REGULAR MEETING/HEARING AGENDA
AIR QUALITY ADVISORY COUNCIL
October 17, 2024, 9:00 a.m.
Department of Environmental Quality
707 North Robinson Avenue
Oklahoma City, OK 73102

Please turn off cell phones

1. Call to Order – Laura Lodes, Chair

2. Roll Call – Quiana Fields

3. Approval of Minutes – July 24, 2024 Regular Meeting

4. Meeting Schedule for Calendar Year 2025 – Discussion and action by Council

5. Public Rulemaking Hearing

A. Chapter 100. Air Pollution Control
Subchapter 2. Incorporation by Reference [AMENDED]
Appendix Q. Incorporation by Reference [AMENDED]

The Department is proposing to update OAC 252:100, Appendix Q, Incorporation by Reference. In addition, the Department is proposing to update language in Subchapter 2, Incorporation by Reference, to reflect the latest date of incorporation of EPA regulations in Appendix Q.

1. Presentation – Jared Milano, 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. Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources
Part 5. Permits for Part 70 Sources
252:100-8-6 [AMENDED]

The Department is proposing to amend existing rule language in OAC 252:100-8-6. Permit Content, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated changes to program requirements pursuant to the Federal Register notice entitled "*Removal of Title*

V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program," 88 Fed. Reg. 47029 (July 21, 2023). The gist of this rule proposal and the underlying reason for the rulemaking is to comply with federal requirements by removing "affirmative defense" provisions in Oklahoma's Part 70 air quality permit program.

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. Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-1.1. Definitions [AMENDED]
252:100-5-2.1. Emission inventory [AMENDED]

Subchapter 7. Permits for Minor Facilities
252:100-7-1.1. Definitions [AMENDED]
252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities
252:100-7-15. Construction permit [AMENDED]
252:100-7-60.5 Oil and natural gas sector [AMENDED]
252:100-7-60.6. Emergency engine facilities [AMENDED]
252:100-7-60.7. Gasoline dispensing facilities and gasoline dispensing facilities with emergency engines [AMENDED]

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources
252:100-8-2. Definitions [AMENDED]
252:100-8-4. Requirements for construction and operating permits [AMENDED]
252:100-8-5. Permit applications [AMENDED]
252:100-8-31. Definitions [AMENDED]
252:100-8-33. Exemptions [AMENDED]

The Department is proposing to clarify source eligibility criteria for the oil and natural gas sector Permit By Rule (PBR) and ensure that the current PBR allows facilities potentially subject to NSPS Subpart OOOOb to take legally and practically enforceable (LPE) limits to avoid applicability of the federal requirements for certain equipment. The proposed permanent rule amendments would replace the currently effective emergency rule. Additional changes will ensure that greenhouse gases (GHGs) are exempt from various requirements except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO_2e. Lastly, proposed changes authorize electronic submission of applications and clarify requirements applicable to minor source facilities that are later required by federal rule to obtain major source (Title V) operating permits.

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

D. Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program [AMENDED]
252:100-49-1 Purpose and Applicability [AMENDED]
252:100-49-3 Definitions [AMENDED]
252:100-49-5 Program criteria and qualification determination [AMENDED]

The Department is proposing to amend Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program in OAC 252:100, to implement recent changes to applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. DEQ and the Oklahoma Tax Commission jointly administer the "Oklahoma Emission Reduction Technology Rebate Program" to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department's responsibilities under the recently revised Oklahoma Emission Reduction Technology Incentive Act.

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

6. **Presentation** – Monitoring Update – Bryan Sims, EPM, Monitoring Section West, AQD & Ryan Biggerstaff, EPM, Monitoring Section East, AQD

7. **Presentation** – Fiscal Report – Dan Melton, Comptroller, Administrative Services Division

8. **Division Director's Report –** Kendal Stegmann, Division Director, AQD

9. **New Business –** Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.

10. **Adjournment –** The next regular meeting is tentatively scheduled for Wednesday, April 30, 2025, 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:

Subchapter 2. Incorporation By Reference
252:100-2-3 Incorporation by reference [AMENDED]
Appendix Q. Incorporation By Reference [AMENDED]

SUMMARY:

The Department of Environmental Quality (Department or DEQ) is proposing to update language in Subchapter 2, Incorporation by Reference, to reflect the latest date of incorporation of EPA regulations. The Department is also proposing to update the content in OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. The gist of these rule proposals and the underlying reason for the rulemaking is to incorporate the latest changes or additions to 40 C.F.R. Part 60, New Source Performance Standards (NSPS), 40 C.F.R. Parts 61 and 63, National Emission Standards for Hazardous Air Pollutants (NESHAP), and other EPA regulations referenced in Chapter 100.

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 September 3, 2024, through October 3, 2024. Oral comments may be made at the October 17, 2024 Air Quality Advisory Council meeting and at the November 7, 2024 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Thursday, October 17, 2024, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

If the Council recommends adoption, the proposed rules will be considered by the Environmental Quality Board at its meeting scheduled for 9:30 a.m. on Thursday, November 7, 2024, at the Stride Bank Center, 301 S. Independence Ave., Enid, OK 73701.

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.

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252:100-2-3 Incorporation by reference [AMENDED]

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AUTHORITY:

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources
Part 5. Permits for Part 70 Sources
252:100-8-6. Permit Content [AMENDED]

SUMMARY:

The Department of Environmental Quality (Department or DEQ) is proposing to amend existing rule language in OAC 252:100-8-6. Permit Content, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated changes to program requirements pursuant to the Federal Register notice entitled "*Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program*," 88 Fed. Reg. 47029 (July 21, 2023). The gist of this rule proposal and the underlying reason for the rulemaking is to comply with federal requirements by removing "affirmative defense" provisions in Oklahoma's Part 70 air quality permit program.

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.
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REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

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Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources
Part 5. Permits for Part 70 Sources
252:100-8-6. Permit Content [AMENDED]

SUMMARY:

The Department of Environmental Quality (Department or DEQ) is proposing to amend existing rule language in OAC 252:100-8-6. Permit Content, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated changes to program requirements pursuant to the Federal Register notice entitled "*Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program*," 88 Fed. Reg. 47029 (July 21, 2023). The gist of this rule proposal and the underlying reason for the rulemaking is to comply with federal requirements by removing "affirmative defense" provisions in Oklahoma's Part 70 air quality permit program.

AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-3-402, and 2-5-106.
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CHAPTER 100. AIR POLLUTION CONTROL

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-1.1. Definitions [AMENDED]
252:100-5-2.1. Emission inventory [AMENDED]
Subchapter 7. Permits for Minor Facilities
Part 1. GENERAL PROVISIONS
252:100-7-1.1. Definitions [AMENDED]
252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities
Part 3. CONSTRUCTION PERMITS
252:100-7-15. Construction permit [AMENDED]
Part 9. PERMITS BY RULE
252:100-7-60.5 Oil and natural gas sector [AMENDED]
252:100-7-60.6. Emergency engine facilities [AMENDED]
252:100-7-60.7. Gasoline dispensing facilities and gasoline dispensing facilities with emergency engines [AMENDED]
Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources
Part 5. PERMITS FOR PART 70 SOURCES
252:100-8-2. Definitions [AMENDED]
252:100-8-4. Requirements for construction and operating permits [AMENDED]
252:100-8-5. Permit applications [AMENDED]
Part 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS
252:100-8-31. Definitions [AMENDED]
252:100-8-33. Exemptions [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. On June 11, 2024, the Environmental Quality Board adopted emergency rules in OAC 252:100-7-60.5, which were approved by the Governor on July 25, 2024. This emergency rule allows the use of the above-mentioned LPE limits. The proposed permanent rule amendments would replace the currently-effective emergency rule.

Absent changes in other sections of Chapter 100, the proposed changes to the permanent rule language in OAC 252:100-7-60.5 would trigger additional requirements regarding the reporting of emissions of Greenhouse Gases (GHGs), submission of fees for GHGs, and other state permitting requirements for which GHGs have historically been exempt. To ensure that the proposed permanent amendments to the PBR for the oil and natural gas sector do not create additional, unintended requirements for owners and operators of various facilities, the DEQ is proposing amendments to other sections of Chapter 100. These amendments would ensure that GHG

emissions remain exempt from annual emission inventory reporting and fees. Further, GHG emissions would not be factored into certain permitting determinations, such as eligibility for a "de minimis facility," a "permit exempt facility," or a PBR or general permit; or used as the basis for a major source/NSR determination, except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO_2e. Further, GHG limits will only be included in minor facility permits if the facility is subject to a GHG limit under a federal NSPS or National Emission Standard for Hazardous Air Pollutants (NESHAP), a requirement adopted as mandated by a federal Emissions Guideline in accordance with 40 C.F.R. Part 60, or when the facility owner or operator requests a limit.

Additional amendments to OAC 252:100-8-4 will incorporate changes to authorize electronic submission of an application for a major source construction or operating permit and to clarify that a facility that is required by federal rule to obtain a Title V operating permit absent a change in facility equipment or emissions increases will continue to be subject to any emission limits established in a previously obtained minor source permit unless the facility obtains a major source construction permit.

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. Additional changes will ensure that GHGs are exempt from various requirements except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO_2e. Lastly, proposed changes authorize electronic submission of applications and clarify requirements applicable to minor source facilities that are later required by federal rule to obtain major source (Title V) operating permits.

AUTHORITY:

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

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CHAPTER 100. AIR POLLUTION CONTROL

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Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-1.1. Definitions [AMENDED]
252:100-5-2.1. Emission inventory [AMENDED]
Subchapter 7. Permits for Minor Facilities
Part 1. GENERAL PROVISIONS
252:100-7-1.1. Definitions [AMENDED]
252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities
Part 3. CONSTRUCTION PERMITS
252:100-7-15. Construction permit [AMENDED]
Part 9. PERMITS BY RULE
252:100-7-60.5 Oil and natural gas sector [AMENDED]
252:100-7-60.6. Emergency engine facilities [AMENDED]
252:100-7-60.7. Gasoline dispensing facilities and gasoline dispensing facilities with emergency engines [AMENDED]
Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources
Part 5. PERMITS FOR PART 70 SOURCES
252:100-8-2. Definitions [AMENDED]
252:100-8-4. Requirements for construction and operating permits [AMENDED]
252:100-8-5. Permit applications [AMENDED]
Part 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS
252:100-8-31. Definitions [AMENDED]
252:100-8-33. Exemptions [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. On June 11, 2024, the Environmental Quality Board adopted emergency rules in OAC 252:100-7-60.5, which were approved by the Governor on July 25, 2024. This emergency rule allows the use of the above-mentioned LPE limits. The proposed permanent rule amendments would replace the currently-effective emergency rule.

Absent changes in other sections of Chapter 100, the proposed changes to the permanent rule language in OAC 252:100-7-60.5 would trigger additional requirements regarding the reporting of emissions of Greenhouse Gases (GHGs), submission of fees for GHGs, and other state permitting requirements for which GHGs have historically been exempt. To ensure that the proposed permanent amendments to the PBR for the oil and natural gas sector do not create additional, unintended requirements for owners and operators of various facilities, the DEQ is proposing amendments to other sections of Chapter 100. These amendments would ensure that GHG

emissions remain exempt from annual emission inventory reporting and fees. Further, GHG emissions would not be factored into certain permitting determinations, such as eligibility for a "de minimis facility," a "permit exempt facility," or a PBR or general permit; or used as the basis for a major source/NSR determination, except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO_2e. Further, GHG limits will only be included in minor facility permits if the facility is subject to a GHG limit under a federal NSPS or National Emission Standard for Hazardous Air Pollutants (NESHAP), a requirement adopted as mandated by a federal Emissions Guideline in accordance with 40 C.F.R. Part 60, or when the facility owner or operator requests a limit.

Additional amendments to OAC 252:100-8-4 will incorporate changes to authorize electronic submission of an application for a major source construction or operating permit and to clarify that a facility that is required by federal rule to obtain a Title V operating permit absent a change in facility equipment or emissions increases will continue to be subject to any emission limits established in a previously obtained minor source permit unless the facility obtains a major source construction permit.

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. Additional changes will ensure that GHGs are exempt from various requirements except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO_2e. Lastly, proposed changes authorize electronic submission of applications and clarify requirements applicable to minor source facilities that are later required by federal rule to obtain major source (Title V) operating permits.

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:

Oral comments may be made at the October 17, 2024 Air Quality Advisory Council meeting and at the November 21, 2024 Environmental Quality Board meeting. The written comment period was opened previously from September 3, 2024 to October 3, 2024.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Thursday, October 17, 2024, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

If the Council recommends adoption, the proposed rules will be considered by the Environmental Quality Board at its meeting scheduled for 9:30 a.m. on Thursday, November 21, 2024, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 C.F.R. § 51.102 and 27A O.S. § 2-5-107(6)(c), and to the State Title V (Part 70) Implementation Plan under the requirements of 40 C.F.R. Part 70 and 27A O.S. § 2-5-112(B)(9).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities or any other members of the public affected by these rules provide the Department, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting,

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102, or reviewed online at https://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 49. Oklahoma Emission Reduction Technology Rebate Program [AMENDED]
252:100-49-1 Purpose and Applicability [AMENDED]
252:100-49-3 Definitions [AMENDED]
252:100-49-5 Program criteria and qualification determination [AMENDED]

SUMMARY:

The Department of Environmental Quality (Department or DEQ) is proposing to amend Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program in OAC 252:100, to implement recent changes to applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. DEQ and the Oklahoma Tax Commission jointly administer the "Oklahoma Emission Reduction Technology Rebate Program" to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department's responsibilities under the recently revised Oklahoma Emission Reduction Technology Incentive Act.

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.
Oklahoma Emission Reduction Technology Incentive Act; 68 O.S. § 55011.

COMMENT PERIOD:

Written comments may be submitted to the contact person from September 3, 2024, through October 3, 2024. Oral comments may be made at the October 17, 2024 Air Quality Advisory Council meeting and at the November 7, 2024 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Thursday, October 17, 2024, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

If the Council recommends adoption, the proposed rules will be considered by the Environmental Quality Board at its meeting scheduled for 9:30 a.m. on Thursday, November 7, 2024, at the Stride Bank Center, 301 S. Independence Ave., Enid, OK 73701.

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.

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program [AMENDED]
252:100-49-1 Purpose and Applicability [AMENDED]
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SUMMARY:

The Department of Environmental Quality (Department or DEQ) is proposing to amend Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program in OAC 252:100, to implement recent changes to applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. DEQ and the Oklahoma Tax Commission jointly administer the "Oklahoma Emission Reduction Technology Rebate Program" to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department's responsibilities under the recently revised Oklahoma Emission Reduction Technology Incentive Act.

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.
Oklahoma Emission Reduction Technology Incentive Act; 68 O.S. § 55011.

COMMENT PERIOD:

Oral comments may be made at the October 17, 2024 Air Quality Advisory Council meeting and at the November 21, 2024 Environmental Quality Board meeting. The written comment period was opened previously from September 3, 2024 to October 3, 2024.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Thursday, October 17, 2024, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

If the Council recommends adoption, the proposed rules will be considered by the Environmental Quality Board at its meeting scheduled for 9:30 a.m. on Thursday, November 21, 2024, at the DEQ Headquarters, 707 N. Robinson, Oklahoma City, OK 73102.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 C.F.R. § 51.102 and 27A O.S. § 2-5-107(6)(c), and to the State Title V (Part 70) Implementation Plan under the requirements of 40 C.F.R. Part 70 and 27A O.S. § 2-5-112(B)(9).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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RULE IMPACT STATEMENTS:

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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.

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DRAFT MINUTES
AIR QUALITY ADVISORY COUNCIL
July 24, 2024
Tulsa Tech – Owasso Campus
10800 N. 137th East Avenue
Owasso, Oklahoma

Official AQAC Approved
at October 17, 2024 Meeting

Notice of Public Meeting – The Air Quality Advisory Council (AQAC) convened for its Regular Meeting at 9:00 a.m. on July 24, 2024. Notice of the meeting was forwarded to the Office of Secretary of State on April 11, 2024. The agenda was posted at the DEQ and the facility twenty-four hours prior to the meeting. Also, Ms. Cheryl Bradley 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. Ms. Lodes thanked and recognized Mr. Gary Collins for his years of service on the Council.

MEMBERS PRESENT	DEQ STAFF PRESENT
James Farrell	Kendal Stegmann
Garry Keele	Cheryl Bradley
John Privrat	Melanie Foster
Jeffrey Taylor	Tom Richardson
Michael Thayer	Brooks Kirlin
Laura Lodes	Phillip Fielder
	Leon Ashford
	Travis Couch
MEMBERS ABSENT	Malcolm Zachariah
Matt Caves	Quiana Fields
Gregory Elliott	
Jefferson Wilber	

Approval of Minutes – Ms. Lodes called for a motion to approve the Minutes of the April 24, 2024 Special Meeting. Mr. Taylor moved to approve and Mr. Privrat made the second.

See transcript page 4

James Farrell	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Michael Thayer	Yes
John Privrat	Yes	Laura Lodes	Yes

Election of Officers – Mr. Taylor nominated Ms. Lodes to remain as Chair and Mr. Farrell made the second.

See transcript page 5 – 6

James Farrell	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Michael Thayer	Yes
John Privrat	Yes	Laura Lodes	Yes

Mr. Farrell nominated Mr. Keele to remain as Vice-Chair and Mr. Taylor made the second.

See transcript pages 6 - 7

James Farrell	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Michael Thayer	Yes
John Privrat	Yes	Laura Lodes	Yes

Public Rulemaking Hearing

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

Mr. Leon Ashford, EPS, Rules & Planning Section of the AQD, stated 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 $\mu g/m^3$ to 9.0 $\mu g/m^3$. The gist of the proposed rule is to ensure Appendix E is consistent with the federal NAAQS. Hearing questions and comments by the Council but none by the public, Ms. Lodes called for a motion, Mr. Keele moved to approve the rule and Dr. Thayer made the second.

See transcript pages 8 - 10

James Farrell	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Michael Thayer	Yes
John Privrat	Yes	Laura Lodes	Yes

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]

Mr. Brooks Kirlin, P.E., Rules & Planning Section of the AQD, stated that 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. Mr. Kirlin stated The Department proposes for the Council to approve Sections 100-1-3 and 100-7-60 and Section 100-8-4 for the Council to consider at the October meeting. Hearing questions and comments by the Council and none by the public, Ms. Lodes called for a motion to approve the proposed changes to Sections 100-1-3 and 100-7-60, Mr. Farrell moved to approve and Mr. Keele made the second.

See transcript pages 10 - 19

James Farrell	Yes	Jeffrey Taylor	Yes

Garry Keele	Yes	Michael Thayer	Yes
John Privrat	Yes	Laura Lodes	Yes

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, P.E., Rules & Planning Section of the AQD, stated that 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. Hearing no questions or comments by the Council and none by the public, Ms. Lodes stated the staff asks that the Council defer action on proposed rule revisions to Subchapter 5, 7 and 8 to a future Council meeting.

See transcript pages 19 - 47

James Farrell	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Michael Thayer	Yes
John Privrat	Yes	Laura Lodes	Yes

Ms. Cheryl Bradley announced the conclusion of the hearing portion of the meeting.

See transcript page 47

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

New Business – There was a conflict with the October date scheduled so staff proposed to move the current October date scheduled to October 17. Ms. Lodes called for a motion to move the next AQAC meeting to Thursday, October 17 at 9:00 at the DEQ. Mr. Farrell moved to approve and Mr. Keele made the second.

James Farrell	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Michael Thayer	Yes
John Privrat	Yes	Laura Lodes	Yes

Adjournment – The next regular meeting is scheduled for Thursday, October 17, 2024 in Oklahoma City, Oklahoma. Ms. Lodes called for a motion to adjourn the meeting, Mr. Keele moved to adjourn and Mr. Taylor made the second. Meeting adjourned at 10:12 a.m.

James Farrell	Yes	Jeffrey Taylor	Yes
Garry Keele	Yes	Michael Thayer	Yes
John Privrat	Yes	Laura Lodes	Yes

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

REGULAR MEETING/HEARING
AIR QUALITY ADVISORY COUNCIL
JULY 24, 2024, 9:00 AM

MEMBERS PRESENT
Laura Lodes
Garry Keele II
John Privrat
James Farrell
Jeffrey Taylor
Michael Thayer

MEMBERS ABSENT
Matt Caves
Gregory Elliott
Jefferson Wilber

REPORTED BY: Jenny Longley, CSR

PROCEEDINGS

CHAIRWOMAN LODES: I'd like to call today's meeting of the Air Quality Advisory Council to order. Quiana, will you please call roll?

MS. FIELDS: Mr. Caves is absent. Mr. Elliott is absent.

Mr. Farrell?

MR. FARRELL: Yes.

MS. FIELDS: Mr. Keele?

MR. KEELE: Yes.

MS. FIELDS: Mr. Privrat?

MR. PRIVRAT: Yes.

MS. FIELDS: Mr. Taylor?

MR. TAYLOR: Yes.

MS. FIELDS: Dr. Thayer?

DR. THAYER: Yes.

MS. FIELDS: Mr. Wilber is absent.

Ms. Lodes?

CHAIRWOMAN LODES: Yes.

MS. FIELDS: We have a quorum.

CHAIRWOMAN LODES: Thank you.

The next item on today's agenda is a resolution for Mr. Collins. Gary Collins was appointed to the Oklahoma Air Quality Advisory Council in 2008; and whereas Gary Collins was a

dedicated member of the Air Quality Advisory Council; and whereas Gary Collins played an active role in the development of the rules and regulations that were passed by the Air Quality Advisory Council to promote clean air in Oklahoma; and whereas during his tenure as a member of the council, this body has met the legislative charter to attain and preserve clean air in Oklahoma; and now, therefore, it be resolved that the members of the Oklahoma Air Quality Advisory Council recognize and thank Gary Collins for his years of service toward making Oklahoma a better place to live.

Gary, you have to come here.

MS. STEGMANN: Gary, your service has been much appreciated over the years.

MR. COLLINS: Thank you.

CHAIRWOMAN LODES: Very much, we much miss his expertise.

Okay. The next item on today's agenda is the election of officers. We need to -- as usual, on an annual basis we need to elect a Chair and a Vice Chair for the Air Quality Advisory Council. Usually we would do this in January, but since we did not meet in January, we get to do it today.

I jumped ahead, I'm supposed to approve the minutes first. Okay. I'd like to approve the minutes for the April 24, 2024 special meeting.

MR. TAYLOR: So move.

CHAIRWOMAN LODES: Do we have any comments on the minutes?

MR. TAYLOR: I'll make that motion.

MR. PRIVRAT: I second it.

CHAIRWOMAN LODES: I have a motion and second. Will you please call roll?

MS. FIELDS: Mr. Farrell?

MR. FARRELL: Yes.

MS. FIELDS: Mr. Keele?

MR. KEELE: Yes.

MS. FIELDS: Mr. Privrat?

MR. PRIVRAT: Yes.

MS. FIELDS: Mr. Taylor?

MR. TAYLOR: Yes.

MS. FIELDS: Dr. Thayer?

DR. THAYER: Yes.

MS. FIELDS: Ms. Lodes?

CHAIRWOMAN LODES: Yes.

MS. FIELDS: Motion passed.

CHAIRWOMAN LODES: Thank you. And now the

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next item on the agenda is the election of officers. So you all need to decide, or we need to decide who we want for Chair and Vice Chair for the rest of this year, which is one more meeting, it's today and October.

MR. TAYLOR: I'll make a motion to put Laura Lodes back in as Chair.

MR. FARRELL: Second.

CHAIRWOMAN LODES: Thank you. We also need a Vice Chair.

We need to call for a vote on that since we have a motion and a second on just me?

MR. KEELE: Yep.

CHAIRWOMAN LODES: Okay. Quiana, please call roll.

MS. FIELDS: Mr. Farrell?

MR. FARRELL: Yes.

MS. FIELDS: Mr. Keele?

MR. KEELE: Yes.

MS. FIELDS: Mr. Privrat?

MR. PRIVRAT: Yes.

MS. FIELDS: Mr. Taylor?

MR. TAYLOR: Yes.

MS. FIELDS: Dr. Thayer?

DR. THAYER: Yes.

Page 6

MS. FIELDS: Ms. Lodes?

CHAIRWOMAN LODES: Yes.

MS. FIELDS: Motion passed.

CHAIRWOMAN LODES: Thank you.

Now we need a Vice Chair. Garry has been Vice Chair, do we want to keep Garry as Vice Chair or does somebody else want to --

MR. FARRELL: I move to keep Garry as Vice Chair.

MR. TAYLOR: I'll second that.

CHAIRWOMAN LODES: We have a motion and a second as Garry Keele as Vice Chair. Will you please call roll?

MS. FIELDS: Mr. Farrell?

MR. FARRELL: Yes.

MS. FIELDS: Mr. Keele?

MR. KEELE: Yes.

MS. FIELDS: Mr. Privrat?

MR. PRIVRAT: Yes.

MS. FIELDS: Mr. Taylor?

MR. TAYLOR: Yes.

MS. FIELDS: Dr. Thayer?

DR. THAYER: Yes.

MS. FIELDS: Ms. Lodes?

CHAIRWOMAN LODES: Yes.

Page 7

MS. FIELDS: Motion passed.

CHAIRWOMAN LODES: Thank you. Congratulations.

We will now enter the public rulemaking hearing portion of our meeting today.

MS. BRADLEY: Good morning. I am Cheryl Bradley of the Air Quality Division. I will serve as the protocol officer for today's hearings.

The hearings will be convened by the Air Quality Advisory Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 of the Code of Federal Regulations, Part 51, as well as the authority of Title 27A of the Oklahoma Statutes, Section 2-2-201 and Sections 2-5-101 through 2-5-117.

Notice of the July 24, 2024 hearings were advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the proposed OAC Title 252 Chapter 100 rules as listed on the Agenda and will be entered into each record along with the Oklahoma Register filing. Notice of Meeting was filed with the Secretary of State on April 11, 2024. The Agenda was duly posted 24 hours prior to the meeting at the facility and at the DEQ.

If you wish to make a statement, it

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is very important that you complete the form at the registration table, and you will be called upon at the appropriate time. Audience members please come to the podium for your comments and please state your name.

At this time, we will proceed with what is marked as Agenda Item 6A on the Hearing Agenda: Chapter 100, Air Pollution Control, Appendix E, Primary Ambient Air Quality Standards [Amended].

Leon Ashford will make the staff presentation.

MR. ASHFORD: Good morning, Council Members, my name is Leon Ashford. I am an Environmental Programs Specialist with AQD's Rules & Planning Section. Today, we are proposing to change Oklahoma Administrative Code Title 252, Chapter 100, Appendix E.

In 2012, EPA set the PM2.5 primary standard at 12.0 micrograms per cubic meter as an annual mean averaged over three years. On March 6, 2024, EPA revised the annual primary standard to 9.0 micrograms per cubic meter.

In summation, DEQ requests the Air Quality Advisory Council to recommend the proposed amended Appendix E to the Environmental Quality

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Board for adoption. Any questions?
MS. BRADLEY: Questions from the council?
CHAIRWOMAN LODES: I do actually have one, and I should have asked this when we talked the other day. So we don't have to revoke and then redo the whole appendices like we do the other appendices?
MR. COUCH: Not anymore, no.
CHAIRWOMAN LODES: Oh, okay.
MR. COUCH: That was kind of a technicality of the rulemaking system that changed about a year ago.
CHAIRWOMAN LODES: Okay.
MR. COUCH: So now it's more of just an amendment to the appendix. Yeah.
CHAIRWOMAN LODES: Okay. Thank you.
MR. KEELE: And to be clear, what we're doing is synchronizing with the federal standard the state standard.
MS. BRADLEY: Any questions from the public? Hearing none.
CHAIRWOMAN LODES: Hearing none, the staff has asked that -- has recommended that we approve this motion to change OAC 252:100 Appendix E and recommend to the EQB for permanent approval. Do I

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have a motion?
MR. KEELE: Motion to approve. I'll make a motion.
DR. THAYER: Second.
CHAIRWOMAN LODES: Thank you. I have a motion and a second. Quiana, please call roll.
MS. FIELDS: Mr. Farrell?
MR. FARRELL: Yes.
MS. FIELDS: Mr. Keele?
MR. KEELE: Yes.
MS. FIELDS: Mr. Privrat?
MR. PRIVRAT: Yes.
MS. FIELDS: Mr. Taylor?
MR. TAYLOR: Yes.
MS. FIELDS: Dr. Thayer?
DR. THAYER: Yes.
MS. FIELDS: Ms. Lodes?
CHAIRWOMAN LODES: Yes.
MS. FIELDS: Motion passed.
MS. BRADLEY: Now we're on to Item 6B on the agenda: 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

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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].
Brooks Kirlin of the Air Quality Division will give the presentation.
MR. KIRLIN: Good morning, Madam Chair, Members of the Council, Ladies and Gentlemen. As stated, I am Brooks Kirlin, an engineer with Air Quality's Rules & Planning Section. The Department is proposing to clarify air quality requirements by amending existing Chapter 100 rule language in a couple of areas.
First, provisions related to electronic submission of applications, and second, provisions related to minor facilities that are transitioning to Part 70 - or major - sources. I should warn you that I will need to skip around through the document a bit to cover the two areas, and that I will be presenting the version of the proposal that is provided in today's folder. There are just a few minor differences between the folder version and the Council packet, and I will point those differences out along the way.
AQD has allowed electronic

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submissions for a number of years, and today we propose to update our rules to better reflect this policy, and to clarify requirements for electronic submission of air quality permit applications. I might note that many provisions are silent on the appropriate methods for document submittal. However, a few have language to assure both DEQ and the facility that the proper documents are received in a timely manner.
I'm in Subchapter 7, Section 7-60, Subsection (c), which covers registration under a Permit By Rule or PBR, that's on the eighth and ninth pages of the folder version.
We propose to add two provisions under paragraph (c)(2). New subparagraph (2)(D) would expressly allow electronic submission as acceptable documentation of registration, and new paragraph (2)(E) acknowledges that a facility might need to use more than one method to submit various items of documentation for a given project.
Additional electronic submission language has been added in Subchapter 8, Section 8-4, Requirements for construction and operating permits, shown on the tenth page of the folder version. Sorry, the pages aren't numbered for that

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version of the rule proposal. If you happen to look up this section of the rule in Chapter 100 on DEQ's website, you'll see an introductory sentence in paragraph (b)(3) that relies on a postmark to determine if an operating permit application is timely received.

Unfortunately, somewhere along the line, that sentence was omitted from the Office of Administrative Rules' online copy, as you can see where it says OAR website. Unfortunately that's considered the official version.

Therefore, today's proposal shows as new language an introductory sentence that would restore the postmark reference and expand the options to document timely submittal of an operating permit application to basically all possible methods of delivery. And note that after recent discussions, the "postmark" wording in the folder version is a bit more descriptive than the version in the original packet.

The second part of today's proposal would amend additional existing rule language in Section 100-8-4, as well as Section 100-1-3, Definitions, to clarify construction and operating permit requirements associated with modification of

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an existing minor facility - a facility that is subject to Subchapter 7 permitting requirements, transitioning in such a way or modifying it in such a way that it will become a Part 70 source, and therefore subject to Subchapter 8 permitting requirements. We'll start with a related definition of "Modification" in Section 100-1-3 that's on the fourth page of the folder version.

Under (B) on this part, the definition states that, with some caveats, an increase in production rate, increase in hours of operation, or use of an alternative fuel or raw material would not be considered a "change in the method of operation", and so it wouldn't trigger a modification. However, many facilities have voluntarily taken a limitation on their operations in order to avoid an otherwise applicable requirement. AQD believes that relaxing or removing such a limitation should be considered a modification, and we are proposing to add the indicated phrase, which would also bring it more in line with the corresponding federal NSR definition of "major modification" in 40 CFR Section 51.165.

Now moving back to Section 8-4 on the ninth page of the folder version, Section 8-4(a)

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gives the requirements for when a facility must obtain a construction permit for a major or Part 70 source.

AQD is proposing to add clarifying language as new item 8-4(a)(1)(A)(ii), to explicitly state that an existing minor facility must obtain a construction permit under Subchapter 8 before making a modification that, once completed, would require a Part 70 operating permit.

In this same section, we are also proposing some clarifying language regarding requirements to obtain a Part 70 operating permit. Note that as a result of recent discussions, the proposed wording in the folder version is slightly different than the version in the packet.

So, under the same "Timely application" requirements in paragraph (b)(3) that we discussed earlier, subparagraph (C) allows existing sources that become subject to the Part 70 operating program, without making a change that would normally trigger the requirements, allows them 12 months to file an operating permit application.

Although these would be unusual cases, this could happen to a facility, for instance, located in an area that goes

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nonattainment, with a corresponding lowering of the major source threshold. Or, if the existing facility is in a source category for which, for whatever reason, EPA starts specifically requiring Part 70 operating permits by a rule. This requirement dates back to the earlier days of the Title V program, and because of that we are also removing a date that is no longer needed.

We are also clarifying that if a facility found itself in this situation, it could not just use the occasion to obtain an increase in emissions limits, but would need to separately obtain a construction permit for that.

Notice of the proposed rule changes was published in the Oklahoma Register on June 17, 2024. The notice requested comments from the public and other interested parties. No comments on the proposal were received during the comment period.

And this is the point where staff typically would ask the Council to either pass or defer action on proposed rule changes. However, as you will hear during Tom Richardson's presentation - coming up, next item on the agenda - staff expects to bring an unrelated change to Section 100-8-4 for the Council to consider at its October meeting.

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Because the Department may not make changes to the same section more than once in the same year, we ask that the Council defer action on Section 100-8-4 until the next AQAC meeting. However, we ask that the Council recommend the proposed changes to Sections 100-1-3 and 100-7-60, as presented today, to the Environmental Quality Board for adoption as permanent rules.

So we have that recommended motion. If the proposed changes are promulgated, they will be submitted for inclusion in the SIP, and today's hearing will serve to meet the public participation requirements for a SIP submittal.

Thank you. Are there any questions?

CHAIRWOMAN LODES: I do have a logistics question on it, and again, I should have asked. So if we're going to approve 100-7-60, is that not going to be a problem with 100-7-60.5? Okay. Because they're different? I just want to make sure that we do this correctly.

MS. FOSTER: Melanie Foster, Rules & Planning. So since 7-60.5 is a completely different section, passing this 7-60 now doesn't interfere with what's coming in Tom's presentation and what's going to obviously come to you guys again, hopefully

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in October.

CHAIRWOMAN LODES: That's what I wanted to make sure, it's actually considered a separate section even though they're all part of 7-60?

MS. FOSTER: Yes, that's correct.

CHAIRWOMAN LODES: Okay. Thank you.

MR. TAYLOR: And you're in two different years, right?

MS. FOSTER: So how it works, when we say "year", we're talking basically a rulemaking year; so it's anytime before the legislative session. For us, basically October's going to be our last meeting before our deadline to get things to the legislature, which is now February 1, 2025.

So anything that we do today -- well, April, what we did in April at the special meeting -- well, sorry, that's emergency, never mind. Anything we do today, anything we do in October, those will go before the legislature in 2025.

MR. TAYLOR: Okay.

MS. BRADLEY: Any other questions from the council? Questions from the public? Hearing none.

CHAIRWOMAN LODES: Staff has requested a motion to recommend the proposed changes to Sections 100-1-3 and 100-7-60, as reflected in today's

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folder, to the Environmental Quality Board for adoption as permanent rules at its next regular meeting, which is on September 10, 2024. Do I have a motion?

MR. FARRELL: So moved.

CHAIRWOMAN LODES: I have a motion. Do I have a second?

MR. KEELE: Second.

CHAIRWOMAN LODES: I have a motion and a second. Would you please call roll?

MS. FIELDS: Mr. Farrell?

MR. FARRELL: Yes.

MS. FIELDS: Mr. Keele?

MR. KEELE: Yes.

MS. FIELDS: Mr. Privrat?

MR. PRIVRAT: Yes.

MS. FIELDS: Mr. Taylor?

MR. TAYLOR: Yes.

MS. FIELDS: Dr. Thayer?

DR. THAYER: Yes.

MS. FIELDS: Ms. Lodes?

CHAIRWOMAN LODES: Yes.

MS. FIELDS: Motion passed.

MS. BRADLEY: We are now ready for what is identified as 6C on our agenda: Chapter 100, Air

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Pollution Control, Subchapter 7, Permits for Minor Facilities, Part 9, Permits By Rule, 252:100-7-60.5, Oil and natural gas sector [Amended].

Oh, excuse me. Tom Richardson of the Rules & Planning Section will make the presentation.

MR. RICHARDSON: Thank you, Cheryl. Good morning, Madam Chair, Members of the Council, Ladies and Gentlemen. I am Tom Richardson, an engineer in the Air Quality Division's Rules & Planning Section. My purpose today is to present proposed changes to our state permitting rules, specifically permanent changes to the Oil and Natural Gas Permit By Rule or PBR in Subchapter 7 of Chapter 100, as well as additional changes to Subchapters 5, 7, and 8 to address greenhouse gases, or GHGs. And I'm advancing my own slides, so please bear with me.

This slide summarizes the topics I will cover. First, I will say a few words about EPA's New Source Performance Standards, or NSPS, Subpart OOOOb that addresses emissions for the oil and natural gas industry.

The next bullet notes that the emergency changes to the oil and natural gas Permit By Rule, which you recommended in April and the Environmental Quality Board adopted in June, now

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awaits signature by the Governor.

I will give a brief overview of the legally and practicably enforceable limits, or LPE limits, on tank batteries that were incorporated into the emergency rule; then I will give an overview of the permanent rule changes we are proposing, although I would emphasize that we will not be asking the council to act today, we will be requesting that the council defer action on the permanent amendments to the rules until we meet again in October; and lastly, I will discuss next steps.

This slide shows the first page of the final Federal Register notice for the NSPS Subpart OOOOb rule and the image of a table showing the emissions that will be covered by the rule. The final rule was published on March 8, 2024, the effective date is May 7, 2024.

And this slide shows that NSPS OOOOb covers a number of different types of sources and introduces a number of new requirements. We are adding a reference to NSPS OOOOb in our proposed permanent changes to the oil and gas PBR that mirrors the emergency rule language approved by the council in April.

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The next slide shows the legally and practicably enforceable limits, and this was one of the key drivers to our recommendation of the emergency PBR changes that were adopted in April. And again, I'd like to highlight there's a change in NSPS OOOOb with regard to the definition of storage vessel affected facility which makes the entire tank battery a single unit for the purposes of this rule.

Goals for the permanent rulemaking. Our goals are to adopt the bulk of the new language from the emergency update to the oil and gas PBR as a permanent update to our rules.

We would also like to address the exemptions and exclusions of greenhouse gases as an aggregate because greenhouse gases, as defined in our rules, are an aggregate, but they also represent individual pollutants, for example methane. And we want to include those exemptions within the sections where the emissions of greenhouse gases could trigger otherwise applicable requirements, so in other words, keep the first domino from striking the next domino and creating problems.

We will do that in the three subchapters shown, Subchapter 5, Emissions inventory and fees; Subchapter 7, minor source permitting

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rules; and Subchapter 8, the Title V operating permits and major source construction permit subchapter.

Chapter 100, Subchapter 5 changes. Please turn in your folder to the proposed amendments to the rule text in Chapter 100, Subchapter 5. And apologies, we did not get the language in your folder up and noticed early enough to get it available on the web.

It is posted now so members of the public are able to view it, but we were working on the language and we only posted the emergency rule language to get the ball rolling, and so we do not actually have the other changes that are present in your folders today, which is one of the reasons why we're asking you to defer action until October.

Policy goals for Subchapter 5. Before we get into the actual rule text, what I'd like to do is go over some bullet points just to outline what our goals are from a policy standpoint. Again, fix the policy first and then address the rules to make sure that the rules reflect our policy.

First, owners and operators of facilities with Oklahoma DEQ Air Quality permits are

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not required to include greenhouse gases, whether as an aggregate or as individual pollutants, in their annual emissions inventories. This is our current policy, this policy will continue after these changes are adopted.

No fees will be charged for GHGs. Again, this reflects current policy, that policy will not change with the adoption of our permanent rules.

Greenhouse gases also will not be considered in the determination of the frequency with which facilities with PBRs need to submit annual emissions inventories. Note PBRs have a less frequent schedule, they submit on a three-year or six-year basis depending on the level the threshold, for their emissions.

And now we're going to get into the rule proper, so we are in Subchapter 5 changes. I would also note, for today's presentation I will be giving a high-level overview of the proposed amendments to our rules, I intend to provide a more detailed overview in October, during the council meeting at that point.

So here, under "Definitions", you can see that we're adding the word "air" for regulated

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air pollutants for fee calculation. This is a fix, this omission was present in our definition. In every other instance in the rules, the word "air" is there so it's "Regulated air pollutant for fee calculation". This is the only place where "air" does not exist; so that would be one of the recommendations we're making.

And then further, you can see in C, greenhouse gases either as individual pollutants or as an aggregate will be exempted from the requirement for fee calculation. So when we come to regulated air pollutants for fee calculation, we've already omitted carbon monoxide, we don't fee for carbon monoxide, we don't fee for gross particulate matter, we will not fee explicitly for greenhouse gases.

So here we are in 5-2-1, emissions inventory. The language highlighted exempts greenhouse gases from the determination of whether a facility with a PBR is required to submit an annual emissions inventory on a three-year cycle or a six-year cycle. I mentioned that before, this is just clarification that that 5-ton per-year threshold exempts greenhouse gases.

And again, big picture, I think

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Melanie Foster, the manager of the Rules & Planning section, said don't get into the minutia of the PBR without just highlighting overall we are not inventorying greenhouse gases, we are not feeing greenhouse gases. Keep that big picture in mind.

Then, here in the language highlighted, we are rearranging 1 and 2 as shown to emphasize our preference for actual emissions over permitted allowable emissions with regard to the collection of our annual emissions inventory. So this isn't a substantive change, rather it's a change in priority.

So our emissions inventory section has always preferred actual emissions to the permitted allowable emissions. Although permitted allowable emissions are acceptable, we just wanted to change the order to emphasize our preference for the actual emissions. And then again, below, greenhouse gases are exempted from the requirement for an annual emissions inventory.

And that concludes our Subchapter 5 changes, we're now moving on to Subchapter 7. And again, please turn in your folder, or for those of you not on the council, this information's available on the web and the link is shown.

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Policy goals for Subchapter 7. As we did above for Subchapter 5, I'd like to highlight the policy goals so we can ensure that we agree on policy, then we get to the rule changes we'll ensure, to the degree we can, that those policies are reflected in our rule changes.

First, again, greenhouse gases, whether as an aggregate or as individual pollutants, will not be factored into the determination whether a facility meets the definition of de minimus or permit exempt.

Second, greenhouse gases do not need to be included in a minor facility permit unless, one, the facility is subject to a greenhouse gas limit under NSPS; two, it's due to a requirement based on emission guidelines that have been adopted in accordance with 40 CFR Part 60, and I'll have more to say when we get to that point in the rule text; or lastly, if the owner operator requests a limit, then the greenhouse gas limits can be placed in the permit.

Greenhouse gases will not be considered in the determination of whether a facility's eligible for a minor source permit, a general permit, or a PBR. Greenhouse gases will not

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be factored into the determination whether a construction permit is required because a facility's undergone a modification that results in an emission increase of 5 tons per year.

Further, greenhouse gases are not factored into the determination of whether a facility is, one, a major source with regard to Title V requirements; two, a major stationary source for the purposes of PSD; or, three, a major stationary source for the purposes of nonattainment NSR.

And then, lastly, greenhouse gases will not be factored into the determination whether a facility's project is a major modification under either the PSD program or the nonattainment NSR program.

And now, here we're showing rule text. Again, please note that this will be a high-level overview, I plan on doing a more detailed, step-by-step discussion when we bring the rules back in October.

And you'll note here under de minimus facility, we're adding that exemption for greenhouse gases. We already exempted the particulate matter with greater than 10-micrometer aerodynamic

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diameter, we're also adding the exemption for greenhouse gases.

Next, permit exempt facility. We're exempting greenhouse gases from the determination of whether a facility is permit exempt or not. Previously, this section shows -- so this is 100-7-2.1. Previously, this section was very limiting with regard to what we can do with our minor source permitting program. It basically said we can only include greenhouse gas emissions when they were requested to avoid the requirement to obtain a PSD construction permit or Title V or Part 70 operating permit.

The changes we're proposing will allow greenhouse gases limits where required, one, by a federal NSPS or NESHAP; two, rules promulgated as regulated as required by federal emissions guidelines; or three, when requested by the owner operator.

And here, I'd like to just briefly touch on the promulgation for emission guidelines. So we're really focusing on OOOOb, but there is also an NSPS OOOOc, and those are the emission guidelines.

So EPA is requiring each state to

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promulgate rules that address existing sources, existing oil and gas sources. Now, EPA already has a proposal or has a rule in place that's a model rule, but that rule does not consider RULOF or remaining useful life and other factors.

We are in the process, in the early process of developing our own state plan. We plan to investigate RULOF and have exemptions for certain facilities, if that's merited. And so as we investigate that, we need this enabling language in 2 to be able to put those permits, when they're promulgated, into the permits that are adopted.

So again, this is just laying the groundwork for when we get the ball rolling for our 111(d) plan, our state plan to address the emission guidelines. And that's the 1, 2, and 3, under A.

The next, the B and below, is basically a laundry list of greenhouse gas exemptions. So those exemptions are, again, exemptions from the requirement for an annual emission inventory, an emission -- the greenhouse gas emissions will not be subject to fees, and then a series of exemptions.

These exemptions are redundant. So the exemptions are being placed in the parts of the

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rules where those issues are addressed, but we decided -- because we already have this section in Subchapter 7, we decided to use this as kind of a one-stop shop for all of the exemptions for greenhouse gases, so that's why we've made these changes here. These changes are not exclusively here, they also will be found in the other sections where greenhouse gases would be addressed.

So stepping through, again, this is the laundry list of greenhouse gas exemptions, so again, the 5-ton-per-year threshold triggering a requirement for a Subchapter 7 construction permit, determination of whether a facility is permit exempt, de minimus, et cetera.

So all of -- this is a complete list of all of those exemptions, and this list is very similar to what we put in the PBR that was passed in April, the emergency PBR rules, and we've pulled those out of the PBR, which was supposed to be kind of a self-contained limit, and put them here for applicability to other areas in the program.

Next, construction permits. And again, it's referenced above, but it also appears here where we have the triggering language for the requirements to obtain a Subchapter 7 construction

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permit. So again, if you make a change that increases emissions by more than 5 tons per year, that would trigger a requirement for a Subchapter 7 construction permit, we will exempt greenhouse gases from that determination.

Permit By Rule. Greenhouse gases are not exempt from the determination whether a facility would be subject to a PBR or a GP. So the 40-tons-per-year actual, 100-ton-per-year potential emissions, those thresholds are for other regulated air pollutants, greenhouse gases would not be determinative of whether you're able to obtain a PBR or a GP.

Permits by Rule. Now, the vast majority of the changes I'm going to show, the changes to the oil and natural gas PBR, are identical to those that were adopted as emergency rulemaking in April.

The original language in the oil and gas PBR allows facilities to be constructed and operated, and I would note the changes made in April and the changes we'll be bringing back in October, those changes are not strictly necessary to allow a facility subject to OOOOb to operate under the PBR. So our PBR already has that mechanism in place, but

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this addition of the OOOOb language is for clarification, it's not strictly necessary, we wanted to highlight that.

Further, the limitations on emissions imposed by NSPS and NESHAP may be used to determine PTE, and that's the language below in 1, eligible facilities, and if you drop down to E. And that's important because in some cases, a facility may have, for example, an engine subject to JJJJ requirements, and so the limitation on its potential to emit under JJJJ, those limitations can be factored into the determination of eligibility.

Further, the legally and practicably enforceable limits that can be obtained under the PBR, those may also be factored into the determination of eligibility for the PBR.

The language here adds a reference to Subpart OOOOb, and again clarifies that all emission units addressed by that rule may be covered by the oil and natural gas PBR. This clarification, again, is not strictly necessary, but is a helpful clarification.

And then we get to D, and the vast majority of the new rule language that's shown in Subsection D, this was language already adopted as

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part of the emergency rulemaking that was approved in April. So we have the requirements for the legally and practicably enforceable limits on tank batteries to keep those batteries from becoming storage vessel affected facilities under OOOOb. Again, this language is identical to the emergency rule language approved in April.

Again, the language identical to what was approved in April. And you know, these are the mechanisms if you have a non-assisted flare, it has to have a destruction efficiency of 95 percent, if it's an enclosed combustion device, or if you're using a VRU.

And this language was meant to address the -- we'll say more strict requirements under OOOOb than the previous requirements under OOOO and OOOOa. Again, this is the language that's identical to what was approved in April with regard to initial compliance and continued compliance.

And, lastly, reporting and recordkeeping. And again, all the language shown is identical to what we adopted in April. I'm going very fast, I hope that's okay, but I feel like we've seen that before, so we're speeding through.

This is different. So in the

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emergency PBR, we really tried to kind of hermetically seal changes we were making to the program within those emergency rules proper. So if you took a limit under the PBR, we did not want that to be the first domino that triggered other applicable requirements that we did not want to be required.

And so this language was put in the emergency PBR, we've now taken this language out of the emergency PBR and we've addressed it each time one of these instances came up in the rules. In addition, we have that entire section listing the laundry list of all of the exemptions for greenhouse gases. So this part has been struck and will not be part of the permanent rulemaking.

And now we're moving on. So that was the set of changes for the oil and gas PBR, and now we're in the emergency engine facilities PBR. Again, we're dropping in the exemption of greenhouse gases from the determination of whether you can obtain or apply for a PBR. So strictly speaking, without exempting greenhouse gases - greenhouse gases are a regulated air pollutant under the definition - we need to create that exemption to ensure that that doesn't keep a facility from being

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able to obtain this PBR.

Gasoline dispensing facilities, the same thing applies here. Again, each instance where there's a threshold or a requirement that because greenhouse gases are a regulated air pollutant they would trigger an otherwise applicable requirement, we're exempting the greenhouse gases from that requirement. And that's it for Subchapter 7.

And now we're ready to launch into Subchapter 8, so please, Council Members, turn in your folder, for those of you not on the council, please continue looking at the rules that we placed on the web.

Policy goals for Subchapter 8. Again, we're going to highlight the high-level policy goals and then our goal is to get those policies into our rules when we come to the rules proper.

First, greenhouse gases will not trigger the requirement for a facility to obtain a Title V or Part 70 operating permit. Second, greenhouse gases will not trigger a requirement for minor new source review or NSR - which is also a Subchapter 8 construction permit - for a facility with a Title V operating permit. Specifically,

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greenhouse gases will not be evaluated against the 10-ton-per-year threshold for the projects considered minor modifications.

And this grows out of the series of permitting rule changes we made in the 2020-2021 period, and that's where we needed to create an exemption because, otherwise, minor modifications might trigger a requirement for a construction permit, and so we used a 10-ton-per-year threshold. So these are the Tier 1 construction permits for minor modifications that exceed the 10-ton-per-year threshold, we want to ensure that greenhouse gases are not used in that determination.

Next, greenhouse gases will not be subject to a PSD best available technology review under our state requirements. And we'll get into that in the details, but there are different BACT and different modeling requirements for certain changes that are subject to state rules and others that are subject to federal PSD and nonattainment NSR. So these are our state rules.

Further, the state - this is not the PSD program, this is the state program - there will be no requirement for air quality modeling for greenhouse gases. In addition, the greenhouse gases

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will be exempt from the ambient impact analysis.

So an increase in greenhouse gases will also not trigger the requirement for a PSD permit. A PSD permit will only be triggered if another pollutant exceeds the PSD thresholds.

Greenhouse gases will only be subject to PSD BACT if a facility's required to obtain a PSD permit due to a significant emission increase and a significant net emission increase of one or more non-greenhouse-gas pollutants and also greenhouse gas emissions increased by 75,000 tons per year of CO2 equivalent. That's kind of complicated, we'll get into that when we get to PSD, but these are these anyway sources that trigger a requirement for BACT for greenhouse gases.

Further, a PSD permit that is triggered, greenhouse gases are exempt from the ambient air impact analysis. Further, greenhouse gas BACT is only required when other pollutants trigger the requirement for nonattainment NSR and if greenhouse gases will increase by 75,000 tons of CO2 equivalent. So far we have no nonattainment areas, knock on wood, we hope that continues, but just in case, we wanted to make that exemption for greenhouse gases.

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And now here we are in the rules again. And once again - and I sound like a broken record at this point - this will be a high-level overview of the proposed amendments, and I plan on bringing up a more detailed, step-by-step overview when we get to the rules in October.

First, under 8-2 "Definitions", the definition of "major source". That establishes the criteria which determine whether a facility is required to obtain a Title V or Part 70 operating permit; so we're going to modify that "major source" definition to exempt greenhouse gases.

Where is that done? That's done here in B. So a "major stationary source" as defined in Section 302 of the Act - that's the Clean Air Act - that "emits 100 tons per year or more of any regulated air pollutant". We've already exempted gross particulate matter, and here we're dropping in the new exemption for greenhouse gases. Again, we're just cleaning up all those references to make sure that greenhouse gases are explicitly excluded from these requirements. And I'm not sure on the rest of the definition of major source because it goes on for quite a bit, but this is the key language that provides that exemption for greenhouse

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gases.

8-4. So these are the requirements for construction and operating permits. So if you have a significant modification to a facility so defined, you need a construction permit. This new language under (A)(1)(B)(iv), that has that triggering language for facility changes that are eligible for minor modifications but trigger a permitting requirement because they exceed the 10-ton-per-year threshold. So we're exempting the greenhouse gases from that requirement to make sure that the greenhouse gas emissions are not factored into that determination.

By the way - and Brooks discussed this previously - Brooks is also suggesting amendments to 8-4. Because I've been using the Reese's Peanut Butter Cup, my -- apparently, my peanut butter is getting in Brooks' chocolate, so we're making sure that we address 8-4 once so that we don't create problems with the rulemaking. So we intend to come back in October, and I'll be bringing up not only these changes to 8-4, I'll be bringing up the changes that Brooks recommended and we'll discuss all of the changes in October.

Permit applications. So greenhouse

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gases are exempt from state -- again, I'm using -- you know, I always look to Phillip Fielder when it comes to permitting requirements. I've been using Oklahoma BACT or -- and I think "state BACT" is the term of art that Phillip uses. So state BACT is different from PSD BACT. And so the state BACT requirements are triggered by an emission increase of 100 tons per year of any pollutant, and PSD has different thresholds and different requirements, but if state BACT is triggered and it's not a PSD permit, there is a requirement to perform certain analyses, we are excluding greenhouse gases from that requirement.

Similarly, under this state program, if you have 100-ton-per-year increase that doesn't trigger PSD, we are exempting you from the modeling requirements. There are modeling requirements for the other pollutants that are a little different from PSD. Going into that would take me way more time and I would be just asking Phillip to do the explanation. But we're just making sure that this non-PSD modeling requirement, that the greenhouse gases are exempt from that. And I've got the note, again, state BACT, state modeling is triggered by a 100-ton-per-year increase that does not trigger PSD.

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And speaking of PSD, here we are in Part 70. So under "Definitions", the definition of "major stationary source", we're exempting greenhouse gases from the 100-ton-per-year threshold for the classification as a major stationary source for PSD for those 26 listed source types. So these are the types that EPA, in Part 51, has identified as facility types or sources, rather, that are subject to the 100-ton-per-year threshold for the requirement to perform a PSD analysis.

Most -- oh, one other thing. If you look at XIV, municipal incinerators capable of charging, our rules say more than 250 tons of refuse per day; EPA actually made the change to Part 51, changing that from 250 tons to 50 tons. So in addition to all the issues with the greenhouse gases, we are proposing that we clarify this definition to ensure that is parallel with the EPA definition in Part 51. So just throwing that in there for, you know, one more thing, I guess that's a different flavor of peanut butter to add into this chocolate.

But further down, in (ii), most facilities are subject to PSD analysis if they cross the 250-ton-per-year threshold; so that language,

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again, we've added the greenhouse gas exemption. So for the 26 listed facilities, the threshold is 100 tons, we've got that exempted above, here for 250 tons we're exempting greenhouse gases.

Subject to regulation. So subject to regulation does a lot of work, a lot of work in the Part 70 or Title V program, but we didn't need to make a modification to that definition. It does similarly important work within the PSD program, and here we are proposing modifications.

But just to start with, I thought I would provide a clarification. So greenhouse gases are only subject to regulation - and really, subject to PSD BACT - under the following scenarios. The scenario (i) is a new facility, a new facility that will be a major stationary source of a non-greenhouse-gas pollutant, NOx, VOCs, whatever. And it also has greenhouse gas emissions of 75,000 tons per year of CO2 equivalent, so that's one scenario that could require PSD BACT for greenhouse gases. And this is in parallel with EPA requirements as amended by the court rulings on the issue.

(ii), an existing facility -- this is a little bit more complicated. So an existing

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facility that is already a major stationary source for a non-greenhouse-gas pollutant - okay, that's like little (a), so it's an existing major stationary source - it has a significant emission increase and a significant net emission increase of a non-greenhouse-gas pollutant.

And lastly, after all that, it also has an emission increase of greenhouse gases of at least 75,000 tons per year of CO2 equivalent. So we've added some clarification language in "subject to regulation".

Again, if you look down below, in (D)(ii), for whatever reason the existing language didn't have both significant emission increase and significant net emission increase, so we're adding that language and we're clarifying that the significant emission increase and the significant net emission increase, the triggering event is for a non-greenhouse-gas pollutant. And all of that has been policy for adding these rule changes to ensure that our rules actually reflect our policy.

Exemptions. So under 8-33, the exemptions from air quality impact analysis. So the clarification that's added here and shown is that greenhouse gases are exempt from air quality

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modeling requirements, and that's in that 252:100-8-35(a) and (c), so those are modeling requirements, and the greenhouse gases, there's no national ambient air quality standard for greenhouse gases, so by policy they're exempt, but we're making it explicit by adding this language.

Further, the additional impact analysis, and that's the growth analysis and visibility, we're exempting greenhouse gases from that requirement, as well. And so those are the exemptions shown in the language below.

Lastly, Part 9, Nonattainment NSR. We looked into this and determined we had no need to amend the language in Part 9. The reason why is because if a facility's located in a nonattainment area and a project is determined to require a nonattainment NSR, then all other pollutants have to be evaluated with regard to the PSD program. So in effect, by fixing the PSD problems and clarifying the PSD issues with regard to greenhouse gases, we've addressed the kind of domino that would fall after the nonattainment NSR requirement falls if - and we hope it doesn't - if we become nonattainment for a pollutant. So need to amend this part of the rule.

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Summary of comments and DEQ responses. Again, we only posted identical language in the emergency PBR when we post the notice of rulemaking. So, as expected, there were comments on that that those rules were already passed, but that was merely a placeholder to basically get the ball rolling so we could give this presentation and then share these rule changes with the council and with the public in the hopes that we come back in October and we have rules that we can promulgate.

We do intend to publish that notice of proposed rulemaking in time with an updated set of proposed amendments of both Subchapters 5, 7, and 8 in advance of the October Air Quality Council meeting. We look forward to reviewing comments on that more complete set of proposed amendments when we do post them.

Chapter 100, Subchapters 5, 7, and 8. That concludes my presentation on the proposed changes to Chapter 100, Subchapters 5, 7, and 8. Staff requests that the council defer action on the proposed rule revisions to Subchapters 5, 7, and 8, and I thank you.

And Cheryl, I will turn things back over to you.

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MS. BRADLEY: Thank you, Tom.

Any questions by the council? Any questions from the public? Seeing none.

CHAIRWOMAN LODES: The staff has asked that we defer action on the proposed rule revisions to Subchapters 5, 7, and 8 to a future council meeting. Isn't that how we always want to word it?

MS. FOSTER: No vote.

MR. COUCH: You don't need to motion anything.

CHAIRWOMAN LODES: We don't need to vote or do anything? Okay.

MS. BRADLEY: That concludes the hearing portion of this meeting.

(HEARING CONCLUDED AT 10:01 AM)

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CERTIFICATE

I, Jenny Longley, Certified Shorthand Reporter within and for the State of Oklahoma, do hereby certify that the above and foregoing hearing was by me taken in shorthand and thereafter transcribed; and that I am not an attorney for nor relative of any of said parties or otherwise interested in the event of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 5th day of August, 2024.

Jenny Longley, CSR

CSR # 1903

OKLAHOMA Environmental Quality

AIR QUALITY ADVISORY COUNCIL

Attendance Record
July 24, 2024
Owasso, Oklahoma

NAME and/or AFFILIATION	Address and/or Phone and/or E-Mail
MELANIE FOSTER	DEQ
Travis Couch	DEQ
Quiana Fields	DEQ
Tom Richardson	DEQ
Jan Richardson	Oklahoma History Center
Cheryl Bradley	DEQ
Brooks Kirlin	DEQ
Malcolm Zacharia	DEQ
LEON ASHFORD	DEQ
Gary Keele	McAfee Taft gary.keele@mcafeetaft.com
Buel Ground	EFO
Jody Reinhart	Trinity Consultants
Phillip Fielder	DEQ
Ford Benham	OG&E
Jeff Taylor	DEQ
Kendal Stegmann	DEQ
Audra Bechan	webco
MIKE THATER	AQAC - OSU
Laura Lodes	AQC
Jim Farrell	AQAC
MATT GRIMES	OG+E
John Privett	AQAC
Jonathan Truong	ONEOK
Meghan Wan	ONEOK
Jeff Everett	OG&E
Kyle Dunn	Trinity
Laura Finley	Ryan Whaley
GARY COLLINS	CF INDUSTRIES

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REGULAR MEETING/HEARING
AIR QUALITY ADVISORY COUNCIL
JULY 24, 2024, 9:00 AM

MEMBERS PRESENT
Laura Lodes
Garry Keele II
John Privrat
James Farrell
Jeffrey Taylor
Michael Thayer

MEMBERS ABSENT
Matt Caves
Gregory Elliott
Jefferson Wilber

REPORTED BY: Jenny Longley, CSR

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PROCEEDINGS

CHAIRWOMAN LODES: I'd like to call today's meeting of the Air Quality Advisory Council to order. Quiana, will you please call roll?

MS. FIELDS: Mr. Caves is absent. Mr. Elliott is absent.

Mr. Farrell?

MR. FARRELL: Yes.

MS. FIELDS: Mr. Keele?

MR. KEELE: Yes.

MS. FIELDS: Mr. Privrat?

MR. PRIVRAT: Yes.

MS. FIELDS: Mr. Taylor?

MR. TAYLOR: Yes.

MS. FIELDS: Dr. Thayer?

DR. THAYER: Yes.

MS. FIELDS: Mr. Wilber is absent.

Ms. Lodes?

CHAIRWOMAN LODES: Yes.

MS. FIELDS: We have a quorum.

CHAIRWOMAN LODES: Thank you.

The next item on today's agenda is a resolution for Mr. Collins. Gary Collins was appointed to the Oklahoma Air Quality Advisory Council in 2008; and whereas Gary Collins was a dedicated member of the Air Quality Advisory Council; and whereas Gary Collins played an active role in the development of the rules and regulations that were passed by the Air Quality Advisory Council to promote clean air in Oklahoma; and whereas during his tenure as a member of the council, this body has met the legislative charter to attain and preserve clean air in Oklahoma; and now, therefore, it be resolved that the members of the Oklahoma Air Quality Advisory Council recognize and thank Gary Collins for his years of service toward making Oklahoma a better place to live.

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Gary, you have to come here.

MS. STEGMANN: Gary, your service has been much appreciated over the years.

MR. COLLINS: Thank you.

CHAIRWOMAN LODES: Very much, we much miss his expertise.

Okay. The next item on today's agenda is the election of officers. We need to -- as usual, on an annual basis we need to elect a Chair and a Vice Chair for the Air Quality Advisory Council. Usually we would do this in January, but since we did not meet in January, we get to do it today.

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I jumped ahead, I'm supposed to approve the minutes first. Okay. I'd like to approve the minutes for the April 24, 2024 special meeting.

MR. TAYLOR: So move.

CHAIRWOMAN LODES: Do we have any comments on the minutes?

MR. TAYLOR: I'll make that motion.

MR. PRIVRAT: I second it.

CHAIRWOMAN LODES: I have a motion and second. Will you please call roll?

MS. FIELDS: Mr. Farrell?

MR. FARRELL: Yes.

MS. FIELDS: Mr. Keele?

MR. KEELE: Yes.

MS. FIELDS: Mr. Privrat?

MR. PRIVRAT: Yes.

MS. FIELDS: Mr. Taylor?

MR. TAYLOR: Yes.

MS. FIELDS: Dr. Thayer?

DR. THAYER: Yes.

MS. FIELDS: Ms. Lodes?

CHAIRWOMAN LODES: Yes.

MS. FIELDS: Motion passed.

CHAIRWOMAN LODES: Thank you. And now the

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next item on the agenda is the election of officers. So you all need to decide, or we need to decide who we want for Chair and Vice Chair for the rest of this year, which is one more meeting, it's today and October.

MR. TAYLOR: I'll make a motion to put Laura Lodes back in as Chair.

MR. FARRELL: Second.

CHAIRWOMAN LODES: Thank you. We also need a Vice Chair.

We need to call for a vote on that since we have a motion and a second on just me?

MR. KEELE: Yep.

CHAIRWOMAN LODES: Okay. Quiana, please call roll.

MS. FIELDS: Mr. Farrell?

MR. FARRELL: Yes.

MS. FIELDS: Mr. Keele?

MR. KEELE: Yes.

MS. FIELDS: Mr. Privrat?

MR. PRIVRAT: Yes.

MS. FIELDS: Mr. Taylor?

MR. TAYLOR: Yes.

MS. FIELDS: Dr. Thayer?

DR. THAYER: Yes.

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MS. FIELDS: Ms. Lodes?

CHAIRWOMAN LODES: Yes.

MS. FIELDS: Motion passed.

CHAIRWOMAN LODES: Thank you.

Now we need a Vice Chair. Garry has been Vice Chair, do we want to keep Garry as Vice Chair or does somebody else want to --

MR. FARRELL: I move to keep Garry as Vice Chair.

MR. TAYLOR: I'll second that.

CHAIRWOMAN LODES: We have a motion and a second as Garry Keele as Vice Chair. Will you please call roll?

MS. FIELDS: Mr. Farrell?

MR. FARRELL: Yes.

MS. FIELDS: Mr. Keele?

MR. KEELE: Yes.

MS. FIELDS: Mr. Privrat?

MR. PRIVRAT: Yes.

MS. FIELDS: Mr. Taylor?

MR. TAYLOR: Yes.

MS. FIELDS: Dr. Thayer?

DR. THAYER: Yes.

MS. FIELDS: Ms. Lodes?

CHAIRWOMAN LODES: Yes.

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MS. FIELDS: Motion passed.

CHAIRWOMAN LODES: Thank you. Congratulations.

We will now enter the public rulemaking hearing portion of our meeting today.

MS. BRADLEY: Good morning. I am Cheryl Bradley of the Air Quality Division. I will serve as the protocol officer for today's hearings.

The hearings will be convened by the Air Quality Advisory Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 of the Code of Federal Regulations, Part 51, as well as the authority of Title 27A of the Oklahoma Statutes, Section 2-2-201 and Sections 2-5-101 through 2-5-117.

Notice of the July 24, 2024 hearings were advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the proposed OAC Title 252 Chapter 100 rules as listed on the Agenda and will be entered into each record along with the Oklahoma Register filing. Notice of Meeting was filed with the Secretary of State on April 11, 2024. The Agenda was duly posted 24 hours prior to the meeting at the facility and at the DEQ.

If you wish to make a statement, it

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is very important that you complete the form at the registration table, and you will be called upon at the appropriate time. Audience members please come to the podium for your comments and please state your name.

At this time, we will proceed with what is marked as Agenda Item 6A on the Hearing Agenda: Chapter 100, Air Pollution Control, Appendix E, Primary Ambient Air Quality Standards [Amended].

Leon Ashford will make the staff presentation.

MR. ASHFORD: Good morning, Council Members, my name is Leon Ashford. I am an Environmental Programs Specialist with AQD's Rules & Planning Section. Today, we are proposing to change Oklahoma Administrative Code Title 252, Chapter 100, Appendix E.

In 2012, EPA set the PM2.5 primary standard at 12.0 micrograms per cubic meter as an annual mean averaged over three years. On March 6, 2024, EPA revised the annual primary standard to 9.0 micrograms per cubic meter.

In summation, DEQ requests the Air Quality Advisory Council to recommend the proposed amended Appendix E to the Environmental Quality

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Board for adoption. Any questions?
MS. BRADLEY: Questions from the council?
CHAIRWOMAN LODES: I do actually have one, and I should have asked this when we talked the other day. So we don't have to revoke and then redo the whole appendices like we do the other appendices?
MR. COUCH: Not anymore, no.
CHAIRWOMAN LODES: Oh, okay.
MR. COUCH: That was kind of a technicality of the rulemaking system that changed about a year ago.
CHAIRWOMAN LODES: Okay.
MR. COUCH: So now it's more of just an amendment to the appendix. Yeah.
CHAIRWOMAN LODES: Okay. Thank you.
MR. KEELE: And to be clear, what we're doing is synchronizing with the federal standard the state standard.
MS. BRADLEY: Any questions from the public? Hearing none.
CHAIRWOMAN LODES: Hearing none, the staff has asked that -- has recommended that we approve this motion to change OAC 252:100 Appendix E and recommend to the EQB for permanent approval. Do I

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have a motion?
MR. KEELE: Motion to approve. I'll make a motion.
DR. THAYER: Second.
CHAIRWOMAN LODES: Thank you. I have a motion and a second. Quiana, please call roll.
MS. FIELDS: Mr. Farrell?
MR. FARRELL: Yes.
MS. FIELDS: Mr. Keele?
MR. KEELE: Yes.
MS. FIELDS: Mr. Privrat?
MR. PRIVRAT: Yes.
MS. FIELDS: Mr. Taylor?
MR. TAYLOR: Yes.
MS. FIELDS: Dr. Thayer?
DR. THAYER: Yes.
MS. FIELDS: Ms. Lodes?
CHAIRWOMAN LODES: Yes.
MS. FIELDS: Motion passed.
MS. BRADLEY: Now we're on to Item 6B on the agenda: 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

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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].
Brooks Kirlin of the Air Quality Division will give the presentation.
MR. KIRLIN: Good morning, Madam Chair, Members of the Council, Ladies and Gentlemen. As stated, I am Brooks Kirlin, an engineer with Air Quality's Rules & Planning Section. The Department is proposing to clarify air quality requirements by amending existing Chapter 100 rule language in a couple of areas.
First, provisions related to electronic submission of applications, and second, provisions related to minor facilities that are transitioning to Part 70 - or major - sources. I should warn you that I will need to skip around through the document a bit to cover the two areas, and that I will be presenting the version of the proposal that is provided in today's folder. There are just a few minor differences between the folder version and the Council packet, and I will point those differences out along the way.
AQD has allowed electronic

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submissions for a number of years, and today we propose to update our rules to better reflect this policy, and to clarify requirements for electronic submission of air quality permit applications. I might note that many provisions are silent on the appropriate methods for document submittal. However, a few have language to assure both DEQ and the facility that the proper documents are received in a timely manner.
I'm in Subchapter 7, Section 7-60, Subsection (c), which covers registration under a Permit By Rule or PBR, that's on the eighth and ninth pages of the folder version.
We propose to add two provisions under paragraph (c)(2). New subparagraph (2)(D) would expressly allow electronic submission as acceptable documentation of registration, and new paragraph (2)(E) acknowledges that a facility might need to use more than one method to submit various items of documentation for a given project.
Additional electronic submission language has been added in Subchapter 8, Section 8-4, Requirements for construction and operating permits, shown on the tenth page of the folder version. Sorry, the pages aren't numbered for that

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version of the rule proposal. If you happen to look up this section of the rule in Chapter 100 on DEQ's website, you'll see an introductory sentence in paragraph (b)(3) that relies on a postmark to determine if an operating permit application is timely received.

Unfortunately, somewhere along the line, that sentence was omitted from the Office of Administrative Rules' online copy, as you can see where it says OAR website. Unfortunately that's considered the official version.

Therefore, today's proposal shows as new language an introductory sentence that would restore the postmark reference and expand the options to document timely submittal of an operating permit application to basically all possible methods of delivery. And note that after recent discussions, the "postmark" wording in the folder version is a bit more descriptive than the version in the original packet.

The second part of today's proposal would amend additional existing rule language in Section 100-8-4, as well as Section 100-1-3, Definitions, to clarify construction and operating permit requirements associated with modification of

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an existing minor facility - a facility that is subject to Subchapter 7 permitting requirements, transitioning in such a way or modifying it in such a way that it will become a Part 70 source, and therefore subject to Subchapter 8 permitting requirements. We'll start with a related definition of "Modification" in Section 100-1-3 that's on the fourth page of the folder version.

Under (B) on this part, the definition states that, with some caveats, an increase in production rate, increase in hours of operation, or use of an alternative fuel or raw material would not be considered a "change in the method of operation", and so it wouldn't trigger a modification. However, many facilities have voluntarily taken a limitation on their operations in order to avoid an otherwise applicable requirement. AQD believes that relaxing or removing such a limitation should be considered a modification, and we are proposing to add the indicated phrase, which would also bring it more in line with the corresponding federal NSR definition of "major modification" in 40 CFR Section 51.165.

Now moving back to Section 8-4 on the ninth page of the folder version, Section 8-4(a)

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gives the requirements for when a facility must obtain a construction permit for a major or Part 70 source.

AQD is proposing to add clarifying language as new item 8-4(a)(1)(A)(ii), to explicitly state that an existing minor facility must obtain a construction permit under Subchapter 8 before making a modification that, once completed, would require a Part 70 operating permit.

In this same section, we are also proposing some clarifying language regarding requirements to obtain a Part 70 operating permit. Note that as a result of recent discussions, the proposed wording in the folder version is slightly different than the version in the packet.

So, under the same "Timely application" requirements in paragraph (b)(3) that we discussed earlier, subparagraph (C) allows existing sources that become subject to the Part 70 operating program, without making a change that would normally trigger the requirements, allows them 12 months to file an operating permit application.

Although these would be unusual cases, this could happen to a facility, for instance, located in an area that goes

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nonattainment, with a corresponding lowering of the major source threshold. Or, if the existing facility is in a source category for which, for whatever reason, EPA starts specifically requiring Part 70 operating permits by a rule. This requirement dates back to the earlier days of the Title V program, and because of that we are also removing a date that is no longer needed.

We are also clarifying that if a facility found itself in this situation, it could not just use the occasion to obtain an increase in emissions limits, but would need to separately obtain a construction permit for that.

Notice of the proposed rule changes was published in the Oklahoma Register on June 17, 2024. The notice requested comments from the public and other interested parties. No comments on the proposal were received during the comment period.

And this is the point where staff typically would ask the Council to either pass or defer action on proposed rule changes. However, as you will hear during Tom Richardson's presentation - coming up, next item on the agenda - staff expects to bring an unrelated change to Section 100-8-4 for the Council to consider at its October meeting.

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Because the Department may not make changes to the same section more than once in the same year, we ask that the Council defer action on Section 100-8-4 until the next AQAC meeting. However, we ask that the Council recommend the proposed changes to Sections 100-1-3 and 100-7-60, as presented today, to the Environmental Quality Board for adoption as permanent rules.

So we have that recommended motion. If the proposed changes are promulgated, they will be submitted for inclusion in the SIP, and today's hearing will serve to meet the public participation requirements for a SIP submittal.

Thank you. Are there any questions?

CHAIRWOMAN LODES: I do have a logistics question on it, and again, I should have asked. So if we're going to approve 100-7-60, is that not going to be a problem with 100-7-60.5? Okay. Because they're different? I just want to make sure that we do this correctly.

MS. FOSTER: Melanie Foster, Rules & Planning. So since 7-60.5 is a completely different section, passing this 7-60 now doesn't interfere with what's coming in Tom's presentation and what's going to obviously come to you guys again, hopefully

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in October.

CHAIRWOMAN LODES: That's what I wanted to make sure, it's actually considered a separate section even though they're all part of 7-60?

MS. FOSTER: Yes, that's correct.

CHAIRWOMAN LODES: Okay. Thank you.

MR. TAYLOR: And you're in two different years, right?

MS. FOSTER: So how it works, when we say "year", we're talking basically a rulemaking year; so it's anytime before the legislative session. For us, basically October's going to be our last meeting before our deadline to get things to the legislature, which is now February 1, 2025.

So anything that we do today -- well, April, what we did in April at the special meeting -- well, sorry, that's emergency, never mind. Anything we do today, anything we do in October, those will go before the legislature in 2025.

MR. TAYLOR: Okay.

MS. BRADLEY: Any other questions from the council? Questions from the public? Hearing none.

CHAIRWOMAN LODES: Staff has requested a motion to recommend the proposed changes to Sections 100-1-3 and 100-7-60, as reflected in today's

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folder, to the Environmental Quality Board for adoption as permanent rules at its next regular meeting, which is on September 10, 2024. Do I have a motion?

MR. FARRELL: So moved.

CHAIRWOMAN LODES: I have a motion. Do I have a second?

MR. KEELE: Second.

CHAIRWOMAN LODES: I have a motion and a second. Would you please call roll?

MS. FIELDS: Mr. Farrell?

MR. FARRELL: Yes.

MS. FIELDS: Mr. Keele?

MR. KEELE: Yes.

MS. FIELDS: Mr. Privrat?

MR. PRIVRAT: Yes.

MS. FIELDS: Mr. Taylor?

MR. TAYLOR: Yes.

MS. FIELDS: Dr. Thayer?

DR. THAYER: Yes.

MS. FIELDS: Ms. Lodes?

CHAIRWOMAN LODES: Yes.

MS. FIELDS: Motion passed.

MS. BRADLEY: We are now ready for what is identified as 6C on our agenda: Chapter 100, Air

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Pollution Control, Subchapter 7, Permits for Minor Facilities, Part 9, Permits By Rule, 252:100-7-60.5, Oil and natural gas sector [Amended].

Oh, excuse me. Tom Richardson of the Rules & Planning Section will make the presentation.

MR. RICHARDSON: Thank you, Cheryl. Good morning, Madam Chair, Members of the Council, Ladies and Gentlemen. I am Tom Richardson, an engineer in the Air Quality Division's Rules & Planning Section. My purpose today is to present proposed changes to our state permitting rules, specifically permanent changes to the Oil and Natural Gas Permit By Rule or PBR in Subchapter 7 of Chapter 100, as well as additional changes to Subchapters 5, 7, and 8 to address greenhouse gases, or GHGs. And I'm advancing my own slides, so please bear with me.

This slide summarizes the topics I will cover. First, I will say a few words about EPA's New Source Performance Standards, or NSPS, Subpart OOOOb that addresses emissions for the oil and natural gas industry.

The next bullet notes that the emergency changes to the oil and natural gas Permit By Rule, which you recommended in April and the Environmental Quality Board adopted in June, now

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awaits signature by the Governor.

I will give a brief overview of the legally and practicably enforceable limits, or LPE limits, on tank batteries that were incorporated into the emergency rule; then I will give an overview of the permanent rule changes we are proposing, although I would emphasize that we will not be asking the council to act today, we will be requesting that the council defer action on the permanent amendments to the rules until we meet again in October; and lastly, I will discuss next steps.

This slide shows the first page of the final Federal Register notice for the NSPS Subpart OOOOb rule and the image of a table showing the emissions that will be covered by the rule. The final rule was published on March 8, 2024, the effective date is May 7, 2024.

And this slide shows that NSPS OOOOb covers a number of different types of sources and introduces a number of new requirements. We are adding a reference to NSPS OOOOb in our proposed permanent changes to the oil and gas PBR that mirrors the emergency rule language approved by the council in April.

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The next slide shows the legally and practicably enforceable limits, and this was one of the key drivers to our recommendation of the emergency PBR changes that were adopted in April. And again, I'd like to highlight there's a change in NSPS OOOOb with regard to the definition of storage vessel affected facility which makes the entire tank battery a single unit for the purposes of this rule.

Goals for the permanent rulemaking. Our goals are to adopt the bulk of the new language from the emergency update to the oil and gas PBR as a permanent update to our rules.

We would also like to address the exemptions and exclusions of greenhouse gases as an aggregate because greenhouse gases, as defined in our rules, are an aggregate, but they also represent individual pollutants, for example methane. And we want to include those exemptions within the sections where the emissions of greenhouse gases could trigger otherwise applicable requirements, so in other words, keep the first domino from striking the next domino and creating problems.

We will do that in the three subchapters shown, Subchapter 5, Emissions inventory and fees; Subchapter 7, minor source permitting rules; and Subchapter 8, the Title V operating permits and major source construction permit subchapter.

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Chapter 100, Subchapter 5 changes. Please turn in your folder to the proposed amendments to the rule text in Chapter 100, Subchapter 5. And apologies, we did not get the language in your folder up and noticed early enough to get it available on the web.

It is posted now so members of the public are able to view it, but we were working on the language and we only posted the emergency rule language to get the ball rolling, and so we do not actually have the other changes that are present in your folders today, which is one of the reasons why we're asking you to defer action until October.

Policy goals for Subchapter 5. Before we get into the actual rule text, what I'd like to do is go over some bullet points just to outline what our goals are from a policy standpoint. Again, fix the policy first and then address the rules to make sure that the rules reflect our policy.

First, owners and operators of facilities with Oklahoma DEQ Air Quality permits are

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not required to include greenhouse gases, whether as an aggregate or as individual pollutants, in their annual emissions inventories. This is our current policy, this policy will continue after these changes are adopted.

No fees will be charged for GHGs. Again, this reflects current policy, that policy will not change with the adoption of our permanent rules.

Greenhouse gases also will not be considered in the determination of the frequency with which facilities with PBRs need to submit annual emissions inventories. Note PBRs have a less frequent schedule, they submit on a three-year or six-year basis depending on the level the threshold, for their emissions.

And now we're going to get into the rule proper, so we are in Subchapter 5 changes. I would also note, for today's presentation I will be giving a high-level overview of the proposed amendments to our rules, I intend to provide a more detailed overview in October, during the council meeting at that point.

So here, under "Definitions", you can see that we're adding the word "air" for regulated

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air pollutants for fee calculation. This is a fix, this omission was present in our definition. In every other instance in the rules, the word "air" is there so it's "Regulated air pollutant for fee calculation". This is the only place where "air" does not exist; so that would be one of the recommendations we're making.

And then further, you can see in C, greenhouse gases either as individual pollutants or as an aggregate will be exempted from the requirement for fee calculation. So when we come to regulated air pollutants for fee calculation, we've already omitted carbon monoxide, we don't fee for carbon monoxide, we don't fee for gross particulate matter, we will not fee explicitly for greenhouse gases.

So here we are in 5-2-1, emissions inventory. The language highlighted exempts greenhouse gases from the determination of whether a facility with a PBR is required to submit an annual emissions inventory on a three-year cycle or a six-year cycle. I mentioned that before, this is just clarification that that 5-ton per-year threshold exempts greenhouse gases.

And again, big picture, I think

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Melanie Foster, the manager of the Rules & Planning section, said don't get into the minutia of the PBR without just highlighting overall we are not inventorying greenhouse gases, we are not feeing greenhouse gases. Keep that big picture in mind.

Then, here in the language highlighted, we are rearranging 1 and 2 as shown to emphasize our preference for actual emissions over permitted allowable emissions with regard to the collection of our annual emissions inventory. So this isn't a substantive change, rather it's a change in priority.

So our emissions inventory section has always preferred actual emissions to the permitted allowable emissions. Although permitted allowable emissions are acceptable, we just wanted to change the order to emphasize our preference for the actual emissions. And then again, below, greenhouse gases are exempted from the requirement for an annual emissions inventory.

And that concludes our Subchapter 5 changes, we're now moving on to Subchapter 7. And again, please turn in your folder, or for those of you not on the council, this information's available on the web and the link is shown.

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Policy goals for Subchapter 7. As we did above for Subchapter 5, I'd like to highlight the policy goals so we can ensure that we agree on policy, then we get to the rule changes we'll ensure, to the degree we can, that those policies are reflected in our rule changes.

First, again, greenhouse gases, whether as an aggregate or as individual pollutants, will not be factored into the determination whether a facility meets the definition of de minimus or permit exempt.

Second, greenhouse gases do not need to be included in a minor facility permit unless, one, the facility is subject to a greenhouse gas limit under NSPS; two, it's due to a requirement based on emission guidelines that have been adopted in accordance with 40 CFR Part 60, and I'll have more to say when we get to that point in the rule text; or lastly, if the owner operator requests a limit, then the greenhouse gas limits can be placed in the permit.

Greenhouse gases will not be considered in the determination of whether a facility's eligible for a minor source permit, a general permit, or a PBR. Greenhouse gases will not

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be factored into the determination whether a construction permit is required because a facility's undergone a modification that results in an emission increase of 5 tons per year.

Further, greenhouse gases are not factored into the determination of whether a facility is, one, a major source with regard to Title V requirements; two, a major stationary source for the purposes of PSD; or, three, a major stationary source for the purposes of nonattainment NSR.

And then, lastly, greenhouse gases will not be factored into the determination whether a facility's project is a major modification under either the PSD program or the nonattainment NSR program.

And now, here we're showing rule text. Again, please note that this will be a high-level overview, I plan on doing a more detailed, step-by-step discussion when we bring the rules back in October.

And you'll note here under de minimus facility, we're adding that exemption for greenhouse gases. We already exempted the particulate matter with greater than 10-micrometer aerodynamic

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diameter, we're also adding the exemption for greenhouse gases.

Next, permit exempt facility. We're exempting greenhouse gases from the determination of whether a facility is permit exempt or not. Previously, this section shows -- so this is 100-7-2.1. Previously, this section was very limiting with regard to what we can do with our minor source permitting program. It basically said we can only include greenhouse gas emissions when they were requested to avoid the requirement to obtain a PSD construction permit or Title V or Part 70 operating permit.

The changes we're proposing will allow greenhouse gases limits where required, one, by a federal NSPS or NESHAP; two, rules promulgated as regulated as required by federal emissions guidelines; or three, when requested by the owner operator.

And here, I'd like to just briefly touch on the promulgation for emission guidelines. So we're really focusing on OOOOb, but there is also an NSPS OOOOc, and those are the emission guidelines.

So EPA is requiring each state to

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promulgate rules that address existing sources, existing oil and gas sources. Now, EPA already has a proposal or has a rule in place that's a model rule, but that rule does not consider RULOF or remaining useful life and other factors.

We are in the process, in the early process of developing our own state plan. We plan to investigate RULOF and have exemptions for certain facilities, if that's merited. And so as we investigate that, we need this enabling language in 2 to be able to put those permits, when they're promulgated, into the permits that are adopted.

So again, this is just laying the groundwork for when we get the ball rolling for our 111(d) plan, our state plan to address the emission guidelines. And that's the 1, 2, and 3, under A.

The next, the B and below, is basically a laundry list of greenhouse gas exemptions. So those exemptions are, again, exemptions from the requirement for an annual emission inventory, an emission -- the greenhouse gas emissions will not be subject to fees, and then a series of exemptions.

These exemptions are redundant. So the exemptions are being placed in the parts of the

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rules where those issues are addressed, but we decided -- because we already have this section in Subchapter 7, we decided to use this as kind of a one-stop shop for all of the exemptions for greenhouse gases, so that's why we've made these changes here. These changes are not exclusively here, they also will be found in the other sections where greenhouse gases would be addressed.

So stepping through, again, this is the laundry list of greenhouse gas exemptions, so again, the 5-ton-per-year threshold triggering a requirement for a Subchapter 7 construction permit, determination of whether a facility is permit exempt, de minimus, et cetera.

So all of -- this is a complete list of all of those exemptions, and this list is very similar to what we put in the PBR that was passed in April, the emergency PBR rules, and we've pulled those out of the PBR, which was supposed to be kind of a self-contained limit, and put them here for applicability to other areas in the program.

Next, construction permits. And again, it's referenced above, but it also appears here where we have the triggering language for the requirements to obtain a Subchapter 7 construction

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permit. So again, if you make a change that increases emissions by more than 5 tons per year, that would trigger a requirement for a Subchapter 7 construction permit, we will exempt greenhouse gases from that determination.

Permit By Rule. Greenhouse gases are not exempt from the determination whether a facility would be subject to a PBR or a GP. So the 40-tons-per-year actual, 100-ton-per-year potential emissions, those thresholds are for other regulated air pollutants, greenhouse gases would not be determinative of whether you're able to obtain a PBR or a GP.

Permits by Rule. Now, the vast majority of the changes I'm going to show, the changes to the oil and natural gas PBR, are identical to those that were adopted as emergency rulemaking in April.

The original language in the oil and gas PBR allows facilities to be constructed and operated, and I would note the changes made in April and the changes we'll be bringing back in October, those changes are not strictly necessary to allow a facility subject to OOOOb to operate under the PBR. So our PBR already has that mechanism in place, but

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this addition of the OOOOb language is for clarification, it's not strictly necessary, we wanted to highlight that.

Further, the limitations on emissions imposed by NSPS and NESHAP may be used to determine PTE, and that's the language below in 1, eligible facilities, and if you drop down to E. And that's important because in some cases, a facility may have, for example, an engine subject to JJJJ requirements, and so the limitation on its potential to emit under JJJJ, those limitations can be factored into the determination of eligibility.

Further, the legally and practicably enforceable limits that can be obtained under the PBR, those may also be factored into the determination of eligibility for the PBR.

The language here adds a reference to Subpart OOOOb, and again clarifies that all emission units addressed by that rule may be covered by the oil and natural gas PBR. This clarification, again, is not strictly necessary, but is a helpful clarification.

And then we get to D, and the vast majority of the new rule language that's shown in Subsection D, this was language already adopted as

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part of the emergency rulemaking that was approved in April. So we have the requirements for the legally and practicably enforceable limits on tank batteries to keep those batteries from becoming storage vessel affected facilities under OOOOb. Again, this language is identical to the emergency rule language approved in April.

Again, the language identical to what was approved in April. And you know, these are the mechanisms if you have a non-assisted flare, it has to have a destruction efficiency of 95 percent, if it's an enclosed combustion device, or if you're using a VRU.

And this language was meant to address the -- we'll say more strict requirements under OOOOb than the previous requirements under OOOO and OOOOa. Again, this is the language that's identical to what was approved in April with regard to initial compliance and continued compliance.

And, lastly, reporting and recordkeeping. And again, all the language shown is identical to what we adopted in April. I'm going very fast, I hope that's okay, but I feel like we've seen that before, so we're speeding through.

This is different. So in the

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emergency PBR, we really tried to kind of hermetically seal changes we were making to the program within those emergency rules proper. So if you took a limit under the PBR, we did not want that to be the first domino that triggered other applicable requirements that we did not want to be required.

And so this language was put in the emergency PBR, we've now taken this language out of the emergency PBR and we've addressed it each time one of these instances came up in the rules. In addition, we have that entire section listing the laundry list of all of the exemptions for greenhouse gases. So this part has been struck and will not be part of the permanent rulemaking.

And now we're moving on. So that was the set of changes for the oil and gas PBR, and now we're in the emergency engine facilities PBR. Again, we're dropping in the exemption of greenhouse gases from the determination of whether you can obtain or apply for a PBR. So strictly speaking, without exempting greenhouse gases - greenhouse gases are a regulated air pollutant under the definition - we need to create that exemption to ensure that that doesn't keep a facility from being

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able to obtain this PBR.

Gasoline dispensing facilities, the same thing applies here. Again, each instance where there's a threshold or a requirement that because greenhouse gases are a regulated air pollutant they would trigger an otherwise applicable requirement, we're exempting the greenhouse gases from that requirement. And that's it for Subchapter 7.

And now we're ready to launch into Subchapter 8, so please, Council Members, turn in your folder, for those of you not on the council, please continue looking at the rules that we placed on the web.

Policy goals for Subchapter 8. Again, we're going to highlight the high-level policy goals and then our goal is to get those policies into our rules when we come to the rules proper.

First, greenhouse gases will not trigger the requirement for a facility to obtain a Title V or Part 70 operating permit. Second, greenhouse gases will not trigger a requirement for minor new source review or NSR - which is also a Subchapter 8 construction permit - for a facility with a Title V operating permit. Specifically,

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greenhouse gases will not be evaluated against the 10-ton-per-year threshold for the projects considered minor modifications.

And this grows out of the series of permitting rule changes we made in the 2020-2021 period, and that's where we needed to create an exemption because, otherwise, minor modifications might trigger a requirement for a construction permit, and so we used a 10-ton-per-year threshold. So these are the Tier 1 construction permits for minor modifications that exceed the 10-ton-per-year threshold, we want to ensure that greenhouse gases are not used in that determination.

Next, greenhouse gases will not be subject to a PSD best available technology review under our state requirements. And we'll get into that in the details, but there are different BACT and different modeling requirements for certain changes that are subject to state rules and others that are subject to federal PSD and nonattainment NSR. So these are our state rules.

Further, the state - this is not the PSD program, this is the state program - there will be no requirement for air quality modeling for greenhouse gases. In addition, the greenhouse gases

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will be exempt from the ambient impact analysis.

So an increase in greenhouse gases will also not trigger the requirement for a PSD permit. A PSD permit will only be triggered if another pollutant exceeds the PSD thresholds.

Greenhouse gases will only be subject to PSD BACT if a facility's required to obtain a PSD permit due to a significant emission increase and a significant net emission increase of one or more non-greenhouse-gas pollutants and also greenhouse gas emissions increased by 75,000 tons per year of CO2 equivalent. That's kind of complicated, we'll get into that when we get to PSD, but these are these anyway sources that trigger a requirement for BACT for greenhouse gases.

Further, a PSD permit that is triggered, greenhouse gases are exempt from the ambient air impact analysis. Further, greenhouse gas BACT is only required when other pollutants trigger the requirement for nonattainment NSR and if greenhouse gases will increase by 75,000 tons of CO2 equivalent. So far we have no nonattainment areas, knock on wood, we hope that continues, but just in case, we wanted to make that exemption for greenhouse gases.

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And now here we are in the rules again. And once again - and I sound like a broken record at this point - this will be a high-level overview of the proposed amendments, and I plan on bringing up a more detailed, step-by-step overview when we get to the rules in October.

First, under 8-2 "Definitions", the definition of "major source". That establishes the criteria which determine whether a facility is required to obtain a Title V or Part 70 operating permit; so we're going to modify that "major source" definition to exempt greenhouse gases.

Where is that done? That's done here in B. So a "major stationary source" as defined in Section 302 of the Act - that's the Clean Air Act - that "emits 100 tons per year or more of any regulated air pollutant". We've already exempted gross particulate matter, and here we're dropping in the new exemption for greenhouse gases. Again, we're just cleaning up all those references to make sure that greenhouse gases are explicitly excluded from these requirements. And I'm not sure on the rest of the definition of major source because it goes on for quite a bit, but this is the key language that provides that exemption for greenhouse

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gases.

8-4. So these are the requirements for construction and operating permits. So if you have a significant modification to a facility so defined, you need a construction permit. This new language under (A)(1)(B)(iv), that has that triggering language for facility changes that are eligible for minor modifications but trigger a permitting requirement because they exceed the 10-ton-per-year threshold. So we're exempting the greenhouse gases from that requirement to make sure that the greenhouse gas emissions are not factored into that determination.

By the way - and Brooks discussed this previously - Brooks is also suggesting amendments to 8-4. Because I've been using the Reese's Peanut Butter Cup, my -- apparently, my peanut butter is getting in Brooks' chocolate, so we're making sure that we address 8-4 once so that we don't create problems with the rulemaking. So we intend to come back in October, and I'll be bringing up not only these changes to 8-4, I'll be bringing up the changes that Brooks recommended and we'll discuss all of the changes in October.

Permit applications. So greenhouse

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gases are exempt from state -- again, I'm using -- you know, I always look to Phillip Fielder when it comes to permitting requirements. I've been using Oklahoma BACT or -- and I think "state BACT" is the term of art that Phillip uses. So state BACT is different from PSD BACT. And so the state BACT requirements are triggered by an emission increase of 100 tons per year of any pollutant, and PSD has different thresholds and different requirements, but if state BACT is triggered and it's not a PSD permit, there is a requirement to perform certain analyses, we are excluding greenhouse gases from that requirement.

Similarly, under this state program, if you have 100-ton-per-year increase that doesn't trigger PSD, we are exempting you from the modeling requirements. There are modeling requirements for the other pollutants that are a little different from PSD. Going into that would take me way more time and I would be just asking Phillip to do the explanation. But we're just making sure that this non-PSD modeling requirement, that the greenhouse gases are exempt from that. And I've got the note, again, state BACT, state modeling is triggered by a 100-ton-per-year increase that does not trigger PSD.

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And speaking of PSD, here we are in Part 70. So under "Definitions", the definition of "major stationary source", we're exempting greenhouse gases from the 100-ton-per-year threshold for the classification as a major stationary source for PSD for those 26 listed source types. So these are the types that EPA, in Part 51, has identified as facility types or sources, rather, that are subject to the 100-ton-per-year threshold for the requirement to perform a PSD analysis.

Most -- oh, one other thing. If you look at XIV, municipal incinerators capable of charging, our rules say more than 250 tons of refuse per day; EPA actually made the change to Part 51, changing that from 250 tons to 50 tons. So in addition to all the issues with the greenhouse gases, we are proposing that we clarify this definition to ensure that is parallel with the EPA definition in Part 51. So just throwing that in there for, you know, one more thing, I guess that's a different flavor of peanut butter to add into this chocolate.

But further down, in (ii), most facilities are subject to PSD analysis if they cross the 250-ton-per-year threshold; so that language,

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again, we've added the greenhouse gas exemption. So for the 26 listed facilities, the threshold is 100 tons, we've got that exempted above, here for 250 tons we're exempting greenhouse gases.

Subject to regulation. So subject to regulation does a lot of work, a lot of work in the Part 70 or Title V program, but we didn't need to make a modification to that definition. It does similarly important work within the PSD program, and here we are proposing modifications.

But just to start with, I thought I would provide a clarification. So greenhouse gases are only subject to regulation - and really, subject to PSD BACT - under the following scenarios. The scenario (i) is a new facility, a new facility that will be a major stationary source of a non-greenhouse-gas pollutant, NOx, VOCs, whatever. And it also has greenhouse gas emissions of 75,000 tons per year of CO2 equivalent, so that's one scenario that could require PSD BACT for greenhouse gases. And this is in parallel with EPA requirements as amended by the court rulings on the issue.

(ii), an existing facility -- this is a little bit more complicated. So an existing

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facility that is already a major stationary source for a non-greenhouse-gas pollutant - okay, that's like little (a), so it's an existing major stationary source - it has a significant emission increase and a significant net emission increase of a non-greenhouse-gas pollutant.

And lastly, after all that, it also has an emission increase of greenhouse gases of at least 75,000 tons per year of CO2 equivalent. So we've added some clarification language in "subject to regulation".

Again, if you look down below, in (D)(ii), for whatever reason the existing language didn't have both significant emission increase and significant net emission increase, so we're adding that language and we're clarifying that the significant emission increase and the significant net emission increase, the triggering event is for a non-greenhouse-gas pollutant. And all of that has been policy for adding these rule changes to ensure that our rules actually reflect our policy.

Exemptions. So under 8-33, the exemptions from air quality impact analysis. So the clarification that's added here and shown is that greenhouse gases are exempt from air quality

modeling requirements, and that's in that 252:100-8-35(a) and (c), so those are modeling requirements, and the greenhouse gases, there's no national ambient air quality standard for greenhouse gases, so by policy they're exempt, but we're making it explicit by adding this language.

Further, the additional impact analysis, and that's the growth analysis and visibility, we're exempting greenhouse gases from that requirement, as well. And so those are the exemptions shown in the language below.

Lastly, Part 9, Nonattainment NSR. We looked into this and determined we had no need to amend the language in Part 9. The reason why is because if a facility's located in a nonattainment area and a project is determined to require a nonattainment NSR, then all other pollutants have to be evaluated with regard to the PSD program. So in effect, by fixing the PSD problems and clarifying the PSD issues with regard to greenhouse gases, we've addressed the kind of domino that would fall after the nonattainment NSR requirement falls if - and we hope it doesn't - if we become nonattainment for a pollutant. So need to amend this part of the rule.

Summary of comments and DEQ responses. Again, we only posted identical language in the emergency PBR when we post the notice of rulemaking. So, as expected, there were comments on that that those rules were already passed, but that was merely a placeholder to basically get the ball rolling so we could give this presentation and then share these rule changes with the council and with the public in the hopes that we come back in October and we have rules that we can promulgate.

We do intend to publish that notice of proposed rulemaking in time with an updated set of proposed amendments of both Subchapters 5, 7, and 8 in advance of the October Air Quality Council meeting. We look forward to reviewing comments on that more complete set of proposed amendments when we do post them.

Chapter 100, Subchapters 5, 7, and 8. That concludes my presentation on the proposed changes to Chapter 100, Subchapters 5, 7, and 8. Staff requests that the council defer action on the proposed rule revisions to Subchapters 5, 7, and 8, and I thank you.

And Cheryl, I will turn things back over to you.

MS. BRADLEY: Thank you, Tom.

Any questions by the council? Any questions from the public? Seeing none.

CHAIRWOMAN LODES: The staff has asked that we defer action on the proposed rule revisions to Subchapters 5, 7, and 8 to a future council meeting. Isn't that how we always want to word it?

MS. FOSTER: No vote.

MR. COUCH: You don't need to motion anything.

CHAIRWOMAN LODES: We don't need to vote or do anything? Okay.

MS. BRADLEY: That concludes the hearing portion of this meeting.

(HEARING CONCLUDED AT 10:01 AM)

CERTIFICATE

I, Jenny Longley, Certified Shorthand Reporter within and for the State of Oklahoma, do hereby certify that the above and foregoing hearing was by me taken in shorthand and thereafter transcribed; and that I am not an attorney for nor relative of any of said parties or otherwise interested in the event of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 5th day of August, 2024.

Jenny Longley, CSR

CSR # 1903

OKLAHOMA Environmental Quality

AIR QUALITY ADVISORY COUNCIL

Attendance Record
July 24, 2024
Owasso, Oklahoma

NAME and/or AFFILIATION	Address and/or Phone and/or E-Mail
MELANIE FOSTER	DEQ
Travis Couch	DEQ
Quiana Fields	DEQ
Tom Richardson	DEQ
Jan Richardson	Oklahoma History Center
Cheryl Bradley	DEQ
Brooks Kirlin	DEQ
Malcolm Zacharia	DEQ
LEON ASHFORD	DEQ
Gary Keele	McAfee Taft gary.keele@mcafeetaft.com
Bud Ground	EFO
Jody Reinhart	Trinity Consultants
Phillip Fielder	DEQ
Ford Benham	OG&E
Jeff Taylor	DEQ
Kendal Stegmann	DEQ
Audra Bechan	webco
MIKE THATER	AQAC - OSU
Laura Lodes	AQC
Jim Farrell	AQAC
MATT GRIMES	OG+E
John Privett	AQAC
Jonathan Truong	ONEOK
Meghan Wan	ONEOK
Jeff Emmett	OG&E
Kyle Dunn	Trinity
Laura Finley	Ryan Whaley
GARY COLLINS	CF INDUSTRIES

Robert Singletary
Executive Director

OKLAHOMA Environmental Quality

Kevin Stitt
Governor

MEMORANDUM

DATE: October 3, 2024

TO: Members of the Air Quality Advisory Council

FROM: Kendal Stegmann, Director KS
Air Quality Division

SUBJECT: CY2025 Air Quality Advisory Council Meeting Schedule

Suggested Council meeting dates for calendar year 2025 are listed below. You will be asked to approve or amend the schedule at the October 17, 2024 meeting. The Air Quality Division is recommending foregoing a January meeting in 2025. The Environmental Quality Board is meeting in January rather than February, which would not allow sufficient time to get documents ready between the two meetings.

Staff suggestions are:

Wednesday, April 30, 2025 – Oklahoma City
Wednesday, July 30, 2025 – Tulsa/Owasso
Wednesday, October 15, 2025 – Oklahoma City

The proposed dates for Environmental Quality Board meetings in 2025 are as follows:

Tuesday, January 21, 2025 – Oklahoma City
Tuesday, June 10, 2025 – Oklahoma City
Tuesday, September 9, 2025 – Stillwater
Thursday, November 6, 2025 – Tahlequah

Robert Singletary
Executive Director

OKLAHOMA Environmental Quality

Kevin Stitt
Governor

MEMORANDUM

DATE: October 2, 2024

TO: Members of the Air Quality Advisory Council

FROM: Kendal Stegmann, Director KS
Air Quality Division

SUBJECT: Proposed Update of OAC 252:100-2, and Appendix Q, Incorporation By Reference

The Department is proposing to update OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. The update will include changes or additions to 40 C.F.R. Part 60, New Source Performance Standards (NSPS), 40 C.F.R. Parts 61 and 63, National Emission Standards for Hazardous Air Pollutants (NESHAP), and other EPA regulations referenced in Chapter 100. In addition, the Department is proposing to update language in Subchapter 2, Incorporation By Reference, to reflect the latest date of incorporation of EPA regulations in Appendix Q.

These proposals are part of the annual review and update of incorporation by reference of federal regulations. The Oklahoma Rules on Rulemaking no longer dictate revoking the old and creating an entirely new appendix. Copies of the proposed rule and amended appendix are enclosed, along with a copy of the Rule Impact Statement.

This update incorporates those federal regulations currently listed in Appendix Q, including any amendments, as they existed on June 30, 2024. The following additions are proposed to be added to Part 60 in Appendix Q this year: Subparts La, AAb, VVb, XXa, IIIa, NNNa, RRRa, OOOOb, TTTTa, and Appendix K. A list of the subparts that have been added or amended by EPA (and are listed in Appendix Q), is attached.

Notice of the proposed rule changes was published in the *Oklahoma Register* on September 3, 2024. The notice requested written comments from the public and other interested parties. As of the date of this memo, comments have been received from one entity. Staff are developing responses, and a Response to Comments document will be posted online prior to the council meeting. At the October 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 252:100-2
Proposed Amendments to OAC 252:100, Appendix Q
Rule Impact Statement
List of amended subparts in Appendix Q
September 27, 2024 Comments – Arrowhead Trails HOA, Inc, Community Association

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

SUBCHAPTER 2. INCORPORATION BY REFERENCE

252:100-2-3. Incorporation by reference

Except as provided under this section, the provisions of 40 CFR listed in Appendix Q are hereby incorporated by reference as they existed on ~~June 30, 2023~~June 30, 2024.

(1) **Inclusion of 40 CFR citations and definitions.** When a provision of 40 CFR is incorporated by reference, all citations contained therein are also incorporated by reference.

(2) **Inconsistencies or duplications of requirements or incorporation dates.**

(A) In the event that there are inconsistencies or duplications between the requirements of this Chapter and the requirements of those provisions incorporated by reference in Appendix Q or elsewhere in this Chapter, the more stringent requirements shall apply.

(B) In the event that a specific date of incorporation is indicated in Appendix Q or a subchapter of this Chapter, the specified date of incorporation shall apply.

(3) **Terminology related to 40 CFR.** For purposes of interfacing with 40 CFR and unless the context clearly indicates otherwise, the following terms apply.

(A) "Administrator" is synonymous with "Executive Director."

(B) "U. S. Environmental Protection Agency" or "EPA" is synonymous with "Department of Environmental Quality" or "DEQ."

APPENDIX Q. INCORPORATION BY REFERENCE [AMENDED]

Except as provided under OAC 252:100-2-3, the following provisions of Title 40 of the Code of Federal Regulations are hereby incorporated by reference as they existed on ~~June 30, 2023~~June 30, 2024, unless otherwise noted.

PART	SUBPART	DESCRIPTION
50	n/a	Appendix B to Part 50 - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)
50	n/a	Appendix J to Part 50 - Reference Method for the Determination of Particulate Matter as PM_{10} in the Atmosphere
51	A	Table 1 to Appendix A only of Subpart A—Emission Thresholds by Pollutant for Treatment as Point Source Under 40 CFR 51.30
51	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements
51	n/a	Appendix P to Part 51 - Minimum Emission Monitoring Requirements
51	n/a	Appendix W to Part 51 – Guideline on Air Quality Models
58	n/a	Appendix A to Part 58 - Quality Assurance Requirements for Monitors used in Evaluations of National Ambient Air Quality Standards
58	n/a	Appendix B to Part 58 – Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring
60	A	General Provisions [Except 60.4, 60.9, 60.10 and 60.16]
60	Ba	Adoption and Submittal of State Plans for Designated Facilities
60	Cf	Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
60	D	Standards of Performance for Fossil-Fuel-Fired Steam Generators
60	Da	Standards of Performance for Electric Utility Steam Generating Units

PART	SUBPART	DESCRIPTION
60	Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units
60	Dc	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units
60	E	Standards of Performance for Incinerators
60	Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994
60	Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996
60	Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996
60	F	Standards of Performance for Portland Cement Plants
60	G	Standards of Performance for Nitric Acid Plants
60	Ga	Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011
60	H	Standards of Performance for Sulfuric Acid Plants
60	I	Standards of Performance for Hot Mix Asphalt Facilities
60	J	Standards of Performance for Petroleum Refineries
60	Ja	Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007
60	K	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978
60	Ka	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984

PART	SUBPART	DESCRIPTION
60	Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984
60	L	Standards of Performance for Secondary Lead Smelters for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and On or Before December 1, 2022
60	La	Standards of Performance for Secondary Lead Smelters for Which Construction, Reconstruction, or Modification Commenced After December 1, 2022
60	M	Standards of Performance for Secondary Brass and Bronze Production Plants
60	N	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973
60	Na	Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983
60	O	Standards of Performance for Sewage Treatment Plants
60	P	Standards of Performance for Primary Copper Smelters
60	Q	Standards of Performance for Primary Zinc Smelters
60	R	Standards of Performance for Primary Lead Smelters
60	S	Standards of Performance for Primary Aluminum Reduction Plants
60	T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants
60	U	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants
60	V	Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants
60	W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants

PART	SUBPART	DESCRIPTION
60	X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
60	Y	Standards of Performance for Coal Preparation and Processing Plants
60	Z	Standards of Performance for Ferroalloy Production Facilities
60	AA	Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983
60	AAa	Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983, and On or Before May 16, 2022
60	AAb	Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarbonization Vessels Constructed After May 16, 2022
60	BB	Standards of Performance for Kraft Pulp Mills
60	BBa	Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013
60	CC	Standards of Performance for Glass Manufacturing Plants
60	DD	Standards of Performance for Grain Elevators
60	EE	Standards of Performance for Surface Coating of Metal Furniture
60	GG	Standards of Performance for Stationary Gas Turbines
60	HH	Standards of Performance for Lime Manufacturing Plants
60	KK	Standards of Performance for Lead-Acid Battery Manufacturing Plants for Which Construction, Reconstruction, or Modification Commenced After January 14, 1980, and On or Before February 23, 2022
60	KKa	Standards of Performance for Lead Acid Battery Manufacturing Plants for Which Construction, Modification or Reconstruction Commenced After February 23, 2022
60	LL	Standards of Performance for Metallic Mineral Processing Plants

PART	SUBPART	DESCRIPTION
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations for which Construction, Modification or Reconstruction Commenced After October 5, 1979, and On or Before May 18, 2022
60	MMa	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations for which Construction, Modification or Reconstruction Commenced After May 18, 2022
60	NN	Standards of Performance for Phosphate Rock Plants
60	PP	Standards of Performance for Ammonium Sulfate Manufacture
60	QQ	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing
60	RR	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations
60	SS	Standards of Performance for Industrial Surface Coating: Large Appliances
60	TT	Standards of Performance for Metal Coil Surface Coating
60	UU	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture
60	VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006
60	VVa	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006, and on or Before April 25, 2023
60	VVb	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry

PART	SUBPART	DESCRIPTION
60	XX	Standards of Performance for Bulk Gasoline Terminals That Commenced Construction, Modification, or Reconstruction After December 17, 1980, and On or Before June 10, 2022
60	XXa	Standards of Performance for Bulk Gasoline Terminals that Commenced Construction, Modification, or Reconstruction After June 10, 2022
60	BBB	Standards of Performance for the Rubber Tire Manufacturing Industry
60	DDD	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry
60	FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing
60	GGG	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006
60	GGGa	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
60	HHH	Standards of Performance for Synthetic Fiber Production Facilities
60	III	Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes After October 21, 1983, and on or Before April 25, 2023
60	IIIa	Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023
60	JJJ	Standards of Performance for Petroleum Dry Cleaners
60	KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants

PART	SUBPART	DESCRIPTION
60	LLL	Standards of Performance for SO_2 Emissions From Onshore Natural Gas Processing: SO_2 Emissions
60	NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations After December 30, 1983, and on or Before April 25, 2023
60	NNNa	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023
60	OOO	Standards of Performance for Nonmetallic Mineral Processing Plants
60	PPP	Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants
60	QQQ	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems
60	RRR	Subpart RRR—Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes After June 29, 1990, and on or Before April 25, 2023
60	RRRa	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023
60	SSS	Standards of Performance for Magnetic Tape Coating Facilities
60	TTT	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines
60	TTTa	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines for Which Construction, Reconstruction, or Modification Commenced After June 21, 2022
60	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries

PART	SUBPART	DESCRIPTION
60	VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities
60	WWW	Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification on or After May 30, 1991, but Before July 18, 2014
60	XXX	Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014
60	AAAA	Standards of Performance for Small Municipal Waste Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001
60	CCCC	New Source Performance Standards for Commercial/Industrial Solid Waste Incinerators constructed after November 30, 1999
60	DDDD	Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units, Model Rule only, Sections 60.2575 through 60.2875, including Tables 1 through 9
60	EEEE	Standards of Performance for Other Solid Waste Incineration Units for Which Construction Is Commenced After December 9, 2004, or for Which Modification or Reconstruction Is Commenced on or After June 16, 2006
60	IIII	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines
60	JJJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines
60	KKKK	Standards of Performance for Stationary Combustion Turbines
60	LLLL	Standards of Performance for New Sewage Sludge Incineration Units
60	OOOO	Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced after August 23, 2011, and on or before September 18, 2015
60	OOOOa	Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After September 18, 2015 and On or Before December 6, 2022

PART	SUBPART	DESCRIPTION
60	OOOOb	Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After December 6, 2022
60	TTTT	Standards of Performance for Greenhouse Gas Emissions for Electric Generating Unit
60	TTTTa	Standards of Performance for Greenhouse Gas Emissions for Modified Coal-Fired Steam Electric Generating Units and New Construction and Reconstruction Stationary Combustion Turbine Electric Generating Units
60	n/a	Appendix A to Part 60 - Test Methods
60	n/a	Appendix B to Part 60 - Performance Specifications
60	n/a	Appendix K to Part 60 - Determination of Volatile Organic Compound and Greenhouse Gas Leaks Using Optical Gas Imaging
61	A	General Provisions
61	C	National Emission Standard for Beryllium
61	D	National Emission Standard for Beryllium Rocket Motor Firing
61	E	National Emission Standard for Mercury
61	F	National Emission Standard for Vinyl Chloride
61	J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
61	L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
61	M	National Emission Standard for Asbestos
61	N	National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants
61	O	National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters
61	P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities

PART	SUBPART	DESCRIPTION
61	V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
61	Y	National Emission Standard for Benzene Emissions From Benzene Storage Vessels
61	BB	National Emission Standard for Benzene Emissions From Benzene Transfer Operations
61	FF	National Emission Standard for Benzene Waste Operations
63	A	General Provisions
63	B	Sections 63.41, 63.43 and 63.44 only of Subpart B, Requirements for Control Technology Determinations for Major Sources in Accordance With Clean Air Act Sections, Sections 112(g) and 112(j)
63	F	National Emission Standards for ~~Organic~~ Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry
63	G	National Emission Standards for ~~Organic~~ Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
63	H	National Emission Standards for ~~Organic~~ Hazardous Air Pollutants for Equipment Leaks and Fenceline Monitoring for All Emission Sources
63	I	National Emission Standards for ~~Organic~~ Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
63	J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production
63	L	National Emission Standards for Coke Oven Batteries
63	M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
63	N	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities

PART	SUBPART	DESCRIPTION
63	Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers
63	R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
63	S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry
63	T	National Emission Standards for Halogenated Solvent Cleaning
63	U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins
63	W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production
63	X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting
63	Y	National Emission Standards for Marine Tank Vessel Loading Operations
63	AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
63	BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
63	CC	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries
63	DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations
63	EE	National Emission Standards for Magnetic Tape Manufacturing Operations
63	GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities
63	HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities
63	II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)

PART	SUBPART	DESCRIPTION
63	JJ	National Emission Standards for Wood Furniture Manufacturing Operations
63	KK	National Emission Standards for the Printing and Publishing Industry
63	LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants
63	MM	National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills
63	NN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing at Area Sources
63	OO	National Emission Standards for Tanks - Level 1
63	PP	National Emission Standards for Containers
63	QQ	National Emission Standards for Surface Impoundments
63	RR	National Emission Standards for Individual Drain Systems
63	SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
63	TT	National Emission Standards for Equipment Leaks – Control Level 1
63	UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards
63	VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators
63	WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2
63	XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

PART	SUBPART	DESCRIPTION
63	CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants
63	DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production
63	EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors
63	GGG	National Emission Standards for Pharmaceuticals Production
63	HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities
63	III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production
63	JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins
63	LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry
63	MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production
63	NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing
63	OOO	National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins
63	PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production
63	QQQ	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting
63	RRR	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production
63	TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units

PART	SUBPART	DESCRIPTION
63	VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works
63	XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese
63	AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills
63	CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast
63	DDDD	National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products
63	EEEE	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)
63	FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing
63	GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production
63	HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production
63	IIII	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks
63	JJJJ	National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating
63	KKKK	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans
63	MMMM	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products
63	NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances
63	OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles
63	PPPP	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products

PART	SUBPART	DESCRIPTION
63	QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products
63	RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture
63	SSSS	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil
63	TTTT	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations
63	UUUU	National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing
63	VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing
63	WWWW	National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production
63	XXXX	National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing
63	YYYY	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines
63	ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines
63	AAAAA	National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants
63	BBBBB	National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing
63	CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks
63	DDDDD	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters
63	EEEEE	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries
63	FFFFF	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities

PART	SUBPART	DESCRIPTION
63	GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation
63	HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing
63	IIIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants
63	JJJJJ	National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing
63	KKKKK	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing
63	LLLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing
63	MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations
63	NNNNN	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production
63	PPPPP	National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stands
63	QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities
63	RRRRR	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing
63	SSSSS	National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing
63	TTTTT	National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining
63	UUUUU	National Emission Standards for Hazardous Air Pollutants: Coal and Oil-fired Electric Utility Steam Generating Units
63	WWWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers
63	YYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities

PART	SUBPART	DESCRIPTION
63	ZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources
63	BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities
63	CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities
63	DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources
63	FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources
63	GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources - Zinc, Cadmium, and Beryllium
63	HHHHHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources
63	JJJJJJ	National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources
63	LLLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources
63	MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources
63	NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds
63	OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources
63	PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources
63	QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources

PART	SUBPART	DESCRIPTION
63	RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources
63	SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources
63	TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources
63	VVVVVV	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources
63	WWWWWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations
63	XXXXXX	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories
63	YYYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities
63	ZZZZZZ	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries
63	AAAAAAA	National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing
63	BBBBBBB	National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry
63	CCCCCCC	National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing
63	DDDDDDD	National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing
63	EEEEEEE	National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category
63	HHHHHHH	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production
64	n/a (All Sections)	Compliance Assurance Monitoring (CAM)
72	All Subparts	Permits Regulation (for Acid Rain Sources)

PART	SUBPART	DESCRIPTION
98	A	Table A-1 only to Subpart A of Part 98 – Global Warming Potentials
241	n/a	Solid Wastes Used as Fuels or Ingredients in Combustion Units

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

Before the Air Quality Advisory Council on October 17, 2024
Before the Environmental Quality Board on November 21, 2024

RULE IMPACT STATEMENT

Subchapter 2. Incorporation By Reference
252:100-2-3 [AMENDED]
APPENDIX Q. Incorporation By Reference [AMENDED]

DESCRIPTION: The Department of Environmental Quality (Department or DEQ) is proposing to update OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to U.S. Environmental Protection Agency (EPA) regulations at 40 C.F.R. Part 60, New Source Performance Standards (NSPS), 40 C.F.R. Parts 61 and 63, National Emission Standards for Hazardous Air Pollutants (NESHAP), and other EPA regulations referenced in Chapter 100 regulations. EPA has promulgated several new subparts to Part 60 that DEQ is now proposing to incorporate into Appendix Q: Part 60 Appendix K, "Determination of Volatile Organic Compound and Greenhouse Gas Leaks Using Optical Gas Imaging;" Part 60, Subpart La, "Standards of Performance for Secondary Lead Smelters for Which Construction, Reconstruction, or Modification Commenced After December 1, 2022;" Part 60, Subpart AAb, "Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarbonization Vessels Constructed After May 16, 2022;" Part 60, Subpart VVb, "Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023;" Part 60, Subpart IIIa, "Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023;" Part 60, Subpart NNNa, "Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023;" Part 60, Subpart RRRa, "Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes for Which Construction, Reconstruction, or Modification Commenced After April 25, 2023;" 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;" and Part 60, Subpart TTTTa, "Standards of Performance for Greenhouse Gas Emissions for Modified Coal-Fired Steam Electric Generating Units and New Construction and Reconstruction Stationary Combustion Turbine Electric Generating Units." Several other standards have also been amended and updated. In addition, the Department is proposing to update language in Subchapter 2, Incorporation By Reference, to reflect the latest date of incorporation of EPA regulations in Appendix Q. The gist of this rule change and the underlying reason for the rulemaking is to incorporate changes the EPA has made to its regulations and ensure that the state's rules are up to date.

CLASSES OF PERSONS AFFECTED: The classes of persons affected are the owners and operators of facilities that are subject to the regulations incorporated by reference.

CLASSES OF PERSONS WHO WILL BEAR COSTS: The classes of persons who will bear costs are the owners and operators of facilities that are subject to the regulations incorporated by reference. However, no additional costs are expected to be incurred by these persons because the facilities are already subject to the federal regulations that will be incorporated by reference.

INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES: The Department has not received any information on cost impacts as of this date.

CLASSES OF PERSONS BENEFITTED: The citizens of Oklahoma and owners and operators of the facilities subject to these regulations will benefit by the assurance that the most current regulations available are in place to protect public health and welfare. The owners and operators will benefit from consistency in state and federal rules.

PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS: There should be no new economic impacts on affected classes of persons subject to this rule.

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

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 allow state implementation and enforcement of these 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: 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 changes will allow the Department to implement and enforce the federal regulations rather than EPA, which generally results in lower compliance costs for those affected.

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 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 are not designed to reduce significant risks to public health, safety, and the environment but will have an overall positive effect by updating the 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: If the proposed changes are not implemented, the updated standards will be enforced by the federal government rather than the State.

PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): There will be no new quantitative impact on business entities since the proposed changes will align state standards with the current federal standards. The owners and/or operators of businesses subject to federal standards will benefit from consistent state and federal standards.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: September 3, 2024
MODIFIED ON: October 3, 2024

CHANGES TO APPENDIX Q THROUGH June 30, 2024

New Additions to Current Subparts Listed in APPENDIX Q (since July 3, 2023):

New Amendments to Current Subparts Listed in APPENDIX Q (since July 3, 2023):

Outlook

[EXTERNAL] Title 252. Department of Environmental Quality - §2

From Arrowhead Trails HOA, Inc, Community Association <REVELLEVI@outlook.com>
Date Fri 9/27/2024 4:44 PM
To DEQ AQD Rule Comments <aqdrulecomments@deq.ok.gov>

The Overlooked Sources of CO2

The notion that climate change is exacerbated by the increasing levels of CO2 in the atmosphere, is a reality and absurdity that cannot be ignored. Interestingly, a significant portion of this CO2 comes from natural planetary processes like oceanic outgassing, which are largely beyond human control and abundantly in the immediate atmosphere (aka AIR). While human activities, such as breathing, contribute to CO2 emissions, the presence of greenhouse gases originates from these other natural processes. This raises concerns about the focus on regulating human-related emissions while overlooking these naturally occurring sources. More specifically, why policy for Air Pollution Controls do not inherently focus on this planet threatening climate changing greenhouse gas, or why is there not policy and agencies dedicated to the effective and perpetual management thereof.

Carbon: The Building Block of Life

Carbon is undeniably fundamental to life on Earth. It forms the backbone of biological molecules that constitute every living organism, including humans, the apex carbon-based life form. Despite this, efforts to sequester carbon remain a major focus for conservation commissions rather than agencies specifically designed for environmental protection and are that currently regulate the environment where such emissions naturally accumulate or in better terms, where such emissions are subject to natural sequestration. This misalignment of priorities and defiance of logic calls into question the effectiveness, rationale, and purpose behind current environmental policies and programs and the officials, agencies, and the rules that promote and support such policies and programs.

The Risks and Ironies of Carbon Sequestration

Carbon sequestration, the process of capturing and storing atmospheric carbon, is hailed as a promising solution to mitigate climate change despite the reality and previously established fact that human involvement is of little consequence to planetary systems, such as oceanic outgassing. However, any counterintuitive attempts to intervene, which will undoubtedly occur, will not be without risks. The idea of storing extracted carbon underground presents a range of potential and significant hazards. Furthermore, the irony arises when carbon scrubbing facilities, designed to capture carbon from the AIR, introduce new pollutants into the AIR. This opens the door for the Environmental Protection Agency (EPA) or the Department of Environmental Quality (DEQ) to regulate these newly introduced pollutants, creating a paradoxical situation, however, this does present the EPA and DEQ a new found purpose and justification thereof. More so if plant life, planet wide, was heavily reduced or destroyed entirely, as all types of flora and trees naturally scrub the atmosphere of C02 without emitting pollutants. Thereby threatening the very purpose of useless and mismanaged environmental policies and agencies and presenting counter claims to carbon scrubbing facilities and the farce logic behind yet another monetary program based on imaginary value with no market cap that can be regulated by equally imaginative provisions.

Conclusion

The complexities surrounding greenhouse gas regulation and carbon sequestration underscore the need for a more cohesive and comprehensive approach to environmental policy. While the intentions behind the Clean Air Act and carbon sequestration programs are noble, their execution and focus require reevaluation to address the broader spectrum of climate change contributors that are based on sane and intellectual members of the species who are able to comprehend actual science and in planetary terms. Only through a balanced, sane, and informed strategy can any meaningful progress toward preserving our planet for future generations actually be achieved. A good start would be to remove carbon from the list of harmful pollutants and let the conservationists conserve and protectionists protect.

Respectfully,

One of "The People"

God Bless!

Robert Singletary
Executive Director

OKLAHOMA Environmental Quality

Kevin Stitt
Governor

MEMORANDUM

DATE: October 2, 2024

TO: Members of the Air Quality Advisory Council

FROM: Kendal Stegmann, Director KS
Air Quality Division

SUBJECT: Proposed Rule Amendments in OAC 252:100-8-6. Permit Content

The Department is proposing to amend existing rule language in OAC 252:100-8-6. Permit Content, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated changes to program requirements pursuant to the Federal Register notice entitled "*Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program*," 88 Fed. Reg. 47029 (July 21, 2023). The gist of this rule proposal and the underlying reason for the rulemaking is to comply with federal requirements by removing "affirmative defense" provisions in Oklahoma's Part 70 air quality permit program.

Notice of the proposed rules was published in the *Oklahoma Register* on September 3, 2024. The notice requested written comments from the public and other interested parties. As of the date of this memo, comments have been received from one entity. Staff are developing responses, and a Response to Comments document will be posted online prior to the council meeting. A copy of the proposed rules is enclosed along with a copy of the Rule Impact Statement and the comments received.

At the October AQAC meeting, staff intends to ask the Council to recommend the proposed rules to the Environmental Quality Board for adoption as permanent rules.

Enclosures: Proposed Amendments to OAC 252:100-8-6
Rule Impact Statement
September 27, 2024 Comments – Arrowhead Trails HOA, Inc, Community Association

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

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

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-6. Permit content

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

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

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

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

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

(2) **Permit duration.**

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

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

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

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

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

(A) **Monitoring requirements.**

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

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

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

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

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

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

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

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

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

(IV) the analytical techniques or methods used;

(V) the results of such analyses; and

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

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

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

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

(ii) Each report submitted under ~~(C)(I)~~ (C)(i) of this paragraph shall identify any exceedances from permit requirements since the previous report that have been monitored by the monitoring systems required under the permit, and any exceedances from the monitoring, recordkeeping and reporting requirements under the permit.

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

(I) Any exceedance resulting from an emergency as defined in OAC 252:100-8-2 or upset conditions as defined in the permit shall be reported promptly but no later than 4:30 p.m. on the next working day after the permittee first becomes aware of the exceedance. The initial report must contain a description of the emergency or

upset conditions, any steps taken to mitigate emissions, and corrective actions taken. Quantification of exceedances attributable to emergencies or upset conditions shall be made by the best available method. In accordance with OAC 252:100-9-7, the permittee shall submit a follow-up written excess emission report. If the permittee wishes to ~~assert the affirmative defense authorized under subsection (e) of this Section for emergencies, the permittee shall submit a followup written report within 10 working days of first becoming aware of the exceedance~~ request consideration of mitigating factors for excess emissions, the report must include all information necessary to establish the emergency under OAC 252:100-9-8.

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

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

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

(iv) Every report submitted under this subsection shall be certified by a responsible official or designee~~, except that if a report of an exceedance required under (C)(iii) of this paragraph must be submitted within ten days of the exceedance, the report may be submitted in the first instance without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the exceedance~~. Reports submitted shall be consistent with the requirements of OAC 252:100-9.

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

(5) **Title IV allowances.**

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

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

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

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

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

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

(i) enforcement action;

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

(iii) denial of a permit renewal application.

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

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

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

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

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

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

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

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

(b) **Federally enforceable requirements.**

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

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

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

(1) Consistent with paragraph (a)(3) of this Section, the permit shall contain compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to

assure compliance with the terms and conditions of the permit. Any document (including reports) required by a permit under this Part shall contain a certification by a responsible official as to the results of the required monitoring.

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

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

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

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

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

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

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

(A) dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(B) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) The permit shall contain requirements for compliance certification with terms and conditions contained in the permit that are federally enforceable, including emission limitations, standards, or work practices. Each permit shall contain all of the following specifications and requirements.

(A) Each permit shall specify the frequency (which shall be annually unless the applicable requirement or state-only requirement specifies submission more frequently) of submissions of compliance certifications.

(B) Each permit shall specify in accordance with paragraph (a)(3) of this Section, a means for monitoring the compliance of the source with emissions limitations, standards, and work practices.

(C) Each permit shall include a requirement that the compliance certification include:

(i) the identification of each term or condition of the permit that is the basis of the certification;

(ii) the permittee's current compliance status, as shown by monitoring data and other information available to the permittee;

(iii) whether compliance was continuous or intermittent;

(iv) the method(s) used for determining the compliance status of the source, currently and over the reporting period as required by paragraph (a)(3) of this Section; and

(v) such other facts as the DEQ may require to determine the compliance status of the source.

(D) Each permit shall contain a requirement that all compliance certifications be submitted to EPA as well as to the DEQ.

(E) Each permit shall contain such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act.

(6) Each permit shall contain such other provisions as the DEQ may require.

(d) **Permit shield.**

(1) Each operating permit issued under this Part shall include a "permit shield" provision, which shall state that compliance with the terms and conditions of the permit (including terms and conditions established for alternate operating scenarios, emissions trading, and emissions averaging, but excluding terms and conditions for which the permit shield is expressly prohibited under this Subchapter) shall be deemed compliance with the applicable requirements identified and included in the permit.

(2) Upon request, the DEQ shall include in the permit or in a separate written finding issued with the permit a determination identifying specific requirements that do not apply to the source. The source shall specify in its application for such a determination the requirements for which the determination is requested. If the determination is issued in a separate finding, that finding shall be summarized in the permit. The permit shall state that the permit shield applies to any requirements so identified. A request for a determination to extend the shield to requirements deemed inapplicable to the source may be made either in the original permit application or in a subsequent application for a permit modification.

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

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

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

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

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

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

(e) **Emergencies.**

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

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

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

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

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

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

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

(f) **Operational flexibility.**

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

(2) **Changes resulting in no emissions increases.** A permitted Part 70 source may make the following changes within the facility.

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

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

(C) Such a source may make changes that result in a net change in emissions of zero, provided that the facility notifies the DEQ and EPA in writing at least 7 days in advance of the proposed changes. The source, DEQ, and EPA shall attach each such notice to their copy of the relevant permit. For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change. The permit shield described in OAC 252:100-8-6(d) does not apply to any change made pursuant to this subsection.

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

Before the Air Quality Advisory Council on October 17, 2024
Before the Environmental Quality Board on November 21, 2024

RULE IMPACT STATEMENT

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources
Part 5. Permits for Part 70 Sources
252:100-8-6 [AMENDED]

DESCRIPTION: The Department of Environmental Quality (Department or DEQ) is proposing to amend existing rule language in OAC 252:100-8-6. Permit Content, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated changes to program requirements that are laid out in the Federal Register notice entitled "*Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program*," 88 Fed. Reg. 47029 (July 21, 2023). The gist of this rule proposal and the underlying reason for the rulemaking is to comply with federal requirements by removing "affirmative defense" provisions in Oklahoma's Part 70 air quality permit program.

CLASSES OF PERSONS AFFECTED: The classes of persons affected are the owners and operators of facilities that are subject to Part 70 source air quality permits.

CLASSES OF PERSONS WHO WILL BEAR COSTS: The classes of persons who will bear costs are the owners and operators of facilities that are subject to Part 70 source air quality permits. There are no new direct costs associated with this rulemaking activity.

INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES: The Department has received no information on cost impacts of the proposed amendments as of this date. There are no new direct 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 are subject to Part 70 source air quality permits, and the citizens of the state, by bringing Oklahoma's air quality permit requirements into closer alignment with federal requirements.

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 refine existing requirements for the owners and operators of facilities that are subject to Part 70 source air quality permits.

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.

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 changes will allow the DEQ to address the deficiencies EPA identified in the referenced Federal Register Notice, while retaining aspects that allow DEQ to implement and enforce the requirements in the most appropriate, open, and efficient way possible. This approach should generally result in lower compliance costs for those affected.

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 updating requirements 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 are not designed to reduce significant risks to public health, safety, and the environment but will have an overall positive effect by clarifying and updating requirements 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: If the proposed changes are not implemented, EPA may take steps towards disapproving portions of Oklahoma's Part 70 Source Air Quality Operating Permits Program.

PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): There will be no new quantitative impact on business entities, since the proposed changes will align state requirements with the current federal requirements. The owners or operators of businesses subject to federal standards will benefit from continued full federal approval of Oklahoma's Part 70 Source Air Quality Operating Permits Program.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: September 3, 2024
MODIFIED ON: October 3, 2024

Outlook

[EXTERNAL] Title 252. Department of Environmental Quality - §6

From Arrowhead Trails HOA, Inc, Community Association <REVELLEVI@outlook.com>
Date Fri 9/27/2024 4:46 PM
To DEQ AQD Rule Comments <aqdrulecomments@deq.ok.gov>

The Overlooked Sources of CO2
The notion that climate change is exacerbated by the increasing levels of CO2 in the atmosphere, is a reality and absurdity that cannot be ignored. Interestingly, a significant portion of this CO2 comes from natural planetary processes like oceanic outgassing, which are largely beyond human control and abundantly in the immediate atmosphere (aka AIR). While human activities, such as breathing, contribute to CO2 emissions, the presence of greenhouse gases originates from these other natural processes. This raises concerns about the focus on regulating human-related emissions while overlooking these naturally occurring sources. More specifically, why policy for Air Pollution Controls do not inherently focus on this planet threatening climate changing greenhouse gas, or why is there not policy and agencies dedicated to the effective and perpetual management thereof.

Carbon: The Building Block of Life
Carbon is undeniably fundamental to life on Earth. It forms the backbone of biological molecules that constitute every living organism, including humans, the apex carbon-based life form. Despite this, efforts to sequester carbon remain a major focus for conservation commissions rather than agencies specifically designed for environmental protection and are that currently regulate the environment where such emissions naturally accumulate or in better terms, where such emissions are subject to natural sequestration. This misalignment of priorities and defiance of logic calls into question the effectiveness, rationale, and purpose behind current environmental policies and programs and the officials, agencies, and the rules that promote and support such policies and programs.

The Risks and Ironies of Carbon Sequestration
Carbon sequestration, the process of capturing and storing atmospheric carbon, is hailed as a promising solution to mitigate climate change despite the reality and previously established fact that human involvement is of little consequence to planetary systems, such as oceanic outgassing. However, any counterintuitive attempts to intervene, which will undoubtedly occur, will not be without risks. The idea of storing extracted carbon underground presents a range of potential and significant hazards. Furthermore, the irony arises when carbon scrubbing facilities, designed to capture carbon from the AIR, introduce new pollutants into the AIR. This opens the door for the Environmental Protection Agency (EPA) or the Department of Environmental Quality (DEQ) to regulate these newly introduced pollutants, creating a paradoxical situation, however, this does present the EPA and DEQ a new found purpose and justification thereof. More so if plant life, planet wide, was heavily reduced or destroyed entirely, as all types of flora and trees naturally scrub the atmosphere of C02 without emitting pollutants. Thereby threatening the very purpose of useless and mismanaged environmental policies and agencies and presenting counter claims to carbon scrubbing facilities and the farce logic behind yet another monetary program based on imaginary value with no market cap that can be regulated by equally imaginative provisions.

Conclusion
The complexities surrounding greenhouse gas regulation and carbon sequestration underscore the need for a more cohesive and comprehensive approach to environmental policy. While the intentions behind

the Clean Air Act and carbon sequestration programs are noble, their execution and focus require reevaluation to address the broader spectrum of climate change contributors that are based on sane and intellectual members of the species who are able to comprehend actual science and in planetary terms. Only through a balanced, sane, and informed strategy can any meaningful progress toward preserving our planet for future generations actually be achieved. A good start would be to remove carbon from the list of harmful pollutants and let the conservationists conserve and protectionists protect.

Respectfully,

One of "The People"

God Bless!

MEMORANDUM

DATE: October 2, 2024

TO: Members of the Air Quality Advisory Council

FROM: Kendal Stegmann, Director KS
Air Quality Division

SUBJECT: Proposed Rule Amendments in OAC 252:100, Subchapters 5, 7, and 8

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. On June 11, 2024, the Environmental Quality Board adopted emergency rules in OAC 252:100-7-60.5, which were approved by the Governor on July 25, 2024. This emergency rule allows the use of the above-mentioned LPE limits. The proposed permanent rule amendments would replace the emergency rule which is currently in effect.

Absent changes in other sections of Chapter 100, the proposed changes to the permanent rule language in OAC 252:100-7-60.5 would trigger additional requirements regarding the reporting of emissions of Greenhouse Gases (GHGs), submission of fees for GHGs, and other state permitting requirements for which GHGs have historically been exempt. To ensure that the proposed permanent amendments to the PBR for the oil and natural gas sector do not create additional, unintended requirements for owners and operators of various facilities, the DEQ is proposing amendments to other sections of Chapter 100. These amendments would ensure that GHG emissions remain exempt from annual emission inventory reporting and fees. Further, GHG emissions would not be factored into certain permitting determinations, such as eligibility for a "de minimis facility," a "permit exempt facility," or a PBR or general permit; or used as the basis for a major source/NSR determination, except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO_2e. Further, GHG limits will only be included in minor facility permits if the facility is subject to a GHG limit under a federal NSPS or National Emission Standard for Hazardous Air Pollutants (NESHAP), a requirement adopted as mandated by a federal Emissions Guideline in accordance with 40 C.F.R. Part 60, or when the facility owner or operator requests a limit.

Additional amendments to OAC 252:100-8-4 will incorporate changes to authorize electronic submission of an application for a major source construction or operating permit and to clarify that a facility that is required by federal rule to obtain a Title V operating

permit absent a change in facility equipment or emissions increases will continue to be subject to any emission limits established in a previously obtained minor source permit unless the facility obtains a major source construction permit.

Notice of the proposed rule changes was published in the *Oklahoma Register* on September 3, 2024. The notice requested written comments from the public and other interested parties. As of the date of this memo, one comment has been received. The Department is currently preparing a Response to Comments document which will be released after the close of the comment period and after all comments have been addressed. 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 proposed rule changes that were presented to the Council during the AQAC meeting held on July 24, 2024. At the October 2024 AQAC meeting, staff will ask the Council to recommend the rule to the EQB for adoption as a permanent rule.

Enclosures: Proposed Amendments to OAC 252:100, Subchapters 5, 7, and 8
Rule Impact Statement
September 27, 2024 Comments – aohboard@outlook.com

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

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

252:100-5-1.1. Definitions

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

"Actual emissions" means the total amount of any regulated air pollutant actually emitted from a given facility during a particular calendar year, determined using methods contained in 252:100-5-2.1(d).

"Allowable emissions" means:

(A) The total amount of any regulated air pollutant emitted based on limits contained in an enforceable permit or potential to emit, or

(B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

"Consumer Price Index" means an index determined by the U.S. Department of Labor measuring the change in the cost of typical wage-earner purchases of goods and services expressed as a percentage of the cost of these same goods and services in a base period.

"Date of billing" means the date the fee was billed. In the case no fee was billed because the owner or operator failed to submit the required annual emission inventory, the date of billing shall mean the date on which the fee would have been billed had the emission inventory been submitted when due.

"Emission inventory" means a compilation of all point source, storage and process fugitive air emissions for all regulated air pollutants at a given facility.

"Error" means, with regard to fees, a fee overpayment made as a result of a mistake on the part of the DEQ in invoicing or the part of the owner or operator in calculating emissions. It does not mean a mistake made in the decision to use or not to use a particular emission factor or method of calculation.

"Grandfathered source" means a stationary source that was in operation in Oklahoma when an otherwise applicable rule was promulgated unless that rule specifically applies to existing sources or the source has undergone modification since that rule was promulgated.

"Minor facility" means a facility which is not a Part 70 source.

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

"Regulated air pollutant (for fee calculation)", which is used only for purposes of this Subchapter, means any "regulated air pollutant" except the following:

(A) Carbon monoxide.

(B) Gross particulate matter (GPM).

(C) Greenhouse gases (GHGs) either as individual pollutants or as an aggregate.

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of regulated air pollutants shall submit a complete annual emission inventory through DEQ's electronic reporting system or in another manner acceptable by the Division.

(1) **General requirements.** The inventory shall cover operations during a calendar year and shall be submitted on or before April 1 of the following year. Upon receiving a written demonstration of good cause the Director may grant an extension for submittal beyond the April 1 deadline.

(2) **Permit by rule.** The owner or operator of a facility registered under a permit by rule in Subchapter 7, Part 9, shall submit, at a minimum, an annual emission inventory for the 2014 reporting year or the calendar year in which the facility is registered, if the facility is registered after December 31, 2014, and thereafter according to the following schedule:

(A) For a registered facility with actual emissions (excluding GHGs as individual pollutants and as an aggregate) greater than 5 tons per year of any regulated air pollutant, an annual emission inventory for that facility shall be submitted for every National Emissions Inventory (NEI) Three-Year Cycle Inventory year, as defined in 40 CFR Section 51.30(b).

(B) For a registered facility with actual emissions of 5 tons per year or less of any regulated air pollutant (excluding GHGs as individual pollutants and as an aggregate), an annual emission inventory for that facility shall be submitted every second National Emissions Inventory (NEI) Three-Year Cycle Inventory year, as defined in 40 CFR Section 51.30(b), beginning with the 2020 NEI reporting year.

(3) **Permit exempt facilities and de minimis facilities**. The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory unless annual emissions from the facility exceed any of the emission thresholds listed in Table 1 in Appendix A to Subpart A of 40 CFR Part 51. In that event, the emission inventory shall be submitted according to the schedule contained in that table, which is incorporated by reference in Appendix Q to OAC 252:100.

(4) **Special inventories.** Upon request by the Director, the owner or operator of a facility that emits or has the potential to emit any regulated air pollutant shall file an emission inventory with the Division. The Director is authorized to request this inventory when emission related data is necessary for program planning or compliance with State or Federal rules, regulations, standards, or requirements.

(b) **Content.** All inventories submitted to the Division shall include, but shall not be limited to, the following:

(1) ~~For those emissions subject to a permit, the permitted allowable emissions as set forth therein.~~

~~(2)~~ The amount of ~~the~~ actual emissions of any regulated air pollutant as defined in OAC 252:100-1-3 (excluding GHGs as individual pollutants and as an aggregate), including quantifiable excess emissions, and the basis for such determination. If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or from the previous year's actual by more than 30%, the Department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the

Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.

(2) For those emissions subject to a permit, the permitted allowable emissions as set forth therein. Greenhouse gases (GHGs), as individual pollutants and as an aggregate, are exempt from this requirement.

(3) For those emissions not the subject of a permit and when requested by the AQD, a list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with OAC 252:100-5-2.1(d) must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.

(d) **Method of calculation.** The best available data at the time the emission inventory is or should have been prepared shall be used to determine emissions. It shall be the burden of the owner or operator to select the best available data, based on an acceptable method of calculation. The method of calculation used to determine emissions shall be binding upon the owner or operator and the Division for the purpose of calculating fees under OAC 252:100-5-2.2 unless challenged by the owner or operator prior to September 1 of the year the inventory is due or by the Division within six (6) months after the date the inventory is received. Acceptable methods of calculation for determining actual emissions are:

(1) Emission factors utilized in the issuance of a currently applicable Oklahoma Air Quality permit(s) for the facility.

(2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Division.

(3) Stack tests using appropriate EPA test methods may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:

(A) Tests are performed by persons qualified by training and experience to perform said tests.

(B) Copies of the test results and methods are available for review by the Division.

(4) Continuous emissions monitoring data, when supported by required certification and calibration data.

(5) Current AP-42 factors or other factors acceptable to the Division.

(6) Manufacturer's test data, when approved by the Division as reliable.

(7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Division.

(8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Division.

(9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Division.

(e) **Methods of verification.** Emission inventories determined by the Division to be substantially incomplete or substantially incorrect shall, upon the request of the Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Division.

(f) **Certification.** The emission inventory shall contain certification by a responsible official of the truth, accuracy, and completeness of the document. This certification shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

PART 1. GENERAL PROVISIONS

252:100-7-1.1. Definitions

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

"Actual emissions" means the total amount of any regulated air pollutant actually emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d).

"Administratively complete" means an application that provides:

(A) All information required under OAC 252:100-7-15(c) and 252:100-7-18(e);

(B) A landowner affidavit as required by OAC 252:4-7-13(b);

(C) The appropriate application fees as required by OAC 252:100-7-3; and

(D) Valid certification by the applicant.

"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.

"Commence" means, as applied to the construction or modification of a minor facility to which neither a NSPS or NESHAP applies, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

"De minimis facility" means a facility that meets the requirements contained in paragraphs (A) and (B) of this definition.

(A) All the air pollutant emitting activities at the facility are on the de minimis list contained in Appendix H or the facility meets all of the following de minimis criteria:

(i) The facility has actual emissions of 5 TPY or less of each regulated air pollutant, except:

(I) that fraction of particulate matter that exhibits an aerodynamic particulate diameter of more than 10 micrometers (μm) and

(II) GHGs as individual pollutants and as an aggregate.

(ii) The facility is not a "major source" as defined in OAC 252:100-8-2.

(iii) The facility is not a "major stationary source" as defined in OAC 252:100-8-31 for facilities in attainment areas.

(iv) The facility is not a "major stationary source" as defined in OAC 252:100-8-51 for facilities in nonattainment areas.

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

(vi) The facility has not opted to obtain or retain an Air Quality Division permit.

(B) The facility is not subject to the Federal NSPS (40 CFR Part 60) or the Federal NESHAP (40 CFR Parts 61 and 63).

"Emergency engine" means a stationary engine used to resume essential operations or ensure safety during sudden and unexpected occurrences including but not limited to loss of electrical power, fire, and/or flood.

"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 State Operating Permit**" or "**FESOP**" means an operating permit issued under Subchapter 7 of this Chapter, including operating permits issued under the provisions of 252:4-7-33(a)(2). As such, for the purposes of this subchapter, "FESOP" and "operating permit" are synonymous.

"FESOP Enhanced NSR process" means a process under which the evaluation of requirements applicable under NSR is integrated with a determination of procedural and compliance requirements under the DEQ's FESOP program. This process is only available for facilities already operating under a FESOP permit. Under a FESOP enhanced NSR process, the 30-day public and EPA review period of a draft NSR permit is integrated with the review of the draft FESOP modification, and results in the issuance of a minor source construction permit whose applicable FESOP implications have also been reviewed. Later the requirements of the construction permit may be incorporated into a modified FESOP using the minor source operating permit modification process, without further public or EPA review, as authorized in OAC 252:4-7-13(g)(9) and OAC 252:100-7-18(f).

"Gasoline dispensing facility" means any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline-fueled engines and equipment, as these terms are used in 40 CFR Part 63 Subpart CCCCCC.

"Hazardous Air Pollutant" or **"HAP"** means any hazardous air pollutant regulated under Section 112 of the Federal Clean Air Act, 42 U.S.C. Section 7412, and subject to NESHAP.

"Minor facility" means a facility which is not a Part 70 source.

"National Emission Standards for Hazardous Air Pollutants" or **"NESHAP"** means those standards as published by the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to Section 112 of the Federal Clean Air Act, 42 U.S.C. Section 7412.

"New portable source" means a portable source that has never operated within the State of Oklahoma. This includes sources that are initially constructed and existing facilities that are relocating into Oklahoma from another state.

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

"Permit exempt facility" means a facility that:

(A) has actual emissions in every calendar year that are 40 TPY or less of each regulated air pollutant (excluding GHGs as individual pollutants and as an aggregate);

(B) is not a de minimis facility as defined in OAC 252:100-7-1.1;

(C) is not a "major source" as defined in OAC 252:100-8-2 for Part 70 sources;

(D) is not a "major stationary source" as defined in OAC 252:100-8-31 for PSD facilities in attainment areas;

(E) is not a "major stationary source" as defined in OAC 252:100-8-51 for facilities in nonattainment areas;

(F) is not operated in conjunction with another facility or source that is subject to air quality permitting;

(G) is not subject to an emission standard, equipment standard, or work practice standard in the Federal NSPS (40 CFR Part 60) or the Federal NESHAP (40 CFR Parts 61 and 63); and

(H) is not subject to the requirements of OAC 252:100-39-47.

"Portable source" means a source with design and intended use to allow disassembly or relocation.

"Relocate" means to move a source from one geographical location to another. The term does not include minimal moves within the facility boundaries.

"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.

"Replacement unit" means an emissions unit for which all the criteria listed in paragraphs (A) through (D) of this definition are met.

(A) The emissions unit is a reconstructed unit within the meaning of 40 C.F.R. Section 60.15(b)(1), the emissions unit is a reconstructed unit within the meaning of paragraph (1) in the definition of "Reconstruction" in 40 C.F.R. Section 63.2, or the emissions unit completely takes the place of an existing emissions unit.

(B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(C) The replacement unit does not alter the basic design parameter(s) of the process unit.

(D) The replaced emissions unit is permanently removed from the source, otherwise permanently disabled, or permanently barred from operating by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Traditional NSR process" means a process under which the evaluation of requirements applicable under NSR is performed independently of the determination of procedural and compliance requirements under the FESOP program. This process is required for facilities that have not yet received a FESOP, but it may also be used (as an alternative to the FESOP Enhanced NSR process) for facilities that have already received a FESOP. The traditional NSR process provides a 30-day public and EPA review period on the draft construction (NSR) permit, as described in OAC 252:100-7-17 and OAC 252:4-7. This process is independent of the subsequent application, review, and issuance process for the source's initial or modified FESOP that also includes a 30-day public and EPA review period, as described in OAC 252:100-7-18 and OAC 252:4-7.

252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities

~~Greenhouse gas (GHG) emissions shall not be included in a minor facility permit nor cause a facility to be subject to minor facility permitting requirements contained in OAC 252:100-7, unless the owner or operator of that facility requests that GHG emission limits and/or physical or operational limitations be included in a minor permit for the facility to set enforceable limits to keep potential GHG emission levels below the applicability threshold levels for the PSD construction permit program and/or the Part 70 operating permit program. Physical or operational limitations may include, but are not limited to, air pollution control equipment, restrictions on hours of operation, and/or restrictions on the type or amount of material combusted, stored, or processed.~~

(a) Greenhouse gas (GHG) emissions, as an aggregate, or as individual pollutants (e.g., methane), are not required to be included in a minor facility permit unless one or more of the following apply:

(1) The facility is subject to a GHG emission limit under a New Source Performance Standard (40 CFR Part 60) or National Emissions Standard for Hazardous Air Pollutants (40 CFR Parts 61 and 63); or

(2) The facility is subject to a GHG emission limit that is based on a federal Emission Guideline (EG) promulgated by EPA (in 40 CFR Part 60) pursuant to Section 111(d) of the Federal CAA; or

(3) The owner or operator requests that a minor facility's permit include GHG emission limits and/or physical or operational limitations obtained for the purposes of reducing potential GHG emissions.

(b) GHG emissions, as an aggregate, and as individual pollutants (e.g., methane), are not required to be included in a facility's annual emissions inventory (OAC 252:100-5.2.1).

(c) GHG emissions, as an aggregate, and as individual pollutants (e.g., methane), are excluded from the definition of "regulated air pollutants (for fee calculation)" in OAC 252:100-5-1.1, and are, therefore, not subject to the annual operating fees under OAC 252:100-5-2.2.

(d) Regardless of any limits on methane included in a minor source permit 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:

(1) The determination whether the owner or operator of a facility registered under a permit by rule in Subchapter 7, Part 9, is required to submit an emissions inventory on a three-year or six-year cycle in accordance OAC 252:100-5-2.1(a)(2).

(2) The determination whether a construction permit is required for a modification of an existing facility to add or physically modify a piece of equipment or a process that results in a permitted emissions increase of any one regulated air pollutant by more than 5 TPY (OAC 252:100-7-15(a)(2)(B)(ii)).

(3) The determination whether a facility has actual emissions of 5 TPY or less of each regulated air pollutant to determine whether a facility is a "de minimis facility" as defined in OAC 252:100-7-1.1.

(4) The determination whether a facility has actual emissions in every calendar year of 40 TPY or less of each regulated air pollutant to determine whether a facility is a "permit exempt facility" as defined in OAC 252:100-7-1.1.

(5) The determination whether a facility is eligible for a permit by rule, in accordance with OAC 252:100-7-15(b)(1)(A), because it has actual emissions of 40 TPY or less of any regulated air pollutant (except for HAPs).
(6) The determination whether a facility is eligible for a general permit, in accordance with OAC 252:100-7-15(b)(2)(A), because it has actual emissions of less than 100 TPY of any regulated air pollutant (except for HAPs).
(7) The determination whether a facility is eligible for a permit by rule for oil and natural gas sector facilities, in accordance with OAC 252:100-7-60.5, because it has actual emissions of 40 TPY or less of any regulated air pollutant (except for HAPs).
(8) The determination whether a facility is eligible for a permit by rule for emergency engine facilities, in accordance with OAC 252:100-7-60.6, because it has actual emissions of 40 TPY or less of any regulated air pollutant (except for HAPs).
(9) The determination whether a facility is eligible for a permit by rule for gasoline dispensing facilities and gasoline dispensing facilities with emergency engines, in accordance with OAC 252:100-7-60.7, because it has actual emissions of 40 TPY or less of any regulated air pollutant (except for HAPs).
(10) The determination whether a facility is a "major source" as defined in OAC 252:100-8-2.
(11) 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.
(12) 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.

(e) Any of these exceptions or requirements may be set aside at the discretion of the Director.

PART 3. CONSTRUCTION PERMITS

252:100-7-15. Construction permit

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) site information,

(B) process description,

(C) emission data,

(D) BACT when required,

(E) sampling point data and

(F) modeling data when required.

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

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

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

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

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

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

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

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

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

(A) one extension of 18 months or less or

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

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

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

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 (as individual pollutants and as an aggregate).

(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. T**he 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]

252:100-7-60.6. Emergency engine facilities

(a) **Applicability.** This PBR is issued for minor facilities and area sources whose only obligation to obtain a permit is due to the construction (installation) and/or operation of an emergency engine that is subject to an emission standard, equipment standard, or work practice standard in the federal NSPS (40 CFR Part 60) or the federal NESHAP (40 CFR Parts 61 and 63). This includes but is not limited to facilities subject to 40 CFR Part 60, primarily Subparts IIII and JJJJ, and/or 40 CFR Part 63, primarily Subpart ZZZZ, 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 are eligible for this PBR, provided they comply with the conditions in (A) through (F) of this paragraph.

(A) The obligation to obtain a permit from the DEQ is solely because of the presence of one or more emergency engines.

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

(C) 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.

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

(E) The facility must meet the criteria in 252:100-7-15(b)(1)(D) and (E).

(F) 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 which meet the criteria contained in 252:100-7-60.6(a)(1). Covered equipment and processes under this PBR include, but are not limited to:

(A) Stationary compression ignition internal combustion engines, as specified in 40 CFR Section 60.4200 of NSPS Subpart IIII.

(B) Stationary spark ignition internal combustion engines, as specified in 40 CFR Section 60.4230 of NSPS Subpart JJJJ.

(C) Stationary reciprocating internal combustion engines (RICE), as specified in 40 CFR Section 63.6585 of NESHAP Subpart ZZZZ.

(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 of emergency engine facilities.

(A) **NSPS general provisions**. The owner or operator of a minor affected facility covered by the emergency engine PBR shall comply with applicable requirements of 40 CFR Part 60, Subpart A.

(B) **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.

(C) **Stationary spark ignition internal combustion engines.** 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.

(D) **NESHAP general provisions.** The owner or operator of an area source covered by the emergency engine PBR shall comply with the applicable requirements of 40 CFR Part 63, Subpart A.

(E) **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, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart ZZZZ.

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

(2) **DEQ Air Pollution Control Rules, standards, and requirements.** The owner or operator of an emergency engine 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.

252:100-7-60.7. Gasoline dispensing facilities and gasoline dispensing facilities with emergency engines

(a) **Applicability.** This PBR is issued for minor facilities and area sources whose primary or only obligation to obtain a permit is due to the construction (installation) and/or operation of a gasoline dispensing facility that is subject to an emission standard, equipment standard, or work practice standard in the federal NSPS (40 CFR Part 60) or the federal NESHAP (40 CFR Parts 61 and 63). This includes facilities subject to 40 CFR Part 60, Subparts IIII and JJJJ, and/or 40 CFR Part 63, primarily Subparts ZZZZ, and CCCCCC, 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 minor facilities and area sources are eligible for this PBR, provided they comply with the conditions in (A) through (F) of this paragraph.

(A) The obligation to obtain a permit from the DEQ is solely due to the presence of a gasoline dispensing facility, or the presence of a gasoline dispensing facility and an emergency engine.

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

(C) 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.

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

(E) The facility must meet the criteria in 252:100-7-15(b)(1)(D) and (E).

(F) 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 that meet the criteria contained in 252:100-7-60.7(a)(1). Covered equipment and processes under this PBR include, but are not limited to:

(A) Gasoline dispensing facilities, as specified in 40 CFR Section 63.11110 of NESHAP Subpart CCCCCC.

(B) Gasoline dispensing facilities, as specified in 40 CFR Section 63.11110 of NESHAP Subpart CCCCCC, with one or more emergency engines, as specified in NSPS Subparts IIII/JJJJ and/or NESHAP Subpart ZZZZ.

(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 at gasoline dispensing facilities or gasoline dispensing facilities with emergency engines.

(A) **NSPS general provisions**. The owner or operator of a gasoline dispensing facility with an emergency engine(s) shall comply with applicable requirements of 40 CFR Part 60, Subpart A.

(B) **Stationary compression ignition internal combustion engines.** The owner or operator of an emergency 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.

(C) **Stationary spark ignition internal combustion engines.** The owner or operator of an emergency 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.

(D) **NESHAP general provisions.** The owner or operator of an area source covered by the gasoline dispensing facility PBR shall comply with the applicable requirements of 40 CFR Part 63, Subpart A.

(E) **Gasoline dispensing facility.** The owner or operator of a gasoline dispensing facility shall comply with the applicable emission, equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 63, Subpart CCCCCC.

(F) **Stationary reciprocating internal combustion engines (RICE).** The owner or operator of an emergency 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.

(G) **Gasoline dispensing facilities subject to any other NSPS or NESHAP.** The owner or operator of the facility shall comply with the applicable general provisions, emission,

equipment, and work practice standards, and testing, reporting, monitoring, and recordkeeping requirements of any other applicable NSPS or NESHAP, including any modification to applicable requirements of an existing NSPS or NESHAP.

(2) **DEQ Air Pollution Control Rules, standards, and requirements.** The owner or operator of a gasoline dispensing 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.

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

PART 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise. Except as specifically provided in this Section, terms used in this Part retain the meaning accorded them under the applicable requirements of the Act.

"Administratively complete" means an application that provides:

(A) All information required under OAC 252:100-8-5(c), (d), or (e);

(B) A landowner affidavit as required by OAC 252:4-7-13(b);

(C) The appropriate application fees as required by OAC 252:100-8-1.7; and

(D) Certification by the responsible official as required by OAC 252:100-8-5(f).

"Affected source" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Affected states" means:

(A) all states:

(i) That are one of the following contiguous states: Arkansas, Colorado, Kansas, Missouri, New Mexico and Texas, and

(ii) That in the judgment of the DEQ may be directly affected by emissions from the facility seeking the permit, permit modification, or permit renewal being proposed; or

(B) all states that are within 50 miles of the permitted source.

"Affected unit" means the same as the meaning given to it in the regulations promulgated under Title IV (acid rain) of the Act.

"Applicable requirement" means all of the following as they apply to emissions units in a Part 70 source subject to this Chapter (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):

(A) Any standard or other requirements provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

(B) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act;

(C) Any standard or other requirement under section 111 of the Act, including section 111(d);

(D) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act, but not including the contents of any risk management plan required under 112(r) of the Act;

(E) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(F) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(G) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(H) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(I) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(J) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit; and

(K) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

"Begin actual construction" means for purposes of this Part, that the owner or operator has begun the construction or installation of the emitting equipment on a pad or in the final location at the facility.

"Designated representative" means with respect to affected units, a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft permit" means the version of a permit for which the DEQ offers public participation under 27A O.S.§§ 2-14-101 through 2-14-401 and OAC 252:4-7 or affected State review under OAC 252:100-8-8.

"Emergency" means, when used in OAC 252:100-8-6(a)(3)(C)(iii)(I) and (e), any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency

shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. Fugitive emissions from valves, flanges, etc. associated with a specific unit process shall be identified with that specific emission unit. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act.

"Enhanced NSR process" means a process under which the evaluation of requirements applicable under NSR is integrated with a full determination of procedural and compliance requirements under the Part 70 source (Title V) operating permit program. This process is an alternative to traditional NSR process, and is only available for facilities already operating under a Title V permit. Under the enhanced NSR process, the 30-day public review period for a draft NSR permit is integrated with the 45-day EPA review of the Title V permit and would allow for the issuance of a major source construction permit whose applicable Title V implications have also been reviewed. Therefore, the applicable requirements of the construction permit may later be incorporated as a modification to the Title V operating permit using the administrative amendment process of OAC 252:100-8-7.2(a) – without further public or EPA review, as authorized in OAC 252:4-7-13(g)(4).

"Final permit" means the version of a part 70 permit issued by the DEQ that has completed all review procedures required by OAC 252:100-8-7 through 252:100-8-7.5 and OAC 252:100-8-8.

"Fugitive emissions" means those emissions of regulated air pollutants which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

"General permit" means a part 70 permit that meets the requirements of OAC 252:100-8-6.1.

"Insignificant activities" means individual emissions units that are either on the list approved by the Administrator and contained in Appendix I, or whose actual calendar year emissions do not exceed any of the limits in (A) and (B) of this definition. Any activity to which a State or federal applicable requirement applies is not insignificant even if it meets the criteria below or is included on the insignificant activities list.

(A) 5 tons per year (TPY) of any one criteria pollutant.

(B) 2 tons per year for any one hazardous air pollutant (HAP) or 5 tons per year for an aggregate of two or more HAPs, or 20 percent of any threshold less than 10 tons per year for single HAP that the EPA may establish by rule.

"MACT" means maximum achievable control technology.

"Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that is described in subparagraph (A), (B), or (C) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on

contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit primary SIC code) as described in the Standard Industrial Classification Manual, 1987. For onshore activities belonging to Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, 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.

(A) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 TPY or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 TPY or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 TPY or more of any air pollutant (except gross particulate matter and GHGs, as individual pollutants and as an aggregate) subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary sources:

(i) Coal cleaning plants (with thermal dryers);
(ii) Kraft pulp mills;
(iii) Portland cement plants;
(iv) Primary zinc smelters;
(v) Iron and steel mills;
(vi) Primary aluminum ore reduction plants;
(vii) Primary copper smelters;
(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
(ix) Hydrofluoric, sulfuric, or nitric acid plants;
(x) Petroleum refineries;
(xi) Lime plants;
(xii) Phosphate rock processing plants;
(xiii) Coke oven batteries;
(xiv) Sulfur recovery plants;
(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;
(xvii) Fuel conversion plants;
(xviii) Sintering plants;
(xix) Secondary metal production plants;
(xx) Chemical process plants (not including ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140);
(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(xxiii) Taconite ore processing plants;
(xxiv) Glass fiber processing plants;
(xxv) Charcoal production plants;
(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
(xxvii) All other stationary source categories which, as of August 7, 1980, are being regulated by a standard promulgated under section 111 or 112 of the Act.

(C) A major stationary source as defined in part D of Title I of the Act, including:
(i) For ozone nonattainment areas, sources with the potential to emit 100 TPY or more of volatile organic compounds or oxides of nitrogen in areas classified or treated as classified as "Marginal" or "Moderate," 50 TPY or more in areas classified or treated as classified as "Serious," 25 TPY or more in areas classified or treated as classified as "Severe," and 10 TPY or more in areas classified or treated as classified as "Extreme"; except that the references in this paragraph to 100, 50, 25, and 10 TPY of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;
(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 TPY or more of volatile organic compounds;
(iii) For carbon monoxide nonattainment areas:
(I) that are classified or treated as classified as "Serious"; and
(II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 TPY or more of carbon monoxide; and
(iv) For particulate matter (PM_{10}) nonattainment areas classified or treated as classified as "Serious," sources with the potential to emit 70 TPY or more of PM_{10}.

"Maximum capacity" means the quantity of air contaminants that theoretically could be emitted by a stationary source without control devices based on the design capacity or maximum production capacity of the source and 8,760 hours of operation per year. In determining the maximum theoretical emissions of VOCs for a source, the design capacity or maximum production capacity shall include the use of raw materials, coatings and inks with the highest VOC content used in practice by the source.

"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.

"Permit modification" means a revision to a Part 70 source construction or operating permit that meets the requirements of OAC 252:100-8-7.2(b).

"Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in OAC 252:100-5-2.2 (whether such costs are incurred by the DEQ or other State or local agencies that do not issue permits directly, but that support permit issuance or administration).

"Permit revision" means any permit modification or administrative permit amendment.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air 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 is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder.

"Proposed permit" means the version of a permit that the DEQ proposes to issue and forwards to the Administrator for review in compliance with OAC 252:100-8-8.

"Regulated air pollutant" means the following:

(A) Nitrogen oxides or any volatile organic compound (VOC), including those substances defined in OAC 252:100-1-3, 252:100-37-2, and 252:100-39-2, except those specifically excluded in the EPA definition of VOC in 40 CFR 51.100(s);

(B) Any pollutant for which a national ambient air quality standard has been promulgated;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II ozone-depleting substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit, and (r) (Prevention of Accidental Releases), including the following:

(i) any pollutant subject to the requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated as to that source on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and,

(ii) any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement; or

(F) Any other substance for which an air emission limitation or equipment standard is set by an existing permit or regulation.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Section 502(b)(10) changes" means changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Small unit" means a fossil fuel fired combustion device which serves a generator with a name plate capacity of 25 MWe or less.

"State-only requirement" means any standard or requirement pursuant to Oklahoma Clean Air Act (27A O.S. §§ 2-5-101 through 2-5-118, as amended) that is not contained in the State Implementation Plan (SIP).

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

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act as it existed on January 2, 2006.

"Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the federal Clean Air Act, or a nationally-applicable regulation codified by the EPA Administrator in subchapter C of Chapter I of 40 CFR, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(A) Greenhouse gases (GHG) shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 TPY CO_2 equivalent emissions (CO_2e) and are otherwise subject to regulation as previously described in this definition.

(B) The term TPY CO_2 equivalent emissions (CO_2e) shall represent an amount of GHG emitted, and shall be computed by multiplying the mass amount of emissions (TPY), 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 TPY CO_2e.

(C) If federal legislation or a federal court stays, invalidates, delays the effective date, or otherwise renders unenforceable by the EPA, in whole or in part, the EPA's tailoring rule (75 FR 31514, June 3, 2010), endangerment finding (74 FR 66496, December 15, 2009), or light-duty vehicle greenhouse gas emission standard (75 FR 25686, May 7, 2010), this definition shall be enforceable only to the extent that it is enforceable by the EPA.

"Traditional NSR process" means a process under which the evaluation of requirements applicable under NSR is performed independently of the determination of procedural and compliance requirements under the Part 70 source (Title V) operating permit program. This process is required for facilities that have not yet received a Part 70 source operating permit, but it may also be used (as an alternative to the enhanced NSR process) for facilities that have already received a Part 70 source operating permit. Under the traditional NSR process, the EPA has an opportunity to review a draft construction permit during the 30-day public review period. This process is independent of the subsequent application, review, and issuance process for the source's initial or modified Part 70 source operating permit that includes a 30-day public review period and a separate 45-day EPA review period, as described in OAC 252:100-8-8 and OAC 252:4-7.

"Trivial activities" means any individual or combination of air emissions units that are considered inconsequential and are on a list approved by the Administrator and contained in Appendix J.

"Unit" means, for purposes of Title IV, a fossil fuel-fired combustion device.

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 (except for GHGs, as individual pollutants and as an aggregate), 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 received with a legible, dated U.S. Postal Service postmark (private metered postmarks are not acceptable), 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

effective date on which 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.

252:100-8-5. Permit applications

(a) **Confidential information.** If a source submits information to the DEQ under a claim of confidentiality, the source shall also submit a copy of such information directly to the Administrator, if the DEQ requests that the source do so.

(b) **Duty to supplement or correct application.** Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, submit such supplementary facts or corrected information within 30 days unless the applicant's request for more time has been approved by the DEQ. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(c) **Standard application form and required information.** Sources that are subject to the Part 70 permit program established by this Chapter shall file applications on the standard application form that the DEQ makes available for that purpose. The application must include information needed to determine the applicability of any applicable requirement, or state-only requirement, or to evaluate the fee amount required under the schedule approved pursuant to OAC 252:100-5-2.2(b)(2). The applicant shall submit the information called for by the application form for each

emissions unit at the source to be permitted. The source must provide a list of any insignificant activities that are exempted because of size or production rate. Trivial activities need not be listed. The standard application form and any attachments shall require that the information required by OAC 252:100-8-5(d) and/or (e) be provided.

(d) **Construction permit applications.**

(1) An application for a construction permit shall provide data and information required by this Chapter and/or requested on the application form available from the DEQ pursuant to the requirements of this Chapter. Such data and information shall include but not be limited to site information, process description, emission data and when required, BACT, modeling and sampling point data as follows:

(A) **BACT determination.** To be approved for a construction permit, a major source must demonstrate that the control technology to be applied is the best that is available for each pollutant that would cause the source to be defined as a major source. This determination will be made on a case-by-case basis taking into account energy, environmental, and economic impacts and other costs of alternative control systems. Unless required under Part 7 of this Subchapter, a BACT determination is not required for a modification that will result in an increase of emissions of less than 100 tons per year of any regulated air pollutant. GHGs only trigger a requirement for a BACT determination under the circumstances described in Part 7 of this Subchapter (Prevention of Significant Deterioration or PSD).

(B) **Modeling.** Any air quality modeling or ambient impact evaluation that is required shall be prepared in accordance with procedures acceptable to the DEQ and accomplished by the applicant. GHGs, either as individual pollutants or as an aggregate, are exempt from the requirements for air quality modeling and ambient impact evaluation.

(C) **Sampling points.** If required by the DEQ an application shall show how the new source will be equipped with sampling ports, instrumentation to monitor and record emission data and other sampling and/or testing equipment.

(2) Construction permit applications for new sources must also include the requirements for operating permits contained in OAC 252:100-8-5(e) to the extent they are applicable.

(3) Construction permit applications for existing source modifications that are eligible for the enhanced NSR process under 252:100-8-4(c) must indicate in the application whether they intend to utilize:

(A) the enhanced NSR process, including the public notice procedures of OAC 252:4-7-13(g)(4) and the administrative amendment process for the ensuing operating permit modification, or

(B) the traditional NSR process.

(e) **Operating permit applications.**

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.

(2) A description of the source's processes and products (by two-digit Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(A) All emissions of pollutants for which the source is major, and all emissions (including fugitive emissions) of regulated air pollutants. Fugitive emissions shall be included in the

permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. The permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under OAC 252:100-8-5(c) or OAC 252:100-8-3(b).

(B) Identification and description of all points of emissions described in OAC 252:100-8-5(e)(3)(A) in sufficient detail to establish the basis for fees and applicability of the Act's requirements.

(C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard.

(D) The following information to the extent it is needed to determine or regulate emissions:

(i) fuels,

(ii) fuel use,

(iii) raw materials,

(iv) production rates, and

(v) operating schedules.

(E) Identification and description of air pollution control equipment and compliance monitoring devices or activities.

(F) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the covered source.

(G) Other information required by any applicable requirement, or state-only requirement (including information related to stack height limitations developed pursuant to section 123 of the Act).

(H) Calculations on which the information in items (A) through (G) of this paragraph is based.

(4) The following air pollution control requirements:

(A) Citation and description of all applicable requirements and all state-only requirements.

(B) Description of or reference to any applicable test method for determining compliance with each applicable requirement and state-only requirement.

(5) Other specific information required under the DEQ's rules and statutes to implement and enforce other applicable requirements of the Act or of this Chapter or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements and state-only requirements.

(7) Additional information as determined to be necessary by the DEQ to define alternative operating scenarios identified by the source pursuant to OAC 252:100-8-6(a)(9) or to define permit terms and conditions implementing OAC 252:100-8-6(f) or 252:100-8-6(a)(10).

(8) A compliance plan for all covered sources that contains all the following:

(A) A description of the compliance status of the source with respect to all applicable requirements and state-only requirements as follows:

(i) For applicable requirements and state-only requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(ii) For applicable requirements and state-only requirements that will become effective during the permit term, a statement that the source will meet such requirements on a

timely basis shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(B) For sources not in complete compliance, a compliance schedule as follows:

(i) A schedule of compliance for sources that are not in compliance with all applicable requirements and state-only requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements and state-only requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be equivalent in stringency to that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.

(ii) A schedule for submission of certified progress reports no less frequently than every 6 months.

(C) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(9) Requirements for compliance certification, including the following:

(A) A certification of compliance with all applicable requirements and state-only requirements by a responsible official consistent with OAC 252:100-8-5(f) and section 114(a)(3) of the Act;

(B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(C) A schedule for submission of compliance certifications during the permit term, which shall be submitted annually, or more frequently if required by an underlying applicable requirement state-only requirements or by the permitting authority; and

(D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(10) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act.

(f) **Certification.** Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Chapter shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

PART 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-31. Definitions

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise. All terms used in this Part that are not defined in this Section shall have the meaning given to them in OAC 252:100-1-3, 252:100-8-1.1, or in the Oklahoma Clean Air Act.

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs (A) through (C) of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under OAC 252:100-8-38. Instead, the definitions of "projected actual emissions" and "baseline actual emissions" shall apply for those purposes.

(A) In general, actual emissions as of a particular date shall equal the average rate in TPY at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(B) The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(C) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(A) the applicable standards as set forth in 40 CFR Parts 60 and 61;

(B) the applicable State rule allowable emissions; or,

(C) the emissions rate specified as an enforceable permit condition.

"Baseline actual emissions" means the rate of emissions, in TPY, of a regulated NSR pollutant, as determined in accordance with paragraphs (A) through (E) of this definition.

(A) The baseline actual emissions shall be based on current emissions data and the unit's utilization during the period chosen. Current emission data means the most current and accurate emission factors available and could include emissions used in the source's latest permit or permit application, the most recent CEM data, stack test data, manufacturer's data, mass balance, engineering calculations, and other emission factors.

(B) For any existing electric utility steam generating unit (EUSGU), baseline actual emissions means the average rate, in TPY, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit application is received by the Director for a permit required under OAC 252:100-8. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with start-ups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units affected by the project. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(iv) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in TPY, and for adjusting this amount if required by (B)(ii) of this definition.

(C) For an existing emissions unit (other than an EUSGU), baseline actual emissions means the average rate in TPY, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Director for a permit required either under this Part or under a plan approved by the Administrator, whichever is earlier, except that the 10 year period shall not include any period earlier than November 15, 1990.

(i) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(ii) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(iii) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a MACT standard that the Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if DEQ has taken credit for such emissions reduction in an attainment demonstration or maintenance plan consistent with requirements of 40 CFR 51.165(a)(3)(ii)(G).

(iv) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

(v) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in TPY, and for adjusting this amount if required by (C)(ii) and (iii) of this definition.

(D) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(E) For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing EUSGU in accordance with the procedures contained in paragraph (B) of this definition, for other existing emissions units in accordance with the procedures contained in Paragraph (C) of this definition, and for a new emissions unit in accordance with the procedures contained in paragraph (D) of this definition.

"Baseline area" means any intrastate areas (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act in which the major source or

major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 $\mu g/m^3$ (annual average) for SO_2, NO_2, or PM_{10}; or equal or greater than 0.3 $\mu g/m^3$ (annual average) for $PM_{2.5}$.

(A) Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(i) establishes a minor source baseline date; or

(ii) is subject to 40 CFR 52.21 or OAC 252:100-8, Part 7, and would be constructed in the same State as the State proposing the redesignation.

(B) Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that such baseline area shall not remain in effect if the Director rescinds the corresponding minor source baseline date in accordance with paragraph (D) of the definition of "baseline date".

"Baseline concentration" means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date.

(A) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (B) of this definition.

(ii) the allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(B) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major stationary source on which construction commenced after the major source baseline date; and,

(ii) actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

"Baseline date" means:

(A) Major source baseline date means:

(i) in the case of PM_{10} and sulfur dioxide, January 6, 1975;

(ii) in the case of nitrogen dioxide, February 8, 1988; and

(iii) in the case of $PM_{2.5}$, October 20, 2010.

(B) Minor source baseline date means the earliest date after the trigger date on which a major stationary source or major modification (subject to 40 CFR 52.21 or OAC 252:100-8, Part 7) submits a complete application. The trigger date is:

(i) in the case of PM_{10} and sulfur dioxide, August 7, 1977;

(ii) in the case of nitrogen dioxide, February 8, 1988; and

(iii) in the case of $PM_{2.5}$, October 20, 2011.

(C) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(i) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act for the

pollutant on the date of its complete application under 40 CFR 52.21 or under OAC 252:100-8, Part 7; and

(ii) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(D) Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that the Director may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Director, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions.

"Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature.

(A) Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures.

(B) With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

"Best available control technology" or **"BACT"** means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the EPA. The Federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

"Commence" means, as applied to construction of a major stationary source or major modification, that the owner or operator has all necessary preconstruction approvals or permits and either has:

(A) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or,

(B) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

"Continuous emissions monitoring system" or **"CEMS"** means all of the equipment that may be required to meet the data acquisition and availability requirements to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system" or **"CERMS"** means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system" or **"CPMS"** means all of the equipment necessary to meet the data acquisition and availability requirements to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2, or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.

"Electric utility steam generating unit" or **"EUSGU"** means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an EUSGU. There are two types of emissions units as described in paragraphs (A) and (B) of this definition.

(A) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(B) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (A) of this definition. A replacement unit is an existing emissions unit.

"Federal Land Manager" means with respect to any lands in the United States, the Secretary of the department with authority over such lands.

"High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Low terrain" means any area other than high terrain.

"Major modification" means:

(A) Any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source is a major modification.

(i) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for VOC or NO_X shall be considered significant for ozone.

(ii) A physical change or change in the method of operation shall not include:

(I) routine maintenance, repair and replacement;

(II) use of an alternative fuel or raw material by reason of any order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(III) use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(IV) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(V) use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before January 6, 1975, (unless such change would be prohibited under any enforceable permit condition which was established after January 6, 1975) or the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 252:100-8;

(VI) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975;

(VII) any change in source ownership;

(VIII) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided the project complies with OAC 252:100 and other requirements necessary to attain and maintain the NAAQS during the project and after it is terminated;

(IX) the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant (on a pollutant-by-pollutant basis) emitted by the unit; or

(X) the reactivation of a very clean coal-fired EUSGU.

(B) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under OAC 252:100-8-38 for a PAL for that pollutant. Instead, the definition of "PAL major modification" at 40 CFR 51.166(w)(2)(viii) shall apply.

"Major stationary source" means

(A) A major stationary source is:

(i) any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 TPY or more of a regulated NSR pollutant <u>(except for GHGs, either as individual pollutants or as an aggregate)</u>:

(I) carbon black plants (furnace process),

(II) charcoal production plants,
(III) chemical process plants, (not including ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140),
(IV) coal cleaning plants (with thermal dryers),
(V) coke oven batteries,
(VI) fossil-fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input,
(VII) fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input,
(VIII) fuel conversion plants,
(IX) glass fiber processing plants,
(X) hydrofluoric, sulfuric or nitric acid plants,
(XI) iron and steel mill plants,
(XII) kraft pulp mills,
(XIII) lime plants,
(XIV) municipal incinerators capable of charging more than ~~250~~50 tons of refuse per day,
(XV) petroleum refineries,
(XVI) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
(XVII) phosphate rock processing plants,
(XVIII) portland cement plants,
(XIX) primary aluminum ore reduction plants,
(XX) primary copper smelters,
(XXI) primary lead smelters,
(XXII) primary zinc smelters,
(XXIII) secondary metal production plants,
(XXIV) sintering plants,
(XXV) sulfur recovery plants, or
(XXVI) taconite ore processing plants;

(ii) any other stationary source not on the list in (A)(i) of this definition which emits, or has the potential to emit, 250 TPY or more of a regulated NSR pollutant (except for GHGs, either as individual pollutants or as an aggregate);

(iii) any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source under this definition if the change would constitute a major stationary source by itself.

(B) A major source that is major for VOC or NO_X shall be considered major for ozone.

(C) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Part whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(i) the stationary sources listed in (A)(i) of this definition;

(ii) any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.

"Necessary preconstruction approvals or permits" means those permits or approvals required under all applicable air quality control laws and rules.

"Net emissions increase" means:

(A) with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(i) the increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to OAC 252:100-8-30(b); and,

(ii) any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under (A)(ii) of this definition shall be determined as provided in the definition of "baseline actual emissions", except that (B)(iii) and (C)(iv) of that definition shall not apply.

(B) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within 3 years before the date that the increase from the particular change occurs.

(C) An increase or decrease in actual emissions is creditable only if:

(i) it is contemporaneous; and

(ii) The Director has not relied on it in issuing a permit for the source under OAC 252:100-8, Part 7, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(E) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(F) A decrease in actual emissions is creditable only to the extent that it meets all the conditions in (F)(i) through (iii) of this definition.

(i) It is creditable if the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.

(ii) It is creditable if it is enforceable as a practical matter at and after the time that actual construction on the particular change begins.

(iii) It is creditable if it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(G) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(H) Paragraph (A) of the definition of "actual emissions" shall not apply for determining creditable increases and decreases.

"Potential to emit" means the maximum capacity of a stationary 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 stationary source.

"Predictive emissions monitoring system" or **"PEMS"** means all of the equipment necessary to monitor process and control device operational parameters (for example, control

device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2, or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

"Prevention of Significant Deterioration (PSD) program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR 51.166, or the program in 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

"Project" means a physical change in, or change in method of operation of, an existing major stationary source.

"Projected actual emissions" means

(A) Projected actual emissions means the maximum annual rate, in TPY, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant, and full utilization of the unit would result in a significant emissions increase, or a significant net emissions increase at the major stationary source.

(B) In determining the projected actual emissions under paragraph (A) of this definition (before beginning actual construction), the owner or operator of the major stationary source:

(i) shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the State or Federal regulatory authorities, and compliance plans under the approved plan; and

(ii) shall include fugitive emissions to the extent quantifiable and emissions associated with start-ups, shutdowns, and malfunctions; and

(iii) shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or,

(iv) in lieu of using the method set out in (B)(i) through (iii) of this definition, may elect to use the emissions unit's potential to emit, in TPY.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(A) has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the Department's emissions inventory at the time of enactment;

(B) was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;

(C) is equipped with low-NO_X burners prior to the time of commencement of operations following reactivation; and

(D) is otherwise in compliance with the requirements of the Act.

"Regulated NSR pollutant" means the following:

(A) any pollutant for which a NAAQS has been promulgated. This includes but is not limited to the following:

(i) $PM_{2.5}$ emissions and PM_{10} emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. Such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits.

(ii) any pollutant identified as a constituent or precursor to any pollutant identified under subparagraph (A) of this definition. Precursors identified by the EPA Administrator for purposes of NSR are the following:

(I) volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(II) sulfur dioxide is a precursor to $PM_{2.5}$ in all attainment and unclassifiable areas.

(III) nitrogen oxides are presumed to be precursors to $PM_{2.5}$ in all attainment and unclassifiable areas, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(IV) volatile organic compounds are presumed not to be precursors to $PM_{2.5}$ in any attainment or unclassifiable area, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(B) any pollutant that is subject to any standard promulgated under section 111 of the Act;

(C) any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or

(D) any pollutant that otherwise is "subject to regulation" under the Act as defined in the definition of "subject to regulation" in OAC 252:100-8-31;

(E) Notwithstanding subparagraphs (B) through (D) of this definition, regulated NSR pollutant does not include:

(i) any or all HAP either listed in section 112 of the Act or added to the list pursuant to section 112(b)(2) of the Act, which have not been delisted pursuant to section 112(b)(3) of the Act, unless the listed HAP is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act; or

(ii) any pollutant that is regulated under section 112(r) of the Act, provided that such pollutant is not otherwise regulated under the Act.

"Replacement unit" means an emissions unit for which all the criteria listed in paragraphs (A) through (D) of this definition are met. No creditable emission reduction shall be generated from shutting down the existing emissions unit that is replaced.

(A) The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.

(B) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(C) The replacement unit does not alter the basic design parameter(s) of the process unit.

(D) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operating by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Repowering" means

(A) Repowering shall mean the replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(B) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(C) The Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under section 409 of the Act.

"Significant" means:

(A) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following significant emission rates:

(i) carbon monoxide: 100TPY,

(ii) nitrogen oxides: 40 TPY,

(iii) sulfur dioxide: 40 TPY,

(iv) particulate matter: 25 TPY of particulate matter emissions or 15 TPY of PM_{10} emissions,

(v) $PM_{2.5}$: 10 TPY of direct $PM_{2.5}$ emissions; 40 TPY of sulfur dioxide emissions; or 40 TPY of nitrogen oxide emissions unless demonstrated not to be a $PM_{2.5}$ precursor under the definition of "regulated NSR pollutant",

(vi) ozone: 40 TPY of VOC or NO_X,

(vii) lead: 0.6 TPY,

(viii) fluorides: 3 TPY,

(ix) sulfuric acid mist: 7 TPY,

(x) hydrogen sulfide (H_2S): 10 TPY,

(xi) total reduced sulfur (including H_2S): 10 TPY,

(xii) reduced sulfur compounds (including H_2S): 10 TPY,

(xiii) municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.5×10^{-6} TPY,

(xiv) municipal waste combustor metals (measured as particulate matter): 15 TPY,

(xv) municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 40 TPY,

(xvi) municipal solid waste landfill emissions (measured as nonmethane organic compounds): 50 TPY.

(B) In reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that subparagraph (A) of this definition does not list, any emission rate.

(C) Any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within 6 miles of a Class I area, and have an impact on such area equal to or greater than 1 $\mu g/m^3$ (24-hour average).

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

"Significant net emissions increase" means a significant emissions increase and a net increase.

"Stationary source" means any building, structure, facility or installation which emits or may emit a regulated NSR pollutant.

"Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the federal Clean Air Act, or a nationally-applicable regulation codified by the EPA Administrator in subchapter C of Chapter I of 40 CFR, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(A) Greenhouse gases (GHG), either as individual pollutants or as an aggregate, shall not be subject to regulation except as provided in subparagraph (D) of this definition.

(B) For purposes of subparagraphs (C) and (D) of this definition, the term TPY CO_2 equivalent emissions (CO_2e) shall represent an amount of GHG emitted, and shall be computed as follows:

(i) Multiplying the mass amount of emissions (in TPY), 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

(ii) Summing the resultant value from (B)(i) of this definition for each gas to compute a TPY CO_2e.

(C) The term emissions increase as used in subparagraph (D) of this definition shall mean that both a significant emissions increase (as calculated using the procedures in OAC 252:100-8-30(b)(1) through (5)) and a significant net emissions increase (as defined in the definitions of "net emissions increase" and "significant" in 252:100-8-31) occur. For the pollutant GHG, an emissions increase shall be based on TPY CO_2e, and shall be calculated assuming the pollutant GHG is a regulated NSR pollutant, and "significant" is defined as 75,000 TPY CO_2e and the emissions are otherwise subject to regulation as previously described in this definition.

(D) Beginning January 2, 2011, the pollutant GHG is subject to regulation if it meets the other requirements of this definition and if:

(i) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHG, and also will emit or will have the potential to emit 75,000 TPY CO_2e or more; or

(ii) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHG, and also will have ~~an~~ both a significant emissions increase and a significant net emission increase of a regulated NSR pollutant (that is not GHG), and an emissions increase of 75,000 TPY CO_2e or more.

(E) If federal legislation or a federal court stays, invalidates, delays the effective date, or otherwise renders unenforceable by the EPA, in whole or in part, the EPA's tailoring rule (75 FR 31514, June 3, 2010), endangerment finding (74 FR 66496, December 15, 2009), or light-duty vehicle greenhouse gas emission standard (75 FR 25686, May 7, 2010), this definition shall be enforceable only to the extent that it is enforceable by the EPA.

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Oklahoma Air Pollution Control Rules in OAC 252:100 and other requirements necessary to attain and/or maintain the NAAQS during and after the project is terminated.

252:100-8-33. Exemptions

(a) **Exemptions from the requirements of OAC 252:100-8-34 through 252:100-8-36.2.**

(1) The requirements of OAC 252:100-8-34 through 252:100-8-36.2 do not apply to a particular major stationary source or major modification if the source or modification is:

(A) a nonprofit health or nonprofit educational institution; or

(B) major only if fugitive emissions, to the extent quantifiable, are included in calculating the potential to emit and such source is not one of the categories listed in paragraph (C) of the definition of "Major stationary source"; or

(C) a portable stationary source which has previously received a permit under the requirements contained in OAC 252:100-8-34 through 252:100-8-36.2 and proposes to relocate to a temporary new location from which its emissions would not impact a Class I area or an area where an applicable increment is known to be violated.

(2) The requirements in OAC 252:100-8-34 through 252:100-8-36.2 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source or modification is located in an area designated as nonattainment for that pollutant under section 107 of the Act. Nonattainment designations for revoked NAAQS, as contained in 40 CFR part 81, shall not be viewed as current designations under section 107 of the Act for purposes of determining the applicability of requirements equivalent to those contained in Sections 252:100-8-34 through 252:100-8-36.2 to a major stationary source or major modification after the revocation of that NAAQS is effective.

(b) **Exemption from air quality impact analyses in OAC 252:100-8-35(a) and (c) and 252:100-8-35.2.**

(1) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 are not applicable with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(2) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 as they relate to any PSD increment for a Class II area do not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT, would be less than 50 TPY.

(3) The requirements of OAC 252:100-8-35(a) and (c) and 252:100-8-35.2 are not applicable with respect to GHGs, as individual pollutants or as an aggregate.

(c) **Exemption from air quality analysis requirements in OAC 252:100-8-35(c).**

(1) The monitoring requirements of OAC 252:100-8-35(c) regarding air quality analysis are not applicable for a particular pollutant if the emission increase of the pollutant from a

proposed major stationary source or the net emissions increase of the pollutant from a major modification would cause, in any area, air quality impacts less than the following amounts:

(A) Carbon monoxide - 575 $\mu g/m^3$, 8-hour average,

(B) Nitrogen dioxide - 14 $\mu g/m^3$, annual average,

(C) $PM_{2.5}$ - 0 $\mu g/m^3$, no exemption available,

(D) PM_{10} - 10 $\mu g/m^3$, 24-hour average,

(E) Sulfur dioxide -13 $\mu g/m^3$, 24-hour average,

(F) Ozone - no de minimis air quality level is provided for ozone, however any net increase of 100 TPY or more of VOC or NO_X subject to PSD would require an ambient impact analysis, including the gathering of ambient air quality data,

(G) Lead - 0.1 $\mu g/m^3$, 24-hour 3-month average,

(H) Fluorides - 0.25 $\mu g/m^3$, 24-hour average,

(I) Total reduced sulfur - 10 $\mu g/m^3$, 1-hour average,

(J) Hydrogen sulfide - 0.2 $\mu g/m^3$, 1-hour average, or

(K) Reduced sulfur compounds - 10 $\mu g/m^3$, 1-hour average.

(2) The monitoring requirements of OAC 252:100-8-35(c) are not applicable for a particular pollutant if the pollutant is not listed in preceding OAC 252:100-8-33(c)(1).

(d) **Exemption from monitoring requirements in OAC 252:100-8-35(c)(1)(B) and (D).**

(1) The requirements for air quality monitoring in OAC 252:100-8-35(c)(1)(B) and (D) shall not apply to a particular source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted on or before June 8, 1981, and the Director subsequently determined that the application was complete except for the requirements in OAC 252:100-8-35(c)(1)(B) and (D). Instead, the requirements in 40 CFR 52.21(m)(2) as in effect on June 19, 1978, shall apply to any such source or modification.

(2) The requirements for air quality monitoring in OAC 252:100-8-35(c)(1)(B) and (D) shall not apply to a particular source or modification that was not subject to 40 CFR 52.21 as in effect on June 19, 1978, if a permit application was submitted on or before June 8, 1981, and the Director subsequently determined that the application as submitted was complete, except for the requirements in OAC 252:100-8-35(c)(1)(B) and (D).

(e) **Exemption from the preapplication analysis required by OAC 252:100-8-35(c)(1)(A), (B), and (D).**

(1) The Director shall determine if the requirements for air quality monitoring of PM_{10} in OAC 252:100-8-35(c)(1)(A), (B), and (D) may be waived for a particular source or modification when an application for a PSD permit was submitted on or before June l, 1988, and the Director subsequently determined that the application, except for the requirements for monitoring particulate matter under OAC 252:100-8-35(c)(1)(A), (B), and (D), was complete before that date.

(2) The requirements for air quality monitoring of PM_{10} in OAC 252:100-8-35(c)(1)(B)(i), 252:100-8-35(c)(1)(D), and 252:100-8-35(c)(3) shall apply to a particular source or modification if an application for a permit was submitted after June l, 1988, and no later than December 1, 1988. The data shall have been gathered over at least the period from February l, 1988, to the date the application became otherwise complete in accordance with the provisions of OAC 252:100-8-35(c)(1)(C), except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than 4 months), the data required by OAC 252:100-8-35(c)(1)(B)(ii) shall have been gathered over that shorter period.

(f) **Exemption from BACT requirements and air quality analyses requirements.** If a complete permit application for a source or modification was submitted before August 7, 1980 the requirements for BACT in OAC 252:100-8-34 and the requirements for air quality analyses in OAC 252:100-8-35(c)(1) are not applicable to a particular stationary source or modification that was subject to 40 CFR 52.21 as in effect on June 19, 1978. Instead, the federal requirements at 40 CFR 52.21 (j) and (n) as in effect on June 19, 1978, are applicable to any such source or modification.

(g) **Exemption from OAC 252:100-8-35(a)(1)(B).** The permitting requirements of OAC 252:100-8-35(a)(1)(B) do not apply to a stationary source or modification with respect to any PSD increment for nitrogen oxides if the owner or operator of the source or modification submitted a complete application for a permit before February 8, 1988.

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

Before the Air Quality Advisory Council on October 17, 2024
Before the Environmental Quality Board on November 21, 2024

RULE IMPACT STATEMENT

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-1.1. Definitions [AMENDED]
252:100-5-2.1. Emission inventory [AMENDED]
Subchapter 7. Permits for Minor Facilities
Part 1. General Provisions
252:100-7-1.1. Definitions [AMENDED]
252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities
Part 3. Construction Permits
252:100-7-15. Construction permit [AMENDED]
Part 9. Permits By Rule
252:100-7-60.5. Oil and natural gas sector [AMENDED]
252:100-7-60.6. Emergency engine facilities [AMENDED]
252:100-7-60.7. Gasoline dispensing facilities and gasoline dispensing facilities with emergency engines [AMENDED]
Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources
Part 5. Permits for Part 70 Sources
252:100-8-2. Definitions [AMENDED]
252:100-8-4. Requirements for construction and operating permits [AMENDED]
252:100-8-5. Permit applications [AMENDED]
Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas
252:100-8-31. Definitions [AMENDED]
252:100-8-33. Exemptions [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). Additionally, the proposed amendment would allow the use of legally and practicably enforceable (LPE) limits when determining a facility's eligibility for the PBR. On June 11, 2024, the Environmental Quality Board adopted emergency rules in OAC 252:100-7-60.5, which were approved by the Governor on July 25, 2024. This emergency rule allows the use of the above-mentioned LPE limits. The proposed permanent rule amendments would replace the currently-effective emergency rule.

Absent changes in other sections of Chapter 100, the proposed changes to the permanent rule language in OAC 252:100-7-60.5 would trigger additional requirements regarding the reporting of emissions of Greenhouse Gases (GHGs), submission of fees for GHGs, and other state permitting requirements for which GHGs have historically been exempt. To ensure that the proposed

permanent amendments to the PBR for the oil and natural gas sector do not create additional, unintended requirements for owners and operators of various facilities, the DEQ is proposing amendments to other sections of chapter 100. These amendments would ensure that GHG emissions remain exempt from annual emission inventory reporting and fees. Further, GHG emissions would not be factored into certain permitting determinations, such as eligibility for a "de minimis facility," a "permit exempt facility," or a PBR or general permit; or used as the basis for a major source/NSR determination, except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO_2e. Further, GHG limits will only be included in minor facility permits if the facility is subject to a GHG limit under a federal NSPS or National Emission Standard for Hazardous Air Pollutants (NESHAP), a requirement adopted as mandated by a federal Emissions Guideline in accordance with 40 C.F.R. Part 60, or when the facility owner or operator requests a limit.

Additional amendments to OAC 252:100-8-4 will incorporate changes to authorize electronic submission of an application for a major source construction or operating permit and to clarify that a facility that is required by federal rule to obtain a Title V operating permit absent a change in facility equipment or emissions increases will continue to be subject to any emission limits established in a previously obtained minor source permit unless the facility obtains a major source construction permit.

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. Additional changes will ensure that GHGs are exempt from various requirements except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO_2e. Lastly, proposed changes authorize electronic submission of applications and clarify requirements applicable to minor source facilities that are later required by federal rule to obtain major source (Title V) operating permits.

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. Proposed changes to the rules to maintain the status quo regarding the treatment of GHGs under the Oklahoma DEQ's air quality rules would, if not adopted, have significant impacts on all facilities subject to permitting requirements.

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 that facilities subject to NSPS Subpart OOOOb are able to be 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 Subpart OOOOb for certain equipment. Further, all facilities subject to permitting requirements will benefit from the maintenance of the status quo with regard to the treatment of GHGs.

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 Subpart OOOOb. In addition, maintenance of the status quo with regard to the treatment of GHGs will ensure that no new costs will be imposed on facilities subject to air quality permitting requirements.

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. Maintenance of the status quo with regard to GHG requirements will ensure that no additional costs are incurred regarding the treatment of GHGs.

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 Subpart OOOOb. In addition, by adopting language to maintain the status quo with regard to GHG requirements, the proposed amendments ensure that no additional compliance costs will be imposed.

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 are not designed to reduce significant risks to public health, safety, and the environment but will have an overall positive effect 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: September 3, 2024
MODIFIED ON: October 3, 2024

Outlook

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

From aohboard@outlook.com <aohboard@outlook.com>
Date Fri 9/27/2024 4:51 PM
To DEQ AQD Rule Comments <aqdrulecomments@deq.ok.gov>

The Overlooked Sources of CO2
The notion that climate change is exacerbated by the increasing levels of CO2 in the atmosphere, is a reality and absurdity that cannot be ignored. Interestingly, a significant portion of this CO2 comes from natural planetary processes like oceanic outgassing, which are largely beyond human control and abundantly in the immediate atmosphere (aka AIR). While human activities, such as breathing, contribute to CO2 emissions, the presence of greenhouse gases originates from these other natural processes. This raises concerns about the focus on regulating human-related emissions while overlooking these naturally occurring sources. More specifically, why policy for Air Pollution Controls do not inherently focus on this planet threatening climate changing greenhouse gas, or why is there not policy and agencies dedicated to the effective and perpetual management thereof.

Carbon: The Building Block of Life
Carbon is undeniably fundamental to life on Earth. It forms the backbone of biological molecules that constitute every living organism, including humans, the apex carbon-based life form. Despite this, efforts to sequester carbon remain a major focus for conservation commissions rather than agencies specifically designed for environmental protection and are that currently regulate the environment where such emissions naturally accumulate or in better terms, where such emissions are subject to natural sequestration. This misalignment of priorities and defiance of logic calls into question the effectiveness, rationale, and purpose behind current environmental policies and programs and the officials, agencies, and the rules that promote and support such policies and programs.

The Risks and Ironies of Carbon Sequestration
Carbon sequestration, the process of capturing and storing atmospheric carbon, is hailed as a promising solution to mitigate climate change despite the reality and previously established fact that human involvement is of little consequence to planetary systems, such as oceanic outgassing. However, any counterintuitive attempts to intervene, which will undoubtedly occur, will not be without risks. The idea of storing extracted carbon underground presents a range of potential and significant hazards. Furthermore, the irony arises when carbon scrubbing facilities, designed to capture carbon from the AIR, introduce new pollutants into the AIR. This opens the door for the Environmental Protection Agency (EPA) or the Department of Environmental Quality (DEQ) to regulate these newly introduced pollutants, creating a paradoxical situation, however, this does present the EPA and DEQ a new found purpose and justification thereof. More so if plant life, planet wide, was heavily reduced or destroyed entirely, as all types of flora and trees naturally scrub the atmosphere of C02 without emitting pollutants. Thereby threatening the very purpose of useless and mismanaged environmental policies and agencies and presenting counter claims to carbon scrubbing facilities and the farce logic behind yet another monetary program based on imaginary value with no market cap that can be regulated by equally imaginative provisions.

Conclusion
The complexities surrounding greenhouse gas regulation and carbon sequestration underscore the need for a more cohesive and comprehensive approach to environmental policy. While the intentions behind

the Clean Air Act and carbon sequestration programs are noble, their execution and focus require reevaluation to address the broader spectrum of climate change contributors that are based on sane and intellectual members of the species who are able to comprehend actual science and in planetary terms. Only through a balanced, sane, and informed strategy can any meaningful progress toward preserving our planet for future generations actually be achieved. A good start would be to remove carbon from the list of harmful pollutants and let the conservationists conserve and protectionists protect.

Respectfully,

One of "The People"

God Bless!

Scott A. Thompson
Executive Director

OKLAHOMA Environmental Quality

Kevin Stitt
Governor

MEMORANDUM

DATE: October 2, 2024

TO: Members of the Air Quality Advisory Council

FROM: Kendal Stegmann, Director KS
Air Quality Division

SUBJECT: Proposed Amendments to Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program

The Department is proposing to amend Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program in OAC 252:100, to implement recent changes to applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, *et seq*. DEQ and the Oklahoma Tax Commission (OTC) jointly administer the "Oklahoma Emission Reduction Technology Rebate Program," to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department's responsibilities under the Oklahoma Emission Reduction Technology Incentive Act.

The statute requires DEQ to review each rebate claim submitted, approve or disapprove the claim, and notify the OTC. The Oklahoma Tax Commission will pay out the rebates from the previously created Oklahoma Emission Reduction Technology Incentive Revolving Fund (renamed the Oklahoma Emission Reduction Technology Upstream and Midstream Incentive Revolving Fund) and the newly-created Oklahoma Emission Reduction Technology Downstream Incentive Revolving Fund. The proposal would update SC 49 rule provisions to accommodate addition of refining and distribution to the scope of activities eligible for rebates. The proposal would also add a provision for early submission and preliminary review of rebate claim documentation, as required by the statutory changes. No change is proposed to the associated fee that was implemented to help offset the costs for DEQ to administer the review of rebate claims.

Notice of the proposed rules was published in the *Oklahoma Register* on September 3, 2024. The notice requested written comments from the public and other interested parties. As of the date of this memo, comments have been received from one entity. Staff are developing responses, and a Response to Comments document will be posted online prior to the council meeting. A copy of the proposed rules is enclosed along with a copy of the Rule Impact Statement and the comments received. At the October AQAC meeting, staff intends to ask the Council to recommend the proposed rules to the Environmental Quality Board for adoption as permanent rules.

Enclosures: Proposed Amendments to OAC 252:100-49-1, -3, and -5
Rule Impact Statement
September 27, 2024 Comments – aohboard@outlook.com

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

SUBCHAPTER 49. OKLAHOMA EMISSION REDUCTION TECHNOLOGY REBATE PROGRAM

252:100-49-1. Purpose and applicability

(a) The purpose of this Subchapter is to implement applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, *et seq*. The act created the "Oklahoma Emission Reduction Technology Rebate Program," administered by the Department of Environmental Quality and the Oklahoma Tax Commission, to provide a rebate of up to 25% of expenditures for implementation of a qualified "Emission Reduction Project." The program is intended to encourage implementation of new and innovative technologies for reduction of on-site emissions from oil and gas activities, specifically those listed in subsection (b).

(b) This program applies only to emissions from upstream, ~~and~~ midstream, and downstream oil and gas production, exploration, completions, gatherings, storage, processing, refining, distribution, and transmission activities. Activities in the following SIC codes are generally considered to qualify within the scope of eligibility for this program: 1311, 1321, 1381, 2911, 4612, 4613, 4922, 4923, 4924, ~~and~~ 4925, 5171, and 5172. DEQ may determine whether an activity identified by a particular NAICS code would qualify under an equivalent SIC code.

252:100-49-3. Definitions

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

"**Act**" means the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, *et seq*.

"**Commission**" or "**OTC**" means the Oklahoma Tax Commission or its successor entity.

"**Department**" or "**DEQ**" means the Oklahoma Department of Environmental Quality.

"**Emission Reduction Project**" or "**ERP**" means an "Emission Reduction Project" as defined in 68 O.S. § 55008, but does not include projects that are required to address an enforcement action or undertaken as a supplemental environmental project to offset an enforcement penalty.

"**Rebate claim**" means the package submitted to DEQ documenting all criteria for a rebate has been met. Upon approval by DEQ, the package is forwarded to OTC as the formal request for OTC to issue a rebate under the Rebate Program.

"**Rebate Program**" or "**OERTRP**" means the Oklahoma Emission Reduction Technology Rebate Program, 68 O.S. § 55009, *et seq*.

252:100-49-5. Program criteria and qualification determination

(a) **Applying for rebate eligibility.** An applicant responsible for the implementation of a qualified Emission Reduction Project may submit a rebate claim to DEQ for review and determination whether the project qualifies under the program.

(1) The rebate claim shall be submitted on forms provided for this purpose, or as otherwise specified by DEQ.

(2) The rebate claim shall be submitted to DEQ no later than six (6) months after the end of the fiscal year in which the expenditures were made. The fiscal year ends on June 30 each year.

(3) Project documentation shall include:

(A) a project description that provides information in sufficient detail to determine that it qualifies as an Emission Reduction Project (ERP) as defined in 68 O.S. § 55008;
(B) an estimation of actual resulting emission reductions;
(C) a statement that the project has been designed, installed, and operated as described in the claim and in accordance with good engineering practices and the requirements of this Chapter, and that implementation of the project is complete; and
(D) an itemization of expenses, with invoices, for all equipment installed to implement the project;
(E) a statement that specifically identifies whether the ERP pertains to refining activities, or does not pertain to refining activities.

(4) Project documentation shall state the amount of expenditures made in this state directly related to the implementation of the qualified Emission Reduction Project.

(5) The applicant shall certify that the project is not required to address an enforcement action or undertaken as a supplemental environmental project to offset an enforcement penalty.

(6) The applicant shall provide a certification from OTC that it has filed all Oklahoma tax returns and tax documents which are required by the laws of this state.

(7) The applicant shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars ($1,000,000.00) and a workers' compensation policy pursuant to the laws of this state which shall include coverage of employer's liability.

(8) The rebate claim shall include certification, signed by a responsible official, attesting to the truth, accuracy, and completeness of the claim. This certification shall contain the following language: "I certify that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

(9) The applicant will be assessed a one-time fee of $1,000 that must accompany the rebate claim. A rebate claim without the appropriate fee is incomplete.

(b) **DEQ review of rebate claim.** DEQ will review the rebate claim information to determine if the described project is a qualified Emission Reduction Project, and will the notify the applicant and OTC of its final approval or disapproval of the claim for a rebate payment from available funds in either the Oklahoma Emission Reduction Technology Upstream and Midstream Incentive Revolving Fund or the Oklahoma Emission Reduction Technology Downstream Incentive Revolving Fund, as appropriate.

(c) **Early submittal of rebate claim documentation for preliminary review.** An applicant may submit documentation for a planned ERP and corresponding rebate claim, for preliminary review by DEQ prior to the expenditure of project funds. Such submittal shall include a payment for the fee required under paragraph (9). Any resulting preliminary approval of the technical merits of the project shall be subject to final review and approval, once the project is complete and invoices are received per (a)(3)(C) and (D) above, prior to notifying OTC of a final determination under subsection (b).

(d) **Effect on OTC authority.** Nothing in this section shall limit or otherwise affect OTC's authority or responsibilities under the Act, including the authority to request submittal of additional information by the claimant.

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

Before the Air Quality Advisory Council on October 17, 2024
Before the Environmental Quality Board on November 21, 2024

RULE IMPACT STATEMENT

Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program
252:100-49-1 Purpose and Applicability [AMENDED]
252:100-49-3 Definitions [AMENDED]
252:100-49-5 Program criteria and qualification determination [AMENDED]

DESCRIPTION: The Department of Environmental Quality (Department or DEQ) is proposing to amend Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program in OAC 252:100, to implement recent changes to applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et seq. DEQ and the Oklahoma Tax Commission (OTC) jointly administer the "Oklahoma Emission Reduction Technology Rebate Program" to provide an incentive for "Emission Reduction Projects" – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department's responsibilities under the recently revised Oklahoma Emission Reduction Technology Incentive Act.

CLASSES OF PERSONS AFFECTED: The classes of persons affected are the owners and operators of oil and gas facilities that have implemented a qualifying Emissions Reduction Project and are potentially eligible for a rebate for associated expenses.

CLASSES OF PERSONS WHO WILL BEAR COSTS: The classes of persons who will bear costs are the owners and operators of facilities that prepare and submit a rebate claim under the program.

INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES: The Department has not received any information on cost impacts as of this date.

CLASSES OF PERSONS BENEFITTED: The citizens of Oklahoma will benefit from implementation of qualifying Emissions Reduction Projects, and owners and operators of facilities that have implemented a qualifying Emissions Reduction Project will benefit if they are eligible for a rebate for associated expenses.

PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS: There should be positive economic impacts on affected classes of persons potentially eligible for a rebate under this program. No new costs are associated with these proposed changes to existing rules.

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

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. The statutory changes broadened the types of facilities potentially eligible for the rebate program, and the same existing fee would be applicable to those facilities.

PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE: The Department anticipates there will be some increased costs associated with the implementation of the program associated with the expanded pool of potentially eligible facilities. The Department may benefit from emissions reductions that result from any additional projects that are eligible under the rebate program.

PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE: Although no other agencies will be implementing these proposed DEQ regulations, OTC will likely incur some additional costs in meeting its statutory obligations under the updated rebate program. DEQ did not evaluate any possible benefits to the OTC.

SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE: The Department will continue to use the $1,000 fee to help offset costs for DEQ to administer the review of rebate claims under this rule. Other program fees and federal grants will be used to fund the remaining costs to implement these regulations.

PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED: The Department has not attempted to estimate a net change in revenues from these proposed rules for either DEQ or OTC, because it does not have data to project how many rebate claims are likely to be received in a given year.

COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE: None is required. The Department will continue to be responsible for all aspects of implementation regarding its obligations under these regulations.

EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS: The proposed amendments to the existing rules are not expected to change the costs for facilities to document implementation of potentially eligible projects, including the associated expenditures and the actual emissions reduction achieved.

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 rule will have a positive effect on public health, safety, and the

environment if the rebate program serves as an incentive for additional facilities to implement Emission Reduction Projects.

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 rule will reduce risks to public health, safety, and the environment if the rebate program incentivizes additional facilities to voluntarily implement new Emission Reduction Projects, but is not designed to reduce specifically identified risks.

DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED: If the proposed rule is not implemented, facilities will have less certainty of required documentation, qualifications, and procedures under the Act. That could result in implementation of fewer new voluntary Emission Reduction Projects, and loss of any potential benefits of such projects on the public health, safety and environment.

PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): There will be a positive impact on business entities, since the proposed amendment will assist in implementing the statutory expansion of the rebate program for the costs of eligible voluntary Emission Reduction Projects that have been completed.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: September 3, 2024
MODIFIED ON: October 3, 2024

Outlook

[EXTERNAL] Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program

From aohboard@outlook.com <aohboard@outlook.com>
Date Fri 9/27/2024 4:50 PM
To DEQ AQD Rule Comments <aqdrulecomments@deq.ok.gov>

The Overlooked Sources of CO2
The notion that climate change is exacerbated by the increasing levels of CO2 in the atmosphere, is a reality and absurdity that cannot be ignored. Interestingly, a significant portion of this CO2 comes from natural planetary processes like oceanic outgassing, which are largely beyond human control and abundantly in the immediate atmosphere (aka AIR). While human activities, such as breathing, contribute to CO2 emissions, the presence of greenhouse gases originates from these other natural processes. This raises concerns about the focus on regulating human-related emissions while overlooking these naturally occurring sources. More specifically, why policy for Air Pollution Controls do not inherently focus on this planet threatening climate changing greenhouse gas, or why is there not policy and agencies dedicated to the effective and perpetual management thereof.

Carbon: The Building Block of Life
Carbon is undeniably fundamental to life on Earth. It forms the backbone of biological molecules that constitute every living organism, including humans, the apex carbon-based life form. Despite this, efforts to sequester carbon remain a major focus for conservation commissions rather than agencies specifically designed for environmental protection and are that currently regulate the environment where such emissions naturally accumulate or in better terms, where such emissions are subject to natural sequestration. This misalignment of priorities and defiance of logic calls into question the effectiveness, rationale, and purpose behind current environmental policies and programs and the officials, agencies, and the rules that promote and support such policies and programs.

The Risks and Ironies of Carbon Sequestration
Carbon sequestration, the process of capturing and storing atmospheric carbon, is hailed as a promising solution to mitigate climate change despite the reality and previously established fact that human involvement is of little consequence to planetary systems, such as oceanic outgassing. However, any counterintuitive attempts to intervene, which will undoubtedly occur, will not be without risks. The idea of storing extracted carbon underground presents a range of potential and significant hazards. Furthermore, the irony arises when carbon scrubbing facilities, designed to capture carbon from the AIR, introduce new pollutants into the AIR. This opens the door for the Environmental Protection Agency (EPA) or the Department of Environmental Quality (DEQ) to regulate these newly introduced pollutants, creating a paradoxical situation, however, this does present the EPA and DEQ a new found purpose and justification thereof. More so if plant life, planet wide, was heavily reduced or destroyed entirely, as all types of flora and trees naturally scrub the atmosphere of C02 without emitting pollutants. Thereby threatening the very purpose of useless and mismanaged environmental policies and agencies and presenting counter claims to carbon scrubbing facilities and the farce logic behind yet another monetary program based on imaginary value with no market cap that can be regulated by equally imaginative provisions.

Conclusion
The complexities surrounding greenhouse gas regulation and carbon sequestration underscore the need for a more cohesive and comprehensive approach to environmental policy. While the intentions behind

the Clean Air Act and carbon sequestration programs are noble, their execution and focus require reevaluation to address the broader spectrum of climate change contributors that are based on sane and intellectual members of the species who are able to comprehend actual science and in planetary terms. Only through a balanced, sane, and informed strategy can any meaningful progress toward preserving our planet for future generations actually be achieved. A good start would be to remove carbon from the list of harmful pollutants and let the conservationists conserve and protectionists protect.

Respectfully,

One of "The People"

God Bless!