not find in the rules as</p> <p>3 finalized.</p> <p>4 Next slide.</p> <p>5 Petroleum Alliance requested confirmation</p> <p>6 that an existing facility covered by the PBR would</p> <p>7 not be required to have an LPE to stay under its</p> <p>8 current PBR, and the Alliance's understanding is</p> <p>9 correct.</p> <p>10 We would also note - and this is maybe not</p> <p>11 directly asked in the question, but we'd like to</p> <p>12 point this out for clarity - a facility that was</p> <p>13 determined to have an uncontrolled PTE based on its</p> <p>14 first 30 days of operation that turned out to be</p> <p>15 less than the VOC methane thresholds could later, if</p> <p>16 they chose, accept these LPE limits. But that's</p> <p>17 just a clarification.</p> <p>18 Comment 7. The Alliance asked if the</p> <p>19 existing PBR can be used to allow new facilities</p> <p>20 that are subject to this new NSPS OOOOb to be</p> <p>21 constructed and operated without LPE limits, the</p> <p>22 answer is yes.</p> <p>23 Next slide.</p> <p>24 Comment 8. The Alliance requested</p> <p>25 confirmation that existing facilities that want</p>

<p>Page 21</p> <p>1 these enforceable limits to exempt their tanks from 2 the requirements of OOOO or OOOOa, and those are the 3 previous -- the current rules that are in place, 4 that that will not be affected by the emergency 5 rule. 6 And we can confirm -- in our response, we 7 can confirm that existing facilities do not need to 8 make any changes to their current PBR and if they've 9 already taken a 6 TPY limit to exempt their tanks 10 from OOOO or OOOOa, but that existing facilities 11 will covered by the current PBR. 12 Further, there is the issue of the 13 Emission Guidelines that have been developed under 14 this new rule, and that's referred to as OOOOc. 15 Those Emission Guidelines are a few years in the 16 future, and that will probably need to be addressed 17 at some point, but that action has been deferred in 18 today's rulemaking. 19 Comment 9. The Alliance asked if 20 air-assisted flares will be allowed under the new 21 PBR. Our response is that air-assisted flares, as a 22 control option to demonstrate compliance with the 23 LPE limits that were discussed above are not - I'll 24 say again - not allowed under the PBR. However, an 25 air-assisted flare may be used under the PBR to</p>	<p>Page 23</p> <p>1 requirement for throughput. 2 Next slide. 3 Our response is that due to the nature of 4 the PBR and the nature of the cap, the throughput 5 limits are not acceptable as the exclusive method of 6 demonstrating continuous compliance. Therefore, we 7 believe that individual facility permit is a more 8 appropriate vehicle for developing that sort of 9 method of compliance, but that for the PBR, due to 10 its generic nature, needs to have monthly and 11 12-month totals both in terms of throughput, but 12 also in terms of emission calculations to 13 demonstrate compliance with this cap. 14 Next slide. 15 Chapter 100, Subchapter 7 Changes. This 16 concludes my presentation on our proposed changes to 17 Chapter 100, Subchapter 7. We would note staff 18 requests that the Air Quality Council recommend the 19 proposed rule revisions to Subchapter 7-60.5 as 20 presented today, that those be recommended to the 21 Air Quality Board -- or, sorry, the Environmental 22 Quality Board for adoption as an emergency rule. 23 Thank you for listening, and I will now 24 turn it over to Beverly Botchlet-Smith and she will 25 take the next steps.</p>
<p>Page 22</p> <p>1 control emissions from "storage vessel affected 2 facilities" if those "storage vessel affected 3 facilities" are subject to the requirements of the 4 NSPS. So air-assisted flares, steam-assisted 5 flares, other flares, if those flares are operated 6 in accordance with OOOOb, those are allowed under 7 the PBR; they're not allowed to support LPE limits. 8 Next slide. 9 Question 10. The Alliance asked if the 10 PBR registration form has been developed, alas, it 11 has not. We've been thinking about development of 12 these forms, but that will be downstream of what 13 occurs today with regard to this rulemaking. 14 Comment 11. The Alliance requested that 15 the method referenced in proposed rule language be 16 changed to include the use of GPA Method 2261 and, 17 as we mentioned previously, we have endorsed that 18 comment and that language is now added to the 19 emergency proposal. 20 Next slide. 21 Comment 12. The Alliance asked the 22 following rule -- asked for the following rule 23 language change, and this again goes to this idea of 24 are we requiring monthly and 12-month rolling total 25 emission calculations or could that just be a</p>	<p>Page 24</p> <p>1 Thank you, Beverly. 2 MS. BOTCHLET-SMITH: Thanks, Tom. 3 At this time, we can take questions 4 from the Council. Any discussion? 5 MR. CAVES: Mr. Richardson, I had a 6 question on Slide 17, I think it was a response to 7 Alliance Comment 11, the addition of other approved 8 method. Is that just to allow some latitude in 9 enforcement, discretion, is that what the intent is 10 there? 11 MR. RICHARDSON: I hadn't really thought 12 about it that way, but I think -- these methods are 13 under development, and I think the language of the 14 EPA is something like generally accepted methods; so 15 I think that would be handled in our guidance. 16 We have guidance that is currently in 17 place, and I think that guidance will be evolving 18 and as new methods are developed, some may be 19 developed by EPA, some may be developed by, you 20 know, various entities. I think we want to just be 21 able to evaluate that and add that to our list of 22 approved methods, but yes. 23 MS. BOTCHLET-SMITH: Any other questions? 24 We have one notice of comment from 25 the audience, Bud Ground from the Petroleum</p>

<p>Page 25</p> <p>1 Alliance.</p> <p>2 Bud, do you want to comment still?</p> <p>3 MR. GROUND: I feel like I should. Good</p> <p>4 morning, I'm Bud Ground with the Petroleum Alliance</p> <p>5 of Oklahoma, and I want to just to tell you thank</p> <p>6 you for the response. I did not see it this</p> <p>7 morning, so I -- this is the first I'm seeing of it,</p> <p>8 but I need to go back and read it in detail. I</p> <p>9 think you did a -- you've done a very good job of, I</p> <p>10 believe, answering the question -- questions and</p> <p>11 making the one change.</p> <p>12 The 12-month rolling average versus</p> <p>13 monthly, I'm still not sure about that, I don't know</p> <p>14 that I even have a question to ask for it, but I</p> <p>15 will -- I thought you did answer; so I appreciate</p> <p>16 that.</p> <p>17 And this came from multiple companies</p> <p>18 within the Alliance, this was not any -- it's</p> <p>19 definitely not from me, it was from multiple</p> <p>20 companies that had questions about how this was</p> <p>21 going to be implemented in the compliance, and of</p> <p>22 course we want to comply with these regulations; so</p> <p>23 we want to make sure we understand what they are.</p> <p>24 I really don't have anything further</p> <p>25 to ask, but I do appreciate your response and what</p>	<p>Page 27</p> <p>1 So it is an interim patch, per se.</p> <p>2 MS. BOTCHLET-SMITH: We're just confirming</p> <p>3 that that is the correct date of expiration?</p> <p>4 CHAIRWOMAN LODES: Right?</p> <p>5 MR. COUCH: It expires one year after</p> <p>6 adoption or a year after the date they choose to</p> <p>7 adopt it. So emergency rules -- by the way, I'm</p> <p>8 Travis Couch, supervising attorney. Emergency rules</p> <p>9 are -- once adopted by the board, the Governor has</p> <p>10 45 days to act on that, and at that point they are</p> <p>11 immediately effective instead of waiting until</p> <p>12 legislative approval and all that, as permanent</p> <p>13 rules normally would.</p> <p>14 After they're effective, they're only</p> <p>15 allowed to be effective for one year; so we have one</p> <p>16 year from that effective date to make a permanent</p> <p>17 rule that reflects the changes we want.</p> <p>18 CHAIRWOMAN LODES: So will we have a gap</p> <p>19 next summer? If we have -- if this rule goes into</p> <p>20 effect in, like, July and we've amended it, but it</p> <p>21 can't go final for our permanent version until</p> <p>22 September, are we going to have a gap?</p> <p>23 MR. COUCH: We could -- I think the plan,</p> <p>24 when you mentioned September, was to make it</p> <p>25 effective -- instead of being effective immediately</p>
<p>Page 26</p> <p>1 you've done for this.</p> <p>2 MS. BOTCHLET-SMITH: Thank you.</p> <p>3 I do want to give anyone else in the</p> <p>4 audience that would like to ask a question or make a</p> <p>5 comment the opportunity to do so. So if anyone has</p> <p>6 a comment, would you please raise your hand?</p> <p>7 CHAIRWOMAN LODES: There are none.</p> <p>8 MS. BOTCHLET-SMITH: Okay. Seeing none,</p> <p>9 we'll give the Council one more opportunity to ask</p> <p>10 questions or discuss their options.</p> <p>11 CHAIRWOMAN LODES: And so everyone</p> <p>12 understands, this is an emergency rule; so we have</p> <p>13 one year to correct and revise it, correct? And</p> <p>14 that's -- isn't that correct on it, we have one year</p> <p>15 on it?</p> <p>16 MS. FOSTER: It will expire in September.</p> <p>17 Next September.</p> <p>18 CHAIRWOMAN LODES: So September of '25, so</p> <p>19 we will have to act on it -- this will be back</p> <p>20 before us again. It's an emergency rule because of</p> <p>21 the deadlines for this -- because of when the</p> <p>22 effective date of OOOOb is, and then we're going to</p> <p>23 see this again, likely at the next couple Council</p> <p>24 meetings, as we try to get into a final set of</p> <p>25 rulemaking for something that we're going to have.</p>	<p>Page 28</p> <p>1 upon Governor approval, set the date for September</p> <p>2 so there is no gap. So it's going to be effective a</p> <p>3 little bit later, but there won't be a gap next</p> <p>4 summer.</p> <p>5 CHAIRWOMAN LODES: Okay.</p> <p>6 MR. COUCH: Yeah.</p> <p>7 CHAIRWOMAN LODES: So we won't actually --</p> <p>8 MR. KEELE: Do you want to do that now or</p> <p>9 do you want to do it later?</p> <p>10 MR. COUCH: Right.</p> <p>11 CHAIRWOMAN LODES: So if we -- we can</p> <p>12 adopt it as the emergency rule, but we won't be able</p> <p>13 to use it -- or, I guess we can start -- it won't be</p> <p>14 in effect until September?</p> <p>15 MS. FOSTER: So we -- the Governor's -- so</p> <p>16 go to the EQB and then the Governor's review time;</p> <p>17 so that's probably the most squish of what timing</p> <p>18 because we don't know, that 45 days that he has,</p> <p>19 when he will do that in there. But the expectation</p> <p>20 is that we will let it be effective upon his</p> <p>21 signature, I still think.</p> <p>22 MR. COUCH: Yeah. Yes. So -- and it will</p> <p>23 -- okay. It will be effective through</p> <p>24 September 14th, following the next legislative</p> <p>25 session; so I misspoke a little bit earlier.</p>

<p>Page 29</p> <p>1 CHAIRWOMAN LODES: Okay. So we won't have 2 a gap?</p> <p>3 MR. COUCH: No.</p> <p>4 CHAIRWOMAN LODES: Okay.</p> <p>5 MS. FOSTER: If we get a permanent rule in 6 place by our October Council meeting.</p> <p>7 CHAIRWOMAN LODES: So we have to pass the 8 permanent rule this coming October for it to be in 9 effect by September '25; correct?</p> <p>10 MS. FOSTER: (Nodded head).</p> <p>11 CHAIRWOMAN LODES: Okay. So we will be 12 seeing this rule again in July and October, as a 13 Final Rule.</p> <p>14 MS. BOTCHLET-SMITH: I just -- I would 15 like to recognize Bud Ground. I think he had a 16 question related to this.</p> <p>17 MR. GROUND: I do. Do you want me to come 18 back up there or just --</p> <p>19 MS. BOTCHLET-SMITH: If you would, just to 20 make sure the microphones capture it.</p> <p>21 MR. GROUND: Bud Ground with Petroleum 22 Alliance. I actually had one other question that 23 was not included in this letter that I sent to 24 Melanie, and it actually had to do with the gap 25 because there is a gap for those facilities that go</p>	<p>Page 31</p> <p>1 and they will just have to comply with OOOOb. 2 At least, that is our current 3 interpretation, and I'm looking for Rick Groshong, 4 who's our --</p> <p>5 MS. FOSTER: Individual permit options.</p> <p>6 MR. RICHARDSON: I would say -- Melanie, 7 thank you.</p> <p>8 So Melanie pointed out the only 9 alternative is to accept an LPE limit under an 10 individual facility permit, but just due to the time 11 necessary to apply and get that approved, I don't 12 know that we've had a single facility come through 13 the individual permitting process. But again, 14 apologies, we don't have a mechanism to address 15 that, at least until this rule is final.</p> <p>16 And Rick, did you want to speak to 17 that or --</p> <p>18 MR. GROSHONG: No, I think it...</p> <p>19 MR. RICHARDSON: Thanks again for the 20 question.</p> <p>21 MS. BOTCHLET-SMITH: Thank you, Tom. 22 So back to the Council for any 23 additional questions?</p> <p>24 MR. FARRELL: It's not a question, but I 25 guess you can blame the lawyer. I just wanted to</p>
<p>Page 30</p> <p>1 into operation between May 7th and September or 2 whenever that goes. So there is -- and I just 3 wanted them to maybe explain how -- how the agency's 4 going to handle that gap period.</p> <p>5 MR. RICHARDSON: Thank you for the 6 question. So we would recognize that May 7th is 7 when the effective date of this rule goes into 8 effect, so the rule that we're discussing today will 9 not be in place by May 7th.</p> <p>10 And in addition, we would point out 11 December 6th of 2022 is the date after which 12 facilities that were constructed and began operation 13 are potentially subject, and in this case, 14 retroactively starting on May 7th.</p> <p>15 So there will be a gap between 16 December 6th of 2022 and whenever this rule finally 17 is approved by the Governor, and during that gap, 18 any facility that was constructed and operated that 19 has emission units subject to this regulation will 20 just have to operate under that regulation.</p> <p>21 So these LPE limits that we're 22 putting in place now, those LPE limits will only 23 start after approval by the Governor. So there will 24 be a gap for facilities with -- "storage vessel 25 affected facilities" subject to OOOOb requirements,</p>	<p>Page 32</p> <p>1 point out one technical edit, this would be on 2 Subsection (E), Recordkeeping, and would be Part 3 (5). We've got an "and" after the comma, which I 4 would just propose to move down to 6, place the 5 comma after 6, followed by "and" since we're rolling 6 into 7 there. Does that make sense?</p> <p>7 MR. KEELE: Yep.</p> <p>8 CHAIRWOMAN LODES: Thank you.</p> <p>9 Any other comments or discussion by 10 the Council?</p> <p>11 MR. COUCH: Mr. Farrell? Could you make 12 that in a motion so it's on the record?</p> <p>13 CHAIRWOMAN LODES: Yeah, I was going to 14 say, the -- well, I need to call for a motion now if 15 we have no other comments; right?</p> <p>16 MS. BOTCHLET-SMITH: Right.</p> <p>17 CHAIRWOMAN LODES: Yeah.</p> <p>18 MS. BOTCHLET-SMITH: But it does need to 19 include that.</p> <p>20 CHAIRWOMAN LODES: Yes.</p> <p>21 So if we have no other comments or 22 discussions, I need a motion to approve the rule and 23 I need it to include your edits.</p> <p>24 MR. FARRELL: Okay. Well, I move to 25 approve the rule with the amendment to subparagraph</p>

<p>Page 33</p> <p>1 (E), Recordkeeping, with the revision to 2 subparagraph (5), moving "and" down to 6 and placing 3 a comma after 6, followed by "and". Subject to 4 those edits, I move to approve the rule. 5 CHAIRWOMAN LODES: I have a motion. Do I 6 have a second? 7 MR. CAVES: I'll second. 8 CHAIRWOMAN LODES: I have a motion and a 9 second. Please call roll. 10 MS. FIELDS: Mr. Caves? 11 MR. CAVES: Yes. 12 MS. FIELDS: 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: Ms. Lodes? 23 CHAIRWOMAN LODES: Yes. 24 MS. FIELDS: Motion passed. 25 CHAIRWOMAN LODES: Thank you.</p>	<p>Page 35</p> <p>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 hearing 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 2nd day of 11 May, 2024. 12  13 14 Jenny Longley, CSR 15 CSR # 1903 16 17 18 19 20 21 22 23 24 25</p>
<p>Page 34</p> <p>1 MS. BOTCHLET-SMITH: That concludes the 2 hearing portion of today's meeting. 3 (HEARING CONCLUDED AT 9:38 AM) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	



AIR QUALITY ADVISORY COUNCIL

Attendance Record

April 24, 2024 (Special Meeting)

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Cheryl Bradley

DEQ - AQD

Malcolm Zachariah

DEQ-AQD

Jeff Taylor

DEQ AQD

MELANIE FOSTER

DEQ AQD

Kendal Stegmann

AQD

Tom Richardson

DEQ, AQD

Jared Milner

DEQ AQD

ANGIE BURCKHALTER

ANGIE@OKPETRO.COM

Bud Ground

Matt Cowles

AQC

Beverly Botchlet-Smith

DEQ AQD

Carlton O'Hair - Devcon Energy

carlton.chau@devcon.com

LEE WARDEN

DEQ HQD

Grey Elliott

AQAC

KALE HANNER

ONEOK

KALE.HANNER@ONEOK.COM

Kristal Casey DNV

KRISTAL.CASEY@DNV.COM

Joe Grossman DNV

Joe.Grossman@dnv.com

Travis Couch

DEQ AQD

Garry Keel

garry.keel@montecito.com

Jim FARRELL

AQAC

Quang Fields

DEQ

Eli Klimek

DEQ

Tim Wang

DEQ

Phillip Fultz

DEQ

Camas Frey

DEQ

Rick Gresham

DEQ



AIR QUALITY ADVISORY COUNCIL

Attendance Record

April 24, 2024 (Special Meeting)
Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
Phil Martin DEQ	
Krishn Ikard MHT	KrishnIkard@mhtconsulting.us
Justin Byrne Canvas Energy	justin.byrne@canvasenergy.com
John Privat AQAC	
Boeky Kurlin DEQ	
Lawn Lodes AQAC	
Aurth Sido DEQ	Aurth.Sido@deq.ok.gov
Megan Conner OVU	megan.conner@ovintiv.com
Ashley Brinkerhoff OVU	ashley.brinkerhoff@ovintiv.com
Jennifer Boyle DEQ	jennifer.boyle@deq.ok.gov
Michael Fish Muscogee Creek Nation	Mfish@muscogeenation.com
Kristy Lawson Muscogee Creek Nation	klawson@muscogeenation.com



MEMORANDUM

DATE: July 10, 2024

TO: Members of the Air Quality Advisory Council

FROM: *BBS for*
Kendal Stegmann, Director
Air Quality Division

SUBJECT: Update of Appendix E, Primary Ambient Air Quality Standards

The Department is proposing to amend Appendix E to maintain consistency with the National Ambient Air Quality Standards (NAAQS) established by the U.S. Environmental Protection Agency (EPA) to protect public health. Specifically, the annual Primary Ambient Air Quality Standard for fine particulate matter (PM_{2.5}), as listed in Appendix E, is being amended to reflect recent changes made by EPA in lowering the annual standard from 12.0 µg/m³ to 9.0 µg/m³. The corresponding 24-hour maximum standard is not affected by this rule change. The gist of the proposed rule is to update Appendix E to ensure it is consistent with the federal NAAQS published on March 6, 2024 (89 FR 16202).

The federal Clean Air Act requires EPA to establish NAAQS for pollutants considered harmful to public health and the environment. NAAQS specify the maximum acceptable levels of pollutants in outdoor air and have been established for six primary, or "criteria," pollutants: carbon monoxide, nitrogen oxides, lead, sulfur dioxides, ozone, and particulate matter, which are divided into PM₁₀ and PM_{2.5}. The Clean Air Act further requires that the EPA periodically review and revise the NAAQS.

Appendix E is currently part of Oklahoma EPA-approved State Implementation Plan (SIP). The proposed changes are necessary to update the primary ambient air quality standards in the state rule to make them consistent with and as protective as the federal standards. Upon promulgation, the new Appendix E will be submitted to EPA as a revision to the SIP.

Notice of the proposed rule change was published in the *Oklahoma Register* on June 17, 2024. The notice requested written comments from the public and other interested parties. No comments have been received as of July 10, 2024.

At the July meeting, staff will request the Council to recommend the proposed rule change to the Environmental Quality Board for adoption as a permanent rule.

Enclosures: Appendix E. Primary Ambient Air Quality Standards [AMENDED]
Rule Impact Statement

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS

	Sulfur Dioxide	PM₁₀	PM_{2.5}	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max	75 ppb ⁽¹⁾			40 mg/m ³ 35 ppm ⁽²⁾		100 ppb ⁽³⁾	
8-hr. max				10 mg/m ³ 9 ppm ⁽²⁾	0.070 ppm ⁽⁴⁾		
24-hr. max		150 µg/m ³ ⁽⁵⁾	35 µg/m ³ ⁽⁶⁾				
3-month average							0.15 µg/m ³ ⁽⁷⁾
Annual			9.0 µg/m ³ ⁽⁸⁾			53 ppb ⁽⁹⁾	

⁽¹⁾ 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.

⁽²⁾ 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.

⁽³⁾ 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.

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

⁽⁵⁾ The standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³, as determined in accordance with 40 CFR Part 50, Appendix K is equal to or less than one.

⁽⁶⁾ 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.

⁽⁷⁾ The standard is attained when the rolling 3-month maximum average does not exceed 0.15 µg/m³ more than once during a 3-year period as provided in 40 CFR 50.16.

⁽⁸⁾ 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.

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

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

Before the Air Quality Advisory Council on July 24, 2024
Before the Environmental Quality Board on September 10, 2024

RULE IMPACT STATEMENT

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [AMENDED]

DESCRIPTION: The Department of Environmental Quality (Department or DEQ) is proposing to amend Appendix E to maintain consistency with the National Ambient Air Quality Standards (NAAQS) established by the U.S. Environmental Protection Agency (EPA) to protect public health. Specifically, the annual Primary Ambient Air Quality Standard for fine particulate matter (PM_{2.5}), as listed in Appendix E, is being amended to reflect recent changes made by EPA in lowering the annual standard from 12.0 µg/m³ to 9.0 µg/m³. The corresponding 24-hour maximum standard is not affected by this rule change. The gist of the proposed rule is to update Appendix E to ensure it is consistent with the federal NAAQS published on March 6, 2024 (89 FR 16202).

CLASSES OF PERSONS AFFECTED: The owners and operators of regulated sources and citizens of Oklahoma will be affected. These changes will ensure that Oklahoma standards in Appendix E are aligned with the federal requirements and are sufficiently protective of public health.

CLASSES OF PERSONS WHO WILL BEAR COSTS: The owners and operators of regulated sources of air emissions and the citizens of the state of Oklahoma will bear the costs. There are no new costs associated with this rulemaking activity.

INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES: The Department has received no information on cost impacts from private or public entities. The purpose of the proposed rule is to maintain consistency with the federally promulgated NAAQS. In setting the NAAQS, the EPA may not consider the costs of implementing the standards. For informational purposes only however, the EPA prepared a Regulatory Impact Analysis (RIA) to provide the public with information on the potential costs and benefits of attaining the new standard (89 FR 16202).

CLASSES OF PERSONS BENEFITTED: The owners and operators of regulated sources and the citizens of Oklahoma will benefit from the changes because they ensure that state primary PM_{2.5} standards are aligned with the federal standards and sufficiently protective of public health.

PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS: The Department expects no significant economic impact on the affected classes of persons from this rulemaking activity.

PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: The Department anticipates no economic impact on political subdivisions due to this rule.

POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS: No adverse effects on owners and operators of small businesses are expected due to this rule.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: The Department is not proposing any fee changes in this rule.

PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE: No additional costs to DEQ to enforce or implement the rule are anticipated.

PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE: No other agencies will be implementing or enforcing the proposed rule.

SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE: Existing fees and federal grants will continue to be used to implement and enforce these regulations.

PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED: The Department expects no net loss or gain in revenues from these amendments.

COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE: No other agencies will be implementing or enforcing the proposed rule.

EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS: There are no additional compliance costs expected due to this rule, so no measures were taken.

DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE: The Department has determined that there are no less costly or nonregulatory methods of achieving the purpose of the proposed change.

DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT: The changes are based on national standards, which were established to protect public health. These changes will ensure that Oklahoma standards in Appendix E are aligned with the federal standard and sufficiently protective of public health.

IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK: The proposed changes will have a positive effect on public health, safety, and the environment as the proposed rule changes will reinforce the state air quality program to ensure protection of the public health.

DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH,

SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:

Not implementing the proposed amendments would not have any detrimental effect on public health, safety, or environment since the purpose of the revisions is to align state regulations with existing federal requirements.

PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):

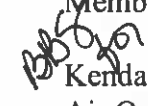
There should be no quantitative impact on business entities since the proposed changes will align state standards with the current federal standards. The qualitative impact is that business entities will benefit from consistent state and federal standards.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: June 17, 2024
MODIFIED ON:

MEMORANDUM

DATE: July 10, 2024

TO: Members of the Air Quality Advisory Council

FROM:  Kendal Stegmann, Director
Air Quality Division

SUBJECT: Proposed Rule Amendments in OAC 252:100-1-3, -7-60, and -8-4

The Department is proposing to amend existing rule language in Sections 252:100-7-60, Permit by rule, and 252:100-8-4, Requirements for construction and operating permits, to clarify requirements for electronic submission of applications for air quality permits. The Department is proposing to amend additional existing rule language in Section 252:100-8-4, as well as Section 252:100-1-3, Definitions, to clarify construction and operating permit requirements associated with modification of an existing minor facility (i.e., subject to Subchapter 7 requirements) such that it will become a Part 70 source (i.e., subject to Subchapter 8 requirements). The gist of the proposed rule is to clarify air quality permit requirements related to electronic submission of applications, and to minor facilities that are transitioning to Part 70 sources.

Notice of the proposed rule changes was published in the *Oklahoma Register* on June 17, 2024. The notice requested written comments from the public and other interested parties. No comments have been received on the proposal as of the date of this memo. A copy of the proposed rules is enclosed along with a copy of the Rule Impact Statement. At the July meeting, staff will ask the Council to recommend the proposed rule changes to the Environmental Quality Board for adoption as permanent rules.

Enclosures: Proposed Amendments to OAC 252:100-1-3, -7-60, and -8-4
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 **"CO₂e"** 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 CO₂e.

"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 (CO₂), nitrous oxide (N₂O), methane (CH₄), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆).

"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 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).

"PM₁₀ 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.

"PM₁₀" means particulate matter with an aerodynamic diameter of 10 micrometers or less.

"PM_{2.5}" 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 7. PERMITS FOR MINOR FACILITIES

PART 9. PERMITS BY RULE

252:100-7-60. Permit by rule

(a) **Applicability.** A permit by rule (PBR) may be adopted for an industry(s) to streamline the air quality permitting procedures required by OAC 252:100-7-15 and -18, if there are a sufficient

number of facilities that meet the requirements of 252:100-7-15(b)(1) and 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) A facility may be constructed or operated under this rule and will be exempt from any other permitting requirements in this Chapter if it meets the requirements of 252:100-7-15(b)(1), 252:100-7-60, and the appropriate PBR.

(2) A facility cannot be registered under more than one PBR at the same time or under a PBR and a general or individual permit at the same time. However, the owner or operator may apply for a change in a facility's registration from one PBR to another PBR if the facility meets the criteria of the "new" PBR. The owner or operator may apply for a change in a facility's air quality permit from a general or an individual permit to registration under a PBR for which the facility qualifies.

(b) **General requirements.** No construction under a PBR may commence until the request and application fee are received by the DEQ. Operation under the PBR is not authorized beyond the time limit contained in 252:100-7-18(a) unless a request for operation under the PBR and the application fee are received by the DEQ.

(1) **Application for registration under a PBR.**

(A) **Construction or operation.** The owner or operator wishing to construct or operate a facility under a PBR, must submit a request for registration under the PBR using the form(s) provided by the DEQ for that PBR. The request must contain written certification by the owner or operator that the facility will be constructed and/or operated in compliance with such PBR. A construction and/or operating permit application fee, as specified in 252:100-7-3, must accompany the form(s).

(B) **Modification.** A physical change or change in the method of operation to a facility covered by a PBR that would cause the facility to no longer qualify for the PBR is a modification, and will result in a change in permit status as provided by 252:100-7-60(b)(4). Other physical or operational changes are not modifications, and do not require submittal of an amended registration.

(2) **Reporting requirements.** The owner or operator of a facility covered by a PBR must comply with the reporting requirements in 252:100-7-60(b)(2)(A), (B), and (C). No other reporting requirements shall apply.

(A) The owner or operator must submit emission inventories as required by 252:100-5-2.1;

(B) The owner or operator must comply with the excess emission reporting requirements in 252:100-9; and

(C) The owner or operator must comply with reporting requirements contained in any applicable NSPS or NESHAP.

(3) **Compliance inspections.** Compliance inspections will be conducted by the DEQ in response to complaints and as necessary to determine compliance.

(4) **Change in permit status.** The owner or operator shall apply for an individual permit or, if applicable, coverage under a general permit in the event that a change causes a facility to no longer qualify for a PBR.

(c) **Registration.** Registration under a PBR shall constitute compliance with the requirements of 252:100-7-15(a) (for construction permits) or 252:100-7-18(a) (for operating permits).

(1) Registration under the PBR will be effective upon receipt of the requisite form(s) (including the appropriate application fee) by the DEQ.

(2) Acceptable documentation of receipt of the PBR registration is the earliest of:

(A) a legible, dated U.S. Postal Service postmark (private metered postmarks are not acceptable);

- (B) a dated receipt from a commercial carrier or the U.S. Postal Service; ~~or~~
 - (C) a DEQ date-stamped registration;
 - (D) an electronic submission via email or other electronic submittal system as designated by the Division; or
 - (E) a combination of A through D resulting in a complete registration package (including all forms and the appropriate fees).
- (3) After receiving the appropriate PBR registration request and application fee and confirming that the facility is eligible for coverage under the PBR, the DEQ will acknowledge in writing that the facility is registered to construct or operate under the PBR.

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

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-4. Requirements for construction and operating permits

(a) Construction permits.

(1) Construction permit required.

(A) **Facilities without Part 70 operating permits.** Except as provided in OAC 252:100-8-4(a)(1)(D), no person shall

(i) begin actual construction or installation of any new source that will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit under Part 5 of OAC 252:100-8, or

(ii) make a modification to an existing minor facility such that it will require a Part 70 operating permit without first obtaining a DEQ-issued air quality construction permit under Part 5 of OAC 252:100-8.

(B) **Facilities with Part 70 operating permits.** Except as provided in OAC 252:100-8-4(a)(1)(D), a construction permit is also required prior to

(i) reconstruction of a major affected source under 40 CFR Part 63,

(ii) reconstruction of a major source if it would then become a major affected source under 40 CFR Part 63,

(iii) commencement of any physical change or change in method of operation that would be a significant modification under OAC 252:100-8-7.2(b)(2), or

(iv) commencement of any physical change or change in method of operation that, for any one regulated air pollutant, would increase potential to emit by more than 10 TPY, calculated using the approach in 40 C.F.R. Section 49.153(b).

(C) **Additional Requirements.** In addition to the requirements of this Part, sources subject to Part 7 or Part 9 of this Subchapter must also meet the applicable requirements contained therein.

(D) Construction Activities Prior to Issuance of a Minor NSR (Construction) Permit.

After the submission of an administratively complete minor NSR construction permit application, but prior to the issuance of the corresponding construction permit, an applicant may begin construction up to, but not including, making any new, modified, or reconstructed unit operational such that it has the ability to emit any regulated air pollutant. The applicant assumes the risk of losing any investment it makes toward implementing such construction prior to the issuance of a construction permit authorizing the construction. If a minor NSR project necessitates determination of BACT, and the BACT recommended in the permit application is not approved in whole or in part by DEQ, the

subsequent resolution of the appropriate selection of BACT shall be based upon the facility's pre-application physical configuration. DEQ retains the authority to deny the permit application without consideration of and regardless of any investment the applicant has made prior to permit issuance. This subparagraph does not serve as authorization by DEQ of the requested construction. In addition, this exception does not exempt the owner or operator from any applicable requirements under federal rules (e.g., NSPS or NESHAP) or state-only regulations.

(2) **Requirement for case-by-case MACT determinations.**

(A) **Applicability.** The requirement for case-by-case MACT determinations apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998, unless the source has been specifically regulated or exempted from regulation under a subpart of 40 CFR Part 63, or the owner or operator has received all necessary air quality permits for such construction or reconstruction before June 29, 1998.

(B) **Exclusions.** The following sources are not subject to this subsection.

(i) Electric utility steam generating units unless and until these units are added to the source category list.

(ii) Stationary sources that are within a source category that has been deleted from the source category list.

(iii) Research and development activities as defined in 40 CFR § 63.41.

(C) **MACT determinations.** If subject to this subsection, an owner or operator may not begin actual construction or reconstruction of a major source of HAP until obtaining from the DEQ an approved MACT determination in accordance with the following regulations: 40 CFR 63.41, 40 CFR 63.43 and 40 CFR 63.44, which are hereby incorporated by reference as they exist on July 1, 2000.

(b) **Operating permits.**

(1) **Operating permits required.** Except as provided in subparagraphs (A) and (B) of this paragraph, no Part 70 source subject to this Chapter may operate after the time that it is required to file a timely application with the DEQ, except in compliance with a DEQ-issued permit.

(A) If the owner or operator of a source subject to the requirement to obtain a Part 70 permit submits a timely application for Part 70 permit issuance or renewal, that source's failure to have a Part 70 permit shall not be a violation of the requirement to have such a permit until the DEQ takes final action on the application. This protection shall cease to apply if the applicant fails to submit, by the deadline specified in writing by the DEQ or OAC 252:100-8-4, any additional information identified as being reasonably required to process the application.

(B) If the owner or operator of a source subject to this Subchapter files a timely application that the DEQ determines to be administratively incomplete due to the applicant's failure to timely provide additional information requested by the DEQ, the applicant loses the protection granted under paragraph (A) of this Section. The source's failure to have a Part 70 permit shall be deemed a violation of this Subchapter.

(C) Filing an operating permit application shall not affect the requirement, if any, that a source have a construction permit.

(2) **Duty to apply.** For each Part 70 source, the owner or operator shall submit a timely and complete permit application on forms supplied by the DEQ in accordance with this section.

(3) **Timely application.** A timely application is a complete application (including appropriate fees) that is postmarked, delivered by a commercial carrier with a dated delivery receipt, date-stamped by DEQ when delivered in person, or submitted electronically via email or other electronic submittal system as designated by the Division, on or before the relevant date listed below.

(A) A new source shall file an administratively complete operating permit application within 180 days of commencement of operation.

(B) An existing source that becomes subject to the Part 70 operating permit program due to modification shall file an administratively complete operating permit application within 180 days of commencement of operation of the modification.

(C) An existing source that becomes subject to the Part 70 operating permit program, without undergoing physical or operational changes ~~resulting that result~~ in an increase in the emission of any air pollutant subject to regulation, shall file an administratively complete operating permit application ~~by March 6, 1999 or~~ within 12 months after the date the source first becomes subject to the Part 70 operating permit program, ~~whichever is later~~. Compliance with the requirement to submit an administratively complete operating permit application does not authorize a facility to operate with new emission limits. To obtain new emission limits, the owner/operator must obtain a DEQ-issued air quality construction permit under Part 5 of OAC 252:100-8.

(4) [Reserved]

(5) [Reserved]

(6) **Application acceptability.** Notwithstanding the deadlines established in paragraph (4) of this subsection, an application filed prior to the above deadlines following submission of the state program to EPA for approval shall be accepted for processing.

(7) **112(g) applications.** A source that is required to meet the requirements under section 112(g) of the Act, or to have a permit under a preconstruction review program under Title I of such Act, shall file an application to obtain an operating permit or permit amendment or modification within twelve months of commencing operation. Where an existing Part 70 operating permit would prohibit such construction or change in operation, the source must obtain a construction permit before commencing construction.

(8) **Application for renewal.** Sources subject to this Chapter shall file an application for renewal of an operating permit at least 180 days before the date of permit expiration, unless a longer period (not to exceed 540 days) is specified in the permit. Renewal periods greater than 180 days are subject to negotiation on a case-by-case basis.

(9) **Phase II acid rain permits.** Sources required to submit applications under the Acid Rain Program shall submit these applications as required by 40 CFR 72.30(b)(2)(i) through (viii).

(10) **Application completeness.** See Environmental Permit Process, OAC 252:4-7-7 and the definition of "administratively complete" in OAC 252:100-8-2.

(c) **Enhanced NSR process.** An existing Part 70 source covered by an operating permit issued under this subchapter may be eligible to utilize the enhanced NSR process, including the public notice procedures of OAC 252:4-7-13(g)(4) for a construction permit for modification of the source.

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

Before the Air Quality Advisory Council on July 24, 2024
Before the Environmental Quality Board on September 10, 2024

RULE IMPACT STATEMENT

Subchapter 1. General Provisions

252:100-1-3 [AMENDED]

Subchapter 7. Permits for Minor Facilities

PART 9. PERMITS BY RULE

252:100-7-60 [AMENDED]

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

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-4 [AMENDED]

DESCRIPTION: The Department of Environmental Quality (Department or DEQ) is proposing to amend existing rule language in sections 252:100-7-60, Permit by rule, and 252:100-8-4, Requirements for construction and operating permits, to clarify requirements for electronic submission of applications for air quality permits. The Department is proposing to amend additional existing rule language in 252:100-8-4, as well as section 252:100-1-3, Definitions, to clarify construction and operating permit requirements associated with modification of an existing minor facility (i.e., subject to Subchapter 7) such that it will become a Part 70 source (i.e., subject to Subchapter 8). The gist of the proposed rule is to clarify air quality permit requirements related to electronic submission of applications, and to minor facilities that are transitioning to Part 70 sources.

CLASSES OF PERSONS AFFECTED: The classes of persons affected are the owners and operators of facilities that elect electronic submission of applications for air quality permits, and the owners and operators of minor facilities that are transitioning to Part 70 sources.

CLASSES OF PERSONS WHO WILL BEAR COSTS: The classes of persons who will bear costs are the owners and operators of facilities that apply for a new air quality permit or a modification of an existing air quality permit. The proposed changes clarify existing requirements. There are no new costs associated with this rulemaking activity, and the electronic submittal option may decrease costs for affected facilities.

INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES: The Department has not received any information on cost impacts of the proposed amendments as of this date. There are no new costs associated with this rulemaking activity.

CLASSES OF PERSONS BENEFITTED: The classes of persons who would benefit from this rule are the owners and operators of facilities that apply for a new air quality permit or a modification of an existing air quality permit. Electronic submittal of permit applications may

benefit affected facilities and DEQ by decreasing administrative costs. Affected facilities would also benefit from the clarification of existing requirements provided by the proposed amendments.

PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS: The Department expects no significant economic impact on the affected classes of persons from this rulemaking activity. The proposed changes clarify existing requirements for the owners and operators of facilities that apply for a new air quality permit or a modification of an existing air quality permit, and provide an option for electronic submittal of permit applications.

PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: The Department anticipates no economic impact on political subdivisions due to this rule.

POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS: The Department anticipates no adverse effect on small business.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: The Department is not proposing any fee changes in this rule.

PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE: The Department anticipates there will be no significant increased costs associated with the implementation and enforcement of these proposed amendments. The Department will benefit from the proposal because it will aid state implementation and enforcement of new and existing federal and state requirements. Electronic submittal of permit applications may benefit DEQ by decreasing administrative costs.

PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE: There are none. No other agencies will be implementing or enforcing these regulations.

SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE: Existing fees and federal grants will continue to be used to implement and enforce these regulations.

PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED: The Department expects no net loss or gain in revenues from these amendments.

COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE: None is required. The Department will be responsible for all aspects of implementation and enforcement of these regulations.

EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS: The proposed amendments minimize compliance costs by providing an option for electronic submittal of permit applications, and clarifying requirements for owners and operators of facilities that apply for a new air quality permit or a modification of an existing air quality permit.

DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE: The Department has determined that there are no less costly or nonregulatory or less intrusive methods of achieving the purpose of the proposed rule.

DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT: The proposed changes will have a positive effect on public health, safety, and the environment by clarifying and simplifying requirements to implement new and existing standards that were established to protect public health and welfare.

IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK: The proposed changes will have a minimal, but positive, effect on public health, safety, and the environment by clarifying and simplifying requirements to implement new and existing standards that were established to reduce risks to public health and welfare.

DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED: Not implementing the proposed amendments would not have any detrimental effect on public health, safety, or environment. The changes clarify existing regulatory requirements.


PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): The Department anticipates a positive impact on business entities that apply for a new air quality permit or a modification of an existing air quality permit for a facility that they own or operate.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: June 17, 2024
MODIFIED ON:

MEMORANDUM

DATE: July 10, 2024

TO: Members of the Air Quality Advisory Council

FROM:  Kendal Stegmann, Director
Air Quality Division

SUBJECT: Proposed Rule Amendments in OAC 252:100-7-60.5

The Department is proposing to amend the Permit By Rule (PBR) in OAC 252:100-7-60.5, Oil and natural gas sector, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated requirements in 40 C.F.R. Part 60, Subpart OOOOb Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After December 6, 2022 (NSPS Subpart OOOOb). Additionally, the proposed amendment would allow the use of legally and practicably enforceable (LPE) limits when determining a facility's eligibility for the PBR. The gist of the proposed rule is to clarify source eligibility criteria for the PBR and ensure that the current PBR allows facilities potentially subject to NSPS Subpart OOOOb to take LPE limits to avoid applicability of the federal requirements for certain equipment.

Notice of the proposed rule changes was published in the *Oklahoma Register* on June 17, 2024. The notice requested written comments from the public and other interested parties. As of the date of this memo, no comments have been received. A copy of the proposed rules is enclosed along with a copy of the Rule Impact Statement.

It should be noted that the proposed permanent rules (enclosed) are identical to the emergency rules that were presented to the Council during the special AQAC meeting held on April 24, 2024, and are *not* the final form of the rules that staff intends to present to the Council for adoption. At the July AQAC meeting, staff will present additional draft rule language and will ask the Council to take no action on the proposed rule changes with the goal of bringing a complete suite of proposed rules to the Council in October. Staff intends to share the additional draft rule language with the Council and the public at the July 24 meeting.

Enclosures: Proposed Amendments to OAC 252:100-7-60.5
Rule Impact Statement

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

SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

PART 9. PERMITS BY RULE

252:100-7-60.5. Oil and natural gas sector

(a) **Applicability.** This PBR is issued for minor facilities and area sources in the oil and natural gas (O&NG) sector. This includes but is not limited to facilities subject to federal standards, primarily Subparts IIII, JJJJ, OOOO, ~~and OOOOa, and OOOOb~~ of the federal NSPS, 40 CFR Part 60, and Subparts HH and ZZZZ of the federal NESHAP, 40 CFR Part 63, as cited in this PBR and incorporated by reference in OAC 252:100-2 and Appendix Q to Chapter 100. Specifically, this PBR applies to the following:

(1) **Eligible minor facilities and area sources.** New and existing minor facilities and area sources in the O&NG sector are eligible for this PBR, provided they comply with the conditions in (A) through (G) of this paragraph.

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

(B) The facility has potential emissions of each regulated air pollutant, except HAPs, that are less than the emission levels that require prevention of significant deterioration (PSD), nonattainment new source review (NNSR), and Part 70 permits.

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

(D) For the purpose of determining if a facility is eligible for registration under this PBR, the calculation of actual emissions may include emission reductions that will be made enforceable by registration under this PBR.

(E) Only for the purpose of determining if a facility is eligible for registration under this PBR, the calculation of potential emissions shall not include emission reductions resulting from any physical or operational limitation (including capacity limitations, use of air pollution control equipment, and/or restrictions on hours of operation or on the type or amount of material combusted, stored, or processed). ~~Affected~~ However, affected sources or potentially affected sources subject to a federal standard (NSPS or NESHAP) may include enforceable limitations imposed by the federal standards in the calculation of potential emissions.

(F) The facility must meet the criteria in 252:100-7-15(b)(1)(C) through (E).

(G) The facility is not otherwise a Part 70 source.

(2) **Equipment and processes.** This PBR covers equipment and processes located at minor facilities and area sources in the O&NG sector that meet the criteria contained in 252:100-7-60.5(a)(1). Covered equipment and processes under this PBR include, but are not limited to:

(A) The affected facilities listed in 40 CFR Section 60.5365 of NSPS Subpart OOOO, ~~and~~ 40 CFR Section 60.5365a of NSPS Subpart OOOOa, and 40 CFR Section 60.5365b of NSPS Subpart OOOOb.

(B) Stationary compression ignition internal combustion engines, as specified in 40 CFR Section 60.4200 of NSPS Subpart IIII, which are located at minor facilities in the O&NG sector.

(C) Stationary spark ignition internal combustion engines, as specified in 40 CFR Section 60.4230 of NSPS Subpart JJJJ, which are located at minor facilities in the O&NG sector.

(D) The affected sources listed in 40 CFR Section 63.760(a) and (b)(2) of NESHAP Subpart HH, which are located at area sources.

(E) Stationary reciprocating internal combustion engines (RICE), as specified in 40 CFR Section 63.6585 of NESHAP Subpart ZZZZ, which are located at area sources in the O&NG sector.

(b) Standards and requirements.

(1) **NSPS and NESHAP requirements.** The owner or operator shall meet the applicable requirements of the following NSPS and NESHAP subparts for equipment and processes located at minor facilities or area sources in the O&NG sector.

(A) **General provisions.** The owner or operator of minor affected facilities covered by the O&NG PBR shall comply with applicable requirements of 40 CFR 60, Subpart A.

(B) **Crude oil and natural gas production, transmission, and distribution.** The owner or operator of each minor affected facility shall comply with the applicable standards and requirements of 40 CFR Part 60, Subparts OOOO, ~~and/or OOOOa, and/or OOOOb.~~

(C) **Stationary compression ignition internal combustion engines.** The owner or operator of a stationary compression ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards and testing, reporting monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart IIII.

(D) **Stationary spark ignition internal combustion engine.** The owner or operator of a stationary spark ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart JJJJ.

(E) **General provisions.** The owner or operator of an area source covered by the O&NG PBR shall comply with applicable requirements of 40 CFR Part 63, Subpart A.

(F) **Oil and natural gas production facilities.** The owner or operator of an affected source listed in 40 CFR Section 63.760(a) and (b) and located at an area source shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart HH.

(G) **Stationary reciprocating internal combustion engines.** The owner or operator of a stationary RICE located at an area source shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart ZZZZ.

(H) **Equipment subject to any other NSPS or NESHAP.** The owner or operator of the facility shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of any other applicable NSPS or NESHAP, including any modification to requirements of an existing applicable NSPS or NESHAP.

(2) **DEQ Air Pollution Control Rules, standards, and requirements.** The owner or operator of an O&NG facility covered by this PBR shall comply with applicable portions of the:

(A) emission inventory requirements and annual fee requirements contained in 252:100- 5;

(B) excess emission reporting requirements contained in 252:100-9;

(C) particulate matter emission rates contained in 252:100-19 for fuel-burning equipment;

(D) visible emissions (opacity) limits contained in 252:100-25 for subject emission units;

(E) fugitive dust standards contained in 252:100-29;

(F) standards and requirements for the control of the emission of sulfur compounds contained in 252:100-31 for subject emission units;

(G) standards and requirements for the control of the emission of nitrogen oxides contained in 252:100-33 for subject fuel-burning equipment;

(H) standards and requirements for the control of the emission of VOCs contained in 252:100-37 and 252:100-39 for subject emission units; and

(I) testing, monitoring, and recordkeeping requirements contained in 252:100-43.

(c) **Requested process-specific limitations - storage vessel affected facilities.** An owner or operator shall designate on the PBR registration form(s) that either of the following federally enforceable limits are applicable to a specified storage vessel affected facility. The permittee shall submit a notice of enforceability on forms provided by the DEQ to add or remove the applicability of federally enforceable limits to or from any specific emission unit.

(1) The storage vessel affected facility shall be limited to less than 6 TPY of VOC emissions, 12-month rolling total, unless another time measurement is specified under 40 CFR Part 60, Subpart OOOO or OOOOa. Demonstration of compliance with the VOC emission limit shall be based on records of VOC stored and monthly throughputs. Emissions shall be calculated using current EPA AP-42 methodology for working and breathing emissions or other methodology acceptable to the DEQ, and using available AQD guidance for flash emissions.

(A) In the demonstration of compliance with the VOC emission limit, a properly installed and operated vapor recovery unit (VRU) is considered to recover 100% of the VOC during the time the VRU is in use.

(B) The permittee shall maintain, for a period of five (5) years, records of VOC stored, monthly throughputs, and emissions calculations used to demonstrate compliance, including records of all periods of uncontrolled venting.

(2) The VOC storage vessel shall be limited to less than 6 TPY of VOC emissions, 12-month rolling total, unless another time measurement is specified under 40 CFR Part 60, Subpart OOOO or OOOOa. For any VOCs not routed through a VRU, the storage vessel affected facility shall be controlled utilizing a flare or enclosed combustion device.

(A) For each flare or enclosed combustion device, the presence of a pilot flame shall be monitored using a thermocouple or any other equivalent device, and records of pilot flame(s) outages and/or flare downtime shall be maintained.

(B) The flare or enclosed combustion device shall be operated according to the manufacturer's specifications.

(C) Demonstration of compliance with the VOC emission limit shall be based on emissions calculated from records of VOC stored and monthly throughputs using current EPA AP42 methodology for working and breathing emissions or other methodology acceptable to the DEQ, AQD guidance for flash emissions, and a VOC control efficiency as specified.

(i) During periods when records document that the flare or enclosed combustion device was operational, the VOC emissions estimates may be calculated using a VOC destruction efficiency of 95%.

(ii) If the manufacturer of the flare or enclosed combustion device guarantees a VOC destruction efficiency greater than 95%, the VOC emissions estimates may be calculated using the VOC destruction efficiency guaranteed by the manufacturer, up to but not to exceed 99.5% during periods when records document that the control device was operational.

(iii) A properly installed and operated VRU is considered to recover 100% of the VOC during the time the VRU is in use.

(iv) The permittee shall maintain, for a period of five (5) years, records of VOC stored, monthly throughputs, and emissions calculations used to demonstrate compliance, including records of all periods of uncontrolled venting.

(d) Requested process-specific legally and practicably enforceable limitations - storage vessel affected facilities (tank batteries). An owner or operator shall designate on the PBR registration form(s) that the following legally and practicably enforceable (LPE) limits are applicable to a specified storage vessel affected facility under 40 CFR Part 60, Subpart OOOOb. The permittee shall submit a notice of enforceability on forms provided by the DEQ to add or remove the applicability of LPE limits to or from any tank battery, whether the tank battery consists of a single storage vessel or multiple storage vessels that are manifolded together for liquid transfer.

(1) The storage vessel affected facility shall be limited to less than 6 TPY of VOC emissions and less than 20 TPY of methane emissions, calculated as cumulative emissions from all storage vessels within the tank battery, with both limits based on a 12-month rolling total.

(A) Demonstration of compliance with the VOC and methane emission limits shall include the following:

(i) A monthly quantitative throughput volume.

(ii) The composition of tank contents and any process stream (actual or representative consistent with DEQ policy as established by the Director) necessary to perform the calculations below.

(iii) Emission calculation methods for working, breathing, and flashing emissions approved by the Director.

(iv) Process operating parameters, including temperatures and pressures relied on in the compliance calculations.

(v) The method, if any, used to capture emissions, and divert emissions to a process and/or route emissions to a control device.

(vi) Calculations showing that, given the tank contents, throughput, and process operating parameters (including downtime), the emissions from the tank battery will not exceed the LPE limits for VOC or methane.

(B) Applicants that elect to comply with the LPE limits through one or more of the following options shall meet these operational and parametric limits:

(i) If using a nonassisted flare:

(I) a closed vent system that routes emissions from the storage vessel affected facility to the flare.

(II) a combustion destruction efficiency of at least 95%.

(III) the flare shall meet the following applicable requirements of 40 CFR § 60.18: visible emissions requirements in § 60.18(c)(1); the pilot flame requirements in § 60.18(c)(2); the heating value requirements in § 60.18(c)(3)(ii); exit velocity requirements in § 60.18(c)(4); and the operational requirements in § 60.18(e).

(ii) If using a nonassisted enclosed combustion device:

(I) a closed vent system that routes emissions from the storage vessel affected facility to the combustor.

(II) a combustion destruction efficiency of at least 95%.

(III) the combustor shall meet the following applicable requirements for flares in 40 CFR § 60.18: visible emissions requirements in § 60.18(c)(1); the pilot flame

requirements in § 60.18(c)(2); the heating value requirements in § 60.18(c)(3)(ii); and the operational requirements in § 60.18(e).

(IV) the maximum design capacity (MMBTU/hr) of the gases combusted as established by the manufacturer or operator during a performance test.

(iii) If using a VRU:

(I) a closed vent system that captures all emissions from the storage vessel affected facility and routes all emissions to a process.

(II) the openings of the storage vessels shall be closed and sealed (e.g., covered by a gasketed lid, cap, or other appropriate methods) during normal operation.

(C) The emission reductions associated with the option(s) selected under (B) shall only be included in emissions calculations to show compliance with limits in (1) above when the following initial and periodic and/or continuous monitoring requirements are met:

(i) If using a nonassisted flare or enclosed combustion device:

(I) perform an initial visible emission observation of the flare or enclosed combustion device using Method 22 in Appendix A of 40 CFR Part 60, with a minimum observation time of six (6) minutes, within 60 days of initial operation.

(II) continuously monitor at least once every five minutes for the presence of a pilot flame or combustion flame using a device (including, but not limited to, a thermocouple, ultraviolet beam sensor, or infrared sensor) capable of detecting that the pilot or combustion flame is present at all times. An alert must be sent whenever the pilot or combustion flame is unlit.

(III) perform an initial, and semi-annually thereafter, determination of the net heating value of the gasses combusted using the equation in 40 CFR § 60.18(f)(3), GPA Method 2261, or other approved method.

(IV) for a flare, perform an initial, and semi-annually thereafter, determination of the exit velocity of the gasses combusted, calculated by dividing the volumetric flowrate by the unobstructed (free) cross sectional area of the flare tip. Volumetric flowrate shall be determined by Method 2 in Appendix A of 40 CFR Part 60, or a generally accepted model or calculation methodology.

(V) for an enclosed combustion device, perform an initial, and semi-annually thereafter, demonstration that the actual heat content (MMBTU/hr) of the gases combusted are within the design values established by the manufacturer or operator during a performance test. The heat content of the combusted gases shall be determined by a generally accepted model or calculation methodology.

(VI) whenever the closed vent system, flare, or enclosed combustion device experiences outages and/or downtime, maintain calculations of associated emissions for the purpose of determining compliance with the limits in paragraph (1).

(ii) If using a VRU, whenever the closed vent system and/or VRU experiences outages and/or downtime, maintain calculations of associated emissions for the purpose of determining compliance with the limits in paragraph (1).

(D) Reporting of any exceedances of these limits in accordance with DEQ guidance.

(E) Recordkeeping updated monthly and maintained for a period of five (5) years, including:

(i) Records of contents stored,

(ii) Monthly and 12-month rolling total throughputs,

- (iii) Records of parameters monitored as required in subparagraphs (A) and (B) above,
- (iv) Monthly and 12-month rolling total emissions calculations used to demonstrate compliance,
- (v) Times and emissions when the system used to comply with the LPE limits is not operating in accordance with the requirements established in this subsection,
- (vi) Records of all periods of uncontrolled venting, and
- (vii) Equipment specifications, manuals, and/or maintenance records, as appropriate.

(2) [RESERVED]

(e) **Exceptions to Otherwise Applicable State-Only Requirements.** When an owner or operator elects to obtain coverage under the oil and natural gas PBR (OAC 252:100-7-60.5) the following exceptions to otherwise applicable state requirements shall govern the equipment and operations covered by the PBR:

(1) GHG emissions, as an aggregate, or as individual components (e.g., methane) may be included in the facility's PBR notwithstanding the provisions of OAC 252:100-7-2.1, Minor permits for greenhouse gas (GHG) emitting facilities.

(2) Regardless of any limits on methane included in the PBR or inclusion of any reporting requirements or other provisions in the permit that may affect methane or GHG emissions, neither methane nor GHG (as an aggregate) will be considered to be regulated air pollutants for the purposes of the following:

(A) The determination of "actual emissions" from a given facility as defined in 252:100-5-1.1.

(B) The emissions inventory requirements of OAC 252:100-5-2.1.

(C) "Regulated pollutant (for fee calculation)," as defined in 252:100-5-1.1, subject to annual operating fees under OAC 252:100-5-2.2.

(D) The determination whether a facility is a "major source" as defined in OAC 252:100-8-2.

(E) The determination whether a facility is a "major stationary source" as defined in OAC 252:100-8-31 for facilities in attainment areas or in OAC 252:100-8-51 for facilities in nonattainment areas.

(F) The determination whether a facility's project is a "major modification" as defined in OAC 252:100-8-31 for facilities in attainment areas or in OAC 252:100-8-51 for facilities in nonattainment areas.

(3) These exceptions may be set aside at the discretion of the Director.

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

Before the Air Quality Advisory Council on July 24, 2024
Before the Environmental Quality Board on September 10, 2024

RULE IMPACT STATEMENT

Subchapter 7. Permits for Minor Facilities
PART 9. PERMITS BY RULE
252:100-7-60.5 [AMENDED]

DESCRIPTION: The Department of Environmental Quality (Department or DEQ) is proposing to amend the Permit By Rule (PBR) in OAC 252:100-7-60.5, Oil and natural gas sector, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated requirements in 40 C.F.R. Part 60, Subpart OOOOb Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After December 6, 2022 (NSPS Subpart OOOOb). Specifically, the proposed amendment would allow the use of legally and practicably enforceable (LPE) limits when determining a facility's eligibility for the PBR. The gist of the proposed rule is to clarify source eligibility criteria for the PBR and ensure that the current PBR allows facilities potentially subject to NSPS Subpart OOOOb to take LPE limits to avoid applicability of the federal requirements for certain equipment.

CLASSES OF PERSONS AFFECTED: The classes of persons affected are the owners and operators of facilities that qualify for, and elect to obtain coverage under, the oil and natural gas PBR, including those that have already registered under the PBR.

CLASSES OF PERSONS WHO WILL BEAR COSTS: The classes of persons who will bear costs are the owners and operators of facilities that qualify for, and elect to obtain coverage under, the oil and natural gas PBR, including those that have already registered under the PBR. There are no new costs associated with this rulemaking activity.

INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES: The Department has not received any information on cost impacts of the proposed amendments as of this date. There are no new costs associated with this rulemaking activity.

CLASSES OF PERSONS BENEFITTED: The classes of persons who would benefit from this rule are the owners and operators of facilities that qualify for, and elect to obtain coverage under, the oil and natural gas PBR, including those that have already registered under the PBR. The proposed amendments would ensure facilities subject to NSPS OOOOb are covered by the oil and natural gas PBR and clarify methods allowed when determining eligibility for the PBR, including taking a legally and practicably enforceable limit to avoid applicability of NSPS OOOOb for certain equipment.

PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS: The Department expects no significant economic impact on the affected classes of persons from this

rulemaking activity. Owners and operators of facilities that qualify for the oil and natural gas PBR, including those that have already registered under the PBR will continue to be covered by or qualify for the PBR. There could be some costs associated with demonstrating compliance with the LPE criteria in the PBR; however, those potential costs (and more) would also be present for facilities that do not elect to obtain coverage under the PBR, and instead are subject to NSPS OOOOb.

PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: The Department anticipates no economic impact on political subdivisions due to this rule.

POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS: The Department anticipates no adverse effect on small business.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: The Department is not proposing any fee changes in this rule.

PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE: The Department anticipates there will be no significant increased costs associated with the implementation and enforcement of these proposed amendments. The Department will benefit from the proposal because it will aid state implementation and enforcement of new and existing federal requirements.

PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE: There are none. No other agencies will be implementing or enforcing these regulations.

SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE: Existing fees and federal grants will continue to be used to implement and enforce these regulations.

PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED: The Department expects no net loss or gain in revenues from these amendments.

COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE: None is required. The Department will be responsible for all aspects of implementation and enforcement of these regulations.

EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS: The proposed amendments minimize compliance costs by clarifying what methods may be used when determining applicability to the oil and natural gas PBR. The proposed amendments also ensure that the PBR covers standards set forth in NSPS OOOOb.

DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE

PURPOSE OF THE PROPOSED RULE: The Department has determined that there are no less costly or nonregulatory or less intrusive methods of achieving the purpose of the proposed rule.

DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT: The proposed changes will have a positive effect on public health, safety, and the environment by updating the PBR to implement new and existing standards that were established to protect public health and welfare.

IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK: The proposed changes will have a positive effect on public health, safety, and the environment by updating the PBR to implement new and existing standards that were established to protect public health and welfare.

DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED: Not implementing the proposed amendments would not have any detrimental effect on public health, safety, or environment. The regulatory requirements for qualifying facilities are already in place at the federal level.

PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): The Department anticipates a positive impact on business entities that own or operate facilities which qualify for this PBR.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: June 17, 2024
MODIFIED ON: