GARY L. SHERRER
SECRETARY OF ENVIRONMENT

MARY FALLIN
GOVERNOR

STATE OF OKLAHOMA
OFFICE OF THE
SECRETARY OF ENVIRONMENT
www.environment.ok.gov

January 18, 2013

Mr. Ron Curry, Regional Administrator
U.S. Environmental Protection Agency – Region VI (6 PD-L)
1445 Ross Avenue, Suite 1200
Dallas TX 75202-2733

Subject: 2012 Revisions to Oklahoma Air Quality Control Implementation Plan

Dear Mr. Curry:

In her letter dated March 30, 2011, Governor Mary Fallin appointed me as her designee for the purpose of submitting documents to the U.S. Environmental Protection Agency for approval and incorporation into the State Implementation Plan (SIP) for Oklahoma.

Therefore, the State of Oklahoma submits for your review and approval under Section 110 of the federal Clean Air Act and 40 CFR Part 51, revisions to the Oklahoma Air Quality Control Implementation Plan and the associated evidence as required by 40 CFR 51, Appendix V, 2.1.

This submittal is the annual SIP update for 2012 and includes amendments to OAC 252:100, Air Pollutant Control, which became effective July 1, 2012. The modifications to Oklahoma's plan were accomplished by the adoption of permanent rules by the Department of Environmental Quality. This submittal covers amendments to Subchapters 1, 2, 8, 17, 31, and Appendices A and Q in OAC 252:100 that became effective July 1, 2012.

These rules were promulgated in compliance with the Oklahoma Administrative Procedures Act and published in the *Oklahoma Register*, the official state publication for rulemaking actions. We have included one hard copy and one electronic copy of the submittal as required by 40 CFR 51.103(a).

3800 N. CLASSEN BOULEVARD • OKLAHOMA CITY, OKLAHOMA 73118
TELEPHONE (405) 530-8995 • FAX (405) 530-8999

If you have questions, please contact Eddie Terrill, Director, Air Quality Division, Department of Environmental Quality at (405) 702-4154.

Sincerely,

Gary Sherrer
Secretary of Environment

Enclosures

cc: Steve Thompson, Executive Director, Department of Environmental Quality
Eddie Terrill, Director, DEQ Air Quality Division
Guy Donaldson, Section Chief, Air Planning Section, EPA Region VI (6PD-L)
Jeff Robinson, Section Chief, Air Permits, EPA Region VI (6PD-R)

AIR QUALITY DIVISION

2012

State Implementation Plan

Oklahoma Administrative Code
252:100

Submitted to EPA
January 2013

STEVEN A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN
Governor

January 17, 2013

Mr. Ron Curry, Regional Administrator
U.S. Environmental Protection Agency – Region VI (6 PD-L)
1445 Ross Avenue, Suite 1200
Dallas TX 75202-2733

RE: 2012 Revisions to the Oklahoma State Implementation Plan (SIP)

Dear Mr. Curry:

We certify that the rulemaking procedures for all the rules listed below were in compliance with the requirements of the Oklahoma Administrative Procedures Act, 75 O.S. 250.1 through 323, and 40 CFR Sections 51.102(f), 51.102(d), and CFR Part 51, Appendix V, 2.1(g).

Each rule and its public hearing history are listed in the tables below:

Subchapter 252:100-1, General Provisions

NOTICE	*PUBLIC HEARING*	*GOVERNING BOARD*
December 1, 2011	January 18, 2012	Air Quality Advisory Council
December 1, 2011	February 24, 2012	Environmental Quality Board

Subchapter 252:100-2, Incorporation by Reference
Appendix Q

NOTICE	*PUBLIC HEARING*	*GOVERNING BOARD*
September 1, 2011	October 5, 2011	Air Quality Advisory Council
September 1, 2011	November 15, 2011	Environmental Quality Board

Subchapter 252:100-8, Permits for Part 70 Sources

NOTICE	*PUBLIC HEARING*	*GOVERNING BOARD*
December 15, 2010	January 19, 2011	Air Quality Advisory Council
December 15, 2010	February 25, 2011	Environmental Quality Board

Subchapter 252:100-17, Incinerators
Appendix A

NOTICE	*PUBLIC HEARING*	*GOVERNING BOARD*
December 15, 2009	January 20, 2010	Air Quality Advisory Council
December 15, 2009	February 26, 2010	Environmental Quality Board
March 15, 2010	April 21, 2010	Air Quality Advisory Council
July 15, 2010	August 24, 2010	Environmental Quality Board
December 15, 2010	January 19, 2011	Air Quality Advisory Council
December 15, 2010	February 25, 2011	Environmental Quality Board

Subchapter 252:100-31, Control of Emission of Sulfur Compounds

NOTICE	*PUBLIC HEARING*	*GOVERNING BOARD*
December 16, 2002	January 15, 2003	Air Quality Air Council
December 16, 2002	February 8, 2003	Environmental Quality Board
December 1, 2011	January 18, 2012	Air Quality Advisory Council
December 1, 2011	February 24, 2012	Environmental Quality Board

The notices of DEQ's intent to adopt new or amended rules were published in the *Oklahoma Register*. The *Oklahoma Register* is a semi-monthly publication prescribed by the Oklahoma Administrative Procedures Act in which all rulemaking actions and the associated documents must be published. (Now accessible @ www.sos.state.ok.us/oar .) Notices of rulemaking intent include the date, time and location of public hearings and information on how the public may submit written or oral comments on proposed rules. The public comment period for all proposed rules before the Air Quality Advisory Council begins on the date of publication of the notice and ends at the conclusion of the public hearing. The Environmental Quality Board (EQB) accepts comments on the date of the EQB hearing.

If you have questions or require additional information, please contact Cheryl Bradley, Environmental Programs Manager, at (405) 702-4218.

Sincerely,

Eddie Terrill, Director
Air Quality Division

Legal Authority

27A O.S. §2-5-105 designates DEQ as the administrative agency for the Oklahoma Clean Air Act (CAA). DEQ's Air Quality Division (AQD) handles the statutory authorities and responsibilities concerning air quality under OAC 252:4-1-3(c). The AQD has the authority to carry out all duties, requirements, and responsibilities necessary and proper for the implementation of the Oklahoma CAA and fulfilling the requirements of the federal CAA under 27A O.S. §§1-3-101(B)(8), 2-3-101(E)(1), and 2-5-105. Upon recommendation of the Air Quality Advisory Council, the Environmental Quality Board has the authority under Oklahoma statutory law 27A O.S. §2-5-106 to adopt air quality regulations for DEQ. DEQ has the authority under Oklahoma law to:

Enforce those regulations and orders of DEQ [27A OS §§2-5-105(4) and 2-5-110];

Maintain and update an inventory of air emissions from stationary sources [27A O.S. §2-5-105(19)];

Establish a permitting program [27A O.S. §2-5-105(2)]; and

Carry out all other duties, requirements and responsibilities necessary and proper for the implementation of the Oklahoma CAA and the fulfillment of the requirements of the federal CAA [27A O.S. §2-5-105(22)].

Specifically, the Environmental Quality Board and DEQ have the existing authority to:

Adopt emissions standards and regulations to implement the Oklahoma CAA and fulfill requirements of the federal CAA [27A O.S. §§2-2-104, 2-5-105, 2-5-106, 2-5-107, and 2-5-114];

Enforce the relevant laws, regulations, standards, orders and compliance schedules authorized by the Oklahoma CAA [27A O.S. §§2-5-105(4) and 2-5-110], and seek injunctive relief when necessary [27A O.S. §§2-5-105(14) and 2-5-117(A)];

Abate pollutant emissions on evidence that the source is presenting an immediate, imminent and substantial endangerment to human health [27A O.S. §2-5-105(15)];

Prevent construction, modification, or operation of a source in violation of the requirement to have a permit, or in violation of any substantive provision or condition of any permit issued pursuant to the Oklahoma CAA [27A O.S. §2-5-117(A)(2)];

Obtain information necessary to determine compliance [27A O.S. §§2-5-105(17), (18)];

Require recordkeeping, make inspections, and conduct tests [27A O.S. §2-5-105(17)];

Require the installation, maintenance and use of monitors and require emissions reports of owners or operators [27A O.S. §2-5-112(B)(5)]; and

Make emissions data available to the public [51 O.S. §§24A.1 through 24A.27].

The appendix contains copies of these referenced statutes.

OAC 252:4-1-3. Organization

(a) **Environmental Quality Board.** The Environmental Quality Board consists of thirteen (13) members, appointed by the Governor with the advice and consent of the Senate, selected from the environmental profession, general industry, hazardous waste industry, solid waste industry, water usage, petroleum industries, agriculture industries, conservation districts, local city or town governments, rural water districts, and statewide nonprofit environmental organizations. (See further 27A O.S. § 2-2-101.)

(b) **Advisory Councils.** There are seven advisory councils, each consisting of nine (9) members appointed by the Speaker of the House of Representatives, the President Pro Tempore of the Senate
or the Governor. (See further 27A O.S. § 2-2-201 and 59 O.S. § 1101 *et seq*.)

(c) **DEQ.** The DEQ consists of the following divisions: Administrative Services, Air Quality, Land Protection, Water Quality, Environmental Complaints and Local Services, Customer Services and the State Environmental Laboratory.

APPENDIX
LEGAL AUTHORITY

§27A-1-3-101. State environmental agencies - Jurisdictional areas of environmental responsibilities.

A. The provisions of this section specify the jurisdictional areas of responsibility for each state environmental agency and state agencies with limited environmental responsibility. The jurisdictional areas of environmental responsibility specified in this section shall be in addition to those otherwise provided by law and assigned to the specific state environmental agency; provided that any rule, interagency agreement or executive order enacted or entered into prior to the effective date of this section which conflicts with the assignment of jurisdictional environmental responsibilities specified by this section is hereby superseded. The provisions of this subsection shall not nullify any financial obligation arising from services rendered pursuant to any interagency agreement or executive order entered into prior to July 1, 1993, nor nullify any obligations or agreements with private persons or parties entered into with any state environmental agency before July 1, 1993.

B. Department of Environmental Quality. The Department of Environmental Quality shall have the following jurisdictional areas of environmental responsibility:

1. All point source discharges of pollutants and storm water to waters of the state which originate from municipal, industrial, commercial, mining, transportation and utilities, construction, trade, real estate and finance, services, public administration, manufacturing and other sources, facilities and activities, except as provided in subsections D and E of this section;

2. All nonpoint source discharges and pollution except as provided in subsections D, E and F of this section;

3. Technical lead agency for point source, nonpoint source and storm water pollution control programs funded under Section 106 of the federal Clean Water Act, for areas within the Department's jurisdiction as provided in this subsection;

4. Surface water and groundwater quality and protection and water quality certifications;

5. Waterworks and wastewater works operator certification;

6. Public and private water supplies;

7. Underground injection control pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, except for:

and their accompanying use support assessment protocols, anti-degradation policy and implementation, and policies generally affecting Oklahoma Water Quality Standards application and implementation including but not limited to mixing zones, low flows and variances or any modification or change thereof pursuant to Section 1085.30 of Title 82 of the Oklahoma Statutes;

10. Groundwater protection for activities subject to the jurisdictional a. Class II injection wells,

b. Class V injection wells utilized in the remediation of groundwater associated with underground or aboveground storage tanks regulated by the Corporation Commission,

c. those wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act regulated by the Commission, and

d. any aspect of any CO2 sequestration facility, including any associated CO2 injection well, over which the Commission is given jurisdiction pursuant to the Oklahoma Carbon Capture and Geologic Sequestration Act;

8. Notwithstanding any other provision in this section or other environmental jurisdiction statute, sole and exclusive jurisdiction for air quality under the federal Clean Air Act and applicable state law, except for indoor air quality and asbestos as regulated for worker safety by the federal Occupational Safety and Health Act and by Chapter 11 of Title 40 of the Oklahoma Statutes;

9. Hazardous waste and solid waste, including industrial, commercial and municipal waste;

10. Superfund responsibilities of the state under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and amendments thereto, except the planning requirements of Title III of the Superfund Amendment and Reauthorization Act of 1986;

11. Radioactive waste and all regulatory activities for the use of atomic energy and sources of radiation except for electronic products used for diagnosis by diagnostic x-ray facilities and electronic products used for bomb detection by public safety bomb squads within law enforcement agencies of this state or within law enforcement agencies of any political subdivision of this state;

12. Water, waste, and wastewater treatment systems including, but not limited to, septic tanks or other public or private waste disposal systems;

13. Emergency response as specified by law;

14. Environmental laboratory services and laboratory certification;

15. Hazardous substances other than branding, package and labeling requirements;

16. Freshwater wellhead protection;

17. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department;

18. Utilization and enforcement of Oklahoma Water Quality Standards and implementation documents;

19. Environmental regulation of any entity or activity, and the prevention, control and abatement of any pollution, not subject to the specific statutory authority of another state environmental agency;

20. Development and maintenance of a computerized information system relating to water quality pursuant to Section 1-4-107 of this title; and

21. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional area of environmental responsibility.

C. Oklahoma Water Resources Board. The Oklahoma Water Resources Board shall have the following jurisdictional areas of environmental responsibility:

1. Water quantity including, but not limited to, water rights, surface water and underground water, planning, and interstate stream compacts;

2. Weather modification;

3. Dam safety;

4. Flood plain management;

5. State water/wastewater loans and grants revolving fund and other related financial aid programs;

6. Administration of the federal State Revolving Fund Program including, but not limited to, making application for and receiving capitalization grant awards, wastewater prioritization for funding, technical project reviews, environmental review process, and financial review and administration;

7. Water well drillers/pump installers licensing;

8. Technical lead agency for clean lakes eligible for funding under Section 314 of the federal Clean Water Act or other applicable sections of the federal Clean Water Act or other subsequent state and federal clean lakes programs; administration of a state program for assessing, monitoring, studying and restoring Oklahoma lakes with administration to include, but not be limited to, receipt and expenditure of funds from federal, state and private sources for clean lakes and implementation of a volunteer monitoring program to assess and monitor state water resources, provided such funds from federal Clean Water Act sources are administered and disbursed by the Office of the Secretary of Environment;

9. Statewide water quality standards areas of environmental responsibility of the Board;

11. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional area of environmental responsibility;

12. Development of classifications and identification of permitted uses of groundwater, in recognized water rights, and associated groundwater recharge areas;

13. Establishment and implementation of a statewide beneficial use monitoring program for waters of the state in coordination with the other state environmental agencies;

14. Coordination with other state environmental agencies and other public entities of water resource investigations conducted by the federal United States Geological Survey for water quality and quantity monitoring in the state; and

15. Development and submission of a report concerning the status of water quality monitoring in this state pursuant to Section 1-1-202 of this title.

D. Oklahoma Department of Agriculture, Food, and Forestry.

1. The Oklahoma Department of Agriculture, Food, and Forestry shall have the following jurisdictional areas of environmental responsibility except as provided in paragraph 2 of this subsection:

a. point source discharges and nonpoint source runoff from agricultural crop production, agricultural services, livestock production, silviculture, feed yards, livestock markets and animal waste,
b. pesticide control,
c. forestry and nurseries,
d. fertilizer,
e. facilities which store grain, feed, seed, fertilizer and agricultural chemicals,
f. dairy waste and wastewater associated with milk production facilities,
g. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department,
h. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents,
i. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility, and
j. storm water discharges for activities subject to the jurisdictional areas of environmental responsibility of the Department.

2. In addition to the jurisdictional areas of environmental responsibility specified in subsection B of this section, the Department of Environmental Quality shall have environmental jurisdiction over:

a. (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,

(2) slaughterhouses, but not including feedlots at these facilities, and

(3) aquaculture and fish hatcheries,

including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities, and

b. facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal NPDES regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

E. Corporation Commission.

1. The Corporation Commission is hereby vested with exclusive jurisdiction, power and authority, and it shall be its duty to promulgate and enforce rules, and issue and enforce orders governing and regulating:

a. the conservation of oil and gas,

b. field operations for geologic and geophysical exploration for oil, gas and brine, including seismic survey wells, stratigraphic test wells and core test wells,

c. the exploration, drilling, development, producing or processing for oil and gas on the lease site,

d. the exploration, drilling, development, production and operation of wells used in connection with the recovery, injection or disposal of mineral brines,

e. reclaiming facilities only for the processing of salt water, crude oil, natural gas condensate and tank bottoms or basic sediment from crude oil tanks, pipelines, pits and equipment associated with the exploration, drilling, development, producing or transportation of oil or gas,

f. underground injection control pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, of:

(1) Class II injection wells,

(2) Class V injection wells utilized in the remediation of groundwater associated with underground or aboveground storage tanks regulated by the Commission,

(3) those wells used for the recovery, injection or disposal of mineral brines as defined in the Oklahoma Brine Development Act, and

(4) any aspect of any CO2 sequestration facility, including any associated CO2 injection well, over which the Commission is given jurisdiction pursuant to the Oklahoma Carbon Capture and Geologic Sequestration Act.

Any substance that the United States Environmental Protection Agency allows to be injected into a Class II well may continue to be so injected,

g. tank farms for storage of crude oil and petroleum products which are located outside the boundaries of refineries, petrochemical manufacturing plants, natural gas liquid extraction plants, or other facilities which are subject to the jurisdiction of the Department of Environmental Quality with regard to point source discharges,

h. the construction and operation of pipelines and associated rights-of-way, equipment, facilities or buildings used in the transportation of oil, gas, petroleum, petroleum products, anhydrous ammonia or mineral brine, or in the treatment of oil, gas or mineral brine during the course of transportation but not including line pipes in any:
   (1) natural gas liquids extraction plant,
   (2) refinery,
   (3) reclaiming facility other than for those specified within subparagraph e of this subsection,
   (4) mineral brine processing plant, and
   (5) petrochemical manufacturing plant,

i. the handling, transportation, storage and disposition of saltwater, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and operating of oil and gas wells, at:
   (1) any facility or activity specifically listed in paragraphs 1 and 2 of this subsection as being subject to the jurisdiction of the Commission, and
   (2) other oil and gas extraction facilities and activities,

j. spills of deleterious substances associated with facilities and activities specified in paragraph 1 of this subsection or associated with other oil and gas extraction facilities and activities,

k. subsurface storage of oil, natural gas and liquefied petroleum gas in geologic strata,

l. groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission,

m. utilization and enforcement of Oklahoma Water Quality Standards and implementation documents, and

n. development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility.

2. The exclusive jurisdiction, power and authority of the Commission shall also extend to the construction, operation, maintenance, site remediation, closure and abandonment of the facilities and activities described in paragraph 1 of this subsection.

3. When a deleterious substance from a Commission-regulated facility or activity enters a point source discharge of pollutants or storm water from a facility or activity regulated by the Department of Environmental Quality, the Department shall have sole jurisdiction over the point source discharge of the commingled pollutants and storm water from the two facilities or activities insofar as Department-regulated facilities and activities are concerned.

4. For purposes of the federal Clean Water Act, any facility or activity which is subject to the jurisdiction of the Commission pursuant to paragraph 1 of this subsection and any other oil and gas extraction facility or activity which requires a permit for the discharge of a pollutant or

storm water to waters of the United States shall be subject to the direct jurisdiction of the federal Environmental Protection Agency and shall not be required to be permitted by the Department of Environmental Quality or the Commission for such discharge.

5. The Commission shall have jurisdiction over:

a. underground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at the upstream or intermediate shipment points of pipeline operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided, that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality,

b. aboveground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at the upstream or intermediate shipment points of pipeline operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided, that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality, and

c. the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund, the Oklahoma Petroleum Storage Tank Release Indemnity Program, and the Oklahoma Leaking Underground Storage Tank Trust Fund.

6. The Department of Environmental Quality shall have sole jurisdiction to regulate the transportation, discharge or release of deleterious substances or solid or hazardous waste or other pollutants from rolling stock and rail facilities. The Department of Environmental Quality shall not have any jurisdiction with respect to pipeline transportation of carbon dioxide.

7. The Department of Environmental Quality shall have sole environmental jurisdiction for point and nonpoint source discharges of pollutants and storm water to waters of the state from:

a. refineries, petrochemical manufacturing plants and natural gas liquid extraction plants,

b. manufacturing of equipment and products related to oil and gas,

c. bulk terminals, aboveground and underground storage tanks not subject to the jurisdiction of the Commission pursuant to this subsection, and

d. other facilities, activities and sources not subject to the jurisdiction of the Commission or the Oklahoma Department of Agriculture, Food, and Forestry as specified by this section.

8. The Department of Environmental Quality shall have sole environmental jurisdiction to regulate air emissions from all facilities and sources subject to operating permit requirements under Title V of the federal Clean Air Act as amended.

F. Oklahoma Conservation Commission. The Oklahoma Conservation Commission shall have the following jurisdictional areas of environmental responsibility:

1. Soil conservation, erosion control and nonpoint source management except as otherwise provided by law;

2. Monitoring, evaluation and assessment of waters to determine the condition of streams and rivers being impacted by nonpoint source pollution. In carrying out this area of responsibility, the Oklahoma Conservation Commission shall serve as the technical lead agency for nonpoint source categories as defined in Section 319 of the federal Clean Water Act or other subsequent federal or state nonpoint source programs, except for activities related to industrial and municipal storm water or as otherwise provided by state law;

3. Wetlands strategy;

4. Abandoned mine reclamation;

5. Cost-share program for land use activities;

6. Assessment and conservation plan development and implementation in watersheds of clean lakes, as specified by law;

7. Complaint data management;

8. Coordination of environmental and natural resources education;

9. Federal upstream flood control program;

10. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission;

11. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility;

12. Utilization of Oklahoma Water Quality Standards and Implementation documents; and

13. Verification and certification of carbon sequestration pursuant to the Oklahoma Carbon Sequestration Enhancement Act. This responsibility shall not be superseded by the Oklahoma Carbon Capture and Geologic Sequestration Act.

G. Department of Mines. The Department of Mines shall have the following jurisdictional areas of environmental responsibility:

1. Mining regulation;

2. Mining reclamation of active mines;

3. Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Commission; and

4. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of responsibility.

H. Department of Wildlife Conservation. The Department of Wildlife Conservation shall have the following jurisdictional areas of environmental responsibilities:

1. Investigating wildlife kills;

2. Wildlife protection and seeking wildlife damage claims; and

3. Development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of this title for its jurisdictional areas of environmental responsibility.

I. Department of Public Safety. The Department of Public Safety shall have the following jurisdictional areas of environmental responsibilities:

1. Hazardous waste, substances and material transportation inspections as authorized by the Hazardous Materials Transportation Act; and

2. Inspection and audit activities of hazardous waste and materials carriers and handlers as authorized by the Hazardous Materials Transportation Act.

J. Department of Labor. The Department of Labor shall have the following jurisdictional areas of environmental responsibility:

1. Regulation of asbestos in the workplace pursuant to Chapter 11 of Title 40 of the Oklahoma Statutes;

2. Asbestos monitoring in public and private buildings; and

3. Indoor air quality as regulated under the authority of the Oklahoma Occupational Health and Safety Standards Act, except for those indoor air quality issues specifically authorized to be regulated by another agency.

Such programs shall be a function of the Department's occupational safety and health jurisdiction.

K. Oklahoma Department of Emergency Management. The Oklahoma Department of Emergency Management shall have the following jurisdictional areas of environmental responsibilities:

1. Coordination of all emergency resources and activities relating to threats to citizens' lives and property pursuant to the Oklahoma Emergency Resources Management Act of 1967;

2. Administer and enforce the planning requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986 and develop such other emergency operations plans that will enable the state to prepare for, respond to, recover from and mitigate potential environmental emergencies and disasters pursuant to the Oklahoma Hazardous Materials Planning and Notification Act;

3. Administer and conduct periodic exercises of emergency operations plans provided for in this subsection pursuant to the Oklahoma Emergency Resources Management Act of 1967;

4. Administer and facilitate hazardous materials training for state and local emergency planners and first responders pursuant to the Oklahoma Emergency Resources Management Act of 1967; and

5. Maintain a computerized emergency information system allowing state and local access to information regarding hazardous materials' location, quantity and potential threat.

Added by Laws 1992, c. 398, § 6, eff. July 1, 1993. Amended by Laws 1993, c. 145, § 11, eff. July 1, 1993. Renumbered from § 6 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 6, eff. July 1, 1993; Laws 1994, c. 140, § 24, eff. Sept. 1, 1994; Laws 1997, c. 217, § 1, eff. July 1, 1997; Laws 1999, c. 413, § 4, eff. Nov. 1, 1999; Laws 2000, c. 364, § 1, emerg. eff. June 6, 2000; Laws 2002, c. 397, § 1, eff. Nov. 1, 2002; Laws 2004, c. 100, § 2, eff. July 1, 2004; Laws 2004, c. 430, § 11, emerg. eff. June 4, 2004; Laws 2009, c. 429, § 8, emerg. eff. June 1, 2009; Laws 2012, c. 110, § 1, eff. Nov. 1, 2012.

§27A-2-2-104. Board rules incorporating by reference federal provisions - No effect on rules from subsequent changes in federal provisions.

Insofar as permitted by law and upon recommendation from the appropriate Council, rules promulgated by the Environmental Quality Board may incorporate a federal statute or regulation by reference. Any Board rule which incorporates a federal provision by reference incorporates the language of the federal provision as it existed at the time of the incorporation by reference. Any subsequent modification, repeal or invalidation of the federal provision shall not be deemed to affect the incorporating Board rule.

Added by Laws 1994, c. 353, § 3, eff. July 1, 1994.

§27A-2-3-101. Creation - Powers and duties - Disclosure of interests - Employee classification - Programs - Departmental offices and divisions - Annual report - Environmental Quality Report - Environmental services contracts.

A. There is hereby created the Department of Environmental Quality.

B. Within its jurisdictional areas of environmental responsibility, the Department of Environmental Quality, through its duly designated employees or representatives, shall have the power and duty to:

1. Perform such duties as required by law; and

2. Be the official agency of the State of Oklahoma, as designated by law, to cooperate with federal agencies for point source pollution, solid waste, hazardous materials, pollution, Superfund, water quality, hazardous waste, radioactive waste, air quality, drinking water supplies, wastewater treatment and any other program authorized by law or executive order.

C. Any employee of the Department in a technical, supervisory or administrative position relating to the review, issuance or enforcement of permits pursuant to this Code who is an owner, stockholder, employee or officer of, or who receives compensation from, any corporation, partnership, or other business or entity which is subject to regulation by the Department of Environmental Quality shall disclose such interest to the Executive Director. Such disclosure shall be submitted for Board review and shall be made a part of the Board minutes available to the public. This subsection shall not apply to financial interests occurring by reason of an employee's participation in the Oklahoma State Employees Deferred Compensation Plan or publicly traded mutual funds.

D. The Executive Director, Deputy Director, and all other positions and employees of the Department at the Division Director level or higher shall be in the unclassified service.

E. The following programs are hereby established within the Department of Environmental Quality:

1. An air quality program which shall be responsible for air quality;

2. Water programs which shall be responsible for water quality, including, but not limited to point source and nonpoint source pollution within the jurisdiction of the Department, public and private water supplies, public and private wastewater treatment, water protection and discharges to waters of the state;

3. Land protection programs which shall be responsible for hazardous waste, solid waste, radiation, and municipal, industrial, commercial and other waste within its jurisdictional areas of environmental responsibility pursuant to Section 1-3-101 of this title; and

4. Special projects and services programs which shall be responsible for duties related to planning, interagency coordination, technical assistance programs, laboratory services and laboratory certification, recycling, education and dissemination of information.

F. Within the Department there are hereby created:

1. The complaints program which shall be responsible for intake processing, investigation, mediation and conciliation of inquiries and complaints received by the Department and which shall provide for the expedient resolution of complaints within the jurisdiction of the Department; and

2. The customer assistance program which shall be responsible for advising and providing to licensees, permittees and those persons representing businesses or those persons associated with and representing local political subdivisions desiring a license or permit, the necessary forms and the information necessary to comply with the Oklahoma Environmental Quality Code.

The customer assistance program shall coordinate with other programs of the Department to assist businesses and municipalities in complying with state statutes and rules governing environmental areas.

The customer assistance program shall also be responsible for advising and providing assistance to persons desiring information concerning the Department's rules, laws, procedures, licenses or permits, and forms used to comply with the Oklahoma Environmental Quality Code.

G. The Department shall be responsible for holding administrative hearings as defined in Section 2-1-102 of this title and shall provide support services related to them, including, but not limited to, giving required notices, maintaining the docket, scheduling hearings, and maintaining legal records.

H. 1. The Department shall prepare and submit an annual report assessing the status of the Department's programs to the Board, the Governor, the President Pro Tempore of the State Senate, and the Speaker of the Oklahoma House of Representatives by January 1 of each year. The annual status report shall include: the number of environmental inspections made within the various regulatory areas under the Department's jurisdiction; the number of permit applications submitted within the various regulatory areas under the Department's jurisdiction; the number of permits issued within the various regulatory areas under the Department's jurisdiction; the number and type of complaints filed with the Department; the number of resolved and unresolved Department complaints; a list of any permits and complaints which failed to be either completed or resolved within the Department's established time frames and an explanation of why the Department was unable to meet said time frames; the number and kinds of services provided corporations, businesses, cities, towns, schools, citizen groups and individuals by the customer assistance programs; a summary of the Department's environmental education efforts; the number and type of administrative hearings held and their outcomes; a detailed description of any promulgated and pending emergency or permanent rules requested by the Department and the current status of pending rules within the rulemaking process; the number of notices of violations issued by the Department within the various regulatory areas under its jurisdiction; the amount of penalties collected by the Department within the various regulatory areas under its jurisdiction; and any other information which the Department believes is pertinent.

2. Beginning January 1, 1995, and on or before January 1 of every year thereafter, the Department shall prepare an Oklahoma Environmental Quality Report which outlines the Department's annual needs for providing environmental services within its jurisdictional areas. The report shall reflect any new federal mandates and any state statutory or constitutional changes recommended by the Department within its jurisdictional areas. The Oklahoma Environmental Quality Report shall be reviewed, amended, and approved by the Board. The Department shall transmit an approved copy of the Oklahoma Environmental Quality Report to the Governor, President Pro Tempore of the State Senate, and Speaker of the House of Representatives.

3. The Executive Director shall establish such divisions and such other programs and offices as the Executive Director may determine necessary to implement and administer programs and functions within the jurisdiction of the Department pursuant to the Oklahoma Environmental Quality Code.

I. 1. The Department may contract with other governmental entities to provide environmental services. Such contracts may include duties related to providing information to the public regarding state environmental services, resources, permitting requirements and procedures based upon the ability, education and training of state environmental agency employees.

2. The Department, in conjunction with the state environmental agencies, may develop a program for the purpose of training government employees to provide any needed environmental services; provided, that the investigation of complaints regarding, or inspections of, permitted sites or facilities shall not be performed by employees of other agencies, unless otherwise authorized by law.

Added by Laws 1992, c. 398, § 9, eff. Jan. 1, 1993. Amended by Laws 1993, c. 145, § 16, eff. July 1, 1993. Renumbered from § 9 of this title by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 5, eff. July 1, 1993; Laws 1995, c. 246, § 1, eff. Nov. 1, 1995; Laws 2002, c. 139, § 1, emerg. eff. April 29, 2002.

§27A-2-5-105. Administrative agency - Powers and duties.

The Department of Environmental Quality is hereby designated the administrative agency for the Oklahoma Clean Air Act for the state. The Department is empowered to:

1. Establish, in accordance with its provisions, those programs specified elsewhere in the Oklahoma Clean Air Act;

2. Establish, in accordance with the Oklahoma Clean Air Act, a permitting program for the state which will contain the flexible source operation provisions required by Section 502(b)(10) of the Federal Clean Air Act Amendments of 1990;

3. Prepare and develop a general plan for proper air quality management in the state in accordance with the Oklahoma Clean Air Act;

4. Enforce rules of the Board and orders of the Department and the Council;

5. Advise, consult and cooperate with other agencies of the state, towns, cities and counties, industries, other states and the federal government, and with affected groups in the prevention and control of new and existing air contamination sources within the state;

6. Encourage and conduct studies, seminars, workshops, investigations and research relating to air pollution and its causes, effects, prevention, control and abatement;

7. Collect and disseminate information relating to air pollution, its prevention and control;

8. Encourage voluntary cooperation by persons, towns, cities and counties, or other affected groups in restoring and preserving a reasonable degree of purity of air within the state;

9. Represent the State of Oklahoma in any and all matters pertaining to plans, procedures or negotiations for the interstate compacts in relation to the control of air pollution;

10. Provide such technical, scientific or other services, including laboratory and other facilities, as may be required for the purpose of carrying out the provisions of the Oklahoma Clean Air Act, from funds available for such purposes;

11. Employ and compensate, within funds available therefor, such consultants and technical assistants and such other employees on a full- or part-time basis as may be necessary to carry out the provisions of the Oklahoma Clean Air Act and prescribe their powers and duties;

12. Accept and administer grants or other funds or gifts for the purpose of carrying out any of the functions of the Oklahoma Clean Air Act;

13. Budget and receive duly appropriated monies and all other monies available for expenditures to carry out the provisions and purposes of the Oklahoma Clean Air Act;

14. Bring appropriate court action to enforce the Oklahoma Clean Air Act and final orders of the Department, and to obtain injunctive or other proper relief in the district court of the county where any alleged violation occurs or where such relief is determined necessary. The Department, in furtherance of its statutory powers, shall have the independent authority to file an

action pursuant to the Oklahoma Clean Air Act in district court. Such action shall be brought in the name of the Department of Environmental Quality;

15. Take such action as may be necessary to abate the alleged pollution upon receipt of evidence that a source of pollution or a combination of sources of pollution is presenting an immediate, imminent and substantial endangerment to the health of persons;

16. Periodically enter and inspect at reasonable times or during regular business hours, any source, facility or premises permitted or regulated by the Department, for the purpose of obtaining samples or determining compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder or permit condition prescribed pursuant thereto, or to examine any records kept or required to be kept pursuant to the Oklahoma Clean Air Act. Such inspections shall be conducted with reasonable promptness and shall be confined to those areas, sources, facilities or premises reasonably expected to emit, control, or contribute to the emission of any air contaminant;

17. Require the submission or the production and examination, within a reasonable amount of time, of any information, record, document, test or monitoring results or emission data, including trade secrets necessary to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto. The Department shall hold and keep as confidential any information declared by the provider to be a trade secret and may only release such information upon authorization by the person providing such information, or as directed by court order. Any documents submitted pursuant to the Oklahoma Clean Air Act and declared to be trade secrets, to be so considered, must be plainly labeled by the provider, and be in a form whereby the confidential information may be easily removed intact without disturbing the continuity of any remaining documents. The remaining document, or documents, as submitted, shall contain a notation indicating, at the place where the particular information was originally located, that confidential information has been removed. Nothing in this section shall preclude an in-camera examination of confidential information by an Administrative Law Judge during the course of a contested hearing;

18. Maintain and update at least annually an inventory of air emissions from stationary sources;

19. Accept any authority delegated from the federal government necessary to carry out any portion of the Oklahoma Clean Air Act; and

20. Carry out all other duties, requirements and responsibilities necessary and proper for the implementation of the Oklahoma Clean Air Act and fulfilling the requirements of the Federal Clean Air Act.

Added by Laws 1992, c. 215, § 4, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 42, eff. July 1, 1993. Renumbered from § 1-1805.1 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1998, c. 314, § 6, eff. July 1, 1998; Laws 2002, c. 397, § 2, eff. Nov. 1, 2002.

NOTE: Laws 1993, c. 47, § 1 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§27A-2-5-106. Rules and regulations.

The Board is hereby authorized, after public rulemaking hearing and approval by the Council, to:

1. Promulgate, amend or repeal rules for the prevention, control and abatement of air pollution and for establishment of health and safety tolerance standards for discharge of air contaminants to the atmosphere; and

2. Promulgate such additional rules including but not limited to permit fees, as it deems necessary to protect the health, safety and welfare of the public and fulfill the intent and purpose of these provisions.

Added by Laws 1992, c. 215, § 5, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 43, eff. July 1, 1993. Renumbered from Title 63, § 1-1806.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-107. Air Quality Council - Powers and duties.

The powers and duties of the Council shall be as follows:

1. The Council shall recommend to the Board rules or amendments thereto for the prevention, control and prohibition of air pollution and for the establishment of health and safety tolerances for discharge of air contaminants in the state as may be consistent with the general intent and purposes of the Oklahoma Clean Air Act. The recommendations may include, but need not be limited to, rules required to implement the following:

a. a comprehensive state air permitting program,
b. an accidental release prevention program,
c. a program for the regulation and control of toxic and hazardous air contaminants,
d. a program for the regulation and control of acid deposition,
e. a small business program, and
f. a system of assessing and collecting fees;

2. The Council shall recommend rules of practice and procedure applicable to proceedings before the Council;

3. Before recommending any permanent rules, or any amendment or repeal thereof to the Board, the Council shall hold a public rulemaking hearing. The Council shall have full authority to conduct such hearings, and may appoint a hearing officer;

4. A rule, or any amendment thereof, recommended by the Council may differ in its terms and provisions as between particular conditions, particular sources, and particular areas of the state. In considering rules, the Council shall give due recognition to the evidence presented that the quantity or characteristic of air contaminants or the duration of their presence in the atmosphere, which may cause a need for air control in one area of the state, may not cause need for air control in another area of the state. The Council shall take into consideration, in this connection, all factors found by it to be proper and just, including but not limited to existing physical conditions, economic impact, topography, population, prevailing wind directions and velocities, and the fact that a rule and the degrees of conformance therewith which may be proper as to an essentially residential area of the state may not be proper either as to a highly developed industrial area of the state or as to a relatively unpopulated area of the state;

5. Recommendations to the Board shall be in writing and concurred upon by at least five members of the Council;

6. The Council shall have the authority and the discretion to provide a public forum for the discussion of issues it considers relevant to the air quality of the state, and to:

a. pass nonbinding resolutions expressing the sense of the Council,
b. make recommendations to the Department concerning the need and the desirability of conducting public meetings, workshops and seminars, and
c. hold public hearings to receive public comment in fulfillment of federal requirements regarding the State Implementation Plan and make recommendations to the Department concerning the plan; and

7. The Council shall have the authority to conduct individual proceedings, to issue notices of hearings and subpoenas requiring the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony and receive such pertinent and relevant proof as it may deem to be necessary, proper or desirable in order that it may effectively discharge its duties and responsibilities under the Oklahoma Clean Air Act. The Council is also empowered to appoint an Administrative Law Judge to conduct individual proceedings and prepare such findings of fact, conclusions of law and proposed orders as they may require. Upon issuance of a proposed order, the Council shall request that the Executive Director issue a final order in accordance with their findings or take such action as indicated and notify the respondent thereof in writing.

Added by Laws 1992, c. 215, § 7, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 44, eff. July 1, 1993. Renumbered from Title 63, § 1-1808.1 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 353, § 7, eff. July 1, 1994.

§27A-2-5-110. Violations - Compliance orders - Administrative penalties - Notice and hearing - Burden of proof - Settlements or consent orders.

A. In addition to any other remedy provided for by law, the Department may issue a written order to any person whom the Department has reason to believe has violated, or is presently in violation of, the Oklahoma Clean Air Act or any rule promulgated by the Board, any order of the Department or Council, or any condition of any permit issued by the Department pursuant to the Oklahoma Clean Air Act, and to whom the Department has served, no less than fifteen (15) days previously, a written notice of violation. The Department shall by conference, conciliation and persuasion provide the person a reasonable opportunity to eliminate such violations, but may, however, reduce the fifteen-day notice period as in the opinion of the Department may be necessary to render the order reasonably effectual.

B. Such order may require compliance immediately or within a specified time period or both. The order, notwithstanding any restriction contained in subsection A of this section, may also assess an administrative penalty for past violations occurring no more than five (5) years prior to the date the order is filed with the Department, and for each day or part of a day that such person fails to comply with the order.

C. Any order issued pursuant to this section shall state with specificity the nature of the violation or violations, and may impose such requirements, procedures or conditions as may be necessary to correct the violations. The Department may also order any environmental contamination having the potential to adversely affect the public health, when caused by the violations, to be corrected by the person or persons responsible.

D. Any penalty assessed in the order shall not exceed Ten Thousand Dollars ($10,000.00) per day for each violation. In assessing such penalties, the Department shall consider the seriousness of the violation or violations, any good faith efforts to comply, and other factors determined by rule to be relevant. A final order following an enforcement hearing may assess an administrative penalty of an amount based upon consideration of the evidence but not exceeding the amount stated in the written order.

E. Any order issued pursuant to this section shall become a final order, unless no later than fifteen (15) days after the order is served the person or persons named therein request in writing an enforcement hearing. Said order shall contain language to that effect. Upon such request, the Department shall promptly schedule the enforcement hearing before an Administrative Law Judge for the Department and notify the respondent.

F. At all proceedings with respect to any alleged violation of the Oklahoma Clean Air Act, or any rule promulgated thereunder, the burden of proof shall be upon the Department.

G. Nothing in this section shall be construed to limit the authority of the Department to enter into an agreed settlement or consent order with any respondent.

Added by Laws 1992, c. 215, § 10, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 47, eff. July 1, 1993. Renumbered from § 1-1811 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1993, c. 324, § 13, eff. July 1, 1993; Laws 1999, c. 131, § 1, eff. Nov. 1, 1999; Laws 2001, c. 109, § 1, emerg. eff. April 18, 2001.

§27A-2-5-112. Comprehensive permitting program - Issuance, denial or renewal.

A. Upon the effective date of permitting rules promulgated pursuant to the Oklahoma Clean Air Act, it shall be unlawful for any person to construct any new source, or to modify or operate any new or existing source of emission of air contaminants except in compliance with a permit issued by the Department of Environmental Quality, unless the source has been exempted or deferred or is in compliance with an applicable deadline for submission of an application for such permit.

B. The Department shall have the authority and the responsibility, in accordance with rules of the Environmental Quality Board, to implement a comprehensive permitting program for the state consistent with the requirements of the Oklahoma Clean Air Act. Such authority shall include but shall not be limited to the authority to:

1. Expeditiously issue, reissue, modify and reopen for cause, permits for new and existing sources for the emission of air contaminants, and to grant a reasonable measure of priority to the processing of applications for new construction or modifications. The Department may also revoke, suspend, deny, refuse to issue or to reissue a permit upon a determination that any permittee or applicant is in violation of any substantive provisions of the Oklahoma Clean Air Act, or any rule promulgated thereunder or any permit issued pursuant thereto;

2. Refrain from issuing a permit when issuance has been objected to by the Environmental Protection Agency in accordance with Title V of the Federal Clean Air Act;

3. Revise any permit for cause or automatically reopen it to incorporate newly applicable rules or requirements if the remaining permit term is greater than three (3) years; or incorporate insignificant changes into a permit without requiring a revision;

4. Establish and enforce reasonable permit conditions which may include, but not be limited to:

   a. emission limitations for regulated air contaminants,
   b. operating procedures when related to emissions,
   c. performance standards,
   d. provisions relating to entry and inspections, and
   e. compliance plans and schedules;

5. Require, if necessary, at the expense of the permittee or applicant:

   a. installation and utilization of continuous monitoring devices,
   b. sampling, testing and monitoring of emissions as needed to determine compliance,
   c. submission of reports and test results, and
   d. ambient air modeling and monitoring;

6. Issue:

   a. general permits covering similar sources, and

b. permits to sources in violation, when compliance plans, which shall be enforceable by the Department, are incorporated into the permit;

7. Require, at a minimum, that emission control devices on stationary sources be reasonably maintained and properly operated;

8. Require that a permittee certify that the facility is in compliance with all applicable requirements of the permit and to promptly report any deviations therefrom to the Department;

9. Issue permits to sources requiring permits under Title V of the Federal Clean Air Act for a term not to exceed five (5) years, except that solid waste incinerators may be allowed a term of up to twelve (12) years provided that the permit shall be reviewed no less frequently than every five (5) years;

10. Specify requirements and conditions applicable to the content and submittal of permit applications; set by rule, a reasonable time in which the Department must determine the completeness of such applications; and

11. Determine the form and content of emission inventories and require their submittal by any source or potential source of air contaminant emissions.

C. Rules of the Board may set limits below which a source of air contaminants may be exempted from the requirement to obtain a permit or to pay any fee. Any source so exempted, however, shall remain under jurisdiction of the Department and shall be subject to any applicable rules or general permit requirements. Such rules shall not prohibit sawmill facilities from open burning any wood waste resulting from the milling of untreated cottonwood lumber in areas that have always attained ambient air quality standards.

D. To ensure against unreasonable delay on the part of the Department, the failure of the Department to act in either the issuance, denial or renewal of a permit in a reasonable time, as determined by rule, shall be deemed to be a final permit action solely for purpose of judicial review under the Administrative Procedures Act, with regard to the applicant or any person who participated in the public review process. The Supreme Court or the district court, as the case may be, may require that action be taken by the Department on the application without additional delay. No permit, however, may be issued by default.

E. The Department shall notify, or require that any applicant notify, all states whose air quality may be affected and that are contiguous to the State of Oklahoma, or are within fifty (50) miles of the source of each permit application or proposed permit for those sources requiring permits under Title V of the Federal Clean Air Act, and shall provide an opportunity for such states to submit written recommendations respecting the issuance of the permit and its terms and conditions.

F. No person, including but not limited to the applicant, shall raise any reasonably ascertainable issue in any future proceeding, unless the same issues have been raised and documented before the close of the public comment period on the draft permit.

G. A change in ownership of any facility or source subject to permitting requirements under this section shall not necessitate any action by the Department not otherwise required by the Oklahoma Clean Air Act. Any permit applicable to such source at the time of transfer shall be enforceable in its entirety against the transferee in the same manner as it would have been against the transferor, as shall any requirement contained in any rule, or compliance schedule set forth in any variance or order regarding or applicable to such source. Provided, however, no transferee in good faith shall be held liable for penalties for violations of the transferor unless the transferee assumes all assets and liabilities through contract or other means. For the purposes of this subsection, good faith shall be construed to mean neither having actual knowledge of a previous violation nor constructive knowledge which would lead a reasonable person to know of

the violation. It shall be the responsibility of the transferor to notify the Department in writing within thirty (30) days of the change in ownership.

H. Operating permits may be issued to new sources without public review upon a proper determination by the Department that:

1. The construction permit was issued pursuant to the public review requirements of the Code and rules promulgated thereunder; and

2. The operating permit, as issued, does not differ from the construction permit in any manner which would otherwise subject the permit to public review.

Added by Laws 1992, c. 215, § 12, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 49, eff. July 1, 1993. Renumbered from § 1-1813 of Title 63 by Laws 1993, c. 145, § 359, eff. July 1, 1993. Amended by Laws 1994, c. 373, § 16, eff. July 1, 1994; Laws 1995, c. 285, § 2, eff. July 1, 1996; Laws 1999, c. 284, § 1, emerg. eff. May 27, 1999; Laws 2000, c. 6, § 7, emerg. eff. March 20, 2000; Laws 2004, c. 83, § 1, emerg. eff. April 13, 2004; Laws 2004, c. 381, § 4, emerg. eff. June 3, 2004.

NOTE: Laws 1999, c. 131, § 2 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

§27A-2-5-114. Implementation and enforcement of federal emission standards - Oil and gas well and equipment emissions.

A. The Department shall have the authority to establish a program for the implementation and enforcement of the federal emission standards and other requirements under Section 112 of the Federal Clean Air Act for hazardous air pollutants and for the prevention and mitigation of accidental releases of regulated substances under Section 112(r) of the Federal Clean Air Act.

1. Except as otherwise provided by paragraph 2 of this subsection, to assure that such program shall be consistent with, and not more stringent than, federal requirements:

   a. any rule recommended by the Council and promulgated by the Board regarding hazardous air pollutants and regulated substances shall only be by adoption by reference of final federal rules, and

   b. shall include the federal early reduction program under Section 112(i) (5) of the Federal Clean Air Act.

2. The Board may promulgate, pursuant to recommendation by the Council, rules which establish emission limitations for hazardous air pollutants which are more stringent than the applicable federal standards, upon a determination by the Council that more stringent standards are necessary to protect the public health or the environment.

B. The Department shall also have the authority to establish a separate and distinct program only for the control of the emission of those toxic air contaminants not otherwise regulated by a final emission standard under Section 112(d) of the Federal Clean Air Act.

1. Such program shall consist of permanent rules establishing:

   a. appropriate emission limitations, work practice standards, maximum acceptable ambient concentrations or control technology standards necessary for the protection of the public health or the environment, and

   b. emissions monitoring or process monitoring requirements necessary to assure compliance with the requirements of this section.

2. Paragraph 1 of this subsection shall not be construed as requiring readoption of existing rules regarding toxic air contaminants.

C. Regulation of any hazardous air pollutant pursuant to a final emission standard promulgated under Section 112(d) of the Federal Clean Air Act, shall preclude its regulation as a toxic air contaminant under subsection B of this section.

D. 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, and in the case of any oil or gas exploration or production well with its associated equipment, such emissions shall not be aggregated for any purpose under this section.

E. The Department shall not list oil and gas production wells with their associated equipment as an area source category, except that the Department may establish an area source category for oil and gas production wells located in any metropolitan statistical area or consolidated metropolitan statistical area with a population in excess of one million (1,000,000) if the Department determines that emissions of hazardous air pollutants from such wells present more than a negligible risk of adverse effects to public health.

F. Nothing in this section shall be construed to limit authority established elsewhere in the Oklahoma Clean Air Act.

Added by Laws 1992, c. 215, § 14, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 51, eff. July 1, 1993. Renumbered from Title 63, § 1-1815 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§27A-2-5-117. Civil actions - Injunctions - Abatement - Civil penalties.

A. The Department shall have the authority to commence a civil action for a permanent or temporary injunction or other appropriate relief, or to require abatement of any emission or correction of any contamination, or to seek and recover a civil penalty of not more than Ten Thousand Dollars ($10,000.00) per day for each violation, or all of the above, in any of the following instances:

1. Whenever any person has violated or is in violation of any applicable provision of the Oklahoma Clean Air Act, or any rule promulgated thereunder;

2. Whenever any person has commenced construction, modification or operation of any source, or operates any source in violation of the requirement to have a permit, or violates or is in violation of any substantive provision or condition of any permit issued pursuant to the Oklahoma Clean Air Act; or

3. Whenever any person has violated any order of the Department or the Council or any requirement to pay any fee, fine or penalty owed to the state pursuant to the Oklahoma Clean Air Act.

B. The district attorney or attorneys having jurisdiction shall have primary authority and responsibility for prosecution of any civil or criminal violations under the Oklahoma Clean Air Act and for the collection of any delinquent fees, penalties or fines assessed pursuant to the Oklahoma Clean Air Act and shall be entitled to recover reasonable costs of collection, including attorney fees, and an appropriate fee of up to fifty percent (50%) for collecting delinquent fees, penalties or fines.

Added by Laws 1992, c. 215, § 17, emerg. eff. May 15, 1992. Amended by Laws 1993, c. 145, § 54, eff. July 1, 1993. Renumbered from Title 63, § 1-1818 by Laws 1993, c. 145, § 359, eff. July 1, 1993.

OPEN RECORDS ACT

§51-24A.1. Short title.

Section 24A.1 et seq. of this title shall be known and may be cited as the "Oklahoma Open Records Act".

Added by Laws 1985, c. 355, § 1, eff. Nov. 1, 1985. Amended by Laws 1988, c. 68, § 1, eff. Nov. 1, 1988; Laws 1988, c. 187, § 1, emerg. eff. June 6, 1988; Laws 1996, c. 247, § 41, eff. July 1, 1996; Laws 1997, c. 2, § 10, emerg. eff. Feb. 26, 1997.

NOTE: Laws 1996, c. 209, § 1 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997.

§51-24A.2. Public policy - Purpose of act.

As the Oklahoma Constitution recognizes and guarantees, all political power is inherent in the people. Thus, it is the public policy of the State of Oklahoma that the people are vested with the inherent right to know and be fully informed about their government. The Oklahoma Open Records Act shall not create, directly or indirectly, any rights of privacy or any remedies for violation of any rights of privacy; nor shall the Oklahoma Open Records Act, except as specifically set forth in the Oklahoma Open Records Act, establish any procedures for protecting any person from release of information contained in public records. The purpose of this act is to ensure and facilitate the public's right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power. The privacy interests of individuals are adequately protected in the specific exceptions to the Oklahoma Open Records Act or in the statutes which authorize, create or require the records. Except where specific state or federal statutes create a confidential privilege, persons who submit information to public bodies have no right to keep this information from public access nor reasonable expectation that this information will be kept from public access; provided, the person, agency or political subdivision shall at all times bear the burden of establishing such records are protected by such a confidential privilege. Except as may be required by other statutes, public bodies do not need to follow any procedures for providing access to public records except those specifically required by the Oklahoma Open Records Act.

Added by Laws 1985, c. 355, § 2, eff. Nov. 1, 1985. Amended by Laws 1988, c. 187, § 2, emerg. eff. June 6, 1988.

§51-24A.3. Definitions.

As used in this act:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" does not mean:

   a. computer software,
   b. nongovernment personal effects,

c. unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Transportation Authority obtained in connection with the Authority's electronic toll collection system,

d. personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body,

e. any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority,

f. any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department or the Board of Trustees of the Quartz Mountain Arts and Conference Center and Nature Park to obtain any service at the facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department or the Quartz Mountain Arts and Conference Center and Nature Park,

g. a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before the effective date of this act, or

h. except as provided for in Section 2-110 of Title 47 of the Oklahoma Statutes,

(1) any record in connection with a Motor Vehicle Report issued by the Department of Public Safety, as prescribed in Section 6-117 of Title 47 of the Oklahoma Statutes,

(2) personal information within driver records, as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, which are stored and maintained by the Department of Public Safety, or

(3) audio or video recordings of the Department of Public Safety;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, "public body" does not mean judges, justices, the Council on Judicial Complaints, the Legislature, or legislators;

3. "Public office" means the physical location where public bodies conduct business or keep records;

4. "Public official" means any official or employee of any public body as defined herein; and

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation.

Added by Laws 1985, c. 355, § 3, eff. Nov. 1, 1985. Amended by Laws 1987, c. 222, § 117, operative July 1, 1987; Laws 1988, c. 187, § 3, emerg. eff. June 6, 1988; Laws 1993, c. 39, § 1, eff. Sept. 1, 1993; Laws 1996, c. 209, § 2, eff. Nov. 1, 1996; Laws 1998, c. 315, § 4, emerg. eff. May 28, 1998; Laws 1998, c. 368, § 11, eff. July 1, 1998; Laws 2001, c. 355, § 1, emerg. eff. June 1, 2001; Laws 2002, c. 478, § 2, eff. July 1, 2002; Laws 2003, c. 3, § 42, emerg. eff. March 19, 2003; Laws 2004, c. 328, § 1, eff. July 1, 2004; Laws 2005, c. 199, § 4, eff. Nov. 1, 2005.

NOTE: Laws 2002, c. 293, § 3 repealed by Laws 2003, c. 3, § 43, emerg. eff. March 19, 2003.

§51-24A.4. Record of receipts and expenditures.

In addition to other records which are kept or maintained, every public body and public official has a specific duty to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial and business transactions relating thereto, except that such records may be disposed of as provided by law.

Added by Laws 1985, c. 355, § 4, eff. Nov. 1, 1985.

§51-24A.5. Inspection, copying and/or mechanical reproduction of records - Exemptions.

All records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.28 of this title, does not apply to records specifically required by law to be kept confidential including:
    a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges,
    b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes,
    c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, or
    d. information in the files of the Board of Medicolegal Investigations obtained pursuant to Sections 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay, preliminary unsubstantiated investigation-related findings, or confidential medical information.
2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions; provided however, the Department of Public Safety shall not be required to assemble for the requesting person specific information, in any format, from driving records relating to any person whose name and date of birth or whose driver license number is not furnished by the requesting person.

The Oklahoma State Bureau of Investigation shall not be required to assemble for the requesting person any criminal history records relating to persons whose names, dates of birth, and other identifying information required by the Oklahoma State Bureau of Investigation pursuant to administrative rule are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons, and the cost of copying, reproducing or certifying each individual record is otherwise prescribed by state law,

the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of record copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall the record copying fee exceed twenty-five cents ($0.25) per page for records having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar ($1.00) per copied page for a certified copy. However, if the request:

a. is solely for commercial purpose, or
b. would clearly cause excessive disruption of the essential functions of the public body,

then the public body may charge a reasonable fee to recover the direct cost of record search and copying; however, publication in a newspaper or broadcast by news media for news purposes shall not constitute a resale or use of a record for trade or commercial purpose and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy. The fee charged by the Department of Public Safety for a copy in a computerized format of a record of the Department shall not exceed the direct cost of making the copy unless the fee for the record is otherwise set by law.

Any public body establishing fees under this act shall post a written schedule of the fees at its principal office and with the county clerk.

In no case shall a search fee be charged when the release of records is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

The fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.

4. The land description tract index of all recorded instruments concerning real property required to be kept by the county clerk of any county shall be available for inspection or copying in accordance with the provisions of the Oklahoma Open Records Act; provided, however, the index shall not be copied or mechanically reproduced for the purpose of sale of the information.

5. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

6. A public body shall designate certain persons who are authorized to release records of the public body for inspection, copying, or mechanical reproduction. At least one person shall be available at all times to release records during the regular business hours of the public body.

Added by Laws 1985, c. 355, § 5, eff. Nov. 1, 1985. Amended by Laws 1986, c. 213, § 1, emerg. eff. June 6, 1986; Laws 1986, c. 279, § 29, operative July 1, 1986; Laws 1988, c. 187, § 4, emerg. eff. June 6, 1988; Laws 1992, c. 231, § 2, emerg. eff. May 19, 1992; Laws 1993, c. 97, § 7, eff. Sept. 1, 1993; Laws 1996, c. 209, § 3, eff. Nov. 1, 1996; Laws 2000, c. 342, § 8, eff. July 1, 2000; Laws 2001, c. 137, § 1, emerg. eff. April 24, 2001; Laws 2005, c. 199, § 5, eff. Nov. 1, 2005; Laws 2006, c. 16, § 34, emerg. eff. March 29, 2006.

NOTE: Laws 2005, c. 223, § 1 repealed by Laws 2006, c. 16, § 35, emerg. eff. March 29, 2006.

§51-24A.6. Public body maintaining less than 30 hours of regular business per week - Inspection, copying or mechanical reproduction of records.

A. If a public body or its office does not have regular business hours of at least thirty (30) hours a week, the public body shall post and maintain a written notice at its principal office and with the county clerk where the public body is located which notice shall:

1. Designate the days of the week when records are available for inspection, copying or mechanical reproduction;

2. Set forth the name, mailing address, and telephone number of the individual in charge of the records; and

3. Describe in detail the procedures for obtaining access to the records at least two days of the week, excluding Sunday.

B. The person requesting the record and the person authorized to release the records of the public body may agree to inspection, copying, or mechanical reproduction on a day and at a time other than that designated in the notice.

Added by Laws 1985, c. 355, § 6, eff. Nov. 1, 1985.

§51-24A.7. Personnel records - Confidentiality - Inspection and copying.

A. A public body may keep personnel records confidential:

1. Which relate to internal personnel investigations including examination and selection material for employment, hiring, appointment, promotion, demotion, discipline, or resignation; or

2. Where disclosure would constitute a clearly unwarranted invasion of personal privacy such as employee evaluations, payroll deductions, employment applications submitted by persons not hired by the public body, and transcripts from institutions of higher education maintained in the personnel files of certified public school employees; provided, however, that nothing in this subsection shall be construed to exempt from disclosure the degree obtained and the curriculum on the transcripts of certified public school employees.

B. All personnel records not specifically falling within the exceptions provided in subsection A of this section shall be available for public inspection and copying including, but not limited to, records of:

1. An employment application of a person who becomes a public official;

2. The gross receipts of public funds;

3. The dates of employment, title or position; and

4. Any final disciplinary action resulting in loss of pay, suspension, demotion of position, or termination.

C. Except as may otherwise be made confidential by statute, an employee of a public body shall have a right of access to his own personnel file.

D. Public bodies shall keep confidential the home address, telephone numbers and social security numbers of any person employed or formerly employed by the public body.

Added by Laws 1985, c. 355, § 7, eff. Nov. 1, 1985. Amended by Laws 1990, c. 257, § 6, emerg. eff. May 23, 1990; Laws 1994, c. 177, § 1, eff. Sept. 1, 1994; Laws 2005, c. 116, § 2, eff. Nov. 1, 2005.

§51-24A.8. Law enforcement records - Disclosure.

A. Law enforcement agencies shall make available for public inspection, if kept, the following records:

1. An arrestee description, including the name, date of birth, address, race, sex, physical description, and occupation of the arrestee;

2. Facts concerning the arrest, including the cause of arrest and the name of the arresting officer;

3. A chronological list of all incidents, including initial offense report information showing the offense, date, time, general location, officer, and a brief summary of what occurred;

4. Radio logs, including a chronological listing of the calls dispatched;

5. Conviction information, including the name of any person convicted of a criminal offense;

6. Disposition of all warrants, including orders signed by a judge of any court commanding a law enforcement officer to arrest a particular person;

7. A crime summary, including an agency summary of crimes reported and public calls for service by classification or nature and number; and

8. Jail registers, including jail blotter data or jail booking information recorded on persons at the time of incarceration showing the name of each prisoner with the date and cause of commitment, the authority committing the prisoner, whether committed for a criminal offense, a description of the prisoner, and the date or manner of discharge or escape of the prisoner.

B. Except for the records listed in subsection A of this section and those made open by other state or local laws, law enforcement agencies may deny access to law enforcement records except where a court finds that the public interest or the interest of an individual outweighs the reason for denial.

C. Nothing contained in this section imposes any new recordkeeping requirements. Law enforcement records shall be kept for as long as is now or may hereafter be specified by law. Absent a legal requirement for the keeping of a law enforcement record for a specific time period, law enforcement agencies shall maintain their records for so long as needed for administrative purposes.

D. Registration files maintained by the Department of Corrections pursuant to the provisions of the Sex Offenders Registration Act shall be made available for public inspection in a manner to be determined by the Department.

E. The Council on Law Enforcement Education and Training (C.L.E.E.T.) shall keep confidential all records it maintains pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and deny release of records relating to any employed or certified full-time officer, reserve officer, retired officer or other person; teacher lesson plans, tests and other teaching materials; and personal communications concerning individual students except under the following circumstances:

1. To verify the current certification status of any peace officer;

2. As may be required to perform the duties imposed by Section 3311 of Title 70 of the Oklahoma Statutes;

3. To provide to any peace officer copies of the records of that peace officer upon submitting a written request;

4. To provide, upon written request, to any law enforcement agency conducting an official investigation, copies of the records of any peace officer who is the subject of such investigation;

5. To provide final orders of administrative proceedings where an adverse action was taken against a peace officer; and

6. Pursuant to an order of the district court of the State of Oklahoma.

F. The Department of Public Safety shall keep confidential:

1. All records it maintains pursuant to its authority under Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway Patrol Division, the Communications Division, and other divisions of the Department relating to:

a. training, lesson plans, teaching materials, tests, and test results,
b. policies, procedures, and operations, any of which are of a tactical nature, and
c. the following information from radio logs:
   (1) telephone numbers,
   (2) addresses other than the location of incidents to which officers are dispatched, and
   (3) personal information which is contrary to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725; and

2. For the purpose of preventing identity theft and invasion of law enforcement computer systems, except as provided in Title 47 of the Oklahoma Statutes, all driving records.

Added by Laws 1985, c. 355, § 8, eff. Nov. 1, 1985. Amended by Laws 1989, c. 212, § 8, eff. Nov. 1, 1989; Laws 2000, c. 349, § 2, eff. Nov. 1, 2000; Laws 2001, c. 5, § 29, emerg. eff. March 21, 2001; Laws 2005, c. 199, § 6, eff. Nov. 1, 2005; Laws 2006, c. 16, § 36, emerg. eff. March 29, 2006; Laws 2009, c. 36, § 1, eff. Nov. 1, 2009.

NOTE: Laws 2000, c. 226, § 1 repealed by Laws 2001, c. 5, § 30, emerg. eff. March 21, 2001. Laws 2005, c. 35, § 1 repealed by Laws 2006, c. 16, § 37, emerg. eff. March 29, 2006.

§51-24A.9. Personal notes and personally created material - Confidentiality.

Prior to taking action, including making a recommendation or issuing a report, a public official may keep confidential his or her personal notes and personally created materials other than departmental budget requests of a public body prepared as an aid to memory or research leading to the adoption of a public policy or the implementation of a public project.

Added by Laws 1985, c. 355, § 9, eff. Nov. 1, 1985.

§51-24A.10. Voluntarily supplied information - Records providing unfair competitive advantage - Department of Commerce, Department of Career and Technology Education, technology center school districts, and Oklahoma Film and Music Office records - Public utility records - Confidentiality - Disclosure.

A. Any information, records or other material heretofore voluntarily supplied to any state agency, board or commission which was not required to be considered by that agency, board or commission in the performance of its duties may, within thirty (30) days from June 6, 1988, be removed from the files of such agency, board or commission by the person or entity which originally voluntarily supplied such information. Provided, after thirty (30) days from the effective date of this act, any information voluntarily supplied shall be subject to full disclosure pursuant to this act.

B. If disclosure would give an unfair advantage to competitors or bidders, a public body may keep confidential records relating to:

1. Bid specifications for competitive bidding prior to publication by the public body; or
2. Contents of sealed bids prior to the opening of bids by a public body; or
3. Computer programs or software but not data thereon; or

4. Appraisals relating to the sale or acquisition of real estate by a public body prior to award of a contract; or
5. The prospective location of a private business or industry prior to public disclosure of such prospect except for records otherwise open to inspection such as applications for permits or licenses.
C. Except as set forth hereafter, the Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, the technology center school districts, and the Oklahoma Film and Music Office may keep confidential:
1. Business plans, feasibility studies, financing proposals, marketing plans, financial statements or trade secrets submitted by a person or entity seeking economic advice, business development or customized training from such Departments or school districts;
2. Proprietary information of the business submitted to the Department or school districts for the purpose of business development or customized training, and related confidentiality agreements detailing the information or records designated as confidential; and
3. Information compiled by such Departments or school districts in response to those submissions.
The Oklahoma Department of Commerce, the Oklahoma Department of Career and Technology Education, the technology center school districts, and the Oklahoma Film and Music Office may not keep confidential that submitted information when and to the extent the person or entity submitting the information consents to disclosure.
D. Although they must provide public access to their records, including records of the address, rate paid for services, charges, consumption rates, adjustments to the bill, reasons for adjustment, the name of the person that authorized the adjustment, and payment for each customer, public bodies that provide utility services to the public may keep confidential credit information, credit card numbers, telephone numbers, social security numbers, bank account information for individual customers, and utility supply and utility equipment supply contracts for any industrial customer with a connected electric load in excess of two thousand five hundred (2,500) kilowatts if public access to such contracts would give an unfair advantage to competitors of the customer; provided that, where a public body performs billing or collection services for a utility regulated by the Corporation Commission pursuant to a contractual agreement, any customer or individual payment data obtained or created by the public body in performance of the agreement shall not be a record for purposes of this act.

Added by Laws 1985, c. 355, § 10, eff. Nov. 1, 1985. Amended by Laws 1988, c. 187, § 5, emerg. eff. June 6, 1988; Laws 1996, c. 209, § 4, eff. Nov. 1, 1996; Laws 2004, c. 186, § 1, emerg. eff. May 3, 2004; Laws 2006, c. 18, § 1, eff. Nov. 1, 2006; Laws 2007, c. 6, § 1, eff. Nov. 1, 2007; Laws 2008, c. 284, § 1, eff. Nov. 1, 2008; Laws 2009, c. 158, § 1, eff. Nov. 1, 2009; Laws 2010, c. 161, § 1.

§51-24A.11. Library, archive or museum materials - Confidentiality.

A. A public body may keep confidential library, archive, or museum materials donated to the public body to the extent of any limitations imposed as a condition of the donation and any information which would reveal the identity of an individual who lawfully makes a donation to or on behalf of a public body including, but not limited to, donations made through a foundation operated in compliance with Sections 5-145 and 4306 of Title 70 of the Oklahoma Statutes.

B. If library, archive, or museum materials are donated to a public body and the donation may be claimed as a tax deduction, the public body may keep confidential any information

required as a condition of the donation except the date of the donation, the appraised value claimed for the donation, and a general description of the materials donated and their quantity.

Added by Laws 1985, c. 355, § 11, eff. Nov. 1, 1985. Amended by Laws 1992, c. 231, § 3, emerg. eff. May 19, 1992.

§51-24A.12. Litigation files and investigatory files of Attorney General, district or municipal attorney - Confidentiality.

Except as otherwise provided by state or local law, the Attorney General of the State of Oklahoma and agency attorneys authorized by law, the office of the district attorney of any county of the state, and the office of the municipal attorney of any municipality may keep its litigation files and investigatory reports confidential.

Added by Laws 1985, c. 355, § 12, eff. Nov. 1, 1985. Amended by Laws 1988, c. 187, § 6, emerg. eff. June 6, 1988.

§51-24A.13. Federal records - Confidentiality.

Records coming into the possession of a public body from the federal government or records generated or gathered as a result of federal legislation may be kept confidential to the extent required by federal law.

Added by Laws 1985, c. 355, § 13, eff. Nov. 1, 1985.

§51-24A.14. Personal communications relating to exercise of constitutional rights - Confidentiality.

Except for the fact that a communication has been received and that it is or is not a complaint, a public official may keep confidential personal communications received by the public official from a person exercising rights secured by the Constitution of the State of Oklahoma or the Constitution of the United States. The public official's written response to this personal communication may be kept confidential only to the extent necessary to protect the identity of the person exercising the right.

Added by Laws 1985, c. 355, § 14, eff. Nov. 1, 1985.

§51-24A.15. Crop and livestock reports - Public warehouse financial statements - Confidentiality.

A. The Division of Agricultural Statistics, Oklahoma Department of Agriculture, also known as the Oklahoma Crop and Livestock Reporting Service, may keep confidential crop and livestock reports provided by farmers, ranchers, and agribusinesses to the extent the reports individually identify the providers.

B. The State Board of Agriculture is authorized to provide for the confidentiality of any financial statement filed pursuant to Section 9-22 of Title 2 of the Oklahoma Statutes. Copies of such financial statements may only be obtained upon written request to the Commissioner of Agriculture.

Upon good cause shown, and at the discretion of the Commissioner of Agriculture, such financial statements may be released.

Added by Laws 1985, c. 355, § 15, eff. Nov. 1, 1985. Amended by Laws 1988, c. 259, § 14, emerg. eff. June 29, 1988.

§51-24A.16. Educational records and materials - Confidentiality.

A. Except as set forth in subsection B of this section, public educational institutions and their employees may keep confidential:

1. Individual student records;
2. Teacher lesson plans, tests and other teaching material; and
3. Personal communications concerning individual students.

B. If kept, statistical information not identified with a particular student and directory information shall be open for inspection and copying. "Directory information" includes a student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational institution attended by the student. Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as directory information with respect to each student attending the institution or agency and shall allow a reasonable period of time after the notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without prior consent of the parent or guardian or the student if the student is eighteen (18) years of age or older.

C. A public school district may release individual student records for the current or previous school year to a school district at which the student was previously enrolled for purposes of evaluating educational programs and school effectiveness.

Added by Laws 1985, c. 355, § 16, eff. Nov. 1, 1985. Amended by Laws 1986, c. 116, § 1, emerg. eff. April 9, 1986; Laws 2003, c. 430, § 1, eff. July 1, 2003.

§51-24A.17. Violations - Penalties - Civil liability.

A. Any public official who willfully violates any provision of the Oklahoma Open Records Act, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding Five Hundred Dollars ($500.00) or by imprisonment in the county jail for a period not exceeding one (1) year, or by both such fine and imprisonment.

B. Any person denied access to records of a public body or public official:

1. May bring a civil suit for declarative or injunctive relief, or both, but such civil suit shall be limited to records requested and denied prior to filing of the civil suit; and
2. If successful, shall be entitled to reasonable attorney fees.

C. If the public body or public official successfully defends a civil suit and the court finds that the suit was clearly frivolous, the public body or public official shall be entitled to reasonable attorney fees.

D. A public body or public official shall not be civilly liable for damages for providing access to records as allowed under the Oklahoma Open Records Act.

Added by Laws 1985, c. 355, § 17, eff. Nov. 1, 1985. Amended by Laws 2005, c. 199, § 7, eff. Nov. 1, 2005.

§51-24A.18. Additional recordkeeping not required.

Except as may be required in Section 24A.4 of this title, this act does not impose any additional recordkeeping requirements on public bodies or public officials.

Added by Laws 1985, c. 355, § 18, eff. Nov. 1, 1985. Amended by Laws 2005, c. 199, § 8, eff. Nov. 1, 2005.

§51-24A.19. Research records - Confidentiality.

In addition to other records that a public body may keep confidential pursuant to the provisions of the Oklahoma Open Records Act, a public body may keep confidential:

1. Any information related to research, the disclosure of which could affect the conduct or outcome of the research, the ability to patent or copyright the research, or any other proprietary rights any entity may have in the research or the results of the research including, but not limited to, trade secrets and commercial or financial information obtained from an entity financing or cooperating in the research, research protocols, and research notes, data, results, or other writings about the research; and

2. The specific terms and conditions of any license or other commercialization agreement relating to state owned or controlled technology or the development, transfer, or commercialization of the technology. Any other information relating to state owned or controlled technology or the development, transfer, or commercialization of the technology which, if disclosed, will adversely affect or give other persons or entities an advantage over public bodies in negotiating terms and conditions for the development, transfer, or commercialization of the technology. However, institutions within The Oklahoma State System of Higher Education shall:

   a. report to the Oklahoma State Regents for Higher Education as requested, on forms provided by the Regents, research activities funded by external entities or the institutions, the results of which have generated new intellectual property, and
   b. report to the Oklahoma State Regents for Higher Education annually on forms provided:
      (1) expenditures for research and development supported by the institution,
      (2) any financial relationships between the institution and private business entities,
      (3) any acquisition of an equity interest by the institution in a private business,
      (4) the receipt of royalty or other income related to the sale of products, processes, or ideas by the institution or a private business entity with which the institution has established a financial arrangement,
      (5) the gains or losses upon the sale or other disposition of equity interests in private business entities, and
      (6) any other information regarding technology transfer required by the Oklahoma State Regents for Higher Education.

The reports required in subparagraphs a and b of this paragraph shall not be deemed confidential and shall be subject to full disclosure pursuant to the Oklahoma Open Records Act.

Added by Laws 1988, c. 68, § 2, eff. Nov. 1, 1988. Amended by Laws 1999, c. 287, § 1, emerg. eff. May 27, 1999.

§51-24A.20. Records in litigation or investigation file - Access.

Access to records which, under the Oklahoma Open Records Act, would otherwise be available for public inspection and copying, shall not be denied because a public body or public official is using or has taken possession of such records for investigatory purposes or has placed the records in a litigation or investigation file. However, a law enforcement agency may deny access to a copy of such a record in an investigative file if the record or a true and complete copy thereof is available for public inspection and copying at another public body.

Added by Laws 1988, c. 187, § 7, emerg. eff. June 6, 1988.

§51-24A.21. Increment district reports - Exemption from copying fees.

The fees that may be charged by a public body pursuant to the provisions of paragraph 3 of Section 24A.5 of Title 51 of the Oklahoma Statutes shall not be charged when a state agency or taxing entity located within the boundaries of any district created pursuant to the provisions of the Local Development Act request a copy of the reports required by subsections A and B of Section 18 of this act.

Added by Laws 1992, c. 342, § 21.

§51-24A.22. Public utilities - Confidential books, records and trade secrets.

A. The Corporation Commission shall keep confidential those records of a public utility, its affiliates, suppliers and customers which the Commission determines are confidential books and records or trade secrets.

B. As used in this section, "public utility" means any entity regulated by the Corporation Commission, owning or operating for compensation in this state equipment or facilities for:

1. Producing, generating, transmitting, distributing, selling or furnishing electricity;

2. The conveyance, transmission, or reception of communication over a telephone system; or

3. Transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public.

Added by Laws 1994, c. 315, § 12, eff. July 1, 1994.

§51-24A.25. Order of court for removal of materials from public record.

Any order of the court for removal of materials from the public record shall require compliance with the provisions of paragraphs 2 through 7 of subsection C of Section 3226 of Title 12 of the Oklahoma Statutes.

Added by Laws 2000, c. 172, § 4, eff. Nov. 1, 2000.

§51-24A.26. Intergovernmental self-insurance pools.

An intergovernmental self-insurance pool may keep confidential proprietary information, such as actuarial reports, underwriting calculations, rating information and records that are

created based on conclusions of such information that are developed through the operation of the intergovernmental self-insurance pool.

Added by Laws 2000, c. 226, § 2, eff. Nov. 1, 2000.

NOTE: Editorially renumbered from § 24A.25 of this title to avoid duplication in numbering.

§51-24A.27. Vulnerability assessments of critical assets in water and wastewater systems.

A. Any state environmental agency or public utility shall keep confidential vulnerability assessments of critical assets in both water and wastewater systems. State environmental agencies or public utilities may use the information for internal purposes or allow the information to be used for survey purposes only. The state environmental agencies or public utilities shall allow any public body to have access to the information for purposes specifically related to the public bodies function.

B. For purposes of this section:

1. "State environmental agencies" includes the:
    a. Oklahoma Water Resources Board,
    b. Oklahoma Corporation Commission,
    c. State Department of Agriculture,
    d. Oklahoma Conservation Commission,
    e. Department of Wildlife Conservation,
    f. Department of Mines, and
    g. Department of Environmental Quality;

2. "Public Utility" means any individual, firm, association, partnership, corporation or any combination thereof, municipal corporations or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:
    a. producing, generating, transmitting, distributing, selling or furnishing electricity,
    b. the conveyance, transmission, reception or communications over a telephone system,
    c. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public, or
    d. the transportation, delivery or furnishing of water for domestic purposes or for power.

Added by Laws 2003, c. 166, § 1, emerg. eff. May 5, 2003.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 1. GENERAL PROVISIONS

252:100-1-3. Definitions

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

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

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

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

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

(A) the emission of air contaminants, or

(B) the effect of such emission.

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

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

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

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

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

"Carbon dioxide equivalent emissions" or **"CO_2e"** means an amount of GHG emitted, and shall be computed by multiplying the mass amount of emissions, for each of the six greenhouse gases in the pollutant GHG, by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR Part 98 ~~B~~ - Global Warming Potentials, and summing the resultant value for each to compute a CO_2e. For purposes of the definitions of "subject to regulation" in OAC 252:100-8-2 and 252:100-8-31, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating

from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

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

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

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

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

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

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

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

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

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

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

"EPA" means the United States Environmental Protection Agency.

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

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

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

(A) Are under common control.

(B) Are located on one or more contiguous or adjacent properties.

(C) Have the same two-digit primary SIC Code (as described in the Standard Industrial

Classification Manual, 1987).

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

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

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

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

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

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

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

"Greenhouse gas" or **"GHG"** means the air pollutant defined in 40 CFR § 86.1818-12(a) as the aggregate group of six greenhouse gases: carbon dioxide (CO_2), nitrous oxide (N_2O), methane (CH_4), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6).

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

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

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

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

"Installation" means an identifiable piece of process equipment.

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

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

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

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

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

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

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

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

(B) the following shall not be considered a change in the method of operation:

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

(ii) an increase in hours of operation;

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

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

"New installation", "New source", or **"New equipment"** means an air contaminant source which is not in being on the effective date of these regulations and any existing source which is modified, replaced, or reconstructed after the effective date of the regulations such that the amount of air contaminant emissions is increased.

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

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

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

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

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

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

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

Chapter.

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

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

"~~PM-10~~ PM_{10} emissions" means particulate matter emitted to the ambient air with an aerodynamic diameter of 10 micrometers or less as measured by applicable reference methods, or an equivalent or alternative method.

"~~PM-10~~ PM_{10}" means particulate matter with an aerodynamic diameter of 10 micrometers or less.

"~~PM-2.5~~ $PM_{2.5}$" means particulate matter with an aerodynamic diameter of 2.5 micrometers or less.

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

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

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

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

"Process equipment" means any equipment, device or contrivance for changing any materials or for storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants into the open air, but not including that equipment specifically defined as fuel-burning equipment, or refuse-burning equipment.

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

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

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

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

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

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

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

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

"Reconstruction" means

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

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

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

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

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

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

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

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

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

"Responsible official" means one of the following:

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

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

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

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

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

(D) For affected sources:

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

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

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

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

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

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

(B) is not an air pollution abatement operation.

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

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

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

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

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

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

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

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

loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

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, Oklahoma, during normal business hours (8:00 a.m. - 4:30 p.m. Monday through Friday) or reviewed online at http://www.deq.state.ok.us/wqdnew/index.htm.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at http://www.deq.state.ok.us/wqdnew/index.htm.

CONTACT PERSON:

The contact person is Mark Hildebrand. Mark may be contacted at: mark.hildebrand@deq.ok.gov (e-mail), (405) 702-8100 (phone) or (405) 702-8101 (fax). DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #11-1064; filed 11-9-11]

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

[OAR Docket #11-1065]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:100-1-3. [AMENDED]
Subchapter 7. Permits for Minor Facilities
Part 3. Construction Permits
252:100-7-15. [AMENDED]
Part 4. Operating permits
252:100-7-18. [AMENDED]
Subchapter 31. Control of Emission of Sulfur Compounds
Part 1. General Provisions
252:100-31-1. [AMENDED]
252:100-31-2. [AMENDED]
252:100-31-4. [NEW]
Part 2. Ambient Air Concentration Limits or Impacts for New and Existing Equipment, Sources, or Facilities
252:100-31-7. [AMENDED]
Part 3. Existing Equipment Standards
252:100-31-13. [AMENDED]
252:100-31-15. [AMENDED]
252:100-31-16. [AMENDED]
Part 5. New Equipment Standards
252:100-31-25. [AMENDED]
252:100-31-26. [AMENDED]
252:100-31-27. AMENDED]

SUMMARY:

The Department is proposing to modify Subchapter 1, General Provisions, to include the revision to the definition of "carbon dioxide equivalent emissions" or "CO_2e" required by the U.S. Environmental Protection Agency's (EPA's) recent changes to the Prevention of Significant Deterioration (PSD) and Part 70 programs, which allows the deferral of permitting of carbon dioxide (CO_2) emissions from certain biomass sources until July 21, 2014. This proposed modification will prevent the State rule from being perceived to be more stringent than the corresponding federal rule. The Department is also proposing to correct an error in this definition that occurred during publication in the *Oklahoma Register* (28 OK Reg 1079) published June 15, 2011. For clarity, the Department is proposing to add other new definitions to Subchapter 1 including a definition for "commencement of operation" or "commencing operation."

To further the purpose of the Oklahoma Clean Air Act, the Department is proposing modifications to Subchapter 7, Permits for Minor Facilities. Language would be added to OAC 252:100-7-15(a)(2)(B)(I) to require a construction permit when adding a piece of eqnipment or a process that is subject to an emission standard, equipment standard, or work practice standard in a federal New Source Performance Standard (NSPS) (found in 40 CFR Part 60) or a federal National Emission Standard for Hazardous Air Pollutants (NESHAP) (found in 40 CFR Parts 61 and 63). The construction permit requirement would not apply to the addition of a piece of equipment or a process that is only subject to a recordkeeping or reporting requirement in an NSPS or NESHAP. Also, 252:100-7-18(a) would be amended to increase the number of days allowed after commencement of operation to submit an air quality operating permit application to the Department.

The Department is proposing changes to Subchapter 31, Control of Emission of Sulfur Compounds, to clarify the language and to bring the allowable sulfur dioxide (SO_2) ambient air limits set forth in OAC 252:100-31-7(a) into line with the requirements of the recently-enacted change to the SO_2 National Ambient Air Quality Standards (NAAQS). In response to previous public and Council comments, the Department is considering additional changes to several longstanding control, monitoring, and emission requirements of the Subchapter. In addition, the Department is proposing to add requirements for fuel-burning equipment that uses an alternative fuel. The Department is also proposing to add a new section 252:100-31-4, which aligns Snbchapter 31 excess emission reporting requirements with those of 252:100-9 for facilities that are also covered by a 40 CFR Part 60 emission limit.

AUTHORITY:

The powers and duties of the Environmental Quality Board are set out in 27A O.S. § 2-2-101 and 27A O.S. § 2-5-106 and those of the Air Quality Advisory Council in 27A O.S. § 2-2-201 and 27A O.S. § 2-5-107. The legal authority authorizing the proposed rules is found in the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 through -117, specifically 27A O.S. §§ 2-5-105 and -112 for the proposed changes to OAC 252:100, Subchapter 1, and 27A O.S. § 2-5-112 for the proposed changes to Subchapters 7 and 31.

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 18, 2012. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the January 18, 2012 hearing and at the February 24, 2012 Environmental Quality Board meeting.

PUBLIC HEARINGS:

A public hearing is scheduled before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 18, 2012, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

Also, a public hearing is scheduled before the Environmental Quality Board at 9:30 a.m. on Friday, February 24, 2012, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

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 CFR § 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 CFR Part 70 and 27A O.S. § 2-5-107(3).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENTS:

The rule impact statements will be available on and after December 16th on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for this proposal is Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #11-1065; filed 11-9-11]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 619. OPERATION AND MAINTENANCE OF NON-INDUSTRIAL TOTAL RETENTION LAGOON SYSTEMS ~~AND LAND APPLICATION~~

[OAR Docket #11-1066]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. General Provisions
252:619-1-4. [AMENDED]
Subchapter 3. Operation and Maintenance
252:619-3-2. [AMENDED]
252:619-3-3. [AMENDED]
Subchapter 5. Closure Requirements
252:619-5-2. [REVOKED]

SUMMARY:

The main purpose for this rulemaking is to omit language concerning the operation, maintenance and closure of land application sites connected to total retention lagoon systems. Operation and maintenance of land application sites will be moved to the new Chapter 627, Water Reuse. DEQ also proposes to add language to the signage requirement which must posted near or on the fence at each side of the lagoon. Additionally, DEQ proposes several non-substantive changes for clarification.

AUTHORITY:

Environmental Quality Board, 27A O.S.§ 2-2-101; Water Quality Management Advisory Council, 27A O.S.§ 2-2-201; and 27A O.S.§ 2-6-103, 2-6-402 and 2-6-501.

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 1, 2011, through December 31, 2011. Oral comments may be made at the Water Quality Management

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 1. GENERAL PROVISIONS

252:100-1-3. Definitions

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

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

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

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

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

(A) the emission of air contaminants, or

(B) the effect of such emission.

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

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

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

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

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

"Carbon dioxide equivalent emissions" or **"CO_2e"** means an amount of GHG emitted, and shall be computed by multiplying the mass amount of emissions, for each of the six greenhouse gases in the pollutant GHG, by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR Part 98 ~~B~~- Global Warming Potentials, and summing the resultant value for each to compute a CO_2e. For purposes of the definitions of "subject to regulation" in OAC 252:100-8-2 and 252:100-8-31, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating

from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

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

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

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

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

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

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

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

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

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

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

"EPA" means the United States Environmental Protection Agency.

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

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

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

(A) Are under common control.

(B) Are located on one or more contiguous or adjacent properties.

(C) Have the same two-digit primary SIC Code (as described in the Standard Industrial Classification Manual, 1987).

"Federally enforceable" means all limitations and conditions which are enforceable by the

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

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

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

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

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

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

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

"Greenhouse gas" or **"GHG"** means the air pollutant defined in 40 CFR § 86.1818-12(a) as the aggregate group of six greenhouse gases: carbon dioxide (CO_2), nitrous oxide (N_2O), methane (CH_4), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6).

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

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

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

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

"Installation" means an identifiable piece of process equipment.

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

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

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

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

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

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

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

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

(B) the following shall not be considered a change in the method of operation:

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

(ii) an increase in hours of operation;

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

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

"New installation", "New source", or **"New equipment"** means an air contaminant source which is not in being on the effective date of these regulations and any existing source which is modified, replaced, or reconstructed after the effective date of the regulations such that the amount of air contaminant emissions is increased.

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

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

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

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

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

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

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

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

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

"~~PM-10~~ $\underline{PM_{10}}$ emissions" means particulate matter emitted to the ambient air with an aerodynamic diameter of 10 micrometers or less as measured by applicable reference methods, or an equivalent or alternative method.

"~~PM-10~~ $\underline{PM_{10}}$" means particulate matter with an aerodynamic diameter of 10 micrometers or less.

"~~PM-2.5~~ $\underline{PM_{2.5}}$" means particulate matter with an aerodynamic diameter of 2.5 micrometers or less.

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

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

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

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

"Process equipment" means any equipment, device or contrivance for changing any materials or for storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants into the open air, but not including that equipment specifically defined as fuel-burning equipment, or refuse-burning equipment.

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

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

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

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

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

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

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

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

"Reconstruction" means

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

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

comparable entirely new source);

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

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

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

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

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

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

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

"Responsible official" means one of the following:

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

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

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

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

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

(D) For affected sources:

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

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

"Shutdown" means the cessation of operation of any process, process equipment, or air

pollution control equipment.

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

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

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

(B) is not an air pollution abatement operation.

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

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

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

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

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

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

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

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

MINUTES
AIR QUALITY COUNCIL
Department of Environmental Quality
Multipurpose Room
707 North Robinson, Oklahoma City, Oklahoma

Draft for February 24, 2012 EQB
Official after AQC Approval
July 18, 2012

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. on January 18, 2012 at the DEQ Multipurpose Room, 707 North Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on November 23, 2011. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith, Assistant Director, Air Quality Division, convened the hearings by the Air Quality Advisory Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101-2-5-118. She entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Bruce called roll and a confirmed that a quorum was present.

MEMBERS PRESENT	DEQ STAFF PRESENT	DEQ STAFF PRESENT
David Branecky	Eddie Terrill	Scott Thomas
Montelle Clark	Beverly Botchlet-Smith	Brooks Kirlin
Gary Collins	Cheryl Bradley	Joyce Sheedy
David Gamble	Rob Singletary	Dawson Lasseter
Jim Haught	Laura Finley	
Laura Lodes	Madison Miller	
Robert Lynch		
Sharon Myers		

MEMBERS ABSENT	OTHERS PRESENT
Pete White	Christy Myers, Court Reporter

Transcripts and Attendance Sheet are attached as an official part of these Minutes

Approval of Minutes – October 5, 2011 Regular Meeting Ms. Lodes called for a motion for approval. Ms. Myers moved to approve and Mr. Haught made the second.

See Transcript pages 4 - 5

David Gamble	Yes	Jim Haught	Yes
Gary Collins	Yes	Sharon Myers	Yes
Montelle Clark	Yes	Robert Lynch	Yes
David Branecky	Yes	Laura Lodes	Yes

Election of Officers Calendar Year 2012 Mr. Branecky made motion to retain the current officers, Laura Lodes for Chair and Jim Haught for Vice-Chair. Ms. Myers made the second.

See Transcript pages 5 - 6

David Gamble	Yes	Jim Haught	Yes
Gary Collins	Yes	Sharon Myers	Yes
Montelle Clark	Yes	Robert Lynch	Yes
David Branecky	Yes	Laura Lodes	Yes

OAC 252:100-1 General Provisions

OAC 252:100-7 Permits for Minor Sources

Ms. Madison Miller, staff attorney, stated that the proposal would modify Subchapter 1 to complete the incorporation of EPA's recent changes to the Prevention of Significant Deterioration and Part 70 permitting programs exempting certain biogenic carbon dioxide emissions; modify Subchapters 1 and7 to resolve issues surrounding when an application for an air quality operating permit is to be submitted to the Department; and modify Subchapter 7 to make the requirement for obtaining a construction permit for existing minor facilities more consistent with that for new minor facilities. Ms. Miller pointed out the proposed amendments being proposed relating that staff recommendation is for Council approval and forwarded to the Environmental Quality Board for permanent adoption.

Following discussion by Council and the public, Mr. Branecky made motion to approve the revisions as presented with the amendment. Mr. Collins made the second.

See Transcript pages 7 - 51

David Gamble	Yes	Jim Haught	Yes
Gary Collins	Yes	Sharon Myers	Yes
Montelle Clark	Yes	Robert Lynch	Yes
David Branecky	Yes	Laura Lodes	Yes

OAC 252:100-31 Control of Emission of Sulfur Compounds

Mr. Brooks Kirlin, engineer with the Rules and Planning Section, stated that the proposal would clarify existing language and to bring the allowable sulfur dioxide (SO2) ambient air limits in OAC 252:100-31-7(a) into line with the requirements of the recently-enacted change to the SO2 National Ambient Air Quality Standards. In response to comments received, the Department is proposing additional changes to several longstanding control, monitoring and emission requirements in the Subchapter. In addition, the Department is proposing to add requirements for fuel-burning equipment that uses an alternative fuel. The Department is also proposing to add a new section 252:100-31-4, which aligns Subchapter 31 excess emission reporting requirements with those of 252:100-9. Mr. Kirlin pointed out the changes being recommended. Following lengthy discussion by Council and input from the public, Mr. Branecky made motion to approve with the amendments as discussed and forwarded the Environmental Quality Board. Those were read into the record. Mr. Gamble made the second.

See Transcript pages 51 - 131

David Gamble	Yes	Jim Haught	Yes
Gary Collins	Yes	Sharon Myers	No
Montelle Clark	Yes	Robert Lynch	Yes
David Branecky	Yes	Laura Lodes	Yes

Division Director's Report - Mr. Eddie Terrill, Air Quality Division Director, and Ms. Beverly Botchlet-Smith, Assistant Director, Air Quality Division Assistant Director, provided an update on the tire fee; ozone season; large SO_2 sources modeling analysis; and the CSAPR rule.

New Business – None

Adjournment – Ms. Lodes adjourned the meeting adjourned at 11:45 a.m.

Transcripts and Attendance Sheet are attached as an official part of these Minutes.

Myers Reporting

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TRANSCRIPT OF AIR QUALITY
COUNCIL MEETING
ON OCTOBER 5, 2011, AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
Christy Myers, CSR
P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
(405) 721-2882

MEMBERS OF THE COUNCIL

DAVID BRANECKY, MEMBER
LAURA LODES, CHAIR
JIM HAUGHT, VICE-CHAIR
PETE WHITE, MEMBER
SHARON MYERS, MEMBER
MONTELLE CLARK, MEMBER
GARY COLLINS, MEMBER
ROBERT LYNCH, MEMBER
DAVID GAMBLE, MEMBER

DEQ STAFF

MYRNA BRUCE
BEVERLY BOTCHLET-SMITH
EDDIE TERRILL
CHERYL BRADLEY
NANCY MARSHMENT
DIANA HINSON
ROBERT SINGLETARY
MADISON MILLER
BROOKS KIRLIN
LAURA FINLEY
DR. JOYCE SHEEDY

PROCEEDINGS

MS. LODES: Okay. Let's go ahead and call the meeting to order. I think we about have everybody here. I'd like to call today's meeting to order and, Myrna, would you please call roll.

MS. BRUCE: Good morning. Pete White is not here yet. Gary Collins.

MR. COLLINS: Here.

MS. BRUCE: And David Gamble is not here yet. Montelle Clark.

MR. CLARK: Present.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Here.

MS. BRUCE: Sharon Myers.

MS. MYERS: Here.

MS. BRUCE: David Branecky.

MR. BRANECKY: Here.

MS. BRUCE: Robert Lynch is not here yet. Laura Lodes.

MS. LODES: Here.

MS. BRUCE: We do have a quorum.

MS. LODES: The next item on today's Agenda is approval of the minutes from the July 20th, 2011 regular meeting. Do we have any comments or questions from the Council regarding the minutes?

Seeing no comments or questions, do we have a motion to pass the minutes.

MR. HAUGHT: I'll move that we accept the minutes as written.

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

MR. BRANECKY: Second.

MS. LODES: I have a motion and a second. Myrna, will you please the call roll.

MS. BRUCE: Gary Collins.

MR. COLLINS: Yes.

MS. BRUCE: Montelle Clark.

MR. CLARK: Yes.

MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. LODES: Thank you.
The next item on today's Agenda is the meeting schedule for the calendar year 2012. I have proposed meeting dates of January 18th, Oklahoma City; April 18th, in Tulsa; July 18th in Oklahoma City; and October 17th in Oklahoma City.
Do we have any comments, questions, suggestions on the said meeting dates?
(Inaudible conversations)
MS. LODES: Sharon, do you have any comments or suggestions for the meeting dates?

MS. MYERS: Oh, I'm sure it won't pass but Broken Bow sure would be nice in October. It's just a thought.
MS. LODES: I agree. I know we haven't done it in several years because of budget constraints.
MS. MYERS: Yeah.
MS. LODES: So --
MS. MYERS: I'm sure that there probably are still budget constraints.
MS. LODES: Okay. Any other thoughts from anybody else?
I need a motion to approve the minutes as proposed by the DEQ or -- for the -- motion to approve the dates as proposed by the DEQ.
MR. BRANECKY: So moved.
MS. LODES: Do I have a second?
MR. CLARK: I'll second.
MS. LODES: Thank you. I have a motion and a second. Myrna,

will you please call roll.
MS. BRUCE: Broken Bow is lovely this time of year, I might add.
MS. LODES: I agree wholehearted.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: I guess. Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. LODES: And, you know, if the economy suddenly gets a whole lot better we could always, during the year, make a Council

change of the venue.
MS. MYERS: Great idea.
MS. LODES: We have done that in the past.
MS. MYERS: That's a great idea.
MS. LODES: I realize budgets would have to get far better.
MS. BOTCHLET-SMITH: You know, we really like going to Broken Bow but we just didn't get the same public participation.
MS. LODES: I know.
MS. BOTCHLET-SMITH: That's important, Laura.
MS. LODES: I realize it's important. I realize it's also nice for the people down in the southeast part of the state to have us down there, but we don't have the same volume of people who attend.
MS. BOTCHLET-SMITH: We can always consider it for the

MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. LODES: The next item on today's Agenda is election of officers for 2012. And this is now to the Council as to who you all would like to elect to be Chair and Vice-Chair for next year.
MR. BRANECKY: I will go ahead and make a motion. Since Laura and Jim have done such a good job I make a motion that they continue in their respective positions for another year.
MS. MYERS: I will second that.
(Comments)
MS. LODES: There is apparently no discussion on this

matter. We have a motion and a second. Myrna, will you please call roll.
MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. LODES: Thank you.
MS. MYERS: Congratulations.
MS. LODES: Thanks. And we're now to the public hearing portion of this meeting.

MS. BOTCHLET-SMITH: Good morning. I'm Beverly Botchlet-Smith. I'm the Assistant Director of the Air Quality Division and as such I will serve as the Protocol Officer for today's hearings.
The hearings will be convened by the Air Quality 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, Sections 2-5-101 through 2-5-118.
Notice of the January 18, 2012 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 the Meeting was filed with the Secretary of State on

November 23, 2011. The Agenda was duly posted 24 hours prior to the meeting here at the facility here at the DEQ.
If you wish to make a statement, it is very important for you to complete one of these forms that can be found at the front desk at the registration table, and then we will call upon you at the appropriate time. And audience members please remember to come to the podium when you make your statement and be sure and state your name.
At this time we will proceed with what is marked as Agenda Item Number 5A on the Hearing Agenda. This is OAC 252:100-1 General Provisions, and OAC 252:100-7 Permits for Minor Sources. The presentation for these rules will be made by Madison Miller, one of our staff attorneys.
MS. MILLER: Good morning.

Madam Chair, Members of the Council, ladies and gentlemen, I am Madison Miller. I am an environmental attorney here at DEQ with the Air Quality Division.

DEQ proposes to amend Subchapter 1, General Provisions, and Subchapter 7, Permits for Minor Sources of the Oklahoma Administrative Code, in Title 252 of Chapter 100. I will discuss the amendments to these Subchapters.

To begin, DEQ proposes to add and modify definitions in Subchapter 1, General Provisions, of Chapter 100. The Environmental Protection Agency or EPA has deferred for a period of three years the application of the prevention of significant deterioration or PSD and Part 70 permitting requirements to biogenic carbon dioxide emissions from bioenergy and other biogenic stationary sources. To accomplish this deferral, DEQ proposes to modify

the definition of "carbon dioxide equivalent emissions" or CO2e, in OAC 252:100-1-3.

Additionally, due to an error in the Oklahoma Register at 28 OK Reg 1079, published on June 15, 2011, DEQ proposes to correct the definition of CO2e by replacing a dash that was erroneously converted to the letter capital "B". DEQ proposes to define "fossil fuel" in OAC 252:100-1-3 for further clarity in the CO2e deferral.

The proposed definition is based on federal definitions provided in 40 CFR Part 60, Subparts (D) and (D)(a). Additionally, defining this term would complete the incorporation of EPA's aforementioned recent changes to the PSD and Part 70 permitting programs. The term fossil fuel is not currently defined in Chapter 100, and if defined in Subchapter 1, the definition will be applicable throughout Chapter 100 in

all Subchapters where that term is not defined. This is a substantive change.

Next, the DEQ proposes to define "commencement of operation" or "commencing operation" in OAC 252:100-1-3. The term commencement of operation is not currently defined in Chapter 100, yet the term is used in Subchapter 8 to describe the pivotal point at which a stationary source must submit an application for an operating permit to DEQ. If this term is defined in Subchapter 1, the definition will be applicable throughout Chapter 100 in all Subchapters where that term is not defined. This addition is a substantive change.

During the last Air Quality Advisory Council meeting held on October 5, 2011, a definition of "commencement of operation" or "commencing operation" was suggested as follows:

"The owner or operator has begun, or caused to begin, any activity which has the potential to emit any regulated air pollutant."

Members of the Council expressed concern and some dissatisfaction with the definition as proposed in October. In particular, Members of the Council stated this definition is problematic because, one, the definition is potentially too broad and could have unanticipated consequences by implicating activities and/or emissions which were not intended to fall under the definition.

Two, sources with construction permits are given operating authority under their construction permit.

And three, the definition as proposed, creates the possibility that a greater volume of modifications to operating permit applications would be submitted to DEQ while construction is completed.

DEQ invited all members of the public to submit written comments at any time regarding the definition of commencement of operation. We all agree that it is necessary to define this term in Chapter 100. It behooves DEQ, regulated entities, and the public to implement a concrete definition that clarifies the activity which commences operations and triggers the requirement to submit an operating permit. It is the intent of DEQ to clarify the operating permit requirements, making them more streamlined and predictable, in order to promote ease of compliance and certainty in the permit application process.

Furthermore, DEQ has been informed by regulated entities that a definition of this term is desirable for the foregoing reasons. Thus, the adoption of this definition will result in a better outcome for all parties in interpreting and complying

with Subchapters 7 and 8.

Additionally, the State of Oklahoma administers its air quality program through a dual permitting system, the purpose of which is to adjust permit conditions from the original construction plan to what actually resulted in the operating permit. DEQ must be apprised of this discrepancy between planned and actual emissions to account accurately for ambient air concentrations of air pollutants in the State.

Timely notification of commencement of operation enables DEQ to more efficiently plan Oklahoma's compliance with the National Ambient Air Quality Standards and related EPA requirements.

The question, then, is what must be the definition of "commencement of operation"? It must be a definition everyone can live with; those who issue permits and

those who apply for permits. It must reflect the longstanding interpretation by DEQ of Chapter 100, lest it be inconsistent with prior agency action on the matter.

Bearing in mind the aforementioned concerns of the Council, DEQ now proposes the definition of commencement of operation as follows.

"The owner or operator of the stationary source has begun, or caused to begin, any activity for which the stationary source is designed and/or permitted and which has begun emitting any regulated air pollutant."

With this definition, determining whether operations have commenced is a two-step process. Step 1 is to ask whether the activity that has begun is something which the source was designed and/or permitted to do.

Step 2 is to ask whether

emissions are resulting directly from that activity. The answer to both of these questions must be yes to indicate operations have commenced. If either answer is no, the activity has not caused operations to commence.

This two-step process eliminates the foreseeable instances when an activity unintended to trigger operating permit requirements satisfies the definition. The definition as proposed today addresses the aforementioned concerns of the Council by virtually eliminating unforeseeable and foreseeable circumstances when a source would prematurely meet the definition of "commencement of operations".

The definition as proposed today reflects the longstanding interpretation by DEQ of the rules implementing our State's dual permitting system, as well as the

historic practice of DEQ and regulated entities. Adding this definition will not change the application process as it exists today, or as it has existed in the past.

At the October Council meeting regulated entities expressed the sole concern that under the definition of commencement of operation as proposed in October, minor sources, oil and gas wells in particular, would not be able to submit an operating permit application within the 60-day time limit prescribed by Subchapter 7. In response to this concern, DEQ proposes to modify Subchapter 7, Permits for Minor Sources.

Specifically, DEQ proposes to insert the term "commencement of operation" or "commencing operation", pursuant to the definition proposed today, in OAC 252:100-17, 100-7-18(a)(1) and (2). Additionally, in that section, DEQ

proposes to increase from 60 days to 180 days the time allowed for the submission of a minor source air quality operating permit application following the commencement of operation. This increase will allow additional time for owners and operators of minor sources to prepare their operating permit applications. Furthermore, this will create consistency between Subchapter 7 and Subchapter 8 through the use of the same terminology and the same time period for submission of applications for air quality operating permits. This is a substantive change.

DEQ proposes to revise OAC 252:100-7-15(a)(2)(B)(1) to narrow the requirement for an existing minor facility to obtain an individual air quality construction permit. The proposed revision would require an existing minor facility to obtain a construction permit to add a piece of equipment or a process that is

subject to an emission standard, equipment standard, or work practice standard in an NSPS or a NESHAP. A construction permit would not be required to add a process or equipment that is subject only to reporting and/or recordkeeping requirements in an applicable NSPS or applicable NESHAP.

Notice of the proposed permanent rule changes was published in the Oklahoma Register on December 1, 2011. DEQ published the proposed rules on the Air Quality Division's Council webpage on December 15, 2011. The notice requested written comments from the public and other interested parties. No written comments were received in time for DEQ to prepare written responses. On Tuesday, January 17, 2012, Ms. Angie Burckhalter, VP of Regulatory Affairs at the Oklahoma Independent Petroleum Association, submitted a written comment via email. She stated

satisfaction with the deletion of "potential to emit" from the definition of "commencement of operation" or "commencing operation". Additionally, she proposed the following definition in the place of the currently proposed definition.

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

If the Council adopts this proposed version of the definition, DEQ requests that the language be modified to state "the stationary source is designed and/or permitted". A significant loophole exists in the definition if the activity is limited to one for which the source is designed and permitted. Sources that did not obtain a construction permit

will be able to evade operating requirements because they were not designed and permitted. The loophole will be ameliorated by stating "designed and/or permitted".

Staff requests that the proposed amendments to Subchapters 1 and 7 be adopted by the Council and forwarded to the Environmental Quality Board in February, with the recommendation that they be adopted as permanent rule changes. With respect to the definition of commencement of operation, DEQ requests the Council either adopt the DEQ's proposed definition, or adopt Ms. Burckhalter's proposed definition as amended by DEQ. The modifications to Subchapter 8, which were passed in October 2011, will become effective at the same time as the revisions to Subchapters 1 and 7.

Thank you.

MS. LODES: Thank you. I guess my first one would be I kind

of like Angie's definition with the -- and I can understand your reason for the change, the and/or permitted. Does anybody else on the Council have any thoughts on that? To me it does read a little more streamlined than the one that we were coming up with the other day -- when we were discussing it.

Is there anybody else? Yes. Yes. As amended by the DEQ Board it says and/or permitted.

MS. MADISON: Okay.

MS. LODES: To me I do like how that flows.

MR. BRANECKY: I mean that's saying the same thing, right?

MS. MADISON: Yeah.

MS. LODES: They say the same thing, I just -- the way hers is I think it is a more streamlined version.

MR. CLARK: We're not -- I don't see any substantive differences between them, just the wording,

writing the word construction.

MS. LODES: It just flows better.

MR. BRANECKY: DEQ is okay with that?

MS. MADISON: Yes. DEQ agrees with your comments.

MS. LODES: Now, I don't have one overall concern with the changing, the definition, and everything else, which is something I've asked.

How does this affect the definition of when things like KKK notifications and some of those are impacted since that -- those are triggered by commencing operation of, say, a facility under NSPS KKK?

MS. MADISON: Well --

MS. LODES: This makes it a more stringent definition than the federal definition which would typically trump a federal definition and I don't want to cause a problem there.

MR. SINGLETARY: Well, just as a -- if we had a Subchapter that also defined commence operation, the specific definition in that subchapter would trump the Chapter 100 definition. Any specific definition in a federal requirement would trump this general definition and Chapter 100 is the same way.

MS. LODES: Even though this one would be considered more conservative? Because this triggers it -- I mean you can start up a natural gas processing plant or part of it which would trigger commencement of operation here, but you may not have started up all parts of the operation that are actually subject to NSPS KKK.

MR. SINGLETARY: Yeah. I mean if there was a more specific definition in a federal requirement this general definition will be replaced by that definition.

MS. LODES: Okay.

Okay. I just wanted to make sure that was clear and that is on the record so we've got it if we get questions in a year or two by an inspector that I've got some -- I've got something to go back to.

Okay. Any other questions or comments from the Council on this step -- on this part?

Okay. On Subchapter 7 -- I do, by the way, have another set of questions here. Where you have modification of an existing facility, I know we've worded in what has always been accepted by the DEQ. It says an emission standard, equipment standard, or work practice standard. There is not a definition of what a work practice standard is anywhere. What about -- is there a way to exclude maintenance standards only? Because there is some of these new area source NESHAPs that would only require things like you've got to follow a certain maintenance for

routine oil changes or things like that. And I don't know that the intent is really to trigger requiring you to obtain a permit for an existing engine. And I'll pick on a NESHAP ZZZZ here, that the only requirement is that you've got to change your oil in a certain frequency. I mean do we really intend to trigger a permit for an engine because of that?

DR. SHEEDY: Isn't that what work practice means?

MS. LODES: That would be -- and that's kind of -- but there's some ambiguity there because that's considered a maintenance standard in a lot of federal rules.

(Pause)

MS. LODES: I know everybody is thinking. This was the other little zinger I had (inaudible). But when I got to really looking at it -- I mean ZZZZ is up in the air right now with some changes and

there's things like that and there's several other areas in NESHAP that are really just a maintenance standard that's out there. And I don't think our intent is truly to pull those into permitting.

(Inaudible Comments)

MR. SINGLETARY: So your question was if it's -- it is subject to the NESHAP or to the NSPS but it's just for maintenance purposes?

MS. LODES: Correct.

DR. SHEEDY: So a standard or a --

MS. LODES: The only standard would be the maintenance on it. And that's similar to like right now you might have a tank that's subject to NSPS (k)(b) but it's only required to maintain the size of the tank. Well that's never triggered permitting. And that would still be excluded here --

DR. SHEEDY: Uh-huh.

MS. LODES: -- and NESHAP HH for (inaudible) if you're a de minimus one, all you have to do is do recordkeeping on it so that's never triggered permitting here. I would like for maintenance on an engine to be in -- in some of these other newer NESHAPs that are area source ones, where all you're looking at is some maintenance records you've got to maintain, or practice you've got to meet, do we really want to trigger permitting here?

MS. STEGMANN: Laura. This is Kendall Stegmann. On some of those maintenance activities I think they're -- some of those are used to reduce emissions, to maintain and have the engine be more efficient, therefore you're going to have somewhat of a reduction of emissions. And sometimes that would be included as a specific condition of a permit. That's what I'm concerned with.

MS. LODES: Well, all the

permits -- the way the permits are currently written --

MS. STEGMANN: Right.

MS. LODES: -- all they do is reference NESHAP ZZZZ and a specific emission won't call out specifically anything other than you've got to comply with ZZZZ.

MS. STEGMANN: Right. But my concern is some of these maintenance activities could lead to emission reduction. So, therefore, I would think it would be something that should be in a permit.

MS. LODES: I mean you're required to comply with federal regulation regardless of whether or not you're permitted.

MS. STEGMANN: Right. I know but since it deals with emission reductions, to me that leads to having a -- needing to have a permit. That's my opinion.

MS. LODES: Jim, you're dealing with some of these.

MR. HAUGHT: Yeah. There's no doubt there is more to come in the future too, so --

MS. LODES: Right. And that's why I'm like --

MR. HAUGHT: -- there's more of those that are proposed. I guess I was going back and looking at -- for the existing source. I'm back in Subchapter 1. That doesn't necessarily mean a source that's already permitted. So you could have something that's not required to have a permit now because this is under modification. So it's not a new source.

MS. LODES: Right.

MR. HAUGHT: So you could have a source that's not subject to permitting, add a piece of equipment that just had a change your oil, change your belts every so often.

MS. LODES: You swing an engine at a station, you've got an existing engine that's permit exempt

because it was prior to anything that didn't require a permit. You swing it with another one that's lifetime replacement that was built in 1985 and the only requirement is to change your engine and you're not going to have go out and get a construction because that's a modification of an existing facility.

MR. HAUGHT: I think it's a good question as to what the intent was. What level? I mean do they think that those things -- that those maintenance practices are put in place to control emissions? And if they are then -- I mean I guess I could see where that would be but there is no doubt there is going to be more of those coming up. So I think -- I think it's a real valid question.

MS. LODES: I mean that's -- I mean these area source NESHAPs -- and I'm picking on ZZZZ because it's one of the biggest ones that

effects a lot of sources here in Oklahoma but there is similar ones for anything down from the local welding shop that's really just a maintenance record more than it is anything else and is there a way to clarify work practice standard versus maintenance?

MR. SINGLETARY: I think it's going to be difficult without it going on a case-by-case basis to determine which -- which one of these activities is meant to reduce emissions and not -- and I think if you look at the prior version of this rule, it just says subject to a NSPS or NESHAP and I don't think this changes that at all, it just clarifies it a little bit and specifically mentions what -- you know, what parts of the CFR we're referring to there. Does it add anything of significance to the definition or to the --

MS. LODES: Right. And I

do realize that part of the rule. I'm just wondering if -- because this definition was originally written before the promulgation of any area source NESHAPs or NSPSs. I mean a whole lot of things were not subject to NSPS or to NESHAP at the time we -- this definition was done many, many years ago and so things do keep coming down the pike. Is there a way that we want to clarify it for the future so we're not creating such a huge burden on everybody to permit things that really aren't doing much? I mean a lot of these area source standards -- especially ones that are only subject to some kind of a maintenance, how much rule -- is that what we really intend to keep on -- permit applications on.

MR. SINGLETARY: Well, how do we differentiate between those that actually are intended to reduce emissions and those that aren't? I mean that's going to be difficult and

that's going to be case-by-case depending on the area source NESHAP. I don't -- I'm not sure at this point. We haven't discussed that issue so I'm not sure exactly how you would -- how we could do that.

MS. LODES: Okay. I just was --

MR. SINGLETARY: Do you have any suggestions or --

MS. LODES: I'm not going to say I have any brilliant suggestions at this moment. It just was something that I wanted to point out, work practice standard we don't define anywhere in here and it is more of a vague term as to what is a work practice standard or versus something else.

MR. GAMBLE: Well isn't that true that if some requirement shows up in a Federal Register or in a regulation that EPA has put out that it's intended to reduce emissions. I mean they wouldn't say change your

oil for some other reason. You know, why would they care if a piece of equipment fell apart or not? They're only concerned about whether or not it emits. So --

MR. SINGLETARY: If it's a NESHAP, yeah. That's correct.

MR. GAMBLE: So it's always been my thought that any requirement that shows up in a regulation is intended for emissions reduction and if a piece of equipment is subject to something regardless of how insignificant it is -- recordkeeping or whatever, that has to be permitted as such. Now if that's different, well, that changes my world a little bit.

MS. LODES: Recordkeeping only, has never been required to be permitted.

DR. SHEEDY: It wouldn't be a (inaudible).

MS. LODES: I mean I just think because NESHAP HH is one that

is very clear, that it's only appeared de minimus, it's only recordkeeping, and that is not -- that is something that everybody over here has always said if it is just subject to recordkeeping like NSPS (k)(b) for the size of a small tank that that did not require permitting.

MS. MADISON: And that's where this rule proposal came from is that we are trying to promulgate our actual practice.

MS. LODES: Well, correct. And I do realize that and I appreciate that clarification because I get asked on a regular basis by clients, well, it (inaudible) NSPS or NESHAP. I'm like well, but the Agency's policy has always been this. So I just -- because we've run into so many of these lately. And I know we've got -- I don't know if we've got any comments from the public on this particular rule --

MS. BOTCHLET-SMITH: When

the Council is through discussion I was going to call for those.

MS. LODES: Oh. Okay.

MS. BOTCHLET-SMITH: Are you through with your discussion?

MS. LODES: Okay. So we might see if --

MS. BOTCHLET-SMITH: Are there other questions from the Council at this time? Okay.

MS. LODES: This is all I had on this particular rule. I just wanted to see if anybody has a comment.

MS. BOTCHLET-SMITH: Okay. At this time we'll take comments from the public. Angie Burckhalter.

MS. BURCKHALTER: Good morning. My name is Angie Burckhalter and I'm with the Oklahoma Independent Petroleum Association. My comments are really related to Subchapter 1 and I think staff covered my proposed definition and they had proposed a minor

modification to use the and/or in the last part between designed and permitted. I'm fine with that and so I would -- I would recommend that you choose my proposed recommendation just for the mere fact that I think that it clarifies the intent a little better and it's very similar to the December 2011 version which is the basic strikeout of the potential to emit. So there is not much difference but I think it just helps clarify for the regulated entities really what DEQ's intent is.

That's all I have. Thank you.

MS. BOTCHLET-SMITH: Thank you, Angie. Bud Ground.

MR. GROUND: Good morning. I'm Bud Ground with Public Service Company of Oklahoma. And until this morning I thought that was a great definition, but in listening to some of this conversation I'd say it actually has confused me. And I was hoping I could get some

clarification. Because in the definition it --

MR. BRANECKY: Are you talking about --

MR. GROUND: -- commencement of operation -- and I guess working for an electric utility the operation of our facilities is you're firing a fuel to make steam which would in turn, turn a turbine, but in that firing of a fuel, that means you have the pollution controls and it is a permitted source and everything has to go with that.

But in reading this definition it says any activity which has the potential to emit any regulated air pollutant. And so we've had, just internally and I think even with DEQ, some discussions on exactly what -- when we commence operation. And now that it's -- you know, when I heard this discussion -- because our understanding or our belief was when we put a fuel into a boiler then you

have a potential to emit and that is when you have actually commenced operation. But this to me is confusing a little bit because it says, which has the potential to emit. And when we have a fuel we definitely have a potential to emit.

MR. BRANECKY: I don't see a potential to emit.

MS. BOTCHLET-SMITH: That was -- that was struck in the revision, Bud.

MR. GROUND: Okay. This didn't come from right there? This, I believe, came from right over there.

MS. BRADLEY: It's did, Bud. But that was the version that was proposed.

MS. BOTCHLET-SMITH: I think what we've got is on the front table -- the registration table, we have copies of the rules as though -- as they were proposed and posted on the website. And then do we have copies

of the proposed change for the audience?

MS. MADISON: No.

MR. GROUND: No.

MS. BOTCHLET-SMITH: But you have it now?

MR. GROUND: Okay. No. And I see it now. Because it is different. It says, cause to begin emitting a regulated air pollutant from any activity. Which changes it a little bit. Actually it changes it a lot.

MR. TERRILL: Yeah. That's the problem that we get in to. We have to have a date that we have to actually put this out for comment and then we have changes between then and so you just got an older version is what happened. Somebody else has already pointed that out that that was an issue and we moved on and I think we've taken care of your problem, I hope.

MR. GROUND: Well, I don't

know. So when is -- on a -- when we start a utility boiler, when do we commence operation? Cause to begin emitting a regulated air pollutant. And our regulated air pollutant -- well, there is several of them but, I guess our understanding would be when you are doing the activity for which the operation caused an emission which is combusting fuel.

MR. HAUGHT: But I brought that up in talking to the staff earlier about that an I had told them what my intent was and they could correct me and see if the staff has a different interpretation. But the idea was -- is that for a facility like that, an electric generating facility, it's going to be being constructed and operating up until it commences operation or until it actually gets the operating permit under the construction permit. So you still have limits and requirements on that construction

permit. So the part that we're looking at here is when would that trigger then the clock to start when you do the operating permit. And the intent was you may put a boiler in early before the rest of the process is there and it may be fired as a test fire while the technicians and people are there installing it and then it's shutdown. The facility is not producing power until some point.

So I think the intent is you're operating under the conditions of the construction permit until you get the operating permit and that clock starts once you started producing power --

MR. GROUND: Or as designed.

MR. HAUGHT: Or as designed. Whatever it was designed to do. Yeah. Whatever that facility was designed to do. So all of those activities up until then, not that they are unregulated, they're just

regulated under your construction permit.

MR. GROUND: Under the construction permit. Okay.

MS. LODES: And they --

MR. COLLINS: I think that's a good question, Bud. I'm thinking for the record though do we want a response from the DEQ staff?

MS. BOTCHLET-SMITH: I think Madison is prepared to answer that.

MS. LODES: Okay.

MR. COLLINS: Okay.

MS. LODES: But if it's a test firing it would not be -- constitute -- correct?

MS. MADISON: Under the definition -- this goes back to what I said earlier about the two-part test under the definition. A literal reading of the definition would mean that there -- it would have to be something -- there's an activity for which the source was designed and permitted -- and/or permitted to do

and that activity has to result in emissions. So once you meet those two criteria you would commence operations. So a test firing, I don't -- yes, you would have to meet both.

MR. GROUND: Okay. So are you saying there are periods of time where emissions are free? I mean on a new furnace, when you're building it, you do light up the pilots and then some of burners to cure the refractory and during that time it is emitting.

MS. MADISON: Right. And there are operating limits under the construction permit. Those emissions wouldn't be free. They would be accounted for in the construction permit.

MR. GROUND: It just wouldn't trigger the requirements.

MS. MADISON: That's right. It just wouldn't trigger the requirement to obtain the operating

permit.

MR. COLLINS: Okay.

MS. LODES: You still have to pay fees and report those on an emissions inventory on your consumption --

MR. GROUND: Oh, yeah. Yeah.

MS. LODES: -- but there -- and you're operating under that. And that's -- that's my understanding from our discussion.

MS. MADISON: Uh-huh.

MS. BOTCHLET-SMITH: Okay. Do we have any other questions or comments from the public before we turn this back to the Council? Seeing none, if the Council has further questions for the staff we can go through those at this time.

MR. HAUGHT: So we'll act on these -- at the last meeting we had Subchapter 8 in here and we broke that out, so we act on these together? Subchapter 1 and

Subchapter 7, is that one -- one motion to approve both of them?

MS. MILLER: Yes.

MS. LODES: I don't see any -- I mean do I love the work practice standard definition in there? No. But I don't really have any way to necessarily define that any better than what it is. So I mean that's the practice that the DEQ has always gone with.

MR. HAUGHT: (Inaudible) clear in this.

MS. LODES: I mean it is definitely clearer than it was before so I'm -- I'm pleased with that part of it all. Would I like to carve out maintenance? Yes. But at this time I just don't know that we clearly can.

MR. HAUGHT: Okay.

MR. TERRILL: We'll have a year before we can open this up again so we can track this and if there is an issue that comes up we

can always correct it at a later date. It gives us time to put this into place and see if there really is an issue -- a practical issue anyway.

MS. LODES: Right. And I know -- I mean I know of at least two large regulations that are coming out that will have a lot of maintenance or work practice-type standards and once the federal -- the feds have finalized those rules then we will be able to take a better and clearer look at how this would be worded better.

MR. TERRILL: And there is other places in our rules we have to take into account. There are bigger discussions here than just this one section.

MS. LODES: Right.

MR. TERRILL: So we'll -- having a year and some other things coming into play would be good and then we can come back and take

another look over the next year and see if we do need to make some additional adjustments.

MS. LODES: Okay.

MR. BRANECKY: Are you ready for a motion? How about -- I need to make a motion?

MS. LODES: I'm ready.

MR. BRANECKY: I'm just going to do it on Subchapter 1. We're splitting it up, right? Or are we doing them together?

MS. BOTCHLET-SMITH: I think we intended --

MR. BRANECKY: To do them all together?

MS. BOTCHLET-SMITH: -- for that to go together.

MR. BRANECKY: Okay. Do them together. Well then I will make the motion that we approve the revisions to Subchapter 1 and Subchapter 7 as presented to us today and that includes the addition of the "/or" in the definition of

"commencement of operation" which was presented to us today. Is that clear?

MS. LODES: I --

MR. BRANECKY: Oh, I'm sorry. It's the OIPA version.

MS. LODES: Yes. It is.

MR. BRANECKY: Okay.

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

MR. BRANECKY: With the addition of "/or".

MR. COLLINS: I'll second.

MS. LODES: I --

MS. MYERS: Are we presenting this as individual or altogether?

MS. LODES: This is Subchapter 1 and 7 altogether.

MS. MYERS: Okay. And those are all the changes that you're proposing?

MR. BRANECKY: Right. The OIPA version with the addition of the "/or" in that language.

MS. LODES: Correct. Okay. I have a motion and a second. Myrna, will you please call roll.

MS. BRUCE: David Gamble.

MR. GAMBLE: Yes.

MS. BRUCE: Gary Collins.

MR. COLLINS: Yes.

MS. BRUCE: Montelle Clark.

MR. CLARK: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Motion passed.

MS. BOTCHLET-SMITH: The next item on the Agenda is Number 5B. This is OAC 252:100-31, Control of Emissions of Sulfur Compounds. Mr. Brooks Kirlin of the staff will

give our presentation.

MR. KIRLIN: Madam Chairman, Members of the Council, ladies and gentlemen, I'm Brooks Kirlin. I am an engineer with the Rules and Planning Section.

The Department is proposing to amend the requirements of Subchapter 31, Control of Sulfur Compounds, and to clarify the existing language. You may recall that we have made presentations on Subchapter 31 and the SO2 of NAAQS at several previous Council meetings, and no action by the Council was taken on those occasions. This is the third time for the Council to consider the proposed amendments to Subchapter 31. We have included in your folder a version of the rules that shows the differences between our October proposal and today's proposal, including those that we presented at that time as additional changes at the last Council meeting. And that's

SUMMARY OF COMMENTS AND STAFF RESPONSES
FOR PROPOSED REVISION TO
OAC 252:100-1. GENERAL PROVISIONS

COMMENTS RECEIVED PRIOR TO THE *OCTOBER 5, 2011*
AIR QUALITY ADVISORY COUNCIL MEETING

Written Comments

Oklahoma Independent Petroleum Association (OIPA) - Letter received by email on September 28, 2011 from Ms. Angie Burckhalter, V.P. of Regulatory Affairs:

1. **COMMENT** DEQ proposes to define the term "commencement of operation" or "commencing operation" in OAC 252:100-1-3 to mean that "the owner or operator of a stationary source has begun, or caused to begin, any activity which has the potential to emit any regulated air pollutant." This would means the 60-day period provided by OAC 252:100-7-18(a)(1) for applying for an operating permit after start of operation would begin as soon as a single emitting source was installed at a minor facility even though the site was not completely constructed. This is very problematic at oil and gas production sites during the completion process when a single or a few emitting source(s) may be constructed; however, the site has not been fully constructed until the potential of a well has been determined. The 60-day period to submit a minor source operating permit would not be adequate for the oil and gas industry and it will unnecessarily increase the paperwork for both operators of the facility and DEQ staff in amending operating permits and/or applications. This would also be problematic at non-production sites where there is phased construction, which is very common in our industry. We request DEQ delay the approval of any amendments to Subchapter 1 until the DEQ staff can address the issues identified in Subchapter 7. This would allow the regulated community the opportunity to evaluate a complete rulemaking package that includes amendments to Subchapter 1 and Subchapter 7.

   RESPONSE: The DEQ staff is considering a revision to OAC 252:100-7-18(a)(1) that would increase the 60-day period to 120 days and intends to ask the Council to continue the hearing on the proposed changes to OAC 252:100-1-3 so that the proposed revisions to Subchapters 1 and 7 would occur at the same time. Further consideration will be given to the definition of "commencement of operation" or "commencing operation," taking into account comments received prior to and at the Council meeting.

   RESPONSE UPDATED JANUARY 3, 2011: At the October 5, 2011 meeting, the Air Quality Advisory Council continued the hearing on the proposed revisions to Subchapter 1 to the January 18, 2012 meeting. For consideration at the January 2012 meeting, DEQ has proposed revisions to the definition of "commencement of operation" and an extension of the 60-day period for applying for an operating permit to 180 days after the commencement of operation. This is consistent with the time period allowed for Part 70 sources in Subchapter 8.

United States Environmental Protection Agency (EPA) - Letter received by email on September 28, 2011 from Mr. Jeff Robinson, Chief, Air Permits Section:

2. **COMMENT:** The DEQ needs to clarify the intent of the proposed definition of "commencement of operation" and whether it specifically refers to Title V permitting only.

   RESPONSE: Staff intends that the definition of "commencement of operation" or "commencing operation" apply to the whole of OAC 252:100.

3. **COMMENT:** The proposed definition appears in Subchapters 1 and 8 that refer to both operating permits and construction permits which can be confusing to the reader.

   RESPONSE: DEQ is proposing to add a definition for the term "commencement of operation" or "commencing operation" to OAC 252:100-1-3 only and not to Subchapter 8. It is true that these two Subchapters apply to both operating and construction permit programs, but the proposed definition clearly applies to operation. Sections OAC 252:100-1-3, 252:100-7-1.1, 252:100-8-31, and 252:100-8-51 in the existing Air Pollution Control Rules all contain definitions for the term "commence", but in each definition it is clear that the term "commence" refers only to commence construction and not to commence operation. Oklahoma's SIP approved Air Pollution Control Rules 1.4.4(b)(9), 1.4.5(b)(10) and OAC 252:100-8-1.1 also contain definitions of "commence" but again it is clear in each definition that it applies only to construction.

4. **COMMENT:** DEQ should clarify that the proposed revisions will be limited to EPA's SIP review process and will not be submitted to EPA as separate Title V program revisions.

   RESPONSE: Upon promulgation, staff intends to forward this proposed revision to Subchapter 1 to EPA as a SIP revision. However, if EPA requires that the Title V Implementation Plan be updated, this revision may also be forwarded to EPA at a later date as a revision to the Title V Implementation Plan. However, the SIP revision is not intended to serve as a Title V Implementation Plan revision.

Chesapeake Energy - Letter received by email on October 3, 2011 from Jimmie Hammontree, Manager, Regulatory Affairs:

5. **COMMENT:** The proposed definition of "commencement of operation" or "commencing operation" in combination with existing paragraph OAC 252:100-7-18(a)(1) would require the operator to apply for the operating permit within 60 days of initial production even through the the site might not be fully constructed for several more weeks or months as the well is tested and its operational capacity determined. Once the operational capacity is determined, the operator will complete construction of the facility and apply for an operating permit. Chesapeake requests that DEQ delay the approval of the proposed changes to Subchapter 1 until the timing issue in Subchapter 7 can be addressed simultaneously.

   RESPONSE: The DEQ staff is considering a revision to OAC 252:100-7-18(a)(1) that would increase the 60-day period to 120 days and intends to ask the Council to continue the hearing on the proposed changes to OAC 252:100-1-3 so that the proposed revisions to Subchapters 1 and 7 would occur at the same time. Further consideration will be given to the definition of "commencement of operation" or "commencing operation," taking into

account comments received prior to and at the Council meeting.

RESPONSE UPDATED JANUARY 3, 2011: At their October 5, 2011 meeting, the Air Quality Advisory Council continued the hearing on the proposed revisions to Subchapter 1 to the January 18, 2012 meeting. For consideration at the January 2012 meeting, DEQ has proposed revisions to the definition of "commencement of operation" and an extension of the 60-day period for applying for an operating permit to 180 days after the commencement of operation. This is consistent with the time period allowed for Part 70 sources in Subchapter 8.

COMMENTS RECEIVED PRIOR TO THE *JANUARY 18, 2012* AIR QUALITY ADVISORY COUNCIL MEETING

Written Comments

No new written comments have been received as of January 12, 2012.

OKLAHOMA INDEPENDENT PETROLEUM ASSOCIATION

September 28, 2011

Mr. Eddie Terrill, Director
Air Quality Division
Oklahoma Department of Environmental Quality
707 N. Robinson
Oklahoma City, OK 73101

Re: ODEQ's Proposed Rulemaking Regarding OAC 252:100-1-3 (New Definition of "Commencement of Operation" or "Commencing Operation")

Dear Mr. Terrill:

The Oklahoma Independent Petroleum Association is providing comments in regards to the Oklahoma Department of Environmental Quality's (ODEQ's) proposed new definition of "Commencement of Operation" or "Commencing Operation" in OAC 252:100-1-3.

We appreciate the opportunity to provide input into ODEQ's rulemaking process, and submit the following comments for your consideration.

ODEQ is proposing a new definition in OAC 252:100-1-3 for "Commencement of Operation" or "Commencing Operation" which is as follows:

> *"Commencement of operation" or "commencing operation" means the owner or operator of the stationary source has begun, or caused to begin, **any** [emphasis added] activity which has the potential to emit any regulated air pollutant.*

OAC 252:100-7-18(a)(1) provides that:

> *"No person shall cause or authorize the operation of a new minor facility for more than a **60-day period** [emphasis added] without applying for a DEQ-issued air quality operating permit."*

The proposed new definition of "commencement of operation" specifically includes the term "any activity" which means the 60-day "clock" to obtain an operating permit would begin as soon as a single emitting source was installed at a minor source facility being constructed even though the site was not completely "constructed".

This is very problematic at oil and gas production sites during the completion process when a single or a few emitting source(s) may be constructed; however, the site has not been fully constructed until the potential of a well has been determined. The 60-day period to submit a minor source operating permit provided in OAC 252:100-7-

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18(a)(1) would not be adequate for our industry and it will unnecessarily increase the paperwork for both operators of the facility and ODEQ staff in amending operating permits and/or applications. This would also be problematic at non-production sites where there is phased construction, which is very common in our industry.

We request ODEQ delay the approval of any amendments to Subchapter 1 until the ODEQ staff can address the issues identified in Subchapter 7. This would allow the regulated community the opportunity to evaluate a complete rulemaking package that includes amendments to Subchapter 1 and Subchapter 7.

Again, we appreciate the opportunity to provide comments on ODEQ's proposed rulemaking. Thank you in advance for your consideration of these matters.

Sincerely,

Angie Burckhalter
V.P. of Regulatory Affairs

cc: Rob Singletary, ODEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

SEP 28 2011

Oklahoma Department of Environmental quality
Air Quality Division
P.O. Box 1677
Oklahoma City, OK 73101-1677
ATTN: Ms. Cheryl Bradley

RE: EPA Comments on Proposed Revisions to the Oklahoma Air Pollution Control Rules on Regulation of Certain Carbon Dioxide (CO_2) Emissions from Bioenergy and Biogenic Sources

Dear Ms. Bradley:

Thank you for providing us the opportunity to review and comment on the proposed revisions to the Oklahoma Air Code (OAC), Title 252, Chapter 100, Subchapters 1 and 8. As we understand, the proposed rulemaking will revise Oklahoma's State Implementation Plan (SIP) for its major source permitting rules to include the U.S. Environmental Protection Agency's (EPA) recent changes regarding permitting of CO_2 emissions from certain bioenergy and biogenic sources. This final rule titled "Deferral for CO_2 Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration (PSD) and Title V Programs" was published July 20, 2011 at 76 FR 43490.

We are generally supportive of the proposed rule revisions. The revisions appear to adequately adopt EPA's interim three-year deferral for biogenic CO_2 emissions from the state's PSD permitting program. We ask that Oklahoma Department of Environmental Quality (ODEQ) clarify the intent of the proposed definition of "commencement of operation" and whether it specifically refers to Title V permitting only. The proposed definition appears in Subchapters 1 and 8 that refer to both operating permits and construction permits which can be confusing to the reader. Further, we recommend that ODEQ provide clarification that the proposed revisions will be limited to EPA's SIP review process and will not be submitted to EPA as separate Title V program revisions.

Please note that our comments today do not constitute final determinations concerning approvability of the revisions to the Oklahoma State Implementation Plan. Additionally, our comments do not address the additional proposed rule revisions outlined in the Rule Impact Statement or other revisions to the SIP that are not directly related to the biogenic CO_2 emissions revisions.

We appreciate the timely efforts by the ODEQ to update its SIP and its willingness to consult EPA Region 6 throughout the process. We look forward to future collaboration with ODEQ on the implementation of the deferral of CO_2 emissions from bioenergy and biomass sources. If you have any questions, please feel free to contact me at 214-665-6435 or contact Ms. Erica Le Doux of my staff at 214-665-7265

Sincerely yours,

Jeff Robinson
Chief
Air Permits Section

Jimmie Hammontree
Manager, Regulatory Affairs – Northern Division

October 3, 2011

Mr. Eddie Terrill, Director
Air Quality Division
Oklahoma Department of Environmental Quality
707 N. Robinson
Oklahoma City, OK 73101

Re: ODEQ's Proposed Rulemaking Regarding OAC 252:100-1-3 (New Definitions of "Commencement of Operations" or "Commencing Operation")

Dear Mr. Terrill,

Chesapeake Energy Corporation ("Chesapeake") appreciates this opportunity to provide comments regarding the Oklahoma Department of Environmental Quality's ("ODEQ") proposed definition of "Commencement of Operations" or "Commencing Operation".

The OAC 252:100-7-18(a)(1) requires an operator of a minor source facility to acquire an operating permit within 60 days of commencing operation. The proposed definitions for "Commencement of Operations" or "Commencing Operation" found in OAC 252:100-1-3 state that operations are considered to begin when "any activity" results in the potential to emit a regulate air pollutant.

The result of the proposed definition would require an oil and gas operator to apply for an operating air permit within 60 days of completing a well. This short time table would be challenging for both the industry and the ODEQ. Often oil and gas operations will begin at a production site with only a few emissions sources on the location. However, the site may not be fully constructed for several more weeks or months as the well is tested and its operational capacity determined. Currently, once this point is reached the operator will complete construction of the facility and would be required to obtain an operating air permit.

The proposed rule changes would require the operator to apply for the operating permit within 60 days of initial production. However, the site may not be fully constructed at this point. This would be problematic for both the agency and ODEQ and would result in numerous permit modifications as the operator is finalizing the construction of the production location.

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Chesapeake requests that ODEQ delay the approval of the changes in subchapter 1 until the timing issue in subchapter 7 can be addressed simultaneously. This would allow the regulated community the opportunity to review and comment on a complete rule making package that addresses all of the issues raised.

We appreciate the opportunity to provide comments on ODEQ's proposed rule making. If you have any questions please feel free to contact me at (405) 935-6818.

Sincerely,

Jimmie Hammontree
Manager, Regulatory Affairs

(16) Modification of or addition to an existing permitted municipal wastewater treatment system (including sewer line extensions).
(17) Modification of or addition to an existing permitted public water supply treatment and/or distribution system (including line extensions).
(18) Modification of or addition to an existing permitted water reuse treatment and/or distribution system (including line extensions).
(~~18~~ 19) Modification of or addition to an existing permitted industrial non-discharging impoundment, industrial septic tank system, and/or industrial wastewater treatment system.
(~~19~~ 20) Modification of an approved pretreatment program.
(~~20~~ 21) Administrative amendment of permits or other authorizations for the correction of administrative or typographical errors.
(~~21~~ 22) New, modified or renewed individual categorical or significant industrial user pretreatment permit.
(~~22~~ 23) Modification of or addition of impoundment(s) to an existing permitted industrial wastewater treatment system.

252:4-7-74. Water quality applications - Tier II

The following water quality authorizations require Tier II applications.

(1) Permit to construct a new municipal wastewater treatment, and/or collection system, excluding line extensions.
(2) Permit to construct a new public water supply treatment and/or distribution system, excluding water line extensions.
(3) Permit to construct a new water reuse treatment and/or distribution system, excluding line extensions.
(~~3~~ 4) New discharge permit for minor facility.
(~~4~~ 5) Individual storm water permit.
(~~5~~ 6) New permit for industrial non-discharging impoundment, industrial septic tank, or industrial wastewater system.
(~~6~~ 7) New individual permit for land application of sludge, biosolids and/or ~~wastewater~~reclaimed water.
(~~7~~ 8) Permit renewal for a facility with expiring discharge permit.
(~~8~~ 9) Permit renewal for a facility with expiring individual storm water discharge permit.
(~~9~~ 10) Variance including thermal components of effluent limitations for an individual discharge permit.
(~~10~~ 11) Major modification of discharge permit.
(~~11~~ 12) Modification of an individual industrial permit for land application of sludge and/or wastewater.
(~~12~~ 13) New, modified or renewed general permit.

[OAR Docket #12-734; filed 5-25-12]

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

[OAR Docket #12-650]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
252:100-1-3 [AMENDED]
AUTHORITY:
Environmental Quality Board; 27A O.S. §§ 2-2-101, Air Quality Advisory Council, 27 A O.S. §§ 2-2-201 and 2-5-107, and Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*
DATES:
Comment period:
September 1, 2011 through October 5, 2011
December 1, 2011 through January 18, 2012
Public hearings:
October 5, 2011
January 18, 2012
February 24, 2012
Adoption:
February 24, 2012
Submitted to Governor:
March 2, 2012
Submitted to House:
March 2, 2012
Submitted to Senate:
March 2, 2012
Gubernatorial approval:
April 13, 2012
Legislative approval:
May 1, 2012
Final adoption:
Failure of the Legislature to disapprove the rule(s) resulted in approval on May 1, 2012
Effective:
July 1, 2012
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Department is proposing to:
(A) modify Subchapter 1 to complete the incorporation of the U. S. Environmental Protection Agency's (EPA's) recent changes to the Prevention of Significant Deterioration (PSD) and Part 70 permitting programs exempting biogenic carbon dioxide (CO_2) emissions from certain biomass sources;
(B) modify Subchapters 1 to resolve issues surrounding the date an application for an air quality operating permit must be submitted to the Department; and
(C) make other nonsubstantive changes in the sections of the rules that are being revised.
EPA has deferred for a period of three (3) years the application of the PSD and Part 70 permitting requirements to biogenic CO_2 emissions from bioenergy and other biogenic stationary sources. The proposed modification of the definition of "carbon dioxide equivalent emissions" or "CO_2e" in OAC 252:100-1-3, along with previous revisions of the definitions of "subject to regulation" in 252:100-8-2 and 252:100-8-31, will accomplish this deferral. Due to an error in the *Oklahoma Register* (28 OK Reg 1079) published June 15, 2011, the Department is proposing to correct the definition of CO_2e by replacing a dash that was erroneously converted to the letter "B". The Department proposes to add a definition of "fossil fuel" for further clarity in the CO_2 deferral. These proposed modifications to Subchapter 1 will ensure that the State rules regarding greenhouse gas permitting will not be perceived to be more stringent than the corresponding federal rules. The Department also proposes to change "PM-10" to "PM_{10}" and "PM-2.5" to "$PM_{2.5}$" in some definitions in 252:100-1-3 for consistency in formatting.
The Department is proposing changes to clarify the date an application for an air quality operating permit must be submitted. The Department proposes

to define the term "commencement of operation" or "commencing operation" in OAC 252:100-1-3 and use that term in 252:100-7-18(a)(1) and (2).

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 1. GENERAL PROVISIONS

252:100-1-3. Definitions

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

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

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

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

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

(A) the emission of air contaminants, or

(B) the effect of such emission.

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

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

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

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

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

"Carbon dioxide equivalent emissions" or **"CO_2e"** means an amount of GHG emitted, and shall be computed by multiplying the mass amount of emissions, for each of the six greenhouse gases in the pollutant GHG, by the gas' associated global warming potential (GWP) published in Table A-1 to subpart A of 40 CFR Part 98 ~~B~~ Global Warming Potentials, and summing the resultant value for each to compute a CO_2e. For purposes of the definitions of "subject to regulation" in OAC 252:100-8-2 and 252:100-8-31, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

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

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

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

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

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

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

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

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

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

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

"EPA" means the United States Environmental Protection Agency.

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

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

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

(A) Are under common control.

(B) Are located on one or more contiguous or adjacent properties.

(C) Have the same two-digit primary SIC Code (as described in the Standard Industrial Classification Manual, 1987).

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

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

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

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

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

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

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

"Greenhouse gas" or **"GHG"** means the air pollutant defined in 40 CFR § 86.1818-12(a) as the aggregate group of six greenhouse gases: carbon dioxide (CO_2), nitrous oxide (N_2O), methane (CH_4), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6).

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

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

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

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

"Installation" means an identifiable piece of process equipment.

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

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

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

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

"Malfunction" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or

usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

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

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

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

(B) the following shall not be considered a change in the method of operation:

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

(ii) an increase in hours of operation;

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

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

"New installation", "New source", or **"New equipment"** means an air contaminant source which is not in being on the effective date of these regulations and any existing source which is modified, replaced, or reconstructed after the effective date of the regulations such that the amount of air contaminant emissions is increased.

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

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

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

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

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

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

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

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

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

"~~PM-10~~ PM$_{10}$ emissions" means particulate matter emitted to the ambient air with an aerodynamic diameter of 10 micrometers or less as measured by applicable reference methods, or an equivalent or alternative method.

"~~PM-10~~ PM$_{10}$" means particulate matter with an aerodynamic diameter of 10 micrometers or less.

"~~PM-2.5~~ PM$_{2.5}$" means particulate matter with an aerodynamic diameter of 2.5 micrometers or less.

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

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

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

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

"Process equipment" means any equipment, device or contrivance for changing any materials or for storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants into the open air, but not including that equipment specifically defined as fuel-burning equipment, or refuse-burning equipment.

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

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

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

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

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

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

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

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

"Reconstruction" means

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

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

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

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

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

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

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

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

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

"Responsible official" means one of the following:

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

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

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

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

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

(D) For affected sources:

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

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

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

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

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

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

(B) is not an air pollution abatement operation.

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

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

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

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

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

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

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

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

[OAR Docket #12-650; filed 5-21-12]

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

[OAR Docket #12-651]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Permits for Minor Facilities
Part 3. Construction Permits
252:100-7-15. [AMENDED]
Part 4. Operating Permits
252:100-7-18. [AMENDED]
AUTHORITY:
Environmental Quality Board; 27A O.S. §§ 2-2-101, Air Quality Advisory Council, 27A O.S. §§ 2-2-201 and 2-5-107, and Oklahoma Clean Air Act, 27A O.S.§§ 2-5-101 *et seq.*
DATES:
Comment period:
September 1, 2011 through October 5, 2011
December 1, 2011 through January 18, 2012
Public hearings:
October 5, 2011
January 18, 2012
February 24, 2012
Adoption:
February 24, 2012
Submitted to Governor:
March 2, 2012
Submitted to House:
March 2, 2012
Submitted to Senate:
March 2, 2012
Gubernatorial approval:
April 13, 2012
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on May 1, 2012
Final adoption:
May 1, 2012
Effective:
July 1, 2012
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Department is proposing to:
(A) modify Subchapter7 to resolve issues surrounding the date an application for an air quality operating permit must be submitted to the Department;
(B) modify Subchapter 7 to achieve consistency between new sources and modifications regarding the requirement for air quality permits for facilities subject to federal New Source Performance Standards (NSPS, 40 CFR Part 60) and/or federal National Emission Standards for Hazardous Air Pollutants (NESHAPs, 40 CFR Parts 61 and 63); and
(C) make other nonsubstantive changes in the sections of the rule that are being revised.
The Department is proposing to revise OAC 252:100-7-15(a)(2)(B)(I) to narrow the requirement for an existing minor facility to obtain an individual air quality construction permit. The proposed revision would require an existing minor facility to obtain a construction permit to add a piece of equipment or a process that is subject to an emission standard, equipment standard, or work practice standard in an NSPS or NESHAP. A construction permit would not be required to add a process or equipment that is subject only to reporting and/or recordkeeping requirements in an applicable NSPS and/or NESHAP.
CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

PART 3. CONSTRUCTION PERMITS

252:100-7-15. Construction permit

(a) **Construction permit required.** 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 a piece of equipment or a process that is subject to ~~NSPS or NESHAP~~ 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 an increase in actual emissions of any one regulated air pollutant by more than 5 TPY.

(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.

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

SUBCHAPTER 2. INCORPORATION BY REFERENCE

252:100-2-1. Purpose

The purpose of this Subchapter is to incorporate by reference applicable provisions of Title 40 of the Code of Federal Regulations (40 CFR)~~(see OAC 252:100, Appendix Q)~~.

252:100-2-3. ~~Reference to Title 40, Code of Federal Regulations (40 CFR)~~ 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 August 1, 2011.

~~(a)~~ (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.

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

~~(1)~~ (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 ~~a specific subchapter of~~ this Chapter, the more stringent requirements shall apply.

~~(2)~~ (B) In the event that a specific date of incorporation is indicated in Appendix Q or ~~a specific~~ subchapter of this Chapter, the specified date of incorporation ~~specified in the specific subchapter~~ shall apply.

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

~~(1)~~ (A) "Administrator" is synonymous with "Executive Director."

~~(2)~~ (B) "EPA" is synonymous with "Department of Environmental Quality." (DEQ).

APPENDIX Q. INCORPORATION BY REFERENCE [NEW]

Except as provided under OAC 252:100-2-3(b)(2), the following provisions of Title 40 of the Code of Federal Regulations are hereby incorporated by reference as they existed on August 1, 2011, 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	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements
51	n/a	Appendix P to Part 51 - Minimum Emission Monitoring Requirements
58	n/a	Appendix A to Part 58 - Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring
60	A	General Provisions [Except 60.4, 60.9, 60.10 and 60.16]
60	D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August
60	Da	Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978
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

PART	SUBPART	DESCRIPTION
		After June 20, 1996
60	F	Standards of Performance for Portland Cement Plants
60	G	Standards of Performance for Nitric Acid Plants
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
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
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

PART	SUBPART	DESCRIPTION
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
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
60	BB	Standards of Performance for Kraft Pulp Mills
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
60	LL	Standards of Performance for Metallic Mineral Processing

PART	SUBPART	DESCRIPTION
		Plants
60	MM	Standards of Performance for Automobile and Light Duty Truck
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
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry
60	XX	Standards of Performance for Bulk Gasoline Terminals
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

PART	SUBPART	DESCRIPTION
		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
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
60	LLL	Standards of Performance for 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
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	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes
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	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries
60	VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities
60	WWW	Standards of Performance for Municipal Solid Waste Landfills
60	AAAA	Standards of Performance for Small Municipal Waste

PART	SUBPART	DESCRIPTION
		Combustion Units for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001
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	FFFF	Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004
60	IIII	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines
60	JJJJ	Standards of Performance for Stationary Spark Ignition Internal
60	KKKK	Standards of Performance for Stationary Combustion Turbines
60	LLLL	Standards of Performance for New Sewage Sludge Incineration Units
60	n/a	Appendix A to Part 60 - Test Methods
60	n/a	Appendix B to Part 60 - Performance Specifications
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

PART	SUBPART	DESCRIPTION
61	P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities
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
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

PART	SUBPART	DESCRIPTION
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities
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	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
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

PART	SUBPART	DESCRIPTION
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
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:

PART	SUBPART	DESCRIPTION
		Municipal Solid Waste Landfills
63	CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast
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
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

PART	SUBPART	DESCRIPTION
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
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	LLLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing

PART	SUBPART	DESCRIPTION
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	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
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

PART	SUBPART	DESCRIPTION
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
63	RRRRRR	National Emission Standards for Hazardous Air Pollutants for
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

PART	SUBPART	DESCRIPTION
		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
63	CCCCCCC	National Emission Standards for Hazardous Air Pollutants for
63	DDDDDDD	National Emission Standards for Hazardous Air Pollutants for
63	EEEEEEE	National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category
64	n/a (All Sections)	Compliance Assurance Monitoring (CAM)
72	All Subparts	Permits Regulation

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

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

[OAR Docket #11-981]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:100-1-3. [AMENDED]
Subchapter 2. Incorporation by Reference
252:100-2.1. [AMENDED]
252:100-2-3. [AMENDED]
Subchapter 8. Permits for Part 70 Sources
Part 5. Permits for Part 70 Sources
252:100-8-2. [AMENDED]
252:100-8-4. [AMENDED]
Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas
252:100-8-31. [AMENDED]
252:100-8-33. [AMENDED]
Part 9. Major Sources Affecting Nonattainment Areas
252:100-8-51.1. [AMENDED]
Subchapter 31. Control of Emission of Sulfur Compounds
Part 1. General Provisions
252:100-31-1. [AMENDED]
252:100-31-2. [AMENDED]
252:100-31-4. [NEW]
Part 2. Ambient Air Concentration Limits or Impacts for New and Existing Equipment, Sources, or Facilities
252:100-31-7. [AMENDED]
Part 3. Existing Equipment Standards
252:100-31-13. [AMENDED]
252:100-31-15. [AMENDED]
252:100-31-16. [AMENDED]
Part 5. New Equipment Standards
252:100-31-25. [AMENDED]
252:100-31-26. [AMENDED]
252:100-31-27. [AMENDED]
Appendix Q. Incorporation By Reference [REVOKED]
Appendix Q. Incorporation By Reference [NEW]

SUMMARY:

The Department is proposing to modify Subchapters 1 and 8 to include the Environmental Protection Agency's (EPA's) recent changes to the Prevention of Significant Deterioration (PSD) and Part 70 programs regarding permitting of carbon dioxide (CO_2) emissions from certain biomass sources. EPA has deferred for a period of three (3) years the application of the PSD and Part 70 permitting requirements to biogenic CO_2 emissions from bioenergy and other biogenic stationary sources. The Department proposes to modify the definition of "carbon dioxide equivalent emissions" or "CO_2e" in OAC 252:100-1-3 and the definitions of "subject to regulation" in 252:100-8-2 and 252:100-8-31 to accomplish this deferral. The proposed modification to Subchapter 1 and Parts 5 and 7 of Subchapter 8 will prevent the State rule from being perceived to be more stringent than the corresponding federal rule.

The Department is proposing to make a change to OAC 252:100-8-4(a)(1), which would clarify that construction permits for new and modified Part 70 sources shall be obtained under the requirements of Part 5 of 252:100-8 and not 252:100-7, Permits for Minor Facilities. In addition, a change is proposed to 252:100-8-4(b), which would set a schedule for a timely application submittal for sources that become subject to the Part 70 operating permit program without any physical or operational change or any increase in emissions of air pollutants subject to regulation.

Due to errors in the *Oklahoma Register* (28 OK Reg 19) published June 15, 2011, the Department is proposing a series of corrections to Subchapters 1 and 8. The corrections are in the definition of "carbon dioxide equivalent emissions" or "CO_2e" in OAC 252:100-1-3 where a dash was erroneously converted to the letter "B"; in paragraph (B) of the definition of "subject to regulation" in 252:100-8-2 and in paragraph (B)(i) of the definition of "subject to regulation"in 252:100-8-31 where dashes were erroneously converted to the letter "B"; in the definitions of "baseline area" and "significant" in 252:100-8-31 where "$\mu g/m^3$" was erroneously converted to "Fg/m^3"; in 252:100-8-33(c)(1) where a number of occurrences of "$\mu g/m^3$" were erroneously converted to "Fg/m^3"; and in 252:100-8-51.1(c) where the date of incorporation by reference was July 1, 2011 when it should have been July 1, 2010. The Department proposes to make other nonsubstantive changes in the sections of the rules that are being revised.

The Department is proposing changes to Subchapter 31, Control of Emission of Sulfur Compounds, to clarify the language and to bring the allowable sulfur dioxide (SO_2) ambient air limits set forth in OAC 252:100-31-7(a) into line with the requirements of the recently-enacted change to the SO_2 National Ambient Air Quality Standards (NAAQS). In addition, the Department is proposing to add requirements for fuel-burning equipment that use an alternative fuel. The Department is also proposing to add a new section 252:100-31-4, which aligns Subchapter 31 excess emission

reporting requirements with those of 252:100-9 for facilities that are also covered by a 40 CFR Part 60 emission limit.

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

AUTHORITY:

Generally, Environmental Quality Board powers and duties, 27A O.S. § 2-2-101, and 27A O.S.§ 2-5-106; Air Quality Advisory Council powers and duties, 27A O.S.§ 2-2-201 and 27A O.S.§ 2-5-107; and Oklahoma Clean Air Act, 27A O.S.§§ 2-5-101 through -117, and specifically 27A O.S.§§ 2-5-105 (OAC 252:100, Subchapters 1, 2, and 8, and Appendix Q), -112 (Subchapters 1, 2, 8, and 31, and Appendix Q), and -114 (Subchapter 8 and Appendix Q).

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 5, 2011. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the October 5, 2011 hearing and at the November 15, 2011 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 5, 2011, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on Tuesday, November 15, 2011, at the ExxonMobil Lawrence G. Rawl Engineering Practice Facility (REPF), 850 S. Jenkins, Room 200, Norman, OK 73019.

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 CFR § 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 CFR Part 70 and 27A O.S.§ 2-5-107(3).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENTS:

The rule impact statements are available for review 30 days prior to the hearing on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for this proposal is Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #11-981; filed 8-9-11]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 110. LEAD-BASED PAINT MANAGEMENT

[OAR Docket #11-982]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:110-1-1. Purpose [AMENDED]
252:110-1-2. Basis and authority [AMENDED]
252:110-1-7. Reference to 40 CFR [REVOKED]
Subchapter 5. Incorporation by Reference
252:110-5-1. Incorporation by reference [AMENDED]
Subchapter 15. Additional Renovation, Repair, and Painting (RRP) Requirements [NEW]
252:110-15-1. Definitions [NEW]
252:110-15-2. Scope [NEW]
252:110-15-3. Accreditation of training programs [NEW]
252:110-15-4. Renovator certification requirements [NEW]
252:110-15-5. Certification of firms conducting renovation services [NEW]
252:110-15-6. Fees [NEW]

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

SUBCHAPTER 2. INCORPORATION BY REFERENCE

252:100-2-1. Purpose

The purpose of this Subchapter is to incorporate by reference applicable provisions of Title 40 of the Code of Federal Regulations (40 CFR) ~~(see OAC 252:100, Appendix Q)~~.

252:100-2-3. ~~Reference to Title 40, Code of Federal Regulations (40 CFR)~~ 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 August 1, 2011.

~~(a)~~ (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.

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

~~(1)~~ (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 ~~a specific subchapter of~~ this Chapter, the more stringent requirements shall apply.

~~(2)~~ (B) In the event that a specific date of incorporation is indicated in Appendix Q or ~~a specific~~ subchapter of this Chapter, the specified date of incorporation ~~specified in the specific subchapter~~ shall apply.

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

~~(1)~~ (A) "Administrator" is synonymous with "Executive Director."

~~(2)~~ (B) "EPA" is synonymous with "Department of Environmental Quality" (DEQ).

APPENDIX Q. INCORPORATION BY REFERENCE [NEW]

Except as provided under OAC 252:100-2-3(b)(2), the following provisions of Title 40 of the Code of Federal Regulations are hereby incorporated by reference as they existed on August 1, 2011, 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	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements
51	n/a	Appendix P to Part 51 - Minimum Emission Monitoring Requirements
58	n/a	Appendix A to Part 58 - Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring
60	A	General Provisions [Except 60.4, 60.9, 60.10 and 60.16]
60	D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971
60	Da	Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978
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

PART	SUBPART	DESCRIPTION
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	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
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
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

PART	SUBPART	DESCRIPTION
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
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
60	BB	Standards of Performance for Kraft Pulp Mills
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

PART	SUBPART	DESCRIPTION
60	LL	Standards of Performance for Metallic Mineral Processing Plants
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations
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
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry
60	XX	Standards of Performance for Bulk Gasoline Terminals
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

PART	SUBPART	DESCRIPTION
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
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
60	LLL	Standards of Performance for 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
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	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes
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	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
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	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	FFFF	Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004
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	n/a	Appendix A to Part 60 - Test Methods
60	n/a	Appendix B to Part 60 - Performance Specifications
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

PART	SUBPART	DESCRIPTION
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
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
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

PART	SUBPART	DESCRIPTION
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
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

PART	SUBPART	DESCRIPTION
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)
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	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

PART	SUBPART	DESCRIPTION
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards
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

PART	SUBPART	DESCRIPTION
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units
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	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	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	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
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

PART	SUBPART	DESCRIPTION
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
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

PART	SUBPART	DESCRIPTION
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: Standards for 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
64	n/a (All Sections)	Compliance Assurance Monitoring (CAM)
72	All Subparts	Permits Regulation

APPENDIX Q. INCORPORATION BY REFERENCE [REVOKED]

Except as provided under OAC 252:100-2-3(b)(2), the following provisions of Title 40 of the Code of Federal Regulations are hereby incorporated by reference as they existed on December 10, 2009.

PART	SUBPART	DESCRIPTION
50	n/a	Appendix B to Part 50 - Reference Method for the Determination of Suspended Particulate
50	n/a	Appendix J to Part 50 - Reference Method for the Determination of Particulate Matter as
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
58	n/a	Appendix A to Part 58 - Quality Assurance Requirements for SLAMS, SPMs and PSD Air
60	A	General Provisions [Except 60.4, 60.9, 60.10 and 60.16]
60	D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is
60	Da	Standards of Performance for Electric Utility Steam Generating Units for Which Construction
60	Db	Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units
60	Dc	Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating
60	E	Standards of Performance for Incinerators
60	Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is
60	Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is
60	Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which
60	F	Standards of Performance for Portland Cement Plants
60	G	Standards of Performance for Nitric Acid Plants
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,
60	K	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction,
60	Ka	Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction,
60	Kb	Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum
60	L	Standards of Performance for Secondary Lead Smelters
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
60	Na	Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking
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

PART	SUBPART	DESCRIPTION
60	T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric
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
60	W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate
60	X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple
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
60	AAa	Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen
60	BB	Standards of Performance for Kraft Pulp Mills
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
60	LL	Standards of Performance for Metallic Mineral Processing Plants
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations
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
60	VVa	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry
60	XX	Standards of Performance for Bulk Gasoline Terminals
60	BBB	Standards of Performance for the Rubber Tire Manufacturing Industry
60	DDD	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the
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
60	GGGa	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which
60	HHH	Standards of Performance for Synthetic Fiber Production Facilities
60	III	Standards of Performance for Volatile Organic Compound (VOC) Emissions From the

PART	SUBPART	DESCRIPTION
60	JJJ	Standards of Performance for Petroleum Dry Cleaners
60	KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas
60	LLL	Standards of Performance for Onshore Natural Gas Processing: SO_2 Emissions
60	NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic
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	Standards of Performance for Volatile Organic Compound Emissions From Synthetic
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
60	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries
60	VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities
60	WWW	Standards of Performance for Municipal Solid Waste Landfills
60	AAAA	Standards of Performance for Small Municipal Waste Combustion Units for Which
60	EEEE	Standards of Performance for Other Solid Waste Incineration Units for Which Construction
60	FFFF	Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That
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	n/a	Appendix A to Part 60 - Test Methods
60	n/a	Appendix B to Part 60 - Performance Specifications
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
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
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

PART	SUBPART	DESCRIPTION
63	A	General Provisions
63	B	Sections 63.41, 63.43 and 63.44 only of Subpart B, Requirements for Control Technology
63	F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic
63	G	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic
63	H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks
63	I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes
63	J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and
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
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities
63	Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling
63	R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals
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
63	W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and
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
63	BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers
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
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
63	II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating)
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
63	MM	National Emission Standards for Hazardous Air Pollutants for Chemical Recovery
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

PART	SUBPART	DESCRIPTION
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
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic
63	CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process
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
63	GGG	National Emission Standards for Pharmaceuticals Production
63	HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission
63	III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam
63	JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and
63	LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement
63	MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient
63	NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass
63	OOO	National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of
63	PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols
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
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
63	VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment
63	XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production:
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
63	EEEE	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution
63	FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical
63	GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable
63	HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat
63	IIII	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles
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
63	NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large
63	OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of

PART	SUBPART	DESCRIPTION
63	PPPP	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts
63	QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood
63	RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal
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
63	VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing
63	WWWW	National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites
63	XXXX	National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing
63	YYYY	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion
63	ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating
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,
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
63	GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation
63	HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating
63	IIIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From
63	LLLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt
63	MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam
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
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
63	TTTTT	National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining
63	WWWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers
63	YYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc
63	ZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area
63	BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline
63	CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline
63	DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area
63	FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting
63	GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals

PART	SUBPART	DESCRIPTION
63	HHHHHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and
63	LLLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers
63	MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area
63	NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area
63	OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam
63	PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery
63	QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources
63	RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing
63	SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area
63	TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals
63	VVVVVV	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area
63	WWWWWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating
63	XXXXXX	National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine
63	YYYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys
63	ZZZZZZ	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for
63	AAAAAAA	National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt
63	CCCCCCC	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Paints
64	All Subparts	Compliance Assurance Monitoring (CAM)
72	All Subparts	Permits Regulation

MINUTES
AIR QUALITY COUNCIL Oct 5 2011
Department of Environmental Quality
Multipurpose Room
707 North Robinson, Oklahoma City, Oklahoma

Draft for November 15 EQB
Official after AQC Approval
January 18, 2011

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. on October 5, 2011 at the DEQ Multipurpose Room, 707 North Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on December 7, 2010 and on June 10, 2011 to change the date. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Mr. Scott Thomas, Manager of the Data and Planning Section of the Air Quality Division, convened the hearings by the Air Quality Advisory Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101-2-5-118. Mr. Thomas entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Bruce called roll and a confirmed that a quorum was present.

MEMBERS PRESENT	DEQ STAFF PRESENT	DEQ STAFF PRESENT
David Branecky	Beverly Botchlet-Smith	Brooks Kirlin
Montelle Clark	Scott Thomas	Nancy Marshment
Gary Collins	Cheryl Bradley	Dawson Lasseter
David Gamble	Rob Singletary	Joyce Sheedy
Jim Haught	Laura Finley	
Laura Lodes	Madison Miller	
Sharon Myers		

MEMBERS ABSENT	OTHERS PRESENT
Bob Lynch	Christy Myers, Court Reporter
Pete White	

Transcripts and Attendance Sheet are attached as an official part of these Minutes

Approval of Minutes – July 20, 2011 Regular Meeting Ms. Lodes called for a motion for approval. Mr. Haught moved to approve and Mr. Branecky made the second.

See Transcript pages 4 - 5

Gary Collins	Yes	Sharon Myers	Yes
Montelle Clark	Yes	David Branecky	Yes
Jim Haught	Yes	Laura Lodes	Yes

Meeting Schedule for Calendar Year 2012 The schedule discussed was for January 18, April 18, July 18, and October 17 with the April meeting scheduled in Tulsa. Mr. Branecky made the motion to approve that proposal and Mr. Clark made the second.

See Transcript pages 4 - 5

Gary Collins	Yes	Sharon Myers	Yes
Montelle Clark	Yes	David Branecky	Yes
Jim Haught	Yes	Laura Lodes	Yes

OAC 252:100-1 General Provisions
OAC 252:100-8 Permits for Part 70 Sources

Ms. Madison Miller, staff attorney, identified the proposed amendments to Subchapters 1 and 8 and pointed out comments that had been received. She stated that staff's recommendation was for Council to continue the hearing on OAC 252:100-1-3 but forward the proposal for OAC 252:100-8 to the Environmental Quality Board for permanent adoption. Following discussion by Council and public, Ms. Lodes called for a motion.

Mr. Branecky made motion to approve Subchapter 8 as presented and to continue Subchapter 1 to the January 2012 meeting.

See Transcript pages 11 - 53

Gary Collins	Yes	Sharon Myers	Yes
David Gamble	Yes	David Branecky	Yes
Montelle Clark	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:100-31 Control of Emission of Sulfur Compounds

Mr. Brooks Kirlin, engineer with the Rules and Planning Section, stated that the proposal would amend the requirements in SC 31 and clarify existing language. After a lengthy discussion, Ms. Myers made motion to continue the hearing to Council's January 2012 meeting. Mr. Collins made the second.

See Transcript pages 54 - 80

Gary Collins	Yes	Sharon Myers	Yes
David Gamble	Yes	David Branecky	Yes
Montelle Clark	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:110. Lead-Based Paint Management
Subchapter 1. General Provisions [AMENDED]
Subchapter 5. Incorporation by Referenee [AMENDED]
Subchapter 15. Additional Renovation, Repair and Painting (RRP) Requirements [NEW]

Ms. Laura Finley, staff attorney, advised that the Department's proposal would amend OAC 252:110, Lead-Based Paint Management, to add a new Subchapter 15. Ms. Finley explained that the proposed rule would establish state requirements that are consistent with EPA and affect contractors who perform renovation, repair, and painting projects in homes, child-care facilities and schools built before 1978. The rule would also establish fees for RRP firm certifications and for accreditations of training providers. Hearing no discussion, Ms. Lodes called for a motion. Mr. Branecky moved to pass the rule as presented and Mr. Haught made the second.

See Transcript pages 81- 86

Gary Collins	Yes	Sharon Myers	Yes
David Gamble	Yes	David Branecky	Yes
Montelle Clark	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:100-2. Incorporation By Reference [AMENDED]
Appendix Q. Incorporation by Reference [REVOKED]
Appendix Q. Incorporation by Reference[NEW]

Ms. Nancy Marshment advised that the proposal would update Subchapter 2 to clarify language and Appendix Q to incorporate by reference the latest changes to EPA regulations. Ms. Marshment identified the changes included in the proposal. Staff recommendation was to forward to the Environmental Quality Board for permanent adoption. Ms. Lodes called for a motion. Mr. Branecky moved approval as presented.

See Transcript pages 87 - 96

Gary Collins	Yes	Sharon Myers	Yes
David Gamble	Yes	David Branecky	Yes
Montelle Clark	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Division Director's Report - Ms. Beverly Botchlet-Smith, Air Quality Division Assistant Director, related that Mr. Terrill was at the NAACA meeting in Cleveland. She provided division updates and fielded comments regarding ozone standards and legislative funding.

New Business – None

Adjournment – Ms. Lodes adjourned the meeting adjourned at 11:00 a.m.

Transcripts and Attendance Sheet are attached as an official part of these Minutes.

Myers Reporting

* * * * *

TRANSCRIPT OF AIR QUALITY
COUNCIL MEETING
ON OCTOBER 5, 2011, AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
Christy Myers, CSR
P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
(405) 721-2882

MEMBERS OF THE COUNCIL

DAVID BRANECKY, MEMBER
LAURA LODES, CHAIR
JIM HAUGHT, VICE-CHAIR
PETE WHITE, MEMBER
SHARON MYERS, MEMBER
MONTELLE CLARK, MEMBER
GARY COLLINS, MEMBER
ROBERT LYNCH, MEMBER
DAVID GAMBLE, MEMBER

DEQ STAFF

MYRNA BRUCE
BEVERLY BOTCHLET-SMITH
EDDIE TERRILL
CHERYL BRADLEY
NANCY MARSHMENT
DIANA HINSON
ROBERT SINGLETARY
MADISON MILLER
BROOKS KIRLIN
LAURA FINLEY
DR. JOYCE SHEEDY

PROCEEDINGS

MS. LODES: Okay. Let's go ahead and call the meeting to order. I think we about have everybody here. I'd like to call today's meeting to order and, Myrna, would you please call roll.

MS. BRUCE: Good morning. Pete White is not here yet. Gary Collins.

MR. COLLINS: Here.

MS. BRUCE: And David Gamble is not here yet. Montelle Clark.

MR. CLARK: Present.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Here.

MS. BRUCE: Sharon Myers.

MS. MYERS: Here.

MS. BRUCE: David Branecky.

MR. BRANECKY: Here.

MS. BRUCE: Robert Lynch is not here yet. Laura Lodes.

MS. LODES: Here.

MS. BRUCE: We do have a quorum.

MS. LODES: The next item on today's Agenda is approval of the minutes from the July 20th, 2011 regular meeting. Do we have any comments or questions from the Council regarding the minutes?

Seeing no comments or questions, do we have a motion to pass the minutes.

MR. HAUGHT: I'll move that we accept the minutes as written.

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

MR. BRANECKY: Second.

MS. LODES: I have a motion and a second. Myrna, will you please the call roll.

MS. BRUCE: Gary Collins.

MR. COLLINS: Yes.

MS. BRUCE: Montelle Clark.

MR. CLARK: Yes.

MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. LODES: Thank you.
The next item on today's Agenda is the meeting schedule for the calendar year 2012. I have proposed meeting dates of January 18th, Oklahoma City; April 18th, in Tulsa; July 18th in Oklahoma City; and October 17th in Oklahoma City.
Do we have any comments, questions, suggestions on the said meeting dates?
(Inaudible conversations)
MS. LODES: Sharon, do you have any comments or suggestions for the meeting dates?

MS. MYERS: Oh, I'm sure it won't pass but Broken Bow sure would be nice in October. It's just a thought.
MS. LODES: I agree. I know we haven't done it in several years because of budget constraints.
MS. MYERS: Yeah.
MS. LODES: So --
MS. MYERS: I'm sure that there probably are still budget constraints.
MS. LODES: Okay. Any other thoughts from anybody else?
I need a motion to approve the minutes as proposed by the DEQ or -- for the -- motion to approve the dates as proposed by the DEQ.
MR. BRANECKY: So moved.
MS. LODES: Do I have a second?
MR. CLARK: I'll second.
MS. LODES: Thank you. I have a motion and a second. Myrna, will you please call roll.
MS. BRUCE: Broken Bow is lovely this time of year, I might add.
MS. LODES: I agree wholehearted.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: I guess. Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. LODES: And, you know, if the economy suddenly gets a whole lot better we could always, during the year, make a Council

change of the venue.
MS. MYERS: Great idea.
MS. LODES: We have done that in the past.
MS. MYERS: That's a great idea.
MS. LODES: I realize budgets would have to get far better.
MS. BOTCHLET-SMITH: You know, we really like going to Broken Bow but we just didn't get the same public participation.
MS. LODES: I know.
MS. BOTCHLET-SMITH: That's important, Laura.
MS. LODES: I realize it's important. I realize it's also nice for the people down in the southeast part of the state to have us down there, but we don't have the same volume of people who attend.
MS. BOTCHLET-SMITH: We can always consider it for the

Therefore, we respectfully request that the Council approve this rule change.

MR. THOMAS: At this time we will take comments and questions from the Council.

MS. LODES: I don't think we have any -- doesn't look like we have any comments.

MR. THOMAS: Being none, I haven't received any -- we haven't received any notices on comments that anyone wishes to speak or any Notices. Is there anyone in the audience that would like to address this Agenda item?

MS. LODES: Do we have any further questions or discussions from the Council?

Hearing none, do we have -- the DEQ has asked that we go ahead and pass this regulation. Do I have a motion?

MR. BRANECKY: I'll move that we pass the rule as presented

to us today by DEQ staff.

MS. LODES: Thank you, David. Do I have a second?

MR. HAUGHT: I'll second it.

MS. LODES: I have a motion and a second. Myrna, will you please the call roll.

MS. BRUCE: Gary Collins.

MR. COLLINS: Yes.

MS. BRUCE: David Gamble.

MR. GAMBLE: Yes.

MS. BRUCE: Montelle Clark.

MR. CLARK: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Motion passed.

MR. THOMAS: The next Agenda item is 5D, OAC 252:100-2 Incorporation by Reference and Appendix Q

Nancy Marshment, of the staff will give the presentation concerning these revisions.

MS. MARSHMENT: Madam Chair, Members of the Council, ladies and gentlemen, I am Nancy Marshment, Environmental Programs Specialist with the Air Quality Division. The Department is proposing to clarify language in Subchapter 2, Incorporation by Reference, to better connect its references to Appendix Q

In addition, the Department is proposing to revoke the current Chapter 100, Appendix Q, Incorporation by Reference, and adopt a new Appendix Q This proposal is part of the annual update of Title 40, Code of Federal Regulations, Incorporations by

Reference in Chapter 100.

Today is the third time the staff has presented this proposal to the Council. Changes to Appendix Q have been updated since the last presentation in January to reflect federal regulations that have been implemented as of August 1, 2011. The update would also incorporate any amendments to standards currently listed in Appendix Q

In your folders on the table are new copies of Appendix Q These do not match the one you received in your packets. Those did not include the changes that were included in the January proposal. The new copies, which are also available as handouts, show the additions and changes with highlighting to make it easier to spot them. And just a note that the ones on the table, for the audience, the highlighting did not

show up but all the changes are there. You just can't -- you have to look for them, I guess.

The following 40 CFR rules are being proposed for incorporation by reference in Appendix Q 40 CFR Part 60, Subpart LLLL, Standards of Performance for New Sewage Sludge Incineration Units.

40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Major Sources, Industrial, Commercial, and Institutional Boilers and Process Heaters.

40 CFR Part 63, Subpart JJJJJJ, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boiler Area Sources.

40 CFR Part 63, Subpart BBBBBBB, National Emission Standards for Hazardous Air Pollutants for Area Sources,

Chemical Preparations Industry.

40 CFR Part 63, Subpart DDDDDDD, National Emission Standards for Hazardous Air Pollutants for Area Sources, Prepared Feeds Manufacturing.

40 CFR Part 63, Subpart EEEEEEE, National Emission Standards for Hazardous Air Pollutants, Gold Mine Ore Processing and Production Area Source Category.

Also, the titles for two subparts have been modified. References to Part 63, Subpart CCCCCCC, and Part 64 were updated to reflect more precisely the titles as they appear in the Code of Federal Regulations.

Subchapter 2 changes are intended to clarify the purpose of the incorporations by reference and to make a better connection between the Subchapter and Appendix Q and no changes have been made to that

since the January proposal.

Notice was published in the Oklahoma Register on September 1, 2011 for these proposed changes. The Notice requested written comments from the public and other interested parties. No comments have been received as of today.

Staff requests the Council recommend this rulemaking to the Environmental Quality Board for permanent adoption.

I believe that you will need to adopt Appendix Q as amended with the previous changes included.

Thank you.

MR. THOMAS: Are there any questions or comments from the Council?

MR. HAUGHT: Nancy, so this August 1st date, the reference date, that's correct?

MS. MARSHMENT: Right. That was our cutoff for, you know, searching the Federal Register so

--

MR. HAUGHT: Okay.

MS. MARSHMENT: -- and typically we did it annually September 1st but since we had held it over, it's already a year behind, we just moved it up a little.

MR. HAUGHT: Okay.

MR. BRANECKY: Now do we have to revoke the Appendix Q? Vote to revoke Appendix Q and then adopt the new Appendix Q? Okay. Is that how it works?

MS. BOTCHLET-SMITH: Rob, do we need to vote to amend the packet or are we good with what is on the table today?

MR. SINGLETARY: As presented?

MS. BOTCHLET-SMITH: As presented. So we don't have to vote to amend what was previously sent out?

MR. SINGLETARY: No. You

just --
MS. BOTCHLET-SMITH: That was a question earlier. I just wanted to make sure that we got that right.
MR. SINGLETARY: Just that the motion would need to be clear that what's being adopted is as presented today.
MR. HAUGHT: Does that answer your question, David? Are you --
MR. BRANECKY: Yeah.
MR. HAUGHT: You weren't talking about not necessarily between the two versions that we have.
MR. BRANECKY: No.
MR. HAUGHT: You were talking about the existing --
MR. BRANECKY: Right. We have to revoke Appendix Q and then adopt a whole new Appendix Q
MR. HAUGHT: Okay. So that's still happening. Okay.

MR. BRANECKY: Yeah.
MS. MARSHMENT: Yeah. I just neglected to mention that but that's correct. That's typically what we do for all appendices. And thank you for pointing that out.
MR. THOMAS: Were there any more questions or comments from the Council? Are there any comments or questions from the audience?
MS. LODES: Hearing no further questions or comments, the DEQ has recommended that we revoke Subchapter Q and then adopt as proposed. Do I have a motion?
MR. BRANECKY: I'll move that we revoke Appendix Q and then adopt Subchapter -- Appendix Q as amended today -- presented to us today along with Subchapter 1.
MS. MARSHMENT: Subchapter 2.
MS. LODES: Subchapter 2.
MR. BRANECKY: Subchapter

2.
MS. MYERS: I second the motion.
MS. LODES: I have a motion and a second. Myrna, will you please call roll.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed
MR. THOMAS: That concludes the hearing portion.

Thank you.
(Hearings Concluded)

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

[OAR Docket #12-444]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 2. Incorporation By Reference
252:100-2-1. [AMENDED]
252:100-2-3. [AMENDED]
Appendix Q. Incorporation By Reference [REVOKED]
Appendix Q. Incorporation By Reference [NEW]
AUTHORITY:
Environmental Quality Board; 27A O.S.§§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*
DATES:
Comment period:
September 15, 2010 through October 27, 2010
December 15, 2010 through January 19, 2011
September 1, 2011 through October 5, 2011
Public hearing:
October 27, 2010, January 19, 2011, and October 5, 2011
November 15, 2011
Adoption:
November 15, 2011
Submitted to Governor:
November 21, 2011
Submitted to House:
November 21, 2011
Submitted to Senate:
November 21, 2011
Gubernatorial approval:
December 21, 2011
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2012
Final adoption:
March 29, 2012
Effective:
July 1, 2012
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
Incorporated standards as they existed on August 1, 2011:
40 CFR Part 60, Subpart LLLL, Standards of Performance for New Sewage Sludge Incineration Units
40 CFR Part 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters
40 CFR Part 63, Subpart JJJJJJ, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources
40 CFR Part 63, Subpart BBBBBBB, National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry
40 CFR Part 63, Subpart DDDDDDD, National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing
40 CFR Part 63, Subpart EEEEEEE, National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category
Incorporating rules:
252:100-2-3
Appendix Q. Incorporation By Reference
Availability:
The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m., excluding state holidays.
ANALYSIS:
The Department is proposing changes to Subchapter 2, Incorporation By Reference, to clarify the purpose. In addition, the Department is proposing to update the federal regulations incorporated by reference in Appendix Q. The existing Appendix Q will be revoked and a new Appendix Q will be adopted. These proposals are part of the annual review of Title 40, Code of Federal Regulations (40 CFR) incorporations by reference.
CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 2. INCORPORATION BY REFERENCE

252:100-2-1. Purpose

The purpose of this Subchapter is to incorporate by reference applicable provisions of Title 40 of the Code of Federal Regulations (40 CFR)~~(see OAC 252:100, Appendix Q)~~.

252:100-2-3. ~~Reference to Title 40, Code of Federal Regulations (40 CFR)~~ 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 August 1, 2011.

(~~a~~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.

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

(~~1~~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 ~~a specific subchapter of~~ this Chapter, the more stringent requirements shall apply.

(~~2~~B) In the event that a specific date of incorporation is indicated in Appendix Q or ~~a specific~~ subchapter of this Chapter, the specified date of incorporation ~~specified in the specific subchapter~~ shall apply.

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

(~~1~~A) "Administrator" is synonymous with "Executive Director."

(~~2~~B) "EPA" is synonymous with "Department of Environmental Quality." (DEQ).

APPENDIX Q. INCORPORATION BY REFERENCE [REVOKED]

APPENDIX Q. INCORPORATION BY REFERENCE [NEW]

Except as provided under OAC 252:100-2-3(b)(2), the following provisions of Title 40 of the Code of Federal Regulations are hereby incorporated by reference as they existed on August 1, 2011, 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	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements
51	n/a	Appendix P to Part 51 - Minimum Emission Monitoring Requirements
58	n/a	Appendix A to Part 58 - Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring
60	A	General Provisions [Except 60.4, 60.9, 60.10 and 60.16]
60	D	Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971
60	Da	Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978
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

PART	SUBPART	DESCRIPTION
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	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
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
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

PART	SUBPART	DESCRIPTION
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
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
60	BB	Standards of Performance for Kraft Pulp Mills
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

PART	SUBPART	DESCRIPTION
60	LL	Standards of Performance for Metallic Mineral Processing Plants
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations
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
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry
60	XX	Standards of Performance for Bulk Gasoline Terminals
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

PART	SUBPART	DESCRIPTION
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
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
60	LLL	Standards of Performance for 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
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	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes
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	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries
60	VVV	Standards of Performance for Polymeric Coating of Supporting

PART	SUBPART	DESCRIPTION
		Substrates Facilities
60	WWW	Standards of Performance for Municipal Solid Waste Landfills
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	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	FFFF	Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004
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	n/a	Appendix A to Part 60 - Test Methods
60	n/a	Appendix B to Part 60 - Performance Specifications
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

PART	SUBPART	DESCRIPTION
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
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
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

PART	SUBPART	DESCRIPTION
		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
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

PART	SUBPART	DESCRIPTION
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)
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	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

PART	SUBPART	DESCRIPTION
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards
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

PART	SUBPART	DESCRIPTION
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units
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	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	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	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
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

PART	SUBPART	DESCRIPTION
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
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

PART	SUBPART	DESCRIPTION
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
64	n/a (All Sections)	Compliance Assurance Monitoring (CAM)
72	All Subparts	Permits Regulation

[OAR Docket #12-444; filed 4-25-12]

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

SUBCHAPTER 8. PERMITS FOR PART 70 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 252:2-15-20(b)(3)~~ 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.

"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.

(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 ~~regulated~~ air pollutant (except gross particulate matter) 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 non-attainment areas, sources with the potential to emit 100 TPY or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 TPY or more in areas classified as "serious," 25 TPY or more in areas classified as "severe," and 10 TPY or more in areas 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 non-attainment areas:
(I) that are 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)~~ (PM_{10}) non-attainment areas classified as "serious," sources with the potential to emit 70 TPY or more of ~~PM-10~~ 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 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.

"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.

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)(D) or (E)~~ 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~~ Equal to or greater than 1 µg/m^3 (annual average) ~~of the pollutant for which the minor source baseline date is established.~~ for SO_2, NO_2, or PM_{10}; or equal or

greater than 0.3 µg/m^3 (annual average) for $PM_{2.5}$.

(A) Area redesignations under section ~~107(d)(1)(D) or (E)~~ 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~~ 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 ~~particulate matter~~ PM_{10} and sulfur dioxide, January 6, 1975~~, and~~;

(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 ~~particulate matter~~ PM_{10} and sulfur dioxide, August 7, 1977~~, and~~;

(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)(i)(D) or (E)~~ 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~~ 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~~ 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:

(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 ~~50~~ 250 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;

(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

(A) A regulated NSR pollutant is:

(i) any pollutant for which a NAAQS has been promulgated and any pollutant identified under (A)(i) of this definition as a ~~constituents or precursors for such pollutants identified by the Administrator (e.g., VOC and NO_x are precursors for ozone);~~ constituent or precursor to such pollutant. Precursors identified by the 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.

(ii) any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or

(iv) 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;

(v) PM emissions, $PM_{2.5}$ 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, $PM_{2.5}$, and PM_{10} in PSD permits.

(B) 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, ~~significant means~~ 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~~ 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",

~~(v)~~(vi) ozone: 40 TPY of VOC or NO_X,

~~(vi)~~(vii) lead: 0.6 TPY,

~~(vii)~~(viii) fluorides: 3 TPY,

~~(viii)~~(ix) sulfuric acid mist: 7 TPY,

~~(ix)~~(x) hydrogen sulfide (H_2S): 10 TPY,

~~(x)~~(xi) total reduced sulfur (including H_2S): 10 TPY,

~~(xi)~~(xii) reduced sulfur compounds (including H_2S): 10 TPY,

~~(xii)~~(xiii) municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.5×10^{-6} TPY,

~~(xiii)~~(xiv) municipal waste combustor metals (measured as particulate matter): 15 TPY,

~~(xiv)~~(xv) municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 40 TPY,

~~(xv)~~(xvi) municipal solid waste landfill emissions (measured as nonmethane organic compounds): 50 TPY.

(B) ~~Notwithstanding (A) of this definition, "significant" means any~~ 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) shall not be subject to regulation except as provided in (D) through (E) of this definition.

(B) For purposes of (C) through (E) 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 (D) through (E) 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 emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 TPY CO_2e or more.

(E) Beginning July 1, 2011, in addition to the provisions in (D) of this definition, the pollutant GHG shall also be subject to regulation:

(i) At a new stationary source that will emit or have the potential to emit 100,000 TPY CO_2e; or

(ii) At an existing stationary source that emits or has the potential to emit 100,000 TPY CO_2e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 TPY CO_2e or more.

(F) 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.

(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.

(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~~ significant monitoring concentrations (SMC):

(A) Carbon monoxide - 575 $\mu g/m^3$, 8-hour average,

(B) Nitrogen dioxide - 14 $\mu g/m^3$, annual average,

(C) $PM_{2.5}$ - 4 $\mu g/m^3$, 24-hour average,

~~(C)~~(D) ~~Particulate matter~~ PM_{10} - 10 $\mu g/m^3$, ~~TSP or PM-10,~~ 24-hour average,

~~(D)~~(E) Sulfur dioxide -13 $\mu g/m^3$, 24-hour average,

~~(E)~~(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,

~~(F)~~(G) Lead - 0.1 μg/m^3, 24-hour 3-month average,
~~(G)~~(H) Fluorides - 0.25 μg/m^3, 24-hour average,
~~(H)~~(I) Total reduced sulfur - 10 μg/m^3, 1-hour average,
~~(I)~~(J) Hydrogen sulfide - 0.2 μg/m^3, 1-hour average, or
~~(J)~~(K) Reduced sulfur compounds - 10μg/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~~ 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~~ 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)(2)~~ OAC 252:100-8-35(a)(1)(B).** The permitting requirements of ~~OAC 252:100-8-35(a)(2)~~ 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.

252:100-8-35. Air quality impact evaluation

(a) **Source impact analysis (impact on NAAQS and PSD increment).** ~~The owner or operator of the proposed source or modification shall demonstrate that, as of the source's start-up date, allowable emissions increase from that source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions) would not cause or contribute to any increase in ambient concentrations that would exceed:~~

(1) **Required demonstration.** The owner or operator of the proposed source or modification shall demonstrate that, as of the source's start-up date, allowable emissions increases from that source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions) would not cause or contribute to any increase in ambient concentrations that would exceed:

~~(1)~~(A) any NAAQS in any air quality control region; or

~~(2)~~(B) the remaining available PSD increment for the specified air contaminants in any area as determined by the Director.

(2) **Significant impact levels (SILs).** For purposes of $PM_{2.5}$, the demonstration required in OAC 252:100-8-35(a)(1) is deemed to have been made if the emissions increase from the new stationary source alone or from the modification alone would cause, in all areas, air quality impacts less than the following significant impact levels (SILs).

(A) The SILs for $PM_{2.5}$ annual averaging time are 0.06 $\mu g/m^3$ for a Class I Area, 0.3 $\mu g/m^3$ for a Class II Area, and 0.3 $\mu g/m^3$ for a Class III Area.

(B) The SILs for $PM_{2.5}$ 24-hour averaging time are 0.07 $\mu g/m^3$ for a Class I Area, 1.2 $\mu g/m^3$ for a Class II Area, and 1.2 $\mu g/m^3$ for a Class III Area.

(b) **Air quality models.**

(1) All estimates of ambient concentrations required under this Part shall be based on the applicable air quality models, data bases, and other requirements specified in appendix W of 40 CFR 51 (Guideline on Air Quality Models) as it existed on January 2, 2006.

(2) Where an air quality model specified in appendix W of 40 CFR 51 (Guideline on Air Quality Models) as it existed on January 2, 2006, is inappropriate, the model may be modified or another model substituted, as approved by the Administrator. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis. Modified or substitute models shall be submitted to the Administrator with written concurrence of the Director. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in Sec. 51.102 as it existed on January 2, 2006.

(c) **Air quality analysis.**

I. (1) **Preapplication analysis.**

(A) **Ambient air quality analysis.** Any application for a permit under this Part shall contain, as the Director determines appropriate, an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(i) for a new source, each regulated pollutant that it would have the potential to emit in a significant amount;

(ii) for a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

(B) **Monitoring requirements.**

(i) **Non-NAAQS pollutants.** For any such pollutant for which

no NAAQS exists, the analysis shall contain such air quality monitoring data as the Director determines is necessary to assess the ambient air quality for that pollutant in that area.

(ii) **NAAQS pollutants.** For visibility and any pollutant, other than VOC, for which a NAAQS does exist, the analysis shall contain continuous air quality monitoring data gathered to determine if emissions of that pollutant would cause or contribute to a violation of the NAAQS or any PSD increment.

(C) **Monitoring method.** With respect to any requirements for air quality monitoring of ~~PM-10~~ PM_{10} under OAC 252:100-8-33(e)(1) and (2), the owner or operator of the source or modification shall use a monitoring method approved by the Director and shall estimate the ambient concentrations of ~~PM-10~~ PM_{10} using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Director.

(D) **Monitoring period.** In general, the required continuous air monitoring data shall have been gathered over a period of up to one year and shall represent the year preceding submission of the application. Ambient monitoring data gathered over a period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application may be acceptable if such data are determined by the Director to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or modification will cause or contribute to a violation of any applicable NAAQS or consume more than the remaining available PSD increment.

(E) **Monitoring period exceptions.**

(i) **Exceptions for applications that became effective between June 8, 1981, and February 9, 1982.** For any application which became complete except for the monitoring requirements of OAC 252:100-8-35(c)(1)(B)(ii) and 252:100-8-35(c)(1)(D), between June 8, 1981, and February 9, 1982, the data that 252:100-8-35(c)(1)(B)(ii) requires shall have been gathered over the period from February 9, 1981, to the date the application became otherwise complete, except that:

(I) If the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

(II) 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 four months, the data that OAC 252:100-8-35(c)(1)(B)(ii) requires shall have been gathered over that shorter period.

(III) If the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the Director may waive the otherwise applicable requirements of OAC 252:100-8-35(c)(1)(E)(i) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(ii) **Monitoring period exception for ~~PM-10~~ PM_{10}.** For any

application that became complete, except for the requirements of OAC 252:100-8-35(c)(1)(B)(ii) and 252:100-8-35(c)(1)(D) pertaining to monitoring of ~~PM-10~~ PM_{10}, after December 1, 1988, and no later than August 1, 1989, the data that 252:100-8-35(c)(1)(B)(ii) requires shall have been gathered over at least the period from August 1, 1988, to the date the application becomes otherwise complete, except that if the Director determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not less than 4 months), the data that 252:100-8-35(c)(1)(B)(ii) requires shall have been gathered over that shorter period.

(F) **Ozone post-approval monitoring.** The owner or operator of a proposed major stationary source or major modification of VOC who satisfies all conditions of OAC 252:100-8-54 and 40 CFR 51, Appendix S, Section IV as it existed on January 16, 1979, may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under OAC 252:100-8-35(c)(1).

(2) **Post-construction monitoring.** The owner or operator of a new major stationary source or major modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the Director determines is necessary to determine the effect its emissions may have, or are having, on air quality in any area.

(3) **Operation of monitoring stations.** The operation of monitoring stations for any air quality monitoring required under this Part shall meet the requirements of 40 CFR 58 Appendix B as it existed January 2, 2006.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-50.1. Incorporation by reference

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

(b) **Terminology related to 40 CFR.** When these terms are used in rules incorporated by reference from 40 CFR, the following terms or definitions shall apply.

(1) "Baseline actual emissions" is synonymous with the definition of "baseline actual emissions" in OAC 252:100-8-31.

(2) "Building, structure, facility, or installation" is synonymous with the definition of "building, structure, facility, or installation" in OAC 252:100-1-3.

(3) "EPA" is synonymous with Department of Environmental Quality (DEQ) unless the context clearly indicates otherwise.

(4) "Major modification" is synonymous with the definition of "major modification" in OAC 252:100-8-51.

(5) "Net emissions increase" is synonymous with the definition of "net emissions increase" in OAC 252:100-8-51.

(6) "Regulated NSR pollutant" is synonymous with the definition of "regulated NSR pollutant" in OAC 252:100-8-51.

~~(6)~~ (7) "Reviewing authority" is synonymous with "Director".

~~(7)~~ (8) "Secondary emissions" is synonymous with the definition

of "secondary emissions" in OAC 252:100-8-1.1.

~~(8)~~(9) "State implementation plan" is synonymous with OAC 252:100.

~~(9)~~(10) "Volatile organic compound (VOC)" is synonymous with the definition of "volatile organic compound" or "VOC" in OAC 252:100-1-3.

252:100-8-51. Definitions

The definitions in 40 CFR 51.165(a)(1) are hereby incorporated by reference as they exist on ~~July 2, 2007~~ July 1, 2010, except for the definitions found at 40 CFR 51.165(a)(1)(xxxv) "baseline actual emissions"; (ii) "building, structure, facility, or installation"; (xlv) "fixed capital cost"; (xliv) "functionally equivalent component"; (v) "major modification"; (vi) "net emissions increase"; (xliii) "process unit"; (xxxvii) "regulated NSR pollutant"; (xxxviii) "reviewing authority"; (viii) "secondary emissions"; (xlvi) "total capital investment"; and (xix) "volatile organic compound (VOC)". With the exception of "reviewing authority", "fixed capital cost", "functionally equivalent component", "process unit", and "total capital investment", these terms are defined in OAC 252:100-8-31, 252:100-8-51, or 252:100-1-3. The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise.

"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 unit or net emissions increase at a major stationary source that is significant for VOC and/or oxides of nitrogen (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 source which the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, or the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 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 December 21, 1976;
(VII) any change in source ownership;
(VIII) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that 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.

(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 252:100-8-56 for a PAL for that pollutant. Instead the definition at 40 CFR 51.165(f)(2)(viii) shall apply.

(C) For the purpose of applying the requirements of OAC 252:100-8-54.1(a) to modifications at major stationary sources of NO_x located in ozone nonattainment areas or in ozone transport regions (as defined in 42 U.S.C. § 7511c), whether or not subject to subpart 2, part D, title I of the Act, any significant net emissions increase of NO_x is considered significant for ozone.

(D) Any physical change in, or change in the method of operation of, a major stationary source of VOCs that results in any increase in emissions of VOCs from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Act.

"Net emissions increase" means:

(A) With respect to any regulated NSR pollutant emitted by a major stationary source, net emissions increase shall mean 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 252:100-8-50(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 under OAC 252:100-8, Part 9, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old

level.

(E) A decrease in actual emissions is creditable only to the extent that:

(i) 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 enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(iii) the Director has not relied on it in issuing any permit under OAC 252:100; and,

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

(G) Paragraph 40 CFR 51.165(a)(1)(xii)(B) of the definition of "actual emissions" shall not apply for determining creditable increases and decreases or after a change.

"Regulated NSR pollutant" for purposes of this Part, means any or all of the following:

(A) Nitrogen oxides or volatile organic compounds;

(B) Any pollutant for which a NAAQS has been promulgated;

(C) Any pollutant that is identified under this paragraph as a constituent or precursor of a general pollutant listed under paragraph (A) or (B) of this definition, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(i) Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.

(ii) Sulfur dioxide is a precursor to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas.

(iii) Nitrogen oxides are presumed to be precursors to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas, unless the State demonstrates to the 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 and ammonia are presumed not to be precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations, or

(D) $PM_{2.5}$ emissions and PM_{10} emissions, including 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 nonattainment major NSR permits.

252:100-8-51.1. Emissions reductions and offsets

(a) The requirements in 40 CFR 51.165(a)(3) regarding emissions reductions and offsets are hereby incorporated by reference as they exist on July 2, 2007.

(b) ~~Meeting the emissions offset requirements in subsection OAC 252:100-8-51.1(a) for ozone nonattainment areas that are subject to subpart 2, part D, title I of the Act shall be in accordance with the requirements in 40 CFR 51.165(a)(9) which is hereby incorporated by reference as it exists on July 2, 2007.~~ The requirements in subsection 40 CFR 51.165(a) (9) dealing with offset ratios are hereby incorporated by reference as they exist on July 1, 2010.

(c) The requirements in 40 CFR 51.165(a)(11) regarding emission offsets are hereby incorporated by reference as they exist on July 1, 2010.

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

(a) The requirements in 40 CFR 51.165(b) regarding a source located in an attainment or unclassifiable area but causing or contributing to a NAAQS violation are hereby incorporated by reference as they exist on ~~July 2, 2007~~ December 20, 2010.

(b) Sources of VOC located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(c) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in OAC 252:100-8-52(a) are exempted from the condition of OAC 252:100-8-54(4)(A).

(d) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air quality standard for sulfur dioxide, particulate matter or carbon monoxide will be made on a case-by-case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.

(e) The determination as to whether a source would cause or contribute to a violation of applicable ambient air quality standards will be made on a case-by-case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

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

[OAR Docket #10-1316]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:100-1-3. Definitions [AMENDED]
252:100-1-4. Units, abbreviations and acronyms [AMENDED]
Subchapter 2. Incorporation By Reference
252:100-2.1. Purpose [AMENDED]
252:100-2-3. ~~Reference to Title 40, Code of Federal Regulations (40 CFR)~~ Incorporation by reference [AMENDED]
Subchapter 3. Air Quality Standards and Increments
252:100-3-4. Significant deterioration increments [AMENDED]
Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-2.3. Annual operating fees for toxics emissions [NEW]
Subchapter 7. Permits for Minor Facilities
Part 1. General Provisions
252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities [NEW]
Part 2. Permit Application Fees
252:100-7-3. Permit application fees [AMENDED]
Subchapter 8. Permits for Part 70 Sources
Part 3. Permit Application Fees
252:100-8-1.7. Permit application fees [AMENDED]
Part 5. Permits for Part 70 Sources
252:100-8-2. Definitions [AMENDED]
Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas
252:100-8-31. Definitions [AMENDED]
252:100-8-33. Exemptions [AMENDED]
252:100-8-35. Air quality impact evaluation [AMENDED]
Part 9. Major Sources Affecting Nonattainment Areas
252:100-8-50.1. Incorporation by reference [AMENDED]
252:100-8-51. Definitions [AMENDED]
252:100-8-51.1. Emissions reductions and offsets [AMENDED]
252:100-8-52. Applicability determination for sources in attainment areas causing or contributing to NAAQS violation [AMENDED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [REVOKED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [NEW]
Appendix E. Primary Ambient Air Quality Standards [REVOKED]
Appendix E. Primary Ambient Air Quality Standards [NEW]
Appendix Q. Incorporation By Reference [REVOKED]
Appendix Q. Incorporation By Reference [NEW]

SUMMARY:

The Department is proposing to modify Subchapters 7 and 8 to ensure that State rules affected by recent changes to the U.S. Environmental Protection Agency's (EPA's) policies and programs for greenhouse gas (GHG) emissions are not perceived to be more stringent than the corresponding federal requirements. GHG, an aggregate group of six gases (carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride), will become subject to regulation as an air pollutant on January 2, 2011, when the EPA and the U.S. Department of Transportation joint light-duty vehicle GHG emission standards become effective. If GHG emission sources are required to obtain Prevention of Significant Deterioration (PSD) and Part 70 permits at the current applicability thresholds of 100 or 250 tons per year, the number of PSD and Part 70 permits would increase to the point that the Department would be unable to deal with them in a timely fashion. These requirements could be interpreted to include agricultural, commercial, and residential sources that have not previously been subject to air quality permitting. In order to avoid this, EPA promulgated its GHG Tailoring Rule in the *Federal Register* on June 3, 2010 (75 FR 31514). EPA's rule defines the term "subject to regulation" to establish thresholds of 100,000 tons per year CO_2 equivalent (CO_2e) for PSD and Part 70 applicability and a significant level of 75,000 tons per year CO_2e for PSD. Although the Department accepts EPA's mechanism for implementing the GHG tailoring rule's higher GHG thresholds by accepting EPA's definition of "subject to regulation," the federal modification to the applicability of these permitting thresholds is not directly reflected in the Department's current rules. Consequently, the general public and many smaller sources not familiar with the interdependence of State Clean Air Act requirements and federal Clean Air Act requirements may interpret the lower PSD and Part 70 applicability thresholds set forth in

the Department's rules to apply to sources emitting lower levels of GHG. The proposed modification to Parts 5 and 7 of Subchapter 8 of the Air Pollution Control Rules clarifies the change in pollutants subject to regulation and the applicability thresholds for GHG based on the GHG Tailoring Rule. This should prevent smaller sources of GHG from expending resources in preparing unnecessary permit applications for GHG emissions. This will also prevent the State rule from being perceived to be more stringent than the corresponding federal rule.

The Department is also proposing to add a new section to Subchapter 7 to clarify that GHG is excluded from the minor facility permitting program except if necessary to set enforceable limits to keep GHG emission levels at a facility below the applicability threshold levels for the PSD construction permit program and/or the Part 70 operating permit program. At this time, EPA does not have a GHG permitting program for minor facilities.

In conjunction with the proposed changes to Subchapters 7 and 8 to address the federal Greenhouse Gas Tailoring Rule, the Department is proposing to modify Subchapter 1, General Provisions, by the addition of the definition of "greenhouse gas" or "GHG" to OAC 252:100-1-3. Also, modifications are proposed to OAC 252:100-1-4, relating to units, abbreviations, and acronyms, to correct scriveners' errors that inadvertently resulted in removal of superscripts and subscripts from the terms in subsection (a) of that Section.

The Department is proposing modifications to Parts 7 and 9 of Subchapter 8 to implement the New Source Review program (PSD and Nonattainment NSR) for the fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) which were published on July 18, 1997 (62 FR 38652) and revised on October 17, 2006 (71 FR 61144). In the May 16, 2008 *Federal Register* (73 FR 28321), EPA finalized the major source threshold, significant emissions rate, and offset ratios for $PM_{2.5}$, interpollutant tradiug for offsets and applicability of NSR to $PM_{2.5}$ precursors. In the October 20, 2010 *Federal Register* (75 FR 64864), EPA finalized the PSD increments, the Significant Impact Levels (SILs), and the Significant Monitoring Concentration (SMC) for $PM_{2.5}$. The proposed rule changes will establish provisions for a major source threshold, significant emissions rate, offset ratios for $PM_{2.5}$ NAAQS, interpollutant trading for offsets, SILs, and SMC that are consistent with those in the federal regulations set forth in 40 CFR § 51.165 and 40 CFR § 51.166.

The Department also proposes to correct an error in the definition of "major stationary source" in OAC 252:100-8-31. The current definition relating to municipal incinerators is more stringent than the federal definition set forth in 40 CFR § 51.166(b)(1).

The Department is proposing to modify Subchapter 3, Air Quality Standards and Increments, by the addition of the annual and 24-hour $PM_{2.5}$ increments to OAC 252:100-3-4, Significant deterioration increments. In the October 20, 2010 *Federal Register* (75 FR 64864), EPA finalized the PSD increments for $PM_{2.5}$.

The Department is proposing to clarify language in Subchapter 2, Incorporation By Reference, and to update OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. Included are changes or additions to 40 CFR Part 61, New Source Performance Standards (NSPS), and Part 63, National Emissions Standards for Hazardous Air Pollutants (NESHAP).

The Department is proposing to add a new section OAC 252:100-5-2.3 to Subchapter 5 of the air pollution control rules that will alter the Air Quality Division's current fee structure. The new section would allow the agency to invoice for emissions of hazardous air pollutants, lead, and lead compounds at a rate different from other regulated air pollutants and would require area sources subject to a NESHAP to pay an annual operating fee. In addition, the Department is considering an increase to permit application fees for both minor facilities and Part 70 sources by amending OAC 252:100-7, Part 2 and OAC 252:100-8, Part 3. The changes are designed to offset legislative budgetary shortfalls and cover current and anticipated staffing requirements in administering the Department's air pollution control programs.

The Department is proposing to amend Appendix A of OAC 252:100-17, Incinerators, to correct inaccuracies in Appendix A.

The Department proposes changing Appendix E to maintain consistency with the NAAQS. Specifically, the nitrogen dioxide (NO_2) and sulfur dioxide (SO_2) primary standards would be modified to reflect recent changes made by the EPA.

AUTHORITY:

Generally, Environmental Quality Board powers and duties, 27A O.S.§ 2-2-101, and 27A O.S.§ 2-5-106; Air Quality Advisory Council powers and duties, 27A O.S.§ 2-2-201 and 27A O.S.§ 2-5-107; and Oklahoma Clean Air Act, 27A O.S.§§ 2-5-101 through -117, and specifically 27A O.S.§§ 2-5-105 (OAC 252:100, Subchapters 1, 2, 3, 5, 7, 8, and Appendices A and E), -112 (Subchapters 1, 2, 3, 7, 8, and 31, and Appendices A and Q), -113 (Subchapters 5, 7, and 8), and -114 (Subchapter 5 and Appendix Q).

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 19, 2011. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the January 19, 2011 hearing and at the February 25, 2011 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 19, 2011, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on Friday, February 25, 2011, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

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 CFR § 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 CFR Part 70 and 27A O.S.§ 2-5-107(3).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENTS:

The rule impact statements are available for review 30 days prior to the hearing on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for this proposal is Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #10-1316; filed 11-22-10]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 110. LEAD-BASED PAINT MANAGEMENT

[OAR Docket #10-1317]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:110-1-1. Purpose [AMENDED]
252:110-1-2. Basis and authority [AMENDED]
252:110-1-7. Reference to 40 CFR [REVOKED]
Subchapter 5. Incorporation by Reference
252:110-5-1. Incorporation by reference [AMENDED]
Subchapter 15. Additional Renovation, Repair, and Painting (RRP) Requirements [NEW]
252:110-15-1. Definitions [NEW]
252:110-15-2. Scope [NEW]
252:110-15-3. Applicable dates [NEW]
252:110-15-4. Training programs accredited by other states or agencies [NEW]
252:110-15-5. Renovator certification requirements [NEW]
252:110-15-6. Certification of firms conducting renovation services [NEW]
252:110-15-7. Fees [NEW]

SUMMARY:

The Department is proposing to amend OAC 252:110, Lead-Based Paint Management, to add a new Subchapter 15, Additional Renovation, Repair, and Painting (RRP) Requirements. The proposed rule would establish state requirements that are consistent with those established by the U.S. Environmental Protection Agency (EPA) in 40 CFR Part 745 and affect contractors who perform renovation, repair, and painting projects in homes, child-care facilities, and schools built before 1978. This rule revision is essential to the Department's efforts to obtain EPA authorization to administer the Lead-Based Paint Renovation Program in Oklahoma. The proposal would establish fees for obtaining and renewing firm certifications and other associated services, which would be assessed after EPA has delegated the Department authority for the program. This proposed state rule is no more stringent than the federal rule and would incorporate changes to be consistent with the Department's current rules. In addition, the proposal includes amending OAC 252:110-5, Incorporation by Reference, to be consistent with the new subchapter.

The Department is proposing to revoke OAC 252:110-1-7, General Provisions, Reference to 40 CFR because it is a duplication of language already included in Subchapter 5, Incorporation by Reference. It is also proposing to amend OAC 252:110-1-1, Purpose, and OAC 252:110-1-2, Basis of Authority, to clarify regulatory language.

AUTHORITY:

Environmental Quality Board and Air Quality Advisory Council powers and duties, 27A O.S.§§ 2-2-101 and 2-2-201; and Oklahoma Lead-Based Paint Management Act, 27A O.S.§§ 2-12-101 and 2-12-201.

COMMENT PERIOD:

Written comments on the proposed rulemaking will be accepted prior to and at the hearing on January 19, 2011. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the January 19, 2011

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

SUBCHAPTER 8. PERMITS FOR PART 70 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 252:2-15-20(b)(3);

(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.

"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.

(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 ~~regulated~~ air pollutant (except gross particulate matter) 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 non-attainment areas, sources with the potential to emit 100 TPY or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 TPY or more in areas classified as "serious," 25 TPY or more in areas classified as "severe," and 10 TPY or more in areas 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 non-attainment areas:
(I) that are 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)~~ (PM_{10}) non-attainment areas classified as "serious," sources with the potential to emit 70 TPY or more of ~~PM-10~~ 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 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.

"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.

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)(D) or (E)~~ 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~~ Equal to or greater than 1 $\mu g/m^3$ (annual average) ~~of the pollutant for which the minor source baseline date is established.~~ for SO_2, NO_2, or PM_{10}; or equal or

greater than 0.3 µg/m^3 (annual average) for $PM_{2.5}$.

(A) Area redesignations under section ~~107(d)(1)(D) or (E)~~ 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~~ 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 ~~particulate matter~~ PM_{10} and sulfur dioxide, January 6, 1975~~, and~~;

(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 ~~particulate matter~~ PM_{10} and sulfur dioxide, August 7, 1977~~, and~~;

(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)(i)(D) or (E)~~ 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~~ 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~~ 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:

(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 ~~50~~ 250 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;

(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

(A) A regulated NSR pollutant is:

(i) any pollutant for which a NAAQS has been promulgated and any pollutant identified under (A)(i) of this definition as a ~~constituents or precursors for such pollutants identified by the Administrator (e.g., VOC and NO_x are precursors for ozone);~~ constituent or precursor to such pollutant. Precursors identified by the 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.

(ii) any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or

(iv) 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;

(v) PM emissions, $PM_{2.5}$ 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, $PM_{2.5}$, and PM_{10} in PSD permits.

(B) 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, ~~significant means~~ 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~~ 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",

~~(v)~~(vi) ozone: 40 TPY of VOC or NO_X,

~~(vi)~~(vii) lead: 0.6 TPY,

~~(vii)~~(viii) fluorides: 3 TPY,

~~(viii)~~(ix) sulfuric acid mist: 7 TPY,

~~(ix)~~(x) hydrogen sulfide (H_2S): 10 TPY,

~~(x)~~(xi) total reduced sulfur (including H_2S): 10 TPY,

~~(xi)~~(xii) reduced sulfur compounds (including H_2S): 10 TPY,

~~(xii)~~(xiii) municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.5×10^{-6} TPY,

~~(xiii)~~(xiv) municipal waste combustor metals (measured as particulate matter): 15 TPY,

~~(xiv)~~(xv) municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 40 TPY,

~~(xv)~~(xvi) municipal solid waste landfill emissions (measured as nonmethane organic compounds): 50 TPY.

(B) ~~Notwithstanding (A) of this definition, "significant" means any~~ 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) shall not be subject to regulation except as provided in (D) through (E) of this definition.

(B) For purposes of (C) through (E) 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 (D) through (E) 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 emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 TPY CO_2e or more.

(E) Beginning July 1, 2011, in addition to the provisions in (D) of this definition, the pollutant GHG shall also be subject to regulation:

(i) At a new stationary source that will emit or have the potential to emit 100,000 TPY CO_2e; or

(ii) At an existing stationary source that emits or has the potential to emit 100,000 TPY CO_2e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 TPY CO_2e or more.

(F) 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.

(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.

(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~~ significant monitoring concentrations (SMC):

(A) Carbon monoxide - 575 $\mu g/m^3$, 8-hour average,

(B) Nitrogen dioxide - 14 $\mu g/m^3$, annual average,

(C) $PM_{2.5}$ - 4 $\mu g/m^3$, 24-hour average,

~~(C)~~(D) ~~Particulate matter~~ PM_{10} - 10 $\mu g/m^3$, ~~TSP or PM-10,~~ 24-hour average,

~~(D)~~(E) Sulfur dioxide -13 $\mu g/m^3$, 24-hour average,

~~(E)~~(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,

~~(F)~~(G) Lead - 0.1 μg/m^3, 24-hour 3-month average,

~~(G)~~(H) Fluorides - 0.25 μg/m^3, 24-hour average,

~~(H)~~(I) Total reduced sulfur - 10 μg/m^3, 1-hour average,

~~(I)~~(J) Hydrogen sulfide - 0.2 μg/m^3, 1-hour average, or

~~(J)~~(K) Reduced sulfur compounds - 10μg/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~~ 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~~ 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)(2)~~ OAC 252:100-8-35(a)(1)(B).** The permitting requirements of ~~OAC 252:100-8-35(a)(2)~~ 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.

252:100-8-35. Air quality impact evaluation

(a) **Source impact analysis (impact on NAAQS and PSD increment).** ~~The owner or operator of the proposed source or modification shall demonstrate that, as of the source's start-up date, allowable emissions increase from that source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions) would not cause or contribute to any increase in ambient concentrations that would exceed:~~

(1) **Required demonstration.** The owner or operator of the proposed source or modification shall demonstrate that, as of the source's start-up date, allowable emissions increases from that source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions) would not cause or contribute to any increase in ambient concentrations that would exceed:

~~(1)~~(A) any NAAQS in any air quality control region; or

~~(2)~~(B) the remaining available PSD increment for the specified air contaminants in any area as determined by the Director.

(2) **Significant impact levels (SILs).** For purposes of $PM_{2.5}$, the demonstration required in OAC 252:100-8-35(a)(1) is deemed to have been made if the emissions increase from the new stationary source alone or from the modification alone would cause, in all areas, air quality impacts less than the following significant impact levels (SILs).

(A) The SILs for $PM_{2.5}$ annual averaging time are 0.06 $\mu g/m^3$ for a Class I Area, 0.3 $\mu g/m^3$ for a Class II Area, and 0.3 $\mu g/m^3$ for a Class III Area.

(B) The SILs for $PM_{2.5}$ 24-hour averaging time are 0.07 $\mu g/m^3$ for a Class I Area, 1.2 $\mu g/m^3$ for a Class II Area, and 1.2 $\mu g/m^3$ for a Class III Area.

(b) **Air quality models.**

(1) All estimates of ambient concentrations required under this Part shall be based on the applicable air quality models, data bases, and other requirements specified in appendix W of 40 CFR 51 (Guideline on Air Quality Models) as it existed on January 2, 2006.

(2) Where an air quality model specified in appendix W of 40 CFR 51 (Guideline on Air Quality Models) as it existed on January 2, 2006, is inappropriate, the model may be modified or another model substituted, as approved by the Administrator. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis. Modified or substitute models shall be submitted to the Administrator with written concurrence of the Director. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in Sec. 51.102 as it existed on January 2, 2006.

(c) **Air quality analysis.**

1. (1) **Preapplication analysis.**

(A) **Ambient air quality analysis.** Any application for a permit under this Part shall contain, as the Director determines appropriate, an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(i) for a new source, each regulated pollutant that it would have the potential to emit in a significant amount;

(ii) for a major modification, each regulated pollutant for which it would result in a significant net emissions increase.

(B) **Monitoring requirements.**

(i) **Non-NAAQS pollutants.** For any such pollutant for which no NAAQS exists, the analysis shall contain such air quality monitoring data as the Director determines is necessary to assess the ambient air quality for that pollutant in that area.

(ii) **NAAQS pollutants.** For visibility and any pollutant, other than VOC, for which a NAAQS does exist, the analysis shall contain continuous air quality monitoring data gathered to determine if emissions of that pollutant would cause or contribute to a violation of the NAAQS or any PSD increment.

(C) **Monitoring method.** With respect to any requirements for air quality monitoring of ~~PM-10~~ PM_{10} under OAC 252:100-8-33(e)(1) and (2), the owner or operator of the source or modification shall use a monitoring method approved by the Director and shall estimate the ambient concentrations of ~~PM-10~~ PM_{10} using the data collected by such approved monitoring method in accordance with estimating procedures approved by the Director.

(D) **Monitoring period.** In general, the required continuous air monitoring data shall have been gathered over a period of up to one year and shall represent the year preceding submission of the application. Ambient monitoring data gathered over a period shorter than one year (but no less than four months) or for a time period other than immediately preceding the application may be acceptable if such data are determined by the Director to be within the time period that maximum pollutant concentrations would occur, and to be complete and adequate for determining whether the source or modification will cause or contribute to a violation of any applicable NAAQS or consume more than the remaining available PSD increment.

(E) **Monitoring period exceptions.**

(i) **Exceptions for applications that became effective between June 8, 1981, and February 9, 1982.** For any application which became complete except for the monitoring requirements of OAC 252:100-8-35(c)(1)(B)(ii) and 252:100-8-35(c)(1)(D), between June 8, 1981, and February 9, 1982, the data that 252:100-8-35(c)(1)(B)(ii) requires shall have been gathered over the period from February 9, 1981, to the date the application became otherwise complete, except that:

(I) If the source or modification would have been major for that pollutant under 40 CFR 52.21 as in effect on June 19, 1978, any monitoring data shall have been gathered over the period required by those regulations.

(II) 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 four months, the data that OAC 252:100-8-35(c)(1)(B)(ii) requires shall have been gathered over that shorter period.

(III) If the monitoring data would relate exclusively to ozone and would not have been required under 40 CFR 52.21 as in effect on June 19, 1978, the Director may waive the otherwise applicable requirements of OAC 252:100-8-35(c)(1)(E)(i) to the extent that the applicant shows that the monitoring data would be unrepresentative of air quality over a full year.

(ii) **Monitoring period exception for ~~PM-10~~ PM_{10}.** For any application that became complete, except for the requirements of OAC 252:100-8-35(c)(1)(B)(ii) and 252:100-8-35(c)(1)(D) pertaining to monitoring of ~~PM-10~~ PM_{10}, after December l, 1988, and no later than August l, 1989, the data that 252:100-8-35(c)(1)(B)(ii) requires shall have been gathered over at least the period from August l, 1988, to the date the application becomes otherwise complete, except that if the Director

determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not less than 4 months), the data that 252:100-8-35(c)(1)(B)(ii) requires shall have been gathered over that shorter period.

(F) **Ozone post-approval monitoring.** The owner or operator of a proposed major stationary source or major modification of VOC who satisfies all conditions of OAC 252:100-8-54 and 40 CFR 51, Appendix S, Section IV as it existed on January 16, 1979, may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under OAC 252:100-8-35(c)(1).

(2) **Post-construction monitoring.** The owner or operator of a new major stationary source or major modification shall conduct, after construction, such ambient monitoring and visibility monitoring as the Director determines is necessary to determine the effect its emissions may have, or are having, on air quality in any area.

(3) **Operation of monitoring stations.** The operation of monitoring stations for any air quality monitoring required under this Part shall meet the requirements of 40 CFR 58 Appendix B as it existed January 2, 2006.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-50.1. Incorporation by reference

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

(b) **Terminology related to 40 CFR.** When these terms are used in rules incorporated by reference from 40 CFR, the following terms or definitions shall apply.

(1) "Baseline actual emissions" is synonymous with the definition of "baseline actual emissions" in OAC 252:100-8-31.

(2) "Building, structure, facility, or installation" is synonymous with the definition of "building, structure, facility, or installation" in OAC 252:100-1-3.

(3) "EPA" is synonymous with Department of Environmental Quality (DEQ) unless the context clearly indicates otherwise.

(4) "Major modification" is synonymous with the definition of "major modification" in OAC 252:100-8-51.

(5) "Net emissions increase" is synonymous with the definition of "net emissions increase" in OAC 252:100-8-51.

(6) "Regulated NSR pollutant" is synonymous with the definition of "regulated NSR pollutant" in OAC 252:100-8-51.

~~(6)~~ (7) "Reviewing authority" is synonymous with "Director".

~~(7)~~ (8) "Secondary emissions" is synonymous with the definition of "secondary emissions" in OAC 252:100-8-1.1.

~~(8)~~(9) "State implementation plan" is synonymous with OAC 252:100.

~~(9)~~(10) "Volatile organic compound (VOC)" is synonymous with the definition of "volatile organic compound" or "VOC" in OAC 252:100-1-3.

252:100-8-51. Definitions

The definitions in 40 CFR 51.165(a)(1) are hereby incorporated by reference as they exist on ~~July 2, 2007~~ July 1, 2010, except for the definitions found at 40 CFR 51.165(a)(1)(xxxv) "baseline actual emissions"; (ii) "building, structure, facility, or installation"; (xlv) "fixed capital

cost"; (xliv) "functionally equivalent component"; (v) "major modification"; (vi) "net emissions increase"; (xliii) "process unit"; (xxxvii) "regulated NSR pollutant"; (xxxviii) "reviewing authority"; (viii) "secondary emissions"; (xlvi) "total capital investment"; and (xix) "volatile organic compound (VOC)". With the exception of "reviewing authority", "fixed capital cost", "functionally equivalent component", "process unit", and "total capital investment", these terms are defined in OAC 252:100-8-31, 252:100-8-51, or 252:100-1-3. The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise.

"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 unit or net emissions increase at a major stationary source that is significant for VOC and/or oxides of nitrogen (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 source which the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, or the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7 or 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 December 21, 1976;

(VII) any change in source ownership;

(VIII) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that 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.

(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 252:100-8-56 for a PAL for that pollutant. Instead the definition at 40 CFR 51.165(f)(2)(viii) shall apply.

(C) For the purpose of applying the requirements of OAC 252:100-8-54.1(a) to modifications at major stationary sources of NO_X located in ozone nonattainment areas or in ozone transport regions (as defined in 42 U.S.C. § 7511c), whether or not subject to subpart 2, part D, title I of the Act, any significant net emissions increase of NO_X is

considered significant for ozone.

(D) Any physical change in, or change in the method of operation of, a major stationary source of VOCs that results in any increase in emissions of VOCs from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone nonattainment area that is subject to subpart 2, part D, title I of the Act.

"Net emissions increase" means:

(A) With respect to any regulated NSR pollutant emitted by a major stationary source, net emissions increase shall mean 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 252:100-8-50(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 under OAC 252:100-8, Part 9, which permit is in effect when the increase in actual emissions from the particular change occurs.

(D) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(E) A decrease in actual emissions is creditable only to the extent that:

(i) 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 enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(iii) the Director has not relied on it in issuing any permit under OAC 252:100; and,

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(F) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational after a reasonable shakedown period, not to exceed 180 days.

(G) Paragraph 40 CFR 51.165(a)(1)(xii)(B) of the definition of "actual emissions" shall not apply for determining creditable increases and decreases or after a change.

"Regulated NSR pollutant" for purposes of this Part, means any or all of the following:

(A) Nitrogen oxides or volatile organic compounds;

(B) Any pollutant for which a NAAQS has been promulgated;

(C) Any pollutant that is identified under this paragraph as a constituent or precursor of

a general pollutant listed under paragraph (A) or (B) of this definition, provided that such constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

(i) Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.

(ii) Sulfur dioxide is a precursor to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas.

(iii) Nitrogen oxides are presumed to be precursors to $PM_{2.5}$ in all $PM_{2.5}$ nonattainment areas, unless the State demonstrates to the 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 and ammonia are presumed not to be precursors to $PM_{2.5}$ in any $PM_{2.5}$ nonattainment area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations, or

(D) $PM_{2.5}$ emissions and PM_{10} emissions, including 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 nonattainment major NSR permits.

252:100-8-51.1. Emissions reductions and offsets

(a) The requirements in 40 CFR 51.165(a)(3) regarding emissions reductions and offsets are hereby incorporated by reference as they exist on July 2, 2007.

(b) ~~Meeting the emissions offset requirements in subsection OAC 252:100-8-51.1(a) for ozone nonattainment areas that are subject to subpart 2, part D, title I of the Act shall be in accordance with the requirements in 40 CFR 51.165(a)(9) which is hereby incorporated by reference as it exists on July 2, 2007.~~ The requirements in subsection 40 CFR 51.165(a) (9) dealing with offset ratios are hereby incorporated by reference as they exist on July 1, 2010.

(c) The requirements in 40 CFR 51.165(a)(11) regarding emission offsets are hereby incorporated by reference as they exist on July 1, 2010.

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

(a) The requirements in 40 CFR 51.165(b) regarding a source located in an attainment or unclassifiable area but causing or contributing to a NAAQS violation are hereby incorporated by reference as they exist on ~~July 2, 2007~~ July 1, 2011.

(b) Sources of VOC located outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be granted its permit since the area has not yet been designated nonattainment.

(c) Sources locating in an attainment area but impacting on a nonattainment area above the significant levels listed in OAC 252:100-8-52(a) are exempted from the condition of OAC 252:100-8-54(4)(A).

(d) The determination whether a source or modification will cause or contribute to a violation of an applicable ambient air quality standard for sulfur dioxide, particulate matter or carbon

monoxide will be made on a case-by-case basis as of the proposed new source's start-up date by an atmospheric simulation model. For sources of nitrogen oxides the model can be used for an initial determination assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level, and the initial concentration estimates will be adjusted if adequate data are available to account for the expected oxidation rate.

(e) The determination as to whether a source would cause or contribute to a violation of applicable ambient air quality standards will be made on a case-by-case basis as of the new source's start-up date. Therefore, if a designated nonattainment area is projected to be attainment as part of the state implementation plan control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.

MINUTES
AIR QUALITY COUNCIL
Department of Environmental Quality
707 North Robinson, Oklahoma City, OK
January 19, 2011

For EQB February 25, 2011
AQC Approved July 20, 2011

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. on January 19, 2011 at the Department of Environmental Quality in Oklahoma City. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on December 7, 2010. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith convened the hearings by the Air Quality Advisory Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101-2-5-118. Ms. Smith entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Bruce called roll stating that a quorum was present.

MEMBERS PRESENT	DEQ STAFF PRESENT	DEQ STAFF PRESENT
David Branecky	Eddie Terrill	Pat Sullivan
Montelle Clark	Beverly Botchlet-Smith	Joyce Sheedy
Gary Collins	Scott Thomas	Nancy Marshment
David Gamble	Cheryl Bradley	Diana Hinson
Jim Haught	Rob Singletary	Leon Ashford
Laura Lodes	Trevor Hammons	Myrna Bruce
Bob Lynch	Randy Ward	
Sharon Myers	Dawson Lasseter	
Pete White		

MEMBERS ABSENT

OTHERS PRESENT
Christy Myers, Court Reporter

Transcripts and Attendance Sheet are attached as an official part of these Minutes

Approval of Minutes – October 27, 2010 Regular Meeting Ms. Lodes called for a motion for approval. Ms. Myers moved to approve and Mr. Collins made the second.

See Transcript pages 4 – 5 Section A

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Election of Officers Ms. Myers made motion that Laura Lodes and Jim Haught to remain as the officers. Mr. Branecky made the second.

See Transcript pages 5 – 6 Section A

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]
OAC 252:100-7. Permits for Minor Facilities [AMENDED]
OAC 252:100-8. Permits for Part 70 Sources [AMENDED]

Ms. Pat Sullivan provided a slide presentation of the proposal which would add a new section OAC 252:100-5-2.3 that would allow the Department to assess certain area sources of hazardous air pollutants annual operating fees. In addition, the proposal would increase permit application fees for both minor facilities and Part 70 sources by amending OAC 252:100-7, Part 2 and OAC 252:100-8, Part 3. Staff fielded comments and questions from Council and the public. Ms. Cheryl Bradley read into the record alternative language that was suggested regarding the existing area sources. Ms. Lodes explained that there had been a number of discussions and called for a motion to adopt the rule package. Mr. Branecky made the motion to adopt as proposed with the revisions discussed with the caveat that DEQ provides a progress report of the income and expenditures at Council's October meeting. Mr. White made the second.

See Transcript pages 8 – 93

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:100-1. General Provisions [AMENDED]
OAC 252:100-3. Air Quality Standards and Increments [AMENDED]
OAC 252:100-7. Permits for Minor Facilities [AMENDED]
OAC 252:100-8. Permits for Part 70 Sources [AMENDED]

Dr. Joyce Sheedy advised that the proposal would modify Subchapters 1, 7, and 8 to ensure that State rules affected by recent changes to EPA's policies and programs for greenhouse gas emissions are not perceived to be more stringent than the corresponding federal requirements. Also, modifications to Subchapter 8 to implement the New Source Review (NSR) program for the fine particulate matter (PM2.5) National Ambient Air Quality Standards (NAAQS). The proposal would also modify Subchapter 3, Air Quality Standards and Increments, by the addition of the annual and 24-hour PM2.5 increments to OAC 252:100-3-4, Significant deterioration increments. Dr. Sheedy explained that the proposed modifications to these four subchapters are being presented in one hearing because both the greenhouse gas modifications and the PM2.5 modifications involve changes to Section 31 of Subchapter 8. She identified the changes being proposed. Staff fielded questions and comments from the public. Mr. Branecky moved to postpone the hearing in order that staff could develop the suggested language that could be incorporated into the rule. Ms. Myers made the second.

See Transcript Pages 3 – 28 Part 2

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Ms. Lodes called for a motion to continue the discussion on the greenhouse gas rules. Ms. Myers made the motion and Mr. Gamble made the second.

See Transcript Pages 56

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Ms. Cheryl Bradley presented the additional language for Council's consideration. Following discussion, Mr. Collins made motion to accept the proposed amendments as amended. Mr. Haught made the second.

See Transcript Pages 58 - 69

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [REVOKED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [NEW]

Ms. Diana Hinson advised that the proposal would revoke Appendix A and adopt a new Appendix A to correct inaccuracies. Hearing no discussion, Ms. Lodes called for a motion. Mr. Haught moved to accept as recommended and Mr. Clark made the second.

See Transcript Pages 28-31

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

APPENDIX E. Primary Ambient Air Quality Standards [REVOKED]
APPENDIX E. Primary Ambient Air Quality Standards [NEW]

Mr. Leon Ashford advised that the proposal was to revoke Appendix E and adopt a new Appendix E to maintain consistency with the NAAQS. Specifically, the nitrogen dioxide (NO2) and sulfur dioxide (SO2) primary standards would be modified to reflect recent changes made by the EPA. Following comments, Ms. Lodes called for a motion to pass the rule as proposed. Mr. Haught made the motion and Mr. Gamble made the second.

See Transcript Pages 31 - 37

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:100-2. Incorporation By Reference [AMENDED]
Appendix Q. Incorporation By Reference [REVOKED]
Appendix Q. Incorporation By Reference [NEW]

Ms. Nancy Marshment advised that the proposal would update Subchapter 2 to clarify language and Appendix Q, Incorporation By Reference, to incorporate by reference the latest changes to EPA regulations. She identified the changes that were being proposed. Staff requested that the Council table the hearing for this rulemaking until the Department is certain it has adequate resources to assume delegation for any additional federal standards. Following discussion, Mr. Pete White made motion to continue the hearing. Ms. Myers made the second.

See Transcript Pages 37 - 56

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:110. Lead-Based Paint Management
Subchapter 1. General Provisions [AMENDED]
Subchapter 5. Incorporation by Reference [AMENDED]
Subchapter 15. Additional Renovation, Repair and Painting (RRP) Requirements [NEW]
Mr. Trevor Hammons advised that the Department's proposal would amend OAC 252:110, Lead-Based Paint Management, to add a new Subchapter 15, Additional Renovation, Repair, and Painting (RRP) Requirements. The proposed rule would establish state requirements that are consistent with those established by EPA and affect contractors who perform renovation, repair, and painting projects in homes, child-care facilities, and schools built before1978. In addition, the proposal would establish fees to be charged by the Department for RRP firm certifications and other associated services. After much discussion, Mr. Branecky made motion to continue the hearing. Ms. Myers made the second.

See transcript pages Item F page 2 - 53

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Division Director's Report - Eddie Terrill mentioned EPA initiatives and the upcoming Legislative session.

New Business - None

Adjournment – Ms. Lodes adjourned the meeting adjourned at 1:00 p.m.

Transcripts and Attendance Sheet are attached as an official part of these Minutes.

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL MEETING
ITEMS 5B THROUGH 5E
ON JANUARY 19, 2011, AT 9:00 AM
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
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MEMBERS OF THE COUNCIL

LAURA LODES, CHAIR
JIM HAUGHT, VICE-CHAIR
PETE WHITE, MEMBER
SHARON MYERS, MEMBER
MONTELLE CLARK, MEMBER
DAVID GAMBLE, MEMBER
GARY COLLINS, MEMBER
ROBERT LYNCH, MEMBER
DAVID BRANECKY, MEMBER

DEQ STAFF

MYRNA BRUCE
BEVERLY BOTCHLET-SMITH
EDDIE TERRILL
CHERYL BRADLEY
ROBERT SINGLETARY
PAT SULLIVAN
NANCY MARSHMENT
DIANA HINSON
LEON ASHFORD
TREVOR HAMMONS
DIANA HINSON
JOYCE SHEEDY

PROCEEDINGS

ITEM NUMBER 5B

MS. BOTCHLET-SMITH: Since it's been awhile since we got here I'd just like to remind everyone if you wish to comment you can fill out one of the forms at the registration table for any of these future rules that are on the Agenda. And also to remind everyone that when they come to the podium to please state your name, because that really helps out our court reporter.

The next item on the Agenda is 5B. This is OAC 252:100-1, General Provisions. OAC 252:100-3, Air Quality Standards and Increments. OAC 252:100-7, Permits for Minor Facilities. OAC 252:100-8, Permits for Part 70 Sources. And Dr. Joyce Sheedy of the DEQ Air Quality Division will be giving the staff presentation today.

DR. SHEEDY: Okay.

Madam Chair, Members of the Council, ladies and gentlemen. The Department is proposing greenhouse

gas or GHG modifications to Subchapters 1, 7, and 8; and PM2.5, which is also known as fine particulate matter, modifications to Subchapters 3 and 8.

The proposed modifications to these four subchapters are being presented in one hearing because both the greenhouse gas modifications and the PM2.5 modifications involve changes to Section 31 of Subchapter 8.

Under the State's rulemaking procedures a section of rules may only be modified once in a year and the state is required to submit a state implementation plan known as a SIP revision to EPA in 2011 incorporating Phase 1 of the PM2.5 NSR implementation rule. And the greenhouse gas emergency rule changes to Subchapter 1, Subchapter 7, and Subchapter 8 incorporating EPA's Tailoring Rule provisions will expire on July the 14th, 2011.

Therefore it's important that both the greenhouse gas modifications and the PM2.5 modifications be considered together.

The Department is proposing modifications to the General Provisions in Subchapter 1, the Minor Facility Permitting Program in Subchapter 7, and the Part 70 and PSD permitting programs in Subchapter 8. These modifications will clarify that the State's permitting rules implement the provisions of EPA's Greenhouse Gas Tailoring Rule and are no more stringent than the federal permitting rules.

The Council first considered the greenhouse gas modifications at its last meeting on October 27, 2010. At that meeting, the Council voted to forward these modifications to the Environmental Quality Board with the recommendation that they be adopted as emergency rule changes.

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At that same meeting, the Council voted to continue the hearing on the proposed permanent rules to today's meeting. The Board approved the proposed emergency rules at its meeting on November 16, 2010, and the amendments became effective on December 27, 2010, when signed by Governor Henry. These emergency rules are in effect until July 14, 2011, or until superseded by permanent rules, whichever date is earlier. The proposed greenhouse gas modifications to Subchapters 1, 7, and 8 are substantively identical to the emergency rule changes, but they are not word for word the same. We've cleaned it up a bit. We added a few commas for consistency in punctuation; we've added a word or two for clarity; and we've deleted a redundant word or two, but we believe the meaning remains unchanged.

Staff proposes to change the

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last sentence in proposed new Section 2.1 of Subchapter 7 that was posted on our website and was included in the Council packets. I believe a copy of that revised wording has been included in the Council's folders today.

Staff recommends that the sentence should be, quote -- well there are no quotes in it -- it should be, 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. This is not a substantive change.

The Department is also proposing some minor changes to Subchapter 1 that are being presented to the Council for the first time today.

The Department is proposing modifications to the State's PSD and

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Nonattainment New Source Review or NNSR permitting programs to implement the changes in federal requirements brought about by the new National Ambient Air Quality Standards or NAAQS for PM2.5 published in 1997 and revised in 2006.

These proposed changes will update the PSD increments in Subchapter 3 and the NSR program in Subchapter 8, and enable the Department to maintain its delegated authority for the full NSR program.

Phase 1 of the implementation rule -- of the NSR implementation rule was published on May 16, 2008 and established a major source threshold, significant emission rates, offset ratios, interpollutant trading for offsets, and applicability of NSR to PM2.5 precursors. These modifications were proposed at the October 27, 2010, Council meeting. In October

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the Council continued the hearing on the proposed PM2.5 modifications to Subchapter 8 until today's meeting. These proposed modifications have not been changed.

Phase 2 of the NSR implementation rule was published in the Federal Register on October 20, 2010 and contains PM2.5 increments, Significant Impact Level or SILs, and a Significant Monitoring Concentration or SMC.

Staff is proposing for the first time changes to Subchapter 3 and Subchapter 8 to incorporate these provisions. The proposed modifications to OAC 252:100-3-4(b) adds the new 24-hour and annual PM2.5 PSD increments.

The proposed changes to Subchapter 8 modify the definition of "baseline area" and "baseline date" in OAC 252:100-8-31 to include PM2.5. Excuse me. Modifies Section 33 Subsection (c) to include a

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significant monitoring concentration for PM2.5 and it modifies 8-33(g) to reflect the change that was made in 252:100-8-35(a) regarding air quality impact evaluation. It modifies 252:100-8-35(a) to add significant impact levels for PM2.5 and update -- it updates the incorporation by reference date in Section 52 to December 20, 2010, to include the revision to 40 CFR 51.165(b)(2) regarding sources in attainment areas that cause or contribute to NAAQS violation. This last modification adds a significance level for PM2.5.

We propose to change the incorporation by reference date for 40 CFR 51.165(b)(2) from July 1, 2011, to December 20, 2010, the effective date of the federal rule modification. This will ensure that there is no prospective incorporation of reference for this federal rule. A copy of the

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proposed change is included in the Council's folder today.

While these Sections are open for revision, the Department also proposes to make some additional corrections and non-substantive clarifications and format changes to Subchapter 8.

The Department proposes to correct a reference error in the definition of "administratively complete" in OAC 252:100-8-2 to Paragraph (b). The reference to OAC 252:2-15-20(b)(3) needs to be changed to OAC 252:4-7-13(b) since Chapter 2 has been changed to Chapter 4. This was brought to our attention -- I'm running out of voice -- after the Council packets were mailed. This is not a substantive change. And a copy of this change has been included in the Council folder today.

As presented in the October 27, 2010 Council meeting, the

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Department proposes to correct an error in the definition of "major stationary source" in Section 31 by changing the charging rate for municipal incinerators in (A)(i)(XIV) of the definition from 50 tons of refuse per day to 250 tons of refuse per day to match the federal definition in 40 CFR 51.166(b)(1). This is a substantive change.

The Department also proposes to make some format and non-substantive language changes to Subchapter 8 for clarity. For example, PM dash 10 (PM-10) is now being replaced by PM subscript 10.

Notice of the proposed permanent rule changes was published in the Oklahoma Register on December 15, 2010. The notice requested written comments from the public and other interested parties.

On January 18, 2011, the Department received a letter from

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Jeff Robinson, Chief, Air Permits Section of EPA Region 6. Mr. Robinson encouraged the Department to expeditiously adopt the proposed greenhouse gas modifications to Subchapter 8 permanent rules. He did not comment on the greenhouse gas modification to Subchapter 7 or the PM2.5 modifications.

EPA has, in the latest on the continuing saga of greenhouse gas, EPA made public notice on the 12th of January in which they announced they were deferring greenhouse gas permitting requirements for CO2 emissions from biomass-fired and other biogenic sources for 3 years for further study. The sources covered would, at least as they announced, would be facilities that emit CO2 as a result of burning forest or agricultural products for energy, wastewater treatment and livestock management facilities, landfills, and fermentation

processes for ethanol production. EPA announced that they plan to complete the rulemaking by July 2011 that will accomplish this deferral and they plan to issue guidance shortly that will provide a basis that permitting authorities can use to conclude that the use of biomass as fuel is BACT for GHG emissions until EPA can complete it deferral rulemaking.

Staff requests that the proposed greenhouse gas, and PM2.5, and miscellaneous amendments to Subchapters 1, 3, 7, and 8, as we modified at this meeting, be forwarded to the Environmental Quality Board with the recommendation that they be adopted as permanent rule changes.

Thank you.

MS. BOTCHLET-SMITH: Do we have any questions from the Council for Dr. Sheedy? David.

MR. BRANECKY: Yes. Under

Subchapter 8 on Page 9 on the definition of baseline date.

DR. SHEEDY: Hang on a minute.

MR. BRANECKY: I'm trying to understand. You've got the major source baseline date.

DR. SHEEDY: Okay.

MR. BRANECKY: You've got -- for major source in the case of PM2.5 on October 20, 2010 in (a) --

DR. SHEEDY: Uh-huh.

MR. BRANECKY: -- and then in (b) we talk about 2.5 being October 20, 2011.

DR. SHEEDY: The minor source baseline date.

MR. BRANECKY: How did you come up with 2011?

DR. SHEEDY: Well, these are EPA's dates that are in the Federal Register -- in the rulemaking Federal Register, these are the dates that they have.

MR. BRANECKY: Well, if you

look at (b) it says the minor source baseline date --

DR. SHEEDY: Uh-huh.

MR. BRANECKY: -- which I guess (b) refers to --

DR. SHEEDY: Uh-huh.

MR. BRANECKY: -- is the earliest date after the trigger date on which a major stationary source or a major modification submits a completed application. So I'm --

DR. SHEEDY: Okay.

MR. BRANECKY: -- trying to understand how you came up with October 20, 2011, it's depended upon when a major stationary source submits a completed application.

DR. SHEEDY: No. The trigger date -- the trigger date is -- is different. The baseline date is the earliest date after the trigger date.

MR. BRANECKY: Okay.

DR. SHEEDY: And EPA has set that trigger date.

MR. BRANECKY: Okay. I understand. There's a baseline date and a trigger date.

DR. SHEEDY: Right.

MR. BRANECKY: Okay.

DR. SHEEDY: Not the same.

MR. BRANECKY: Okay. Thank you.

DR. SHEEDY: Baseline date is nothing if not confusing, at least to me.

MS. BOTCHLET-SMITH: Sharon.

MS. MYERS: On some of the definitions the carbon dioxide equivalent is not defined until you start finding it buried under the subject to regulation. I'm just kind of curious as to why that's structured like that. Greenhouse gas has its own definition but the carbon dioxide equivalent does not; it's buried underneath another definition.

DR. SHEEDY: Well, we

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basically echoed EPA's method of doing this which was, I think, based on an approach they were using to be able to do these changes in a much more rapid manner than usual and they stuck it there. I don't suppose there is any thing that would keep us from taking it out of there and putting it into a definition of its own.

MS. MYERS: It seems like it would be a little cleaner. If you're looking through this trying to figure out what a carbon dioxide equivalent is, it seems like it would be a little cleaner approach --

DR. SHEEDY: Yeah.

MS. MYERS: -- for it to have its own designation just like GHG does.

DR. SHEEDY: Yeah. It might be easier to find.

MS. MYERS: Just an observation.

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DR. SHEEDY: Yeah. I think that could be -- I think that could be done without destroying the meaning of the modification.

MR. BRANECKY: So you're saying put it in the definition section up front?

MS. LODES: In Subchapter 1?

MR. BRANECKY: Or in subchapter --

MS. MYERS: It's referenced in Subchapter 1 as an acronym --

MR. BRANECKY: Right.

MS. MYERS: -- and then you go back into --

DR. SHEEDY: Uh-huh.

MS. MYERS: -- where you get into the calculations in Subchapter 8.

DR. SHEEDY: Uh-huh.

MS. MYERS: But it doesn't have its own definition in Subchapter 8, it's buried underneath subject to regulation.

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DR. SHEEDY: Uh-huh. Yes.

MS. MYERS: That's my question. Why is it --

DR. SHEEDY: We use it basically -- I think the only place we're using it at this time is in two sections in Subchapter 8. The two parts -- the Part 70 program in Part 5 and then we use it again in Part 8 -- no, I mean Part 7, for the PSD program. So we could put it in Subchapter 1 or we could put it somewhere in Subchapter 8.

MS. MYERS: Well, I don't know if you could put a reference in Subchapter 1 to refer it to being defined in Subchapter 8 or something. I mean it's --

DR. SHEEDY: Well, I don't know that we won't be using it somewhere else later in the subchapter -- in the chapter.

MR. BRANECKY: I don't think you want to put it in Subchapter 1 --

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MS. LODES: I think Subchapter 1 would make more sense.

MR. BRANECKY: -- the definition of --

DR. SHEEDY: Uh-huh.

MR. BRANECKY: -- carbon dioxide equivalent in Subchapter 1.

MS. MYERS: Because that's where most of the definitions are.

MR. BRANECKY: Right. And you refer to it in Subchapter 1.

MS. LODES: We've been trying to move all of the definitions to Subchapter 1, it seems like over the last several years. So that would make the most sense to put it there.

DR. SHEEDY: Well, certainly we've been trying to put all the definitions in Subchapter 1 that apply to more than one subchapter, certainly. So -- okay. I can't see any reason not to. Rob?

MS. MYERS: Does that require opening up Subchapter 1

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again?
DR. SHEEDY: Well, Subchapter 1 is open.
MR. TERRILL: What we're talking about is whether or not we might want to take a short break, fix this today so you can pass it so we don't have to bring it back.
DR. SHEEDY: Uh-huh.
MR. TERRILL: Actually, they are already working on it. We'd really like to get this done and clean this up (inaudible).
MS. MYERS: I think it would be cleaner to have the definition with the other major definitions. That's going to be a big one for regulated folks to be looking up.
DR. SHEEDY: Uh-huh.
MS. MYERS: And to have it buried down within another definition seems to be a little bit --
MR. TERRILL: You don't

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like EPA's approach?
MS. MYERS: You know how I feel about that.
MR. BRANECKY: Eddie, in the interest of time can we continue this one and go on to the next one and come back?
MS. LODES: Let's definitely continue any questions or comments we've got on this.
DR. SHEEDY: Okay. So --
MS. BOTCHLET-SMITH: They'll have that done in just a minute. Are there other questions from the Council?
Okay. While the Council thinks about any other questions, I haven't received any Notice of Comment from the public. Is there anyone here that wishes to make a comment on the rules as they're being presented?
Seeing no hands, it's back to the Council to have further discussion other than what we're

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getting ready to read into the record.
MS. LODES: I don't know that -- I mean that's what I was asking.
MR. BRANECKY: Yeah. Why can't we just -- we've got carbon dioxide equivalent defined somewhere, can't we just take that and move it to 1.
DR. SHEEDY: Yeah. It's defined in two places, I believe. It's defined in the definition of subject to regulation in 8-2 and in 8-31.
MR. BRANECKY: Well, we could just leave those definitions there and then just add one in Subchapter 1.
DR. SHEEDY: Uh-huh.
MR. BRANECKY: If you all would agree to do that I don't necessarily need to see it.
DR. SHEEDY: Yeah. It would echo what's in the other two.

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MS. LODES: Yeah. We don't -- I don't need to see it.
DR. SHEEDY: Okay.
MS. MYERS: I agree with that.
DR. SHEEDY: Yeah. I don't see any problem in doing that unless legal counsel or my boss has a problem.
MS. LODES: So is it different in the two places?
MS. BOTCHLET-SMITH: It's a little different and we're trying to reconcile that difference.
DR. SHEEDY: Well, I think basically -- doesn't it mean the same?
MR. SINGLETARY: Yeah.
DR. SHEEDY: Okay.
MR. SINGLETARY: Well, they're written --
(Comments)
MS. LODES: Can we pause this for a minute and maybe go on to the next item on the Agenda?

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MS. BOTCHLET-SMITH: We can postpone it to a few minutes and come back to it to a certain time.
MS. LODES: Okay. Do we need a motion to postpone it?
MS. BOTCHLET-SMITH: Yes. Yes. You need a motion.
MS. LODES: Okay. I need a motion to postpone this for a certain length of time while they work on the definitions. So we can move on to the next item on the Agenda.
MR. BRANECKY: How much time?
(Multiple Discussions)
MR. BRANECKY: I move.
MS. MYERS: Okay. I'll second it, then.
MR. BRANECKY: I move that we do what they said to do.
MS. MYERS: I'll second whatever David said.
MR. BRANECKY: I move that we postpone -- that we continue this

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to give the staff enough time to develop some language before we come back to this item on the Agenda and continue on to the next item.
MS. MYERS: Second.
MS. LODES: I have a motion and a second. I am assuming we need to call the roll, Myrna.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Pete White
MR. WHITE: Yes.
MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Laura Lodes.

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MS. LODES: Yes.
MS. BRUCE: Motion passed.
(Item Number 5B Continued)
ITEM NUMBER 5C
MS. BOTCHLET-SMITH: The next item on the Agenda is Number 5C. This is Appendix A, Allowable Particulate Matter Emission Rate for Incinerators.
This presentation is being given by Ms. Diana Hinson of our staff.
MS. HINSON: Good morning, Madam Chair, Members of the Council, ladies and gentlemen. I'm Diana Hinson, an Environmental Program Specialist in the Rules and Planning Section of Air Quality, Department of Environmental Quality.
The Department is proposing to revoke Appendix A, allowable emissions for incinerators and adopt a new Appendix A in order to correct inaccuracies.
Notice of the proposed rule

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changes was published in the Oklahoma Register on December 15, 2010 and comments were requested from members of the public. No comments have been received at this date.
This is the first time the Council has been notified of the proposed revisions. The Department suggests that the Council consider voting to send the modification to the Environmental Quality Board with a recommendation that it be adopted as a permanent rule.
Thank you.
MS. BOTCHLET-SMITH: Are there any questions from the Council for Ms. Hinson? Any questions from the public?
Hearing none, if there is not any discussion by the Council, Laura, I ask for a motion.
MS. LODES: We have no discussion. The Agency has recommended that we pass this. Do I

have a motion?
MR. HAUGHT: I'll make the motion that we accept the modifications to Appendix A as recommended by staff.
MR. CLARK: I'll second it.
MS. LODES: I have a motion and a second. Myrna, would you please call roll.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Pete White.
MR. WHITE: Yes.
MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.

MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
(Item Number 5C Concluded)
ITEM NUMBER 5D
MS. BOTCHLET-SMITH: The next item on the Agenda is Number 5D. This is Appendix E, Primary Ambient Air Quality Standards and the presentation will be given by Mr. Leon Ashford of the Air Quality staff.
MR. ASHFORD: Hello. I'm Leon Ashford of the Oklahoma DEQ. Good morning, Madam Chair, Members of the Council, ladies and gentlemen.
Staff proposes to revoke Appendix E, Primary Air Quality Standards, and replace it with a new Appendix E that includes recent changes to the National Ambient Air Quality Standards or NAAQS for the nitrogen dioxide or NO2, and sulfur dioxide, SO2 Standards.

The Clean Air Act requires that the EPA periodically review and revise the NAAQS. On February 9, 2010, EPA promulgated a new one-hour NO2 primary standard of 100 parts per billion. EPA promulgated a new one-hour SO2 primary standard of 75 parts per billion and revoked the 24-hour and annual standards on June 2, 2010. EPA is expected to revise the secondary standard for NO2 and SO2 next year.
Appendix E is currently part of Oklahoma's EPA-approved State Implementation Plan or SIP. The proposed changes are necessary to update the primary ambient air quality standards in the state rule to make them consistent with and as protective as the federal standards. Upon promulgation, the new Appendix E will be submitted to EPA as a revision to the SIP.
Notice of the proposed permanent rule changes was published

in the Oklahoma Register on December 15, 2010. The notice requested written comments from the public and other interested parties. The only comment made was received from EPA Region 6, and they concurred with the changes.
Staff requests that the Council vote to recommend the proposed rule change and be forwarded to the Environmental Quality Board for adoption as a permanent rule.
MS. BOTCHLET-SMITH: Is there any questions for Mr. Ashford? David.
MR. BRANECKY: Yes. Well, in the -- on the new proposal in the footnotes 8 and 9 that referred to the new SO2 and NO2 standard, the language says that -- refers to within an area -- at each monitor within an area that's not exceeding a given amount. Is that --
MR. ASHFORD: Yes.

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MR. BRANECKY: -- defined area, is that defined in the appendix --

MR. ASHFORD: In the appendix, yes.

MR. BRANECKY: -- or what is an area -- for the state?

MR. ASHFORD: That is lifted directly from the footnotes that EPA had and I'm not -- I'm not sure that it's defined anywhere. General assumption would be -- would possibly be determined by how the monitoring site is cited. There is a designation for each monitoring site whether it's a neighborhood or urban scale or rural scale and that area might go along with that definition that each site has.

MR. BRANECKY: And then another question. Maybe you don't know the answer because this is EPA language, but in 8 it talks about maximum one-hour average at each monitor and in 9 it says maximum

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one-hour average concentration at each monitor. Is there a difference or a reason for the difference in language?

One says average concentration and the other one just says average.

MR. ASHFORD: I don't believe there is an intended difference.

MR. BRANECKY: Blame it on the lawyers.

MR. ASHFORD: Right.

MR. BRANECKY: All right. It's just different language. I didn't know if there was a reason for that difference.

MR. ASHFORD: It's probably different people writing the footnotes at different times.

MR. BRANECKY: Okay. Thank you.

MR. ASHFORD: You're welcome.

MS. BOTCHLET-SMITH: Other questions from the Council? Any

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questions or comments from the public?

Hearing none, Laura.

MS. LODES: We have no further comments or questions. The Agency has recommended that we pass the proposed changes. Do I have a motion?

MR. HAUGHT: I move that we accept the staff's recommendations to the modifications to Appendix E to reflect the changes in primary ambient air quality standards.

MS. MYERS: Which appendix, Jim?

MR. HAUGHT: E.

MS. MYERS: Okay.

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

MR. GAMBLE: Second.

MS. LODES: I have a motion and a second. Myrna, would you please call the roll.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Yes.

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MS. BRUCE: Pete White.

MR. WHITE: Yes.

MS. BRUCE: David Gamble.

MR. GAMBLE: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Gary Collins.

MR. COLLINS: Yes.

MS. BRUCE: Montelle Clark.

MR. CLARK: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Motion passed.

(Item Number 5D Concluded)

ITEM NUMBER 5E

MS. BOTCHLET-SMITH: The next item on the Agenda is Number 5E. OAC 252:100-2, Incorporation by Reference; and Appendix Q, Incorporation by Reference.

Ms. Nancy Marshment of our

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staff will be giving the presentation.

MS. MARSHMENT: Good morning, Madam Chair, Members of the Council, ladies and gentlemen. I am Nancy Marshment, an Environmental Programs Specialist with the Air Quality Division.

The Department is proposing to clarify language in Subchapter 2, Incorporation by Reference to better connect its references to Appendix Q.

In addition, the Department is proposing to revoke the current Chapter 100, Appendix Q, Incorporation by Reference, and adopt a new Appendix Q. This proposal is part of the annual update of Title 40, Code of Federal Regulations, Incorporation by Reference in Chapter 100.

Today is the second time the staff has presented this proposal to the Council. No additional changes

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have been made to Appendix Q. I will review the changes made to Subchapter 2 shortly.

The update would incorporate those federal regulations listed in Appendix Q as they existed on December 1, 2010, and any amendments to standards listed would be also incorporated.

In your folder, once again, is a one-page document showing the changes on the first and last pages of Appendix Q. Staff felt that this unofficial version with all changes clearly identified would be helpful for discussion purposes, since the proposed new appendix does not show the changes. This same document has been placed on the hand-out table for distribution.

As has been explained previously, the Oklahoma Rules on Rulemaking dictate the procedure of revoking the old and creating an entirely new appendix. No other

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changes are being made to the remainder of the document. In an effort to reduce the use of paper, staff did not include copies of those pages in the handout. The entire Appendix is, however, included in your previously mailed packets and is available on the website.

In your packets, you may have noticed an additional page at the end of the revoked Appendix Q document title GP-ASNF/SNF Authorization 2010-199-0. Please disregard that page, which was erroneously included in the packet, and has nothing to do with the rule proposal. I believe it was picked up off the copier.

The following 40 CFR rules are being proposed for incorporation by reference in Appendix Q. 40 CFR Part 63, Subpart BBBBBBB, National Emission Standards for Hazardous Air Pollutants for Area Sources,

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Chemical Preparations Industry; and 40 CFR Part 63, Subpart DDDDDDD, National Emission Standards for Hazardous Air Pollutants for Area Sources, Prepared Feeds Manufacturing.

Also, the titles for two subparts have been modified to reflect more precisely the titles as they appear in the Code of Federal Regulations. Those changes are also shown on your handout. That's Part 63, CCCCCCC, just changing the wording slightly and the same in Part 64. Instead of saying all subparts, it will say all sections.

In addition to the these changes, the update would bring in changes to 40 CFR Part 63, Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines that make the NESHAP applicable to area sources. EPA estimated that this change --

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the standard change resulted in an additional 330,000 engines becoming subject to the NESHAP nationwide. The Department expects that thousands of these engines are located in Oklahoma.

One of the changes to Section 100-2-3 would move the incorporation date from the Appendix into the actual rule governing the chapter -- the rule governing subchapter. It would also provide that Appendix Q could specify a different incorporation date for a particular subpart or section. This would be helpful if, for instance, the Department wished to delay its implementation of the NESHAP requirements in Subpart ZZZZ for engines at area sources.

You may recall that the proposal presented at the last Council meeting suggested modifying the Purpose language in 100-2-1 from incorporation by reference of

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applicable parts of 40 CFR to the more generic federal regulations. Mr. Haught expressed concern about the implications of broadening the potential scope of the subchapter. Staff concurs that a change to cover a theoretical need to someday -- to someday incorporate some other federal regulation into Air Quality Rules is unnecessary.

Notice for this rule was published in the Oklahoma Register on December 15, 2010 for these proposed changes. The Notice requested written comments from the public and other interested parties. No comments have been received as of today.

Staff is requesting the Council table the hearing for this rulemaking until the Department is certain it has adequate resources to assume delegation for any additional federal standards.

Thank you.

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MR. TERRILL: Let me -- I apologize to the Council for bringing this. I didn't -- this slipped through or we never would have Noticed this. But after we had, we needed to move forward and bring it to you all. This is part of what we're concerned about relative to the fee schedule that you all just passed. So I'd like for you all to table this until we know for sure that this is going to be -- you all were the easy part, believe it or not. The hard part is going to be getting it through the Board and then getting it through the legislature. So I apologize that I didn't catch this before we Noticed it or we wouldn't have ever brought it back to you. But we did, so I'd like for you to table it because it goes with what I said all along and that is we've got to have the ability to do this work and without that it kind of -- if we

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don't get the fees then we have to bring this back at some point and ask for it to be sent back to EPA anyway.

MR. WHITE: I move we table it.

MS. BOTCHLET-SMITH: Any discussion?

MR. HAUGHT: Yeah. I had a question first. You know, since this body did vote to move forward with the fee increase, do you foresee if we table this and these federal regulations become applicable to state sources that any of the permit holders or any of the affected sources are going to be disadvantaged by not having the state be involved?

MR. TERRILL: They would be long-term. Short-term EPA is not looking to pick up any additional work. I thought about that and, I think, that to be true to what I have said all along relative to our

ability to be able to do this work we've got to recommend not to accept this, but I don't think it'll have any implications on any of our sources. I'm still reasonably confident that we'll figure out either through another mechanism or approval through the legislature of what we did today that we'll get these. And I think it's about a 50/50 shot to tell you the truth, getting it through, but I don't think it will affect our other sources. But if in the event we get into July and we're not going to get any increase, then we will have to figure out what can we do, what can we implement, what can we accept, that we haven't and what can we just say we're not going to be able to do that and we'll just have to make a call based on what it is that we haven't accepted delegation for yet.

MR. HAUGHT: The philosophy of passing the fee increase that had

maybe brought in the petroleum -- the gasoline stations this time and some of thought that that may stimulate -- push some activity somewhere else; would that not apply here if this body passed a fee increase, you know, a proposal for a fee increase and then pass this workload on, would that give you more -- I guess maybe some more ammunition to the Agency to -- or whoever would be involved that these fees were needed?

MR. TERRILL: Yeah. I see your point. I guess the difference is we've already adopted by reference the NESHAP that affected the service stations. At least I think we have. And, you know, your point is well taken. I don't know -- it's a call that you really don't know for sure if it will help or hurt your cause over at the legislature. I don't know. I was just trying to be true to what we

had said from the beginning that the whole purpose of these additional fees was for us to figure out how we would implement the area source MACT program across the state for all of the areas source MACTs and if we didn't have a way to do that then we would have to not accept the delegation. So I'm just trying to be true to that. I'm not going to fall, you know, I'm not going to kick and scream either way if you decide to pass this.

MR. HAUGHT: I'm not -- I think we can table it at this point. But at some point in the future what I don't want is for the regulated community who are trying to comply to try to comply -- to try to do something and have the state and the feds both saying, you know, point in the other direction, and putting the burden on those people who are trying to do the right thing.

MR. TERRILL: Right.

MR. HAUGHT: And so that's a concern long-term that smaller people, businesses, people that are trying to comply don't get to be the -- something doesn't have to come to a head with one of those being an enforcement issue or something before this comes to a head.

MR. TERRILL: Yeah. The chances of EPA looking at one of these sources is pretty slim. They've got so many other things that they're working on even at the regional level that until they see that there is an issue within a state they're not going to -- it's not going to be on their agenda or their radar to come take a look at this -- at that particular issue. If we didn't, long-term, then like I said before they've got a guidance document in place that -- where they figure out how they're going to do that work.

I agree with you, Jim, though.

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Our plan is once we know for sure what our situation is relative to the funding that we're going to put together and making the assumption that we get something in July that we'll put together an internal plan to do the outreach on all these sources, then we'll come back to the Council at the next available Council meeting and pick up all of those area sources that we've tabled and have come -- EPA has passed along for us to accept delegation for and do those as a package and then have a -- at least an initial plan on how we're going to go about implementing those throughout the state.

MS. LODES: I know there is always -- there's a schedule as to when we can -- if we pass something, as to when we can reopen it. Is there any advantages to us passing this today and tying it to passage of the fee increase? Or could we

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even do that?

MR. TERRILL: Well --

MS. LODES: Or are we just better off tabling it until you get the fees?

MR. TERRILL: I think we're better off tabling it at this point because I'd hate that would -- because that kind of looks like a -- it depends on who's looking at it. I understand what you're saying but there could be some folks that look at it as a threat or -- I don't want to cloud the issue. I'd prefer you table it but I'm not going to --

MS. LODES: Okay.

MS. BOTCHLET-SMITH: I don't think tabling it today would prevent us from waiting a year to look at this.

MS. LODES: I didn't know if we waited to pass it until after we know about the fees and if we do it in July, does that then mess up future years as to when we can open

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it and look at it?

MS. BOTCHLET-SMITH: That's when we do our IBRs in October so --

MS. LODES: Okay.

MS. BOTCHLET-SMITH: -- she has a point. We might end up having to wait until October to bring it up to catch anything new or just adopt a new schedule.

MS. LODES: And that was my only concern there. I mean we've already moved into this one so that's starting to throw off our schedule.

MR. TERRILL: And we may want to do that. That wouldn't prevent us though from starting in July to look at the MACTs and what we need to do with the sources that are affected, so that we start implementing. Because the feds are -- it's a federal requirement anyway. So if we know we're going to pick it up by reference we can go ahead and start planning and working

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with those facilities as they ask us to, to get clarification on what they're supposed to do and start the ball rolling for us to -- especially with the big ones like the engine rule, start figuring out how we're going to help the sources comply. So I think we can start that work even in July.

MS. LODES: Well, because that's what the --

MR. TERRILL: You make a good point.

MS. LODES: The engine rule kicks in in 2013 for everybody.

MR. TERRILL: Right.

MS. LODES: And if we keep postponing this I don't -- I don't want to sit there and say, well, that's our (inaudible) and that's that.

But if you think we're okay, then that's fine. I don't have a -- I don't see an issue with tabling it as long as it's not problem.

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MR. HAUGHT: And I'm okay with tabling it too, but I think it's a bigger issue I was bringing up, and that is who's going to get caught in the middle if it's a shoving match about who takes authority because they're both short on fees. Who ultimately could be at risk on that?

MR. TERRILL: And --

MR. HAUGHT: And so I just wanted to put that in as part of the discussion going forward.

MS. LODES: Okay.

MR. TERRILL: And we'll see if that doesn't happen. And if it turns out that -- we've got to figure out what we're going to do with what we've got today that we'll probably come back to the Council with a -- it wouldn't be a rulemaking it would just be a discussion of here's how -- here's what we think we're going to do and here's how those sources would know

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who they going to have to deal with and the best way we can help. So we'll come back and do that at the Council meeting after July either a proposal to adopt in October and move forward or here's what we're not going to be able to do and here's what we think the implications are.

MS. LODES: Okay.

MS. BOTCHLET-SMITH: I know you've got a motion on the table without a second. Typically, we at least give the public an opportunity to comment. So I'd like to do that at this time and then you can call for your second.

MS. LODES: That's fine.

MS. BOTCHLET-SMITH: Is there anyone from the public wishing to comment? Hearing none, now.

MS. LODES: Okay. I have a motion on the -- to carry this forward. Do I have a second?

MS. MYERS: I'll second it.

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MS. LODES: I have a motion and a second. Myrna, will you please call the roll.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Pete White.

MR. WHITE: Yes.

MS. BRUCE: David Gamble.

MR. GAMBLE: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Gary Collins.

MR. COLLINS: Yes.

MS. BRUCE: Montelle Clark.

MR. CLARK: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Motion passed.

(Item Number 5D Concluded)

(GREENHOUSE GAS RULES CONTINUED)

MS. BOTCHLET-SMITH: Okay.

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We're ready to go back to the greenhouse gas rules. But Laura, we're going to need a motion -- since that was postponed to a certain time we now need a motion from the Council to bring that back for discussion or presentation.

MS. LODES: Council, I need a motion to bring the proposed changes to Subchapter 8 -- 7 -- 1 and 3, since we didn't -- since it's listed in the subject line on. Back up for discussion.

MS. MYERS: I so move.

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

MR. GAMBLE: Second.

MS. LODES: I have a motion and a second. Myrna, please call the roll.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Pete White.

MR. WHITE: Yes.

MS. BRUCE: David Gamble.

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MR. GAMBLE: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. BOTCHLET-SMITH: Okay. Cheryl, are you going to present the new language or is Joyce?
DR. SHEEDY: Joyce was, but you can do it if you would like.
MS. BRADLEY: Okay. I can.
DR. SHEEDY: You're sitting right there with it.
MS. BRADLEY: I just want to turn the machine on, right?
MS. SULLIVAN: I think I

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moved it so it wouldn't be right in Laura's face.
(Multiple Conversations)
MS. BOTCHLET-SMITH: Okay. Just for the benefit of the Court Reporter, Ms. Cheryl Bradley of the Air Quality staff will be presenting some additional language for this rulemaking.
MS. BRADLEY: And to address a comment from Council Member Myers, we are proposing to add to Subchapter 1, general provisions, Section OAC 252:100-1-3, Definitions, the following definition.
Carbon dioxide equivalent emissions (CO2E) means an amount of GHG emitted and shall be computed by multiplying mass amount of emissions (TPY) for each of the six greenhouse gases in the pollutant GHG by the gasses associated Global Warming Potential (GWP) published in Table 8-1 to Subpart (a) of 40 CFR Part

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98-Global Warming Potentials and summing the resultant value for each to compute a TPY CO2E.
DR. SHEEDY: Cheryl, may I make just one correction? Just put in the format that we're currently using in Subchapter 1.
We would probably say, quotation marks, I believe, carbon dioxide equivalent emissions, end quotation marks, are, quotation marks, CO2E, close quotation marks, means.
MS. BRADLEY: Okay.
DR. SHEEDY: And that's just a format.
MS. BRADLEY: Okay.
MS. SULLIVAN: I didn't see the end quote. I'm sorry. I thought it was an arrow when I read it and then took it out again.
MS. BRADLEY: Okay. So we need --
MR. SINGLETARY: Quotations after the 's' in "emissions".

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DR. SHEEDY: And you can take the parentheses away from it.
MS. BRADLEY: Means --
DR. SHEEDY: Well, that's not --
MS. BRADLEY: Okay.
DR. SHEEDY: That's how we do it.
MS. BRADLEY: Okay. So we've got --
DR. SHEEDY: End of quotes after carbon dioxide equivalent emissions.
MS. BRADLEY: There.
DR. SHEEDY: Now put an "or".
MS. BRADLEY: Okay, o-r.
DR. SHEEDY: Now put some more quotes.
MS. BRADLEY: And do we need -- we don't need the parentheses, do we?
DR. SHEEDY: Now take away the parentheses.
MS. BRADLEY: Okay.

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DR. SHEEDY: That's it.
MS. BRADLEY: That's it.
MS. MYERS: And then is the rest of the definition staying in those two different places that we talked about?
MS. BRADLEY: Yes.
MS. MYERS: Okay. I'm good with that.
MS. BOTCHLET-SMITH: Other questions or discussion from the Council? Any comments from the public? Don Whitney.
MR. WHITNEY: Yes. I'm Don Whitney from Trinity Consultants. I'd like to suggest just a further refinement of the definition. And that's the units. The tons per year is traditionally what we think of in DEQ but there is other contexts, of course. The federal standard is metric tons and I would suggest removing the TPY in the two places would still work just as well as the definition and not tie it in to any

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one units of measure. It's just a little cleaner. None of our other pollutants have units in there. So I'd suggest taking the tons per year out two places where it is there. The first TPY on the third line and last take out "a TPY". Thank you.
MS. LODES: On that, is the federal rule -- I think the Federal Tailoring Rule is in English tons per year, not metric tons per year. Am I not correct on that?
DR. SHEEDY: I thought it was. Yes.
MS. LODES: Okay.
MR. WHITNEY: Yes. But greenhouse gas reporting is metric.
MS. LODES: Mandatory reporting rules in metric.
MR. WHITNEY: Yes.
MS. LODES: The Tailoring Rule is in, which is what this is subject to, is in English.
MR. WHITNEY: Well --
DR. SHEEDY: Uh-huh. And

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let's don't, for goodness sakes, put them in the same terms.
MR. WHITNEY: Who?
DR. SHEEDY: EPA.
MS. LODES: So that's what we're adding. I think -- I don't remember how it is exactly in the Tailoring Rule which is what we're trying to incorporate here, but I think this is what's in the Tailoring Rule. Am I right on that?
DR. SHEEDY: Yes. Yes.
MS. LODES: Okay.
MS. BOTCHLET-SMITH: Any other comments from the public? Discussion from the Council?
MR. COLLINS: Are we going to remove that tons per year --
MS. BOTCHLET-SMITH: Rob, are you looking that up?
MR. COLLINS: I don't have the Tailoring Rule here.
MR. SINGLETARY: I'm checking.
DR. SHEEDY: No, we don't

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do that.
MS. BRADLEY: Have we got that Tailoring Rule?
DR. SHEEDY: No. I'm sorry; I didn't bring a copy of the Federal Register. But I do think we're pretty much --
MR. BRANECKY: I think what Mr. Whitney is saying is if you remove the TPY then it's -- irregardless of what the units are this is going to cover it. You're going to have MACT -- you're talking about mass amount of emissions irregardless of whether it's metric or English this is going to cover it.
MS. LODES: And that makes sense. My only question would be do we cause a problem as to which units it should be in for the Tailoring Rule, if the Tailoring is in English and the mandatory reporting rule is in metric.
DR. SHEEDY: Well, would it

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be --
MS. LODES: Which is incredibly confusing to begin with.
DR. SHEEDY: Would it --
MR. BRANECKY: Use whatever is applicable.
DR. SHEEDY: You know, it would be defined by the fact that the threshold levels in the Tailoring Rule are in tons -- you know, just regular tons per year.
MR. HAUGHT: So if that's the way it's written in Subchapter 8, is this with the TPY in there then that would be appropriate. I think the problem would be to put this in Subchapter 1 and then later on it refers to something else.
DR. SHEEDY: Yes. Because Subchapter 1 applies to the whole chapter --
MR. HAUGHT: Subchapter 1 applies across the board and if -- and if the reporting does become part of the state rule in the

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future, then -- but the specific reference for 8 which is where the Tailoring Rule is does have the definition in there; does have the TPY in it --
DR. SHEEDY: Uh-huh.
MR. HAUGHT: -- without the metric implication here refers to the English.
DR. SHEEDY: Okay. Yeah.
MR. HAUGHT: Since we're not deleting the other --
DR. SHEEDY: Right. We've left it in --
MR. HAUGHT: -- I would be okay with it.
MS. LODES: Yeah. I agree with Don. Let's just go ahead and take it out.
DR. SHEEDY: Okay.
MS. LODES: Because it doesn't really add value otherwise.
DR. SHEEDY: And so then we need to take it out again down at the bottom.

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MS. BOTCHLET-SMITH: Okay. Any further questions, comments, or discussion?
MS. LODES: Seeing no further questions or comments, the Agency has asked that we adopt this regulation and then we've got this change to it. Do I have a motion?
MR. COLLINS: I'll make a motion that we accept the proposed amendments to OAC 252:100-8, 7, 3, and 1, General Provisions, and the changes presented to Chapter 1, Definition of Carbon Dioxide Equivalent and the changes distributed in the packet.
MS. LODES: Okay. I have a motion. Do I have a second?
MR. HAUGHT: I'll second it.
MS. LODES: I have a motion --
(Comment for clarification)
MS. LODES: I have a motion and a second. Myrna, would you

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please call roll.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Pete White.
MR. WHITE: Yes.
MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. BOTCHLET-SMITH: Okay.
(Item Number 5E Concluded)

C E R T I F I C A T E

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above meeting is the truth, the whole truth, and nothing but the truth; that the foregoing meeting was taken down in shorthand and thereafter transcribed by me; that said meeting was taken on the 19th day of January, 2011, at Oklahoma City, Oklahoma; and that I am neither attorney for, nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 27th day of January, 2011.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310

SUMMARY OF COMMENTS AND STAFF RESPONSES

FOR PROPOSED REVISION TO SUBCHAPTER 1, GENERAL PROVISIONS; SUBCHAPTER 3, **AIR QUALITY STANDARDS AND INCREMENTS; SUBCHAPTER 7, PERMITS FOR MINOR FACILITIES; AND SUBCHAPTER 8, PERMITS FOR PART 70 SOURCES**

COMMENTS RECEIVED PRIOR TO AND AT THE *OCTOBER 27, 2010* AIR QUALITY ADVISORY COUNCIL MEETING

Written Comments

The Air Permitting Forum (APF or the Forum) - E-mail received on October 25, 2010 from Shannon S. Broome

1. **COMMENT:** Regarding greenhouse gas (GHG) revisions to Subchapter 8, the Forum recommended that DEQ include in the definitions of "subject to regulation" in OAC 252:100-8-2 and 252:100-8-31 an "expiration" or "sunsetting" of the provisions regulating GHG under the PSD and Title V programs, in light of the current litigation challenging EPA's decision to regulate GHG under the federal Clean Air Act.

   RESPONSE: Staff feels that the problem pointed out by the Forum is already resolved by the introductory language to the definitions of "subject to regulation." As a result if a court was to invalidate for any reason the underlying applicable regulation that makes GHG regulated, then GHG would automatically not be contained in the definition of subject to regulation. However, to make the rule very clear on the matter, we have added "rescission" or "sunsetting" language to the definitions of "subject to regulation" in OAC 252:100-8-2 and 252:100-8-31 to stress that the State's GHG permitting requirements will not exceed those of EPA.

2. **COMMENT:** Regarding GHG revisions to Subchapter 8, the Forum also stated that Oklahoma's (and EPA's) definition of the term "regulated NSR pollutant" in OAC 252:100-8-31 includes not only "any pollutant that otherwise is 'subject to regulation' under the Act" but also "any pollutant for which a NAAQS has been promulgated" and "any pollutant that is subject to any standard promulgated under section 111 of the Act." EPA has received petitions to issue a NAAQS for GHGs, and EPA is also in the process of adopting NSPS for certain source categories under section 111 that would regulate GHGs. The "subject to regulation" qualifier, however, is not part of the "regulated NSR pollutant" definition for NAAQS and NSPS, which means that if EPA proceeds to issue a NAAQS or NSPS covering GHGs, the thresholds in the "subject to regulation" definition would no longer apply. One way to address this problem would be for the Department to limit subsections (A)(i) [for NAAQS] and (A)(ii) [for NSPS] of its definition of regulated NSR pollutant not to include GHGs above the thresholds specified in the "subject to regulation" definition. This could be accomplished by adding a new subsection (B)(iii) to the definition that would state "regulated NSR pollutant does not include … (iii) GHGs emitted below the thresholds in Subparagraphs (C) through (E) in the definition of the term 'subject to regulation' in this section." This approach would give Oklahoma time to address any regulation of GHGs under the NSPS or NAAQS rules

if EPA proceeds with such rulemakings.

RESPONSE: Staff will give further consideration to this comment before the permanent rulemaking is proposed in January 2011.

RESPONSE UPDATED JANUARY 4, 2011: Staff agrees that there appears to be some ambiguity in the definition of "regulated NSR pollutant." The federal and proposed State definitions are substantively the same. By definition any pollutant that is subject to any standard promulgated under section 111 of the federal Clean Air Act is a "regulated NSR pollutant." The definition of "regulated NSR pollutant" also references the definition of "subject to regulation," which states that GHG is subject to regulation only if GHG emissions from a source exceed the PSD GHG applicability thresholds of 75,000 tpy CO_2e for modifications or 100,000 tpy CO_2e for new sources. It is unclear which definition would take precedence if an NSPS for GHG is promulgated. However, this is a national problem and Staff prefers to allow EPA the opportunity to clarify the relationship between "regulated NSR pollutant" and "subject to regulation." EPA has announced their intention to propose NSPS and emission guidelines for GHG emissions from electric generating units and refineries in 2011 and to finalize these standards in 2012. This gives the Department time to address the problem, if it is not resolved by EPA, before any NSPS for GHG becomes effective.

EPA Region 6 - Fax received on October 26, 2010 from Jeff Robinson, Chief, Air Permits Section

3. **COMMENT:** Mr. Robinson expressed support of the proposed emergency rule revisions to Subchapters 1, 7, and 8 relating to GHG emissions and encouraged the Department to expeditiously adopt the revisions as proposed to implement the GHG tailoring rule provisions by January 2, 2011.

OIPA (Oklahoma Independent Petroleum Association) and MOGA (Mid-Continent Oil and Gas Association of Oklahoma) - E-mail received on October 26, 2010 from Angie Burckhalter, V.P. Regulatory Affairs, OIPA and Michael Bernard, President, MOGA

4. **COMMENT:** OIPA and MOGA expressed concern that if the GHG requirements are vacated or delayed at the federal level, it would appear that the proposed revisions to Subchapter 8 would still require regulated entities in Oklahoma to comply with DEQ's GHG requirements. This would place Oklahoma in an economic disadvantage to other states that may not have GHG rules in place or that have language in place to address such a situation. OIPA and MOGA recommend that DEQ include language in the rules that would address this issue.

RESPONSE: Staff does not believe this is the case, but to make the rule very clear on the matter, "rescission" or "sunsetting" language has been added to the definitions of "subject to regulation" in OAC 252:100-8-2 and 252:100-8-31 to stress that the State's GHG permitting requirements will not exceed those of EPA.

5. **COMMENT:** OIPA and MOGA pointed out that the State of Texas raised some significant questions regarding state's right as it relates to an expedited GHG rule

implementation in relation to the SIP revision process under the CAA Section 166(a), the normal SIP revisions procedures under Section 110, and EPA's authority to impose a FIP on GHG without finding that a state has failed to make a required submission. They suggested that DEQ carefully consider these issues before moving forward with GHG regulations.

RESPONSE: Staff is aware of the Texas letter and awaits EPA's response to it with interest. However, staff feels it is in the best interest of the GHG emitting sources in Oklahoma to provide the protections afforded by the GHG tailoring rule in the event that EPA prevails. This proposed revision is an emergency rule and as such is temporary and will not become part of the State's SIP. The hearing on the permanent rulemaking regarding GHG was continued at the October 27, 2010 Council meeting until the January 2011 Council meeting. Staff hopes that by that time some of the issues surrounding GHG permitting will be resolved. Staff will amend the current proposed GHG rule revisions as appropriate prior to that meeting.

6. **COMMENT:** OIPA and MOGA recommended that OAC 252:100-7-2.1, relating to minor permits for GHG emitting facilities, be modified by the addition of "but are not limited to" in the last sentence so that it reads: "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."

RESPONSE: Staff agrees with this request and the suggested language has been added to the rule.

Oral Comments

Steve Mason, DEQ Board Member commented at the October 27, 2010 Air Quality Advisory Council meeting.

7. **COMMENT:** Mr. Mason asked why a permanent rule was not linked to the proposed GHG emergency revisions to Subchapter 8. Mr. Mason also stated that the Board could consider an emergency rule without a permanent rule submitted at the same time.

RESPONSE: A permanent rule is being proposed separately, however, the Department requested that the Council continue the hearing on the permanent rule proposal to its January 2011 Council meeting. This will allow the inclusion of EPA's $PM_{2.5}$ PSD implementation requirements in the same proposal. In October, EPA promulgated the last part of its $PM_{2.5}$ rules so these recent changes could not be included in the proposed rule for the October 2010 Council meeting. Because the GHG modification and the $PM_{2.5}$ modification change the same section (OAC 252:100-8-31) and even the same definition ("Regulated NSR Pollutant"), the GHG, and $PM_{2.5}$ modifications must be processed together or the $PM_{2.5}$ modification could be delayed by a year.

8. **COMMENT:** Mr. Mason stated that Texas sent a letter to EPA refusing to promulgate

GHG rules and questioning EPA's authority to regulate GHG under the federal Clean Air Act. Mr. Mason wondered if Texas was just not going to promulgate GHG rules and asked if Oklahoma has that opportunity also.

RESPONSE: It is our understanding that Texas is taking the position that EPA does not have the authority to regulate GHG and intends to litigate the issue. After looking at a lot of different scenarios, Staff felt that DEQ owes it to the regulated community to provide some clarity on GHG permitting and to have an avenue for them to continue to obtain necessary permits from DEQ instead of EPA. The GHG tailoring rule does not require that sources obtain PSD or Part 70 permits. That is required by other existing federal and State rules and regulations and will automatically occur when GHG becomes a pollutant subject to regulation on January 2, 2011. The GHG tailoring rule exempts a large number of smaller GHG sources from the requirement to obtain PSD and Part 70 permits by raising the applicability thresholds for GHG in the PSD and Part 70 programs. The proposed emergency rule change to Subchapter 8 includes a rescission provision to address subsequent legislative or judicial actions on GHG and to ensure that the State's GHG permitting requirements will not exceed those of EPA.

Angie Burckhalter, V.P. Regulatory Affairs, OIPA commented at the October 27, 2010 Air Quality Advisory Council meeting.

9. **COMMENT:** Ms. Burckhalter repeated the request she made in the October 26, 2010 e-mail from OIPA and MOGA. She asked that the last sentence in new Section OAC 252:100-7-2.1 be revised to include "but are not limited to." The sentence would read: "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.

RESPONSE: The requested change has been made to 252:100-7-2.1.

Grover Campbell with Chesapeake Energy commented at the October 27, 2010 Air Quality Advisory Council meeting.

10. **COMMENT:** Mr. Campbell stated that one of the reasons to add the language suggested by Ms. Burckhalter is that energy efficiency will be one of the main BACT requirements for GHG emissions.

Comments of the Air Permitting Forum on Proposed Changes to Oklahoma's Prevention of Significant Deterioration and Part 70 Regulations to Implement EPA's Greenhouse Gas Tailoring Rule

The Oklahoma Department of Environmental Quality (DEQ) has prepared a rulemaking proposal to address the U.S. EPA's decision to regulate greenhouse gases (GHGs) from stationary sources under the Prevention of Significant Deterioration (PSD) construction permit program and the Title V (Part 70) operating permit program. These proposed changes would incorporate EPA's Tailoring Rule provisions that raise the major source threshold to 100,000 tons per year (tpy) carbon dioxide equivalents (CO2e) and the PSD significance level to 75,000 tpy CO2e. In addition, DEQ proposes to clarify that GHGs are not regulated under the minor new source review permitting provisions in the state unless a source voluntarily wishes to accept a limit on its GHG emissions.

The Air Permitting Forum (APF or Forum) is a trade association that focuses on implementation of Clean Air Act permitting and other environmental requirements. Forum members operate facilities in Oklahoma and therefore are affected by the proposed regulations.

The Forum appreciates that DEQ is trying to ensure that facilities in Oklahoma will not become subject to permitting at a major source level of 100 tpy or 250 tpy and that modifications will not be subject to a 0 tpy significance level. At the same time, we believe that DEQ could interpret its regulations such that only criteria pollutants can trigger PSD although pollutants "subject to regulation" would be subject to the best available control technology requirement. Since DEQ has indicated however that it is interpreting its rules to allow GHGs to trigger PSD, it would also be appropriate for DEQ to include in its rules a an "expiration" or "sunsetting" of the provisions regulating GHGs under the PSD and Title V program in light of the current litigation challenging EPA's decisions to regulate greenhouse gases under the Clean Air Act.

As DEQ is surely aware, US EPA has taken several actions that have led to the federal Tailoring Rule establishing the 100,000 ton per year CO2e threshold for major sources under PSD and Title V and the 75,000 ton per year significance level. Each of these actions is being challenged in the U.S. Court of Appeals for the D.C. Circuit. These challenges raise several issues, most important of which for this proposed rule are whether GHGs are intended to be within the term "subject to regulation" and whether GHGs can trigger the requirement to obtain a PSD permit when EPA has not even established a NAAQS for GHGs. The validity of EPA's actions will be judged by the courts over the course of the next year. In addition, on September 15, 2010, a motion to stay the stationary source effects of the GHG rules was also filed seeking to prevent the triggering of PSD and Title V until EPA's authority can be addressed by the courts.

In light of these pending actions, it is important that the state's adoption of the EPA Tailoring Rule thresholds not put it in a position where the federal government is *not implementing* the tailoring rule but DEQ is forced to follow its own regulations applying those thresholds and regulating greenhouse gases under the stationary source

programs. We recommend, therefore, that the DEQ include a provision in the regulations directly that conditions the application of PSD and Title V to stationary sources within the state on the continued validity of the provisions at the federal level. For example, the following language could be included at the end of the "subject to regulation" definition to ensure that the state is not implementing PSD or Title V for GHGs in such a case:

> The provisions of this rule establish specified thresholds for determining if a source is major and if an increase in emissions is significant under these rules. The determination that these rules require sources to obtain a permit for GHG emissions is contingent on the continued implementation of the federal determination that GHG emissions can trigger the requirement to obtain a permit under Part C of Title I or under Title V of the federal Clean Air Act. If a court stays or otherwise invalidates applicability of Part C of Title I or Title V to stationary sources of GHGs, these regulations shall not operate to require stationary source permits for such sources beyond the extent to which the court validates and authorizes implementation of the federal rules.

This provision (or a provision like it) is especially important to the extent that EPA acts on a proposed state implementation plan or part 70 program revision. Under *General Motors Company v. U.S.*, 496 U.S. 530 (1990), and a new case U.S. v. Cinergy, Nos. 09/3344, 09-3350, 09-3351, Slip Op. (7th Cir. Oct. 12, 2010), even if a state revises its regulations, unless the EPA has actually acted to approve the SIP revision, the existing SIP regulations are enforceable. This is why EPA has stated its commitment to act quickly on these tailoring rule SIP revisions. If EPA does approve these state rules into the SIP quickly, however, and EPA's rules are later determined to have inappropriately imposed PSD and Title V on stationary sources of GHGs, sources in this state will be forced to comply with these rules until the state adopts a revision and EPA approves that revision. Given the current SIP backlog and EPA's desire to regulate GHGs under the Clean Air Act, it is likely that EPA action on SIP revisions to eliminate GHG regulation will take much longer than its revisions to ensure GHGs will be regulated. By including a sunsetting provision in the regulation itself, EPA's initial action to approve regulating GHGs under this state's SIP will be self-limiting.

Such a provision will place Oklahoma in the same position as a state that is delegated for PSD and is therefore implementing the federal rules. Moreover, it will prevent any later claims that eliminating GHGs from regulation under PSD in this state might constitute backsliding. Finally, we note that several other states are looking at similar provisions and Colorado adopted one last week. The Colorado provision that was adopted states:

> If there is a change in federal law or the District of Columbia Circuit Court of Appeals or the United States Supreme Court directs or issues an order, which limits or renders ineffective the regulation of GHG emissions at stationary sources under the New Source Review Prevention of Significant

> Deterioration (PSD) or Title V provisions of the Federal Act, the regulation of GHG emissions under the corresponding programs in this Regulation Number 3 shall be limited or rendered ineffective to the same extent.

We strongly encourage the Department to ensure that if the federal application of PSD and/or Title V to GHGs is stayed or otherwise abated, the DEQ's rules will automatically be limited in the same manner.

Finally, we want to raise an issue that should be considered for the permanent rulemaking to the extent it cannot be addressed now. Oklahoma's (and EPA's) definition of the term "regulated NSR pollutant" includes not only "any pollutant that otherwise is 'subject to regulation' under the Act" but also "any pollutant for which a NAAQS has been promulgated" and "any pollutant that is subject to any standard promulgated under section 111 of the Act." EPA has received petitions to issue a NAAQS for GHGs and EPA is also in the process of adopting NSPS standards for certain source categories under Section 111 that would regulate GHGs. The "subject to regulation" qualifier however is not a part of the "regulated NSR pollutant" definition for NAAQS and NSPS, which means that if EPA proceeds to issue a NAAQS or NSPS covering GHGs, the thresholds in the "subject to regulation" definition would no longer apply. One way to address this problem would be for the Department to limit subsections (A)(i) [for NAAQS] and (A)(ii) [for NSPS] of its definition of regulated NSR pollutant not to include GHGs above the thresholds specified in the "subject to regulation" definition. This could be accomplished by adding a new subsection (B)(iii) to the definition that would state "regulated NSR pollutant does not include … (iii) GHGs emitted below the thresholds in Subparagraphs (C) through (E) in the definition of the term 'subject to regulation' in this section." This approach would give Oklahoma time to address any regulation of GHGs under the NSPS or NAAQS rules if EPA proceeds with such rulemakings.

The Forum appreciates the opportunity to submit these comments and requests that any questions be directed to Shannon Broome, Executive Director, Air Permitting Forum at 510-985-1710 or sbroome@pacbell.net.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

OCT 2 6 2010

Oklahoma Department of Environmental Quality
Air Quality Division
P.O. Box 1677
Oklahoma City, OK 73101-1677
ATTN: Ms. Cheryl Bradley

RE: EPA Comments on Proposed Emergency Rules to Implement GHG Tailoring Rule

Dear Ms. Bradley:

Thank you for providing us the opportunity to review and comment on the proposed emergency rulemaking to the to the Oklahoma Air Code, Title 252, Chapter 100, Subchapter 1; Subchapter 7, Part 1; and Subchapter 8, Parts 5 and 7. The proposed emergency rulemaking revises the Oklahoma PSD and title V programs to establish the greenhouse gas-specific permitting thresholds in EPA's final rule "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" published on June 3, 2010 (see 75 FR 31514).

We are supportive of the proposed emergency rule revisions and have no comments at this time. We encourage the Oklahoma Department of Environmental Quality (ODEQ) to expeditiously adopt these revisions as proposed to implement the GHG Tailoring Rule provisions in the State of Oklahoma by January 2, 2011.

We look forward to working with you in the upcoming year as you proceed with the permanent rulemaking to implement the GHG Tailoring Rule. Please note that our comments today do not address the future permanent rule revisions that will be necessary to the Oklahoma Prevention of Significant Deterioration (PSD) and title V programs and the Oklahoma State Implementation Plan. We will evaluate these rules during the applicable comment period, which we anticipate will start in January 2011.

We appreciate the timely efforts by the ODEQ to update the PSD and title V programs and your willingness to consult EPA Region 6 throughout this process. We look forward to future collaboration with ODEQ on the implementation of the GHG Tailoring Rule. If you have any questions about the GHG Tailoring Rule, or about EPA's review of your proposed emergency rulemaking, please feel free to contact me at 214-665-6435 or contact Ms. Adina Wiley of my staff at 214-665-2115.

Sincerely yours,

Jeff Robinson
Chief
Air Permits Section

October 26, 2010

Mr. Eddie Terrill, Director
Air Quality Division
Oklahoma Department of Environmental Quality
707 N. Robinson
Oklahoma City, OK 73101

Re: ODEQ's Proposed Rulemaking Regarding OAC 252:100-1 (Definitions), OAC 252:100-5 (Registration, Emission Inventory and Annual Operating Fees), OAC 252:100-7 (Permits for Minor Facilities), and OAC 252:100-8 (Permits for Part 70 Sources)

Dear Mr. Terrill:

The Oklahoma Independent Petroleum Association (OIPA) and the Mid-Continent Oil and Gas Association (MOGA) are providing comments in regards to the Oklahoma Department of Environmental Quality's (ODEQ's) proposed changes to OAC 252:100.

We greatly appreciate the opportunity to provide input into ODEQ's rulemaking process, and the following information provides our comments.

General:

1. ODEQ is proposing to include greenhouse gas (GHG) regulations in its rules based on the new federal GHG requirements. If the GHG requirements are vacated or delayed at the Federal level, it would appear that regulated entities in Oklahoma would still be required to comply with ODEQ's GHG requirements. This would place Oklahoma in an economic disadvantage to other states that may not have GHG rules in place or with states that have language in place to address such a situation. We recommend ODEQ include language in the rules that would address this issue if it were to occur.

2. ODEQ is proposing rules to regulate GHGs based on new federal regulations under Subchapter 7 and 8. It is assumed GHGs would be considered a regulated pollutant under Subchapter 5 as no language has been proposed to exclude those pollutants in OAC 252:100-5-1.1 (see definitions of "Regulated pollutant (for fee calculation)"). In addition, minor sources would be paying for every ton of GHG generated as OAC 252:100-5-2.2(d) does not provide any limitations on regulated pollutants from minor sources as compared to the limitations provided for Part 70 sources. We request ODEQ include language exempting GHGs from annual operating fees.

3. In reviewing the August 2, 2010 letter from the State of Texas to EPA, Texas raises some significant questions regarding a state's right as it relates to an expedited GHG rule implementation in relation to the State Implementation Plan (SIP) revision process under the CAA Section 166(a), the normal SIP revisions procedures under Section 110, and EPA's authority to impose a Federal Implementation Plan on GHG without finding that a state has

failed to make a required submission. We think ODEQ should carefully consider these issues before moving forward with GHG regulations.

Specific Comments

252:100-5-2.3. Annual operating fees for toxics emissions (regulated toxic air pollutants).

1. It is not clear from the rule impact statement the amount of funds currently being generated for the toxics program, what the proposed fees and increases will generate for each item listed, and the total amount of funds the proposed rule is expected to generate. We request this information be made public.

2. In regards to OAC 252:100-5-2.3(b)(6), ODEQ is proposing an annual operating fee of $250; however, on page 4 of the rule impact statement, it states these sources would pay an annual fee of $250-$750. We request ODEQ clarify this issue.

3. EPA's area source NESHAP has required the permitting of many small sources in rural areas where health impacts are minimal. What is the basis for ODEQ's proposal to raise annual operating fees for toxics on minor sources from $25.12 to $50 per ton?

252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities. We recommend the following text be added to the last sentence of this section as follows:

> "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."

Again, we appreciate the opportunity to provide comments on ODEQ's proposed rules. Thank you in advance for your consideration of these matters.

Sincerely,

Angie Burckhalter
V.P., Regulatory Affairs

Oklahoma Independent Petroleum Association

Michael Bernard
President

MID-CONTINENT OIL AND GAS ASSOCIATION OF OKLAHOMA

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

[OAR Docket #12-445]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources
Part 5. Permits for Part 70 Sources
252:100-8-2. [AMENDED]
252:100-8-4. [AMENDED]
Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas
252:100-8-31. [AMENDED]
252:100-8-33. [AMENDED]
Part 9. Major Sources Affecting Nonattainment Areas
252:100-8-51.1. [AMENDED]
AUTHORITY:
Environmental Quality Board; 27A O.S. §§2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. §§2-5-101 *et seq.*
DATES:
Comment period:
September 1, 2011 through October 5, 2011
Public hearings:
October 5, 2011
Adoption:
November 15, 2011
Submitted to Governor:
November 21, 2011
Submitted to House:
November 21, 2011
Submitted to Senate:
November 21, 2011
Gubernatorial approval:
December 21, 2011
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on March 29, 2012
Final adoption:
March 29, 2012
Effective:
July 1, 2012
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
Incorporated standards as they existed on July 1, 2010:
40 CFR 51.165(a)(11)
Incorporating rules:
252:100-8-51.1(c)
Availability:
The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m. excluding state holidays.
ANALYSIS:
The Department is proposing to modify Subchapter 8 to include the Environmental Protection Agency's (EPA's) recent changes to the Prevention of Significant Deterioration (PSD) and Part 70 programs regarding permitting of carbon dioxide (CO_2) emissions from certain biomass sources. EPA has deferred for a period of three (3) years the application of the PSD and Part 70 permitting requirements to these biogenic CO_2 emissions from bioenergy and other biogenic stationary sources. The Department proposes to modify the definitions of "subject to regulation" in OAC 252:100-8-2 and 252:100-8-31 to accomplish this deferral. The proposed modification to Parts 5 and 7 of Subchapter 8 will prevent the State rule from being perceived to be more stringent than the corresponding federal rule.

The Department is proposing to revise OAC 252:100-8-4(a)(1) to clarify that construction permits for new and modified Part 70 sources shall be obtained under the requirements of Part 5 of 252:100-8 and not 252:100-7, Permits for Minor Facilities. In addition, a change is proposed to 252:100-8-4(b), which would set a schedule for timely application submittal for sources that become subject to the Part 70 operating permit program without any physical or operational change or any increase in emissions of air pollutants subject to regulation.

Due to errors in the *Oklahoma Register* (28 OK Reg 1179) published June 15, 2011, the Department is proposing a series of corrections to Subchapter 8. The corrections are in paragraph (B) of the definition of "subject to regulation" in 252:100-8-2 and in paragraph (B)(i) of the definition of "subject to regulation"in 252:100-8-31 where dashes were erroneously converted to the letter "B"; in the definitions of "baseline area" and "significant" in 252:100-8-31 where "µg/m³" was erroneously converted to "Fg/m³"; in 252:100-8-33(c)(1) where a number of occurrences of "µg/m³" were erroneously converted to "Fg/m³"; and in 252:100-8-51.1(c) where the date of incorporation by reference was July 1, 2011 when it should have been July 1, 2010.

The Department proposes to make other nonsubstantive changes in the sections of the rule that are being revised, including changing the name of Subchapter 8 to "Permits for Part 70 Sources and Major New Source Review (NSR) Sources."
CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

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.

"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.

(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) 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) rimary 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 non-attainment areas, sources with the potential to emit 100 TPY or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 TPY or more in areas classified as "serious," 25 TPY or more in areas classified as "severe," and 10 TPY or more in areas 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 non-attainment areas:

(I) that are 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}) non-attainment areas 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 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 ~~B.~~ Global Warming Potentials, and summing the resultant value for each to compute a TPY CO_2e. For purposes of this definition, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

(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.

"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.** No person shall 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. A construction permit is also required prior to reconstruction of a major affected source under 40 CFR Part 63, reconstruction of a major source if it would then become a major affected source under 40 CFR 63, or for any physical change that would be a significant modification under OAC 252:100-8-7.2(b)(2). 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.

(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 ~~section~~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.** Sources that are subject to the operating permit program established by this Chapter as of March 6, 1996, shall file applications on the following schedules outlined in OAC 252:100-8-4(b)(4). A timely application is one that is postmarked on or before the relevant date listed ~~below~~ in OAC 252:100-8-4(b). In the event a major source consists of operations under multiple SIC codes, the primary activity shall form the basis for the initial permit application.

(4) **Application submittal schedule.** The following sources are subject to the operating permit program and shall submit initial permit applications according to the following schedule.

(A) No later than September 5, 1996:

(i) Affected sources under the acid rain provisions of the Act shall submit a permit application for at least the affected units at the site. Regardless of the effective date of the program and the requirement to file an application defined in this section, applications for initial Phase II acid rain permits shall be submitted to the DEQ no later than January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides, pursuant to the Act, §407.

(ii) Any owner or operator shall submit no less than one-third of their total applications for Part 70 sources located at sources classified by the following Source Standard Industrial Classification Codes and which belong to a single major industrial grouping other than 28 (Chemicals and allied products) or 29 (Petroleum refining and related industries):

(I) Petroleum and Natural Gas, 1311;

(II) Natural Gas Liquids, 1321;

(III) Electric Services, 4911, 4961;

(IV) Natural Gas Transmission, 4922;

(V) Natural Gas Transmission and Distribution, 4923; and

(VI) Petroleum Bulk Stations and Terminals, 5171.

(B) All remaining Part 70 sources identified in (b)(4)(A)(ii) of this Subsection shall be subject to the operating permit program and shall submit initial permit applications no later than March 5, 1997.

(C) No later than March 5, 1997, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Metals, 3312, 3315, 3321, 3341, 3351, 3411, 3412, 3432, 3466,

(ii) Brick Plants, 3251, 3297,

(iii) Commercial Printing, 2752, 2761.

(D) No later than July 5, 1998, any owner or operator shall submit their applications for Part 70 sources located at sources classified by the following Standard Industrial Classification Codes:

(i) Refineries, 2911;

(ii) Cement Plants, 3241;

(iii) Chemical/Carbon, 2819, 2821, 2851, 2861, 2869, 2891, 2895, 2899, 2999, 3053, 3086, 3089;

(iv) Petroleum Transportation/Terminals/Storage, 4612, 4613;

(v) Food Products, 2013, 2074, 2095.

(E) All remaining Part 70 sources shall be subject to the operating permit program and shall submit initial permit applications no later than March 6, 1999.

(5) **Newly regulated sources.** A source that becomes subject to the Part 70 operating permit program ~~established by this Chapter~~ at any time ~~following the effective date~~ on or after March 6, 1996, shall file an administratively complete operating permit application ~~within 180 days of commencement of operation~~ in accordance with the following schedule.

(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 in an increase in the emission of any air pollutant subject to regulation shall file an administratively complete operating permit application within 12 months after the date the source first becomes subject to the Part 70 operating permit program.

(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.

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 ~~Fg/m³~~µg/m³ (annual average) for SO_2, NO_2, or PM_{10}; or equal or greater than 0.3 ~~Fg/m³~~µg/m³ (annual average) for $PM_{2.5}$.

(A) Area redesignations under section107(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:

(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 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;

(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) he 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

(A) A regulated NSR pollutant is:

(i) any pollutant for which a NAAQS has been promulgated and any pollutant identified under (A)(i) of this definition as a constituent or precursor to such pollutant. Precursors identified by the 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.

(ii) any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or

(iv) 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;

(v) PM emissions, $PM_{2.5}$ 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, $PM_{2.5,}$ and PM_{10} in PSD permits.

(B) 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) 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 Fg/m³~~ 1 µg/m³ (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) shall not be subject to regulation except as provided in (D) through (E) of this definition.

(B) For purposes of (C) through (E) 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 ~~B.~~ Global Warming Potentials. For purposes of this definition, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries, as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material).

(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 (D) through (E) 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 emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 TPY CO_2e or more.

(E) Beginning July 1, 2011, in addition to the provisions in (D) of this definition, the pollutant GHG shall also be subject to regulation:

(i) At a new stationary source that will emit or have the potential to emit 100,000 TPY CO_2e; or

(ii) At an existing stationary source that emits or has the potential to emit 100,000 TPY CO_2e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 TPY CO_2e or more.

(F) 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.

(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.

(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 significant monitoring concentrations (SMC):

(A) Carbon monoxide - 575 ~~Fg/m³~~ µg/m³, 8-hour average,

(B) Nitrogen dioxide - 14 ~~Fg/m³~~ µg/m³, annual average,

(C) $PM_{2.5}$ - 4 µg/m³, 24-hour average,

(D) PM_{10} - 10 ~~Fg/m³~~ µg/m³, 24-hour average,

(E) Sulfur dioxide -13 ~~Fg/m³~~ µg/m³, 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 ~~Fg/m³~~ µg/m³, 24-hour 3-month average,

(H) Fluorides - 0.25 ~~Fg/m³~~ µg/m³, 24-hour average,

(I) Total reduced sulfur - 10 ~~Fg/m³~~ µg/m³, 1-hour average,

(J) Hydrogen sulfide - 0.2 ~~Fg/m³~~ µg/m³, 1-hour average, or

(K) Reduced sulfur compounds - 10 ~~Fg/m³~~ µg/m³, 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.

PART 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-51.1. Emissions reductions and offsets

(a) The requirements in 40 CFR 51.165(a)(3) regarding emissions reductions and offsets are hereby incorporated by reference as they exist on July 2, 2007.

(b) The requirements in subsection 40 CFR 51.165(a) (9) dealing with offset ratios are hereby incorporated by reference as they exist on July 1, 2010.

(c) The requirements in 40 CFR 51.165(a)(11) regarding emission offsets are hereby incorporated by reference as they exist on July 1, ~~2011~~ 2010.

[OAR Docket #12-445; filed 4-25-12]

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

[OAR Docket #12-446]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 3. Incorporation by Reference
252:205-3-1 [AMENDED]
AUTHORITY:
Environmental Quality Board; 27A §§ 2-2-101, 2-2-201, 2-2-104, 2-7-105 and 2-7-106
DATES:
Comment period:
September 13 through October 13, 2011
Public hearing:
October 13, 2011, Hazardous Waste Management Advisory Council
Adoption:
November 15, 2011
Submitted to Governor:
November 21, 2011
Submitted to House:
November 21, 2011
Submitted to Senate:
November 21, 2011
Gubernatorial Approval:
December 21, 2011
Legislative approval:
March 29, 2012
Final adoption:
March 29, 2012
Effective:
July 1, 2012
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATION BY REFERENCE:
Incorporated standards as published on July 1, 2011:
Title 40 of the Code of Federal Regulations, Part 261, Subpart D, §261.33; Part 262, Subpart K, §262.200, §262.206, §262.212, §262.214; and Part 268, Subpart D, §268.40, §268.42, §268.42
Incorporating rules:
252:205-3-1
Availability:
From the contact person listed below
ANALYSIS:
The proposed amendment is to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2011. New rules include technical corrections and the removal of Saccharin and its salts from the Lists of Hazardous Wastes.
CONTACT PERSON:
Mike Edwards (405) 702-5226, 707 North Robinson, Oklahoma City, Oklahoma 73102. Mailing address is P.O. Box 1677, Oklahoma City, OK 73101-1677. E-mail address is mike.edwards@deq.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 3. INCORPORATION BY REFERENCE

252:205-3-1. Reference to 40 CFR

(a) Incorporation date. Except as provided in subsection (b), when reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, ~~2010~~2011.

(b) Excluded provisions. None of the revisions to 40 CFR published at 73 FR 64668 - 64788 (October 30, 2008), "Revisions to the Definition of Solid Waste: Final Rule" are incorporated herein.

[OAR Docket #12-446; filed 4-25-12]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 410. RADIATION MANAGEMENT

[OAR Docket #12-448]

RULEMAKING ACTION:
PERMANENT final adoption.
RULES:
Subchapter 1. General Provisions
252:410-1-7. [AMENDED]
Subchapter 10. Radioactive Materials Program
Part 1. General Provisions
252:410-10-1. [AMENDED]
Part 35. Medical Use of Byproduct Material
252:410-10-35. [AMENDED]
Part 40. Domestic Licensing of Source Material
252:410-10-40. [AMENDED]
Part 71. Packaging and Transporting Radioactive Material
252:410-10-71. [AMENDED]
Subchapter 20. Standards For Protection Against Radiation
252:410-20-1. [AMENDED]
AUTHORITY:
Environmental Quality Board and Radiation Management Advisory Council powers and duties, 27A O.S. §§ 2-2-101, 2-2-104, 2-2-201, and 2-9-104
DATES:
Comment period:
September 1, 2011, through November 8, 2011, October 6, 2011, and November 15, 2011.
Public hearing:
October 6, 2011, Radiation Management Advisory Council and November 15, 2011 Environmental Quality Board.
Adoption:
November 15, 2011

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 17. INCINERATORS

PART 1. GENERAL PROVISIONS

252:100-17-1. Purpose

The purpose of this ~~Subchapter~~ subchapter is to specify design and operating requirements, and emission limitations for incinerators and municipal waste combustors (MWC).

252:100-17-1.1. Reference to 40 CFR

~~The purpose of this Subchapter is to control emissions from incinerators.~~

See OAC 252:100-2.

252:100-17-1.2. Terminology related to 40 CFR [REVOKED]

~~When these terms are used in rules incorporated by reference, the following definitions shall apply:~~

~~**"EPA Administrator"** or **"Administrator"** is synonymous with "Executive Director" or "the Executive Director's designee".~~

~~**"State"** is synonymous with "Department of Environmental Quality" or "DEQ".~~

252:100-17-1.3. Incinerators and fuel-burning equipment or units

Any incinerator or MWC subject to the requirements of any part of this subchapter that is used to generate useful heat energy is also considered fuel-burning equipment or a fuel-burning unit and is subject to all applicable requirements of this chapter.

PART 3. GENERAL PURPOSE INCINERATORS

252:100-17-2. Applicability

This ~~Part~~ part applies to any new and existing ~~incinerators~~incinerator not subject to ~~New Source Performance Standards (NSPS)~~ 40 CFR Part 60, Subparts E, Ea, Eb, Ec, or EEEE, or ~~any other~~ Parts ~~in~~ 4, 5, 7, 9, or 11 of this ~~Subchapter~~ subchapter.

252:100-17-2.1. Exemptions

Thermal oxidizers, flares and any other air pollution control devices are exempt from the requirements of this ~~Part~~ part.

252:100-17-2.2. Definitions

The following words and terms when used in this ~~Subchapter~~ part and Part 4 of this subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Capacity" means ~~amount~~ the maximum design charging rate of ~~specified wastes a unit~~ refuse in pounds per hour (lb/hr) an incinerator is designed to ~~burn~~ receive. ~~Capacity may be expressed as pounds per hour or tons per day.~~

~~**"Excess air"** means air entering a combustion chamber in excess of the amount theoretically required to complete combustion of materials in the combustion chamber.~~

~~**"Fly ash"** means particulate matter capable of being gasborne or airborne consisting essentially of fused ash and/or burned or unburned material.~~

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

"Primary combustion chamber" means the initial incinerator chamber where ~~waste~~refuse is charged, ignited, and burned.

~~**"Secondary burner"** means a supplemental burner in the secondary chamber for the purpose of maintaining a minimum temperature and to insure the complete combustion of volatile gases and smoke.~~

"Secondary combustion chamber" means ~~one or more~~ a component of the general purpose incinerator that receives combustion gases from the ~~chambers in addition to the~~ primary combustion chamber ~~that function to fully combust gaseous and particulate matter suspended in the exhaust gases from the primary~~ and in which the combustion ~~chamber~~ process is completed.

252:100-17-4. Particulate matter

~~Fly ash or other particulate~~The emissions of particulate matter from an incinerator subject to the requirements of this part shall not exceed ~~quantities greater than~~ the applicable allowable particulate matter emission rate contained in Appendix A of this chapter. ~~The allowable emissions for incinerators with capacities of 100 lb/hr or greater are set forth in Appendix A of this Chapter. The allowable emissions for incinerators with capacities less than 100 lb/hr are set forth in Appendix B of this Chapter.~~ Solid fuels charged will be considered part of the refuse weight. ~~No. 1 and No. 2 fuel oils (distillate oils), liquified petroleum gases, gaseous fuels and combustion air will not be considered as part of the refuse weight.~~

252:100-17-5. Incinerator design and operation requirements

An incinerator subject to this ~~Part must have:~~ part shall be designed and built with a primary combustion chamber ~~equipped with a burner(s)~~ that maintains a temperature of at least 800^{o}F in the primary combustion chamber at all times when refuse is being incinerated, and a secondary combustion chamber(s) that is ~~equipped with a burner or other combustion device~~ adequately designed and operated to ~~fully~~ combust gaseous and particulate matter suspended in the exhaust gas stream from the primary combustion chamber. The combustion device in each combustion chamber shall be in operation at all times when refuse is being incinerated.

~~(1) A primary burner that maintains a temperature of at least 800°F in the primary combustion chamber.~~

~~(2) A secondary burner that shall be used when necessary to eliminate smoke.~~

252:100-17-5.1. Alternative incinerator design requirements

Notwithstanding OAC 252:100-17-5, ~~The~~the Director may approve an alternative incinerator design ~~that does not meet the design requirements in 252:100-17-5~~ if the owner or operator of the proposed incinerator demonstrates to the ~~DEQ~~ satisfaction of the Director that the incinerator ~~can~~ will comply with OAC 252:100-17-4 and all other applicable requirements of this chapter.

252:100-17-7. Test methods

~~(a) **Opacity.** Opacity shall be measured utilizing Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.~~

~~(b) **Particulate matter.** Particulate matter shall be measured utilizing the appropriate DEQ approved Method 5 found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.~~See OAC 252:100-43.

RULE IMPACT STATEMENT:

The Rule Impact Statement for the proposed rule revocation will be on file at the Department of Environmental Quality and may be requested from the contact person.

CONTACT PERSON:

Rita Kottke, Land Protection Division, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at rita.kottke@deq.ok.gov, phone 405-702-5157, or fax 405-702-5101.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Hazardous Waste Management Advisory Council meeting or the Environmental Quality Board meeting and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-5100 or by using TDD relay number 1-800-522-8506.

[OAR Docket #09-1438; filed 11-25-09]

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

[OAR Docket #09-1437]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 17. Incinerators
Part 1. General Provisions
252:100-17-1. Purpose [AMENDED]
252:100-17-1.1. Reference to 40 CFR [AMENDED]
252:100-17-1.2. Terminology related to 40 CFR [REVOKED]
252:100-17-1.3. Incinerators and fuel-burning equipment or units [NEW]
Part 3. General Purpose Incinerators [AMENDED]
252:100-17-2. Applicability [AMENDED]
252:100-17-2.1. Exemptions [AMENDED]
252:100-17-2.2. Definitions [AMENDED]
252:100-17-4. Particulate matter [AMENDED]
252:100-17-5. Incinerator design and operation requirements [AMENDED]
252:100-17-5.1. Alternative incinerator design requirements [AMENDED]
252:100-17-7. Test methods [AMENDED]
Part 4. Biomedical Waste Incinerators [NEW]
252:100-17-8. Applicability [NEW]
252:100-17-9. Definitions [NEW]
252:100-17-10. Design and operation [NEW]
252:100-17-11. Emission limits [NEW]
Appendix A. Allowable Emissions for Incinerators with Capacities of 100 Lb/Hr or Greater [REVOKED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [NEW]
Appendix B.Allowable Emissions for Incinerators with Capacities less than 100 Lbs/Hr [REVOKED]
Appendix Q. Incorporation By Reference [REVOKED]
Appendix Q. Incorporation By Reference [NEW]

SUMMARY:

The Department is proposing to amend Parts 1 and 3 of OAC 252:100-17, Incinerators, to remove obsolete language and clarify the remaining provisions. In addition, the Department is proposing to revoke Appendix A, Allowable Emissions for Incinerators with Capacities in Excess of 100 lb/hr and Appendix B, Allowable Emissions for Incinerators with Capacities Less than 100 lb/hr. The current provisions of both appendices are proposed to be rolled into a new Appendix A, Allowable Particulate Matter Emission Rate for Incinerators.

The Department is proposing to add a new Part 4, Biomedical Waste Incinerators, to Subchapter 17, Incinerators. The new part will incorporate the control technology requirements for this type of incinerator originally established under Subchapter 41, Control of Emission of Hazardous and Toxic Air Contaminants, which was revoked in 2007. In addition, the Department has identified regulatory gaps in Subchapter 17, Part 7, Hospital, Medical and Infectious Waste Incinerators, when pathological waste, low-level radioactive waste, and chemotherapeutic waste is incinerated. The addition of Part 4 will reestablish the Department's authority to require design and emission standards for biomedical waste incinerators and close the regulatory gap in Part 7 of Subchapter 17.

The Department is proposing to update Appendix Q, Incorporation By Reference, to incorporate by reference the latest changes to U.S. Environmental Protection Agency air program regulations.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Air Quality Advisory Council powers and duties, 27A O.S. § 2-2-201; and Oklahoma Clean Air Act, 27A O.S.§§ 2-5-101 through -117.

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 20, 2010. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Copies of the written responses will be provided to the Council and the public at that Council meeting. Oral comments may be made at the January 20, 2010 hearing and at the February 26, 2010 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 20, 2010, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board at 9:30 a.m. on Friday, February 26, 2010, 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 of the U.S. Environmental Protection Agency regulations and 27A O.S. § 2-5-107(6)(c).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained by contacting Cheryl E. Bradley at (405) 702-4100.

CONTACT PERSON:

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

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #09-1437; filed 11-25-09]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 220. BROWNFIELDS [REVOKED]

[OAR Docket #09-1436]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Chapter 220. Brownfields [REVOKED]

SUMMARY:

Title 252, Chapter 220 was originally promulgated to implement the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. § 2-15-101 *et seq.*, in order to foster voluntary redevelopment and reuse of abandoned, idled or underused industrial or commercial facilitiesat which expansion or redevelopment of the real property is complicated by pollution. Subsequently, the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C.§ 9601 *et seq.*, was amended to provide specific grant programs for Brownfields with specific eligibility requirements and to provide further protections for those persons redeveloping Brownfields sites. Additionally, the Oklahoma legislature amended the state Brownfields law in 2009 to better streamline the Brownfields program.

Therefore, the current Brownfields rules, Chapter 220, became inconsistent with both federal and state law. The DEQ proposes to revoke Chapter 220 and adopt a new Chapter to cover much of the same content but in a more streamlined context and format. Additionally, the Revolving Loan Fund rules were rewritten to be in compliance with the federal law.

This rule revocation process is progressing in tandem with the rulemaking process of the new Chapter 221. For further information, refer to the Notice of Rulemaking Intent for Chapter 221.

AUTHORITY:

Environmental Quality Board; 27A O.S.§§ 2-2-101 and 2-2-201 and Article XV, Oklahoma Brownfields Voluntary Redevelopment Act,§ 2-15-101 *et seq.*

COMMENT PERIOD:

Deliver or mail written comments on the proposed rules to the contact person from December 15, 2009, through January 20, 2010. Oral comments may be made at the Hazardous Waste Management Advisory Council meeting on January 28, 2010, or at the meeting of the Environmental Quality Board on February 26, 2010.

PUBLIC HEARINGS:

Before the Hazardous Waste Management Advisory Council at 10:00 a.m. on January 28, 2010, in the multi-purpose room on the 1st floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

Before the Environmental Quality Board at 9:30 a.m. on February 26th, 2010, in the

in the multi-purpose room on the 1st floor of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPY OF PROPOSED RULE CHANGES:

A copy of the proposed rules may be obtained from the contact person or may viewed on the DEQ web site at www.deq.state.ok.us or may be reviewed at the Department

TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 17. INCINERATORS

PART 1. GENERAL PROVISIONS

252:100-17-1. Purpose

The purpose of this ~~Subchapter~~ subchapter is to specify design and operating requirements, and emission limitations for incinerators and municipal waste combustors (MWC).

252:100-17-1.1. Reference to 40 CFR

~~The purpose of this Subchapter is to control emissions from incinerators.~~

See OAC 252:100-2.

252:100-17-1.2. Terminology related to 40 CFR [REVOKED]

~~When these terms are used in rules incorporated by reference, the following definitions shall apply:~~

~~**"EPA Administrator"** or **"Administrator"** is synonymous with "Executive Director" or "the Executive Director's designee".~~

~~**"State"** is synonymous with "Department of Environmental Quality" or "DEQ".~~

252:100-17-1.3. Incinerators and fuel-burning equipment or units

Any incinerator or MWC subject to the requirements of any part of this subchapter that is used to generate useful heat energy is also considered fuel-burning equipment or a fuel-burning unit and is subject to all applicable requirements of this chapter.

PART 3. GENERAL PURPOSE INCINERATORS

252:100-17-2. Applicability

This ~~Part~~ part applies to any new and existing ~~incinerators~~incinerator not subject to ~~New Source Performance Standards (NSPS)~~ 40 CFR Part 60, Subparts E, Ea, Eb, Ec, or EEEE, or ~~any other~~ Parts ~~in~~ 4, 5, 7, 9, or 11 of this ~~Subchapter~~ subchapter.

252:100-17-2.1. Exemptions

Thermal oxidizers, flares and any other air pollution control devices are exempt from the requirements of this ~~Part~~ part.

252:100-17-2.2. Definitions

The following words and terms when used in this ~~Subchapter~~ part and Part 4 of this subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Capacity" means ~~amount~~ the maximum design charging rate of ~~specified wastes a unit~~ refuse in pounds per hour (lb/hr) an incinerator is designed to ~~burn~~ receive. ~~Capacity may be expressed as pounds per hour or tons per day.~~

~~**"Excess air"** means air entering a combustion chamber in excess of the amount theoretically required to complete combustion of materials in the combustion chamber.~~

~~**"Fly ash"** means particulate matter capable of being gasborne or airborne consisting essentially of fused ash and/or burned or unburned material.~~

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

"Primary combustion chamber" means the initial incinerator chamber where ~~waste~~refuse is charged, ignited, and burned.

~~**"Secondary burner"** means a supplemental burner in the secondary chamber for the purpose of maintaining a minimum temperature and to insure the complete combustion of volatile gases and smoke.~~

"Secondary combustion chamber" means one or more combustion chambers in addition to the primary combustion chamber that function to fully combust gaseous and particulate matter suspended in the exhaust gases from the primary combustion chamber.

252:100-17-4. Particulate matter

~~Fly ash or other particulate~~The emissions of particulate matter from an incinerator subject to the requirements of this part shall not exceed ~~quantities greater than~~ the applicable allowable particulate matter emission rate contained in Appendix A of this chapter. ~~The allowable emissions for incinerators with capacities of 100 lb/hr or greater are set forth in Appendix A of this Chapter. The allowable emissions for incinerators with capacities less than 100 lb/hr are set forth in Appendix B of this Chapter.~~ Solid fuels charged will be considered part of the refuse weight. ~~No. 1 and No. 2 fuel oils (distillate oils), liquified petroleum gases, gaseous fuels and combustion air will not be considered as part of the refuse weight.~~

252:100-17-5. Incinerator design and operation requirements

An incinerator subject to this ~~Part must have:~~ part shall be designed and built with a primary combustion chamber equipped with a burner(s) that maintains a temperature of at least 800°F in the primary combustion chamber at all times when refuse is being incinerated, and a secondary combustion chamber(s) that is equipped with a burner or other combustion device adequately designed and operated to fully combust gaseous and particulate matter suspended in the exhaust gas stream from the primary combustion chamber. The combustion device in each combustion chamber shall be in operation at all times when refuse is being incinerated.

~~(1) A primary burner that maintains a temperature of at least 800°F in the primary combustion chamber.~~

~~(2) A secondary burner that shall be used when necessary to eliminate smoke.~~

252:100-17-5.1. Alternative incinerator design requirements

Notwithstanding OAC 252:100-17-5, ~~The~~the Director may approve an alternative incinerator design ~~that does not meet the design requirements in 252:100-17-5~~ if the owner or operator of the proposed incinerator demonstrates to the ~~DEQ~~ satisfaction of the Director that the incinerator ~~can~~ will comply with OAC 252:100-17-4 and all other applicable requirements of this chapter.

252:100-17-7. Test methods

~~(a) **Opacity.** Opacity shall be measured utilizing Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.~~

~~(b) **Particulate matter.** Particulate matter shall be measured utilizing the appropriate DEQ-approved Method 5 found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.~~See OAC 252:100-43.

MINUTES
AIR QUALITY COUNCIL
January 20, 2010
Multipurpose Room
707 North Robinson
Oklahoma City OK

To EQBoard 2-26-10
APPROVED AQC
April 21, 2010

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. on January 20, 2010, at 707 North Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on December 3, 2010. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101-2-5-118. Ms. Smith entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Bruce called roll stating that a quorum was present.

MEMBERS PRESENT	DEQ STAFF PRESENT	DEQ STAFF PRESENT
David Branecky	Eddie Terrill	Diana Hinson
Montelle Clark	Beverly Botchlet-Smith	Brooks Kirlin
Gary Collins	Scott Thomas	Nancy Marshment
Laura Lodes	Cheryl Bradley	Kendal Stegmann
Bob Lynch	Rob Singletary	Dawson Lasseter
Jim Haught		Myrna Bruce
Sharon Myers	**OTHERS PRESENT**	
Pete White	David Griesel, EQBoard	
	Christy Myers, Court Reporter	

MEMBERS ABSENT
Vacancy

Transcripts and Attendance Sheet are attached as an official part of these Minutes

Election of Officers – Ms. Laura Lodes opened the floor for nominations for Chair and Vice-Chair for Calendar Year 2010. Mr. Branecky moved that Ms. Lodes remain as Chair and nominated Mr. Jim Haught be Vice-Chair. Ms. Myers made the second.

Transcript pages 4 - 5

David Branecky	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Gary Collins	Yes	Pete White	Yes
Jim Haught	Abstain	Laura Lodes	Yes

Approval of Minutes - April 15, 2009 Regular Meeting and October 21, 2009 Regular Meeting Ms. Lodes called for a motion to approve both sets of Minutes. Mr. Branecky moved to approve and Ms. Myers made the second.

Transcript pages 5 - 7

David Branecky	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Gary Collins	Yes	Pete White	Yes
Jim Haught	Yes	Laura Lodes	Yes

OAC 252:100-17. Incinerators, Part 1 and Part 3 [AMENDED]
Appendix A. Allowable Emissions for Incinerators with Capacities in Excess of 100 lbs/hr [REVOKED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [NEW]
Appendix B. Allowable Emissions for Incinerators with Capacities less than 100 lb/hr [REVOKED]

Ms. Diana Hinson, staff representative, advised that the proposal would amend Parts 1 and 3 of OAC 252:100-17, Incinerators, to remove obsolete language and clarify the remaining provisions. In addition, the Department is proposing to revoke Appendix A, Allowable Emissions for Incinerators with Capacities in Excess of 100 lb/hr; and Appendix B, Allowable Emissions for Incinerators with Capacities Less than 100 lb/hr. The current provisions of both appendices are proposed to be combined into a new Appendix A, Allowable Particulate Matter Emission Rate for Incinerators. Ms. Hinson explained that staff proposed alternative language for Part 3 for Council's consideration. Ms. Lodes called for a motion. Mr. Branecky moved to adopt the alternative proposal as presented with the revocation of Appendix A and B and a new Appendix A. Mr. Haught made the second.

Transcript pages 8 - 13

David Branecky	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Gary Collins	Yes	Pete White	Yes
Jim Haught	Yes	Laura Lodes	Yes

OAC 252:100-17. Incinerators, Part 4 [NEW] Ms. Diana Hinson, staff representative, advised that the proposal would add a new Part 4, Biomedical Waste Incinerators, to Subchapter 17, Incinerators. The new part will incorporate the Best Available Control Technology for this type of incinerator originally established under the authority of Subchapter 41, Control of Emission of Hazardous and Toxic Air Contaminants, which was revoked in 2007. The addition of Part 4 would reestablish the Department's authority to require design and emission standards for biomedical waste incinerators and close a regulatory gap in Part 7 of Subchapter 17. Ms. Hinson explained that further consideration is being given in order to make additional clarifications regarding the performance standard; therefore, the Department suggested that Council continue the proposal until the next meeting. Following discussion, Ms. Lodes called for a motion to continue the hearing. Ms. Myers made the motion and Mr. Collins made the second.

Transcript pages 18 - 28

David Branecky	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Gary Collins	Yes	Pete White	Yes
Jim Haught	Yes	Laura Lodes	Yes

OAC 252:100, Appendix Q. Incorporation By Reference [REVOKED]
OAC 252:100, Appendix Q. Incorporation By Reference [NEW]

Ms. Nancy Marshment, staff representative, advised that the proposal would update Appendix Q, Incorporation By Reference, to incorporate by reference the latest changes to U.S. Environmental Protection Agency regulations. Ms. Marshment identified the changes in the proposal. Hearing no comments, Ms. Lodes called for a motion. Mr. Collins made motion to adopt the proposal to update the rules for the Incorporation by Reference. Mr. Branecky made the second.

Transcript pages 32 - 38

David Branecky	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Gary Collins	Yes	Pete White	Yes
Jim Haught	Yes	Laura Lodes	Yes

Presentation on EPA's proposed sulfur dioxide ambient standards, and OAC 252:100-31. Control of Emission of Sulfur Compounds - Brooks Kirlin, Professional Engineer, DEQ Air Quality Division provided a PowerPoint presentation. A copy of the presentation is attached.

Division Director's Report – Mr. Terrill related several items:

- Reminded everyone to periodically look at the "What's New" section on the DEQ Air Quality web page
- Ozone update
- Reconsidering lead standard
- Comments on greenhouse gas tailoring rule
- Submission of Emissions Inventory electronically
- Director's Report will be recorded but no longer be a part of the official transcript
- Gave an update on regional haze
- Advised that SIP would be out by end of the month
- Beverly Botchlet-Smith provided an update on the Title IV audit requested by the Council
- Council Budget Committee volunteers were Laura Lodes, Jim Haught, David Branecky, and Gary Collins if a fourth is necessary
- Dr. Lynch discussed the grant he has for mercury sampling

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

Adjournment – Ms. Lodes adjourned the meeting adjourned at 10:25 p.m. The next regular meeting is scheduled for Wednesday, April 21, 2010, in Tulsa, Oklahoma.

Transcripts and Attendance Sheet are attached as an official part of these Minutes.

* * * * *
TRANSCRIPT OF PROCEEDINGS
OF THE
AIR QUALITY COUNCIL MEETING
HELD ON JANUARY 20, 2010, AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA
* * * * *

MYERS REPORTING SERVICE
Christy Myers, CSR
P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
(405) 721-2882

MEMBERS OF THE COUNCIL
DAVID BRANECKY, MEMBER
LAURA LODES, CHAIR
JIM HAUGHT, VICE-CHAIR
PETE WHITE, MEMBER
SHARON MYERS, MEMBER
MONTELLE CLARK, MEMBER
GARY COLLINS, MEMBER
ROBERT LYNCH, MEMBER
DEQ STAFF

MYRNA BRUCE
BEVERLY BOTCHLET-SMITH
EDDIE TERRILL
CHERYL BRADLEY
NANCY MARSHMENT
DIANA HINSON
ROBERT SINGLETARY

PROCEEDING
MS. LODES: Let's go ahead and start the meeting. Myrna, will you call the roll.
MS. BRUCE: Good morning. Happy New Year.
David Branecky.
MR. BRANECKY: Here.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Here.
MS. BRUCE: Jim Haught.
MS. HAUGHT: Here.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Here.
MS. BRUCE: Montelle Clark.
MR. CLARK: Present.
MS. BRUCE: Pete White.
MR. WHITE: Here.
MS. BRUCE: Laura Lodes.
MS. LODES: Here.
MS. BRUCE: We have a full quorum. Well, we do have a vacancy, sorry. A vacancy, but everyone else.
MR. LODES: The first item on today's Agenda would be the Election of Officers. I'm going to open it up for nominations.
MR. BRANECKY: I would like to move that Laura Lodes remain as Chair and I would like to nominate Jim Haught to be Vice-Chair.
MS. MYERS: I'll second that motion.
MS. LODES: We have a motion and a second. Myrna, will you call the roll.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: I'll abstain.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Pete White.
MR. WHITE: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: I'm not above voting for myself, so yes.
MS. BRUCE: That motion did pass.
MS. MYERS: Congratulations.
MR. LODES: Thank you.
MR. TERRILL: By the way, before we move on I will mention that we do have another Council Member that has been appointed by the Governor to fill out Jerry Purkable's term. And Dave Gamble with ConocoPhillips will be at the next meeting. We got the notice last week -- last Wednesday, I think. That was too late for him to make arrangements to be here, so we do have a full Council and we should have a full crew when we go to Tulsa in April.
MS. LODES: The next item on today's Agenda is the Approval of the Minutes.

Oh, we have two sets of Minutes. We have the April Minutes and the October Minutes.
Do we have a motion? Comments?
MR. BRANECKY: Are we approving both at the same time? Does it make any difference?
MS. LODES: Doesn't make any difference.
MR. BRANECKY: All right. I'll move that we approve both the April 15, 2009 and the October 21, 2009 Minutes.
MS. MYERS: I'll second it.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Pete White.
MR. WHITE: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. BOTCHLET-SMITH: Okay. We'll begin the hearing now. Good morning. I'm Beverly Botchlet-Smith. I'm the Assistant Director of the Air Quality Division and as such I'll serve as the Protocol Officer for today's hearings. The hearings will be convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act in 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, Sections 2-5-101 through 2-5-118.
Notice of the January 20, 2010 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 December 3, 2009. The Agenda was duly posted 24 hours prior to the meeting at this facility here at the DEQ.
If you wish to make a statement, it is very important that you complete one of the forms that is found at the registration desk and you will be called upon at the appropriate time and at that time, we'd ask for you to come to the podium to make your statement. Audience members please remember to state your name before your comments.
At this time, we will proceed with what's marked as Agenda Item Number 5A on the Hearing Agenda. And this is OAC 252:100-17 Incinerators, Part 1 and Part 3. And Ms. Diana Hinson will give our staff presentation.
MS. HINSON: Good morning, Ms. Chairman, Members of the Council, ladies and gentlemen. I am Diane Hinson, an Environmental Program Specialist in the Rules and Planning Section of Air Quality in the Department of Environmental Quality.
The Department is proposing to amend Parts 1 and 3 of OAC 252:100-17, Incinerators, to remove obsolete language and clarify the remaining provisions.
In addition, the Department is proposing to revoke Appendix A, Allowable Emissions for Incinerators with Capacities in Excess of 100 pound per hour;

and Appendix B, Allowable Emissions for Incinerators with Capacities less than 100 pounds per hour.
The current provisions of both appendices are proposed to be combined into a new Appendix A, Allowable Particulate Matter Emissions Rate for Incinerators. Notice of the proposed rule changes was published in the Oklahoma Register on December 15, 2009 and comments were requested from members of the public. Comments were received by email on October 20, 2009 from EPA.
On January the 15th, 2010, EPA submitted a letter stating they had no additional comments. Due to concerns, staff has prepared an alternative of Part 3 for consideration by the Council. This clarification reflects the language in the Code of Federal Regulations and effects the definition of the secondary combustion chamber in the section in which this term appears.
In your packet you will have a copy of the alternative.
And it reads: 252:100-17-2.2, Definitions. Secondary Combustion Chamber means a component of the general purpose incinerator that receives combustion gases from the primary combustion chamber and in which the combustion process is completed.
In addition to this change some superfluous language was removed in 252:100-17-5, Incinerator Design and Operation Requirements, which reflects the alternative definition.
This is the third time that the Council has been notified of this proposed revision. No substantive changes have been made. The Department suggests that the Council consider voting to send the proposal with the alternative language to the Environmental Quality Board with the recommendation that it be adopted as a permanent rule.
MS. BOTCHLET-SMITH: We will now take questions from the Council for Ms. Hinson. Do we have any questions or comments? Are you all still looking? Okay. We'll take a second.
While we are giving the Council just a minute to review this, I've just been notified that we didn't get these Notice of Comments out on the table. So for today, if anyone wishes to speak I'm just going to call on you from the audience, so if you'll just raise your hand. And then if you do, just for our record if we can get you to fill one of these out, it just makes it a little bit easier for the Court Reporter if we have it in writing too.
Okay. Any questions from the Council? Hearing none, at this time is there anyone in the audience that has a question for Ms. Hinson or a comment on this rule?
And hearing none, there as well, Laura, do you want to call for a motion?
MS. LODES: Do we have a motion?
MR. BRANECKY: I do have one question at this point. Can I?
MS. LODES: Yes.
MR. BRANECKY: I just want to sure I understand, in the alternative that that word "Alternative" can be removed from the text?
MS. HINSON: That is correct. I just wanted to make it clear to you that was an alternative proposed.
MR. BRANECKY: All right.
MS. LODES: Any other questions?
Do we have a motion?
MR. BRANECKY: I move that we adopt the alternative proposal as presented to us for the revisions to Subchapter 17 Part 1, presented to us this morning. In addition, the Appendices, Appendix A and B?
MS. HINSON: That is correct.
MR. BRANECKY: The revocation of A and B, with the new A by itself (inaudible).
MS. LODES: Do we have a second?
MR. HAUGHT: I'll second that.
MS. LODES: Myrna, will you call the roll, please.

MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Pete White.
MR. WHITE: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
(End of Item 5A)

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *
TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
OKLAHOMA CITY, OKLAHOMA
* * * * *

COUNCIL MEMBERS

DAVID BRANECKY, MEMBER
LAURA LODES, CHAIR
JIM HAUGHT, VICE-CHAIR
PETE WHITE, MEMBER
SHARON MYERS, MEMBER
MONTELLE CLARK, MEMBER
GARY COLLINS, MEMBER
ROBERT LYNCH, MEMBER
DEQ STAFF

MYRNA BRUCE
BEVERLY BOTCHLET-SMITH
EDDIE TERRILL
CHERYL BRADLEY
NANCY MARSHMENT
DIANA HINSON

PROCEEDING
MS. BOTCHLET-SMITH: The next item on the Agenda is Number 5B. This is OAC 252:100-17 Incinerators Part 4. And Ms. Diane Hinson will also give the staff presentation for this rule.
MS. HINSON: Once again, good morning. The Department is proposing to add a new Part 4, Biomedical Waste Incinerators, to Subchapter 17, Incinerators. The new part will incorporate the Best Available Control Technology for this type of incinerator originally established under the authority of Subchapter 41, Control of Emission of Hazardous and Toxic Air Contaminants, which was revoked in 2007.
In addition, the Department has identified regulatory gaps in Subchapter 17, Part 7, Hospital, Medical and Infectious Waste Incinerators, when

pathological waste, low-level radioactive waste, and chemotherapeutic waste is incinerated. The addition of Part 4 will reestablish the Department's authority to require design and emission standards for biomedical waste incinerators and close the regulatory gap in Part 7 of Subchapter 17.
Notice that the proposed rule change was published in the Oklahoma Register on December 15, 2009 and comments were requested from members of the public. Comments were received by email on October 20, 2009 from EPA. EPA submitted a letter stating they had no additional comments on January 15, 2010.
This is the third time the Council has been notified of the proposed revision. Further consideration is being given in order to make additional clarifications regarding the performance standard. Therefore, the Department suggests continuing the proposal until the next meeting.
Thank you.
MS. BOTCHLET-SMITH: Do we have any questions or comments from the Council for Ms. Hinson?
MR. BRANECKY: What do we need to further clarify?
MS. HINSON: The performance standard right now and what we're trying to do is streamline the definition to reflect what it says in the Federal Regulations. And we're wanting to further consider how we are going to state that.
MR. BRANECKY: Do we have any biomedical waste incinerators currently in the state?
MS. HINSON: We do have one. Its name is Steracycle.
MR. BRANECKY: Is that the one in Stroud?
MS. HINSON: Yes, it is.
MS. MYERS: I've got a questions on the section referring to particulate matter. The .08 grains per dry standard cubic foot corrected to 12 percent is carbon dioxide?
MS. HINSON: Yes.
MS. MYERS: Is that normal for this type of operation?
MS. HINSON: Yes, it is. And that's what's reflected in the Federal Regulations.
MS. MYERS: Okay.
MS. LODES: It says that this applies to a new or existing biomedical that is not subject to -- for requirements of Part 7, are exempted from the requirements of Subpart EC for anesthesia's???. And so you're trying to make this so if they are exempted from anesthesia or are you making it to make them go ahead and comply with NSPS?
MS. HINSON: Yes.
MS. LODES: Is that what we're doing here?
MS. HINSON: Yes.
MS. BRADLEY: Actually the standards were developed prior to the enactment of the NSPS and were based on -- in part Subchapter 41, which was revoked in 2000 -- well some years ago.
What we are attempting to do is we realize that the sources that weren't subject to NSPS or weren't subject to our state rule Part 7, were not adequately covered under our general incinerator provisions. We had one existing source which had been permitted under our former state on the toxics rules and we were taking the requirements that were reflected in the permit there and using them as a model for the biomedical waste incinerators. They're -- so there really was a gap. NSPS would not -- does not apply to these sources. And we are not requiring additional controls under the Part 4, Ms. Lodes. We are requiring them to meet an initial standard that was established to be appropriate under an evaluation for toxic emissions. And that particular analysis was conducted jointly to address the concerns of the Land Protection Division when they were developing appropriate regulations to address biomedical waste disposal as well as the air emission concerns. So that's sort of a long way -- we're not finding another way in order to apply

the NSPS to these sources. We are applying state developed standards that we have determined were appropriate for this type of waste, but not requiring additional controls.
MS. LODES: Thank you.
MR. HAUGHT: I have another question. Do the larger hospitals in the state here tend to use commercial disposal options or do they have incinerators on site that would fall under this regulation?
MS. BRADLEY: Diana, would you like for me to answer that?
MS. HINSON: Yes, please. I think you're a little bit more clear on the history.
MS. BRADLEY: I had worked on the hospital incinerator rules some time ago and as a result of EPA's promulgation of the hospital incinerator rules, every hospital in Oklahoma chose to close its incinerator. We then -- for the most part the waste is -- does not fall into the categories that we're attempting to address in this biomedical incinerator rule. That waste is primarily plastic and paper. The primary method for treating that waste in Oklahoma is the Autoclave. But there is some waste that is not appropriately disposed of. It's sterilized and then disposed of in a landfill. That waste needs to be incinerated and most of the hospitals now use some commercial service; either Steracycle service or another service located out of state to dispose of their waste.
MR. WHITE: I checked with the 18:47 Oklahoma Hospital Associate and asked them, and they knew of no Oklahoma City -- Oklahoma hospitals that have an incinerator like this. They didn't think that there were any.
MR. HAUGHT: Yeah. I think they did at one point or some of them did at one point and that's why -- I just want to be concerned they were advised of this and if there were any and so that's good to know that there aren't.
MS. BRADLEY: Initially there were approximately 30 hospitals. And I spoke with representatives from each hospital that we were aware of as we were implementing the hospital incinerator rule. And because of the cost of doing the testing and the training and meeting the training requirements every hospital without exception decided to discontinue using their on-premises incinerator. Secondarily to that, the Department also sent a representative from our Division out to confirm that each of the units had been disabled in some way -- permanently disabled so they couldn't be used, so we did not embark?? on them notification of the hospitals because we didn't feel that this sector was actually going to be impacted.
MR. BRANECKY: I have one more question. The Title Part 4, Biomedical waste Incinerators down in 252:100-17-11, emission limits, it talks about emissions from medical waste incinerators. Is there a difference in the medical waste and the biomedical waste incinerator? Do we need to
-- does that need to be biomedical waste or is there (inaudible)?
MS. HINSON: What section was that, again?
MR. BRANECKY: 252:100-17-11, Emission Limits. It says emissions from any medical waste incinerator. Does it make a difference if it's just a medical versus biomedical? I'm just -- I don't know. I'm asking.
MS. HINSON: Right. I think that that is something we do need to take into consideration and when we re-present that -- MR. BRANECKY: Because the intent of this chapter is biomedical waste?
MS. HINSON: That's right.
MR. BRANECKY: So maybe we just need to make that any biomedical waste incinerator.
MS. HINSON: Right. So that it's --
MR. BRANECKY: To keep --
MS. LODES: I assume like the hospitals, that the Universities have also shut down there incinerators or do they have biomedical incinerators? (Inaudible) or they just don't have them anymore?

MS. BRADLEY: Yes. They discontinued and they were part of our initial inventory so they were contacted and actually we -- participated in some initial meetings and briefings so they were well aware of it.
MS. LODES: I just remember using the one at OU when I was on the Norman Campus. At one point in time there was one.
MS. BRADLEY: I believe the industry has made it cost effective and much more convenient to allow somebody else to handle the waste of them. The primary reason for discontinuing was the requirement to do dioxin testing and it's very expensive. And it would take -- it was difficult to justify for the hospital managers and the universities to continue operations.
MS. BOTCHLET-SMITH: Do we have any further questions from the Council? What about questions from the public? Anyone have a question or a comment? Hearing none, if the Council doesn't have further questions, Laura, do you want to call for a motion?
MS. LODES: DEQ has recommended that we carry this forward. Do we have a motion?
MS. MYERS: I so move.
MS. LODES: Do we have a second?
MR. COLLINS: Second.
MS. LODES: We have a motion and a second. Myrna, will you call the roll.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Pete White.
MR. WHITE: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
(End of Item 5B)

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
HELD ON JANUARY 20, 2010, AT 9:00 A.M.
ITEM 5C
IN OKLAHOMA CITY, OKLAHOMA
* * * * *

COUNCIL MEMBERS

DAVID BRANECKY, MEMBER
LAURA LODES, CHAIR
JIM HAUGHT, VICE-CHAIR
PETE WHITE, MEMBER
SHARON MYERS, MEMBER
MONTELLE CLARK, MEMBER
GARY COLLINS, MEMBER
ROBERT LYNCH, MEMBER
DEQ STAFF

MYRNA BRUCE
BEVERLY BOTCHLET-SMITH
EDDIE TERRILL
CHERYL BRADLEY
NANCY MARSHMENT
DIANA HINSON

PROCEEDING

MS. BOTCHLET-SMITH: Okay. The next item on the Agenda is 5C. This is OAC 252:100, Appendix Q, Incorporation by Reference.
And Ms. Nancy Marshment will give the staff presentation.
MS. MARSHMENT: Good morning Madam Chair, Members of the Council, ladies and gentlemen. My name is Nancy Marshment and I am an Environmental Programs Specialist with the Air Quality Division. The Department is proposing to revoke the current Chapter 100, Appendix Q, Incorporation by Reference, and adopt a new Appendix Q. This proposal is part of the annual update of Title 40, Code of Federal Regulations, Incorporations by Reference in Chapter 100.

The update will incorporate those federal regulations listed in Appendix Q as they existed on December 10, 2009, and any amendments to standards listed will be incorporated.
On the new Appendix Q that was enclosed in your packet, you may have noticed that the list of IBRs in the appendix has been rearranged. This was done to reflect the order in which the subparts appear in the Code of Federal Regulations. We hope that will make it easier for everyone to read and follow.
In your folder that is on your table is a copy of Appendix Q highlighting the changes and additions and that's the old version. Staff felt that this unofficial version with all changes clearly identified would be helpful for discussion purposes, since the proposed new appendix does not show the changes.
The Oklahoma Administrative Rules on Rulemaking dictate this procedure of revoking the old and creating an entirely new appendix.
Staff proposes to remove Appendix S to 40 CFR, Part 51 from the list of federal regulations to be incorporated by reference. Appendix S would only come into play in our permitting program if we had a nonattainment area and if the preconstruction review provisions of our State Implementation Plan do not meet EPA requirements. In that event, EPA would either implement Appendix S or delegate it to the State. In either case there would be no need to incorporate Appendix S into our rule by reference. In other words, it appears that Appendix S should not have been incorporated by reference into Chapter 100 in the first place.
The following 40 CFR rules are being proposed for incorporation by reference in Appendix Q.
Number 1, 40 CFR 60, subpart GGGa, Standards of Performance for Equipment leaks of VOCs in Petroleum Refineries for which construction, reconstruction or modification commenced after November 7, 2006.
And just a little note there, you may notice that in some cases the word "which" is capitalized and in other cases it's not. We just totally copied what they have in the Federal Regulations. So that is not our choice.
Number 2, 40 CFR 60, subpart 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.
Number 3, 40 CFR 63, Subpart AAAAAAA, National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing.
Number 4, 40 CFR 63, Subpart CCCCCCC, National Emission Standards for Hazardous Air Pollutants, Area Source Standards for Paints and Allied Products Manufacturing.
Number 5, 40 CFR 63, Subpart VVVVVV, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area sources.
Number 6, 40 CFR 63, Subpart YYYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources, Ferroalloys Production Facilities.
And Number 7, 40 CFR 63, Subpart ZZZZZZ, National Emission Standards for Hazardous Air Pollutants, Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries.
Also, the titles for several other subparts have been modified to reflect more precisely the titles as they appear in the Code of Federal Regulations. Those changes are also highlighted in your handout.
Notice was published in the Oklahoma Register on December 15, 2009 for these proposed changes. The notice requested written comments from the public and other interested parties. No comments have been received as of today. The correspondence from EPA that's in your folders indicates that they had no comments regarding this rule.

Staff requests that the Council vote to send this rule to the Environmental Quality Board with a recommendation that the changes be adopted as a permanent rule.
MS. BOTCHLET-SMITH: Do we have any questions from the Council for Ms. Marshment?
Hearing none, do we have any questions or comments from public? Again hearing none, Laura.
MS. LODES: The Agency has asked that we move to adopt this change. Do we have a motion?
MR. COLLINS: I'll make a motion that we adopt the Department's proposal to update the rules for the Incorporation by Reference.
MS. LODES: We have a motion. Is there a second?
MS. MYERS: And that also includes the removal of (inaudible); is that correct?
MR. COLLINS: Yes.
MS. LODES: I have a motion. Do I have a second?
MR. BRANECKY: Second.
MS. LODES: I have a motion and a second. Myrna, will you call the roll.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Pete White.
MR. WHITE: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. BOTCHLET-SMITH: This concludes the hearing portion of today's meeting. The next item is a separate presentation that is not -- it's for informational purposes only.
(End of Rulemaking hearing)

C E R T I F I C
STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above meeting is the truth, the whole truth, and nothing but the truth; that the foregoing meeting was taken down in shorthand by me and thereafter transcribed under my direction; that said meeting was taken on the 20th day of January, 2010, at Oklahoma City, Oklahoma; and that I am neither attorney for, nor relative of any of said parties, nor otherwise interested in said action.
IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 21st day of January, 2010.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310m

SUMMARY OF COMMENTS AND STAFF RESPONSES

FOR PROPOSED REVISION TO SUBCHAPTER 17

INCINERATORS

COMMENTS RECEIVED PRIOR TO AND AT THE *OCTOBER 21, 2009*

AIR QUALITY ADVISORY COUNCIL MEETING

Written Comments

Environmental Protection Agency - Email received on October 20, 2009 from Carrie Paige, Environmental Scientist

1. **COMMENT:** "100-17-2-2 Part 3 (Definitions) – Primary combustion chamber - the proposed revisions delete the term "waste" and replace it with "refuse." Please define "refuse" as it's not clear what this term includes/excludes."

   RESPONSE: The term "refuse" is defined in OAC 252:100-1-3.

(g) Bid award terms and conditions shall be posted on the utility's web site or electronic bulletin board within sixty (60) days after receipt, with a notice to the Commission.

(h) The Commission decision approving or denying the plan shall address the contents of the utility's resource plan, including its fuel procurement plan, purchased-power procurement plan, and risk management plan. If the record contains sufficient evidence, the Commission shall specifically approve or reject:

(1) The utility's proposed plans for resources in the planning period,

(2) The utility's proposed plans for acquiring additional resources through the competitive acquisition process, and

(3) The utility's proposed RFP(s).

(i) Upon the filing of an application pursuant to this Subchapter, the Commission will establish a procedural schedule, which shall provide for a Commission order within two hundred forty (240) days of the date of such filing.

[OAR Docket #10-990; filed 6-9-10]

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

[OAR Docket #10-958]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:
Subchapter 17. Incinerators
Part 1. General Provisions
252:100-17-1. Purpose [AMENDED]
252:100-17-1.1. Reference to 40 CFR [AMENDED]
252:100-17-1.2. Terminology related to 40 CFR [REVOKED]
252:100-17-1.3. Incinerators and fuel-burning equipment or units [NEW]
Part 3. General Purpose Incinerators [AMENDED]
252:100-17-2. Applicability [AMENDED]
252:100-17-2.1. Exemptions [AMENDED]
252:100-17-2.2. Definitions [AMENDED]
252:100-17-4. Particulate matter [AMENDED]
252:100-17-5. Incinerator design and operation requirements [AMENDED]
252:100-17-5.1. Alternative incinerator design requirements [AMENDED]
252:100-17-7. Test methods [AMENDED]
Appendix A. Allowable Emissions for Incinerators with Capacities in Excess of 100 lb/hr or greater [REVOKED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [NEW]
Appendix B. Allowable Emissions for Incinerators with Capacities less than 100 lb/hr [REVOKED]

AUTHORITY:
Environmental Quality Board; 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*

DATES:
Comment period:
March 16, 2009, through January 20, 2010
February 26, 2010
Public hearing:
April 15, 2009
October 21, 2009
January 20, 2010
Adoption:
February 26, 2010
Submitted to Governor:
March 8, 2010
Submitted to House:
March 8, 2010
Submitted to Senate:
March 8, 2010
Gubernatorial approval:
April 14, 2010
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on May 4, 2010
Final adoption:
May 4, 2010
Effective:
July 11, 2010
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Department is proposing to amend OAC 252:100-17, Parts 1 and 3 to remove obsolete language and clarify the remaining provisions. In addition, the Department is proposing to revoke the current Appendices A and B and combine the requirements into a new Appendix A. Furthermore, the graphs in both appendices will be eliminated.
CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., § 308.1(A), WITH AN EFFECTIVE DATE OF JULY 11, 2010:

SUBCHAPTER 17. INCINERATORS

PART 1. GENERAL PROVISIONS

252:100-17-1. Purpose

The purpose of this ~~Subchapter~~ subchapter is to specify design and operating requirements, and emission limitations for incinerators and municipal waste combustors (MWC).

252:100-17-1.1. Reference to 40 CFR

~~When a provision of Title 40 of the Code of Federal Regulations (CFR) is incorporated by reference, all citations contained therein are also incorporated by reference.~~See OAC 252:100-2.

252:100-17-1.2. Terminology related to 40 CFR [REVOKED]

~~When these terms are used in rules incorporated by reference, the following definitions shall apply:~~

~~"EPA Administrator" or "Administrator" is synonymous with "Executive Director" or "the Executive Director's designee".~~

~~"State" is synonymous with "Department of Environmental Quality" or "DEQ".~~

252:100-17-1.3. Incinerators and fuel-burning equipment or units

Any incinerator or MWC subject to the requirements of any part of this subchapter that is used to generate useful heat energy is also considered fuel-burning equipment or a fuel-burning unit and is subject to all applicable requirements of this chapter.

PART 3. GENERAL PURPOSE INCINERATORS

252:100-17-2. Applicability

This ~~Part~~ part applies to any new and existing ~~incinerators~~incinerator not subject to ~~New Source Performance Standards (NSPS)~~ 40 CFR Part 60, Subparts E, Ea, Eb, Ec, or EEEE, or ~~any other~~ Parts ~~in~~ 4, 5, 7, 9, or 11 of this ~~Subchapter~~ subchapter.

252:100-17-2.1. Exemptions

Thermal oxidizers, flares and any other air pollution control devices are exempt from the requirements of this ~~Part~~ part.

252:100-17-2.2. Definitions

The following words and terms when used in this ~~subchapter~~ part and Part 4 of this subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Capacity" means ~~amount~~ the maximum design charging rate of ~~specified wastes a unit~~ refuse in pounds per hour (lb/hr) an incinerator is designed to ~~burn~~ receive. ~~Capacity may be expressed as pounds per hour or tons per day.~~

~~**"Excess air"** means air entering a combustion chamber in excess of the amount theoretically required to complete combustion of materials in the combustion chamber.~~

~~**"Fly ash"** means particulate matter capable of being gasborne or airborne consisting essentially of fused ash and/or burned or unburned material.~~

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

"Primary combustion chamber" means the initial incinerator chamber where ~~waste~~refuse is charged, ignited, and burned.

~~**"Secondary burner"** means a supplemental burner in the secondary chamber for the purpose of maintaining a minimum temperature and to insure the complete combustion of volatile gases and smoke.~~

"Secondary combustion chamber" means ~~one or more~~ a component of the general purpose incinerator that receives combustion gases from the ~~chambers in addition to the~~ primary combustion chamber ~~that function to fully combust gaseous and particulate matter suspended in the exhaust gases from the primary~~ and in which the combustion ~~chamber~~ process is completed.

252:100-17-4. Particulate matter

~~Fly ash or other particulate~~The emissions of particulate matter from an incinerator subject to the requirements of this part shall not exceed ~~quantities greater than~~ the applicable allowable particulate matter emission rate contained in Appendix A of this chapter. ~~The allowable emissions for incinerators with capacities of 100 lb/hr or greater are set forth in Appendix A of this Chapter. The allowable emissions for incinerators with capacities less than 100 lb/hr are set forth in Appendix B of this Chapter.~~ Solid fuels charged will be considered part of the refuse weight. ~~No. 1 and No. 2 fuel oils (distillate oils), liquified petroleum gases, gaseous fuels and combustion air will not be considered as part of the refuse weight.~~

252:100-17-5. Incinerator design and operation requirements

An incinerator subject to this ~~Part must have:~~ part shall be designed and built with a primary combustion chamber ~~equipped with a burner(s)~~ that maintains a temperature of at least 800ºF in the primary combustion chamber at all times when refuse is being incinerated, and a secondary combustion chamber(s) that is ~~equipped with a burner or other combustion device~~ adequately designed and operated to ~~fully~~ combust gaseous and particulate matter suspended in the exhaust gas stream from the primary combustion chamber. The combustion device in each combustion chamber shall be in operation at all times when refuse is being incinerated.

~~(1) A primary burner that maintains a temperature of at least 800°F in the primary combustion chamber.~~

~~(2) A secondary burner that shall be used when necessary to eliminate smoke.~~

252:100-17-5.1. Alternative incinerator design requirements

Notwithstanding OAC 252:100-17-5, ~~The~~the Director may approve an alternative incinerator design ~~that does not meet the design requirements in 252:100-17-5~~ if the owner or operator of the proposed incinerator demonstrates to the ~~DEQ~~ satisfaction of the Director that the incinerator ~~can~~ will comply with OAC 252:100-17-4 and all other applicable requirements of this chapter.

252:100-17-7. Test methods

~~(a) **Opacity.** Opacity shall be measured utilizing Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.~~

~~(b) **Particulate matter.** Particulate matter shall be measured utilizing the appropriate DEQ approved Method 5 found in the Code of Federal Regulations at 40 CFR Part 60, Appendix A. This method is hereby incorporated by reference as it exists on July 1, 1997.~~See OAC 252:100-43.

APPENDIX A. ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES IN EXCESS OF 100 LB/HR OR GREATER [REVOKED]

APPENDIX A. ALLOWABLE PARTICULATE MATTER EMISSION RATE FOR INCINERATORS [NEW]

The following information is for use only in conjunction with OAC 252:100-17-4.

The allowable particulate matter emission rate for incinerators with a capacity of 75 lb/hr or less is 0.01 pounds per hour of refuse charged, including any solid fuel, on an as-loaded basis.

The allowable particulate matter emission rate for incinerators with a capacity greater than 75 lb/hr may be calculated using one of the following formulas, where **Y** equals the allowable particulate matter emission rate in pounds per hour and **X** equals the refuse charged, including any solid fuel, in pounds per hour on an as-loaded basis.

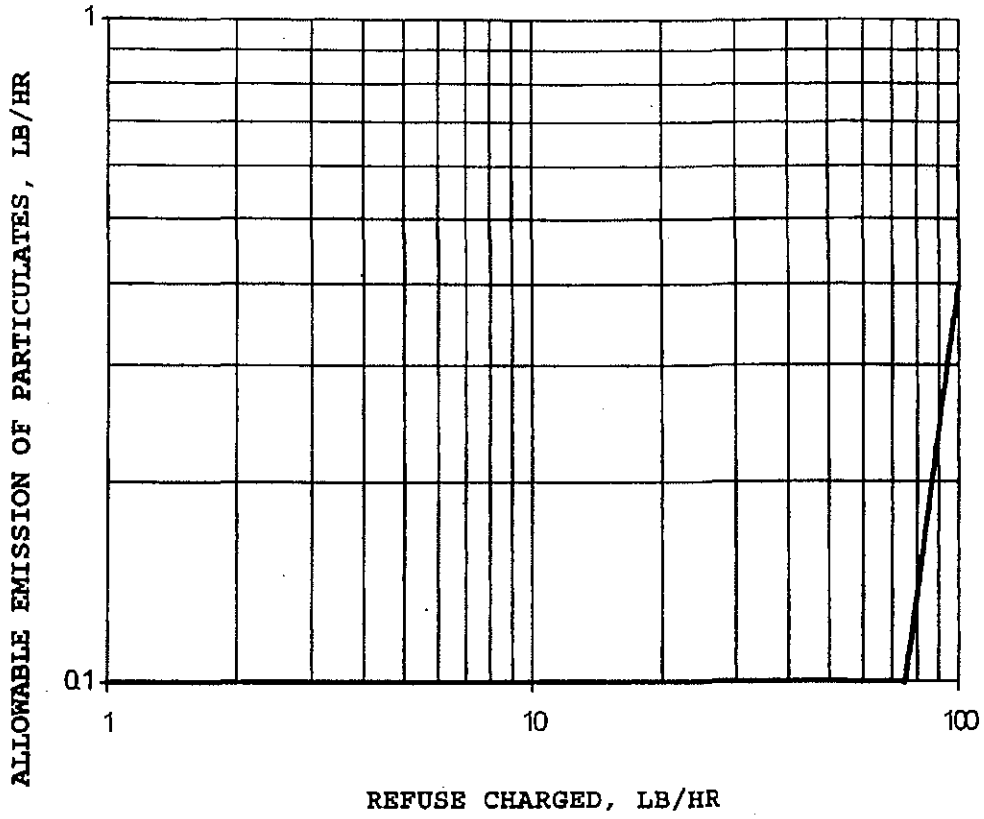
For incinerators with a capacity greater than 75 lb/hr but less than 100 lb/hr, the formula is:

$$\mathbf{Y} = 9.213 \times 10^{-11}\ \mathbf{X}^{4.818}$$

or incinerators with a capacity of 100 lb/hr or more, the formula is:

$$Y = .221\ 10^{-2}\ \mathbf{X}^{0.7577}$$

APPENDIX B. ALLOWABLE EMISSIONS FOR INCINERATORS WITH CAPACITIES LESS THAN 100 LB/HR [REVOKED]



Allowable emission rate may be calculated using the following formulae:

Incinerators with capacities greater than 75, but less than or equal to 100 lb/hr

$$Y = 9.213 \times 10^{-11} X^{4.818}$$

Incinerators with capacities of 75 lb/hr or less

$$Y = 0.1$$

Where,

X = refuse charged, lb/hr on an as-loaded basis.

Y = allowable particulate matter emission rate, lb/hr.

[OAR Docket #10-958; filed 6-2-10]

TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 17. INCINERATORS

PART 4. BIOMEDICAL WASTE INCINERATORS

252:100-17-8. Applicability

This part applies to any new or existing biomedical waste incinerator that is not subject to the requirements of Part 7 of this subchapter or is exempted from the requirements of Subpart Ec of 40 CFR Part 60.

252:100-17-9. Definitions

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

"Antineoplastic agents" means drugs used to inhibit and combat the development of neoplasms.

"Biomedical radioactive waste" means low-level radioactive waste as defined in 40 CFR 60.51c.

"Biomedical waste" means medical/infectious waste as defined in 40 CFR 60.51c, Chemotherapeutic waste and biomedical radioactive waste.

"Biomedical waste incinerator" means an incinerator used to burn biomedical waste.

"Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents.

"Neoplasms" means tumors consisting of an abnormal proliferation of cells. The growth of this clone of cells exceeds, and is uncoordinated with, that of the normal tissues around it. Neoplasms may be benign, pre-malignant or malignant.

252:100-17-10. Design and operation

An incinerator subject to this part shall be designed and built with a primary combustion chamber and secondary combustion chamber(s) each equipped with burners or other combustion devices that maintain the applicable temperature and retention time specified in (1) through (3) of this section in both the primary and secondary combustion chamber(s) at all times when biomedical waste is being incinerated.

(1) The temperature in the primary combustion chamber shall not be less than 1,200°F.

(2) The temperature in the secondary combustion chamber(s) shall not be less than 1,800°F with a retention time of not less than one (1) second when processing biomedical waste containing no chemotherapeutic waste.

(3) The temperature in the secondary combustion chamber(s) shall not be less than 2,000°F with a retention time of not less than two (2) seconds when processing biomedical waste containing chemotherapeutic waste.

252:100-17-11. Emission limits

Emissions from any biomedical waste incinerator subject to the requirements of this part shall not exceed the limits specified in (1) through (3) of this section. Any required performance testing shall be conducted while the incinerator is operating between 90% and 100% of operating capacity, or under other representative operating conditions specified by an applicable permit or testing method.

(1) **Hydrochloric acid (HCl).** Emissions of HCl shall not exceed 4.0 lb/hr.

(2) **Particulate matter.** Emissions of particulate matter shall not exceed 0.08 gr/dscf (grains per dry standard cubic foot) corrected to12% carbon dioxide in the emission gas stream.

(3) **Carbon monoxide (CO).** Emissions of CO shall not exceed 100 ppm by volume corrected to standard

conditions in the emission gas stream.

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

[OAR Docket #10-228]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 17. Incinerators
Part 4. Biomedical Waste Incinerators [NEW]
252:100-17-8. Applicability [NEW]
252:100-17-9. Definitions [NEW]
252:100-17-10. Design and operation [NEW]
252:100-17-11. Emission limits [NEW]

SUMMARY:

The Department is proposing to add a new Part 4, Biomedical Waste Incinerators, to Subchapter 17, Incinerators. The new part will incorporate the control technology requirements for this type of incinerator originally established under Subchapter 41, Control of Emission of Hazardous and Toxic Air Contaminants, which was revoked in 2007. In addition, the Department has identified regulatory gaps in Subchapter 17, Part 7, Hospital, Medical and Infectious Waste Incinerators, when pathological waste, low-level radioactive waste, and chemotherapeutic waste is incinerated. The addition of Part 4 will reestablish design and emission standards for biomedical waste incinerators and close the regulatory gap in Part 7 of Subchapter 17.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. § 2-2-101; Air Quality Advisory Council powers and duties, 27A O.S. § 2-2-201; and Oklahoma Clean Air Act, 27A O.S. § 2-5-101 through -117.

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on April 21, 2010. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Copies of the written responses will be provided to the Council and the public at that Council meeting. Oral comments may be made at the April 21, 2010 hearing and at the June 15, 2010 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, April 21, 2010, at the Tulsa Campus of Oklahoma State University, 700 N. Greenwood, Tulsa, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on Tuesday, June 15, 2010, in El Reno, OK.

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 of the U.S. Environmental Protection Agency regulations and 27A O.S. § 2-5-107(6)(c).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENT:

The rule impact statement is available for review 30 days prior to the hearing on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for this proposal is Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #10-228; filed 2-23-10]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 220. BROWNFIELDS [REVOKED]

[OAR Docket #10-229]

RULEMAKING ACTION:

Notice of proposed EMERGENCY rulemaking

PROPOSED RULES:

Chapter 220. Brownfields [REVOKED]

SUMMARY:

Title 252, Chapter 220 was originally promulgated to implement the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S.§ 2-15-101 *et seq.*, in order to foster voluntary redevelopment and reuse of abandoned,

252:4-7-63. Brownfields applications - Tier III [REVOKED]

SUMMARY:

In 2009, the Oklahoma legislature amended the Oklahoma Brownfields Voluntary Redevelopment Act to better streamline the Brownfields program. One of the amendments clarified that a Certificate of Completion and a Certificate of No Action Necessary were not "permits" as defined in 27A O.S. § 2-14-103. Therefore, it is no longer necessary for the Brownfields program to conform to the permitting tier hierarchy.

This rule revocation process is progressing in tandem with the rulemaking for the new Chapter 221 which includes rules for public involvement in the Brownfields process. For further information, refer to the Notice of Rulemaking Intent for Chapter 221.

FINDING OF EMERGENCY:

The Hazardous Waste Management Advisory Council (HWMAC) was unable to hold its meeting originally scheduled for January 28, 2010, and then reshcduled for February 8, 2010, due to the two snow and ice storms that moved through the State on those dates. Additionally, the Environmental Quality Board cancelled its June 2010 meeting where the proposed rules were to have been heard.

Because the proposed rules that were to be considered during the January - February 2010 timeframe contain some critical provisions that, once adopted, will allow the DEQ to award ARRA funds for Brownfields projects, the DEQ finds it necessary to offer the proposed rules to the HWMAC as emergency rules at this time. Chapter 221, Subchapter 7, contains proposed rules dealing with the Brownfields Revolving Loan Fund (RLF) which provides low interest loans and subgrants to any private entities, political subdivisions, units of local governments (including municipal and county governments and school districts) and federally recognized Indian tribes for brownfield cleanup activities. The RLF funds may be used to clean up hazardous substances, pollutants, contaminants, petroleum, mine-scarred land and controlled substances.

The DEQ has received ARRA stimulus monies for the RLF and must make reasonable progress on making loans and/or subgrants with the funds by October 1, 2010. The new proposed RLF rules must be effective before DEQ can make loans and/or subgrants using the ARRA funds. The DEQ therefore finds that a compelling public interest exists, requiring an emergency rule adoption.

AUTHORITY:

Environmental Quality Board; 27A O.S.§§ 2-2-101 and 2-2-201 and Article XV, Oklahoma Brownfields Voluntary Redevelopment Act, § 2-15-101 *et seq.*

COMMENT PERIOD:

Deliver or mail written comments on the proposed emergency rule revocation to the contact person from July 15, 2010, through August 16, 2010. Oral comments may be made at the meeting of the Environmental Quality Board on August 24, 2010.

PUBLIC HEARINGS:

Before the Environmental Quality Board at 9:30 a.m. on August 24th, 2010, at the Redlands Community College Conference Center, Redlands Community College, 1300 S. Country Club Road, El Reno, OK, 73036.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPY OF PROPOSED RULE CHANGES:

A copy of the proposed emergency rule revocation may be obtained from the contact person, viewed on the DEQ web site at www.deq.ok.gov or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

RULE IMPACT STATEMENT:

The Rule Impact Statement may be obtained from the contact person, viewed on the DEQ web site at www.deq.ok.gov or may be reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma.

CONTACT PERSON:

Rita Kottke, Land Protection Division, Department of Environmental Quality, P.O. Box 1677, Oklahoma City, OK 73101-1677, e-mail at rita.kottke@deq.ok.gov, phone 405-702-5157, or fax 405-702-5101.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the public hearing to be held before the Hazardous Waste Management Advisory Council meeting or the Environmental Quality Board meeting and need assistance should notify the contact person three days in advance of the meeting during business hours at 405-702-5100 or by using TDD relay number 1-800-522-8506.

[OAR Docket #10-1071; filed 6-25-10]

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

[OAR Docket #10-1076]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 17. Incinerators
Part 4. Biomedical Waste Incinerators [NEW]
252:100-17-8. Applicability [NEW]

252:100-17-9. Definitions [NEW]
252:100-17-10. Design and operation [NEW]
252:100-17-11. Emission limits [NEW]

SUMMARY:

The Department is proposing to add a new Part 4, Biomedical Waste Incinerators, to Subchapter 17, Incinerators. The new part will incorporate the control technology requirements for this type of incinerator originally established under Subchapter 41, Control of Emission of Hazardous and Toxic Air Contaminants, which was revoked in 2007. In addition, the Department has identified regulatory gaps in Subchapter 17, Part 7, Hospital, Medical and Infectious Waste Incinerators, when pathological waste, low-level radioactive waste, and chemotherapeutic waste is incinerated. The addition of Part 4 will reestablish design and emission standards for biomedical waste incinerators and close the regulatory gap in Part 7 of Subchapter 17.

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S.§ 2-2-101; Air Quality Advisory Council powers and duties, 27A O.S.§ 2-2-201; and Oklahoma Clean Air Act, 27A O.S.§§ 2-5-101 through -117.

COMMENT PERIOD:

April 21, 2010 through June 15, 2010. (Comment period was completed pursuant to Notice of Rulemaking Intent previously published at 27 Ok Reg 673)

PUBLIC HEARINGS:

Before the Environmental Quality Board at 9:30 a.m. on Tuesday, August 24, 2010, at the Redlands Community College Conference Center, 1300 S. Country Club Road, El Reno, OK 73036.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

COPIES OF PROPOSED RULES:

The proposed rules are available for review from July 23, 2010 through August 24, 2010 on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

RULE IMPACT STATEMENT:

The rule impact statement is available for review after July 29, 2010 on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for this proposal is Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

ADDITIONAL INFORMATION:

This Notice reflects a date and location change for the hearing of these rules by the Environmental Quality Board.

PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-7100. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #10-1076; filed 6-25-10]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 220. BROWNFIELDS [REVOKED]

[OAR Docket #10-1072]

RULEMAKING ACTION:

Notice of proposed EMERGENCY rulemaking

PROPOSED RULES:

Chapter 220. Brownfields [REVOKED]

SUMMARY:

Title 252, Chapter 220 was originally promulgated to implement the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. § 2-15-101 *et seq.*, in order to foster voluntary redevelopment and reuse of abandoned, idled or underused industrial or commercial facilities

at which expansion or redevelopment of the real property is complicated by pollution. Subsequently, the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 *et seq.*, was amended to provide specific grant programs for Brownfields with specific eligibility requirements and to provide further protections for those persons redeveloping Brownfields sites. Additionally, the Oklahoma legislature amended the state Brownfields law in 2009 to better streamline the Brownfields program.

Therefore, the current Brownfields rules, Chapter 220, became inconsistent with both federal and state law. The DEQ proposes to revoke Chapter 220 and adopt a new Chapter to cover much of the same content but in a more streamlined context and format. Additionally, the Revolving Loan Fund rules were rewritten to be in compliance with the federal law.

This rule revocation process is progressing in tandem with the rulemaking process of the new Chapter 221. For further information, refer to the Notice of Rulemaking Intent for Chapter 221.

FINDING OF EMERGENCY:

The Hazardous Waste Management Advisory Council (HWMAC) was unable to hold its meeting originally scheduled for January 28, 2010, and then rescheduled for February 8, 2010, due to the two snow and ice storms that moved through the State on those dates. Additionally, the Environmental Quality

TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL
SUBCHAPTER 17. INCINERATORS

PART 4. BIOMEDICAL WASTE INCINERATORS [NEW]

252:100-17-8. Applicability

This part applies to any new or existing biomedical waste incinerator that is not subject to the requirements of Part 7 of this subchapter or is exempted from the requirements of Subpart Ec of 40 CFR Part 60.

252:100-17-9. Definitions

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

"Antineoplastic agents" means drugs used to inhibit and combat the development of neoplasms.

"Biomedical radioactive waste" means low-level radioactive waste as defined in 40 CFR 60.51c.

"Biomedical waste" means medical/infectious waste as defined in 40 CFR 60.51c, Chemotherapeutic waste and biomedical radioactive waste.

"Biomedical waste incinerator" means an incinerator used to burn biomedical waste.

"Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents.

"Neoplasms" means tumors consisting of an abnormal proliferation of cells. The growth of this clone of cells exceeds, and is uncoordinated with, that of the normal tissues around it. Neoplasms may be benign, pre-malignant or malignant.

252:100-17-10. Design and operation

An incinerator subject to this part shall be designed and built with a primary combustion chamber and secondary combustion chamber(s) each equipped with burners or other combustion devices that maintain the applicable temperature and retention time specified in (1) through (3) of this section in both the primary and secondary combustion chamber(s) at all times when biomedical waste is being incinerated.

(1) The temperature in the primary combustion chamber shall not be less than 1,200^{o}F.

(2) The temperature in the secondary combustion chamber(s) shall not be less than 1,800^{o}F with a retention time of not less than one (1) second when processing biomedical waste containing no chemotherapeutic waste.

(3) The temperature in the secondary combustion chamber(s) shall not be less than 2,000^{o}F with a retention time of not less than two (2) seconds when processing biomedical waste containing chemotherapeutic waste.

252:100-17-11. Emission limits

Emissions from any biomedical waste incinerator subject to the requirements of this part shall not exceed the limits specified in (1) through (3) of this section. Any required performance testing shall be conducted while the incinerator is operating between 90% and

100% of operating capacity, or under other representative operating conditions specified by an applicable permit or testing method.

(1) **Hydrochloric acid (HCl).** Emissions of HCl shall not exceed 4.0 lb/hr.

(2) **Particulate matter.** Emissions of particulate matter shall not exceed 0.08 gr/dscf (grains per dry standard cubic foot) corrected to12% carbon dioxide in the emission gas stream.

(3) **Carbon monoxide (CO).** Emissions of CO shall not exceed 100 ppm by volume corrected to standard conditions in the emission gas stream.

MINUTES
AIR QUALITY COUNCIL
OSU – Tulsa Campus
700 North Greenwood Drive
Tulsa, Oklahoma
April 21, 2010

To EQBoard ~~June 15, 2010~~ August 24, 2010
AQC Approved
~~July 21, 2010~~ October 27, 2010

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. on April 21, 2010, at the Oklahoma State University Tulsa Campus, 700 North Greenwood Drive, Tulsa, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on December 3, 2010. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101-2-5-118. Ms. Smith entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Mr. Terrill introduced new member, David Gamble. Ms. Bruce called roll stating that a quorum was present.

MEMBERS PRESENT	DEQ STAFF PRESENT	DEQ STAFF PRESENT
David Branecky	Eddie Terrill	Diana Hinson
Montelle Clark	Beverly Botchlet-Smith	Brooks Kirlin
David Gamble	Scott Thomas	Nancy Marshment
Laura Lodes	Cheryl Bradley	Dawson Lasseter
Jim Haught	Rob Singletary	Myrna Bruce
Sharon Myers		
	OTHERS PRESENT	
MEMBERS ABSENT	Christy Myers, Court Reporter	
Gary Collins		
Bob Lynch		
Pete White		

Transcripts and Attendance Sheet are attached as an official part of these Minutes

Approval of Minutes – January 20, 2010 Regular Meeting Ms. Lodes called for a motion for approval. Mr. Branecky moved to approve and Mr. Haught made the second.

David Branecky	Yes	Jim Haught	Yes
Sharon Myers	Yes	David Gamble	~~Yes~~ Abstain
Montelle Clark	Yes	Laura Lodes	Yes

OAC 252:100-17. Incinerators, Part 4 [NEW] Ms. Diana Hinson, staff representative, advised that the proposal would add a new Part 4, Biomedical Waste Incinerators, to Subchapter 17, Incinerators. The new part will incorporate the control requirements for this type of incinerator originally established under the authority of Subchapter 41, Control of Emission of Hazardous and Toxic Air Contaminants, which was revoked in 2007. The addition of Part 4 would reestablish the Department's authority to require design and emission standards for biomedical waste incinerators and close a regulatory gap in Part 7 of Subchapter 17. Ms. Hinson explained that further consideration is being given in order to make additional clarifications

regarding emission limits and units of measurement. The Department recommended that Council forward to the Environmental Quality Board for permanent adoption. Following discussion, Ms. Lodes called for a motion for approval. Mr. Haught made the motion and Ms. Myers made the second.

Transcript pages 6 - 12

David Branecky	Yes	Jim Haught	Yes
Sharon Myers	Yes	David Gamble	~~Yes~~ Abstain
Montelle Clark	Yes	Laura Lodes	Yes

Ozone Season Update -- Mr. Scott Thomas, Environmental Programs Manager, gave a presentation regarding this ozone season. He and Mr. Terrill fielded questions and comments.

Greenhouse Gas Tailoring Rule and Other Permitting News – Mr. Phillip Fielder, Engineering Manager, provided an update. Mr. Terrill and staff fielded questions and comments.

Division Director's Report – Mr. Terrill related that most of his report was covered in the presentations. He did touch on the mercury study and Ms. Botchlet-Smith gave an update on the audit scheduling.

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

Adjournment – Ms. Lodes adjourned the meeting adjourned at 11:20 a.m. The next regular meeting is scheduled for Wednesday, July 21, 2010, in Tulsa, Oklahoma.

Transcripts and Attendance Sheet are attached as an official part of these Minutes.

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE
AIR QUALITY COUNCIL MEETING
HELD ON APRIL 21, 2010, AT 9:00 A.M.
IN TULSA, OKLAHOMA
* * * * *

MYERS REPORTING SERVICE
Christy Myers, CSR
P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
(405) 721-2882

MEMBERS OF THE COUNCIL
DAVID BRANECKY, MEMBER
LAURA LODES, CHAIR
JIM HAUGHT, VICE-CHAIR
PETE WHITE, MEMBER
SHARON MYERS, MEMBER
MONTELLE CLARK, MEMBER
GARY COLLINS, MEMBER
ROBERT LYNCH, MEMBER
DAVID GAMBLE, MEMBER

DEQ STAFF
MYRNA BRUCE
BEVERLY BOTCHLET-SMITH
EDDIE TERRILL
CHERYL BRADLEY
NANCY MARSHMENT
DIANA HINSON
ROBERT SINGLETARY

PROCEEDING

MS. LODES: Go ahead and call this meeting to order. Myrna will you call role.

MS. BRUCE: David Branecky.

MR. BRANECKY: Here.

MS. BRUCE: Sharon Myers.

MS. MYERS: Here.

MS. BRUCE: Montelle Clark.

MR. CLARK: Here.

MS. BRUCE: Bob Lynch is absent. Jim Haught.

MR. HAUGHT: Here.

MS. BRUCE: David Gamble.

MR. GAMBLE: Here.

MS. BRUCE: Gary Collins is absent. Pete White is absent. Laura Lodes.

MS. LODES: Here.

MS. BRUCE: We have a quorum.

MR. TERRILL: Before we start off with the approval of the minutes, I might mention this is Dave Gamble's first

meeting. He's been nominated by the Governor to fill out the term of Jerry Purkaple. They both work for ConocoPhillips out of -- in Ponca City. So he'll be representing the refining industry. And he came to Ponca City in 1982 to be part of the corporate engineering group and from northern Minnesota so the change in a lot of things were pretty dramatic. But he moved steadily up the organization and held various engineering positions. Then in 2002 they moved him to environmental group -- I know our permitting folks that work with Dave quite a bit, and we feel a little fortunate to have him and think he'll be doing a really good job representing that sector.

He's married with two kids and we're just glad to have you.
MR. GAMBLE: Thank you, I'm glad to be here.
MR. TERRILL: I'll turn it back over to you.
MS. LODES: Good to have you here.

And next item on the Agenda is the Approval of Minutes from the January 20, 2010 regular meeting. Do we have any comments or discussion on the minutes?

Seeing no comments.
MR. BRANECKY: I move for approval.
MS. LODES: Okay, I have a motion. Do I have a second?
MR. HAUGHT: I second.
MS. LODES: I have a motion and a second. Myrna, will you call the roll.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: David Gamble.
MR. GAMBLE: Abstain.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.

MS. BRUCE: Motion passed.

MS. BOTCHLET-SMITH: Ready for the hearing?

MS. LODES: We're ready for the hearing.

MS. BOTCHLET-SMITH: Good morning, I'm Beverly Botchlet-Smith. I'm the Assistant Director of the Air Quality Division and as such I'll serve as the Protocol Officer for today's hearing.

The hearings will be convened by the Air Quality Council in compliance with Oklahoma Administrative Procedures Act and Title 40 of the Code of Federal Regulations, Part 51, as well as the authority of the Title 27A of the Oklahoma Statutes, Section 2-2-201, Sections 2-5-101 through 2-5-118.

Notice of the April 21, 2010 hearings was 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 December 3, 2009. The Agenda was duly posted 24 hours prior to the meeting at this facility and at the DEQ.

If you wish to make a statement, it's very important that you complete the form at the registration table, and you will be called upon at the appropriate time. And audience members, we ask that you please come to the podium for your comments and please state your name prior to making those comments.

At this time we will proceed with what's marked as Agenda Item 4A on the Hearing Agenda. That is OAC 252:100-17 Incinerators, Part 4. The presentation will be made by Ms. Diana Hinson of our staff.

MS. HINSON: Good morning Madam Chairman, Members of the Council, ladies and gentlemen. I'm Diana Hinson, an environmental programs specialist in the Rules and Planning Section of the Air Quality Division at the Department of

Environmental Quality.

The Department is proposing to add a new Part 4, Biomedical Waste Incinerators, to Subchapter 17, Incinerators. The new part will incorporate the control requirements for this type of incineration originally established under Subchapter 41, Control of Emission of Hazardous and Toxic Air Contaminants, which was revoked in 2007.

In addition, the Department has identified regulatory gaps on Subchapter 17, Part 7, Hospital, Medical and Infectious Waste Incinerators when pathological waste, low-level radioactive

waste, and chemotherapeutic waste is incinerated. The addition of Part 4 will reestablish design and emission standards for biomedical waste incinerators and close the regulatory gap in Part 7 of Subchapter 17.

Concerns voiced by the Council in prior meetings have resulted in clarification of the rule regarding emission limits and units of measurement.

Also, upon further investigation, another facility utilizing a biomedical waste incinerator was identified. Both facilities have been notified of the proposal.

Notice of the proposed rule change was published in the Oklahoma Register on March 15, 2010 and comments were requested from members of the public. Comments were received by email on October 20, 2009 from EPA. EPA has also submitted letters of support of the proposal on January 15 and April 16, 2010.

This is the second hearing for the Council to review this proposal. The Department requests that the Council consider voting to send the proposal to the Environmental Quality Board with a recommendation that it be adopted as a permanent rule. Thank you.

MS. BOTCHLET-SMITH: At this time we will take questions and comments from the Council.

MR. BRANECKY: I noticed under Section 17-11, Emission Limits, Number 3,

Carbon Monoxide, it's not underlined. Is that -- was that existing or is that not new or what is it?

MS. HINSON: Everything for Part 4 is new and there were some software self recognizing issues that we have identified and we will make changes.

MR. BRANECKY: Okay, so it should be underlined, it's just all new.

MS. HINSON: Right.

MR. BRANECKY: Thank you.

MS. LODES: Do we have any additional questions from the Council?

MS. BOTCHLET-SMITH: Okay, I haven't received notice of -- I'm sorry, Sharon.

MS. MYERS: Based on the Minutes from the previous meeting, it stated that we're carrying it over in order to make additional clarifications regarding the performance standard. Were those clarifications made or is this exactly the same as we read before?

MS. HINSON: I clarified the units of measurement.

MS. MYERS: Okay. Thank you.

MS. HINSON: You're welcome.

MS. BOTCHLET-SMITH: I hadn't received any notice of anyone from the public was interested in commenting. Is there anyone who's decided to comment at

this time?

Seeing no hands, I would turn it back to the Council for one last opportunity to questions, comments. Seeing none, Laura -

MS. LODES: No other -- no additional comments. The Agency has asked that we approve this rule. Do we have a motion?

MR. HAUGHT: I'm going to make the motion to approve the Part 4 changes as presented today.

MS. MYERS: I'll second it.

MS. LODES: I have a motion and a second. Myrna, will you call the roll.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: David Gamble.
MR. GAMBLE: Abstain.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. BOTCHLET-SMITH: And with

that, the hearing is concluded -- is concluded for the hearings today.

(Items 1-4 Concluded)

C E R T I F I C A T E

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above meeting is the truth, the whole truth, and nothing but the truth; that the foregoing meeting was taken down in shorthand by me and thereafter transcribed under my direction; that said meeting was taken on the 21st day of April, 2010, at Tulsa, Oklahoma; and that I am neither attorney for, nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 24th day of April, 2010.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310

SUMMARY OF COMMENTS AND STAFF RESPONSES

FOR PROPOSED REVISION TO SUBCHAPTER 17

INCINERATORS

COMMENTS RECEIVED PRIOR TO AND AT THE *OCTOBER 21, 2009*

AIR QUALITY ADVISORY COUNCIL MEETING

Written Comments

Environmental Protection Agency- Email received on October 20, 2009 from Carrie Paige, Environmental Scientist

1. COMMENT: "Part 4, 17-10 (Design and operation) The term 'chemotrophic waste' is used in both paragraphs (2) and (3). Please define chemotrophic waste."

   RESPONSE: The term "chemotrophic" is being replaced with "chemotherapeutic" and is defined in OAC 252:100-17-9.

Oral Comments

There were no oral comments from the public at the October 21, 2009 Air Quality Advisory Council meeting.

COMMENTS RECEIVED PRIOR TO AND AT THE

JANUARY 20, 2010 and APRIL 21, 2010

AIR QUALITY ADVISORY COUNCIL MEETINGS

No written or oral comments were received from the public prior to or at the January 2010 or at the April 2010 meeting.

252:4-7-61. Brownfields applications - Tier I [REVOKED]

~~A Tier I application shall be required for a Memorandum of Agreement for site characterization~~.

252:4-7-62. Brownfields applications - Tier II [REVOKED]

~~A Tier II application shall be required for all Certificates~~.

252:4-7-63. Brownfields applications - Tier III [REVOKED]

~~None.~~

[OAR Docket #11-342; filed 4-7-11]

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

[OAR Docket #11-343]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 17. Incinerators
Part 4. Biomedical Waste Incinerators [NEW]
252:100-17-8. Applicability [NEW]
252:100-17-9. Definitions [NEW]
252:100-17-10. Design and operation [NEW]
252:100-17-11. Emission limits [NEW]
AUTHORITY:
Environmental Quality Board and Air Quality Advisory Council powers and duties, 27A O.S.,§§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S.,§§ 2-5-101 *et seq*.
DATES:
Comment period:
September 15, 2009 through April 21, 2010
August 24, 2010
Public hearing:
October 21, 2009
January 20, 2010
April 21, 2010
August 24, 2010
Adoption:
August 24, 2010
Submitted to Governor:
August 30, 2010
Submitted to House:
August 30, 2010
Submitted to Senate:
August 30, 2010
Gubernatorial approval:
October 12, 2010
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 1, 2011
Final adoption:
April 1, 2011
Effective:
July 1, 2011
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The DEQ proposes to add a new Part 4, Biomedical Waste Incinerators, to OAC 252:100-17, Incinerators. The proposed rulemaking will include design requirements, emission standards and control technology for this type of incinerator. Additionally, the proposed rulemaking will close certain regulatory gaps in Subchapter 17, Part 7 (Hospital, Medical and Infectious Waste Incinerators) when pathological waste, low-level radioactive waste and chemotherapeutic wastes are incinerated.
CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2011:

SUBCHAPTER 17. INCINERATORS

PART 4. BIOMEDICAL WASTE INCINERATORS

252:100-17-8. Applicability

This part applies to any new or existing biomedical waste incinerator that is not subject to the requirements of Part 7 of this subchapter or is exempted from the requirements of Subpart Ec of 40 CFR Part 60.

252:100-17-9. Definitions

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

"Antineoplastic agents" means drugs used to inhibit and combat the development of neoplasms.

"Biomedical radioactive waste" means low-level radioactive waste as defined in 40 CFR 60.51c.

"Biomedical waste" means medical/infectious waste as defined in 40 CFR 60.51c, Chemotherapeutic waste and biomedical radioactive waste.

"Biomedical waste incinerator" means an incinerator used to burn biomedical waste.

"Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents.

"Neoplasms" means tumors consisting of an abnormal proliferation of cells. The growth of this clone of cells exceeds, and is uncoordinated with, that of the normal tissues around it. Neoplasms may be benign, pre-malignant or malignant.

252:100-17-10. Design and operation

An incinerator subject to this part shall be designed and built with a primary combustion chamber and secondary combustion chamber(s) each equipped with burners or other combustion devices that maintain the applicable temperature and retention time specified in (1) through (3) of this section in both the primary and secondary combustion chamber(s) at all times when biomedical waste is being incinerated.

(1) The temperature in the primary combustion chamber shall not be less than 1,200°F.
(2) The temperature in the secondary combustion chamber(s) shall not be less than 1,800°F with a retention time of not less than one (1) second when processing biomedical waste containing no chemotherapeutic waste.
(3) The temperature in the secondary combustion chamber(s) shall not be less than 2,000°F with a retention time of not less than two (2) seconds when processing biomedical waste containing chemotherapeutic waste.

252:100-17-11. Emission limits

Emissions from any biomedical waste incinerator subject to the requirements of this part shall not exceed the limits specified in (1) through (3) of this section. Any required performance testing shall be conducted while the incinerator is operating between 90% and 100% of operating capacity, or under other representative operating conditions specified by an applicable permit or testing method.

(1) **Hydrochloric acid (HCl).** Emissions of HCl shall not exceed 4.0 lb/hr.
(2) **Particulate matter.** Emissions of particulate matter shall not exceed 0.08 gr/dscf (grains per dry standard cubic foot) corrected to12% carbon dioxide in the emission gas stream.
(3) **Carbon monoxide (CO).** Emissions of CO shall not exceed 100 ppm by volume corrected to standard conditions in the emission gas stream.

[OAR Docket #11-343; filed 4-7-11]

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

[OAR Docket #11-346]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Incorporation by Reference
252:205-3-1. [AMENDED]
AUTHORITY:
Environmental Quality Board and Hazardous Waste Management Advisory Council powers and duties, 27A O.S. §§ 2-2-101, 2-2-104, 2-2-201; Oklahoma Hazardous Waste Management Act, 2-7-105 and 2-7-106.
DATES:
Comment period:
September 15 through October 28, 2010, and November 16, 2010
Public hearing:
October 28, 2010, Hazardous Waste Management Advisory Council
November 16, 2010, Environmental Quality Board
Adoption:
November 16, 2010
Submitted to Governor:
November 23, 2010
Submitted to House:
November 23, 2010
Submitted to Senate:
November 23, 2010
Gubernatorial Approval:
December 27, 2010
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on April 1, 2011
Final adoption:
April 1, 2011
Effective:
July 1, 2011
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATION BY REFERENCE:
Incorporated standards:
As set forth in OAC 252:205-3-2 through 252:205-3-4, certain provisions of Title 40 of the Code of Federal Regulations, Parts 124, 260 through 268, 270, 273, and 279 as amended through July 1, 2010.
Incorporating rules:
252:205-3-1
Availability:
From the contact person listed below
ANALYSIS:
The proposed amendments are to incorporate by reference, as set forth in OAC 252:205-3-2 through 252:205-3-4, certain provisions of Title 40 of the Code of Federal Regulations, Parts 124, 260 through 268, 270, 273, and 279 as amended through July 1, 2010.
CONTACT PERSON:
Mike Edwards (405) 702-5226, 707 North Robinson, Oklahoma City, Oklahoma 73102. Mailing address is P.O. Box 1677, Oklahoma City, OK 73101-1677. E-mail address is mike.edwards@deq.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2011:

SUBCHAPTER 3. INCORPORATION BY REFERENCE

252:205-3-1. Reference to 40 CFR

(a) **Incorporation date.** Except as provided in subsection (b), when reference is made to Title 40 of the Code of Federal Regulations (40 CFR), it shall mean (unless otherwise specified) the Hazardous Waste Regulations, Monday, May 19, 1980, as amended through July 1, ~~2009~~2010.
(b) **Excluded provisions.** None of the revisions to 40 CFR published at 73 FR 64668 - 64788 (October 30, 2008), "Revisions to the Definition of Solid Waste: Final Rule" are incorporated herein.

[OAR Docket #11-346; filed 4-7-11]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 220. BROWNFIELDS

[OAR Docket #11-344]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Chapter 220. Brownfields [REVOKED]

APPENDIX A.
ALLOWABLE PARTICULATE MATTER EMISSION RATE FOR INCINERATORS [NEW]

The following information is for use only in conjunction with OAC 252:100-17-4.

The allowable particulate matter emission rate for incinerators with a capacity of 75 lb/hr or less is 0.10 pounds per hour of refuse charged, including any solid fuel, on an as-loaded basis.

The allowable particulate matter emission rate for incinerators with a capacity greater than 75 lb/hr may be calculated using one of the following formulas, where **Y** equals the allowable particulate matter emission rate in pounds per hour and **X** equals the refuse charged, including any solid fuel, in pounds per hour on an as-loaded basis.

For incinerators with a capacity greater than 75 lb/hr but less than 100 lb/hr, the formula is:

$$\mathbf{Y} = 9.213 \times 10^{-11}\ \mathbf{X}^{4.818}$$

For incinerators with a capacity of 100 lb/hr or more, the formula is:

$$\mathbf{Y} = 1.221 \times 10^{-2}\ \mathbf{X}^{0.7577}$$

Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

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

[OAR Docket #10-1316]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:100-1-3. Definitions [AMENDED]
252:100-1-4. Units, abbreviations and acronyms [AMENDED]
Subchapter 2. Incorporation By Reference
252:100-2.1. Purpose [AMENDED]
252:100-2-3. ~~Reference to Title 40, Code of Federal Regulations (40 CFR)~~ Incorporation by reference [AMENDED]
Subchapter 3. Air Quality Standards and Increments
252:100-3-4. Significant deterioration increments [AMENDED]
Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
252:100-5-2.3. Annual operating fees for toxics emissions [NEW]
Subchapter 7. Permits for Minor Facilities
Part 1. General Provisions
252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities [NEW]
Part 2. Permit Application Fees
252:100-7-3. Permit application fees [AMENDED]
Subchapter 8. Permits for Part 70 Sources
Part 3. Permit Application Fees
252:100-8-1.7. Permit application fees [AMENDED]
Part 5. Permits for Part 70 Sources
252:100-8-2. Definitions [AMENDED]
Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas
252:100-8-31. Definitions [AMENDED]
252:100-8-33. Exemptions [AMENDED]
252:100-8-35. Air quality impact evaluation [AMENDED]
Part 9. Major Sources Affecting Nonattainment Areas
252:100-8-50.1. Incorporation by reference [AMENDED]
252:100-8-51. Definitions [AMENDED]
252:100-8-51.1. Emissions reductions and offsets [AMENDED]
252:100-8-52. Applicability determination for sources in attainment areas causing or contributing to NAAQS violation [AMENDED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [REVOKED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [NEW]
Appendix E. Primary Ambient Air Quality Standards [REVOKED]
Appendix E. Primary Ambient Air Quality Standards [NEW]
Appendix Q. Incorporation By Reference [REVOKED]
Appendix Q. Incorporation By Reference [NEW]

SUMMARY:

The Department is proposing to modify Subchapters 7 and 8 to ensure that State rules affected by recent changes to the U.S. Environmental Protection Agency's (EPA's) policies and programs for greenhouse gas (GHG) emissions are not perceived to be more stringent than the corresponding federal requirements. GHG, an aggregate group of six gases (carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride), will become subject to regulation as an air pollutant on January 2, 2011, when the EPA and the U.S. Department of Transportation joint light-duty vehicle GHG emission standards become effective. If GHG emission sources are required to obtain Prevention of Significant Deterioration (PSD) and Part 70 permits at the current applicability thresholds of 100 or 250 tons per year, the number of PSD and Part 70 permits would increase to the point that the Department would be unable to deal with them in a timely fashion. These requirements could be interpreted to include agricultural, commercial, and residential sources that have not previously been subject to air quality permitting. In order to avoid this, EPA promulgated its GHG Tailoring Rule in the *Federal Register* on June 3, 2010 (75 FR 31514). EPA's rule defines the term "subject to regulation" to establish thresholds of 100,000 tons per year CO_2 equivalent (CO_2e) for PSD and Part 70 applicability and a significant level of 75,000 tons per year CO_2e for PSD. Although the Department accepts EPA's mechanism for implementing the GHG tailoring rule's higher GHG thresholds by accepting EPA's definition of "subject to regulation," the federal modification to the applicability of these permitting thresholds is not directly reflected in the Department's current rules. Consequently, the general public and many smaller sources not familiar with the interdependence of State Clean Air Act requirements and federal Clean Air Act requirements may interpret the lower PSD and Part 70 applicability thresholds set forth in

the Department's rules to apply to sources emitting lower levels of GHG. The proposed modification to Parts 5 and 7 of Subchapter 8 of the Air Pollution Control Rules clarifies the change in pollutants subject to regulation and the applicability thresholds for GHG based on the GHG Tailoring Rule. This should prevent smaller sources of GHG from expending resources in preparing unnecessary permit applications for GHG emissions. This will also prevent the State rule from being perceived to be more stringent than the corresponding federal rule.

The Department is also proposing to add a new section to Subchapter 7 to clarify that GHG is excluded from the minor facility permitting program except if necessary to set enforceable limits to keep GHG emission levels at a facility below the applicability threshold levels for the PSD construction permit program and/or the Part 70 operating permit program. At this time, EPA does not have a GHG permitting program for minor facilities.

In conjunction with the proposed changes to Subchapters 7 and 8 to address the federal Greenhouse Gas Tailoring Rule, the Department is proposing to modify Subchapter 1, General Provisions, by the addition of the definition of "greenhouse gas" or "GHG" to OAC 252:100-1-3. Also, modifications are proposed to OAC 252:100-1-4, relating to units, abbreviations, and acronyms, to correct scriveners' errors that inadvertently resulted in removal of superscripts and subscripts from the terms in subsection (a) of that Section.

The Department is proposing modifications to Parts 7 and 9 of Subchapter 8 to implement the New Source Review program (PSD and Nonattainment NSR) for the fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS) which were published on July 18, 1997 (62 FR 38652) and revised on October 17, 2006 (71 FR 61144). In the May 16, 2008 *Federal Register* (73 FR 28321), EPA finalized the major source threshold, significant emissions rate, and offset ratios for $PM_{2.5}$, interpollutant trading for offsets and applicability of NSR to $PM_{2.5}$ precursors. In the October 20, 2010 *Federal Register* (75 FR 64864), EPA finalized the PSD increments, the Significant Impact Levels (SILs), and the Significant Monitoring Concentration (SMC) for $PM_{2.5}$. The proposed rule changes will establish provisions for a major source threshold, significant emissions rate, offset ratios for $PM_{2.5}$ NAAQS, interpollutant trading for offsets, SILs, and SMC that are consistent with those in the federal regulations set forth in 40 CFR § 51.165 and 40 CFR § 51.166.

The Department also proposes to correct an error in the definition of "major stationary source" in OAC 252:100-8-31. The current definition relating to municipal incinerators is more stringent than the federal definition set forth in 40 CFR § 51.166(b)(1).

The Department is proposing to modify Subchapter 3, Air Quality Standards and Increments, by the addition of the annual and 24-hour $PM_{2.5}$ increments to OAC 252:100-3-4, Significant deterioration increments. In the October 20, 2010 *Federal Register* (75 FR 64864), EPA finalized the PSD increments for $PM_{2.5}$.

The Department is proposing to clarify language in Subchapter 2, Incorporation By Reference, and to update OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. Included are changes or additions to 40 CFR Part 61, New Source Performance Standards (NSPS), and Part 63, National Emissions Standards for Hazardous Air Pollutants (NESHAP).

The Department is proposing to add a new section OAC 252:100-5-2.3 to Subchapter 5 of the air pollution control rules that will alter the Air Quality Division's current fee structure. The new section would allow the agency to invoice for emissions of hazardous air pollutants, lead, and lead compounds at a rate different from other regulated air pollutants and would require area sources subject to a NESHAP to pay an annual operating fee. In addition, the Department is considering an increase to permit application fees for both minor facilities and Part 70 sources by amending OAC 252:100-7, Part 2 and OAC 252:100-8, Part 3. The changes are designed to offset legislative budgetary shortfalls and cover current and anticipated staffing requirements in administering the Department's air pollution control programs.

The Department is proposing to amend Appendix A of OAC 252:100-17, Incinerators, to correct inaccuracies in Appendix A.

The Department proposes changing Appendix E to maintain consistency with the NAAQS. Specifically, the nitrogen dioxide (NO_2) and sulfur dioxide (SO_2) primary standards would be modified to reflect recent changes made by the EPA.

AUTHORITY:

Generally, Environmental Quality Board powers and duties, 27A O.S.§ 2-2-101, and 27A O.S.§ 2-5-106; Air Quality Advisory Council powers and duties, 27A O.S.§ 2-2-201 and 27A O.S.§ 2-5-107; and Oklahoma Clean Air Act, 27A O.S.§§ 2-5-101 through -117, and specifically 27A O.S.§§ 2-5-105 (OAC 252:100, Subchapters 1, 2, 3, 5, 7, 8, and Appendices A and E), -112 (Subchapters 1, 2, 3, 7, 8, and 31, and Appendices A and Q), -113 (Subchapters 5, 7, and 8), and -114 (Subchapter 5 and Appendix Q).

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 19, 2011. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the January 19, 2011 hearing and at the February 25, 2011 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 19, 2011, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on Friday, February 25, 2011, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

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 CFR § 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 CFR Part 70 and 27A O.S.§ 2-5-107(3).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENTS:

The rule impact statements are available for review 30 days prior to the hearing on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for this proposal is Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #10-1316; filed 11-22-10]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 110. LEAD-BASED PAINT MANAGEMENT

[OAR Docket #10-1317]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:110-1-1. Purpose [AMENDED]
252:110-1-2. Basis and authority [AMENDED]
252:110-1-7. Reference to 40 CFR [REVOKED]
Subchapter 5. Incorporation by Reference
252:110-5-1. Incorporation by reference [AMENDED]
Subchapter 15. Additional Renovation, Repair, and Painting (RRP) Requirements [NEW]
252:110-15-1. Definitions [NEW]
252:110-15-2. Scope [NEW]
252:110-15-3. Applicable dates [NEW]
252:110-15-4. Training programs accredited by other states or agencies [NEW]
252:110-15-5. Renovator certification requirements [NEW]
252:110-15-6. Certification of firms conducting renovation services [NEW]
252:110-15-7. Fees [NEW]

SUMMARY:

The Department is proposing to amend OAC 252:110, Lead-Based Paint Management, to add a new Subchapter 15, Additional Renovation, Repair, and Painting (RRP) Requirements. The proposed rule would establish state requirements that are consistent with those established by the U.S. Environmental Protection Agency (EPA) in 40 CFR Part 745 and affect contractors who perform renovation, repair, and painting projects in homes, child-care facilities, and schools built before 1978. This rule revision is essential to the Department's efforts to obtain EPA authorization to administer the Lead-Based Paint Renovation Program in Oklahoma. The proposal would establish fees for obtaining and renewing firm certifications and other associated services, which would he assessed after EPA has delegated the Department authority for the program. This proposed state rule is no more stringent than the federal rule and would incorporate changes to be consistent with the Department's current rules. In addition, the proposal includes amending OAC 252:110-5, Incorporation by Reference, to be consistent with the new subchapter.

The Department is proposing to revoke OAC 252:110-1-7, General Provisions, Reference to 40 CFR because it is a duplication of language already included in Subchapter 5, Incorporation by Reference. It is also proposing to amend OAC 252:110-1-1, Purpose, and OAC 252:110-1-2, Basis of Authority, to clarify regulatory language.

AUTHORITY:

Environmental Quality Board and Air Quality Advisory Council powers and duties, 27A O.S.§§ 2-2-101 and 2-2-201; and Oklahoma Lead-Based Paint Management Act, 27A O.S.§§ 2-12-101 and 2-12-201.

COMMENT PERIOD:

Written comments on the proposed rulemaking will be accepted prior to and at the hearing on January 19, 2011. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the January 19, 2011

APPENDIX A.
ALLOWABLE PARTICULATE MATTER EMISSION RATE
FOR INCINERATORS [NEW]

The following information is for use only in conjunction with OAC 252:100-17-4.

The allowable particulate matter emission rate for incinerators with a capacity of 75 lb/hr or less is 0.10 pounds per hour of refuse charged, including any solid fuel, on an as-loaded basis.

The allowable particulate matter emission rate for incinerators with a capacity greater than 75 lb/hr may be calculated using one of the following formulas, where **Y** equals the allowable particulate matter emission rate in pounds per hour and **X** equals the refuse charged, including any solid fuel, in pounds per hour on an as-loaded basis.

For incinerators with a capacity greater than 75 lb/hr but less than 100 lb/hr, the formula is:

$$\mathbf{Y} = 9.213 \times 10^{-11} \mathbf{X}^{4.818}$$

For incinerators with a capacity of 100 lb/hr or more, the formula is:

$$\mathbf{Y} = 1.221 \times 10^{-2} \mathbf{X}^{0.7577}$$

APPENDIX A.
ALLOWABLE PARTICULATE MATTER EMISSION RATE
FOR INCINERATORS [REVOKED]

The following information is for use only in conjunction with OAC 252:100-17-4.

The allowable particulate matter emission rate for incinerators with a capacity of 75 lb/hr or less is 0.01 pounds per hour of refuse charged, including any solid fuel, on an as-loaded basis.

The allowable particulate matter emission rate for incinerators with a capacity greater than 75 lb/hr may be calculated using one of the following formulas, where **Y** equals the allowable particulate matter emission rate in pounds per hour and **X** equals the refuse charged, including any solid fuel, in pounds per hour on an as-loaded basis.

For incinerators with a capacity greater than 75 lb/hr but less than 100 lb/hr, the formula is:

$$\mathbf{Y} = 9.213 \times 10^{-11}\,\mathbf{X}^{4.818}$$

For incinerators with a capacity of 100 lb/hr or more, the formula is:

$$\mathbf{Y} = .221 \times 10^{-2}\,\mathbf{X}^{0.7577}$$

MINUTES
AIR QUALITY COUNCIL
Department of Environmental Quality
707 North Robinson, Oklahoma City, OK
January 19, 2011

For EQB February 25, 2011
AQC Approved July 20, 2011

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. on January 19, 2011 at the Department of Environmental Quality in Oklahoma City. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on December 7, 2010. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith convened the hearings by the Air Quality Advisory Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101-2-5-118. Ms. Smith entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Bruce called roll stating that a quorum was present.

MEMBERS PRESENT	DEQ STAFF PRESENT	DEQ STAFF PRESENT
David Branecky	Eddie Terrill	Pat Sullivan
Montelle Clark	Beverly Botchlet-Smith	Joyce Sheedy
Gary Collins	Scott Thomas	Nancy Marshment
David Gamble	Cheryl Bradley	Diana Hinson
Jim Haught	Rob Singletary	Leon Ashford
Laura Lodes	Trevor Hammons	Myrna Bruce
Bob Lynch	Randy Ward	
Sharon Myers	Dawson Lasseter	
Pete White		

MEMBERS ABSENT	OTHERS PRESENT
	Christy Myers, Court Reporter

Transcripts and Attendance Sheet are attached as an official part of these Minutes

Approval of Minutes -- October 27, 2010 Regular Meeting Ms. Lodes called for a motion for approval. Ms. Myers moved to approve and Mr. Collins made the second.

See Transcript pages 4 – 5 Section A

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Election of Officers Ms. Myers made motion that Laura Lodes and Jim Haught to remain as the officers. Mr. Branecky made the second.

See Transcript pages 5 – 6 Section A

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]
OAC 252:100-7. Permits for Minor Facilities [AMENDED]
OAC 252:100-8. Permits for Part 70 Sources [AMENDED]

Ms. Pat Sullivan provided a slide presentation of the proposal which would add a new section OAC 252:100-5-2.3 that would allow the Department to assess certain area sources of hazardous air pollutants annual operating fees. In addition, the proposal would increase permit application fees for both minor facilities and Part 70 sources by amending OAC 252:100-7, Part 2 and OAC 252:100-8, Part 3. Staff fielded comments and questions from Council and the public. Ms. Cheryl Bradley read into the record alternative language that was suggested regarding the existing area sources. Ms. Lodes explained that there had been a number of discussions and called for a motion to adopt the rule package. Mr. Branecky made the motion to adopt as proposed with the revisions discussed with the caveat that DEQ provides a progress report of the income and expenditures at Council's October meeting. Mr. White made the second.

See Transcript pages 8 – 93

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:100-1. General Provisions [AMENDED]
OAC 252:100-3. Air Quality Standards and Increments [AMENDED]
OAC 252:100-7. Permits for Minor Facilities [AMENDED]
OAC 252:100-8. Permits for Part 70 Sources [AMENDED]

Dr. Joyce Sheedy advised that the proposal would modify Subchapters 1, 7, and 8 to ensure that State rules affected by recent changes to EPA's policies and programs for greenhouse gas emissions are not perceived to be more stringent than the corresponding federal requirements. Also, modifications to Subchapter 8 to implement the New Source Review (NSR) program for the fine particulate matter (PM2.5) National Ambient Air Quality Standards (NAAQS). The proposal would also modify Subchapter 3, Air Quality Standards and Increments, by the addition of the annual and 24-hour PM2.5 increments to OAC 252:100-3-4, Significant deterioration increments. Dr. Sheedy explained that the proposed modifications to these four subchapters are being presented in one hearing because both the greenhouse gas modifications and the PM2.5 modifications involve changes to Section 31 of Subchapter 8. She identified the changes being proposed. Staff fielded questions and comments from the public. Mr. Branecky moved to postpone the hearing in order that staff could develop the suggested language that could be incorporated into the rule. Ms. Myers made the second.

See Transcript Pages 3 – 28 Part 2

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Ms. Lodes called for a motion to continue the discussion on the greenhouse gas rules. Ms. Myers made the motion and Mr. Gamble made the second.

See Transcript Pages 56

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Ms. Cheryl Bradley presented the additional language for Council's consideration. Following discussion, Mr. Collins made motion to accept the proposed amendments as amended. Mr. Haught made the second.

See Transcript Pages 58 - 69

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [REVOKED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [NEW]

Ms. Diana Hinson advised that the proposal would revoke Appendix A and adopt a new Appendix A to correct inaccuracies. Hearing no discussion, Ms. Lodes called for a motion. Mr. Haught moved to accept as recommended and Mr. Clark made the second.

See Transcript Pages 28-31

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

APPENDIX E. Primary Ambient Air Quality Standards [REVOKED]
APPENDIX E. Primary Ambient Air Quality Standards [NEW]

Mr. Leon Ashford advised that the proposal was to revoke Appendix E and adopt a new Appendix E to maintain consistency with the NAAQS. Specifically, the nitrogen dioxide (NO2) and sulfur dioxide (SO2) primary standards would be modified to reflect recent changes made by the EPA. Following comments, Ms. Lodes called for a motion to pass the rule as proposed. Mr. Haught made the motion and Mr. Gamble made the second.

See Transcript Pages 31 - 37

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:100-2. Incorporation By Reference [AMENDED]
Appendix Q. Incorporation By Reference [REVOKED]
Appendix Q. Incorporation By Reference [NEW]

Ms. Nancy Marshment advised that the proposal would update Subchapter 2 to clarify language and Appendix Q, Incorporation By Reference, to incorporate by reference the latest changes to EPA regulations. She identified the changes that were being proposed. Staff requested that the Council table the hearing for this rulemaking until the Department is certain it has adequate resources to assume delegation for any additional federal standards. Following discussion, Mr. Pete White made motion to continue the hearing. Ms. Myers made the second.

See Transcript Pages 37 - 56

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:110. Lead-Based Paint Management
Subchapter 1. General Provisions [AMENDED]
Subchapter 5. Incorporation by Reference [AMENDED]
Subchapter 15. Additional Renovation, Repair and Painting (RRP) Requirements [NEW]
Mr. Trevor Hammons advised that the Department's proposal would amend OAC 252:110, Lead-Based Paint Management, to add a new Subchapter 15, Additional Renovation, Repair, and Painting (RRP) Requirements. The proposed rule would establish state requirements that are consistent with those established by EPA and affect contractors who perform renovation, repair, and painting projects in homes, child-care facilities, and schools built before1978. In addition, the proposal would establish fees to be charged by the Department for RRP firm certifications and other associated services. After much discussion, Mr. Branecky made motion to continue the hearing. Ms. Myers made the second.

See transcript pages Item F page 2 - 53

Bob Lynch	Yes	Sharon Myers	Yes
Pete White	Yes	Gary Collins	Yes
David Gamble	Yes	Montelle Clark	Yes
David Branecky	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Division Director's Report - Eddie Terrill mentioned EPA initiatives and the upcoming Legislative session.

New Business - None

Adjournment – Ms. Lodes adjourned the meeting adjourned at 1:00 p.m.

Transcripts and Attendance Sheet are attached as an official part of these Minutes.

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL MEETING
ON JANUARY 19, 2011, AT 9:00 AM
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
Christy Myers, CSR
P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
(405) 721-2882

MEMBERS OF THE COUNCIL

LAURA LODES, CHAIR
JIM HAUGHT, VICE-CHAIR
PETE WHITE, MEMBER
SHARON MYERS, MEMBER
MONTELLE CLARK, MEMBER
DAVID GAMBLE, MEMBER
GARY COLLINS, MEMBER
ROBERT LYNCH, MEMBER
DAVID BRANECKY, MEMBER

DEQ STAFF

MYRNA BRUCE
BEVERLY BOTCHLET-SMITH
EDDIE TERRILL
CHERYL BRADLEY
PAT SULLIVAN
NANCY MARSHMENT
DIANA HINSON
JOYCE SHEEDY

PROCEEDINGS

MS. LODES: Call the meeting to order. The first Item is Myrna, would you please call the roll.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Here.
MS. BRUCE: Pete White is not here right at this moment. David Gamble.
MR. GAMBLE: Here.
MS. BRUCE: David Branecky.
MR. BRANECKY: Here.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Here.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Here.
MS. BRUCE: Montelle Clark.
MR. CLARK: Present.
MS. BRUCE: Laura Lodes.
MS. LODES: Here.
MS. BRUCE: We do have a quorum.
MS. LODES: The next item

on today's Agenda is the Approval of the Minutes from the October 27, 2010 regular meeting. Do we have any questions or discussion on the minutes? Do I have a motion to approve the minutes?
MS. MYERS: I so move.
MS. LODES: I have a motion. Do I have a second?
MR. COLLINS: I'll second.
MS. LODES: I have a motion and a second. Do you want to call the roll for us.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.

MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. LODES: The next item on today's Agenda is the election of officers.
MS. MYERS: I would like to move that we keep our current officers. Laura as President or Chair, and Jim as Vice-Chair.
MR. BRANECKY: I'll second that.
MS. LODES: I have a motion and a second. Myrna, will you call the roll.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Pete White for the record has arrived.
MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.

MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed. And congratulations.

MS. BOTCHLET-SMITH: Good morning. I'm Beverly Botchlet-Smith. I'm the Assistant Director of the Air Quality Division and as such I'll serve as the Protocol Officer for today's hearings.

The hearings will be convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act in 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, Sections 2-5-101 through 2-5-118.

Notice of the January 19, 2011 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 December 7, 2010. The Agenda was duly posted 24 hours prior to the meeting at this facility here at the DEQ.

If you wish to make a statement, it is very important for you to complete the form that is found at the registration table and then you will be called upon at the appropriate time. Audience members please come to the podium for your comments and please state your name prior to speaking. At this time, we

will proceed with what's marked as Agenda Item Number 5A for the Hearing Agenda. And that is OAC 252:100-5, Registration Emissions Inventory and Annual Operating Fees OAC 252:100-7, Permits for Minor Facilities. And OAC 252:100-8, Permits for Part 70 Sources. And we're going to have a presentation so a few of us are going to need to move over just a bit.

MS. SULLIVAN: Madam Chair, Members of the Council, and ladies and gentlemen. Good morning. I'm Pat Sullivan, Environmental Program Specialist with the Air Quality Division of the Department of Environmental Quality. Staff has revised the fee proposal we presented in the October 27th, 2010 Air Quality Advisory Council meeting and I've been asked to present those changes to you today.

Let's quickly review the reasons for the October fee proposal.

Legislative appropriations are down. Benefits and cost of retention are up. Total annual operating fees are down. Division workload is up and keeps going up.

At the last meeting, we spent some time talking about area sources of air pollution, how area sources emit 35 percent of hazardous air pollutants emitted in Oklahoma. And some area sources, like gas stations, are closely associated with mobile sources which emit 47 percent of hazardous air pollutants emitted in the state.

Federal regulations relating to area sources are called MACTs and they're often listed as 40 CFR Part 63 followed by (CCCCCCC), (BBBBBB), (ZZZZ), lots of letters. These area source MACT standards are a part of the increasing workload.

So let's put the numbers to these, what I call, budgetary realities. Legislative

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MS. BOTCHLET-SMITH: We can postpone it to a few minutes and come back to it to a certain time.
MS. LODES: Okay. Do we need a motion to postpone it?
MS. BOTCHLET-SMITH: Yes. Yes. You need a motion.
MS. LODES: Okay. I need a motion to postpone this for a certain length of time while they work on the definitions. So we can move on to the next item on the Agenda.
MR. BRANECKY: How much time?
(Multiple Discussions)
MR. BRANECKY: I move.
MS. MYERS: Okay. I'll second it, then.
MR. BRANECKY: I move that we do what they said to do.
MS. MYERS: I'll second whatever David said.
MR. BRANECKY: I move that we postpone -- that we continue this

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to give the staff enough time to develop some language before we come back to this item on the Agenda and continue on to the next item.
MS. MYERS: Second.
MS. LODES: I have a motion and a second. I am assuming we need to call the roll, Myrna.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Pete White
MR. WHITE: Yes.
MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: Laura Lodes.

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MS. LODES: Yes.
MS. BRUCE: Motion passed.
(Item Number 5B Continued)
ITEM NUMBER 5C
MS. BOTCHLET-SMITH: The next item on the Agenda is Number 5C. This is Appendix A, Allowable Particulate Matter Emission Rate for Incinerators.
This presentation is being given by Ms. Diana Hinson of our staff.
MS. HINSON: Good morning, Madam Chair, Members of the Council, ladies and gentlemen. I'm Diana Hinson, an Environmental Program Specialist in the Rules and Planning Section of Air Quality, Department of Environmental Quality.
The Department is proposing to revoke Appendix A, allowable emissions for incinerators and adopt a new Appendix A in order to correct inaccuracies.
Notice of the proposed rule

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changes was published in the Oklahoma Register on December 15, 2010 and comments were requested from members of the public. No comments have been received at this date.
This is the first time the Council has been notified of the proposed revisions. The Department suggests that the Council consider voting to send the modification to the Environmental Quality Board with a recommendation that it be adopted as a permanent rule.
Thank you.
MS. BOTCHLET-SMITH: Are there any questions from the Council for Ms. Hinson? Any questions from the public?
Hearing none, if there is not any discussion by the Council, Laura, I ask for a motion.
MS. LODES: We have no discussion. The Agency has recommended that we pass this. Do I

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have a motion?
MR. HAUGHT: I'll make the motion that we accept the modifications to Appendix A as recommended by staff.
MR. CLARK: I'll second it.
MS. LODES: I have a motion and a second. Myrna, would you please call roll.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Pete White.
MR. WHITE: Yes.
MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.

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MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
(Item Number 5C Concluded)
ITEM NUMBER 5D
MS. BOTCHLET-SMITH: The next item on the Agenda is Number 5D. This is Appendix E, Primary Ambient Air Quality Standards and the presentation will be given by Mr. Leon Ashford of the Air Quality staff.
MR. ASHFORD: Hello. I'm Leon Ashford of the Oklahoma DEQ. Good morning, Madam Chair, Members of the Council, ladies and gentlemen.
Staff proposes to revoke Appendix E, Primary Air Quality Standards, and replace it with a new Appendix E that includes recent changes to the National Ambient Air Quality Standards or NAAQS for the nitrogen dioxide or NO2, and sulfur dioxide, SO2 Standards.

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The Clean Air Act requires that the EPA periodically review and revise the NAAQS. On February 9, 2010, EPA promulgated a new one-hour NO2 primary standard of 100 parts per billion. EPA promulgated a new one-hour SO2 primary standard of 75 parts per billion and revoked the 24-hour and annual standards on June 2, 2010. EPA is expected to revise the secondary standard for NO2 and SO2 next year.
Appendix E is currently part of Oklahoma's EPA-approved State Implementation Plan or SIP. The proposed changes are necessary to update the primary ambient air quality standards in the state rule to make them consistent with and as protective as the federal standards. Upon promulgation, the new Appendix E will be submitted to EPA as a revision to the SIP.
Notice of the proposed permanent rule changes was published

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in the Oklahoma Register on December 15, 2010. The notice requested written comments from the public and other interested parties. The only comment made was received from EPA Region 6, and they concurred with the changes.
Staff requests that the Council vote to recommend the proposed rule change and be forwarded to the Environmental Quality Board for adoption as a permanent rule.
MS. BOTCHLET-SMITH: Is there any questions for Mr. Ashford? David.
MR. BRANECKY: Yes. Well, in the -- on the new proposal in the footnotes 8 and 9 that referred to the new SO2 and NO2 standard, the language says that -- refers to within an area -- at each monitor within an area that's not exceeding a given amount. Is that --
MR. ASHFORD: Yes.

(1) **Applicability determination.** ~~$250~~$500, to be credited against the construction or operating permit application fee, if a permit is required. If no permit is required, the fee will be retained to cover the cost of making the determination.

(2) **Construction permit application.**

(A) New Part 70 source - ~~$2,000~~$7500.

(B) Modification of a Part 70 source - ~~$1,500~~$5000.

(C) Authorization under a general permit - $900.

(3) **Operating permit application.**

(A) Initial Part 70 permit - ~~$2,000~~$7500.

(B) Authorization under a general permit - $900

(C) Renewal Part 70 permit - ~~$1,000~~$7500.

(D) Significant modification of Part 70 permit - ~~$1,000~~$6000.

(E) Minor modification of Part 70 permit - ~~$500~~$3000.

(F) Part 70 Temporary Source Relocation - $500.

[OAR Docket #11-699; filed 5-18-11]

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

[OAR Docket #11-700]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [REVOKED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [NEW]
AUTHORITY:
Environmental Quality Board; 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*
DATES:
Comment period:
December 15, 2010 through January 19, 2011
Public hearing:
January 19, 2011
Adoption:
February 25, 2011
Submitted to Governor:
March 4, 2011
Submitted to House:
March 4, 2011
Submitted to Senate:
March 4, 2011
Gubernatorial approval:
April 12, 2011
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on May 3, 2011
Final adoption:
May 3, 2011
Effective:
July 1, 2011
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
ANALYSIS:
The Department is proposing to correct inaccuracies in Appendix A, Allowable Particulate Matter Emission Rate for Incinerators, by revoking the current Appendix A and replacing it with a new Appendix A.
CONTACT PERSON:
Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2011:

APPENDIX A. ALLOWABLE PARTICULATE MATTER EMISSION RATE FOR INCINERATORS [REVOKED]

APPENDIX A. ALLOWABLE PARTICULATE MATTER EMISSION RATE FOR INCINERATORS [NEW]

The following information is for use only in conjunction with OAC 252:100-17-4.

The allowable particulate matter emission rate for incinerators with a capacity of 75 lb/hr or less is 0.10 pounds per hour of refuse charged, including any solid fuel, on an as-loaded basis.

The allowable particulate matter emission rate for incinerators with a capacity greater than 75 lb/hr may be calculated using one of the following formulas, where **Y** equals the allowable particulate matter emission rate in pounds per hour and **X** equals the refuse charged, including any solid fuel, in pounds per hour on an as-loaded basis.

For incinerators with a capacity greater than 75 lb/hr but less than 100 lb/hr, the formula is:

$$\mathbf{Y} = 9.213\times10^{-11}\,\mathbf{X}^{4.818}$$

For incinerators with a capacity of 100 lb/hr or more, the formula is:

$$\mathbf{Y} = 1.221\times 10^{-2}\,\mathbf{X}^{0.7577}$$

[OAR Docket #11-700; filed 5-18-11]

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

SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

PART 1. GENERAL PROVISIONS

252:100-31-1. Purpose

The purpose of this ~~Subchapter~~ subchapter is to control emissions of sulfur compounds from stationary sources ~~in order to prevent the Oklahoma Air Quality Standard from being exceeded and insure that degradation of the present level of air quality in Oklahoma does not occur~~.

252:100-31-2. Definitions

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

"Alternative fuel" means fuel derived from any source other than petroleum, natural gas, or coal. Alternative fuel includes, but is not limited to, biogas, waste-derived fuel, recycled tires, tire-derived fuel, and wood-fuel as defined in OAC 252:100-19-1.

"Black liquor solids" means the dry weight of the solids ~~which~~ that enter the recovery furnace in the black liquor.

"Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), ~~below~~ blow tank(s), chip steamer(s), and condenser(s).

~~**"Existing facility," "existing source,"** or **"existing equipment"** means any facility, source, or equipment that emits sulfur compounds and which is in being prior to July 1, 1972, except that for facilities, sources, or equipment subject to:~~

~~(A) OAC 252:100-31-7(b) and/or OAC 252:100-31-26(a)(1), the date is prior to December 31, 1974, and~~

~~(B) OAC 252:100-31-13, the date is on or before August 17 1971.~~

"Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

"Lime kiln" means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

"Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp (black liquor).

~~**"New facility," "new installation," "new source,"** or **"new equipment"** means any facility, installation, source, or equipment that emits sulfur compounds and which is not in being on, or which is modified after, July 1, 1972, except that for :~~

~~(A) facilities, installations, sources, or equipment subject to OAC 252:100-31-7(b) and/or OAC 252:100-31-26(a)(1) the date is December 31, 1974;~~

~~(B) petroleum refining facilities, sources, or equipment subject to OAC 252:100-31-26 (a)(2), the date is December 31, 1974; and~~

~~(C) facilities, sources or equipment subject to OAC 252:100-31-13, the date is August 17, 1971.~~

"Kraft pulp mill" means any pulp mill process facility that produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

"Petroleum and natural gas process equipment" means ~~processes~~ the process equipment used ~~in the processing of~~ to convert crude petroleum and/or natural gas into refined products ~~including~~. Petroleum and natural gas process equipment includes, but is not limited to, distillation columns, treating columns, catalytic cracking units, catalytic reforming units, sulfur removal equipment, petroleum coke units, flares, heat exchangers, reboilers, jet ejectors, compressors, recompressors, and any other auxiliary equipment pertinent to the process.

"Petroleum and natural gas process facility" means a facility that is engaged in converting crude petroleum and/or natural gas into refined products. Petroleum and natural gas process facilities include petroleum refineries and natural gas processing plants (as defined in 40 CFR §60.631), but do not include petroleum and natural gas production, gathering, and transportation facilities.

~~**"Pulp mill"** means the process equipment used in production of pulp from wood chips or bolts which may include but are not limited to, debarker, chipper, digester, blow tank, washers, condensers, evaporators, recovery furnace, lime kiln, smelt-dissolving tank, mixers, heat exchangers, gas scrubbers, and other auxiliaries pertinent to the process.~~

"Recovery furnace" means either a straight ~~kraft recovery~~ kraft-recovery furnace or a ~~cross recovery~~ cross-recovery furnace, and includes the direct-contact evaporator for a ~~direct contact~~ direct-contact furnace.

"~~Smelt dissolving~~ Smelt-dissolving tank" means a vessel used for dissolving the smelt collected from the recovery furnace.

"Sulfur recovery ~~plant~~ unit" means a process device that recovers elemental sulfur from acid gas.

"Sweetening ~~plant~~ unit" means a ~~process~~ natural gas processing device that ~~separates the~~ removes hydrogen sulfide ~~H_2S~~ and carbon dioxide ~~CO_2 contents~~ from the gas stream.

~~**"Three-hour average"** or **"3-hour average"** means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.~~

"Total reduced sulfur" or **"TRS"** ~~is~~ means the sum of the compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.

252:100-31-4. Excess emission reporting and alternative reporting schedule

Any excess emission resulting from a violation of any emission limit contained in this subchapter shall be reported in accordance with the requirements of OAC 252:100-9. In the event that the excess emission is also a violation of an applicable 40 CFR Part 60 emission limit, the owner or operator may report the excess emission as part of an alternative reporting schedule applied for or obtained under OAC 252:100-9-7(d), if the following requirements are met.

(1) The excess emission occurs at the same emission unit at the same time.

(2) The emission limit is for the same regulated air pollutant, and has the same averaging time and units of measure as the applicable 40 CFR Part 60 emission limit.

PART 2. AMBIENT AIR CONCENTRATION LIMITS OR IMPACTS FOR NEW AND EXISTING EQUIPMENT, SOURCES, OR FACILITIES

252:100-31-7. ~~Ambient air concentration limits or impacts~~Allowable hydrogen sulfide (H_2S) ambient air concentrations for new and existing sources

(a) [Reserved]~~**Sulfur oxides.** Emissions of sulfur dioxide from any existing facility or any new petroleum and natural gas process facility with equipment subject to OAC 252:100-31-26(a)(1) shall not impact existing ambient air concentrations of sulfur dioxide by more than:~~

~~(1) 1300 $\mu g/m^3$ (0.50 ppm) in a five (5) minute period of any hour;~~

~~(2) 1200 $\mu g/m^3$ (0.46 ppm), one-hour average;~~

~~(3) 650 µg/m^3 (0.25 ppm), 3-hour average;~~

~~(4) 130 µg/m^3 (0.05 ppm), 24-hour average; or,~~

~~(5) 80 µg/m^3 (0.03 ppm), annual arithmetic mean.~~

(b) **Hydrogen sulfide.** Emissions of ~~hydrogen sulfide~~ H_2S from any ~~new or existing source~~ facility shall not ~~result in a 24-hour average~~ cause an ambient air concentration of ~~hydrogen sulfide at any given point of~~ H_2S greater than 0.2 ppm ~~or greater~~at standard conditions, 24-hour average.

(c) **Exceptions.** The standards set in ~~subsections (a) and (b) of~~ this ~~Section~~ section shall not apply to ambient air concentrations or impacts occurring on the property from which such emission occurs, providing such property, from the emission point to the point of any such concentration, is controlled by the person responsible for such emission.

(d) **Compliance assurance.** Upon approval of the Director, facility operators may use appropriate material balances, performance test data, and/or emission factors to determine stack emissions combined, when necessary, with the appropriate ~~EPA-approved~~ EPA-approved atmospheric dispersion models to determine ambient air concentration or impact in lieu of ambient air monitoring as proof of compliance with ~~limits~~ the limit set in ~~OAC 252:100-31-7(a) and (b)~~ this section.

PART 3. EXISTING EQUIPMENT STANDARDS

252:100-31-13. Requirements for existing ~~Sulfuric~~ sulfuric acid plants

Any sulfuric acid plant that was in being on or before August 17, 1971 shall comply with the following requirements.

~~(a)~~ (1) **Sulfuric acid mist. ~~standard.~~** ~~After January 10, 1979, emissions~~ Emissions of sulfuric acid mist ~~from any existing sulfuric acid plant~~ shall not exceed 0.5 ~~lb/T~~ pounds per ton of acid produced (250 ~~g/MT~~grams per metric ton). The acid production shall be expressed as 100% sulfuric acid (H_2SO_4).

~~(b)~~ (2) ~~**Continuous emission**~~ **Emission monitoring.** ~~Continuous monitoring of sulfur dioxide is required for existing~~ The owner or operator shall install, calibrate, maintain, and operate a continuous SO_2 emissions monitoring system for any sulfuric acid ~~plants where the~~ plant with a production capacity ~~is~~ greater than 300 tons per day ~~TPD~~ expressed as 100% acid, except where the conversion of sulfuric acid is utilized to prevent emissions of sulfur dioxide or other sulfur compounds.

~~(c)~~ (3) **Installation, calibration, ~~and~~ maintenance, and operation of emission monitoring systems.** Required emission monitoring systems shall be installed, calibrated, maintained, and operated in accordance with 40 CFR Part 60, Appendix B, and 40 CFR Part 51, Appendix P. ~~Appendix P is hereby incorporated by reference.~~

252:100-31-15. Requirements for existing ~~Kraft~~ kraft pulp mills

After May 8, 1989, ~~all existing~~ any kraft pulp ~~mills~~ mill that was in being on or before July 1, 1972 shall comply with ~~meet~~ the following requirements ~~standards~~.

(1) ~~**TRS.** Emissions of~~ TRS emissions from any recovery furnace shall not exceed~~:~~

~~(A)~~ 40 ppm ~~TRS~~, measured ~~a hydrogen sulfide~~ as H_2S on a dry basis and on a 12-hour average, converted to eight percent (8%) by volume oxygen ~~from any recovery furnace;~~

(2) ~~(B)~~ TRS emissions from any lime kiln shall not exceed 40 ppm ~~TRS~~ measured as ~~hydrogen sulfide~~ H_2S on a dry basis and on a 12-hour average, corrected to ten percent (10%) by volume oxygen ~~from any lime kiln; and,~~

(3) ~~(C)~~ TRS emissions from any smelt-dissolving tank shall not exceed 0.033 ~~lb~~ pounds TRS per ton ~~/T black liquor solids as hydrogen sulfide~~ (0.016 g TRS/kg) of black liquor solids, measured as H_2S on ~~hydrogen sulfide) for~~ a 12-hour average ~~from any smelt dissolving tank~~.

(4) ~~(2) **Non-condensable gases.**~~ Non-condensable gases from all evaporators and digester systems shall be efficiently incinerated or otherwise treated to limit emissions of TRS ~~measured as hydrogen sulfide~~ to less than five (5) ppmv, measured as H_2S at standard conditions ~~ppm by volume~~ on a dry basis.

252:100-31-16. Requirements for existing fossil ~~Fossil~~ fuel-fired steam generators

Any fossil fuel-fired steam generator unit that was in being on or before July 1, 1972 shall comply with the following requirements.

~~(a)~~ (1) **~~Continuous emission~~ Emission monitoring.** ~~Continuous monitoring of sulfur dioxide~~ The owner or operator shall install, calibrate, maintain, and operate a continuous SO_2 emissions monitoring system for any ~~is required for existing~~ fossil fuel-fired steam generator that ~~generators where the source~~ utilizes an air pollution abatement operation to reduce the ~~sulfur dioxide~~ emissions of sulfur oxides. Continuous monitoring of oxygen or carbon dioxide is required ~~where~~ if it is necessary to convert ~~sulfur dioxide~~ SO_2 monitoring results.

~~(b)~~ (2) **Installation, calibration, ~~and~~ maintenance, and operation of emission monitoring systems.** Required emission monitoring systems shall be installed, calibrated, maintained, and operated in accordance with 40 CFR Part 60, Appendix B, and 40 CFR Part 51, Appendix P.

PART 5. NEW EQUIPMENT STANDARDS

252:100-31-25. Requirements for new ~~Fuel-burning~~ fuel-burning equipment

Any fuel-burning equipment that was not in being on or before July 1, 1972 or that is modified after July 1, 1972 shall comply with the following requirements.

~~(a)~~(1) **Emission limits.** Emissions of SO_2 attributable to the burning of fuel by fuel-burning equipment shall meet the following limits.

~~(1)~~ (A) **~~Gas-fired fuel-burning equipment~~ Gaseous fuel.** Emissions of SO_2 ~~Sulfur oxide emissions (measured as sulfur dioxide)~~ from combustion of natural gas or other gaseous fuel in ~~any new gas-fired~~ fuel-burning equipment shall not exceed 0.2 lb/~~MMBtu~~MMBTU heat input (86 ng/J).

~~(2)~~ (B) **~~Liquid-fired fuel-burning equipment~~ Liquid fuel.** Emissions of SO_2 ~~Sulfur oxide emissions (measured as sulfur dioxide)~~ from combustion of liquid fuel in ~~any new liquid-fired~~ fuel-burning equipment shall not exceed 0.8 lb/~~MMBtu~~MMBTU heat input (340 ng/J).

~~(3)~~ (C) **Solid ~~fuel-burning equipment~~ fuel.** Emissions of SO_2 ~~Sulfur oxide emissions (measured as sulfur dioxide)~~ from combustion of ~~any new~~ solid fuel in fuel-burning equipment shall not exceed 1.2 lb/~~MMBtu~~MMBTU heat input (520 ng/J).

~~(4)~~ (D) **Combination of fuels burned.** When different types of fuels are burned simultaneously in any combination, emissions of SO_2 shall not exceed the applicable ~~standard (in lb/MMBtu) shall be~~ limit determined by proration unless a secondary fuel is used in de minimis quantities (less than five percent (5%) of total ~~Btu~~ BTU heat input annually). ~~Compliance~~ The applicable limit, in lb/MMBTU heat input, shall be determined using the following formula, where X is the percent of total heat input derived from ~~gas~~ gaseous fuel, Y is the percent of total heat input derived from liquid fuel, and Z is the percent of total heat input derived from solid fuel:

~~SO_2 limit = [X(0.2) + Y(0.8) + Z(1.2)]/(X + Y + Z)~~

$$SO_2 \text{ limit} = (0.2X + 0.8Y + 1.2Z)/(X + Y + Z).$$

~~(b)~~ (2) **Averaging time.** The averaging time for the emission limits set in OAC 252:100-31-25(1)~~(a)~~ is three (3) hours unless a solid fuel sampling and analysis method is used to determine emission compliance. In that case the averaging time is 24 hours.

~~(c)~~ (3) **~~Emission monitoring, fuel monitoring, and recordkeeping~~ Additional requirements for sources with heat input of 250 ~~MMBtu~~MMBTU/hr or more.** ~~The requirements contained in this subsection apply to any new~~ Any

fuel-burning equipment with ~~a rated~~ design heat input values of 250 ~~MMBtu~~ MMBTU/hr or ~~greater~~ more shall comply with the following requirements.

~~(1)~~(A) ~~-~~**Emission monitoring.** ~~The instruments in OAC 252:100-31-25(c)(1)(A) and (B)(i) shall be installed, calibrated, maintained, and operated in any new fuel-burning equipment with a rated heat input of 250 MMBtu/hr or greater. These instruments shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.~~

~~(A)~~(i) ~~–~~**Opacity.** A photoelectric or other type smoke detector and recorder shall be used to monitor opacity, except where gaseous fuel is the only fuel burned.

~~(B)~~(ii) **Sulfur dioxide.**

~~(i) An instrument for continuously monitoring and recording sulfur dioxide~~ The owner or operator shall install, calibrate, maintain, and operate a continuous SO_2 emissions monitoring system ~~shall be used~~, except where:

(I) gaseous fuel containing less than 0.1% by weight sulfur (0.29 gr/scf or approximately 500 ppmv at standard conditions on a dry basis) is the only fuel burned; or

(II) ~~(ii) A~~ a solid or liquid fuel sampling and analysis method ~~may be~~ is used to determine SO_2 emission compliance.

(iii) **Installation, calibration, maintenance, and operation of emission monitoring systems.** Required emission monitoring systems shall be installed, calibrated, maintained, and operated in accordance with 40 CFR Part 60, Appendix B, and 40 CFR Part 51, Appendix P.

~~(2)~~ (B) **Fuel monitoring.** The sulfur content of solid or liquid fuels as burned shall be determined in accordance with ~~previous~~ methods ~~as~~ previously approved by the Director or in accordance with Method 19 of 40 CFR Part 60, Appendix A.

~~(3)~~ (C) **Recordkeeping.** The owner or operator ~~of any fuel-burning equipment with a rated heat input of 250 MMBtu/hr or greater~~ shall maintain ~~a file~~ records of all measurements required in ~~paragraphs (1)~~ (A) and ~~(2)~~ (B) of this subsection in accordance with the applicable requirements of OAC 252:100-43-7, including compliance status records and excess emissions measurements. ~~These records and measurements shall be retained for at least two (2) years following the date of such measurements, and made available for inspection by the Division or its representatives during normal business hours.~~

(4) **Alternative fuel**. The requirements of this section apply to any fuel-burning equipment that uses an alternative fuel, unless another limit representing BACT or equivalent is specified in the source's permit. Use of an alternative fuel in fuel-burning equipment is allowed, provided its use is authorized under an enforceable permit. Use of an alternative fuel in fuel-burning equipment is subject to any applicable restrictions or prohibitions that may exist in other provisions of state or federal statutes or rules, e.g., OAC 252:100-8-32.1, 252:100-31-7, 252:100-42, and/or 40 CFR Parts 60, 61, and/or 63.

252:100-31-26. Requirements for new ~~Petroleum~~ petroleum and natural gas processes

Any petroleum and natural gas process that was not in being on or before December 31, 1974 or that is modified after December 31, 1974 shall comply with the following requirements.

~~(a) **Standards.**~~

(1) **Hydrogen sulfide standards and alarm systems**.~~—~~

(A) ~~Hydrogen sulfide~~ H_2S contained in the waste gas stream from any ~~new~~ petroleum or natural gas process equipment shall be ~~removed from the exhaust gas stream or it shall be oxidized to sulfur dioxide. Hydrogen sulfide emissions shall be~~ reduced by 95% ~~of the hydrogen sulfide in the exhaust gas.~~ by removal or by being oxidized to SO_2 prior to being

emitted to the ambient air. This requirement shall not apply if a facility's emissions of H_2S do not exceed 0.3 lb/hr, two-hour average.

(B) The owner or operator shall install, maintain, and operate an alarm system that will signal a malfunction for all thermal devices used to control H_2S emissions from petroleum and natural gas processing facilities regulated under this subparagraph.

(2) ~~**Sulfur dioxide standards.**~~**Oxides of sulfur.** The following requirements apply to any gas sweetening unit or petroleum refinery process equipment with a sulfur content of greater than 0.54 LT/D in the acid gas stream. Alternatively, any gas sweetening unit or petroleum refinery process equipment with an emission rate of 100 lb/hr or less of SO_X expressed as SO_2, two-hour average, shall be considered to be below this threshold.

(A) ~~**Natural gas processing**~~ **sweetening units.** ~~Sulfur oxide emissions, calculated as sulfur dioxide,~~ The sulfur content of any acid gas stream from any ~~new~~ gas sweetening ~~plant~~ unit shall be reduced by use of a sulfur recovery ~~plant~~ unit prior to release of the ~~exhaust~~ gas to the ~~atmosphere~~ ambient air. The sulfur recovery ~~plant~~ units shall have the ~~sulfur reduction~~ recovery efficiencies required in ~~subparagraphs~~ (C) through (F) of ~~OAC 252:100-31-26(a)(2)~~ this subparagraph.

(B) **Petroleum refinery processing.** Sulfur recovery ~~plants~~ units operating in conjunction with any refinery process shall have the ~~sulfur reduction~~ recovery efficiencies required in ~~paragraphs~~ (C) through (F) of ~~OAC 252:100-31-26(a)(2)~~ this subparagraph.

(C) ~~**Greater**~~ **Sulfur content greater than 0.54 LT/D but less than or equal to 5.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 0.54 LT/D but less than or equal to 5.0 LT/D, the ~~sulfur dioxide emission reduction~~ recovery efficiency of the sulfur recovery ~~plant~~ unit shall be at least 75~~.0~~%.

(D) ~~**Greater**~~ **Sulfur content greater than 5.0 LT/D but less than or equal to 150.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 5.0 LT/D but less than or equal to 150.0 LT/D, the required ~~sulfur dioxide emission reduction~~ recovery efficiency of the sulfur recovery ~~plant~~ unit shall be calculated using the following formula, where Z is the minimum ~~emission reduction~~ sulfur recovery efficiency required ~~at all times~~ and X is the sulfur feed rate, expressed in LT/D of sulfur and rounded to one decimal place: $Z = 92.34 - (X^{0.00774})$.

(E) ~~**Greater**~~ **Sulfur content greater than 150.0 LT/D but less than or equal to 1500.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 150.0 LT/D but less than or equal to 1500.0 LT/D, the required ~~sulfur dioxide emission reduction~~ recovery efficiency of the sulfur recovery ~~plant~~ unit shall be calculated using the following formula, where Z is the ~~minimum emission reduction~~ sulfur recovery efficiency required ~~at all times~~ and X is the sulfur feed rate, expressed in LT/D of sulfur and rounded to one decimal place: $Z = 88.78 - (X^{0.0156})$.

(F) ~~**Greater**~~ **Sulfur content greater than 1500.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 1500.0 LT/D, ~~a minimum sulfur dioxide reduction~~ the recovery efficiency of the sulfur recovery unit shall be at least 99.5% ~~shall be met~~.

~~(b) **Exceptions.**~~

~~(1) **Hydrogen sulfide.** The requirements of OAC 252:100-31-26(a)(1) shall not apply if hydrogen sulfide emissions do not exceed 0.3 lb/hr, two-hour average.~~

~~(2) **Sulfur dioxide.** The requirements of OAC 252:100-31-26(a)(2) shall not apply to any new petroleum or natural gas process which would emit 100 lb/hr or less of sulfur oxides expressed as sulfur dioxide, two-hour average. The requirements of paragraph (2) of subsection (a) of this Section can be met alternatively by establishing that the sulfur content of the acid gas stream from any gas sweetening plant or refinery process is 0.54 LT/D or less.~~

~~(c) **Emission monitoring for hydrogen sulfide.** All new thermal devices for petroleum and natural gas processing facilities regulated under OAC 252:100-31-26(a)(1) shall have installed, calibrated, maintained, and operated an alarm system that will signal noncombustion of the gas.~~

252:100-31-27. Pulp mills [REVOKED]

~~(a) **Emission limit.** The emission of sulfur oxides, calculated as sulfur dioxide, from the blow pits, washer vents, storage tanks, digester relief, and recovery furnace of any new pulp mill shall not exceed 18 lb/T (air dried) of pulp produced, two-hour average.~~

~~(b) **Emission monitoring.** All new pulp mills shall install, calibrate, maintain and operate instruments for continuously monitoring and recording emissions of sulfur dioxide from the recovery system gas-cleaning equipment and other locations as required by the Director. The instruments installed and used pursuant to this Section shall have a confidence level of at least 95% and be accurate within ±20% and shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B, and following the quality assurance procedures in 40 CFR Part 60, Appendix F.~~

~~(c) **Recordkeeping.** The owner or operator of any new pulp mill subject to provisions of this Section shall maintain files of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements and made available for inspection by the Division during normal business hours.~~

loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

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, Oklahoma, during normal business hours (8:00 a.m. - 4:30 p.m. Monday through Friday) or reviewed online at http://www.deq.state.ok.us/wqdnew/index.htm.

RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person or may be reviewed online at http://www.deq.state.ok.us/wqdnew/index.htm.

CONTACT PERSON:

The contact person is Mark Hildebrand. Mark may be contacted at: mark.hildebrand@deq.ok.gov (e-mail), (405) 702-8100 (phone) or (405) 702-8101 (fax). DEQ is located at 707 N. Robinson, Oklahoma City, Oklahoma 73102. DEQ's mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three (3) days in advance of the hearing. For hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #11-1064; filed 11-9-11]

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

[OAR Docket #11-1065]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
252:100-1-3. [AMENDED]
Subchapter 7. Permits for Minor Facilities
Part 3. Construction Permits
252:100-7-15. [AMENDED]
Part 4. Operating permits
252:100-7-18. [AMENDED]
Subchapter 31. Control of Emission of Sulfur Compounds
Part 1. General Provisions
252:100-31-1. [AMENDED]
252:100-31-2. [AMENDED]
252:100-31-4. [NEW]
Part 2. Ambient Air Concentration Limits or Impacts for New and Existing Equipment, Sources, or Facilities
252:100-31-7. [AMENDED]
Part 3. Existing Equipment Standards
252:100-31-13. [AMENDED]
252:100-31-15. [AMENDED]
252:100-31-16. [AMENDED]
Part 5. New Equipment Standards
252:100-31-25. [AMENDED]
252:100-31-26. [AMENDED]
252:100-31-27. AMENDED]

SUMMARY:

The Department is proposing to modify Subchapter 1, General Provisions, to include the revision to the definition of "carbon dioxide equivaleut emissions" or "CO_2e" required by the U.S. Environmental Protection Agency's (EPA's) recent changes to the Prevention of Significant Deterioration (PSD) and Part 70 programs, which allows the deferral of permitting of carbon dioxide (CO_2) emissions from certain biomass sources until July 21, 2014. This proposed modification will prevent the State rule from being perceived to be more stringent than the corresponding federal rule. The Department is also proposing to correct an error in this definition that occurred during publication in the *Oklahoma Register* (28 OK Reg 1079) published June 15, 2011. For clarity, the Department is proposing to add other new definitions to Subchapter 1 including a definition for "commencement of operation" or "commencing operation."

To further the purpose of the Oklahoma Clean Air Act, the Department is proposing modifications to Subchapter 7, Permits for Minor Facilities. Language would be added to OAC 252:100-7-15(a)(2)(B)(I) to require a construction permit when adding a piece of equipment or a process that is subject to an emission standard, equipment standard, or work practice standard in a federal New Source Performance Standard (NSPS) (found in 40 CFR Part 60) or a federal National Emission Standard for Hazardous Air Pollutants (NESHAP) (found in 40 CFR Parts 61 and 63). The construction permit requirement would not apply to the addition of a piece of equipment or a process that is only subject to a recordkeeping or reporting requirement in an NSPS or NESHAP. Also, 252:100-7-18(a) would be amended to increase the number of days allowed after commencement of operation to submit an air quality operating permit application to the Department.

The Department is proposing changes to Subchapter 31, Control of Emission of Sulfur Compounds, to clarify the language and to bring the allowable sulfur dioxide (SO_2) ambient air limits set forth in OAC 252:100-31-7(a) into line with the requirements of the recently-enacted change to the SO_2 National Ambient Air Quality Standards (NAAQS). In response to previous public and Council comments, the Department is considering additional changes to several longstanding control, monitoring, and emission requirements of the Subchapter. In addition, the Department is proposing to add requirements for fuel-burning equipment that uses an alternative fuel. The Department is also proposing to add a new section 252:100-31-4, which aligns Subchapter 31 excess emission reporting requirements with those of 252:100-9 for facilities that are also covered by a 40 CFR Part 60 emission limit.

AUTHORITY:

The powers and duties of the Environmental Quality Board are set out in 27A O.S. § 2-2-101 and 27A O.S. § 2-5-106 and those of the Air Quality Advisory Council in 27A O.S. § 2-2-201 and 27A O.S. § 2-5-107. The legal authority authorizing the proposed rules is found in the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 through -117, specifically 27A O.S. §§ 2-5-105 and -112 for the proposed changes to OAC 252:100, Subchapter 1, and 27A O.S. § 2-5-112 for the proposed changes to Subchapters 7 and 31.

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 18, 2012. For comments received at least five (5) business days prior to the Council meeting, staff will post written responses on the Department's web page at least one (1) day prior to the Council meeting. Oral comments may be made at the January 18, 2012 hearing and at the February 24, 2012 Environmental Quality Board meeting.

PUBLIC HEARINGS:

A public hearing is scheduled before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 18, 2012, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

Also, a public hearing is scheduled before the Environmental Quality Board at 9:30 a.m. on Friday, February 24, 2012, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

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 CFR § 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 CFR Part 70 and 27A O.S. § 2-5-107(3).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENTS:

The rule impact statements will be available on and after December 16th on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm. Copies also may be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

The contact person for this proposal is Cheryl E. Bradley, Environmental Programs Manager, at (405) 702-4100. Please send written comments on the proposed rule changes to Ms. Bradley at cheryl.bradley@deq.ok.gov. Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl E. Bradley. The Air Quality Division FAX number is (405)702-4101.

PERSONS WITH DISABILITIES:

Should you desire to attend the public hearing but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405)702-4216. For the hearing impaired, the TDD relay number is 1-800-522-8506 or 1-800-722-0353, for TDD machine use only.

[OAR Docket #11-1065; filed 11-9-11]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 619. OPERATION AND MAINTENANCE OF NON-INDUSTRIAL TOTAL RETENTION LAGOON SYSTEMS ~~AND LAND APPLICATION~~

[OAR Docket #11-1066]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:

Subchapter 1. General Provisions
252:619-1-4. [AMENDED]
Subchapter 3. Operation and Maintenance
252:619-3-2. [AMENDED]
252:619-3-3. [AMENDED]
Subchapter 5. Closure Requirements
252:619-5-2. [REVOKED]

SUMMARY:

The main purpose for this rulemaking is to omit language concerning the operation, maintenance and closure of land application sites connected to total retention lagoon systems. Operation and maintenance of land application sites will be moved to the new Chapter 627, Water Reuse. DEQ also proposes to add language to the signage requirement which must posted near or on the fence at each side of the lagoon. Additionally, DEQ proposes several non-substantive changes for clarification.

AUTHORITY:

Environmental Quality Board, 27A O.S.§ 2-2-101; Water Quality Management Advisory Council, 27A O.S.§ 2-2-201; and 27A O.S.§ 2-6-103, 2-6-402 and 2-6-501.

COMMENT PERIOD:

Written comments may be submitted to the contact person from December 1, 2011, through December 31, 2011. Oral comments may be made at the Water Quality Management

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

SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

PART 1. GENERAL PROVISIONS

252:100-31-1. Purpose

The purpose of this ~~Subchapter~~ subchapter is to control emissions of sulfur compounds from stationary sources~~ in order to prevent the Oklahoma Air Quality Standard from being exceeded and insure that degradation of the present level of air quality in Oklahoma does not occur~~.

252:100-31-2. Definitions

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

"Alternative fuel" means fuel derived from any source other than petroleum, natural gas, or coal. Alternative fuel includes, but is not limited to, biogas, waste-derived fuel, recycled tires, tire-derived fuel, and wood-fuel as defined in OAC 252:100-19-1.

"Black liquor solids" means the dry weight of the solids~~, which~~ that enter the recovery furnace in the black liquor.

"Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), below tank(s), chip steamer(s), and condenser(s).

~~**"Existing facility," "existing source,"** or **"existing equipment"** means any facility, source, or equipment that emits sulfur compounds and which is in being prior to July 1, 1972, except that for facilities, sources, or equipment subject to:~~

~~(A) OAC 252:100-31-7(b) and/or OAC 252:100-31-26(a)(1), the date is prior to December 31, 1974, and~~

~~(B) OAC 252:100-31-13, the date is on or before August 17 1971.~~

"Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

"Lime kiln" means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

"Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp (black liquor).

"New facility," "new installation," "new source," or **"new equipment"** means any facility, installation, source, or equipment that emits sulfur compounds and which is not in being on, or which is modified after, July 1, 1972, except that for :

(A) facilities, installations, sources, or equipment subject to OAC 252:100-31-7(b) and/or OAC 252:100-31-26(a)(1) the date is December 31, 1974;

(B) petroleum refining facilities, sources, or equipment subject to OAC 252:100-31-26 (a)(2), the date is December 31, 1974; and

(C) facilities, sources or equipment subject to OAC 252:100-31-13, the date is August 17, 1971.

"Kraft pulp mill" means any pulp mill process facility that produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

"Petroleum and natural gas process ~~processes~~ equipment" means ~~processes~~ the process equipment used ~~in the processing of~~ to convert crude petroleum and/or natural gas into refined products ~~including~~. Petroleum and natural gas process equipment includes, but is not limited to, distillation columns, treating columns, catalytic cracking units, catalytic reforming units, sulfur removal equipment, petroleum coke units, flares, heat exchangers, reboilers, jet ejectors, compressors, recompressors, and any other auxiliary equipment pertinent to the process.

"Petroleum and natural gas process facility" means a facility that is engaged in converting crude petroleum and/or natural gas into refined products. Petroleum and natural gas process facilities include petroleum refineries and natural gas processing plants, but do not include petroleum and natural gas production and transportation facilities.

~~**"Pulp mill"** means the process equipment used in production of pulp from wood chips or bolts which may include but are not limited to, debarker, chipper, digester, blow tank, washers, condensers, evaporators, recovery furnace, lime kiln, smelt-dissolving tank, mixers, heat exchangers, gas scrubbers, and other auxiliaries pertinent to the process.~~

"Recovery furnace" means either a straight ~~kraft recovery~~ kraft-recovery furnace or a ~~cross recovery~~ cross-recovery furnace, and includes the direct-contact evaporator for a ~~direct contact~~ direct-contact furnace.

"~~Smelt dissolving~~Smelt-dissolving tank" means a vessel used for dissolving the smelt collected from the recovery furnace.

"Sulfur recovery ~~plant~~ unit" means a process device that recovers elemental sulfur from acid gas.

"Sweetening ~~plant~~ unit" means a ~~process~~ natural gas processing device that ~~separates the~~ removes hydrogen sulfide ~~H_2S~~ and carbon dioxide~~CO_2 contents~~ from the gas stream.

~~**"Three-hour average"** or **"3-hour average"** means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.~~

"Total reduced sulfur" or **"TRS"** ~~is~~ means the sum of the compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.

252:100-31-4. Excess emission reporting and alternative reporting schedule

Any excess emission resulting from a violation of any emission limit contained in this subchapter shall be reported in accordance with the requirements of OAC 252:100-9. In the event that the excess emission is also a violation of an applicable 40 CFR Part 60 emission limit, the owner or operator may report the excess emission as part of an alternative reporting schedule applied for or obtained under OAC 252:100-9-7(d), if the following requirements are met.

(1) The excess emission occurs at the same emission unit at the same time.

(2) The emission limit is for the same regulated air pollutant, and has the same averaging time and units of measure as the applicable 40 CFR Part 60 emission limit.

PART 2. AMBIENT AIR CONCENTRATION LIMITS OR IMPACTS FOR NEW AND EXISTING EQUIPMENT, SOURCES, OR FACILITIES

252:100-31-7. ~~Ambient air concentration limits or impacts~~Allowable hydrogen sulfide (H_2S) ambient air concentrations for new and existing sources

(a) [Reserved]~~**Sulfur oxides.** Emissions of sulfur dioxide from any existing facility or any new petroleum and natural gas process facility with equipment subject to OAC 252:100-31-26(a)(1) shall not impact existing ambient air concentrations of sulfur dioxide by more than:~~

~~(1) 1300 µg/m^3 (0.50 ppm) in a five (5) minute period of any hour;~~

~~(2) 1200 µg/m^3 (0.46 ppm), one-hour average;~~

~~(3) 650 µg/m^3 (0.25 ppm), 3-hour average;~~

~~(4) 130 µg/m^3 (0.05 ppm), 24-hour average; or,~~

~~(5) 80 µg/m^3 (0.03 ppm), annual arithmetic mean.~~

(b) **Hydrogen sulfide.** Emissions of ~~hydrogen sulfide~~ H_2S from any ~~new or existing source~~ facility shall not ~~result in a 24-hour average~~ cause an ambient air concentration of ~~hydrogen sulfide at any given point of~~ H_2S greater than 0.2 ppm ~~or greater~~at standard conditions, 24-hour average.

(c) **Exceptions.** The standards set in ~~subsections (a) and (b) of~~ this ~~Section~~ section shall not apply to ambient air concentrations or impacts occurring on the property from which such emission occurs, providing such property, from the emission point to the point of any such concentration, is controlled by the person responsible for such emission.

(d) **Compliance assurance.** Upon approval of the Director, facility operators may use appropriate material balances, performance test data, and/or emission factors to determine stack emissions combined, when necessary, with the appropriate ~~EPA approved~~ EPA-approved atmospheric dispersion models to determine ambient air concentration or impact in lieu of ambient air monitoring as proof of compliance with ~~limits~~ the limit set in ~~OAC 252:100-31-7(a) and (b)~~ this section.

PART 3. EXISTING EQUIPMENT STANDARDS

252:100-31-13. Requirements for existing ~~Sulfuric~~ sulfuric acid plants

Any sulfuric acid plant that was in being on or before August 17, 1971 shall comply with the following requirements.

~~(a)~~ (1) **Sulfuric acid mist~~. standard.~~** ~~After January 10, 1979, emissions~~ Emissions of sulfuric acid mist ~~from any existing sulfuric acid plant~~ shall not exceed 0.5 ~~lb/T~~ pounds per ton of acid produced (250 ~~g/MT~~grams per metric ton). The acid production shall be expressed as 100% sulfuric acid (H_2SO_4).

~~(b)~~ (2) ~~**Continuous emission**~~ **Emission monitoring.** ~~Continuous monitoring of sulfur dioxide is required for existing~~ The owner or operator shall install, calibrate, maintain, and operate a continuous SO_2 emissions monitoring system for any sulfuric acid ~~plants where the~~ plant with a production capacity ~~is~~ greater than 300 tons per day ~~TPD~~ expressed as 100% acid, except where the conversion of sulfuric acid is utilized to prevent emissions of sulfur dioxide or other sulfur compounds.

~~(c)~~ (3) **Installation, calibration, ~~and~~ maintenance, and operation of emission monitoring systems.** Required emission monitoring systems shall be installed, calibrated, maintained, and operated in accordance with 40 CFR Part 60, Appendix B, and 40 CFR Part 51, Appendix P. ~~Appendix P is hereby incorporated by reference.~~

252:100-31-15. Requirements for existing ~~Kraft~~ kraft pulp mills

Any ~~After May 8, 1989, all existing~~ kraft pulp ~~mills~~ mill that was in being on or before July 1, 1972 shall comply with ~~meet~~ the following requirements~~standards~~.

(1) ~~**TRS.** Emissions of~~ TRS emissions from any recovery furnace shall not exceed~~:~~

~~(A)~~ 40 ppm ~~TRS~~, measured ~~a hydrogen sulfide~~ as H_2S on a dry basis and on a 12-hour average, converted to eight percent (8%) by volume oxygen~~. from any recovery furnace;~~

(2) ~~(B)~~ TRS emissions from any lime kiln shall not exceed 40 ppm ~~TRS~~ measured as ~~hydrogen sulfide~~ H_2S on a dry basis and on a 12-hour average, corrected to ten percent (10%) by volume oxygen~~. from any lime kiln; and,~~

(3) ~~(C)~~ TRS emissions from any smelt-dissolving tank shall not exceed 0.033 ~~lb~~ pounds TRS per ton~~/T black liquor solids as hydrogen sulfide~~ (0.016 g TRS/kg) of black liquor solids, measured as H_2S on ~~hydrogen sulfide) for~~ a 12-hour average~~ from any smelt dissolving tank~~.

(4)~~(2) **Non-condensable gases.**~~ Non-condensable gases from all evaporators and digester systems shall be efficiently incinerated or otherwise treated to limit emissions of TRS ~~measured as hydrogen sulfide~~ to less than five (5) ppmv, measured as H_2S at standard conditions ~~ppm by volume~~ on a dry basis.

252:100-31-16. Requirements for existing fossil ~~Fossil~~ fuel-fired steam generators

Any fossil fuel-fired steam generator unit that was in being on or before July 1, 1972 shall comply with the following requirements.

~~(a)~~ (1) ~~**Continuous emission**~~ **Emission monitoring.** ~~Continuous monitoring of sulfur dioxide~~ The owner or operator shall install, calibrate, maintain, and operate a continuous SO_2 emissions monitoring system for any ~~is required for existing~~ fossil fuel-fired steam generator that ~~generators where the source~~ utilizes an air pollution abatement operation to reduce the ~~sulfur dioxide~~ emissions of sulfur oxides. Continuous monitoring of oxygen or carbon dioxide is required ~~where~~ if it is necessary to convert ~~sulfur dioxide~~ SO_2 monitoring results.

~~(b)~~ (2) **Installation, calibration, ~~and~~ maintenance, and operation of emission monitoring systems.** Required emission monitoring systems shall be installed, calibrated, maintained, and operated in accordance with 40 CFR Part 60, Appendix B, and 40 CFR Part 51, Appendix P.

PART 5. NEW EQUIPMENT STANDARDS

252:100-31-25. Requirements for new ~~Fuel-burning~~ fuel-burning equipment

Any fuel-burning equipment that was not in being on or before July 1, 1972 or that is modified after July 1, 1972 shall comply with the following requirements.

~~(a)~~(1) **Emission limits.** Emissions of SO_2 attributable to the burning of fuel by fuel-burning equipment shall meet the following limits.

~~(1)~~(A) ~~**Gas-fired fuel-burning equipment**~~**Gaseous fuel.** Emissions of SO_2~~Sulfur oxide emissions (measured as sulfur dioxide)~~ from ~~any new gas-fired fuel-burning~~ equipment using natural gas or other gaseous fuel shall not exceed 0.2 lb/~~MMBtu~~MMBTU heat input (86 ng/J).

~~(2)~~ (B) ~~**Liquid-fired fuel-burning equipment**~~**Liquid fuel.** Emissions of SO_2 ~~Sulfur oxide emissions (measured as sulfur dioxide)~~ from ~~any new liquid-fired fuel-burning~~ equipment using liquid fuel shall not exceed 0.8 lb/~~MMBtu~~MMBTU heat input (340 ng/J).

~~(3)~~ (C) **Solid ~~fuel-burning equipment~~ fuel.** Emissions of SO_2 ~~Sulfur oxide emissions (measured as sulfur dioxide)~~ from ~~any new~~ equipment using solid fuel ~~fuel-burning equipment~~ shall not exceed 1.2 lb/~~MMBtu~~MMBTU heat input (520 ng/J).

~~(4)~~ (D) **Combination of fuels burned.** When different types of fuels are burned simultaneously in any combination, emissions of SO_2 shall not exceed the applicable ~~standard (in lb/MMBtu) shall be~~ limit determined by proration unless a secondary fuel is used in de minimis quantities (less than five percent (5%) of total ~~Btu~~ BTU heat input annually). ~~Compliance~~ The applicable limit, in lb/MMBTU heat input, shall be determined using the following formula, where X is the percent of total heat input derived from ~~gas~~gaseous fuel, Y is the percent of total heat input derived from liquid fuel, and Z is the percent of total heat input derived from solid fuel:

~~SO_2 limit = [X(0.2) + Y(0.8) + Z(1.2)]/(X + Y + Z)~~

SO_2 limit = (0.2X + 0.8Y + 1.2Z)/(X + Y + Z).

~~(b)~~ (2) **Averaging time.** The averaging time for the emission limits set in OAC 252:100-31-25(1)~~(a)~~ is three (3) hours unless a solid fuel sampling and analysis method is used to determine emission compliance. In that case the averaging time is 24 hours.

~~(c)~~ (3) ~~**Emission monitoring, fuel monitoring, and recordkeeping**~~ **Additional requirements for sources with heat input of 250 ~~MMBtu~~MMBTU/hr or more.** ~~The requirements contained in this subsection apply to any new~~ Any fuel-burning equipment with ~~a rated~~ design heat input values of 250 ~~MMBtu~~ MMBTU/hr or ~~greater~~more shall comply with the following requirements.

~~(1)~~(A) **Emission monitoring.** ~~The instruments in OAC 252:100-31-25(c)(1)(A) and (B)(i) shall be installed, calibrated, maintained, and operated in any new fuel-burning equipment with a rated heat input of 250 MMBtu/hr or greater. These instruments shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.~~

~~(A)~~(i) **Opacity.** A photoelectric or other type smoke detector and recorder shall be used to monitor opacity, except where gaseous fuel is the only fuel burned.

~~(B)~~(ii) **Sulfur dioxide.**

~~(i) An instrument for continuously monitoring and recording sulfur dioxide~~ The owner or operator shall install, calibrate, maintain, and operate a continuous SO_2 emissions monitoring system~~shall be used~~, except where:

(I) gaseous fuel containing less than 0.1% by weight sulfur (0.29 gr/scf or approximately 500 ppmv at standard conditions on a dry basis) is the only fuel burned; or

(II) ~~A~~a solid or liquid fuel sampling and analysis method ~~may be~~ is used to determine SO_2 emission compliance.

(iii) **Installation, calibration, maintenance, and operation of emission monitoring systems.** Required emission monitoring systems shall be installed, calibrated, maintained, and operated in accordance with 40 CFR Part 60, Appendix B, and 40 CFR Part 51, Appendix P.

~~(2)~~ (B) **Fuel monitoring.** The sulfur content of solid or liquid fuels as burned shall be determined in accordance with ~~previous~~ methods ~~as~~ previously approved by the Director or in accordance with Method 19 of 40 CFR Part 60, Appendix A.

~~(3)~~ (C) **Recordkeeping.** The owner or operator ~~of any fuel-burning equipment with a rated heat input of 250 MMBtu/hr or greater~~ shall maintain ~~a file~~ records of all measurements required in ~~paragraphs (1)~~(A) and ~~(2)~~(B) of this subsection in accordance with the applicable requirements of OAC 252:100-43-7, including compliance status records and

excess emissions measurements. ~~These records and measurements shall be retained for at least two (2) years following the date of such measurements, and made available for inspection by the Division or its representatives during normal business hours.~~

(4) **Alternative fuel**. The requirements of this section apply to any fuel-burning equipment that uses an alternative fuel, unless another limit representing BACT or equivalent is specified in the source's permit. Use of an alternative fuel in fuel-burning equipment is allowed, provided its use is authorized under an enforceable permit. Use of an alternative fuel in fuel-burning equipment is subject to any applicable restrictions or prohibitions that may exist in other provisions of state or federal statutes or rules, e.g., OAC 252:100-8-32.1, 252:100-31-7, 252:100-42, and/or 40 CFR Parts 60, 61, and/or 63.

252:100-31-26. Requirements for new ~~Petroleum~~ petroleum and natural gas processes

Any petroleum and natural gas process that was not in being on or before December 31, 1974 or that is modified after December 31, 1974 shall comply with the following requirements.

~~(a) **Standards.**~~

(1) **Hydrogen sulfide standards and alarm systems.**

(A) ~~Hydrogen sulfide~~ H_2S contained in the waste gas stream from any ~~new~~ petroleum or natural gas process equipment shall be ~~removed from the exhaust gas stream or it shall be oxidized to sulfur dioxide. Hydrogen sulfide emissions shall be~~ reduced by 95% ~~of the hydrogen sulfide in the exhaust gas.~~ by removal or by being oxidized to SO_2 prior to being emitted to the ambient air. This requirement shall not apply if a facility's emissions of H_2S do not exceed 0.3 lb/hr, two-hour average.

(B) The owner or operator shall install, calibrate, maintain, and operate an alarm system that will signal a malfunction for all thermal devices used to control H_2S emissions from petroleum and natural gas processing facilities regulated under this subparagraph.

(2) ~~**Sulfur dioxide standards.**~~**Oxides of sulfur.** The following requirements apply to any gas sweetening unit or petroleum refinery process equipment with a sulfur content of greater than 0.54 LT/D in the acid gas stream. Alternatively, any gas sweetening unit or petroleum refinery process equipment with an emission rate of 100 lb/hr or less of SO_X expressed as SO_2, two-hour average, shall be considered to be below this threshold.

(A) **Natural gas ~~processing~~ sweetening units.** ~~Sulfur oxide emissions, calculated as sulfur dioxide,~~ The sulfur content of any acid gas stream from any ~~new~~ gas sweetening ~~plant~~ unit shall be reduced by use of a sulfur recovery ~~plant~~ unit prior to release of the ~~exhaust~~ gas to the ~~atmosphere~~ ambient air. The sulfur recovery ~~plant~~ units shall have the ~~sulfur reduction~~ recovery efficiencies required in ~~subparagraphs~~ (C) through (F) of ~~OAC 252:100-31-26(a)(2)~~this subparagraph.

(B) **Petroleum refinery processing.** Sulfur recovery ~~plants~~ units operating in conjunction with any refinery process shall have the ~~sulfur reduction~~ recovery efficiencies required in ~~paragraphs~~ (C) through (F) of ~~OAC 252:100-31-26(a)(2)~~this subparagraph.

(C) ~~**Greater**~~ **Sulfur content greater than 0.54 LT/D but less than or equal to 5.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 0.54 LT/D but less than or equal to 5.0 LT/D, the ~~sulfur dioxide emission reduction~~ recovery efficiency of the sulfur recovery ~~plant~~ unit shall be at least 75~~.0~~%.

(D) ~~Greater~~ **Sulfur content greater than 5.0 LT/D but less than or equal to 150.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 5.0 LT/D but less than or equal to 150.0 LT/D, the required ~~sulfur dioxide emission reduction~~ recovery efficiency of the sulfur recovery ~~plant~~ unit shall be calculated using the following formula, where Z is the minimum ~~emission reduction~~ sulfur recovery efficiency required ~~at all times~~ and X is the sulfur feed rate, expressed in LT/D of sulfur and rounded to one decimal place: $Z = 92.34 - (X^{0.00774})$.

(E) ~~Greater~~ **Sulfur content greater than 150.0 LT/D but less than or equal to 1500.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 150.0 LT/D but less than or equal to 1500.0 LT/D, the required ~~sulfur dioxide emission reduction~~ recovery efficiency of the sulfur recovery ~~plant~~ unit shall be calculated using the following formula, where Z is the ~~minimum emission reduction~~ sulfur recovery efficiency required ~~at all times~~ and X is the sulfur feed rate, expressed in LT/D of sulfur and rounded to one decimal place: $Z = 88.78 - (X^{0.0156})$.

(F) ~~Greater~~ **Sulfur content greater than 1500.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 1500.0 LT/D, ~~a minimum sulfur dioxide reduction~~ the recovery efficiency of the sulfur recovery unit shall be at least 99.5% ~~shall be met~~.

~~(b) **Exceptions.**~~

~~(1) **Hydrogen sulfide.** The requirements of OAC 252:100-31-26(a)(1) shall not apply if hydrogen sulfide emissions do not exceed 0.3 lb/hr, two-hour average.~~

~~(2) **Sulfur dioxide.** The requirements of OAC 252:100-31-26(a)(2) shall not apply to any new petroleum or natural gas process which would emit 100 lb/hr or less of sulfur oxides expressed as sulfur dioxide, two-hour average. The requirements of paragraph (2) of subsection (a) of this Section can be met alternatively by establishing that the sulfur content of the acid gas stream from any gas sweetening plant or refinery process is 0.54 LT/D or less.~~

~~(c) **Emission monitoring for hydrogen sulfide.** All new thermal devices for petroleum and natural gas processing facilities regulated under OAC 252:100-31-26(a)(1) shall have installed, calibrated, maintained, and operated an alarm system that will signal noncombustion of the gas~~.

252:100-31-27. Pulp mills [REVOKED]

~~(a) **Emission limit.** The emission of sulfur oxides, calculated as sulfur dioxide, from the blow pits, washer vents, storage tanks, digester relief, and recovery furnace of any new pulp mill shall not exceed 18 lb/T (air dried) of pulp produced, two-hour average.~~

~~(b) **Emission monitoring.** All new pulp mills shall install, calibrate, maintain and operate instruments for continuously monitoring and recording emissions of sulfur dioxide from the recovery system gas-cleaning equipment and other locations as required by the Director. The instruments installed and used pursuant to this Section shall have a confidence level of at least 95% and be accurate within ±20% and shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B, and following the quality assurance procedures in 40 CFR Part 60, Appendix F.~~

~~(c) **Recordkeeping.** The owner or operator of any new pulp mill subject to provisions of this Section shall maintain files of all measurements required, including compliance status records and excess emissions measurements. These records and~~

~~measurements shall be retained for at least two years following the date of such measurements and made available for inspection by the Division during normal business hours.~~

MINUTES
AIR QUALITY COUNCIL
Department of Environmental Quality
Multipurpose Room
707 North Robinson, Oklahoma City, Oklahoma

Draft for February 24, 2012 EQB
Official after AQC Approval
July 18, 2012

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. on January 18, 2012 at the DEQ Multipurpose Room, 707 North Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on November 23, 2011. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith, Assistant Director, Air Quality Division, convened the hearings by the Air Quality Advisory Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101-2-5-118. She entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Bruce called roll and a confirmed that a quorum was present.

MEMBERS PRESENT	DEQ STAFF PRESENT	DEQ STAFF PRESENT
David Branecky	Eddie Terrill	Scott Thomas
Montelle Clark	Beverly Botchlet-Smith	Brooks Kirlin
Gary Collins	Cheryl Bradley	Joyce Sheedy
David Gamble	Rob Singletary	Dawson Lasseter
Jim Haught	Laura Finley	
Laura Lodes	Madison Miller	
Robert Lynch		
Sharon Myers		

MEMBERS ABSENT	OTHERS PRESENT
Pete White	Christy Myers, Court Reporter

Transcripts and Attendance Sheet are attached as an official part of these Minutes

Approval of Minutes – October 5, 2011 Regular Meeting Ms. Lodes called for a motion for approval. Ms. Myers moved to approve and Mr. Haught made the second.

See Transcript pages 4 - 5

David Gamble	Yes	Jim Haught	Yes
Gary Collins	Yes	Sharon Myers	Yes
Montelle Clark	Yes	Robert Lynch	Yes
David Branecky	Yes	Laura Lodes	Yes

Election of Officers Calendar Year 2012 Mr. Branecky made motion to retain the current officers, Laura Lodes for Chair and Jim Haught for Vice-Chair. Ms. Myers made the second.

See Transcript pages 5 - 6

David Gamble	Yes	Jim Haught	Yes
Gary Collins	Yes	Sharon Myers	Yes
Montelle Clark	Yes	Robert Lynch	Yes
David Branecky	Yes	Laura Lodes	Yes

OAC 252:100-1 General Provisions
OAC 252:100-7 Permits for Minor Sources

Ms. Madison Miller, staff attorney, stated that the proposal would modify Subchapter 1 to complete the incorporation of EPA's recent changes to the Prevention of Significant Deterioration and Part 70 permitting programs exempting certain biogenic carbon dioxide emissions; modify Subchapters 1 and7 to resolve issues surrounding when an application for an air quality operating permit is to be submitted to the Department; and modify Subchapter 7 to make the requirement for obtaining a construction permit for existing minor facilities more consistent with that for new minor facilities. Ms. Miller pointed out the proposed amendments being proposed relating that staff recommendation is for Council approval and forwarded to the Environmental Quality Board for permanent adoption.

Following discussion by Council and the public, Mr. Branecky made motion to approve the revisions as presented with the amendment. Mr. Collins made the second.

See Transcript pages 7 - 51

David Gamble	Yes	Jim Haught	Yes
Gary Collins	Yes	Sharon Myers	Yes
Montelle Clark	Yes	Robert Lynch	Yes
David Branecky	Yes	Laura Lodes	Yes

OAC 252:100-31 Control of Emission of Sulfur Compouuds

Mr. Brooks Kirlin, engineer with the Rules and Planning Section, stated that the proposal would clarify existing language and to bring the allowable sulfur dioxide (SO2) ambient air limits in OAC 252:100-31-7(a) into line with the requirements of the recently-enacted change to the SO2 National Ambient Air Quality Standards. In response to comments received, the Department is proposing additional changes to several longstanding control, monitoring and emission requirements in the Subchapter. In addition, the Department is proposing to add requirements for fuel-burning equipment that uses an alternative fuel. The Department is also proposing to add a new section 252:100-31-4, which aligns Subchapter 31 excess emission reporting requirements with those of 252:100-9. Mr. Kirlin pointed out the changes being recommended. Following lengthy discussion by Council and input from the public, Mr. Branecky made motion to approve with the amendments as discussed and forwarded the Environmental Quality Board. Those were read into the record. Mr. Gamble made the second.

See Transcript pages 51 - 131

David Gamble	Yes	Jim Haught	Yes
Gary Collins	Yes	Sharon Myers	No
Montelle Clark	Yes	Robert Lynch	Yes
David Branecky	Yes	Laura Lodes	Yes

Division Director's Report - Mr. Eddie Terrill, Air Quality Division Director, and Ms. Beverly Botchlet-Smith, Assistant Director, Air Quality Division Assistant Director, provided an update on the tire fee; ozone season; large SO_2 sources modeling analysis; and the CSAPR rule.

New Business – None

Adjournment – Ms. Lodes adjourned the meeting adjourned at 11:45 a.m.

Transcripts and Attendance Sheet are attached as an official part of these Minutes.

Myers Reporting

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL MEETING
ON JANUARY 18, 2012, AT 9:00 A.M.
HELD IN OKLAHOMA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
Christy Myers, CSR
P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
(405) 721-2882

MEMBERS OF THE COUNCIL

DAVID BRANECKY, MEMBER
LAURA LODES, CHAIR
JIM HAUGHT, VICE-CHAIR
PETE WHITE, MEMBER
SHARON MYERS, MEMBER
MONTELLE CLARK, MEMBER
GARY COLLINS, MEMBER
ROBERT LYNCH, MEMBER
DAVID GAMBLE, MEMBER

DEQ STAFF

MYRNA BRUCE
BEVERLY BOTCHLET-SMITH
EDDIE TERRILL
CHERYL BRADLEY
NANCY MARSHMENT
DIANA HINSON
ROBERT SINGLETARY
MADISON MILLER
BROOKS KIRLIN
LAURA FINLEY
DR. JOYCE SHEEDY

PROCEEDINGS

MS. LODES: We'll go ahead and call this meeting to order.

We'll go ahead and call the Air Quality Council meeting for January 18, 2012 to order. We've got today's Agenda.

First item would be, Myrna, would you please call roll.

MS. BRUCE: Good morning. David Gamble.

MR. GAMBLE: Here.

MS. BRUCE: Gary Collins.

MR. COLLINS: Here.

MS. BRUCE: Montelle Clark.

MR. CLARK: Here.

MS. BRUCE: David Branecky.

MR. BRANECKY: Here.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Here.

MS. BRUCE: Sharon Myers.

MS. MYERS: Here.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Here.

MS. BRUCE: Laura Lodes.

MS. LODES: Here.

MS. BRUCE: And Pete White is absent; we do have a quorum.

MS. LODES: Thank you. The next item on today's Agenda is Approval of the Minutes from the October 5th, 2011 Regular Meeting. Do we have any comments or questions regarding the minutes from the last prior meeting? I see no comments from the Council.

Do we have a motion to approve said minutes?

MS. MYERS: I make a motion to approve the minutes.

MR. HAUGHT: I'll second it.

MS. LODES: I have a motion and a second. Myrna, will you please call roll.

MS. BRUCE: David Gamble.

MR. GAMBLE: Yes.

MS. BRUCE: Gary Collins.

MR. COLLINS: Yes.

MS. BRUCE: Montelle Clark.

MR. CLARK: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. LODES: The next item on today's Agenda is election of officers for 2012. And this is now to the Council as to who you all would like to elect to be Chair and Vice-Chair for next year.
MR. BRANECKY: I will go ahead and make a motion. Since Laura and Jim have done such a good job I make a motion that they continue in their respective positions for another year.
MS. MYERS: I will second that.
(Comments)
MS. LODES: There is apparently no discussion on this

matter. We have a motion and a second. Myrna, will you please call roll.
MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. LODES: Thank you.
MS. MYERS: Congratulations.
MS. LODES: Thanks. And we're now to the public hearing portion of this meeting.

MS. BOTCHLET-SMITH: Good morning. I'm Beverly Botchlet-Smith. I'm the Assistant Director of the Air Quality Division and as such I will serve as the Protocol Officer for today's hearings.
The hearings will be convened by the Air Quality 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, Sections 2-5-101 through 2-5-118.
Notice of the January 18, 2012 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 the Meeting was filed with the Secretary of State on

November 23, 2011. The Agenda was duly posted 24 hours prior to the meeting here at the facility here at the DEQ.
If you wish to make a statement, it is very important for you to complete one of these forms that can be found at the front desk at the registration table, and then we will call upon you at the appropriate time. And audience members please remember to come to the podium when you make your statement and be sure and state your name.
At this time we will proceed with what is marked as Agenda Item Number 5A on the Hearing Agenda. This is OAC 252:100-1 General Provisions, and OAC 252:100-7 Permits for Minor Sources. The presentation for these rules will be made by Madison Miller, one of our staff attorneys.
MS. MILLER: Good morning.

another look over the next year and see if we do need to make some additional adjustments.

MS. LODES: Okay.

MR. BRANECKY: Are you ready for a motion? How about -- I need to make a motion?

MS. LODES: I'm ready.

MR. BRANECKY: I'm just going to do it on Subchapter 1. We're splitting it up, right? Or are we doing them together?

MS. BOTCHLET-SMITH: I think we intended --

MR. BRANECKY: To do them all together?

MS. BOTCHLET-SMITH: -- for that to go together.

MR. BRANECKY: Okay. Do them together. Well then I will make the motion that we approve the revisions to Subchapter 1 and Subchapter 7 as presented to us today and that includes the addition of the "/or" in the definition of

"commencement of operation" which was presented to us today. Is that clear?

MS. LODES: I --

MR. BRANECKY: Oh, I'm sorry. It's the OIPA version.

MS. LODES: Yes. It is.

MR. BRANECKY: Okay.

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

MR. BRANECKY: With the addition of "/or".

MR. COLLINS: I'll second.

MS. LODES: I --

MS. MYERS: Are we presenting this as individual or altogether?

MS. LODES: This is Subchapter 1 and 7 altogether.

MS. MYERS: Okay. And those are all the changes that you're proposing?

MR. BRANECKY: Right. The OIPA version with the addition of the "/or" in that language.

MS. LODES: Correct. Okay. I have a motion and a second. Myrna, will you please call roll.

MS. BRUCE: David Gamble.

MR. GAMBLE: Yes.

MS. BRUCE: Gary Collins.

MR. COLLINS: Yes.

MS. BRUCE: Montelle Clark.

MR. CLARK: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Motion passed.

MS. BOTCHLET-SMITH: The next item on the Agenda is Number 5B. This is OAC 252:100-31, Control of Emissions of Sulfur Compounds. Mr. Brooks Kirlin of the staff will

give our presentation.

MR. KIRLIN: Madam Chairman, Members of the Council, ladies and gentlemen, I'm Brooks Kirlin. I am an engineer with the Rules and Planning Section.

The Department is proposing to amend the requirements of Subchapter 31, Control of Sulfur Compounds, and to clarify the existing language. You may recall that we have made presentations on Subchapter 31 and the SO2 of NAAQS at several previous Council meetings, and no action by the Council was taken on those occasions. This is the third time for the Council to consider the proposed amendments to Subchapter 31. We have included in your folder a version of the rules that shows the differences between our October proposal and today's proposal, including those that we presented at that time as additional changes at the last Council meeting. And that's

-- I'll refer that to -- to that as the comparison version. It also highlights in yellow one change that was -- a group of changes that was requested by one commenter, and a couple of staff corrections. I will highlight those changes as I go through the proposal.

Rules controlling emissions of sulfur oxides were first effective on July 1, 1972 as Oklahoma Department of Health Regulation 16. The 1972 rule contained ambient sulfur dioxide or SO2 standards for all facilities that existed on the effective date. These limits are substantially the same as those found in the current rule under Section 31-7, Subsection (a). Effective December 31, 1974, these ambient standards were also applied to new, that is after that date, petroleum and natural gas processing facilities.

The 1972 rule also set SO2 and sulfuric acid mist emission limits

for new sulfuric acid plants, and SO2 emission limits for new fuel-burning equipment, sulfur recovery plants, nonferrous smelters and paper pulp mills. Again, process equipment installed after the effective date of July 1, 1972 would be considered new.

After the rule first became effective it was modified ten times prior to 2002, when the rule was substantially rewritten to its present form.

The rule was again modified slightly in 2003 to clarify that the ambient SO2 standards in Section 31-7 apply to the entire facility, not just individual units within the facility. The rewrite in 2002 corrected many confusing aspects of the rule, but confusion still exists with regard to existing and new sources. This proposal inserts the applicable dates in the individual sections rather than relying on the somewhat convoluted definitions of

"new facility" and "existing facility" that are currently in Subchapter 31.

The most substantial change in the overall proposal would be to Subsection 31-7(a) and that would be in your packet proposal found on the top of Page 3 of the Subchapter 31 proposal. The Department is proposing to drop the five SO2 ambient air standards. We believe that these standards are outmoded in light of the relatively new one-hour SO2 National Ambient Air Quality Standard of 0.075 ppm. By comparison, the existing 31-7 allows a one-hour average of 0.46 ppm. We do not believe the existing numbers are protective and staff does not believe that we have an adequate rationale or method for simply adjusting these numbers in a way that would allow permittees and our permit writers to demonstrate compliance with the NAAQS and the purpose of

the Subchapter using current modeling and monitoring protocols.

As we mentioned during previous Council meetings, we did receive a comment from EPA Region 6 staff reminding us that we will need to demonstrate that dropping these standards will not violate the "anti-backsliding" provisions of the Clean Air Act. After a direct discussion with these same EPA staff, we believe that once a change is finalized, we will be able to show that we won't lose any substantial protection, considering the NAAQS and other existing requirements.

We have again proposed a definition for "alternative fuel" to add that to the definitions under Section 31-2, and requirements under Section 31-25 for fuel-burning equipment that use alternative fuel. That requirement is on the top of Page 6 of the original proposal. For October's Council meeting we

reworded these requirements in response to comments, to better focus them on the purpose of the Subchapter. In today's proposal, we have also qualified the requirement to meet the SO2 emission limit with the phrase "unless another limit representing BACT or equivalent is specified in the source's permit". That's -- you can see it underlined in the comparison document from your folder that that change is shown, it's about halfway down Page 4 if you want to look at that.

We did not want to force a facility to increase overall emissions by having to flare a gas stream that would otherwise be usable as fuel, simply because they could not meet this SO2 limit. That was the purpose of that last change.

Staff has again proposed adding a new Section 31-4, to avoid a potential double reporting requirement on excess emissions that

are covered by both Subchapter 31 and an applicable 40 CFR Part 60 standard. The new Subchapter 9 has alternative reporting provisions that accommodate the excess emissions reporting requirements for the 40 CFR Part 60 rules. However, these alternative reporting provisions aren't currently available for the identical or simultaneous Subchapter 31 excess emissions. The new Section 31-4 has been added to avoid requiring double reporting by extending the alternative excess emissions reporting option to these sources.

Notice of the proposed rule changes was published in the Oklahoma Register on December 1, 2011. We received comments from Mr. Steven Smith of Verallia, formerly Saint Gobain. A copy of these comments and a Response to Comments are included in your folder. I will go over those comments in a moment.

The Response to Comments document also addresses several comments we discussed during the previous two Council meetings. These comments were from Mr. Gamble on behalf of Conoco-Phillips; Mr. Guy Donaldson of EPA; Mr. Stephen Landers on behalf of Georgia-Pacific; Mr. Tom Rader on behalf of Lone Star Industries d/b/a Buzzi Unicem USA; and Ms. Kathryn Crenwelge on behalf of International Paper Valliant Mill.

As I mentioned, the comparison version of the rules included in your folder highlights a number of minor changes made in response to the previous comments, Council suggestions, and staff discussions. First, while looking into a question on whether the monitoring requirements in Section 31-16 are still needed, we found that those requirements are apparently related to requirements in 40 CFR Part 51, Appendix P. Therefore, we recommend

retaining the use of the term "fossil fuel steam generators" in Section 31-16, and adding the definition for that term in 40 CFR -- from 40 CFR Section 51.100(ee) in place of the previously proposed "steam generator unit".

Prior to the October Council meeting, a comment from Georgia-Pacific expressed concern over the proposed phrase "the owner or operator shall continuously monitor" as we had applied it to the opacity monitoring for fuel-burning equipment with heat input value of 250 million BTUs per hour. That would be under -- originally that's under Section 25 which is on Page 5 of your proposal.

Staff concurred, and recommended replacing that phrase with "the owner or operator shall install, calibrate, maintain, and operate a continuous monitoring system" in several locations. After

further consideration, we now recommend the use of that phrase once each in Sections 31-3 (sic), which is on Page 3; 31-16 Page 4; and 31-25 as it applies to continuous monitoring of SO2 emissions only.

MS. LODES: Okay. Okay.

MR. KIRLIN: You want me to slow down a little.

MS. LODES: Sorry. Slow down for a second here, because I want to make sure I'm following what you're talking about.

MR. KIRLIN: Okay. Okay.

MS. LODES: So you're wanting to add --

MR. KIRLIN: (Inaudible).

MS. LODES: -- okay. So where exactly are we adding that definition?

MR. KIRLIN: Okay. In Section 31-13 which is on Page 3 --

MS. LODES: Okay.

MR. KIRLIN: -- of the proposed proposal.

MS. LODES: But it's not in our highlighted copy, right?

MR. KIRLIN: It should be. I'm sorry. On Page 2 at the bottom of your comparison version.

MS. LODES: Okay.

MR. KIRLIN: It does show there because that was made after our original proposal in October. So --

MS. LODES: Okay. So you've got it here --

MR. KIRLIN: Right. And in 31-16 which is the top of Page 3 of the comparison version.

MS. LODES: Okay.

MR. KIRLIN: And then in Section 31-25, on Page 4, it is at the top half of the page where it says sulfur dioxide --

MS. LODES: Okay.

MR. KIRLIN: -- under emissions monitoring.

MS. LODES: Are those the only places you're adding?

MR. KIRLIN: Those are the

places where we are intending to add.

MS. LODES: Thank you.

MR. KIRLIN: Sorry. Okay. We have not added it to opacity requirement which is on that same -- that last page, because following discussions of the last Council meeting and further staff consideration, we dropped our original recommendation for any changes to that -- the paragraph in Section 25 that relates to opacity monitoring for new fuel-burning equipment. We recognize concerns that were expressed by several Council Members as well as members of the public, over the presence of the opacity monitoring requirement in the middle of the Subchapter that deals with sulfur emissions. I guess it made sense to the folks in the '70s to put it there.

Aside from any contribution of SO2 emissions as a precursor to PM2.5, staff agrees that if we were

starting from scratch today, the opacity monitoring requirement would likely be placed with other opacity requirements in Subchapter 25 -- different subchapter. However, the requirement is not currently duplicated in Subchapter 25, and there are certain sources that still are or would be subject to this requirement. Therefore, we don't feel we could simply delete it from Subchapter 31, we would need to open Subchapter 25 and move it there. We would also need to take a look at the sections of Subchapter 43 that are related to monitoring opacity. So at this time staff has recommended no changes to the existing language of the opacity paragraph in 31-25(c)(1)(A), although it would be renumbered to 31-25(3)(A)(i) under our proposal.

MR. BRANECKY: So, Brooks, are you saying that there are facilities that are required to have

an opacity standard but are not required to monitor? Is that why we're leaving this requirement for monitoring in this?

MR. KIRLIN: If we removed it they would -- yes. I mean the 25 sets a -- Subchapter 25 sets an opacity limit and for certain groups of facilities it says you have to monitor continuously, but it does not -- and then it also says if you -- monitoring continuously if you have to, these are some things you have to do. But it doesn't say -- I guess this is a group that under Subchapter 31 is required to continuously monitor opacity. It isn't -- that's not specified in Subchapter 25.

MR. HAUGHT: Brooks, is this -- I mean this doesn't say continuously monitor in this opacity. So does it bring anything? Does it add value?

And then a second part of that

-- I'll going ahead and say -- are those requirements not covered in that facility's permit on how they're going to monitor? I'll go back to the discussions before. If you have an opacity requirement, just implying or going over to the sulfur chapter to find that on what that requirement is -- not the limit but the requirements. I would -- I just wonder is it already something that is covered in a permit on a facility by facility basis or not?

MR. KIRLIN: I'm sure it would be included in a particular permit. It would list that. Specifically this actually applies to new fuel-burning equipment so theoretically if the new one at the facility would be -- you know, was built or modified, it would fall under this requirement. And then I guess if it wasn't here then there wouldn't be required. Now it doesn't -- this doesn't say use the word

continuously in this paragraph, however, there are requirements in Subchapter 43 that deal with monitoring of opacity that says if you -- I mean it gives a couple of options, I guess. It specifies more specifically how opacity would have to be monitored. So, like I said, we're -- at this point we're proposing to just leave the existing language and, you know, on a future date if we want it -- if we can clarify it in a different subchapter and remove it here.

MR. BRANECKY: Can we at least change the words "smoke detector"? Put First Alert Smoke Detector instead? Does that work?

MR. KIRLIN: That was our original --

MR. BRANECKY: That shows its age.

MR. KIRLIN: Yeah. That was the original intent. I mean that was our plan. I don't know

without rewording the --

MR. BRANECKY: I guess I still don't see any value in having it in there. Just have it in there just because it's already there doesn't make much sense to me. I think it's the responsibility of the Council to make these rules as clear as possible.

MR. KIRLIN: Okay.

MR. BRANECKY: I guess to me it doesn't help any. I mean you're measuring opacity -- if you say you measure opacity, but you look in this rule there is no opacity standards. What are you measuring it against? If somebody looks at this rule and says, well, I've got to measure opacity, but it doesn't say against what. What's my limit? There is no limit in there. So what -- it just --

MR. KIRLIN: I'm not sure that I can answer. I don't understand why it was put in this

location. There is -- like I said there is the opacity --

MR. BRANECKY: And the same thing --

MR. KIRLIN: -- requirement in Subchapter 25 which would apply --

MR. BRANECKY: Does not 43 require monitoring of opacity?

MR. KIRLIN: If you have to monitor it, this is how you would do it. These are the things that have to be done. Subchapter 25 does have a limit on opacity.

MS. BRADLEY: We generally -- Cheryl Bradley, Manager of the Rules and Planning Section. We acknowledge that it's not perfect at this point. However, we have existing language that is currently part of our approved SIP. On face value in comparing the language and applicability and for continuous opacity monitoring in Subchapter 25 and the language in 31, they do not apply to the same sources so I

cannot make a compelling argument that by removing the requirement to monitor essentially what becomes a de facto continuous opacity monitoring in 31. Then if I remove it from 31 that the requirements in 25 will suffice. Unfortunately, we do not have Subchapter 25 open at this time in order to move the changes that need to be made to Subchapter 31 over to 25. We would have to address that in a separate activity. And I do believe it's justified because we're looking at three subchapters that may be impacted; Subchapter 43, which includes our monitoring requirements and Subchapter 25, which addresses opacity.

Granted we would like to have source specific rules where one source can go to one location in our rules and get all the requirements that are applicable to that issue. I think it's a luxury that we can't

always indulge because our rules are getting so complex and we're having to deal with the changing landscape and integration. So if the Council prefers, we -- staff could look into making this subsequent change to remove the opacity requirements and move them to a more appropriate location such as Subchapter 25.

MR. COLLINS: I've got a question. I guess regardless of whether it's redundant or not necessary, is the language as it exists, technically correct? I'm not familiar with opacity monitors but is a photoelectric or other type smoke detector, is that technically correct in today's time?

MR. KIRLIN: It's not the language that I would choose. I don't know that it's --

MR. COLLINS: Is a photoelectric type opacity monitor what is used today if I was going to install a new piece of equipment?

MR. KIRLIN: You know I haven't gone back to check that. Like I said our initial intent was to -- plan was to change it to, you know, opacity monitoring. So I hadn't gone back to double check exactly what the (inaudible).

MS. BRADLEY: As Brooks mentioned, it wouldn't be the language that we would propose today. It is somewhat archaic language. I think the technology is still based upon the same principal. There is some flexibility I believe in the language itself. I think it says photoelectric or other type. So it would allow the flexibility to use new technology but rather than modifying the requirement that's in the existing rule we were going to leave it as is, acknowledging that it is an imperfect solution, but one that could be dealt with more constructively at a later time.

MS. MYERS: Why is the term

smoke detector used instead of opacity monitor when you have monitors that are actually designed for that purpose?

MS. BRADLEY: If --

MR. KIRLIN: In 1972, I don't know why they --

MS. MYERS: Then let's change it. That's what we're here for. We're supposed to be updating these rules.

MS. BRADLEY: Correct. And if Council prefers that we modify the language in this regard then we certainly can do so.

MR. BRANECKY: You could be a smoke detector using Method 9.

MS. MYERS: Not continuously.

MR. BRANECKY: Oh.

MS. LODES: I say we change it, but what have you got -- what are suggestions to change it?

MR. BRANECKY: Strike it.

MS. LODES: Yeah.

MS. MYERS: Strike it completely would be a good improvement.

MS. BRADLEY: We are under extreme scrutiny at this point for the SO2 rules given the implementation of the NAAQS. If, on face value, it's clear that we would not have an equivalent rule to back this one up, it creates an vulnerability in the SIPs emission that we may not want to have there. I know that there is some uncertainty in how the SO2 NAAQS would be applied but technically I couldn't show that it's going to effect exactly the same sources. That would be the requirement for continuous opacity monitoring in 25 and what's currently in 31 right now.

MR. HAUGHT: Are we comfortable that this gives us something to stand on that said this is continuous? In fact, I don't see the word continuous in here. It

just says you will monitor it. So going back to David's then why -- will periodic Method 9 not work?

And given facilities of this size -- given the heat input that this applies to I would expect or I would expect that those facilities would have some type of capacity requirements specified in their permit where this isn't necessary to fallback on this for enforcement.

MR. KIRLIN: Most likely, I would agree. Like I said most permits would have something in it and it would actually probably -- the permit would probably say opacity and -- I'm trying to look at 43-7. There is a -- for visible emissions monitoring by instrumentation shall be measured continuously in records kept, indicating total minutes per day in which stack discharge effluent exceeds 20 percent opacity and a rolling six minute average opacity. That is under records and reports

required.

MR. HAUGHT: In what chapter?

MR. KIRLIN: That's in Subchapter 43-7 --

MR. HAUGHT: Well if it's --

MR. KIRLIN: -- that relates to monitoring and testing.

MR. HAUGHT: So if it's there, why does it -- what does this add to that?

MR. KIRLIN: It's -- that is -- unless different -- okay, up above it, the intro, it says reports required the director shall be recorded and submitted on forms unless different units of measure or procedure are prescribed by the director or by the applicable rule or permit requirement. The units of measures and procedures described in paragraphs 1 through 5 in Subsection shall be used for any report required by the director. So it -- I would

say that the requirement in Subchapter 31 requires monitoring of opacity in Subchapter 43 --

MS. MYERS: But in Subchapter 25, if you look at the opacity limits that are subject to that, to determine compliance with the section, opacity shall be read either by the certified emissions -- certified visible emissions evaluator using Test Method 9 or a comp.

MR. KIRLIN: Right.

MS. MYERS: Continuous monitor. So back to Jim's question why can't you do a daily Method 9 instead of having a smoke detector?

MR. BRANECKY: I guess to me the question comes down to does DEQ feel they need this section in Subchapter 31 to require a facility to monitor opacity when needed?

MS. MYERS: With sulfur.

MR. BRANECKY: With sulfur -- yeah. Or are there other rules that cover that for that?

MS. BOTCHLET-SMITH: If the Council will give us just a minute, I think staff has a answer to that.

MR. BRANECKY: Okay. You want to take a break?

MS. LODES: Yeah. I was going to say you want to take a break?

MS. BOTCHLET-SMITH: Short recess.

MS. LODES: Let's take a 15 minute break.

(Break)

MS. LODES: Let's -- I know Brooks was still working on his presentation. Let's go ahead and let him finish his presentation and then we'll come back to the opacity question in a moment.

MR. KIRLIN: Thank you. All right. Staff recommends a couple of additional changes to that same Section 31-25 for new fuel-burning equipment. As requested by Verallia, one set of changes, that are

highlighted in the comparison document on Page 3. They're highlighted in yellow. They're intended to further clarify that the SO2 emission limits listed are intended to affect emissions attributable to the burning of fuel.

And also as discussed in October, we've also found that our previous proposal of using 160 ppmv total sulfur as a substitute for the existing 0.1 percent sulfur monitoring exemption in 31-25(3)(A)(ii)(I) was not correct. That number is not correct. That's on Page 5 of the proposal and if you look on Page 4 of the comparison document.

Staff recommends retaining the weight percent form as the primary number, with 0.29 grains per standard cubic foot and approximately 500 ppmv as secondary numbers for convenience.

Finally, you may recall a significant discussion during the

October Council Meeting regarding Section 31-15. Which is in the proposal on the top of Page 4, requirements for existing kraft pulp mills, and Section 31-27 which is the bottom of Page 7 of the proposal, at the very end. Requirements for new pulp mills. Ms. Kathryn Crenwelge, on behalf of International Paper, Valliant Mill, requested that AQD remove the Subchapter 31 language for the pulp and paper industry or recognize that the industry is subject to other standards, such as NSPS and NESHAP requirements, which supersede or take the place of the Subchapter 31 standards.

Staff has had further discussions regarding these sections. We know that certain provisions of NSPS and NESHAPs that apply to the pulp and paper industry include requirements that are more stringent or redundant to some of the requirements of Subchapter 31. The

requirements in Section 31-15 were added many years ago to implement federal requirements for control of total reduced sulfur from existing kraft pulp mills as in our Section 111(d) Plans.

EPA's approval of this Section 111(d) plan is codified in 40 CFR Part 62, Subpart LL. We do not believe that a change to Section 31-15 would be appropriate at this time. However, in this proposal, staff has recommended revocation of Section 31-27, due to the substantial overlap of requirements between Section 31-27 and NSPS and NESHAPs applicable to new paper mills. We received a comment in support of this change from International Paper yesterday. A copy of that comment is included in your folder. We do not believe this change would result in increased emissions or impacts.

And finally, on Page 1 of the comparison document -- comparison

version included in your folder, which highlights in yellow, of two minor changes from the posted proposal, to correct a couple of errors. As in the previous proposal, staff has recommended moving the applicability dates for new versus existing sources to the existing -- to the various sections to which they apply. This would replace two existing definitions. The one that covers the terms "new facility", "new installation", "new source", and "new equipment", and the other one that covers the terms "existing facility", "existing source", and "existing equipment". Unfortunately, in updating the proposal from October, we inadvertently restored the definition for "new" sources. It was, and still is our intent to actually delete that definition as it exists.

And then the last proposed change is to correct a long-standing

typo in the definition of "digester system". In that definition, the term "below tank(s)" should instead be "blow tank(s)".

And staff -- based on these the staff would recommend that -- asks that the Council recommend the proposed rule, with the changes described today, to the Environmental Quality Board for approval as a permanent rule change.

MS. BOTCHLET-SMITH: We can now take questions from the Council regarding the rule. And I might mention before we get started with that, I haven't seen any comment forms from the audience so if anyone has decided at this point that they do want to comment it would be most helpful for us if you could fill out one of those forms. Thank you.

MS. BRADLEY: If the Council would allow, I wanted to recap some of the really good things about the changes to Subchapter 31 before we

start going over the issues. It's important to discuss these fine points but I thought I could frame them in the context of what we -- what are the really good things in the changes.

One, we have eliminated the SO2 ambient concentration provisions which really are not protective of the new NAAQS. They were set at levels that were much higher than -- well, they reflected an old NAAQS and a different form of the NAAQS.

Also we have added the alternative or alternate reporting to acknowledge the process that was agreed upon in Subchapter 9 to eliminate some duplicative reporting that might have been required under Subchapter 31.

Also we've addressed alternative fuels. That is an improvement that we think is better for the environment and also is more reflective of the fuels that are

currently available sources to be used in their processes today.

And also we have proposed to revoke the requirements in it for new pulp mills because we feel that the federal standards are protective and we know we would not need those standards any longer.

The opacity issue is one that we've discussed at length and it is complex. We are erring on the side of caution because there may be unintended consequences from an outright deletion. If the Council prefers to modify the definition to the word continuous or modify in another manner, then that is an option. But staff feels that it would be better addressed as a more holistic approach in opening Subchapter 25 and possibly 43 to address the opacity requirements.

Thank you.

MR. HAUGHT: So would we have to wait until a time and open

Subchapter 31 again -- another year before we could open Subchapter 31 at the same time as 25 and 43? They would all have to be -- I mean it would be kind of a simultaneous shift. So we're limited -- we couldn't do anything for a year?

MS. BRADLEY: That is correct.

MS. MYERS: Or if we continued it to the next Council meeting could you have those rules opened up to do the clean up and make it more smooth?

MR. HAUGHT: At the next meeting.

MS. BRADLEY: It would -- the next issue would be it would not be in effect until 2013. We would meet the -- we would be unable to meet the deadlines for Notice for a permanent rulemaking for this February Council meeting. So we're pushing it back a year.

MR. BRANECKY: Board

meeting. The next Board meeting.

MS. BRADLEY: The Board meeting. Excuse me. Yeah. For the next February Board meeting.

MR. BRANECKY: And the next Board meeting is not until July?

MS. BRADLEY: June.

MS. LODES: So if we carried this forward to April and in April addressed it and Subchapter 25 and 43 and did it all as a package and then it would see the Board in June?

MR. BRANECKY: And not be effective until July of 2013.

MS. BRADLEY: 2013.

MS. LODES: 2013.

MR. BRANECKY: Unless we passed it as an emergency?

MS. BRADLEY: If we were able to meet the emergency stipulations. I would have to consult legal to see if we could.

MS. LODES: Is there a problem with this not being effective

until 2013? I mean is there a reason this has got to be effective this year versus 2013?

MS. BRADLEY: Our current provisions don't address the issue that we're experiencing with some alternative fuels and the sources being unable to meet the standard. And the issue for the NAAQS implementation, I'm not sure --

MS. LODES: Well, the federal rule is more stringent than this one so it's --

MS. BRADLEY: The federal rule will supersede.

MS. LODES: Right. So that's not a problem.

MS. BRADLEY: Without it we would still have the requirement to demonstrate compliance with those short -- with those alternative standards. It might add some additional requirements to the permitting process that if we move forward would not be required. The

modeling requirements.
MS. LODES: But those are out there right now anyway?
MS. BRADLEY: They are.
MS. LODES: So we're already subject to them anyway?
MS. BRADLEY: Yes. That's correct.
MS. LODES: So that doesn't change what everybody is already doing anyway?
MS. BRADLEY: No.
MS. LODES: Okay. That's what I was just trying to see if there was a trigger here that mattered --
MS. BRADLEY: No.
MS. LODES: -- if it mattered so much that it wasn't worth just going ahead and cleaning it all up at once and getting it done right the first time around?
David, do you have any more -- or Sharon, do one of you all have more thoughts on the opacity issue?

I guess Eddie has something.
MR. TERRILL: Well, I was just going to say, before we get off on this opacity issue again, if we're going to do that then we might just keep the rule open for an extended period of time and clean up the whole thing. I mean there's some -- if this has not been a problem to date I'm a little bit, I guess, confused as to why we would want to wait a whole year for these other things to go into effect, which we believe are substantive good changes, and come back and fix this in a year. But if we're going to keep it open then maybe we need to look at other things that we probably hadn't intended to look at and fix that as well. Because the problem we've got here when we've got this SO2 rule open, we're already telling EPA that we disagree with the way they've done their NAAQS change, and this just is something else where we're telling

EPA -- we're drawing attention to this rule unnecessarily when we're already not doing what EPA believes is the proper way to implement their changes to the NAAQS.
So we just need to think about all of that because I do think we've got some good things in here that we need to move forward on and do we want to risk all this opacity issue which I don't know that it's been a problem. Nobody is going to disagree that it's antiquated; nobody knows why it's there and it probably need to come out but we've got to think through that and what the implications are to the other sections and is it worth it.
I mean it's okay with us because we're not the ones that are out there having to implement these rules and deal with them every day when we can leave it open and them come and go into effect in a year from now. But if we're going to do

that then I want us to take a look at the whole rule again and see if there's other things in there and we may not -- we'll try to get it back in three months but I can't guarantee that we will. We'll just have to see.
MS. LODES: Well, my thought, Eddie, we have pretty much the whole rule open for several Council meetings and this opacity rule keeps coming up so, I guess, I don't see necessarily the disadvantage in just cleaning it up. Do we have -- okay. I know we have the opacity questions. I actually have other questions, too. So do we want to discuss opacity more or do we want to discuss anything else?
(Comments)
MS. LODES: Okay. I have some questions that are not opacity related, momentarily and then we can go back to that other issue.
We've added a definition for

petroleum and natural gas process facilities. This has got some discrepancies or doesn't quite flow with some federal definitions. In it we don't define what is refined products, because it reads, means the facility does engage in converting crude petroleum and/or natural gas under a refined products. Petroleum and natural gas process facilities include petroleum refineries, natural gas processing plants, but do not include petroleum/natural gas production and transportation.

The intent here I don't think is to exclude gathering or isn't -- I think gathering should be added in to the last part. My suggestions would be we say, process facilities include petroleum refineries and natural gas processing plants as defined in 40 CFR Part 60.631, which is the definition that I had talked to Brooks about prior to this. And the last part say, but do not

include petroleum/natural gas production, gathering, and transportation facilities. And then I think that gets to the intent here because the gathering station is different from production or transportation and is also very different from a processing plant.

So that is one concern or clarification I wanted to make there so it is consistent with federal definitions elsewhere.

And then on 252:100-31-26(B). It's on Page 4 of the markups. We've got where it says the owner or operator shall install, calibrate, maintain, and operate an alarm system that will signal a malfunction for all thermal devices used to control H2S emissions from petroleum and natural gas processing facilities.

Calibrate is a little bit ambiguous here because there is not always manufacturers specifications for how to calibrate some of this

type of device. And so I'm afraid that's going to open up questions that weren't intended. And so should it be shall install and maintain, and operate an alarm system. I don't know this -- do we need the calibration there?

MR. COLLINS: Where are you at, Laura?

MS. LODES: I'm on Page 4 of the marked -- of the highlighted markups.

MR. COLLINS: Okay. I see it. Thank you.

MS. LODES: That's the easiest place to follow this because it's so marked up in the other version. The very last part (B) where it says, the owner or operator shall install, calibrate, maintain, and operate an alarm system. And there has been some questions about calibrate. I know we've dealt with this with some of the permit writers for natural gas facilities elsewhere

and that's why I want -- you know, what does calibrate mean right here because some of the manufacturers for this type of device don't specify a calibration technique.

MS. MYERS: It either works or it doesn't.

MS. LODES: Yes.

(Comment)

MS. LODES: I mean, it's a flare. There is not a calibration. You're installing and maintaining an alarm system and it burns it or it doesn't burn it. So how are you -- what are you going to do to calibrate it?

MR. KIRLIN: I don't know --

MS. LODES: Okay.

MR. KIRLIN: -- that. I don't have a problem with dropping that. I don't think that the enforcement or permitting does.

MS. LODES: Okay. Those were the two that I had outside of

any opacity issues. So we can go back to discussion with the Council on what you guys want to do about the -- about the opacity section.

Honestly I'd like to see -- I mean if this is the hang-up here is if we struck a -- personally I'd like to see opacity just struck here and then Subchapter 25 opened up and then clarified in Subchapter 25 and we do it as a package deal and we do it in April, would be my personal preference on how to handle it. I don't know what anybody else's thoughts are on the matter.

MS. MYERS: Was that the only rule that would have to be opened though?

MS. LODES: I don't know.

MS. BOTCHLET-SMITH: I think we're considering needing to look at 43 as well.

MS. LODES: Okay. And that would be the other question. I mean if we did those three parts as a

package and we did them all and got them all cleared up at once.

MR. COLLINS: I guess I'm a bit confused about -- did we resolve whether there is an issue with the delay or not? I mean I know there was some dialogue there, but at the end of the day is there a reason that we would not want to delay it a year?

MS. LODES: I mean if we would address it in April it just -- unless we can do it as an emergency, yes, it's delayed a year. But I don't -- I didn't understand that there was an issue with it if we addressed it in, say, at the April meeting and just get it clarified.

MR. CLARK: Did Cheryl not say that they were having some issues right now?

MS. BOTCHLET-SMITH: Your microphone.

MR. CLARK: Sorry. I'm sorry. Did Cheryl not say that they

were having some issues right now? I thought that's what I heard her say.

MS. LODES: Well, that -- I think so. Cheryl, the issues right now, Montelle is asking about with this rule.

MR. CLARK: Did you not say there -- you are having a few issues right now that lend some, if not urgency, to this rule at least some parity to it?

MS. BRADLEY: The current SO2 standards do not acknowledge an alternative standard for the use of an alternative fuel. And we have some sources that are currently utilizing the alternative fuel and they would be unable to meet the requirement. In absence of that they would flare the waste gas, so they would also be emitting the glutens from the burning of the fuel which would meet the SO2 standard, plus the emissions from the flaring of this

waste gas. So that is one issue that we would like to see addressed here.

MS. MYERS: But a flare doesn't have an opacity monitor on it, does it?

MS. BRADLEY: I mean most of them have to be --

MR. CLARK: In general, is there any issue for staff with keeping the rule open for an extended period of time like this? Does it cause you any work issues? Is there any other reason why you don't like to keep one open? Because we've had this open now for --

MS. LODES: Long time.

MR. CLARK: -- longer than I can remember. I just wondered in general if that's a problem for you?

MS. BRADLEY: It is -- it means that resources are tied up long term in working on the same rule change and there is quite a bit of work that goes into the formal

proposal of a rule and hoping it can survive.

MR. CLARK: Well, both of those reasons are sufficient for me to say that I think we should go ahead and approve this stuff that's in this right now. If we want to reopen it in a year, we can reopen it in a year.

MR. COLLINS: Cheryl, let me make sure that I understand. So we have sources that are using alternative fuel that can't meet the existing sulfur rule and they're flaring that gas. And this correction -- this change to the rule would correct that issue?

MS. BRADLEY: We have both the circumstances -- well we have a source that is having difficulty meeting the standard. They have utilized the waste gas from their processes in their boilers and would not be able to demonstrate at this time the compliance with the SO2

standard.

MR. COLLINS: So are they currently flaring that gas?

MS. BRADLEY: No, they are not.

MR. TERRILL: They are just out of compliance.

MS. BRADLEY: They are out of compliance.

MR. TERRILL: Yeah. We're hoping to get them where they -- we don't want them to flare. We would like them to change this rule so they can continue what they're doing with it. Because that's their alternative to flare it, but we don't think it's a good option.

MS. BRADLEY: Mr. Collins, we recognize that our original rule was not absolutely clear with regards to alternative fuels. At the time that the landfill gases were starting to be utilized and promoted by EPA we started to look at the use of alternative fuels. Now we have a

circumstance where flares would not be covered under the SO2 rule and in the absence of a standard with which they could comply that is technology based fact, they would be out of compliance and they might end up flaring the fuel or the waste gas and burning additional fuel.

MR. COLLINS: Okay. Thank you.

MS. LODES: I have a question here. Could we strike the opacity section from here today and pass this and then in the April meeting address what would need to be addressed in Subchapters 27 (sic) and 43 as emergency rules and then it would all go into effect this year and we've got it all cleared up at one time instead of having to keep dragging this thing on?

MS. BRADLEY: There would be a gap. A gap that results -- if it goes back in April -- did you say emergency?

MS. LODES: I said pass Subchapter 31, strike opacity today --

MS. BRADLEY: Okay.

MS. LODES: -- pass Subchapter 31.

MS. BRADLEY: Uh-huh.

MS. LODES: And then in April address what would need to be addressed in Subchapters 25 and 43 as emergency rules --

MS. BRADLEY: Okay.

MS. LODES: -- to close the gap so that it all gets finalized in July and it's all effective at one time and we've done one big round of clean up and we've gotten this issue taken care of.

I mean if all it is is addressing in Subchapter 25 that you've got to have an opacity monitor out there for greater than 250 mmbtu's per hour, I would think that this could be done as a more straightforward clean up to

Subchapter 25. I see this -- I mean is that a possibly that we could do?

MR. TERRILL: The issue is going to be whether or not we can justify that as an emergency given how they have tighten the --

MS. BRADLEY: Yes.

MS. LODES: Yes.

MR. TERRILL: -- that may be problematic to get that done. I don't know. Have we tried to do that even since they've changed the rules on what you have to show to get an emergency attached?

MS. MILLER: I have it right here. I don't know the answer to that question. I have it right here and it says that the rule is necessary as an emergency to do any of the following and it sounds like this would fall under possibly, avoid violation of federal law or regulation or other state law. Avoid serious prejudice to the public interest as well. So --

MS. BRADLEY: So we --

MS. LODES: So there is a possibility that we could do it -- do Subchapters 25 and 43 as an emergency in April and get this all in this year but at the same time make everybody happy by clearing up the opacity part that we've got such a hang-up with here in getting this done.

MR. TERRILL: Let me ask this question. What happens -- because this has not been proposed. EPA hasn't seen this. What happens if we send this down, they become aware of it and they raise an objection of some sort? I guess we would fight that battle at some point.

MR. BRANECKY: We'd have 43 and 25 amended by the time they even looked at it or moved on it.

MS. LODES: That was going to be my remark. Since they are about ten years behind, Eddie, I

think that we could have all of this taken care of long before they ever (inaudible) and looked at it.

MR. TERRILL: Well, again, that's all well and good for the Council and for us but there is a whole other regulated community out there that we have to think about and the implications. I don't whether they will or not. I don't disagree that it's an antiquated rule. I'm not going to argue that point. But I'm just saying that given the fact that we're -- the position that we've taken relative to the SO2 standard you've just got to be prepared that there is an unintended consequence and I don't want any blow-back to us because we did this. You just need to be aware that if you strike this and we go down this other path, there could be other things come up, and if there are we'll just have to deal with them. I don't know if there would;

there may not be. There may not be anything come up, but I don't know that there won't be either. I just don't know.

MR. BRANECKY: Well, we're not -- we're not relaxing any standard. I mean we're not allowing any more pollution --

MR. TERRILL: Yeah.

MR. BRANECKY: -- by striking this. It's just an antiquated piece of text that has been in there for 30 years or more.

MS. LODES: But I think -- but I think for opacity in a -- though maybe you're saying anything that's not covered -- so wouldn't that -- I mean we have standards of opacity for Oklahoma regulations. There's opacity regulations out there in the various NSPS and NESHAPs, what would be -- where would there be a gap, I guess my question would be. What source would actually be in some gap here if we struck this out for

opacity?

MR. TERRILL: I don't think we know. I know I don't know. That's what I'm saying. I just -- I don't know. There may be now consequence to this, I'm just telling you that there could be. And --

MS. LODES: Okay. And I want to understand that. I'm just trying to think of a way we could clean this up and do it right at the same time get it all done this year. And that's what I'm saying, if we could pass this and then do the next one.

MS. BOTCHLET-SMITH: I guess what I'm hearing from Cheryl is trying to rush through the change that might or might not have to be made to 43 and 25 to ensure that there is not an unintended consequence by removing this, is not -- it's of concern. And to have the time to make sure that everything is covered.

MS. MYERS: So what if we carried this forward to April and do them all three as an emergency passage in order to meet whatever federal guidelines.

MR. HAUGHT: It's what -- what kind of -- I mean it's obvious we want this done and I appreciate -- I mean there are some good things in this and I think we have an obligation to look at those good things and consider that too. I don't know that rushing this through -- this opacity issue has been brought up. This isn't new at this meeting. So to --

MS. MYERS: But it's never been addressed either.

MR. HAUGHT: -- for staff to have time to look at it, it's been known that some people had issue with it from previous meetings.

But I guess, Eddie, do we have any kind of assurance that if we just go ahead and pass this rule,

kind of as proposed and leave that in there that we would open this up and address this in those other subchapters --

MS. LODES: Within a year?

MR. HAUGHT: -- at the soonest possible time?

MR. TERRILL: Sure. I mean why wouldn't we?

MR. HAUGHT: Well -- I don't --

MR. TERRILL: Yeah. Yeah. Absolutely we would.

MR. HAUGHT: I mean that's the deal, because we may can move this forward if -- if -- I mean that's the options. I mean try to strike it and then do these emergency things or can we get some commitment to come back and clean this up. We know what the problem is.

MR. TERRILL: Absolutely. I don't --

MS. LODES: One year.

MR. TERRILL: -- it will

just be a year. That's right. It'll be a year.

MR. HAUGHT: I understand, but we've been living with it for -- for some length of time.

MR. TERRILL: And to be honest with you, I would prefer to do that, that way we can do it right and make sure that we don't create a bigger problem for ourselves and that way with the good parts of it, we could move forward on. But absolutely we would commit to do that. If nothing else we could go ahead and get the good things going but there is no reason why we wouldn't do that. It shouldn't be that big of a deal, making the assumption that we don't run across something unexpected when we start looking at the consequences in the other sections. So we absolutely would make that commitment.

MS. BRADLEY: Mr. Haught, we could -- actually even before the

rule comes back officially we could do an informational presentation --

MR. TERRILL: Right.

MS. BRADLEY: -- on the possible options to the Council so you could see what we have found, new information and some of the options that we were looking at, before we go through the formal proposal.

MR. TERRILL: That way maybe we would only have to do it one time and you guys kind of already know what we're going to do. And that way it doesn't fall off the table too. And it gets to your issue of making sure we do address it --

MR. HAUGHT: Keeps it in front of us.

MR. TERRILL: Right.

MR. BRANECKY: So when is the earliest you can open it? Is it a year from when it was first opened, which would be last October? Or is it a year from when we pass

it, or the Board passes it or it becomes law or what?

MS. FINLEY: You're hoping that I have an answer right now.

MR. BRANECKY: Of course.

MS. FINLEY: As I'm grabbing the microphone and looking at you. I have been trying to find specifically the answer to that question while you all have been talking. We think it's from the time that it was proposed. We don't know. I'm trying to find it.

MS. BRADLEY: Rob had mentioned that with the change in the law it may be upon the time that it's been actually entered into the code and a year from the time that it becomes part of the code. So we'll need to review that. I think our previous interpretation was as long as you had a final rule as your starting point you could advertise a proposed change, but there may be a modification with the recent change

made by the legislature.

MS. LODES: Okay. On that -- since we're not clear on that, as part of our motion to pass it can we add a little rider that says that this will be reopened at the earliest possible time to address this concern? I mean can Council -- the Council can do that? And that way -- that way, like I said, it stays front and center. I mean we've got an issue here and we want to get it all cleaned up and that way we know it's going to get cleaned up. Eddie?

MR. TERRILL: I don't know why -- well, we would do that anyway. I don't know what difference that would make. You could add that clause in there but we committed to do that and obviously we would want to do it as quickly as we possibly could just to be -- to get it done. Does that make sense?

MS. BOTCHLET-SMITH: If you

all are starting to think about motions, I just -- I have a comment from the public. Before someone jumps out and makes a motion --

MS. LODES: Right.

MS. BOTCHLET-SMITH: -- we want to give them a chance to comment.

MS. LODES: Yes.

MR. BRANECKY: And that doesn't preclude you from opening 25 or 43 before a year and start working on those and get those out of the way.

MR. TERRILL: That was the purpose of doing the information, it will come back to you all, because we want to do that to see if there is anything. And maybe there is not that much to it and we can just come back and report that.

MS. MYERS: When do you think you might have that?

MR. TERRILL: It depends on -- I don't know that we have talked

about what we're bringing to the next Council meeting so it depends on if we've got a lot we're bringing then we may want to wait, but if we don't -- we can tell you where we are at the next Council meeting.

MS. MYERS: Okay.

MS. BOTCHLET-SMITH: Do you all have any more comments from the Council or do you want to hear from the public now?

MS. LODES: Yeah. Hear from the public.

MS. BOTCHLET-SMITH: All right. Kathryn.

MS. CRENWELGE: My name is Kathryn Crenwelge. I'm with the International Paper Mill in Villant, Oklahoma and I just want to put for the record, this has nothing to do with opacity or any of the other things that you guys have been discussing which is all very important.

Under 100-31-15, the very first

sentence of the copy that I'm looking at which was out on the table, strikes after May 8th, 1989 and makes reference to on or before July 1st, 1972. If I understood correctly that language is going to change, because you want to just put it at the front -- the '72 reference. Is that correct?

MR. KIRLIN: Right. The --

MS. LODES: No. I think we took it out of the front and moved it back.

MR. KIRLIN: We moved it out of the definitions -- Brooks Kirlin. This is -- we moved it out of the definition and put it in as -- we have not suggested any changes to that proposal today from what is in the packet. So we didn't intend to do that.

MS. CRENWELGE: So my question is, is May 8th, 1989 struck? Proposed to be removed?

MR. KIRLIN: Yes.

MS. CRENWELGE: Okay.

MR. KIRLIN: That is --

MS. CRENWELGE: Okay. And I would just like to put it on the record that when this regulation was formed that the existing kraft pulp mill in the state of Oklahoma had a grace period after May 8th, 1989 to come into compliance with this regulation. And for the record, should anyone come back, if that date is no longer on there, I want it part of the record that we were allowed to -- 1989 to come into compliance. As you know, sometimes historical reviews are conducted and it's gone back to the actual regulation. Thank you.

MS. LODES: Thank you for bringing that up.

Brooks, I will ask as a Council Member, what was the reason for basically backing this up 17 years? Because the current rule says after May 8th, 1989 and now we're

dropping it back to July 1, 1972.

MR. KIRLIN: Right. All the -- it applied to all existing as of 1972 --

MS. LODES: I think this -- I gather there was only one?

MR. KIRLIN: I believe so, yes. But it was passed sometime after 1972 and -- but it applied to the existing and -- or at least it changed at that point and as she stated there was -- my understanding is there was a grace period given to allow time to come into compliance with this requirement up until May 8th of 1989, which is gone, so --

MS. LODES: Well, I guess, based on her concern -- and I can see where she is, you know, if you've got a historical review, is there any value in striking that and going back to '72 or can we just leave it the way it is, where it says after May 8th, 1989, so that -- since it's only one plant in question

here, that one plant doesn't have to worry about arguing this out at some later date and time. Or explaining this 1 should say, to somebody five years from now.

MR. KIRLIN: I don't know that I would have a problem with leaving the 1989 date in there. Looking at the definition. That's -- I mean that would be fine --

MS. LODES: Why are we changing it?

MR. KIRLIN: Change it to after May 8th, 1989, all existing -- all kraft pulp mills --

MS. LODES: I don't understand -- I guess my question would be -- I know she's just asking for it to be entered into the record. My question is fundamentally why are we changing it? Because it's only one facility in question here, is there a value in changing this little statement at all?

MS. BRADLEY: The only

value, Chair Lodes, is that we -- it's for historical purposes only. It doesn't have direct relevance to determining compliance from this point forward. We know which source it was. When it became applicable is not an issue in determining compliance now. But if the Council prefers that we restore it and if the commenter would like to see it restored then we can do so.

MS. LODES: Kathryn, I think that is a yes, you would like to see it restored?

MS. CRENWELGE: Yes. Yes. That is correct.

(Inaudible comments)

MS. LODES: Okay. Do we have -- I guess, Beverly, were there any other comments?

MS. BOTCHLET-SMITH: Did anyone else from the public wish to comment on this rule?

Seeing none, back to the Council for any further questions or

potential motion.

MS. LODES: Now what -- we've had several changes here. I've proposed some changes. We've got Kathryn's change about leaving it basically or she would like to see just left as is for 31-15, that first sentence. And then we have the whole opacity issue. So what would the Council like to do?

Okay. My changes were for the definition of petroleum and natural gas process facility to -- after natural gas processing plant put "comma, as defined in 40 CFR Part 60.631" and further in that sentence put "but do not include petroleum and natural gas production, gathering, and transportation facilities". I'm adding the word "gathering".

And then in 252:100-31-26 (1)(B) striking the word "calibrate", for my two changes. And then I guess -- I'll go ahead and include in mine the recommendation from

Kathryn to leave -- leave the rule as is where it says after May 8th, 1989 all existing kraft pulp mills and just leave that whole little phrase the way it is without that change being made.

MR. BRANECKY: And DEQ is okay with all of those? No concerns?

MR. KIRLIN: The question is -- I guess what I would have is since we proposed to strike the definition of existing facility, move those -- it's -- I don't know whether that would be confusing. Perhaps we could think about changing -- leaving in -- or stating it as, "after May 8th, 1989 all kraft pulp mills that were in being on or before July 1st, 1972 shall comply with the following requirements".

MS. MYERS: Okay. Would you say that one more time, Brooks?

MR. KIRLIN: After May 8th, 1989 -- tell you what, let me put in

-- can I put the any in there? Any kraft pulp mill that was in being on or before July 1st, 1972 shall comply with the following requirements.

MS. LODES: That seems reasonable to me.

MR. BRANECKY: Yeah, that's okay.

MS. LODES: Kathryn?

MR. CRENWELGE: Yes.

MS. BOTCHLET-SMITH: Do we need -- Laura, can we be given the written changes to Brooks for the definition change?

MS. LODES: I had given him the spell dot definition and his suggestion was actually to put after natural gas processing plants, to just put the citation for the definition instead of spelling out the lengthy definition, so I had given him that and that's where the 40 CFR Part 60.631 is.

MS. BOTCHLET-SMITH: I just wanted to make sure that he had the

language in his --

MS. LODES: Yes.

MS. BOTCHLET-SMITH: -- materials.

MS. LODES: Yes. He does and like I said that was his -- when he and I talked that was his suggestion to just put that in there as a citation reference to be -- and that way it's very clear we're consistent with the federal definitions.

MR. BRANECKY: I'll try. I'm going to be --

MS. MYERS: We're not going to do anything about the smoke detectors?

MR. BRANECKY: Not at this time.

MS. LODES: I want somebody to go put a First Alert out there but --

MR. BRANECKY: You'd have to put in the -- change batteries in it during daylight savings time, too.

I guess I'll attempt to make the motion.

MS. LODES: Okay.

MR. BRANECKY: I'll need help to capture all this we've covered today.

MS. LODES: Okay.

MR. BRANECKY: I propose that we approve Subchapter 31 with the amendments as suggested by Madam Chair here today, with the exception of the last one that Mr. Kirlin counter proposed with the new language pertaining to the date of 1989.

Do I need to read that? Do we need that into the record? The new language?

MS. LODES: Laura, does he need to read that new language into the record?

MR. BRANECKY: What Brooks is proposing?

MS. FINLEY: Yeah, I think we should.

MR. BRANECKY: Counter proposed? Okay. I'll let him read that.

MR. KIRLIN: This will be 252:100-31-15, first paragraph would read:

"After May 8th, 1989, any kraft pulp mill that was in being on or before July 1, 1972 shall comply with the following requirements."

MR. BRANECKY: Okay. And you've captured the other language changes as proposed by Madam Chair?

MR. KIRLIN: Yes.

MR. BRANECKY: Okay.

MS. LODES: Do we need to read my language changes again? Okay. And to read my --

MS. FINLEY: That way it's clear.

MS. LODES: Yeah. Okay. To make it clear under the definition of petroleum and natural gas process facility means, "that a facility does engage in converting crude petroleum

and/or natural gas into refined products, petroleum and natural gas process facilities include petroleum refineries and natural gas processing plants as defined in 40 CFR Part 60.631 but do not include petroleum and natural gas production, gathering, and transportation facilities."

Then on 252:100-31-26(1)(B), "the owner or operator shall install, maintain, and operate an alarm system that will signal a malfunction for all thermal devices used to control H2S emissions from petroleum and natural gas processing facilities regulated under this subparagraph". We're striking the word, calibrate.

MR. BRANECKY: Okay. And with the understanding that we will address the issue of opacity -- I know we spent a lot of time talking about that today -- at a later date, as soon as DEQ is able to bring -- reopen Subchapter 31, address the

issue of coordinating Subchapter 31, Subchapter 25, and Subchapter 43.

MS. LODES: I have a motion. Do we have anything else?

MR. BRANECKY: Anything else. Did I get --

MS. LODES: I think you got it. I have a motion; do I have a second?

MR. GAMBLE: Second.

MS. LODES: I have a motion and a second.

Myrna, will you please call roll.

MS. BRUCE: David Gamble.
MR. GAMBLE: Yes.
MS. BRUCE: Gary Collins.
MR. COLLINS: Yes.
MS. BRUCE: Montelle Clark.
MR. CLARK: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Sharon Myers.

MS. MYERS: On a matter of principal because this has been so messy; no.

MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Laura Lodes.
MS. LODES: Yes.
MS. BRUCE: Motion passed.
MS. BOTCHLET-SMITH: That concludes the hearing portion of today's meeting.

(Hearing Concluded)

C E R T I F I C A T E

STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above meeting is the truth, the whole truth, and nothing but the truth; that the foregoing meeting was taken down in shorthand and thereafter transcribed by me; that said meeting was taken on the 18th day of January, 2012, at Oklahoma City, Oklahoma; and that I am neither attorney for, nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 4th day of February 2012.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310

Notice: This Summary of Comments and Staff Responses replaces previous versions for this proposed rule revision. The Summary of Comments and Staff Responses is subject to change based on additional consideration, evaluation of public comments, and new information received.

SUMMARY OF COMMENTS AND STAFF RESPONSES
FOR PROPOSED REVISION TO
OAC 252:100-31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

COMMENTS RECEIVED PRIOR TO AND AT THE *JULY 20, 2011*
AIR QUALITY ADVISORY COUNCIL MEETING

Written Comments

Buzzi Unicem USA - Email from Mr. Tom Rader on behalf of Lone Star Industries, dba Buzzi Unicem USA, Pryor, Oklahoma (Lone Star), received July 15, 2011:

Regarding the proposed change to OAC 252:100-31-25:

252:100-31-25. Requirements for new ~~Fuel-burning~~ fuel-burning equipment
Any fuel-burning equipment that was not in being on or before July 1, 1972 or that is modified after July 1, 1972 shall comply with the following requirements.

1. **COMMENT:** It is not clear as to what constitutes a modification. Modification should be qualified to mean a modification that causes an increase in SO_x emissions.

   RESPONSE: The change, as proposed, is not intended to be a substantive change, because it essentially moved the applicability language from the definitions section (OAC 252:100-31-2) to individual sections. The term "new equipment" as defined in Subchapter 31 has historically used the term "modification," which is defined in the General Provisions of Subchapter 1. The change requested by Lone Star would be a substantive change from existing language. Staff does not feel that the requested change would be appropriate.

Regarding the proposed change to 252:100-31-25(4):

(4) **Alternative fuel**. An alternative fuel may be used in fuel-burning equipment, provided the following criteria are met.
(A) The use of an alternative fuel does not cause:
(i) the SO_X emission limits in (a) of this section to be exceeded, or
(ii) the ambient air concentration limit for H2S contained in OAC 252:100-31-7 to be exceeded.
(B) The use of an alternative fuel does not create a condition for violation of any TAC MAAC listed in Appendix O to this chapter. (See OAC 252:100-42)
(C) The use of an alternative fuel is not disallowed under any applicable 40 CFR Part 60, 61, or 63 rule, or results in a violation of any applicable emission standard therein.

(D) The use of an alternative fuel does not create or contribute to a violation of any NAAQS or PSD increment.
(E) The use of an alternative fuel is allowed under an enforceable permit.

2. **COMMENT:** "The proposed changes are to OAC 252:100 Subchapter 31, Control of Emission of Sulfur Compounds. The proposed changes should be applicable to the subchapter.
(4)(B) does not appear to be appropriate in subtitle 31 as it is related to Toxic Air Contaminants and should be addressed in OAC 252:100-42
(4)(C) Should refer to 'applicable emission standard for sulfur compounds therein.'
(4)(D) Should refer to 'any NAAQS or PSD sulfur compound increment.'"

   RESPONSE: Staff concurs that it is appropriate to narrow the language of this new subsection to focus better on the subject of Subchapter 31, while assuring that it does not interfere with implementation of other applicable requirements. Staff has reworded the language for the subsequent proposal.

International Paper - Email from Ms. Kathryn Crenwelge, EHS Manager of International Paper – Valliant Mill, received July 19, 2011:

3. **COMMENT:** International Paper requested that AQD remove the Subchapter 31 language for the pulp & paper industry or recognize that the industry is subject to other standards (i.e., NSPS and NESHAP requirements) which supersede or take the place of the Subchapter 31 standards.

   RESPONSE: OAC 252:100-31-15 contains requirements for existing kraft pulp mills, and 252:100-31-27 contains requirements for new pulp mill process equipment. Certain provisions of NSPS and NESHAPs that apply to the pulp and paper industry may include requirements that are more stringent or redundant to those of Subchapter 31. The requirements in OAC 252:100-31-15 were added to implement federal requirements for control of total reduced sulfur from existing kraft pulp mills (Section 111(d) Plans). EPA's approval of this 111(d) plan is codified in 40 CFR Part 62, Subpart LL. Staff does not believe the change to Section 31-15 would be appropriate at this time. However, staff does concur that the substantial overlap of requirements between Section 31-27 and NSPS/NESHAPs applicable to "new" paper mills justifies revocation of this Section 31-27.

EPA Region 6 – Letter from Guy Donaldson, Chief, Air Planning Section, received July 14, 2011:

Regarding existing and proposed language in related subsections in OAC 252:100-31-13, 252:100-31-16, 252:100-31-25, and 252:100-31-27:

4. **COMMENT:** EPA suggested inserting "operation" into several taglines that currently read "Installation, calibration, and maintenance of emission monitoring systems," in order to be consistent with the language of the subject paragraph, as proposed for amendment.

RESPONSE: Staff has included the suggested change in the subsequent proposal.

Regarding the proposed change to OAC 252:100-31-7:

5. **COMMENT:** EPA stated that the proposed changes would require that AQD demonstrate that dropping the existing ambient SO_2 concentration limits in Section 31-7(a) would not interfere with attainment of the NAAQS, "Reasonable Further Progress" or other applicable requirement of the Clean Air Act (CAA). AQD would be required to submit an analysis as provided for under Section 110(l) of the CAA at the time the rule revision is submitted for inclusion in Oklahoma's SIP.

   RESPONSE: Staff is preparing a Section 110(l) analysis for submittal to EPA when the rule change is submitted for inclusion in Oklahoma's SIP.

   Staff believes that the proposed change to OAC 252:100-31-7 would not result in any substantial loss of protection, considering the current NAAQS and other existing requirements. Staff believes that the Section 31-7 standards are outmoded in light of the new one-hour SO_2 NAAQS of 0.075 ppm. By comparison, the existing Section 31-7 allows a one-hour average of 0.46 ppm. Staff does not believe the existing numbers are protective, and does not have an adequate rationale or method for simply adjusting these numbers in a way that would allow permittees and permit writers to demonstrate compliance with the NAAQS and the purpose of the Subchapter using current modeling and monitoring protocols.

   With the change that became effective in August 2010, EPA substantially shifted the SO_2 NAAQS emphasis to preventing high short-term exposure, by dropping both the existing annual standard of 30 ppm and the existing 24-hour standard of 140 ppm, while adding the one-hour maximum standard of 0.075 ppm.

   Staff believes it would be mathematically difficult to exceed any of the Section 31-7 ambient standards without violating the NAAQS. While DEQ has expressed disagreement regarding EPA's "hybrid" approach for demonstrating the State's compliance with the SO_2 NAAQS, the appropriate use of modeling in the permitting process can and will assure compliance with the SO_2 standards.

Oral Comments

Citizen's Action for Safe Energy - Mr. Tony Nuspl

6. **COMMENT:** Mr. Nuspl requested changes to OAC 252:100-31-2 and 252:100-31-25. He requested that hazardous material be excluded from the proposed definition of "alternative fuel," in particular waste-derived fuels with high chlorine content. In addition, Mr. Nuspl requested that the rule specify a minimum BTU content for the fuel being burned. Mr. Nuspl also requested that "independent monitoring by the DEQ" be conducted for facilities that burn hazardous material.

   RESPONSE: Subchapter 31 provisions are not the controlling rules for the handling, use, and/or disposal of hazardous materials. Staff believes that the provisions for use of

alternative fuel in fuel-burning equipment proposed in OAC 252:100-31-25(4), as reworded, provide an appropriate level of protection within the purpose of Subchapter 31.

Note: Mr. Nuspl primarily spoke regarding concerns over a particular Portland cement production plant and the effects of its permitted emissions on air quality in the Tulsa area. Mr. Nuspl indicated that he wished to submit written comments on the proposed Subchapter 31 rule and provided copies of a document to the Council. The document was a flyer that expressed concerns regarding the burning of hazardous waste at that cement kiln, and listed the facility's "currently emitted" and "proposed emission" levels for various pollutants. [Staff notes that several of the emissions numbers cited in the flyer do not accurately represent the facility's AQ permit limits.] In addition, the flyer expressed concern over DEQ's public notification procedures and urged the public to contact members of the Tulsa City Council. Upon review of the document, it was determined that the document did not raise or address any issues specific to Subchapter 31 or the proposed rule changes.

COMMENTS RECEIVED PRIOR TO THE *OCTOBER 5, 2011* AIR QUALITY ADVISORY COUNCIL MEETING

Conoco-Phillips – Email from Mr. David Gamble on behalf of Conoco-Phillips, Ponca City, Oklahoma (Conoco-Phillips), received September 8, 2011:

Regarding proposed language in OAC 252:100-31-25(3)(A)(ii)(I).

7. **COMMENT:** "Why is the 160 ppmv limit for sulfur instead of hydrogen sulfide, which would make it comparable to NSPS J?"

   RESPONSE: The existing rule language [in OAC 252:100-31-25(c)(1)(B)(i)] refers to (total) sulfur rather than just H_2S, and it applies to fuel-burning equipment from various industry sectors. Staff has some concern that although H_2S may be the most appropriate parameter for petroleum refineries that are subject to NSPS J, other forms of sulfur compounds may also be pertinent in other sectors. In addition, the proposed language of OAC 252:100-31-25(3)(A)(ii)(I) is not intended to change the content of the provision, but is intended to clarify the language and make it more consistent with other rules in the subchapter. (As discussed below, it appears that the proposal, using the 160 ppmv sulfur content, would not be consistent with that intention.) Note that neither the existing rule language nor the proposed language constitutes a limit on sulfur emissions or fuel gas sulfur content. Rather, it provides an exception to the continuous SO_2 monitoring requirement for fuel-burning equipment that uses only low-sulfur gaseous fuel.

8. **COMMENT:** "If the 160 ppmv and 0.1 wt% limits are intended to be applicable to total sulfur in the fuel gas, does the state intend for the fuel gas to be continuously monitored to demonstrate compliance, or is a single sample or process knowledge adequate? The Ponca City refinery continuously monitors its fuel gas systems for hydrogen sulfide as required by NSPS J, but does not monitor for total sulfur."

   RESPONSE: Both the existing rule language and the proposed language of OAC 252:100-31-25(3)(A)(ii)(I) references the sulfur content (rather than hydrogen sulfide).

The existing rule does not specify a monitoring protocol for gaseous fuel. Therefore, a demonstration that the facility qualifies for the SO_2 monitoring exception for lower sulfur gaseous fuel is determined on a case-by-case basis. The rigor of a demonstration would need to match the likelihood of exceeding the requirement, and would be consistent with Subchapter 43 and any applicable federal requirements. Staff does not believe that the proposed amendments (if the change described below is included) would change this approach.

9. **COMMENT:** "The original version of the rule limited the fuel gas sulfur content to 0.1 wt%, but the revised rule includes the 160 ppmv limit. I've calculated a few cases to see what the characteristics of a fuel gas stream would need to be for the 160 ppmv and 0.1 wt% to represent the same amount of sulfur. I found that the molecular weight of the fuel gas (excluding the sulfur) would need to be about 5 lbs/lb-mole, which is very low. Assuming a mixture of methane and hydrogen, the gas composition would need to be about 78% hydrogen and 22% methane and the resulting heating value of the gas would be about 476 BTU/SCF, which is also very low and not really practical as a fuel."

   "Assuming the case of a fuel gas stream made up of 100% methane and no hydrogen, the sulfur content would need to be about 500 ppmv in order to also be 0.1 wt%, or 0.03 wt% sulfur in order to also be 160 ppmv. As such, the 160 ppmv, when applied to natural gas or refinery fuel gas, appears to be more stringent that the 0.1 wt% limit."

   RESPONSE: The proposed 160 ppmv level is approximately the field gas maximum sulfur content limit in some AQ permits for fuel-burning equipment at oil & gas compressor stations, etc. However, staff agrees that it is probably not the best number for this particular rule. Staff intends to recommend that the Council retain the 0.1 weight percent as the primary description of the gaseous fuel sulfur content, and substitute a level of "0.29 gr/scf or approximately 500 ppmv" for the 160 ppmv previously proposed. As the commenter stated, the 500 ppmv is roughly 0.1 weight percent total sulfur for methane (and corresponds to the ratio of "equivalents" listed in the NSPS GG definition of "natural gas": 20.0 gr/100 scf total sulfur ≈ 0.068 wt% ≈ 338 ppmv at 20° C).

Georgia-Pacific – Email from Mr. Stephen Landers on behalf of Georgia-Pacific Consumer Products LP, Muskogee, Oklahoma (Georgia-Pacific), received September 26, 2011:

Regarding proposed language in OAC 252:100-31-25(3)(A)(i).

10. **COMMENT:** The proposed language states in part: "The owner or operator shall continuously monitor opacity, except where gaseous fuel is the only fuel burned." Georgia-Pacific expressed concern that "…the loss of opacity monitoring for any reason other than routine maintenance or calibration would arguably be an immediate deviation." The company also stated that "Continuous monitors will experience malfunctions and/or downtime during their operation, and it does not seem that the ODEQ would expect deviation reporting for such monitor downtime so long as the downtime is within applicable allowances."

Georgia-Pacific requested that the proposed sentence be restated as: "The owner or operator shall install, maintain and operate a continuous opacity monitoring system, except where gaseous fuel is the only fuel burned."

RESPONSE: Staff has dropped the recommended changes to this opacity monitoring language in response to concerns the proposed change expressed by Georgia-Pacific and members of the Council. Staff proposed substitute language for the Council to consider for four other locations where the same phrase was proposed [252:100-31-13(2), 252:100-31-16(1), 252:100-31-25(3)(A)(ii), and 252:100-31-27(2)].

Verallia – Email from Mr. Steven B. Smith, V.P., Environmental and Regulatory Affairs, on behalf of Verallia (formerly Saint-Gobain Containers), Sapulpa, Oklahoma, received September 30, 2011:

Regarding proposed language in OAC 252:100-31-25(1).

11. **COMMENT:** Verallia proposed a language change to assure that only emissions of SO_2 attributable to the burning of fuel are subject to the emission limits for fuel-burning equipment.

RESPONSE: Staff proposed substitute language for the Council to consider for OAC 252:100-31-25(1),

COMMENTS RECEIVED PRIOR TO THE *JANUARY 18, 2012*
AIR QUALITY ADVISORY COUNCIL MEETING

Verallia – Letter from Mr. Steven B. Smith, V.P., Environmental and Regulatory Affairs, on behalf of Verallia (formerly Saint-Gobain Containers), Sapulpa, Oklahoma, received January 9, 2012:

Regarding proposed language in OAC 252:100-31-25(1).

12. **COMMENT:** Verallia proposed an additional language change to assure that only emissions of SO_2 attributable to the burning of fuel are subject to the emission limits for fuel-burning equipment.

RESPONSE: Staff will propose substitute language for the Council to consider for OAC 252:100-31-25(1),

Cheryl E. Bradley
Department of Environmental Quality
Air Quality Division
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677

July 15, 2011

RE: Buzzi Unicem USA, Comments on Proposed Changes to OAC 252:100-31

Ms. Bradley

Lone Star Industries dba Buzzi Unicem USA, Pryor Oklahoma (Lone Star) would like to provide the following comments on the proposed rulemaking related to Subchapter 31, Control of Emission of Sulfur Compounds. Lone Star thanks the department for allowing stakeholders to comment on regulations that affect them.

Tom Rader
Buzzi Unicem USA
636-931-2511

252:100-31-25. Requirements for new ~~Fuel-burning~~ fuel-burning equipment
Any fuel-burning equipment that was not in being on or before July 1, 1972 or that is modified after July 1, 1972 shall comply with the following requirements.

Comment 1

It is not clear as to what constitutes a modification. Modification should be qualified to mean a modification that causes an increase in SOx emissions.

(4) **Alternative fuel**. An alternative fuel may be used in fuel-burning equipment, provided the following criteria are met.
(A) The use of an alternative fuel does not cause:
(i) the SOx emission limits in (a) of this section to be exceeded, or
(ii) the ambient air concentration limit for H_2S contained in OAC 252:100-31-7 to be exceeded.

(B) The use of an alternative fuel does not create a condition for violation of any TAC MAAC listed in Appendix O to this chapter. (See OAC 252:100-42)
(C) The use of an alternative fuel is not disallowed under any applicable 40 CFR Part 60, 61, or 63 rule, or results in a violation of any applicable emission standard therein.
(D) The use of an alternative fuel does not create or contribute to a violation of any NAAQS or PSD increment.
(E) The use of an alternative fuel is allowed under an enforceable permit.

Comment 2

The proposed changes are to OAC 252:100 Subchapter 31, Control of Emission of Sulfur Compounds. The proposed changes should be applicable to the subchapter.

(4)(B) does not appear to be appropriate in subtitle 31 as it is related to Toxic Air Contaminants and should be addressed in OAC 252:100-42

(4)(C) Should refer to "applicable emission standard for sulfur compounds therein."

(4)(D) Should refer to "any NAAQS or PSD sulfur compound increment."

CC
Michael Swift, Buzzi Unicem USA

INTERNATIONAL PAPER

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January 17, 2012

Brooks Kirlin
Air Quality Division
Oklahoma Department of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

Re: Comments on OAC 252: 100-31 Control of Emission of Sulfur Compounds Part 5 New Equipment Standards Section 27(a).

Dear Mr. Kirlin:

International Paper Company owns and operates a Kraft pulp and paper mill in Valliant, OK. Our facility appreciates the opportunity to offer comments to the Oklahoma Department of Environmental Quality Air Quality Division in regards to the proposed changes of OAC 252: 100-31 Control of Emission of Sulfur Compounds.

OAC 252: 100-31-27(a) "Control of Emission of Sulfur Compounds, New Equipment Standards, Pulp Mills, Emission Limit" requires that "the emission of sulfur oxides, calculated as sulfur dioxide, from the blow pits, washer vents, storage tanks, digester relief, and recovery furnace of any new pulp mill shall not exceed 18 lb/T (air dried) of pulp produced, two-hour average," where "new" means any "equipment that emits sulfur compounds and which is not in being on, or which is modified after July 1, 1972."

Though we differ in opinion of what constitutes a 'new system' in this regulation as was set forth in the original regulation language and followed in our historical permitting with DEQ, we accept that DEQ now interprets this as any equipment change versus an equipment system change because we are also required to follow NSPS and NESHAP requirements associated with our Kraft and Semi-chemical equipment. These requirements are more stringent than this regulatory requirement.

Following the DEQ's interpretation of what is 'new' and subject to this rule, our new recovery furnace installed in 2006 applies. According to the National Council for Air and Stream Improvement (NCASI), the language of this rule is typical for sulfite pulping operations, but sulfide (Kraft) pulping operations do not have blow pits and are not a significant source of sulfur dioxide emissions. In addition, Kraft pulping operations are subject to TRS emission standards under Title V.

We support the state's current version of the revised language which removes pulp and paper requirements for 'new' equipment. We believe this is appropriate since we have more stringent federal requirements and also because we are not a sulfite pulping mill.

We appreciate your consideration of these comments, and we believe that the proposed alternatives do not dilute the stringency of the environmental standards. If you have any questions regarding these comments, please contact me at (580) 933-1449 or Katlin Esteph at (580) 933-1267.

Sincerely,

Kathryn Crenwelge
EHS Manager
International Paper
Valliant Mill

Cc: J. Todd Crutcher, IP-Valliant

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

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JUL 14 2011

Cheryl Bradley
Environmental Programs Manager
Oklahoma Department of Environmental Quality
Air Quality Division
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677

Dear Ms. Bradley:

Thank you for the opportunity to comment on the proposed revision to Oklahoma Administrative Code (OAC), Chapter 100 Air Pollution Control Rules, Subchapter 31 Control of Emission of Sulfur Compounds OAC 252:100-31. The proposed rulemaking would revise Subchapter 31by clarifying the language and updating the Sulfur Dioxide (SO_2) emissions limits with the recently adopted SO_2 National Ambient Air Quality Standards (NAAQS).

As a part of our review we must evaluate any revisions to Subchapter 31 against the existing federally approved Oklahoma State Implementation Plan (SIP). We are enclosing a copy of the November 3, 1999 Federal Register publication, and the corresponding approved Subchapter 31 SIP language with this letter for your reference. We have reviewed the proposed revision dated June 14, 2011 and have the following comments.

Subsection 252:100-31-13(3) is currently titled "Installation, calibration, and maintenance of emission monitoring systems." We suggest inserting the term "*operation*" into the title of this subsection to read "Installation, calibration, *operation*, and maintenance of emission monitoring systems." We also recommend the same insertion into the proposed subsections 252:100-31-16(2); 252:100-31-25(3)(A)(I)(iii); and 252:100-31-27(3).

The proposed rule revision would remove the existing State ambient SO_2 standards for the 5 minute period of any hour; the 1-hour average; the 3-hour average; the 24-hour average; and the annual arithmetic mean basis from Oklahoma SIP. The current State ambient SO_2 standards of Subchapter 31 were incorporated into the SIP at 64 Federal Register 59629 published on November 3, 1999, and became federally enforceable on January 3, 2000. Removal of existing federally enforceable ambient standards from Oklahoma SIP triggers the need for a section 110(l) analysis as a part of your SIP submittal for this rule revision.

Section 110(l) of the Clean Air Act (CAA) provides that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP), or any other applicable requirement of the CAA. Therefore, the EPA will approve a SIP revision that removes or modifies

control measure(s) in the SIP only after the State has demonstrated that such removal or modification will not interfere ("noninterference") with attainment of the NAAQS, RFP or any other applicable requirement of the CAA. In this case, we understand that the proposed revision is being made, in part in response to EPA's issuance of a revised SO_2 NAAQS. The proposed revision should include a demonstration that the repeal of the State ambient standards is not expected to result in an increase in SO_2 emissions. Alternatively, if an increase in SO_2 emissions is possible then such an increase will not interfere with attainment of the SO_2 NAAQS or any other applicable NAAQS including the $PM_{2.5}$ NAAQS.

Absent of an acceptable section 110(l) analysis demonstrating noninterference we will not be able to approve the proposed rule revision into the SIP.

We appreciate the opportunity to comment on the proposed rule revisions. If you have any questions about this letter, please contact Mr. Alan Shar at (214) 665-6691.

Sincerely yours,

Guy Donaldson
Chief
Air Planning Section

Enclosures (2)

Enclosure

[FR Doc. 99-27195 Filed 11-2-99; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OK-8-1-5772a; FRL-6457-7]

Approval and Promulgation of Implementation Plans; Oklahoma; Recodification of Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action approving into the Oklahoma State Implementation Plan (SIP), subchapters of the Oklahoma Department of Environmental Quality (ODEQ) Air Pollution Control Rules adopted by the State Legislature on March 30, 1994. These Rules, submitted by the Governor to EPA on May 16, 1994, replace most of the existing ODEQ regulations in the Oklahoma SIP. The EPA is taking no action on subchapters of the submittal that are either not equivalent to, or are not in, the current Oklahoma SIP-approved regulations. Approval of this action will make the numbering format and administrative terms of the subchapters being approved consistent with that of the current ODEQ air quality control regulations. The changes are administrative in nature and do not substantively revise the current SIP.

DATES: This rule is effective on January 3, 2000 without further notice, unless EPA receives adverse comment by December 3, 1999. If EPA receive such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733

Oklahoma Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, 1677

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Bill Deese of the EPA Region 6 Air Planning Section at (214) 665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we" is used, we mean EPA.

I. What Is the Purpose of This Action?

This action approves a recodification of the ODEQ regulations in the Oklahoma SIP adopted by the Oklahoma Legislature on March 30, 1994, and submitted by the Governor of Oklahoma on May 16, 1994, as a revision to the Oklahoma SIP. The EPA is approving subchapters of the submittal that are equivalent to the current SIP-approved regulations replaced. The EPA is taking no action on subchapters that have not previously been approved into the Oklahoma SIP or are not equivalent to the existing SIP-approved regulations.

II. Why Is EPA Taking This Action?

The ODEQ has used four different numbering systems for its air quality control regulations since the original Oklahoma SIP was approved by EPA on May 31, 1972 (37 FR 10887). Regulations in the current Oklahoma SIP have been approved under three of these numbering systems.

The ODEQ air quality control regulations approved with the original Oklahoma SIP were numbered with a one or two digit number such as Regulation Number 4 and Regulation Number 15. Regulations approved by EPA under this numbering system were approved in 40 CFR part 52, §§ 52.1920(b) to 52.1920(c)(21). Some ODEQ regulations approved under this system are still in the Oklahoma SIP.

Between 1981 and 1991, the ODEQ used a numbering system such as Regulation 1.1, Regulation 1.4.4, and Regulation 4.1 for its air quality control regulations. Regulations were approved by EPA under this numbering system at 40 CFR 52.1920(c)(24) to 52.1920(c)(41) and 52.1920(c)(47).

In 1990 the Oklahoma State Legislature passed the Oklahoma Administrative Procedures Act which mandated a common format for all Oklahoma rules and regulations. To meet the requirements of the Administrative Procedures Act, the Air Quality Service of the Oklahoma State Department of Health recodified the Oklahoma air pollution control regulations into the Oklahoma Administrative Code, Title 310, Chapter 200 (OAC:310:200), Oklahoma Air Pollution Control Rules. As required by the Oklahoma Administrative Procedures Act, the Oklahoma Air Pollution Control Rules contained no substantive changes, but was a change in format only. The Governor of Oklahoma submitted the recodified regulations to EPA on July 1, 1992, as a revision to the Oklahoma SIP.

The EPA has approved two revisions to the ODEQ regulations in the Oklahoma SIP in this numbering system submitted after the July 1, 1992, submittal. The revisions were submitted to EPA on December 10, 1992, and May 16, 1994. Subchapter 31 (OAC:310:200-31), Control of Emissions of Sulfur Compounds, adopted by the State March 24, 1993, and submitted by the Governor on December 10, 1992, was approved by EPA on July 15, 1993 (58 FR 38060), at 40 CFR 52.1920(c)(43). Subchapter 23 (OAC:310:200-23), Control of Emissions from Cotton Gins, adopted by the State on March 24, 1993, and submitted by the Governor on May 16, 1994, was approved by EPA on May 14, 1997 (62 FR 26393), at 40 CFR 52.1920(c)(44).

(**Note:** The May 16, 1994, submittal of Subchapter 23 (OAC:310:200-23) was a completely separate submittal from the May 16, 1994, submittal being acted upon in this action.)

Before EPA could take action on the recodified regulations submitted July 1, 1992, the Air Quality Service, in 1993, became the Air Quality Division of the newly created ODEQ. This necessitated the transfer of the Air Pollution Control Rules from OAC:310:200 to new OAC:252:100. The recodification of the regulations to OAC:252:100 was adopted by the Oklahoma Legislature on March 30, 1994, published in the *Oklahoma Register* on May 16, 1994, effective May 26, 1994, and submitted by the Governor of Oklahoma to EPA as a revision to the Oklahoma SIP on May 16, 1994. There were no substantive changes in the regulations. No regulations or revisions to regulations in the Oklahoma SIP have been approved under this numbering system.

The intent of this **Federal Register** action is to approve the regulations in the May 16, 1994, submittal that are equivalent to the current SIP-approved regulations. The EPA is taking no action on subchapters of the submittal that are not equivalent to the current SIP-approved regulations being replaced, or on subchapters that have not previously been approved into the SIP.

III. What Regulations in the May 16, 1994, Submittal Are Not Being Acted Upon in This Action?

Subchapter 8 (Operating Permits), subchapter 11 (Alternative Emissions Reduction Permits), subchapter 21 (Particulate Matter Emissions from Wood-Waste Burning Equipment), and appendix D (Particulate Matter Emission Limits for Wood Waste Burning Equipment) are not being acted upon in this action because equivalent regulations are not in the current Oklahoma SIP.

Subchapter 7 (Permits) is not being approved in this recodification because it is a substantial revision to the current SIP-approved regulation. As a result, the following ODEQ regulation remains in the Oklahoma SIP: Regulation 1.4 (Air Resources Management Permits Required) as approved by EPA on August 25, 1983 (48 FR 38636), at § 52.1920(c)(26); January 31, 1991 (56 FR 03781), at § 52.1920(c)(38); and July 23, 1991 (56 FR 33717), at § 52.1920(c)(41). This subchapter will be addressed in a future rulemaking.

Subchapter 41 (Control of Emission of Hazardous and Toxic Air Contaminants) is not being acted on in this rulemaking because it is not equivalent to the current SIP-approved regulations. As a result, the following ODEQ regulation remains in the Oklahoma SIP: Regulation 3.8, (Control of Emission of Hazardous Air Contaminants), as approved by EPA on August 15, 1983 (48 FR 36819), at § 52.1920(c)(27).

IV. What Oklahoma SIP Regulations Are Being Replaced by This Action?

The table below cross-references subchapters in the May 16, 1994, submittal of OAC:252:100 that EPA is approving in this action with previous citations of the regulations. The third (1992) codification is not shown because it is identical to the current codification except that "252:100" in the current codification was "310:200" in the third codification. The titles shown are the proposed new SIP titles. In some cases these titles are different from the current SIP-approved titles. The current SIP-approved regulations are shown with an "*" following the regulation numbers. In some cases, such as new subchapter 1, parts of two former codifications are in the current SIP. An "*" in the first column means the current SIP regulations were approved under the 1992 "310–200" codification.

Proposed New SIP Citation, (Subchapter of 252:100)	Proposed New SIP Title	1982 to 1991 State Citation (Regulation)	Before 1982 State Citation (Regulation No.)
1.	General Provisions	1.1*	3*
3.	Air Quality Standards and Increments	1.2*	3
5.	Registration of Air Contaminant Sources	1.3	4*
9.	Excess Emission and Malfunction Reporting Requirements	1.5*	11
13.	Prohibition of Open Burning	2.1	1
15.	Motor Vehicle Pollution Control Devices	2.2	2*
17.	Incinerators	2.3	5*
19.	Particulate Matter Emissions from Fuel-Burning Equipment	2.4	6*
23.*	Control of Emissions from Cotton Gins	Did not exist	Did not exist
25.	Smoke, Visible Emissions and Particulates	3.1*	7
27.	Particulate matter Emissions from Industrial and Other Processes and Operations.	3.2	8*
29.	Control of Fugitive Dust	3.3	9*
31.*	Control of Emissions of Sulfur Compounds	3.4	16
33.	Control of Emissions of Nitrogen Oxides	3.5	18*
35.	Control of Emission of Carbon Monoxide	3.6	17*
37.	Control of Emission of Organic Materials	3.7*	15*
39.	Control of Emission of Organic Materials in Nonattainment Areas	3.7*	15*
43.	Sampling and Testing Methods	4.1*	12*
45.	Monitoring of Emissions	5.1	13*
Appendix A. (Cited in Subchapter 17).	Allowable Emissions for Incinerators with Capacities in Excess of 100 lbs/hr	2.3 Figure 1	5 Figure 1*
Appendix B. (Cited in Subchapter 17).	Allowable Emissions for Incinerators with Capacities Less Than 100 lbs/hr	2.3 Figure 1	5 Figure 1*
Appendix C. (Cited in Subchapter 19).	Particulate Matter Emission Limits for Fuel-Burning Equipment	2.4 Figure 1	6 Figure 1*
Appendix E. (Cited in Subchapter 3).	Primary Ambient Air Quality Standards	1.2(1) Table 1*	3, Table 1a
Appendix F. (Cited in Subchapter 3).	Secondary Ambient Air Quality Standards	1.2(1) Table 2*	3, Table 1b
Appendix G. (Cited in Subchapter 27).	Allowable Rate of Emissions	3.2 Table 1	8 Table 1*

V. What Changes Have Been Made to the Regulations?

This section summarizes changes to the regulations initially made in OAC:300:200 and carried over into OAC:252:100.

A. Format Changes

The new numbering system is considerably different from the first two numbering systems. A subchapter number has been assigned to the group of rules previously identified by regulation numbers. Some subchapters are further divided into parts. The numbers initially assigned to subchapters and parts are all odd numbers to allow for future expansions of the rules.

Subchapters and parts are divided into groups of related sections. A section may be further subdivided into subsections, paragraphs, subparagraphs, units, and subunits.

B. Administrative Wording Changes

The regulations also underwent administrative wording changes necessitated by the transfer of the

administration of the regulations to the newly created ODEQ and the resultant transfer of the Oklahoma Air Pollution Control Regulations to OAC:252:100 as well as style changes to be consistent with that preferred by the State. For example, the term "Executive Director" replaced the word "Commissioner" and the terms "Chapter" and "Subchapter" replaced the word "Regulation." Two tables in the support document for this action show the administrative wording changes versus the terms replaced.

C. Changes to Definition Sections

Subchapter 1, General Provisions, contains definitions for Chapter 100. Almost all definitions previously approved by EPA in other ODEQ SIP-approved regulations are included in subchapter 1, section 1–3, Definitions, as well as in the subchapter, part, or section they apply to. Some individual terms and terms with more than one definition in section 1–3 are restricted to specific subchapters, parts, or sections.

All definitions in Chapter 100 have a standard introductory paragraph which gives the part or section the definitions pertain to. All defined terms are in double quotes followed by the word "means" followed by the definition of the term. Terms within each definitions section have been placed in alphabetical order. Definitions not previously approved by EPA in the State General Definitions section were approved into the SIP in the Regulations they apply to.

D. Other Changes

A Purpose section is the first section of each subchapter. Some regulations in the earlier codifications did not have a Purpose section.

Most sections and subsections and some paragraphs and subparagraphs formerly without titles have been given titles.

Most of the tables in the old regulations are in appendices at the end of Chapter 100. New sections in the subchapters reference the tables in the appendices.

VI. Final Action

The EPA is approving ODEQ Air Pollution Control Rules (OAC:252:100) adopted by the State on March 30, 1994, and submitted by the Governor on May 16, 1994, except for subchapters 7, 8, 11, 21, 41, and appendix D. The regulations being approved replace the current ODEQ regulations in the Oklahoma SIP except for Regulation 1.4 (Air Resources Management Permits Required) and Regulation 3.8 (Control of Emission of Hazardous Air Contaminants). The changes are administrative in nature and do not substantively revise the current SIP.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are received. This rule will be effective on January 3, 2000 without further notice unless we receive adverse comment by December 3, 1999. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

VII. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable rules on any of these entities. This action does not create any new requirements but simply approves requirements that the State is already imposing. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to E.O. 13045 because it approves a State program.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of

section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Federal Clear Air Act (the Act) do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *See Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major" rule as defined by 5 U.S.C. 804(2). This rule will he effective January 3, 2000.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 3, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 23, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart LL—Oklahoma

2. Section 52.1920 is amended by adding paragraph (c)(48) to read as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(48) Revisions to Oklahoma Department of Environmental Quality (ODEQ) regulations in the Oklahoma SIP adopted by the Oklahoma Legislature on March 30, 1994, effective May 26, 1994, and submitted by the Governor on May 16, 1994.

(i) Incorporation by reference.

(A) *Oklahoma Register*, May 16, 1994, pages 2031 and 2032, approving the transfer of the Oklahoma Air Quality Control Rules into Title 252, Chapter 100, of the Oklahoma Administrative Code.

(B) Oklahoma Administrative Code, Title 252, Chapter 100 (OAC:252:100), Oklahoma Air Quality Control Rules, adopted by the Oklahoma Legislature on March 30, 1994, effective May 26, 1994.

(1) Subchapter 1, General Provisions.

(2) Subchapter 3, Air Quality Standards and Increments.

(3) Subchapter 5, Registration of Air Contaminant Sources.

(4) Subchapter 9, Excess Emissions and Reporting Requirements.

(5) Subchapter 13, Prohibition of Open Burning.

(6) Subchapter 15, Motor Vehicle Pollution Control Devices.

(7) Subchapter 17, Incinerators.

(8) Subchapter 19, Particulate Matter Emissions from Fuel-Burning Equipment.

(9) Subchapter 23, Control of Emissions from Cotton Gins.

(10) Subchapter 25, Smoke, Visible Emissions and Particulates.

(11) Subchapter 27, Particulate Matter Emissions from Industrial and Other Processes and Operations.

(12) Subchapter 29, Control of Fugitive Dust.

(13) Subchapter 31, Control of Emission of Sulfur Compounds.

(14) Subchapter 33, Control of Emission of Nitrogen Oxides.

(15) Subchapter 35, Control of Emission of Carbon Monoxide.

(16) Subchapter 37, Control of Emissions of Organic Materials.

(17) Subchapter 39, Control of Emission of Organic Materials in Nonattainment Areas

(18) Subchapter 43, Sampling and Testing Methods.

(19) Subchapter 45, Monitoring of Emissions.

(20) Appendix A, Allowable Emissions for Incinerators with Capacities in Excess of 100 lbs/hr.

(21) Appendix B, Allowable Emissions for Incinerators with Capacities Less Than 100 lbs/hr.

(22) Appendix C, Particulate Matter Emission Limits for Fuel-Burning Equipment.

(23) Appendix E, Primary Ambient Air Quality Standards.

(24) Appendix F, Secondary Ambient Air Quality Standards.

(25) Appendix G, Allowable Rate of Emissions.

(ii) The following previously approved ODEQ regulations remain in the Oklahoma SIP:

(A) Regulation 1.4, "Air Resources Management Permits Required," as approved by EPA on: August 25, 1983 (48 FR 38636), at 52.1920(c)(26); April 2, 1984 (49 FR 13039), at 52.1920(c)(29); July 27, 1984 (49 FR 30185), at 52.1920(c)(31); August 20, 1990 (55 FR 33907), at 52.1920(c)(34); February 12, 1991 (56 FR 5655), at 52.1920(c)(38); and July 23, 1991 (56 FR 33717), at 52.1920(c)(41).

(B) Regulation 3.8, "Control of Emission of Hazardous Air Contaminants," approved by EPA on August 15, 1983 (48 FR 36819), at 52.1920(c)(27).

(iii) Additional materials—None.

[FR Doc. 99-27541 Filed 11-2-99; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL-050-9953(a); FRL-6461-8]

Approval and Promulgation of Implementation Plans: Revisions to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the Alabama Department of Environmental Management's (ADEM) Administrative Code submitted on April 22, 1999, by the State of Alabama. These revisions were made to comply with the regulations set forth in the Clean Air Act (CAA). Included in this document are revisions to Chapter 335-3-1—General Provisions which establishes Credible Evidence regulations and Chapter 335-3-14—Air Permits which allows exemptions for projects which are found to be beneficial to the environment.

DATES: This direct final rule is effective January 3, 2000 without further notice, unless EPA receives adverse comment by December 3, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to: Kimberly Bingham at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Alabama Department of Environmental Management, 400 Coliseum Boulevard, Montgomery, Alabama 36110-2059.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham of the EPA Region 4, Air Planning Branch at (404) 562-9038 and at the above address.

SUPPLEMENTARY INFORMATION:

I. Analysis of State's Submittal

Listed below is a summary of the revisions to the Alabama State implementation plan (SIP) on which EPA is taking action in this document.

Chapter 335-3-1—General Provisions

Rule 335-3-1-.13—Credible Evidence

On February 24, 1997, EPA promulgated regulations under sections 113(a) and 113(e)(1) of the CAA that gave EPA the authority to use all available data to prove CAA violations (See 62 FR 8314-8328). EPA required states to incorporate provisions into their SIPs to ensure that the states have the ability to use any available data or "credible evidence" to determine violations. To comply, the ADEM submitted rule 335-3-1-.13 to EPA Region 4 for approval. This new rule allows the use of any credible evidence that is both reference test data and comparable non-reference test data. The data will be used to prove or disprove violations of the State of Alabama's regulations in enforcement actions.

Chapter 335-3-14—Air Permits Authorizing Construction in Clean Air Areas [Prevention of Significant Deterioration Permitting (PSD)]

Rule 335-3-14.04(2)(ff)

ADEM is revising its PSD rules to allow an exemption for modifications or projects that are proven to be beneficial to the environment. These regulations would require that an ambient air quality analysis be completed before the project can be approved. Class 1 areas must also not be affected by the new project. Moreover, the public notification requirements of the PSD regulations would also have to be met.

Rule 335-3-14.04(2)(gg)

The rule was revised to include a definition for Pollution Prevention Projects that can also be exempted if proven to be environmentally beneficial. ADEM defines Pollution Prevention Projects as any activity that through process changes, product reformulation or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal. It does not mean recycling (other than certain "in process recycling" practices), energy recovery, treatment, or disposal.

Rule 335-3-14-.04(8)(m)

This rule lists the PSD exemptions for projects that are environmentally beneficial.

II. Final Action

EPA is approving the aforementioned changes to the State of Alabama's SIP because they are consistent with the CAA and EPA policy. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective January 3, 2000 without further notice unless the Agency receives adverse comments by December 3, 1999.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should

Enclosure

Oklahoma

[redacted]

Citations & Dates

Regulatory Text:

Oklahoma Administrative Code. Title 252. Department of Environmental Quality

Chapter 100. Air Pollution Control (OAC 252:100)

SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

PART 1. GENERAL PROVISIONS
As adopted in Oklahoma Register May 16, 1994 (11 Ok Reg 2031) effective May 26, 1994.
Approved by EPA November 3, 1999 (64 FR 59629) effective January 3, 2000 (OKc48).

Sections:

252:100-31-1. Purpose

The purpose of this Subchapter is to control emissions of sulfur compounds from stationary sources in order to prevent the Oklahoma Air Quality Standard from being exceeded and insure that degradation of the present level of air quality in Oklahoma does not occur.

252:100-31-2. Definitions

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

"Black liquor solids" means the dry weight of the solids which enter the recovery furnace in the black liquor.

"Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), below tank(s), chip steamer(s), and condenser(s).

"Existing source" means an air contaminant source which is in being on the effective date of the applicable section.

"Lime kiln" means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.

"Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp (black liquor).

"New installation (source or equipment)" means an air contaminant source which is not in being on the effective date of the applicable section and any existing source which is altered, replaced, or rebuilt after the effective date of the rules such that the amount of air contaminant emissions is increased.

"**Recovery furnace**" means either a straight kraft recovery furnace or a cross recovery furnace, and includes the direct-contact evaporator for a direct contact furnace.

"**Smelt dissolving tank**" means a vessel used for dissolving the smelt collected from the recovery furnace.

"**Total reduced sulfur**" is the sum of the compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.

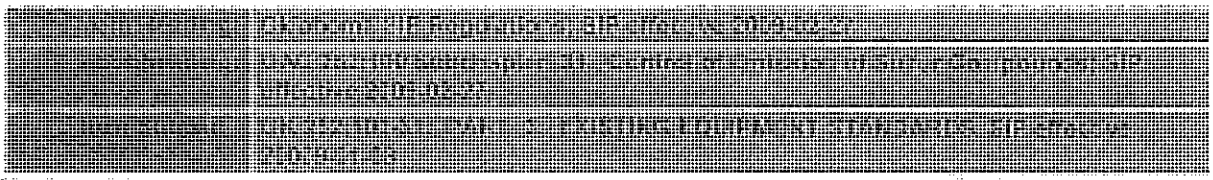
252:100-31-3. Performance testing

Testing to determine whether emission standards set in this Subchapter are met shall be conducted by the source following 40 CFR Part 60, Appendix A, Test Methods.

********** end ok 252:100 subchapter 31 part 1 **********a33**

This SIP Citation Was Last Modified on: 08/04/2009

Oklahoma



Citations & Dates

Regulatory Text:

Oklahoma Administrative Code. Title 252. Department of Environmental Quality

Chapter 100. Air Pollution Control (OAC 252:100)

SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

PART 3. EXISTING EQUIPMENT STANDARDS
As adopted in Oklahoma Register May 16, 1994 (11 Ok Reg 2031) effective May 26, 1994.
Approved by EPA November 3, 1999 (64 FR 59629) effective January 3, 2000 (OKc48).

Sections:
252:100-31-12. Sulfur oxides, OKc48
252:100-31-13. Sulfuric acid mist, OKc48
252:100-31-14. Hydrogen sulfide, OKc48
252:100-31-15. Total reduced sulfur, OKc48

252:100-31-12. Sulfur oxides

(a) **Standard.** No person shall cause, let, suffer or allow any emission of sulfur dioxide from existing equipment which results in an ambient air concentration of sulfur dioxide at any given point in excess of 1300 $\mu g/m^3$ (0.50 ppm) in a five (5) minute period of any hour, a one (1) hour average exposure of 1200 $\mu g/m^3$ (0.46 ppm), a three (3) hour average exposure of 650 $\mu g/m^3$ (0.25 ppm), or a 24-hour average exposure of 130 $\mu g/m^3$ (0.05 ppm) of sulfur dioxide contributed from any one source or an annual arithmetic mean of 80 $\mu g/m^3$ (0.03 ppm). These limitations shall not apply to ambient air concentrations occurring on the property from which such emission occurs, providing such property, from the emission point to the point of any such concentration is controlled by the person responsible for such emission.

(b) **Determination of violation.** Violations of 252:100-31-12(a) may be determined by the Executive Director by use of appropriate material balances and/or emission factors, and on the basis of the ambient air concentration by the use of appropriate atmospheric dispersion models approved by EPA. Determinations made by the Executive Director using these procedures indicating that the limits set in 252:100-31-12(a) have been exceeded shall constitute prime evidence that the standard has been violated. Source operators may use these same procedures in lieu of ambient air monitoring as proof of compliance with limits set in 252:100-31-12(a).

252:100-31-13. Sulfuric acid mist

After January 10, 1979, no person shall cause, let, or allow emissions of sulfuric acid mist from any existing sulfuric acid plant in an amount greater than 0.5 pound of sulfuric acid mist per ton of acid produced (250 grams per metric ton) the production being expressed as 100 percent sulfuric acid (H_2SO_4).

252:100-31-14. Hydrogen sulfide

(a) **Standard.** No person shall cause, let, suffer, or allow any emission of hydrogen sulfide from any source which results in an ambient air concentration of hydrogen sulfide at any given point of 0.1 ppm for a 30-minute period. This standard shall not apply to ambient air concentrations occurring on the property from which such emission occurs, providing such property, from the point of any such concentration is controlled by the person responsible for such emission.

(b) **Determination of violation.** Violation of 252:100-31-14(a) may be determined by the Executive Director by use of appropriate material balances and/or emission factors, and on the basis of the ambient air concentration by the use of appropriate atmospheric dispersion models approved by EPA. Determinations made by the Executive Director using these procedures indicating that the limits set in 252:100-31-14(a) have been exceeded shall constitute prime evidence that the standard has been violated. Source operators may use these same procedures in lieu of ambient air monitoring as proof of compliance with limits set in 252:100-31-14(a).

(c) **Testing procedures.** Testing procedures for ambient air concentration of hydrogen sulfide shall use either of the following:

(1) Paper Tape Method, American Iron and Steel Institute (A.I.S.I.) type sampler with lead acetate impregnated paper tape;

(2) Methylene Blue Calorimetric Method; or,

(3) other methods acceptable to the Executive Director.

252:100-31-15. Total reduced sulfur

(a) **Standard.** After November 15, 1985, all affected facilities shall limit emissions of total reduced sulfur released during the Kraft pulping operation, to those listed in this Section or have an approved plan which is to be submitted to the Director by May 15, 1984. Approval of all such plans shall reside with the Air Quality Council and in no case shall the time frame for compliance exceed May 9, 1989.

(1) The applicable limits are:

(A) forty (40) parts per million (ppm) of total reduced sulfur measured as hydrogen sulfide on a dry basis and on a 12-hour average, converted to eight (8) volume percent oxygen from any recovery furnace;

(B) forty (40) parts per million of total reduced sulfur measured as hydrogen sulfide on a dry basis and on a 12-hour average, corrected to ten (10) volume percent oxygen from any lime kiln; and,

(C) 0.016 gram of total reduced sulfur measured as hydrogen sulfide per kilogram of black liquor solids for a 12-hour average from any smelt dissolving tank.

(2) Non-condensable gases from all evaporators and digesters shall be efficiently incinerated or otherwise treated to limit emissions to less than five (5) ppm by volume on a dry basis.

(b) **Determination of violation.** Violation of 252:100-31-15(a) may be

determined by the Executive Director by use of appropriate material balances, continuous emission monitoring data, and/or emission factors. Stack sampling conducted by the source will be required to demonstrate compliance, following 40 CFR Part 60, Appendix A, Test Methods.

(c) **Continuous emission monitoring.**

(1) Existing sources listed below are required to monitor emissions as described.

(A) **Fossil fuel-fired steam generators.** Continuous monitoring of sulfur dioxide emissions is required for fossil fuel-fired steam generators where the source utilizes an air pollution abatement operation to make a significant reduction in the emissions of sulfur dioxide. Continuous monitoring of oxygen or carbon dioxide is required where it is necessary to convert sulfur dioxide monitoring results.

(B) **Sulfuric acid plants.** Continuous monitoring of sulfur dioxide is required for sulfuric acid plants required to limit emissions by the applicable requirements of this Subchapter where the production capacity is greater than 300 tons per day expressed as 100% acid except where the conversion of sulfuric acid is utilized as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

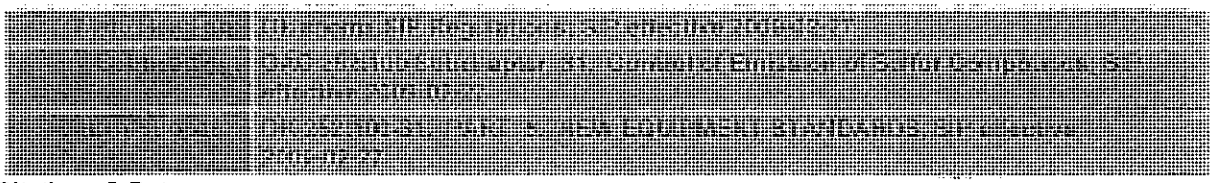
(2) Required monitoring systems will be installed, calibrated, maintained, and operated in accordance with 40 CFR 60, Appendix B.

(3) Required monitoring systems will be installed, calibrated, maintained, and operated in accordance with 40 CFR 51, Appendix P, hereby incorporated by reference.

********** end ok 252:100 subchapter 31 part 3 **********a33**

This SIP Citation Was Last Modified on: 08/05/2009

Oklahoma



Citations & Dates

Regulatory Text:

Oklahoma Administrative Code. Title 252. Department of Environmental Quality

Chapter 100. Air Pollution Control (OAC 252:100)

SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

PART 5. NEW EQUIPMENT STANDARDS
Aa approved by EPA December 29, 2008 (73 FR 79400) effective February 27, 2009 (OKd06).

Sections:
252:100-31-25. Sulfur oxides, OKd06
252:100-31-26. Hydrogen sulfide, OKc48

252:100-31-25. Sulfur oxides
As adopted in Oklahoma Register June 1, 1995 (12 Ok Reg 1625) effective July 1, 1995.
Approved by EPA December 29, 2008 (73 FR 79400) effective February 27, 2009 (OKd06).

(a) **Sulfuric acid plants.**

(1) **Emission limit.**

(A) A person operating a new sulfuric acid plant shall not cause, suffer, or allow the discharge into the atmosphere of:

(i) sulfur dioxide in the effluent in excess of four (4) pounds per ton of 100 percent sulfuric acid produced (2 kg per metric ton), maximum two-hour average;

(ii) sulfuric acid mist which is in excess of 0.15 pound per ton of 100 percent sulfuric acid produced (75 grams per metric ton), maximum two-hour average, expressed in H_2SO_4; or

(iii) a visible emission equivalent to an opacity of five (5) percent.

(B) These emission limits shall apply to only those sulfuric acid plants producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans or acid sludge.

(2) **Emission monitoring.**

(A) All sulfuric acid plants regulated under this subsection shall have installed, calibrated, maintained and operated, an instrument for continuously monitoring and recording emissions of sulfur dioxide. The instrument installed and used pursuant to this subsection shall be calibrated following the Oklahoma test procedure requirements using the performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(B) The owner or operator of any sulfuric acid plant subject

to provisions of this paragraph shall maintain a file of all measurements required including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurement, and made available for inspection by the Air Quality Division or it's representative during normal business hours.

(b) **Fuel-burning equipment.**

(1) **Emission limit.**

(A) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new gas fuel-burning equipment in excess of 0.2 pound per million BTU heat input (0.36 gram per million gram-calories), maximum three-hour average.

(B) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new liquid fuel-burning equipment in excess of 0.8 pound per million BTU heat input (1.4 grams per million gram-calories), maximum three-hour average.

(C) No person shall cause, suffer or allow the discharge into the atmosphere of sulfur oxides measured as sulfur dioxide from new solid fuel-burning equipment in excess of 1.2 pounds per million BTU heat input (2.20 grams per million gram-calories), maximum three-hour average.

(D) If a solid fuel sampling and analysis method is used to determine emission compliance, averaging time will be determined on a 24 hour basis.

(E) Where different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration unless a secondary fuel is used in de minimis quantities (less than 5% of total BTU input annually). Compliance shall be determined using the formula (effective July 1, 1972),

$$(y(.80) + z(1.2)) / y + z$$

where y is the percent of total heat input derived from liquid fuel and z is the percent of total heat input derived from solid fuel.

(2) **Emission and fuel monitoring.**

(A) There shall be installed, calibrated, maintained, and operated, in any new fuel-burning equipment with a rated heat input of 250 million BTU/hr. or more emission monitoring instruments as follows:

(i) a photoelectric or other type smoke detector and recorder, except where gaseous fuel is the only fuel burned; and,

(ii) an instrument for continuously monitoring and recording sulfur dioxide emissions, except where gaseous fuel containing less than 0.1 percent sulfur is the only fuel burned or a solid fuel sampling and analysis method is used to determine emission compliance.

(B) Instruments installed and used for monitoring shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.

(C) The sulfur content of solid fuels as burned shall be determined in accordance with previous methods as approved by the Executive Director or in accordance with Method 19 of 40 CFR Part 60, Appendix A.

(D) The owner or operator of any fuel-burning equipment with a rated heat input of 250 million BTU/hr. or over shall maintain a file of all measurements required in subparagraphs (A), (B), or (C) of this paragraph, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two (2) years following the date of such measurements, and made available for inspection by the Air Quality Division or its representatives during normal business hours.

(c) **Gas sweetening and sulfur recovery plants.**

(1) **Natural gas processing.**

(A) As specified in 252:100-31-26(a)(1)(B), a new gas

sweetening plant is allowed direct oxidation of hydrogen sulfide to sulfur dioxide without a prior sulfur removal step when the exhaust gas contains no more than 100 pounds per hour of sulfur dioxide. When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than this allowed emission but less than or equal to 5.0 long tons per day (LT/D) of sulfur, a sulfur dioxide emission reduction efficiency of at least 75.0 percent shall be achieved by means of a sulfur recovery facility prior to the discharge of gases from the system.

(B) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 5.0 LT/D but less than or equal to 150 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 92.34\ (X^{0.00774})$$

where Z is the minimum emission reduction efficiency required at all times and X is the sulfur feed rate, i.e., the hydrogen sulfide in the acid gas from the sweetening unit, expressed as long tons per day of sulfur rounded to one decimal place.

(C) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 150 LT/D but less than or equal to 1500 LT/D, a sulfur dioxide emission reduction efficiency shall be achieved by means of a sulfur recovery facility such that

$$Z = 88.78\ (X^{0.0156})$$

where Z and X are defined as in (B) of this subsection.

(D) When the sulfur content of an acid-gas stream from a new gas sweetening unit is greater than 1500 LT/D, a minimum sulfur dioxide reduction efficiency of 99.5 percent shall be required.

(2) **Other processes.** The emission of sulfur oxides, calculated as sulfur dioxide, from a new sulfur recovery plant operating in conjunction with other processes is limited to rates consistent with the emission reduction efficiencies calculated based on equivalent sulfur feed rate in long tons per day (LT/D) in the same manner as for natural gas processing in (c)(1) of this section.

(3) **Emission monitoring.** For facilities regulated under this subsection emission monitoring may be required as determined by the Executive Director in accordance with Subchapter 45 of this Chapter.

(d) **Nonferrous smelters.**

(1) **Emission limit.** The emission of sulfur oxides, calculated as sulfur dioxide, from new nonferrous smelters is restricted according to the following equations as a maximum two-hour average, where X equals total sulfur fed to smelter (lb/hr) and Y equals sulfur dioxide emissions (lb/hr).:

(A) Copper Smelters: $Y = 0.2\ (X)$

(B) Zinc Smelters: $Y = 0.564\ (X^{0.85})$

(C) Lead Smelters: $Y = 0.98\ (X^{0.77})$

(2) **Emission monitoring.**

(A) All new nonferrous smelters regulated under this subsection shall have installed, calibrated, maintained and operated an instrument for continuously monitoring and recording emissions of sulfur dioxide following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new nonferrous smelter subject to provisions of this subparagraph shall maintain a file of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available

for inspection by the Air Quality Division or its representative during normal business hours.

(e) **Paper pulp mill.**

(1) **Emission limit.** The emission of sulfur oxides, calculated as sulfur dioxide, from the blow pits, washer vents, storage tanks, digester relief, and recovery furnace of any new paper pulp mill shall not exceed eighteen pounds per air-dried ton of pulp produced, maximum two-hour average.

(2) **Emission monitoring.**

(A) All new paper pulp mills shall have installed, calibrated, maintained and operated instruments for continuously monitoring and recording emissions of sulfur dioxide from the recovery system gas-cleaning equipment and other locations as required by the Executive Director. The instruments installed and used pursuant to this Section shall have a confidence level of at least 95 percent and be accurate within +20 percent and shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B and following the quality assurance procedure in 40 CFR Part 60, Appendix F.

(B) The owner or operator of any new paper pulp mill subject to provisions of this subparagraph shall maintain files of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements, and made available for inspection by the Air Quality Division or its representative during normal business hours.

252:100-31-26. Hydrogen sulfide

As adopted in Oklahoma Register May 16, 1994 (11 Ok Reg 2031) effective May 26, 1994.
Approved by EPA November 3, 1999 (64 FR 59629) effective January 3, 2000 (OKc48).

(a) **Petroleum and natural gas processes.**

(1) **Emission limit.**

(A) No person shall cause, suffer, or allow the discharge into the atmosphere of hydrogen sulfide from any new petroleum or natural gas process equipment without removal of the hydrogen sulfide from the exhaust gas or oxidizing it to sulfur dioxide in a system which insures at all times complete combustion of the hydrogen sulfide, with the exhaust gas then being emitted from a stack at least 50 feet in height. Efficiency of these removal or oxidation systems shall not allow to be emitted more than 0.3 pound per hour of hydrogen sulfide as a two-hour maximum, with a maximum efficiency required of 95 percent of the hydrogen sulfide in the exhaust gas. This subparagraph does not apply to pipeline quality sweetened gas.

(B) Direct oxidation of hydrogen sulfide to sulfur oxides without a prior removal step meeting emission limits of 252:100-31-25(c)(1) is not allowed for any system which would allow discharge of more than 100 pounds per hour of sulfur oxides expressed as sulfur dioxide, maximum two-hour average.

(2) **Emission monitoring.**

(A) All new petroleum and natural gas processing facilities regulated under this subsection shall have installed, calibrated, maintained and operated an alarm system which will signal noncombustion of the gas.

(B) All new petroleum and natural gas processing facilities regulated under this Section shall demonstrate compliance with the ambient air limits of 252:100-31-12(a) using either dispersion modeling or ambient air measurements.

(b) **Other processes.**

(1) **Standard.** No person shall cause, let, suffer, or allow any

emission of hydrogen sulfide from any source which results in an ambient air concentration of hydrogen sulfide at any given point of 0.1 ppm for a one-hour period. This standard shall not apply to ambient air concentrations occurring on the property from which such emission occurs, providing such property, from the emission point to the point of any such concentration is controlled by the person responsible for such emission.

(2) **Determination of violation.** Violations of this Section may be determined by the Executive Director by use of appropriate material balances and/or emission factors, and on the basis of the ambient air concentration, or use of appropriate atmospheric dispersion models approved by EPA. Determinations made by the Executive Director using these procedures indicating that the limits set in 252:100-31-26(b)(1) have been exceeded shall constitute prime evidence that the standard has been violated. Source operators may use these procedures in lieu of ambient air monitoring as proof of compliance with limits set in 252:100-31-26(b)(1).

*end OK OAC 252:100 Subchap 31 Part 5*EPA-R06-OAR-2006-0389*OK005*OKd06*m85**
end OK OAC 252:100 Subchapter 31*EPA-R06-OAR-2006-0389*OK005*OKd06*m85

This SIP Citation Was Last Modified on: 08/05/2009

From: Gamble, David H. [mailto:Dave.H.Gamble@conocophillips.com]
Sent: Thursday, September 08, 2011 2:19 PM
To: Kirlin, Brooks
Subject: RE: Questions about Subchapter 31

Brooks,

I have a few comments about the changes to be made to OAC 252:100-31, specifically, the SO2 monitoring requirements for sources with heat input of 250 mmBTU/Hr or more (OAC 252:100-31-25(3)(A)(ii)(I)).

The owner or operate shall continuously monitor SO2 emissions except where […] gaseous fuel containing less than 160 ppmv at standard conditions on a dry basis (0.1% by weight) sulfur is the only fuel burned.

1 – Why is the 160 ppmv limit for sulfur instead of hydrogen sulfide, which would make it comparable to NSPS J?

2 – If the 160 ppmv and 0.1 wt% limits are intended to be applicable to total sulfur in the fuel gas, does the state intend for the fuel gas to be continuously monitored to demonstrate compliance, or is a single sample or process knowledge adequate? The Ponca City refinery continuously monitors it's fuel gas systems for hydrogen sulfide as required by NSPS J, but does not monitor for total sulfur.

3 – The original version of the rule limited the fuel gas sulfur content to 0.1 wt%, but the revised rule includes the 160 ppmv limit. I've calculated a few cases to see what the characteristics of a fuel gas stream would need to be for the 160 ppmv and 0.1 wt% to represent the same amount of sulfur. I found that the molecular weight of the fuel gas (excluding the sulfur) would need to be about 5 lbs/lb-mole, which is very low. Assuming a mixture of methane and hydrogen, the gas composition would need to be about 78% hydrogen and 22% methane and the resulting heating value of the gas would be about 476 BTU/SCF, which is also very low and not really practical as a fuel.

Assuming the case of a fuel gas stream made up of 100% methane and no hydrogen, the sulfur content would need to be about 500 ppmv in order to also be 0.1 wt%, or 0.03 wt% sulfur in order to also be 160 ppmv. As such, the 160 ppmv, when applied to natural gas or refinery fuel gas, appears to be more stringent that the 0.1 wt% limit.

Anyway…just a few thoughts that I had regarding the proposed rule.

Dave Gamble PE
Consultant - Environmental
1228 RB; Ponca City, OK
(580) 767-2862 ETN 442; Fax (580) 767-5583
<mailto:Dave.H.Gamble@conocophillips.com>

From: Terrill, Eddie [mailto:ETerrill@deq.ok.gov]
Sent: Thursday, September 08, 2011 10:52 AM
To: Gamble, David H.

Cc: Kirlin, Brooks
Subject: RE: Questions about Subchapter 31

I have copied Brooks Kirlin who would be your contact.

From: Gamble, David H. [mailto:Dave.H.Gamble@conocophillips.com]
Sent: Thursday, September 08, 2011 10:47 AM
To: Terrill, Eddie
Subject: Questions about Subchapter 31

Eddie,

I have a few questions about the proposed revisions to OAC 252:100-31 which are to be presented at the October 5 Air Quality Advisory Council meeting. Who would be the right person to direct my questions to?

Dave Gamble PE
Consultant - Environmental
1228 RB; Ponca City, OK
(580) 767-2862 ETN 442; Fax (580) 767-5583
<mailto:Dave.H.Gamble@conocophillips.com>

From: Landers, Stephen (MSK) [mailto:STEPHEN.LANDERS@GAPAC.com]
Sent: Monday, September 26, 2011 2:54 PM
To: Kirlin, Brooks
Subject: ODEQ Sulfur Compounds Rule Proposal

Mr. Kirlin,

As we discussed on the phone, the proposed language in 252:100-31-25(3)(A)(i) states: "Opacity. The owner or operator shall continuously monitor opacity, except where gaseous fuel is the only fuel burned." We have similar language in our current Title V permit for O_2 monitoring. The permit states that "…the permittee shall continuously monitor the oxygen concentration…"

Because this condition is stated the way it is, it has been our position that a deviation from that permit requirement occurs any time there are losses of O_2 monitoring for any reason other than routine maintenance or calibration. Our permit writer is currently changing this permit condition to "The permittee is required to have installed, and to maintain and operate a continuous monitoring system for oxygen concentration." This re-written permit condition is consistent with our Title V requirement for opacity monitoring. Continuous monitors will experience malfunctions and/or downtime during their operation, and it does not seem that the ODEQ would expect deviation reporting for such monitor downtime so long as the downtime is within applicable allowances.

I see the same issue with the 252:100-31-25(3)(A)(i) proposal, that the loss of opacity monitoring for any reason other than routine maintenance or calibration would arguably be an immediate deviation. I propose the following for 252:100-31-25(3)(A)(i): "Opacity. The owner or operator shall install, maintain and operate a continuous opacity monitoring system, except where gaseous fuel is the only fuel burned."

Thank you for your consideration.

Steve Landers
Georgia-Pacific Consumer Products LP
Environmental Program Mgr.
918-684-4859 (office)
404-232-4189 (efax)

verallia

January 6, 2012

Department of Environmental Quality
Air Quality Division
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677
Attn: Cheryl E. Bradley
cheryl.bradley@deq.ok.gov

Re: Proposed Changes to Subchapter 31, Control of Emission of Sulfur Compounds

Dear Ms. Bradley:

Last September we filed written comments on this proposed rule, which staff acknowledged in its October 3, 2011 Comment and Response document prepared for the Air Quality Council as follows:

> **Verallia** – Email from Mr. Steven B. Smith, V.P., Environmental and Regulatory Affairs, on behalf of Verallia (formerly Saint-Gobain Containers), Sapulpa, Oklahoma, received September 30, 2011: Regarding proposed language in OAC 252:100-31-25(1).
>
> **11. COMMENT:** Verallia proposed a language change to assure that only emissions of SO2 attributable to the burning of fuel are subject to the emission limits for fuel-burning equipment.
>
> **RESPONSE:** Staff intends to present substitute language for the Council to consider for OAC 252:100-31-25(1).

I am writing to express our appreciation for the effort made by staff to revise the proposed rule to address our concerns that the rule might be interpreted erroneously to apply to SO2 emissions not only from fuel combustion, but also to that portion of glass melting furnace emissions created by volatilization of sulfur compounds from the molten glass in the furnace. By referencing in the revised rule that the limit applies to SO2 emissions "attributable to the burning of fuel," the rule goes a long way toward alleviating the concerns we raised. There remains some ambiguity, however, which becomes acute for our facility at Sapulpa due to the fact that we have installed SO2 CEMS on each furnace to monitor compliance with a separate permit limit of 2.5 lb SO2/ton of glass produced. Obviously, the CEMS, located in a glass melting furnace exhaust stack, cannot distinguish between SO2 attributable to fuel and SO2 attributable to volatilization of glass batch compounds. Thus we can only determine compliance with the provisions of OAC 252:100-31-25 by monitoring the sulfur content of the gaseous fuels used in our furnaces. We are concerned that the revisions to the rule do not make that distinction clear enough and thus propose minor adjustments to the language of the rule. As currently drafted the rule reads as follows:

> **252:100-31-25. Requirements for new fuel-burning equipment**
> Any fuel-burning equipment that was not in being on or before July 1, 1972 or that is modified after July 1, 1972 shall comply with the following requirements.

SAINT-GOBAIN CONTAINERS
1509 South Macedonia Avenue • PO Box 4200 • Muncie, IN 47307-4200 • USA
Tel: (765) 741-7000 • Fax: (765) 741-7012 • www.sgcontainers.com • www.verallia.com

(1) **Emission limits.** Emissions of SO_2 attributable to the burning of fuel by fuel-burning equipment shall meet the following limits.

(A) **Gaseous fuel.** Emissions of SO_2 from equipment using natural gas or other gaseous fuel shall not exceed 0.2 lb/MMBTU heat input (86 ng/J).

We propose revising the rule further by amending it to read as follows:

252:100-31-25. Requirements for new fuel-burning equipment
Any fuel-burning equipment that was not in being on or before July 1, 1972 or that is modified after July 1, 1972 shall comply with the following requirements.

(1) **Emission limits.** Emissions of SO_2 attributable to the burning of fuel by fuel-burning equipment shall meet the following limits.

(A) **Gaseous fuel.** Emissions of SO_2 **from combustion of natural gas or other gaseous fuel in fuel-burning equipment** ~~from equipment using natural gas or other gaseous fuel~~ shall not exceed 0.2 lb/MMBTU heat input (86 ng/J).

The revision we propose clarifies that it is the SO2 from *combustion* which is subject to the limit, not the SO2 from the *equipment*.

Background

Although explained in our earlier comment letter, let me reiterate the background for the concerns expressed herein. Verallia operates a container glass manufacturing facility in Sapulpa, Oklahoma. Our Sapulpa facility includes three glass melting furnaces in which sand, limestone, crushed glass (cullet) and other raw materials are melted at high temperature (2800 degrees Fahrenheit) to produce molten glass which is formed into bottles or jars (collectively "containers"). These furnaces are fired exclusively with natural gas. The flames from the natural gas combustion in the furnace come into direct contact with the raw materials being melted. As such, the exhaust from these furnaces includes not only the byproducts of natural gas combustion, but also sulfur dioxide released from the sulfur compounds added to the molten glass as refining agents (to remove bubbles in the glass) during glass manufacture. Due to the comingling of combustion by-products and raw material melting by-products in the furnace exhaust, our furnaces cannot meet a limit of 0.2 lb SO2/MMBtu if compliance is determined by a continuous emissions monitor.

It is our understanding that the 0.2 lb SO2/MMBtu limit in 252:100-31-25 is based on achievable SO2 emission rates from natural gas combustion by-products only, with no consideration of potential process emissions. This understanding is borne out by the various special rules addressing emissions from kraft pulp mills, sulfuric acid plants, and petroleum refinery equipment, which take into consideration such process-related emissions. There is no similar rule for glass furnaces, thus creating ambiguity as to how compliance for such furnaces with the 0.2 lb SO2/MMBtu limit in 252:100-31-25 would be determined.

We thus propose to demonstrate compliance with the lb/MMBTU limit by analyzing the sulfur content of our natural gas supply, which will account for the SO2 emissions from fuel combustion and avoid the confusion of attempting to separate the combustion by-product and process-related sulfur dioxide emissions which would be measured by our in-stack CEMS.

We appreciate the opportunity to comment on this rule and appreciate the inclusion of the "attributable" phrase in the rule as proposed. We are available to discuss the language proposed in this letter or any other questions you may have. Thank you for your consideration of these concerns.

Sincerely,

Steven B. Smith
V.P. Environmental and Regulatory Affairs

cc: Stephen A. Segebarth
Ty Sibbitt

amendment shall be made to the DEQ in writing within 30 days of the date the change occurred. Application for correction of typographical errors can be made at anytime. An administrative permit amendment can be made to:

(1) correct typographical errors;

(2) identify a change in name, address, or phone number of any person identified in the permit, or provide a similar minor administrative change at the facility;

(3) require more frequent monitoring or reporting by the permittee; and/or

(4) allow other permit amendments that are not physical or operational changes and that do not result in an increase in emissions.

(c) **Denial or revocation of a permit to operate.** No owner or operator shall cause or authorize the operation of a minor facility if the DEQ denies or revokes a permit to operate.

(d) **Permit Categories.** Three types of operating permits are available. See OAC 252:100-7-15(b) for a complete description of the permit categories.

(e) **Permit application requirements.** An operating permit application shall meet the following requirements.

(1) **New or modified facility.** An operating permit application must contain the following information.

(A) **Application content.** Application shall be made on a form provided by the DEQ. An application shall contain:

(i) The proposed operation start-up date, or phased dates when applicable.

(ii) Revisions to the installation/construction, if any, that differed from the construction design and plan given in the permit application material, data and specifications.

(B) **Emission tests.** Before a permit to operate a new or modified minor facility is granted, the applicant, if required by the DEQ, shall conduct emission tests in accordance with methods approved by the DEQ with the tests being made at the expense of the applicant. The DEQ shall be given advance notice of the tests, may monitor performance tests conducted by the applicant, and may also conduct emissions tests. The results of any required test must be provided to the DEQ along with supporting information as required.

(2) **Contents of an application for an administrative permit amendment.** The application may be made on the DEQ application form or it may be in letter form. The application shall:

(A) describe the change to be made to the permit,

(B) include the date the change occurred,

(C) identify the facility and source involved, and

(D) be signed by the applicant.

(f) **Operating permit conditions.**

(1) Emission limitations established and made a part of the construction permit are incorporated into and become enforceable limitations of the subsequently issued operating permit.

(2) Permit limitations in adjustment of, or in addition to, the facility's construction permit limitations may be made a condition of the facility's operating permit issuance.

[OAR Docket #12-651; filed 5-21-12]

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

[OAR Docket #12-653]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 31. Control of Emission of Sulfur Compounds
Part 1. General Provisions
252:100-31-1. [AMENDED]
252:100-31-2. [AMENDED]
252:100-31-4. [NEW]
Part 2. Ambient Air Concentration Limits or Impacts for New and Existing Equipment, Sources, or Facilities
252:100-31-7. [AMENDED]
Part 3. Existing Equipment Standards
252:100-31-13. [AMENDED]
252:100-31-15. [AMENDED]
252:100-31-16. [AMENDED]
Part 5. New Equipment Standards
252:100-31-25. [AMENDED]
252:100-31-26. [AMENDED]
252:100-31-27. [REVOKED]
AUTHORITY:
Environmental Quality Board; 27A O.S. §§ 2-2-101, Air Quality Advisory Council, 27A O.S. §§ 2-2-201 and 2-5-107, and Oklahoma Clean Air Act, 27A O.S.§§ 2-5-101 *et seq.*
DATES:
Comment period:
June 15, 2011 through July 20, 2011
September 1, 2011 through October 5, 2011
December 1, 2011 through January 18, 2012
Public hearing:
July 20, 2011
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Submitted to Governor:
March 2, 2012
Submitted to House:
March 2, 2012
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March 2, 2012
Gubernatorial approval:
April 13, 2012
Legislative approval:
Failure of the Legislature to disapprove the rule(s) resulted in approval on May 1, 2012
Final adoption:
May 1, 2012
Effective:
July 1, 2012
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
N/A
ANALYSIS:
The Department is proposing changes to Subchapter 31, Control of Emission of Sulfur Compounds, to clarify the language and to bring the allowable sulfur dioxide (SO_2) ambient air limits set forth in OAC 252:100-31-7(a) into line with the requirements of the recently-enacted change

to the SO_2 National Ambient Air Quality Standards (NAAQS). In response to previous public and Council comments, the Department is proposing additional changes to several longstanding control, monitoring, and emission requirements of the Subchapter. In addition, the Department is proposing to add requirements for fuel-burning equipment that uses an alternative fuel. The Department is also proposing to add a new section 252:100-31-4, which aligns Subchapter 31 excess emission reporting requirements with those of 252:100-9 for facilities that are also covered by a 40 CFR Part 60 emission limit.

CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4100

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2012:

SUBCHAPTER 31. CONTROL OF EMISSION OF SULFUR COMPOUNDS

PART 1. GENERAL PROVISIONS

252:100-31-1. Purpose

The purpose of this ~~Subchapter~~subchapter is to control emissions of sulfur compounds from stationary sources~~ in order to prevent the Oklahoma Air Quality Standard from being exceeded and insure that degradation of the present level of air quality in Oklahoma does not occur~~.

252:100-31-2. Definitions

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

"Alternative fuel" means fuel derived from any source other than petroleum, natural gas, or coal. Alternative fuel includes, but is not limited to, biogas, waste-derived fuel, recycled tires, tire-derived fuel, and wood fuel as defined in OAC 252:100-19-1.

"Black liquor solids" means the dry weight of the solids~~, which~~that enter the recovery furnace in the black liquor.

"Digester system" means each continuous digester or each batch digester used for the cooking of wood in white liquor, and associated flash tank(s), ~~below~~ blow tank(s), chip steamer(s), and condenser(s).

~~**"Existing facility," "existing source,"** or **"existing equipment"** means any facility, source, or equipment that emits sulfur compounds and which is in being prior to July 1, 1972, except that for facilities, sources, or equipment subject to:~~

~~(A) OAC 252:100-31-7(b) and/or OAC 252:100-31-26(a)(1), the date is prior to December 31, 1974, and~~

~~(B) OAC 252:100-31-13, the date is on or before August 17 1971.~~

"Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

"Kraft pulp mill" means any pulp mill process facility that produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

"Lime kiln" means a unit used to calcine lime mud, which consists primarily of calcium carbonate, into quickline, which is calcium oxide.

"Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser(s) and hotwell(s) used to concentrate the spent cooking liquid that is separated from the pulp (black liquor).

~~**"New facility," "new installation," "new source,"** or **"newequipment"** means any facility, installation, source, or equipment that emits sulfur compounds and which is not in being on, or which is modified after, July 1, 1972, except that for :~~

~~(A) facilities, installations, sources, or equipment subject to OAC 252:100-31-7(b) and/or OAC 252:100-31-26(a)(1) the date is December 31, 1974;~~

~~(B) petroleum refining facilities, sources, or equipment subject to OAC 252:100-31-26-(a)(2), the date is December 31, 1974; and~~

~~(C) facilities, sources or equipment subject to OAC 252:100-31-13, the date is August 17, 1971.~~

"Petroleum and natural gas process equipment" means ~~processes~~ the process equipment used ~~in the processing of~~ to convert crude petroleum and/or natural gas into refined products~~ including~~. Petroleum and natural gas process equipment includes, but is not limited to, distillation columns, treating columns, catalytic cracking units, catalytic reforming units, sulfur removal equipment, petroleum coke units, flares, heat exchangers, reboilers, jet ejectors, compressors, recompressors, and any other auxiliary equipment pertinent to the process.

"Petroleum and natural gas process facility" means a facility that is engaged in converting crude petroleum and/or natural gas into refined products. Petroleum and natural gas process facilities include petroleum refineries and natural gas processing plants (as defined in 40 CFR § 60.631), but do not include petroleum and natural gas production, gathering, and transportation facilities.

~~**"Pulp mill"** means the process equipment used in production of pulp from wood chips or bolts which may include but are not limited to, debarker, chipper, digester, blow tank, washers, condensers, evaporators, recovery furnace, lime kiln, smelt dissolving tank, mixers, heat exchangers, gas scrubbers, and other auxiliaries pertinent to the process.~~

"Recovery furnace" means either a straight ~~kraft recovery~~ kraft-recovery furnace or a ~~cross recovery~~ cross-recovery furnace, and includes the direct-contact evaporator for a ~~direct contact~~ direct-contact furnace.

"~~Smelt dissolving~~ Smelt-dissolving tank" means a vessel used for dissolving the smelt collected from the recovery furnace.

"Sulfur recovery ~~plant~~ unit" means a process device that recovers elemental sulfur from acid gas.

"Sweetening ~~plant~~ unit" means a ~~process~~ natural gas processing device that ~~separates the~~ removes hydrogen sulfide ~~H_2S~~ and carbon dioxide ~~CO_2 contents~~ from the gas stream.

~~**"Three-hour average"** or **"3-hour average"** means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.~~

"Total reduced sulfur" or **"TRS"** ~~is~~ means the sum of the compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.

252:100-31-4. Excess emission reporting and alternative reporting schedule

Any excess emission resulting from a violation of any emission limit contained in this subchapter shall be reported in accordance with the requirements of OAC 252:100-9. In the event that the excess emission is also a violation of an applicable 40 CFR Part 60 emission limit, the owner or operator may report the excess emission as part of an alternative reporting schedule applied for or obtained under OAC 252:100-9-7(d), if the following requirements are met.

(1) The excess emission occurs at the same emission unit at the same time.

(2) The emission limit is for the same regulated air pollutant, and has the same averaging time and units of measure as the applicable 40 CFR Part 60 emission limit.

PART 2. AMBIENT AIR CONCENTRATION LIMITS OR IMPACTS FOR NEW AND EXISTING EQUIPMENT, SOURCES, OR FACILITIES

252:100-31-7. ~~Ambient air concentration limits or impacts~~Allowable hydrogen sulfide (H_2S) ambient air concentrations for new and existing sources

(a) [Reserved]~~**Sulfur oxides.** Emissions of sulfur dioxide from any existing facility or any new petroleum and natural gas process facility with equipment subject to OAC 252:100-31-26(a)(1) shall not impact existing ambient air concentrations of sulfur dioxide by more than:~~

~~(1) 1300 µg/m³ (0.50 ppm) in a five (5) minute period of any hour;~~

~~(2) 1200 µg/m³ (0.46 ppm), one-hour average;~~

~~(3) 650 µg/m³ (0.25 ppm), 3-hour average;~~

~~(4) 130 µg/m³ (0.05 ppm), 24-hour average; or,~~

~~(5) 80 µg/m³ (0.03 ppm), annual arithmetic mean.~~

(b) **Hydrogen sulfide.** Emissions of ~~hydrogen sulfide~~ H_2S from any ~~new or existing source~~ facility shall not ~~result in a 24-hour average~~ cause an ambient air concentration of ~~hydrogen sulfide at any given point of~~ H_2S greater than 0.2 ppm ~~or greater~~at standard conditions, 24-hour average.

(c) **Exceptions.** The standards set in ~~subsections (a) and (b) of~~ this ~~Section~~ section shall not apply to ambient air concentrations or impacts occurring on the property from which such emission occurs, providing such property, from the emission point to the point of any such concentration, is controlled by the person responsible for such emission.

(d) **Compliance assurance.** Upon approval of the Director, facility operators may use appropriate material balances, performance test data, and/or emission factors to determine stack emissions combined, when necessary, with the appropriate ~~EPA-approved~~ EPA-approved atmospheric dispersion models to determine ambient air concentration or impact in lieu of ambient air monitoring as proof of compliance with ~~limits~~ the limit set in ~~OAC 252:100-31-7(a) and (b)~~ this section.

PART 3. EXISTING EQUIPMENT STANDARDS

252:100-31-13. Requirements for existing ~~Sulfuric~~ sulfuric acid plants

Any sulfuric acid plant that was in being on or before August 17, 1971 shall comply with the following requirements.

(~~a~~1) **Sulfuric acid mist standard.** ~~After January 10, 1979, emissions~~ Emissions of sulfuric acid mist ~~from any existing sulfuric acid plant~~ shall not exceed 0.5 ~~lb/T~~ pounds per ton of acid produced (250 ~~g/MT~~grams per metric ton). The acid production shall be expressed as 100% sulfuric acid (H_2SO_4).

(~~b~~2) **~~Continuous emission~~ Emission monitoring.** ~~Continuous monitoring of sulfur dioxide is required for existing~~ The owner or operator shall install, calibrate, maintain, and operate a continuous SO_2 emissions monitoring system for any sulfuric acid ~~plants where the~~ plant with a production capacity ~~is~~ greater than 300 tons per day ~~TPD~~ expressed as 100% acid, except where the conversion of sulfuric acid is utilized to prevent emissions of sulfur dioxide or other sulfur compounds.

(~~c~~3) **Installation, calibration, ~~and~~ maintenance, and operation of emission monitoring systems.** Required emission monitoring systems shall be installed, calibrated, maintained, and operated in accordance with 40 CFR Part 60, Appendix B, and 40 CFR Part 51, Appendix P. ~~Appendix P is hereby incorporated by reference.~~

252:100-31-15. Requirements for existing ~~Kraft~~ kraft pulp mills

After May 8, 1989, ~~all existing~~any kraft pulp ~~mills~~ mill that was in being on or before July 1, 1972 shall comply with ~~meet~~ the following requirements ~~standards~~.

(1) **~~TRS.~~** ~~Emissions of~~ TRS emissions from any recovery furnace shall not exceed~~:~~

~~(A)~~ 40 ppm ~~TRS~~, measured ~~a hydrogen sulfide~~ as H_2S on a dry basis and on a 12-hour average, converted to eight percent (8%) by volume oxygen. ~~from any recovery furnace;~~

(2~~B~~) TRS emissions from any lime kiln shall not exceed 40 ppm ~~TRS~~ measured as ~~hydrogen sulfide~~ H_2S on

a dry basis and on a 12-hour average, corrected to ten percent (10%) by volume oxygen. ~~from any lime kiln; and,~~

(3~~C~~) TRS emissions from any smelt-dissolving tank shall not exceed 0.033 ~~lb~~ pounds TRS per ton~~T black liquor solids as hydrogen sulfide~~ (0.016 g TRS/kg) of black liquor solids, measured as H_2S on ~~hydrogen sulfide) for~~ a 12-hour average ~~from any smelt dissolving tank~~.

(4~~2~~) **~~Non-condensable gases.~~** Non-condensable gases from all evaporators and digester systems shall be efficiently incinerated or otherwise treated to limit emissions of TRS ~~measured as hydrogen sulfide~~ to less than five (5) ppmv, measured as H_2S at standard conditions ~~ppm by volume~~ on a dry basis.

252:100-31-16. Requirements for existing fossil ~~Fossil~~ fuel-fired steam generators

Any fossil fuel-fired steam generator unit that was in being on or before July 1, 1972 shall comply with the following requirements.

(~~a~~1) **~~Continuous emission~~ Emission monitoring.** ~~Continuous monitoring of sulfur dioxide~~ The owner or operator shall install, calibrate, maintain, and operate a continuous SO_2 emissions monitoring system for any ~~is required for existing~~ fossil fuel-fired steam generator that ~~generators where the source~~ utilizes an air pollution abatement operation to reduce the ~~sulfur dioxide~~ emissions of sulfur oxides. Continuous monitoring of oxygen or carbon dioxide is required ~~where~~ if it is necessary to convert ~~sulfur dioxide~~ SO_2 monitoring results.

(~~b~~2) **Installation, calibration, ~~and~~ maintenance, and operation of emission monitoring systems.** Required emission monitoring systems shall be installed, calibrated, maintained, and operated in accordance with 40 CFR Part 60, Appendix B, and 40 CFR Part 51, Appendix P.

PART 5. NEW EQUIPMENT STANDARDS

252:100-31-25. Requirements for new ~~Fuel-burning~~ fuel-burning equipment

Any fuel-burning equipment that was not in being on or before July 1, 1972 or that is modified after July 1, 1972 shall comply with the following requirements.

(~~a~~1) **Emission limits.** Emissions of SO_2 attributable to the burning of fuel by fuel-burning equipment shall meet the following limits.

(~~1~~A) **~~Gas-fired fuel-burning equipment~~Gaseousfuel.** Emissions of SO_2~~Sulfur oxide emissions (measured as sulfur dioxide)~~ from combustion of natural gas or other gaseous fuel in ~~any new gas-fired~~ fuel-burning equipment shall not exceed 0.2 lb/~~MMBtu~~MMBTU heat input (86 ng/J).

(~~2~~B) **~~Liquid-fired fuel-burning equipment~~ Liquid fuel.** Emissions of SO_2 ~~Sulfur oxide emissions (measured as sulfur dioxide)~~ from combustion of liquid fuel in ~~any new liquid-fired~~ fuel-burning equipment shall not exceed 0.8 lb/~~MMBtu~~MMBTU heat input (340 ng/J).

(~~3~~C) **Solid ~~fuel-burning equipment~~ fuel.** Emissions of SO_2 ~~Sulfur oxide emissions (measured as sulfur dioxide)~~ from combustion of ~~any new~~ solid fuel in fuel-burning equipment shall not exceed 1.2 lb/~~MMBtu~~MMBTU heat input (520 ng/J).

(~~4~~D) **Combination of fuels burned.** When different types of fuels are burned simultaneously in any combination, emissions of SO_2 shall not exceed the applicable ~~standard (in lb/MMBtu) shall be~~ limit determined by proration unless a secondary fuel is used in de minimis quantities (less than five percent (5%) of total ~~Btu~~ BTU heat input annually). ~~Compliance~~ The applicable limit, in lb/MMBTU heat input, shall be determined using the following formula, where X is the percent of total heat input derived from ~~gas~~ gaseous fuel, Y is the percent of total heat input derived from liquid fuel, and Z is the percent of total heat input derived from solid fuel: ~~SO_2 limit = [X(0.2) + Y(0.8) + Z(1.2)]/(X + Y + Z)~~ SO_2 limit = (0.2X + 0.8Y + 1.2Z)/(X + Y + Z).

(~~b~~2) **Averaging time.** The averaging time for the emission limits set in OAC 252:100-31-25(1)~~(a)~~ is three (3) hours unless a solid fuel sampling and analysis method is used to determine emission compliance. In that case the averaging time is 24 hours.

(~~c~~3) **~~Emission monitoring, fuel monitoring, and recordkeeping~~ Additional requirements for sources with heat input of 250 ~~MMBtu~~MMBTU/hr or more.** ~~The requirements contained in this subsection apply to any new~~ Any fuel-burning equipment with ~~a rated~~ design heat input values of 250 ~~MMBtu~~ MMBTU/hr or ~~greater~~ more shall comply with the following requirements.

(~~1~~A) **Emission monitoring.** ~~The instruments in OAC 252:100-31-25(c)(1)(A) and (B)(I) shall be installed, calibrated, maintained, and operated in any new fuel-burning equipment with a rated heat input of 250 MMBtu/hr or greater. These instruments shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B.~~

(~~A~~i) **Opacity.** A photoelectric or other type smoke detector and recorder shall be used to monitor opacity, except where gaseous fuel is the only fuel burned.

(~~B~~ii) **Sulfur dioxide.**

~~(i)~~ ~~An instrument for continuously monitoring and recording sulfur dioxide~~ The owner or operator shall install, calibrate, maintain, and operate a continuous SO_2 emissions monitoring system ~~shall be used~~, except where:

(I) gaseous fuel containing less than 0.1% by weight sulfur (0.29 gr/scf or approximately 500 ppmv at standard conditions on a dry basis) is the only fuel burned; or

(II ~~ii~~) ~~A~~ a solid or liquid fuel sampling and analysis method ~~may be~~ is used to determine SO_2 emission compliance.

(iii) **Installation, calibration, maintenance, and operation of emission monitoring systems.**

Required emission monitoring systems shall be installed, calibrated, maintained, and operated in accordance with 40 CFR Part 60, Appendix B, and 40 CFR Part 51, Appendix P.

(~~2~~B) **Fuel monitoring.** The sulfur content of solid or liquid fuels as burned shall be determined in accordance with ~~previous~~ methods ~~as~~ previously approved by the Director or in accordance with Method 19 of 40 CFR Part 60, Appendix A.

(~~3~~C) **Recordkeeping.** The owner or operator ~~of any fuel-burning equipment with a rated heat input of 250 MMBtu/hr or greater~~ shall maintain ~~a file~~ records of all measurements required in ~~paragraphs (1)~~ (A) and ~~(2)~~ (B) of this subsection in accordance with the applicable requirements of OAC 252:100-43-7, including compliance status records and excess emissions measurements. ~~These records and measurements shall be retained for at least two (2) years following the date of such measurements, and made available for inspection by the Division or its representatives during normal business hours.~~

(4) **Alternative fuel.** The requirements of this section apply to any fuel-burning equipment that uses an alternative fuel, unless another limit representing BACT or equivalent is specified in the source's permit. Use of an alternative fuel in fuel-burning equipment is allowed, provided its use is authorized under an enforceable permit. Use of an alternative fuel in fuel-burning equipment is subject to any applicable restrictions or prohibitions that may exist in other provisions of state or federal statutes or rules, e.g., OAC 252:100-8-32.1, 252:100-31-7, 252:100-42, and/or 40 CFR Parts 60, 61, and/or 63.

252:100-31-26. Requirements for new ~~Petroleum~~ petroleum and natural gas processes

Any petroleum and natural gas process that was not in being on or before December 31, 1974 or that is modified after December 31, 1974 shall comply with the following requirements.

~~(a)~~ **~~Standards.~~**

(1) **Hydrogen sulfide standards and alarm systems.**

(A) ~~Hydrogen sulfide~~ H_2S contained in the waste gas stream from any ~~new~~ petroleum or natural gas process equipment shall be ~~removed from the exhaust gas stream or it shall be oxidized to sulfur dioxide. Hydrogen sulfide emissions shall be~~ reduced by 95% ~~of the hydrogen sulfide in the exhaust gas.~~ by removal or by being oxidized to SO_2 prior to being emitted to the ambient air. This requirement shall not apply if a facility's emissions of H_2S do not exceed 0.3 lb/hr, two-hour average.

(B) The owner or operator shall install, maintain, and operate an alarm system that will signal a malfunction for all thermal devices used to control H_2S emissions from petroleum and natural gas processing facilities regulated under this subparagraph.

(2) **~~Sulfur dioxide standards.~~ Oxides of sulfur.** The following requirements apply to any gas sweetening unit or petroleum refinery process equipment with a sulfur content of greater than 0.54 LT/D in the acid gas stream. Alternatively, any gas sweetening unit or petroleum refinery process equipment with an emission rate of 100 lb/hr or less of SO_X expressed as SO_2, two-hour average, shall be considered to be below this threshold.

(A) **Natural gas ~~processing~~ sweetening units.** ~~Sulfur oxide emissions, calculated as sulfur dioxide,~~ The sulfur content of any acid gas stream from any ~~new~~ gas sweetening ~~plant~~ unit shall be reduced by use of a sulfur recovery ~~plant~~ unit prior to release of the ~~exhaust~~ gas to the ~~atmosphere~~ ambient air. The sulfur recovery ~~plant~~ units shall have the ~~sulfur reduction~~ recovery efficiencies required in ~~subparagraphs~~ (C) through (F) of ~~OAC 252:100-31-26(a)(2)~~ this subparagraph.

(B) **Petroleum refinery processing.** Sulfur recovery ~~plants~~ units operating in conjunction with any refinery process shall have the ~~sulfur reduction~~ recovery efficiencies required in ~~paragraphs~~ (C) through (F) of ~~OAC 252:100-31-26(a)(2)~~ this subparagraph.

(C) **~~Greater~~Sulfur content greater than 0. 54 LT/D but less than or equal to 5.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 0.54 LT/D but less than or equal to 5.0 LT/D, the ~~sulfur dioxide emission reduction~~ recovery efficiency of the sulfur recovery ~~plant~~ unit shall be at least 75~~.0~~%.

(D) **~~Greater~~ Sulfur content greater than 5. 0 LT/D but less than or equal to 150.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 5.0 LT/D but less than or equal to 150.0 LT/D, the required ~~sulfur dioxide emission reduction~~ recovery efficiency of the sulfur recovery ~~plant~~ unit shall be calculated using the following formula, where Z is the minimum ~~emission reduction~~ sulfur recovery efficiency required ~~at all times~~ and X is the sulfur feed rate, expressed in LT/D of sulfur and rounded to one decimal place: $Z = 92.34 - (X^{0.00774})$.

(E) **~~Greater~~Sulfur content greater than 150. 0 LT/D but less than or equal to 1500.0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 150.0 LT/D but less than or equal to 1500.0 LT/D, the required ~~sulfur dioxide emission reduction~~ recovery efficiency of the sulfur recovery ~~plant~~ unit shall be calculated using the following formula, where Z is the ~~minimum emission reduction~~ sulfur recovery efficiency required ~~at all times~~ and X is the sulfur feed rate, expressed in LT/D of sulfur and rounded to one decimal place: $Z = 88.78 - (X^{0.0156})$.

(F) **~~Greater~~Sulfur content greater than 1500. 0 LT/D.** When the sulfur content of the acid gas stream from a ~~new~~ gas sweetening unit or refinery process is greater than 1500.0 LT/D, ~~a minimum sulfur dioxide reduction~~ the recovery efficiency of the sulfur recovery unit shall be at least 99.5% ~~shall be met~~.

~~(b) Exceptions.~~

~~(1) Hydrogen sulfide. The requirements of OAC 252:100-31-26(a)(1) shall not apply if hydrogen sulfide emissions do not exceed 0.3 lb/hr, two-hour average.~~

~~(2) Sulfur dioxide. The requirements of OAC 252:100-31-26(a)(2) shall not apply to any new petroleum or natural gas process which would emit 100 lb/hr or less of sulfur oxides expressed as sulfur dioxide, two-hour average. The requirements of paragraph (2) of subsection (a) of this Section can be met alternatively by establishing that the sulfur content of the acid gas stream from any gas sweetening plant or refinery process is 0.54 LT/D or less.~~

~~(c) Emission monitoring for hydrogen sulfide. All new thermal devices for petroleum and natural gas processing facilities regulated under OAC 252:100-31-26(a)(1) shall have installed, calibrated, maintained, and operated an alarm system that will signal noncombustion of the gas.~~

252:100-31-27. Pulp mills [REVOKED]

~~(a) **Emission limit.** The emission of sulfur oxides, calculated as sulfur dioxide, from the blow pits, washer vents, storage tanks, digester relief, and recovery furnace of any new pulp mill shall not exceed 18 lb/T (air dried) of pulp produced, two-hour average.~~

~~(b) **Emission monitoring.** All new pulp mills shall install, calibrate, maintain and operate instruments for continuously monitoring and recording emissions of sulfur dioxide from the recovery system gas cleaning equipment and other locations as required by the Director. The instruments installed and used pursuant to this Section shall have a confidence level of at least 95% and be accurate within "20% and shall be calibrated following performance specifications 2 and 3 of 40 CFR Part 60, Appendix B, and following the quality assurance procedures in 40 CFR Part 60, Appendix F.~~

~~(c) **Recordkeeping.** The owner or operator of any new pulp mill subject to provisions of this Section shall maintain files of all measurements required, including compliance status records and excess emissions measurements. These records and measurements shall be retained for at least two years following the date of such measurements and made available for inspection by the Division during normal business hours.~~

[OAR Docket #12-653; filed 5-21-12]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 110. LEAD-BASED PAINT MANAGEMENT

[OAR Docket #12-735A]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
252:110-1-1. [AMENDED]
252:110-1-2. [AMENDED]
252:110-1-7. [REVOKED]
Subchapter 5. Incorporation by Reference
252:110-5-1. [AMENDED]
AUTHORITY:
Environmental Quality Board, 27A O.S. § 2-2-101, Air Quality Advisory Council, 27A O.S. §2-2-201 and Oklahoma Lead-based Paint Management Act, 27A O.S. §§ 2-12-201.
DATES:
Comment period:
December 15, 2010 through January 19, 2011
June 15, 2011 through July 20, 2011
September 1, 2011 through October 05, 2011
Public hearing:
January 19, 2011
July 20, 2011
October 05, 2011
February 24, 2012
Adoption:
February 24, 2012
Submitted to Governor:
March 2, 2012
Submitted to House:
March 2, 2012
Submitted to Senate:
March 2, 2012
Gubernatorial approval:
April 13, 2012
Legislative approval:
Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2012
Final adoption:
May 1, 2012
Effective:
July 1, 2012
SUPERSEDED EMERGENCY ACTIONS:
N/A
INCORPORATIONS BY REFERENCE:
Incorporated standards:
The following Sections of 40 CFR Part 745, as they exist on August 8, 2011, are, unless otherwise specified, incorporated by reference in their entirety:
40 CFR 745.223 except the definitions of "Interim certification", "Business day", and "Training provider"
40 CFR 745.225 with exceptions
40 CFR 745.226 with exceptions
40 CFR 745.227 with exceptions
40 CFR 745.233
40 CFR 745.61
40 CFR 745.63
40 CFR 745.65
40 CFR 745.82
40 CFR 745.83
40 CFR 745.84
40 CFR 745.85
40 CFR 745.86
40 CFR 745.87
40 CFR 745.88
40CFR 745.89
40CFR 745.90
40 CFR 745.91
Incorporating rules:
252:110-5-1
Availability:
The standards are on file at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma, 73102, and are available to the public for examination Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m, excluding state holidays.
ANALYSIS:
The Department is proposing to amend OAC 252:110-5-1, Incorporation by reference, to add the federal Lead-based Paint Renovation, Repair, and Painting (RRP) requirements in 40 CFR Part 745. This rule revision is an essential part of the Department's efforts to obtain U.S. Environmental Protection Agency's delegation to administer the federal RRP program in Oklahoma.
The Department is also proposing to revoke OAC 252:110-1-7, Reference to 40 CFR, because it is a duplication of language already included in Subchapter 5, Incorporation by Reference. In addition, the Department is

verallia

September 30, 2011

Department of Environmental Quality
Air Quality Division
P.O. Box 1677
Oklahoma City, Oklahoma 73101-1677
Attn: Cheryl E. Bradley
cheryl.bradley@deq.ok.gov

Re: Proposed Changes to Subchapter 31, Control of Emission of Sulfur Compounds

Dear Ms. Bradley:

Effective April 2010 all Saint-Gobain glass packaging businesses around the globe (including Saint-Gobain Containers, Inc. in the U.S.) became a single brand: Verallia. In North America Verallia, (VNA,) operates 13 glass container manufacturing facilities across the United States that employ over 4,500 employees, (including over 3500 represented employees,) and produces billions of glass containers per year for food, beverages, beer, spirits, and wine.

I am writing to provide comment on one of the regulations being amended as part of the proposed revisions to Subchapter 31. Specifically, our concern is with the interpretation of 252:100-31-25 as it relates to our glass melting furnaces in light of ambiguities in the language of the proposed revisions to the rule. In this letter we propose specific revisions to the language of the rule to address these concerns.

Background

Verallia operates a container glass manufacturing facility in Sapulpa, Oklahoma. Our Sapulpa facility includes three glass melting furnaces in which sand, limestone, crushed glass (cullet) and other raw materials are melted at high temperature (2800 degrees Fahrenheit) to produce molten glass which is formed into bottles or jars (collectively "containers"). These furnaces are fired exclusively with natural gas. The flames from the natural gas combustion in the furnace come into direct contact with the raw materials being melted. As such, the exhaust from these furnaces includes not only the byproducts of natural gas combustion, but also sulfur dioxide released from the sulfur compounds added to the molten glass as refining agents (to remove bubbles in the glass) during glass manufacture. Due to the comingling of combustion by-products and raw material melting by-products in the furnace exhaust, our furnaces cannot meet a limit of 0.2 lb SO_2/MMBTU.

Proposed rulemaking

It is our understanding, however, that the 0.2 lb SO_2/MMBTU limit in 252:100-31-25 is based on achievable SO_2 emission rates from natural gas combustion by-products only, with no consideration of potential process emissions. This understanding is borne out by the various special rules addressing

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emissions from kraft pulp mills, sulfuric acid plants, and petroleum refinery equipment, which take into consideration such process-related emissions. There is no similar rule for glass furnaces, thus creating ambiguity as to how compliance for such furnaces with the 0.2 lb SO_2/MMBTU limit in 252:100-31-25 would be determined.

First, let me express our support for the proposed revision of 252:100-31-25 (1) which adds a caption to the subsection which reads: "Emissions attributable to the burning of fuel." This language acknowledges that the limit is based on the achievable levels of SO_2 emitted as combustion by-products. We are concerned, however, that this clarification in the title of the subsection is not incorporated more clearly in the substantive language of the rule. We thus urge the adoption of the following clarifying language:

252:100-31-25. Requirements for new fuel-burning equipment

Any fuel-burning equipment that was not in being on or before July 1, 1972 or that is modified after July 1, 1972 shall comply with the following requirements.

(1) **Emissions attributable to the burning of fuel.** Emissions of SO_2 from **combustion of gaseous fuels in** fuel-burning equipment shall meet the following limits.
(A) **Gaseous fuel.** Emissions of SO_2 **from combustion of natural gas or other gaseous fuel in fuel-burning equipment** shall not exceed 0.2 lb/MMBTU heat input (86 ng/J).

With this rule clarification, we will be able to demonstrate compliance with the lb/MMBTU limit by analyzing the sulfur content of our natural gas supply, which will account for the SO_2 emissions from fuel combustion and avoid the confusion of attempting to separate the combustion by-product and process-related sulfur dioxide emissions which would be measured by our in-stack CEMS.

We appreciate the opportunity to comment on this rule and appreciate the inclusion of the "attributable" phrase in the rule as proposed. We are available to discuss the language proposed in this letter or any other questions you may have. Thank you for your consideration of these concerns.

Sincerely,

Steven B. Smith
V.P. Environmental and Regulatory Affairs

cc: Stephen A. Segebarth
Ty Sibbitt