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2010 JUL 27 PM 12:45

STATE OF OKLAHOMA  
OFFICE OF THE EXTERNAL AFFAIRS DIVISION  
SECRETARY OF ENVIRONMENT

July 16, 2010

Dr. Alfredo Armendariz, Regional Administrator  
U.S. Environmental Protection Agency (6 RA)  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

RECEIVED - CDDP  
AIR PLANNING SEC  
10 JUL 27 PM 5:01

RE: Revisions to State Implementation Plan for the State of Oklahoma

Dear Dr. Armendariz:

In his letter dated April 8, 2009, Governor Brad Henry appointed me as his designee for the purpose of submitting documents to the U. S. Environmental Protection Agency (EPA) 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 C.F.R. Part 51 these revisions to the Oklahoma SIP and the associated evidence as required by 40 C.F.R. 51, Appendix V, 2.1.

This submittal covers changes to several subchapters in OAC 252:100, Air Pollution Control rules, which became effective between June 30, 2002 and July 1, 2009. All changes and additions to Oklahoma's plan were accomplished by adopting new or amended permanent rules of the Department of Environmental Quality (DEQ). These rules were promulgated in compliance with the *Oklahoma Administrative Procedures Act* and published in the *Oklahoma Register*, the official state publication for rule making actions.

Included in this submittal are revisions to:

**OAC 252:100-1. General Provisions.** New definitions were added and certain existing definitions amended.

**Appendix P. Regulated Air Pollutants.** This new appendix is referenced in the definition of "regulated air pollutant" in OAC 252:100-1-3.

**OAC 252:100-5. Registration, Emission Inventory, and Annual Operating Fees.** Minor changes to the emissions inventory reporting requirements were made. Portions of the rule that are excluded from the SIP revision have been clearly marked.

**OAC 252:100-19. Control of Emission of Particulate Matter.** This change clarifies an existing requirement that particulate matter emission limits established under Subchapter 19 apply to total particulate matter emissions which are the sum of all filterable and condensable particulate matter

Dr. Alfredo Armendariz, Regional Administrator  
U.S. Environmental Protection Agency (6 RA)  
July 16, 2010  
Page 2

emissions. In addition, Appendices C, D, and G were updated to conform with changes to Subchapter 19.

**OAC 252:100-25. Visible Emissions and Particulates.** A minor correction was made to the rule.

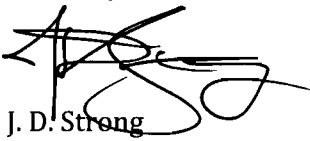
**OAC 252:100-33. Control of Emissions of Nitrogen Oxides.** An exemption was added for glass-melting furnaces that are subject to BACT requirements in a current air quality permit. A definition for solid fossil fuel and a formula for determining the NO<sub>x</sub> emission limits for equipment that burns a combination of fuel types were added. Also, a provision for establishing limits for fuel-burning equipment during startup or shutdown was added.

**Appendix Q. Incorporation By Reference.** The references to EPA regulations incorporated by reference were updated.

As required by 40 CFR 51.103(a), five hard copies of the submittal have been included.

If you have questions concerning this matter, please contact Eddie Terrill, Director, Air Quality Division, Oklahoma Department of Environmental Quality, at 405-702-4154.

Sincerely,



J. D. Strong  
Secretary of Environment

Enclosures

cc: The Honorable Brad Henry, Governor of Oklahoma  
Steve Thompson, Executive Director, Oklahoma Department of Environmental Quality  
Eddie Terrill, Director, Air Quality Division, Oklahoma DEQ





O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

## **AIR QUALITY DIVISION**

**2010**

### **State Implementation Plan**

Oklahoma Administrative Code  
252:100

Submitted to EPA  
July 2010

# Hearing Certification



STEVEN A. THOMPSON  
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

BRAD HENRY  
Governor

July 12, 2010

Dr. Alfredo Armendariz, Regional Administrator  
U.S. Environmental Protection Agency – Region VI (6 RA)  
1445 Ross Avenue, Suite 1200  
Dallas TX 75202-2733

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

Dear Dr. Armendariz:

We certify that the rule making procedures for the rule 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).

The rules and public hearing history are listed in the table below:

<b>SUBCHAPTER</b>	<b>NOTICE</b>	<b>PUBLIC HEARING</b>	<b>GOVERNING BOARD</b>
<b>OAC 252:100-1. General Provisions</b>	December 16, 2002	January 15, 2003	Air Quality Advisory Council
	December 16, 2002	February 28, 2003	Environmental Quality Board
	June 15, 2007	July 18, 2007	Air Quality Advisory Council
	September 17, 2007	November 15, 2007	Environmental Quality Board
	June 16, 2008	July 16, 2008	Air Quality Advisory Council
	June 16, 2008	August 19, 2008	Environmental Quality Board
<b>OAC 252:100-5. Registration, Emission Inventory, and Annual Operating Fees</b>	December 15, 2003	January 14, 2004	Air Quality Advisory Council
	December 15, 2003	February 27, 2004	Environmental Quality Board
	June 15, 2006	July 16, 2006	Air Quality Advisory Council
	June 15, 2006	November 14, 2006	Environmental Quality Board
	September 15, 2006	October 18, 2006	Air Quality Advisory Council
	September 15, 2006	November 14, 2006	Environmental Quality Board
	June 16, 2008	July 16, 2008	Air Quality Advisory Council
	June 16, 2008	August 19, 2008	Environmental Quality Board
<b>OAC 252:100-19. Control of Emission of Particulate Matter Appendices C,D,G</b>	March 17, 2008	April 16, 2008	Air Quality Advisory Council
	March 17, 2008	August 19, 2008	Environmental Quality Board
<b>OAC 252:100-25. Visible Emissions and Particulates</b>	September 15, 2008	October 15, 2008	Air Quality Advisory Council
	September 15, 2008	November 18, 2008	Environmental Quality Board
<b>OAC 252:100-33. Control of Emission of Nitrogen</b>	June 16, 2003	July 16, 2003	Air Quality Advisory Council

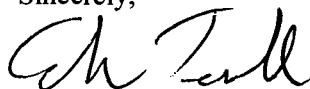


<b>Oxides</b>			
	June 16, 2003	September 9, 2003	Environmental Quality Board
	December 15, 2008	January 21, 2009	Air Quality Advisory Council
	December 15, 2008	February 27, 2009	Environmental Quality Board
<b>Appendix E. Primary Ambient Air Quality Standards</b> <b>Appendix F. Secondary Ambient Air Quality Standards</b>	September 15, 2008	October 15, 2008	Air Quality Advisory Council
	September 15, 2008	November 18, 2008	Environmental Quality Board
<b>Appendix P. Regulated Air Pollutants</b>	June 15, 2006	July 19, 2006	Air Quality Advisory Council
	June 15, 2006	November 14, 2006	Environmental Quality Board
<b>Appendix Q. Incorporation By Reference</b>	September 15, 2008	October 15, 2008	Air Quality Advisory Council
	September 15, 2008	November 18, 2008	Environmental Quality Board

All 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 rule making actions and the associated documents must be published (now accessible @ [www.sos.state.ok.us/oar](http://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 Air Quality Advisory Council meetings begins on the date of publication of the notice and ends on the date 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 E. Bradley, Environmental Programs Manager, Rules and Planning Section at (405) 702-4100.

Sincerely,



Eddie Terrill, Director  
Air Quality Division

ET:NM

**OAC 252:100**  
**Air Pollution Control Rules**

# TITLE 252

OKLAHOMA ADMINISTRATIVE CODE

## CHAPTER 100

### AIR POLLUTION CONTROL INCLUDES EMERGENCY LANGUAGE



2009 EDITION

OKLAHOMA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
707 NORTH ROBINSON, P.O. BOX 1677  
OKLAHOMA CITY, OKLAHOMA 73101-1677

The format of the following rules is not in strict compliance with the requirements of the Secretary of State's Office of Administrative Rules, but has been compressed to reduce the expense of copying and to save paper.

Codification through the 2009 legislative session.

**Subchapters 1, 5, 8, 17 and 19; Appendices C, D and G:**

Board adoption - August 19, 2008  
Gubernatorial approval - September 24, 2008  
Legislative approval and final adoption - March 24, 2009  
Effective date - July 1, 2009

**Subchapter 25; Appendices E, F and Q:**

Board adoption - November 18, 2008  
Gubernatorial approval - December 15, 2008  
Legislative approval and final adoption - March 24, 2009  
Effective date - July 1, 2009

**Subchapters 9 and 33:**

Board adoption - February 27, 2009  
Gubernatorial approval - March 24, 2009  
Legislative approval and final adoption - May 1, 2009  
Effective date - July 1, 2009

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

Subchapter	Section
1. General Provisions	252:100-1-1
2. Incorporation by Reference	252:100-2-1
3. Air Quality Standards and Increments	252:100-3-1
4. New Source Performance Standards [REVOKED]	252:100-4-1
5. Registration, Emission Inventory and Annual Operating Fees	252:100-5-1
6. Permitting [REVOKED]	252:100-6-1
7. Permits for Minor Facilities	252:100-7-1
8. Permits for Part 70 Sources	252:100-8-1
9. Excess Emission Reporting Requirements	252:100-9-1
11. Alternative Emissions Reduction Plans and Authorizations	252:100-11-1
13. Open Burning	252:100-13-1
15. Motor Vehicle Pollution Control Devices	252:100-15-1
17. Incinerators	252:100-17-1
19. Control of Emission of Particulate Matter	252:100-19-1
21. Particulate Matter Emissions From Wood-Waste Burning Equipment [REVOKED]	252:100-21-1
23. Control of Emissions From Cotton Gins	252:100-23-1
24. Particulate Matter Emissions from Grain, Feed or Seed Operations	252:100-24-1
25. Visible Emissions and Particulates	252:100-25-1
27. Particulate Matter Emissions From Industrial and Other Processes and Operations [REVOKED]	252:100-27-1
29. Control of Fugitive Dust	252:100-29-1
31. Control of Emission of Sulfur Compounds	252:100-31-1
33. Control of Emission of Nitrogen Oxides	252:100-33-1
35. Control of Emission of Carbon Monoxide	252:100-35-1
37. Control of Emission of Volatile Organic Compounds (VOCs)	252:100-37-1
39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former	

	Nonattainment Areas .....	252:100-39-1
40.	Control of Emission of Friable Asbestos During Demolition and Renovation Operations. ....	252:100-40-1
41.	Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED] .....	252:100-41-1
42.	Control of Toxic Air Contaminants .....	252:100-42-1
43.	Testing, Monitoring and Recordkeeping .....	252:100-43-1
45.	Monitoring of Emissions [REVOKED] .....	252:100-45-1
47.	Control of Emissions from Existing Municipal Solid Waste Landfills .....	252:100-47-1

Appendix A. Allowable Emissions for Incinerators with Capacities of 100 Lb/Hr or Greater

Appendix B. Allowable Emissions for Incinerators with Capacities Less than 100 Lbs/Hr

Appendix C. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units

Appendix D. Allowable Particulate Matter Emission Rates for Indirectly Fired Wood Fuel-Burning Units

Appendix E. Primary Ambient Air Quality Standards

Appendix F. Secondary Ambient Air Quality Standards

Appendix G. Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Process

Appendix H. De Minimis Facilities

Appendix I. Insignificant Activities (Registration) List

Appendix J. Trivial Activities (De Minimis) List

Appendix K. Average Daily Nitrogen Oxides Emissions

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators

Appendix M. Emission Limits for Hospital/Medical/Infectious Waste Incinerators (HMIWI)

Appendix N. Specialty Coatings VOC Content Limits

Appendix O. Toxic Air Contaminants (TAC) Maximum Acceptable Ambient Concentrations (MAAC)

Appendix P. Regulated Air Pollutants (RAP)

Appendix Q. Incorporation by Reference



## SUBCHAPTER 1. GENERAL PROVISIONS

Section	
252:100-1-1.	Purpose
252:100-1-2.	Statutory definitions
252:100-1-3.	Definitions
252:100-1-4.	Units, abbreviations and acronyms

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

This Subchapter provides definitions of words and phrases used in Chapter 100. The definitions contained in the Oklahoma Clean Air Act, under which this regulation is promulgated, shall also apply. The Subchapter also contains a list of commonly used units with their abbreviations and a list of commonly used acronyms.

### 252:100-1-2. Statutory definitions

The definitions contained in the Oklahoma Environmental Quality Code at 27A O.S. Sections 2-01-102 and 2-05-101(2002) under which this Chapter is promulgated, shall apply for the following terms.

- (1) air contaminants,
- (2) air pollution,
- (3) council,
- (4) department,
- (5) director,
- (6) Executive Director, and
- (7) person.

### 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.

**"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.

**"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.

**"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.

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

**"PM-2.5"** means particulate matter with an aerodynamic diameter of 2.5 micrometers or less.

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

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

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

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

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

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

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

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

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

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

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

(B) The social, environmental, and

economic impact of such controls; and  
(C) Alternative means of providing for attainment and maintenance of such standard.

**"Reconstruction"** means

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

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

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

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

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

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

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

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

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

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

(A) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible

for the overall 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.

#### 252:100-1-4. Units, abbreviations and acronyms

(a) Abbreviations and symbols of units of measure.

- (1) Btu - British thermal unit
- (2) cm/sec - centimeter per second
- (3) dscf - dry cubic feet at standard conditions
- (4) dscm - dry cubic meter at standard conditions
- (5) ft/min - feet per minute
- (6) gal - gallon
- (7) gal/d - gallons per day
- (8) gal/yr - gallons per year
- (9) gr/dscf - grains per dry standard cubic foot
- (10) hr - hour
- (11) Hg - mercury
- (12) hp - horsepower
- (13) H<sub>2</sub>O - water
- (14) H<sub>2</sub>S - hydrogen sulfide
- (15) H<sub>2</sub>SO<sub>4</sub> - sulfuric acid
- (16) kg - kilogram
- (17) kg/metric ton - kilograms per metric ton
- (18) kPa - kilopascals
- (19) l - liter
- (20) l/yr - liters per year
- (21) LT/D - long tons per day
- (22) lb/wk - pounds per week
- (23) lb - pound
- (24) lbs/hr - pounds per hour
- (25) m<sup>3</sup> - cubic meter
- (26) mg/dscm - milligrams per dry standard cubic meter
- (27) MMBTU/hr - million british thermal units per hour
- (28) Mg - megagram - 106 gram
- (29) Mg/yr - megagrams per year

- (30) mg/l - milligrams per liter
- (31) m/min - meter per minute
- (32) ng/dscm - nanograms per dry standard cubic meter

- (33) ng/J - nanograms per Joule
- (34) oz/in<sup>2</sup> - ounce per square inch
- (35) ppm - parts per million
- (36) psia - pounds per square inch absolute
- (37) psig - pounds per square inch gage
- (38) ppmv - parts per million by volume
- (39) SO<sub>2</sub> - sulfur dioxide
- (40) TPY - tons per year
- (41) ug/m<sup>3</sup> - micrograms per cubic meter

(b) Acronyms.

- (1) A.I.S.I. - American Iron and Steel Institute
- (2) A.S.M.E. - American Society of Mechanical Engineers
- (3) A.S.T.M. - American Society for Testing and Materials
- (4) BACT - Best Available Control Technology
- (5) CEM - Continuous Emission Monitor
- (6) CFR - Code of Federal Regulations
- (7) COM - Continuous Opacity Monitor
- (8) DEQ - Department of Environmental Quality
- (9) EPA - Environmental Protection Agency
- (10) HAP - Hazardous Air Pollutants
- (11) HMIWI - Hospital/Medical/Infectious Waste Incinerator
- (12) MACT - Maximum Achievable Control Technology
- (13) MSW - Municipal Solid Waste
- (14) MWC - Municipal Waste Combustors
- (15) NAAQS - National Ambient Air Quality Standards
- (16) NESHAP - National Emissions Standards for Hazardous Air Pollutants
- (17) NSPS - New Source Performance Standards
- (18) OAC - Oklahoma Administrative Code
- (19) PBR - Permit by Rule
- (20) PM - Particulate Matter
- (21) PSD - Prevention of Significant Deterioration
- (22) SIC - Standard Industrial Classification
- (23) SIP - State Implementation Plan
- (24) TSP - Total Suspended Particulates
- (25) VOC - Volatile Organic Compound
- (26) 27A O.S. - Title 27A Oklahoma Statutes Annotated

#### SUBCHAPTER 2. INCORPORATION BY REFERENCE

Section	Purpose
252:100-2-1.	Purpose
252:100-2-2.	[RESERVED]
252:100-3-3.	Reference to Title 40, Code of Federal Regulations (40 CFR)

#### 252:100-2-1. Purpose

The purpose of this Subchapter is to incorporate by reference applicable provisions of

per cubic meter.  
(C) Nitrogen dioxide (effective May 11, 1991), annual arithmetic mean: maximum allowable increase is 50 micrograms per cubic meter.

#### SUBCHAPTER 4. NEW SOURCE PERFORMANCE STANDARDS [REVOKED]

Section	
252:100-4-1.	Purpose [REVOKED]
252:100-4-2.	[REVOKED]
252:100-4-3.	Reference to 40 CFR [REVOKED]
252:100-4-4.	[REVOKED]
252:100-4-5.	Incorporation by reference [REVOKED]
<b>252:100-4-1.</b>	<b>Purpose [REVOKED]</b>
<b>252:100-4-2.</b>	<b>[REVOKED]</b>
<b>252:100-4-3.</b>	<b>Reference to 40 CFR [REVOKED]</b>
<b>252:100-4-4.</b>	<b>[REVOKED]</b>
<b>252:100-4-5.</b>	<b>Incorporation by reference [REVOKED]</b>

#### SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

Section	
252:100-5-1.	Purpose
252:100-5-1.1.	Definitions
252:100-5-2.	Registration of potential sources of air contaminants
252:100-5-2.1.	Emission inventory
252:100-5-2.2.	Annual operating fees
252:100-5-3.	Confidentiality of proprietary information

##### 252:100-5-1. Purpose

This Subchapter requires potential sources of air contaminants to register with the Division. It also requires facilities that emit air contaminants to file an emission inventory and pay annual operating fees.

##### 252:100-5-1.1. Definitions

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

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

**"Allowable emissions"** means:

- (A) The total amount of any regulated air pollutant emitted based on limits contained in an enforceable permit or potential to emit, or
- (B) For grandfathered sources, emission limits based on maximum design capacity

and considering all applicable rules.

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

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

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

~~Regulated pollutant (for fee calculation) means any regulated air pollutant except the following:~~

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

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

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

~~Regulated pollutant (for fee calculation) means any regulated air pollutant except the following:~~

- (A) Carbon monoxide.
- (B) Gross particulate matter (GPM).

##### 252:100-5-2. Registration of potential sources of air contaminants

(a) **Filing.** In addition to any requirements for the submission of information found in any other regulation in this Chapter, the owner or operator of an air contaminant source shall, upon request, provide the Division with information necessary to evaluate the source's potential for causing air pollution.

(b) **Necessary information.** The following information shall be included for each source:

- (1) Total weight of the contaminant released per day.
- (2) Period or periods of operation.
- (3) Composition of the contaminant.
- (4) Physical state of the contaminant.
- (5) Temperature and moisture content of the air or gas stream at the point where released

into the atmosphere.

(6) Efficiency of any control device.

(7) Such other information as may be specifically requested by the Director.

### **252:100-5-2.1. Emission inventory**

#### **(a) Requirement to file an emission inventory.**

The owner or operator of any facility that is a source of air contaminants shall submit a complete emission inventory annually on forms obtained from the Division.

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

(2) **Permit by rule.** The owner or operator of a facility registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated air pollutant is required to submit an emission inventory for that facility once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.

(3) **Permit exempt facilities and de minimis facilities.** The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory.

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

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

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

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination. If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or from the previous year's actual by more than 30%, the Department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.

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

(c) **Documentation.** All calculations and

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) **Methods of verification.** Emission

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

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

## **252:100-5-2.2. Annual operating fees**

### (a) **Applicability.**

(1) OAC 252:100-5-2.2 applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by OAC 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.

(2) OAC 252:100-5-2.2 does not apply to de minimis facilities or to permit exempt facilities.

### (b) **Fee schedule.**

(1) **Minor facilities.** Beginning July 1, 2008, annual operating fees invoiced for minor facilities shall be \$25.12 per ton of regulated air pollutant (for fee calculation). The invoiced annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program.

(2) **Part 70 Sources.** Beginning July 1, 2008, annual operating fees invoiced for Part 70 sources shall be \$32.30 per ton of regulated air pollutant (for fee calculation) and shall be adjusted each year pursuant to (b)(3) of this section. The invoiced CPI-adjusted annual operating fees shall be discounted appropriately in any given year if the Department determines that other revenues, including appropriated state general revenue funds, have increased sufficiently to adequately fund the air program. Any discount would not affect CPI adjustments.

(3) **Use of Consumer Price Index (CPI) to adjust annual operating fees.** Annual operating fees for Part 70 sources shall be adjusted automatically each year by the percentage, if any, by which the CPI for the most recent calendar year ending before the beginning of such year differs from the CPI for

the calendar year 2007. The CPI for any calendar year is the average of the CPI for all urban consumers published by the Department of Labor, as of the close of the twelve-month period ending on August 31 of each calendar year.

### (c) **Payment.**

(1) Fees are due and payable on the invoice due date(s). Fees shall be considered delinquent 30 days after the invoice due date(s). Within five (5) years but not before a grace period of 120 days from the invoice due date, the DEQ may issue an administrative order to recover such fees and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*, to an owner or operator of a facility who has failed to pay or has underpaid such fees.

(2) If an owner or operator has failed to submit the required annual emission inventory, the DEQ may issue an administrative order to recover fees that would have been invoiced had the emission inventory been submitted when due. The DEQ may issue such order within five (5) years from the date of billing and may assess a reasonable administrative fine in accordance with the provisions of the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 *et seq.*

(3) When a fee overpayment has been made as a result of an error, an owner or operator may seek a credit for such fee overpayment within five years from the date on which payment of the fee was received by the DEQ.

### (d) **Basis for annual operating fees.**

(1) Operating fees shall be calculated on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory unless the owner or operator elects to pay fees on allowable emissions.

(2) Regulated pollutants (for fee calculation) ~~of 1,000 tons per year per pollutant from Part 70 sources shall not be considered in the calculation of the annual fee.~~

## **252:100-5-3. Confidentiality of proprietary information**

[Refer to 27A O.S. § 2-5-105.18.]

## **SUBCHAPTER 6. PERMITTING [REVOKED]**

### **PART 1. GENERAL PROVISIONS AND DEFINITIONS [REVOKED]**

Section	Purpose [REVOKED]
252:100-6-1.	Definitions [REVOKED]
252:100-6-2.	Uniform permitting processes [REVOKED]

### **PART 3. TYPES OF PERMITS AND OTHER AUTHORIZATIONS [REVOKED]**



incorporated by reference as they exist on December 16, 2005.

(b) The initial evaluation of the CEMS shall be completed within 180 days after the final compliance date in OAC 252:100-17-106(a)

**252:100-17-102. Reporting and recordkeeping requirements**

(a) Parts 60.2949, 60.2950, 60.2951, 60.2954, 60.2955, 60.2956, 60.2957, 60.2958, 60.2959, 60.2960, 60.2961, and 60.2962 of Title 40 of CFR are hereby incorporated by reference as they exist on December 16, 2005.

(b) The owner or operator of an OSWI must also submit a waste management plan as specified in OAC 252:100-17-97.

**252:100-17-103. Part 70 permits**

The owner or operator of an OSWI that does not meet requirements for exemption as listed in 252:100-17-92 must submit to the Director a complete application for a Part 70 operating permit on or before December 1, 2008.

**252:100-17-104. Requirements for temporary-use incinerators and air curtain incinerators used in disaster recovery**

Part 60.2969 of Title 40 of CFR is hereby incorporated by reference as it exists on December 16, 2005.

**252:100-17-105. Air curtain incinerators that burn only wood waste, clean lumber, and yard waste**

(a) Parts 60.2970, 60.2971 except for 60.2971(a), 60.2972, 60.2973 except for 60.2973(a), and 60.2974 of Title 40 of CFR are hereby incorporated by reference as they exist on December 16, 2005.

(b) Within 180 days after the final compliance date, the two limitations specified in paragraphs OAC 252:100-17-105(b)(1) and (2) must be met.

(1) The opacity limitation is 10 percent (6 minute Method 9 block average), except as described in paragraph (b)(2) of this section.

(2) The opacity limitation is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(c) Except during malfunctions, the requirements of OAC 252:100-17-105(b) apply at all times, and each malfunction must not exceed 3 hours.

**252:100-17-106. Compliance schedules**

(a) The final compliance date can be no later than 3 years after the effective date of State plan approval or December 16, 2010, whichever is earlier.

(b) The owner or operator must submit a notification to the Director stating whether final compliance has been achieved, postmarked within 10 business days after the final compliance date.

**252:100-17-107. OSWI closure**

(a) If the OSWI unit is closed but will be restarted prior to final compliance date as contained in OAC 252:100-17-106(a), the owner or operator shall meet the final compliance date.

(b) If the OSWI unit is closed but will be restarted on or after the final compliance date specified in OAC 252:100-17-106(a), the owner or operator shall complete emission control retrofits and meet the emission limitations and operating limits on the date the OSWI unit restarts operations. An initial performance test must be conducted within 30 days of restarting an OSWI unit.

(c) If the OSWI unit is permanently closed, it must be closed before the final compliance date specified in OAC 252:100-17-106(a) and the owner or operator shall submit a closure notification, including the date of closure, to the Director by the final compliance date.

**252:100-17-108. Equations**

Equations to use when calculations are required to comply with this Part are contained in 40 CFR 60.1975, which is hereby incorporated by reference as it exists on December 16, 2005.

**SUBCHAPTER 19. CONTROL OF EMISSION OF PARTICULATE MATTER**

Section	
252:100-19-1.	Purpose
252:100-19-1.1.	Definitions
252:100-19-2.	Emission of particulate matter prohibited [REVOKED]
252:100-19-3.	Existing equipment [REVOKED]
252:100-19-4.	New equipment
252:100-19-5.	Refuse burning prohibited [REVOKED]
252:100-19-6.	Allowable emission of particulate matter [REVOKED]
252:100-19-7.	Particulate matter emission limits [REVOKED]
252:100-19-10.	Allowable particulate matter emission rates from indirectly fired wood fuel-burning units
252:100-19-11.	Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units
252:100-19-12.	Allowable particulate matter emission rates from directly fired fuel-burning units and industrial processes
252:100-19-13.	Permit by rule

**252:100-19-1. Purpose**

The purpose of this Subchapter is to control the emission of particulate matter.

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

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

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

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

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

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

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

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

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

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

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

**252:100-19-2. Emission of particulate matter prohibited [REVOKED]**

**252:100-19-3. Existing equipment [REVOKED]**

**252:100-19-4. Allowable particulate matter emission rates from fuel-burning units**

Except as provided in 252:100-19-10, 252:100-19-11 and 252:100-19-12 the emission of particulate matter resulting from the combustion of fuel in any new or existing fuel-burning unit shall not exceed the limits specified in Appendix C.

**252:100-19-5. Refuse burning prohibited [REVOKED]**

**252:100-19-6. Allowable emission of particulate matter [REVOKED]**

**252:100-19-7. Particulate matter emission limits [REVOKED]**

**252:100-19-10. Allowable particulate matter emission rates from indirectly fired wood fuel-burning units**

The emission of particulate matter resulting from the combustion of wood fuel in any new or existing indirectly fired fuel-burning unit shall not exceed the limits specified in Appendix D.

**252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units**

Any combined wood fuel and fossil fuel fired steam generating unit with a maximum design heat input of more than 250 million BTUs per hour which commenced construction after March 4, 1978, shall not emit total particulate matter in excess of 0.1 pound per million BTUs

**252:100-19-12. Allowable particulate matter emission rates from directly fired fuel-burning units and industrial processes**

The emission of particulate matter from any new or existing directly fired fuel-burning unit or from any emission point in an industrial process shall not exceed the limits specified in Appendix G.

**252:100-19-13. Permit by rule**

(a) **Applicability.** Any particulate matter facility may be constructed or operated under this section if:

- (1) it meets the requirements in 252:100-7-60, and

(2) it is not subject to any New Source Performance Standard (NSPS), National Emission Standard for Hazardous Air Pollutants (NESHAP), Maximum Achievable Control Technology (MACT) standard or other Permit by Rule (PBR).

(b) **Requirements.** In addition to the requirements of 252:100, the owner or operator of a particulate matter facility permitted under this section shall comply with the following requirements.

(1) All water sprays, bag houses, cyclones, or other particulate matter control equipment shall be properly maintained and operated.

(2) Haul roads and material piles shall be watered or treated as necessary to minimize emissions of fugitive dust.

#### **SUBCHAPTER 21. PARTICULATE MATTER EMISSIONS FROM WOOD-WASTE BURNING EQUIPMENT [REVOKED]**

Section

252:100-21-1. Purpose [REVOKED]

252:100-21-2. Emission prohibition [REVOKED]

252:100-21-3. Limitations [AMENDED AND RENUMBERED TO 252:100-19-11]

252:100-21-4. Allowable emissions [REVOKED]

252:100-21-5. Emission limits [AMENDED AND RENUMBERED TO 252:100-19-10]

**252:100-21-1. Purpose [REVOKED]**

**252:100-21-2. Emission prohibition [REVOKED]**

**252:100-21-3. Limitations [AMENDED AND RENUMBERED TO 252:100-19-11]**

**252:100-21-4. Allowable emissions [REVOKED]**

**252:100-21-5. Emission limits [AMENDED AND RENUMBERED TO 252:100-19-10]**

#### **SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS**

Section

252:100-23-1. Purpose

252:100-23-2. Definitions

252:100-23-3. Applicability, general

requirements

252:100-23-4. Visible emissions (opacity) limit

252:100-23-5. Emission control equipment

252:100-23-6. Fugitive dust controls

252:100-23-7. Permit by rule

#### **252:100-23-1. Purpose**

The purpose of this Subchapter is to control emissions from cotton gins.

#### **252:100-23-2. Definitions**

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

**"Cotton gin"** means any facility that removes seed, lint, and trash from raw cotton and bales of lint cotton for further processing. Each equipment exhaust, including the trash and burr hopper, located at a cotton gin shall be considered an individual process emission source.

**"Existing gin"** means a gin which was in existence and had submitted current emission inventories to the Division for the most recent two ginning seasons and was in possession of a valid annual renewable fee receipt prior to May 1, 1993. All other gins shall be considered "new".

**"Gin site"** means the land upon which a cotton gin is located and all contiguous land having common ownership or use.

**"High efficiency cyclone"** means any cyclone type collector of the 2D-2D or 1D-3D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would exhibit a cylinder length of 2 x D and a cone length of 2 x D (90 percent collection efficiency). A 1D-3D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D (95 percent collection efficiency).

**"High pressure exhausts"** means the exhaust cotton handling air systems located at a cotton gin which are not defined as "low pressure exhausts".

**"Low pressure exhausts"** means the exhaust air systems at a cotton gin which handle air from the cotton lint handling system and battery condenser.

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

(a) **Applicability.** Effective May 1, 1993, the provisions of this Subchapter are applicable to all new, modified, and existing cotton gins operating

(2) The total annual emissions of PM-10 shall be calculated using the equation provided in Appendix L, which was derived from AP-42 9.9.1, Grain Elevators and Processes.

(3) For grain storage elevators located at any wheat flour mill, wet corn mill, dry corn mill, rice mill or soybean oil extraction plant, with a permanent grain storage capacity of 35,200 m<sup>3</sup>, or grain terminal elevators with a permanent storage capacity of more than 88,100 m<sup>3</sup>, which have commenced construction, modification, or reconstruction after August 3, 1978, the requirements of 40 CFR, Part 60, Subpart DD are also applicable.

## SUBCHAPTER 25. VISIBLE EMISSIONS AND PARTICULATES

### Section

252:100-25-1.	Purpose
252:100-25-2.	General prohibition
252:100-25-2.1.	Definitions
252:100-25-3.	Opacity limit
252:100-25-4.	Alternative for particulates
252:100-25-5.	Continuous emission monitoring for opacity

### **252:100-25-1. Purpose**

The purpose of this Subchapter is to control visible emissions and particulate matter from the operation of any air contaminant source.

### **252:100-25-2. General prohibition**

No owner or operator of any air contaminant source shall allow emissions from said source so as to cause or contribute to air pollution.

### **252:100-25-2.1. Definitions**

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

**"One-hour period"** means, for units with an operable Continuous Opacity Monitor (COM), any 60-minute period commencing on the hour.

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

**"Six-minute period"** means, for units with an operable COM, any one of the ten equal parts of a one-hour period.

**"Unit"** means any piece of equipment that has the potential to emit air contaminants in the form of visible emissions.

### **252:100-25-3. Opacity limit**

(a) Units subject to an opacity limit promulgated under section 111 of the Federal Clean Air Act are exempt from this section.

(b) No person shall allow the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof exhibiting greater than 20% opacity except for:

(1) Short term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. For units with COMs operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B), short term occurrences which consist of not more than one six-minute period in any one-hour period, not to exceed three such periods in any consecutive 24 hours. In neither case shall the average of any six-minute period exceed 60% opacity.

(2) Smoke resulting from fires covered by the exceptions outlined in OAC 252:100-13-7.

(3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of OAC 252:100-25-3(b).

(4) Smoke generated due to a malfunction in a facility, when the source of the fuel producing the smoke is not under the direct and immediate control of the facility and the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property.

(c) To determine compliance with this Section, opacity shall be read by either:

(1) A Certified Visible Emission Evaluator using Test Method 9 (40 CFR Part 60, Appendix A).

(2) A COM installed, calibrated, operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B).

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

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

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

- (2) The pollution control equipment installed:
- (A) Has been properly maintained.
  - (B) Is in good working order.
  - (C) Is operated to minimize emissions.
- (3) The installed control equipment does not control opacity to the limit required in 252:100-25-3.
- (4) The owner or operator has conducted stack test(s) using appropriate test methods as approved by the Division to determine mass emissions at maximum allowed capacity and has determined such emissions meet all applicable particulate matter requirements (i.e., permit limit, rule limit, process limit).
- (5) The owner or operator has conducted detailed modeling and other measures (e.g., monitoring) deemed necessary by the Executive Director to demonstrate that the maximum impact of any increase of opacity will not exceed 5 ug/m<sup>3</sup> PM-10 24-hour average at any point of impact or 1 ug/m<sup>3</sup> PM-10 annual average at any point of impact.

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

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

**252:100-25-5. Continuous emission monitoring for opacity**

(a) Continuous monitoring of opacity is required for fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries and fossil fuel-fired steam generators in accordance with 40 CFR Part 51, Appendix P, which is hereby incorporated by reference as it existed on July 1, 1998.

(b) Owners or operators of these emission sources shall:

- (1) Install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring opacity.
- (2) Complete the installation and performance tests of such equipment and begin monitoring and recording by January 1, 2001.

(c) This section shall not apply to:

- (1) Sources already subject to a new source performance standard promulgated in 40

CFR Part 60 pursuant to section 111 of the Clean Air Act.

(2) Sources scheduled for retirement within 5 years after the effective date of this rule, provided adequate evidence and guarantees are available to show the source will cease operations prior to such date.

(d) Alternative monitoring requirements different from the provisions of Parts 1 through 5 of Appendix P may be approved by the DEQ and EPA on a case-by-case basis if continuous monitoring cannot be implemented by a source due to physical plant limitations or extreme economic reasons. For example, the following alternative monitoring requirements may be used for natural gas-fired facilities that burn oil on an emergency basis only (including periodic system testing not to exceed 40 hours per calendar year):

- (1) A Certified Visible Emission Evaluator shall read visual emissions once per day when fuel oils are burned.
- (2) Visual emissions readings shall be conducted in accordance with EPA Test Method 9 (40 CFR Part 60, Appendix A).
- (3) Records of fuel oil burned (including type, amount, and duration burned) and visible emissions read shall be maintained for 2 years.

**SUBCHAPTER 27. PARTICULATE MATTER EMISSIONS FROM INDUSTRIAL AND OTHER PROCESSES AND OPERATIONS [REVOKED]**

Section	
252:100-27-1.	Purpose [REVOKED]
252:100-27-2.	Process emission limitations [AMENDED AND RENUMBERED TO 252:100-19-12]
252:100-27-3.	Exception to emission limits [REVOKED]
252:100-27-4.	Sampling and testing [REVOKED]
252:100-27-5.	Allowable rate of emission [AMENDED AND RENUMBERED TO 252:100-19-12]
<b>252:100-27-1.</b>	<b>Purpose [REVOKED]</b>
<b>252:100-27-2.</b>	<b>Process emission limitations [AMENDED AND RENUMBERED TO 252:100-19-12]</b>
<b>252:100-27-3.</b>	<b>Exception to emission limits</b>

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.

**SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES**

Section	
252:100-33-1.	Purpose
252:100-33-1.1.	Definitions
252:100-33-1.2.	Applicability
252:100-33-2.	Emission limits
252:100-33-3.	Performance testing
[REVOKED]	

**252:100-33-1. Purpose**

The purpose of this Subchapter is to control the emission of nitrogen oxides from stationary sources to prevent the Oklahoma air quality standards from being exceeded and insure that the present level of air quality in Oklahoma is not degraded.

**252:100-33-1.1. Definitions**

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

**"New fuel-burning equipment"** means any fuel-burning equipment that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in increased emissions of nitrogen oxides with the following exceptions.

(A) New fuel-burning equipment for gas turbines means any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in increased emissions of nitrogen oxides; and

(B) New fuel-burning equipment for direct-fired processes means any direct-fired fuel-burning equipment or processes that were not in being on July 1, 1977, or any existing direct-fired fuel-burning equipment or processes that were altered, replaced, or rebuilt after July 1, 1977, resulting in increased emissions of nitrogen oxides.

**"Solid fossil fuel"** means solid fossil fuel such as coal and any solid fuel derived from

naturally occurring coal or petroleum.

**"Three-hour average"** means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

**252:100-33-1.2. Applicability**

(a) This subchapter applies to new fuel-burning equipment that meets both of the following criteria.

(1) The fuel-burning equipment has a rated heat input of 50 MMBTU/hr or greater.

(2) The equipment burns solid fossil fuel, gaseous fuel, or liquid fuel, or a combination thereof.

(b) Glass-melting furnaces that are subject to BACT requirements contained in a currently applicable Air Quality Division permit are exempt from the requirements of OAC 252:100-33-2. The NO<sub>x</sub> emissions from this equipment shall not cause or contribute to an exceedance of any NAAQS or PSD increment.

**252:100-33-2. Emission limits**

(a) Fuel-burning equipment subject to this subchapter shall meet the following emission limitations except as provided in OAC 252:100-33-1.2(b) and 252:100-33-2(b).

(1) **Gas-fired fuel-burning equipment.** Emissions of nitrogen oxides (calculated as nitrogen dioxide) from any new gas-fired fuel-burning equipment shall not exceed 0.20 lb/MMBTU (86 ng/J) heat input, three-hour average.

(2) **Liquid-fired fuel-burning equipment.** Emissions of nitrogen oxides (calculated as nitrogen dioxide) from any new liquid-fired fuel-burning equipment shall not exceed 0.30 lb/MMBTU (129 ng/J) heat input, three-hour average.

(3) **Solid fossil fuel-burning equipment.** Emissions of nitrogen oxides (calculated as nitrogen dioxide) from any new solid fossil fuel-burning equipment shall not exceed 0.70 lb/MMBTU (300 ng/J) heat input, three-hour average.

(4) **Combination of fuels burned.** When different types of fuels are burned simultaneously in any combination, the NO<sub>x</sub> standard (calculated as nitrogen dioxide in lb/MMBTU heat input, three-hour average) for the fuel-burning equipment 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 following formula where X is the percent of total heat

input derived from 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:  $NO_2 \text{ limit} = 0.2X + 0.3Y + 0.7Z / (X + Y + Z)$ .

(b) If fuel-burning equipment, due to technological limitations, cannot meet the requirements of OAC 252:100-33-2(a) during startup and/or shutdown, the fuel-burning equipment shall comply with BACT for startup and/or shutdown as contained in a currently applicable Air Quality Division permit. The  $NO_x$  emissions during startup and/or shutdown of this equipment shall not cause or contribute to an exceedance of any NAAQS or PSD increment. Approval of technological limitations by the Director in an Air Quality Division permit does not mean automatic approval by the EPA.

### 252:100-33-3. Performance testing [REVOKED]

## SUBCHAPTER 35. CONTROL OF EMISSION OF CARBON MONOXIDE

### Section

252:100-35-1.	Purpose
252:100-35-1.1.	Definitions
252:100-35-2.	Emission limits
252:100-35-3.	Performance testing

[REVOKED]

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

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

### 252:100-35-1.1. Definitions

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

**"Basic oxygen furnace"** means a furnace in which the melting and refining of iron are accomplished by the addition at high velocities of large amounts of high purity oxygen to the atmosphere above the surface of the metal bath. The metal is held in a tiltable vessel with a basic refractory lining. Such a furnace includes the furnace proper, oxygen lance, scrap and flux charging units, iron transfer units, gas collecting and cleaning equipment, stacks and any other auxiliaries pertinent to the process.

**"Blast furnace"** means furnace and

equipment used in connection with the smelting process of reducing metallic ores to molten metal in which primarily oxygen is removed from the ore and gas is produced as a by-product. The furnace and equipment consists of, but is not limited to, the furnace proper, charging equipment, stoves, bleeders, gas dust-cleaning devices, after-burner, and other auxiliaries pertinent to the process.

**"Existing source"** means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being on July 1, 1972, and not modified thereafter so as to increase the emission of carbon monoxide.

**"Gray iron cupola"** means shaft-type furnace used for the melting of metals usually consisting of, but not limited to, the furnace proper, tuyeres, fans or blowers, tapping spout, charging equipment, gas-cleaning devices and other auxiliaries. Shaft furnaces used for processing non-metallic materials are not included under this definition but are included in the definition of process equipment.

**"New source"** means any gray iron cupola, blast furnace, basic oxygen furnace, petroleum catalytic cracking unit or petroleum catalytic reforming unit, in being after July 1, 1972.

### 252:100-35-2. Emission limits

(a) **Existing sources.** The emission of carbon monoxide from any existing source located in or significantly impacting (i.e.,  $500 \mu g/m^3$  on an 8-hour average) on a nonattainment area for carbon monoxide shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to complete secondary combustion. Existing equipment subject to this Subchapter must meet the emission limitations as expeditiously as practicable, but no later than 3 years after nonattainment designation by the Administrator.

(b) **New sources.** The emission of carbon monoxide from any new source shall be reduced by use of complete secondary combustion of the waste gas generated. Removal of 93 percent or more of the carbon monoxide generated shall be considered equivalent to secondary combustion.

### 252:100-35-3. Performance testing [REVOKED]

## SUBCHAPTER 37. CONTROL OF EMISSION OF VOLATILE ORGANIC COMPOUNDS (VOCs)

**APPENDIX C. ALLOWABLE PARTICULATE MATTER EMISSION RATES  
FOR INDIRECTLY FIRED FUEL-BURNING UNITS**

<b>Maximum Heat Input In Million British Thermal Units (MMBTU) Per Hour</b>	<b>Allowable Total Particulate Matter Emissions In Pounds Per MMBTU</b>
<b>Less than or equal to 10 .....</b>	<b>0.60</b>
<b>10,000 or more .....</b>	<b>0.10</b>

Allowable total particulate matter emissions for values of X greater than 10 MMBTU, but less than 1,000 MMBTU may be calculated using the formula:

$$E = 1.0428080X^{-0.238561}$$

Allowable total particulate matter emissions for values of X greater than or equal to 1,000 MMBTU, but less than 10,000 MMBTU may be calculated using the formula:

$$E = 1.60X^{-0.30103}$$

Where:

**E** = allowable total particulate matter emissions in pounds per MMBTU and  
**X** = the maximum heat input in MMBTU per hour.



**APPENDIX D. ALLOWABLE PARTICULATE MATTER EMISSION RATES FOR  
INDIRECTLY FIRED WOOD FUEL-BURNING UNITS**

**Maximum Heat Input In  
Million British Thermal  
Units Per Hour**

**Allowable Total Particulate  
Matter Emissions In Pounds  
Per Million British Thermal  
Units**

<b>Less than 10 .....</b>	<b>0.60</b>
<b>10 and less than 1,000 .....</b>	<b>0.50</b>
<b>1,000 and less than 10,000 .....</b>	<b>0.35</b>
<b>10,000 or more .....</b>	<b>0.15</b>

## APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS

	Sulfur Dioxide	PM-10	PM 2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m <sup>3</sup> (2)35 ppm			
8-hr. max				10 mg/m <sup>3</sup> (2)9 ppm	(4)0.075 ppm		
24-hr. max	365 ug/m <sup>3</sup> (2)0.14 ppm	(7) 150 ug/m <sup>3</sup>	(5) 35 ug/m <sup>3</sup>				
Calendar Qtr.							(3) 1.5 ug/m <sup>3</sup>
Annual	80 ug/m <sup>3</sup> (1)0.030 ppm		(6) 15 ug/m <sup>3</sup>			100 ug/m <sup>3</sup> (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Maximum arithmetic mean averaged over a calendar quarter

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.

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

(6) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

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

## APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS

	Sulfur Dioxide	<sup>(6)</sup> PM-10	PM 2.5	<sup>(6)</sup> Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max							
3-hr. max	1300 ug/m <sup>3</sup> <sup>(2)</sup> 0.5 ppm						
8-hr. max					<sup>(4)</sup> 0.075 ppm		
24-hr. max							
Calendar Qtr.							<sup>(3)</sup> 1.5 ug/m <sup>3</sup>
Annual			<sup>(5)</sup> 15 ug/m <sup>3</sup>			100 ug/m <sup>3</sup> <sup>(1)</sup> 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Maximum arithmetic mean averaged over a calendar quarter

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.

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

(6) PM-10 and Carbon Monoxide have no secondary standard.

**APPENDIX G. ALLOWABLE PARTICULATE MATTER EMISSION RATES  
FOR DIRECTLY FIRED FUEL-BURNING UNITS AND INDUSTRIAL  
PROCESS**

Allowable total particulate matter emission rates for process weight rates of 30 tons per hour (60,000 pounds per hour) or less shall be calculated using the formula:

$$E = 4.10P^{0.67}$$

Allowable total particulate matter emission rates for process weight rates greater than 30 tons per hour (60,000 pounds per hour) shall be calculated using the formula:

$$E = (55.00P^{0.11}) - 40$$

Where:

**E** = allowable total particulate matter emission rate in pounds per hour and  
**P** = process weight rate in tons per hour.

## APPENDIX P. REGULATED AIR POLLUTANTS (RAP)

REGULATED AIR POLLUTANT	DESCRIPTION
Acid gas expressed as SO <sub>2</sub> and HCl	As defined in OAC 252:100-17.
Acid mist expressed as H <sub>2</sub> SO <sub>4</sub>	As defined in 40 CFR 60.81 and OAC 252:100-31.
Arsenic, inorganic	NESHAP
Asbestos	NESHAP
Benzene	NESHAP
Beryllium	NESHAP
Cadmium	NSPS
Carbon Monoxide or CO	Criteria pollutant
Dioxins/furans	NSPS: Tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
Fluorides	NSPS: Elemental fluorine and all fluoride compounds.
Hazardous Air Pollutants or HAP(s)	Listed in 42 U.S.C. 7412(b)(1) and as modified in 40 CFR Part 63, Subpart C, List of Hazardous Air Pollutants, Petitions Process, Lesser Quantity Designations, Source Category List.
Hydrogen chloride or HCl	NSPS
Hydrogen sulfide or H <sub>2</sub> S	NSPS
Lead	Criteria pollutant
Mercury	NSPS and NESHAP
Nitrogen dioxide or NO <sub>2</sub>	Criteria pollutant
NonMethane Organic Compounds or NMOC expressed as hexane	As defined in 40 CFR 60.754.
Oxides of nitrogen or NO <sub>x</sub>	NSPS: Ozone precursors
Oxides of sulfur or SO <sub>x</sub>	NSPS: PM-2.5 precursors
Ozone	Criteria pollutant
Particulate Matter or PM	As defined in OAC 252:100. (criteria pollutant)
Reduced sulfur compounds	As defined in 40 CFR 60.101.
Reduced Sulfur, Total or TRS	As defined in OAC 252:100-31.
Sulfur dioxide or SO <sub>2</sub>	Criteria pollutant
Toxic Air Contaminates or TAC(s)	As listed in OAC 252:100, Appendix O.
Vinyl chloride	NESHAP
Volatile Organic Compounds or VOC(s)	As defined in OAC 252:100. (ozone precursors)

**NOTES:**

1. The Department does not have authority over Class I and II stratospheric ozone depleting substances or CFCs as listed under 40 CFR, Part 82. These substances are RAP, however, under the Federal Clean Air Act.

2. The Department does not have authority over Section 112(r) substances as listed in 40 CFR 68.130, Tables 1-4. These substances are, however, RAP under the Federal Clean Air Act.

3. The Department does not have the authority over radionuclides as listed in 40 CFR, Part 61. These substances are RAP, however, under the Federal Clean Air Act.

## APPENDIX Q. INCORPORATION BY REFERENCE

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 September 1, 2008.

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 <sub>10</sub> in the Atmosphere.
51	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements.
51	n/a	Appendix S to Part 51 - Emission Offset Interpretative Ruling.
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	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	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	BB	Standards of Performance for Kraft Pulp Mills.
60	BBB	Standards of Performance for the Rubber Tire Manufacturing Industry.
60	CC	Standards of Performance for Glass Manufacturing Plants.
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	DD	Standards of Performance for Grain Elevators.
60	DDD	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.

60	E	Standards of Performance for Incinerators.
60	Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994.
60	Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.
60	Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.
60	EE	Standards of Performance for Surface Coating of Metal Furniture.
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	F	Standards of Performance for Portland Cement Plants.
60	FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
60	G	Standards of Performance for Nitric Acid Plants.
60	GG	Standards of Performance for Stationary Gas Turbines.
60	GGG	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
60	H	Standards of Performance for Sulfuric Acid Plants.
60	HH	Standards of Performance for Lime Manufacturing Plants.
60	HHH	Standards of Performance for Synthetic Fiber Production Facilities.
60	I	Standards of Performance for Hot Mix Asphalt 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	IIII	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines.
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	JJJ	Standards of Performance for Petroleum Dry Cleaners.
60	JJJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
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	KK	Standards of Performance for Lead-Acid Battery Manufacturing Plants.
60	KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.
60	KKKK	Standards of Performance for Stationary Combustion Turbines
60	L	Standards of Performance for Secondary Lead Smelters.
60	LL	Standards of Performance for Metallic Mineral Processing Plants.
60	LLL	Standards of Performance for Onshore Natural Gas Processing: SO <sub>2</sub> Emissions.
60	M	Standards of Performance for Secondary Brass and Bronze Production Plants.
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
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	NN	Standards of Performance for Phosphate Rock Plants.
60	NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
60	O	Standards of Performance for Sewage Treatment Plants.
60	OOO	Standards of Performance for Nonmetallic Mineral Processing Plants.
60	P	Standards of Performance for Primary Copper Smelters.
60	PP	Standards of Performance for Ammonium Sulfate Manufacture.
60	PPP	Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.
60	Q	Standards of Performance for Primary Zinc Smelters.
60	QQ	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.
60	QQQ	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems.
60	R	Standards of Performance for Primary Lead Smelters.
60	RR	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
60	RRR	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
60	S	Standards of Performance for Primary Aluminum Reduction

		Plants.
60	SS	Standards of Performance for Industrial Surface Coating: Large Appliances.
60	SSS	Standards of Performance for Magnetic Tape Coating Facilities.
60	T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
60	TT	Standards of Performance for Metal Coil Surface Coating.
60	TTT	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
60	U	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
60	UU	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
60	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries.
60	V	V-Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
60	VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
60	VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
60	W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry.
60	WWW	Standards of Performance for Municipal Solid Waste Landfills.
60	X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
60	XX	Standards of Performance for Bulk Gasoline Terminals.
60	Y	Standards of Performance for Coal Preparation Plants.
60	Z	Standards of Performance for Ferroalloy Production Facilities.
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	BB	National Emission Standard for Benzene Emissions From Benzene Transfer Operations.
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	FF	National Emission Standard for Benzene Waste Operations Mar. 7, 1990.
61	J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.
61	L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants.
61	M	National Emission Standard for Asbestos.

61	N	National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants.
61	O	National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters.
61	P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities.
61	V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources).
61	Y	National Emission Standard for Benzene Emissions From Benzene Storage Vessels.
63	A	General Provisions.
63	AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants.
63	AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
63	AAAAA	National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
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	BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants.
63	BBBBB	National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
63	BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
63	CC	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries.
63	CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
63	CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast.
63	CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
63	CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.
63	DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
63	DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
63	DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.
63	EE	National Emission Standards for Magnetic Tape Manufacturing Operations.

63	EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
63	EEEE	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.
63	EEEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.
63	F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry.
63	FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.
63	FFFFF	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities.
63	FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.
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	GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities.
63	GGG	National Emission Standards for Pharmaceuticals Production.
63	GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.
63	GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation.
63	GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources - Zinc, Cadmium, and Beryllium.
63	H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
63	HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.
63	HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities.
63	HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
63	HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.
63	HHHHHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations.
63	I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
63	II	National Emission Standards for Shipbuilding and Ship Repair

		(Surface Coating).
63	III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
63	IIII	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.
63	IIIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants.
63	J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.
63	JJ	National Emission Standards for Wood Furniture Manufacturing Operations.
63	JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
63	JJJJ	National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
63	KK	National Emission Standards for the Printing and Publishing Industry.
63	KKKK	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.
63	L	National Emission Standards for Coke Oven Batteries.
63	LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
63	LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.
63	LLLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
63	LLLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.
63	M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
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	MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
63	MMMM	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
63	MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
63	MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.
63	N	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
63	NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
63	NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.

63	NNNNN	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.
63	NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities.
63	OO	National Emission Standards for Tanks - Level 1.
63	OOO	National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins.
63	OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
63	OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
63	PP	National Emission Standards for Containers.
63	PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
63	PPPP	National Emission Standards for Hazardous Air Pollutants of Plastic Parts and Products.
63	PPPPP	National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stand.
63	PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.
63	Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
63	QQ	National Emission Standards for Surface Impoundments.
63	QQQ	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.
63	QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
63	QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
63	QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.
63	R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
63	RR	National Emission Standards for Individual Drain Systems.
63	RRR	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
63	RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
63	RRRRR	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.
63	RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.
63	S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
63	SS	National Emission Standards for Closed Vent Systems, Control

		Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
63	SSSS	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
63	SSSSS	National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.
63	SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.
63	T	National Emission Standards for Halogenated Solvent Cleaning.
63	TT	National Emission Standards for Equipment Leaks.
63	TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
63	TTTT	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
63	TTTTT	National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.
63	TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.
63	U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
63	UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards.
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
63	UUUU	National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
63	VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators.
63	VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
63	VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
63	W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
63	WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2.
63	WWWW	National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
63	WWWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers.
63	WWWWWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.
63	X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.
63	XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

63	.XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.
63	XXXX	National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
63	XXXXXX	National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.
63	Y	National Emission Standards for Marine Tank Vessel Loading Operations.
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
63	YYYY	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
63	YYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.
63	ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
63	ZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
64	All Subparts	Compliance Assurance Monitoring (CAM).
72	All Subparts	Permits Regulation.



# **Legal Authority**

## **A. 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.

**§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:

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 CO<sub>2</sub> sequestration facility, including any associated CO<sub>2</sub> 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 the use of sources of radiation by diagnostic x-ray facilities;

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 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 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 CO<sub>2</sub> sequestration facility, including any associated CO<sub>2</sub> 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.

**§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, and technology center school districts 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 and the technology center school districts 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 and the technology center school districts 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.

#### **§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.

**OAC 252:100-1**  
**Public Hearings**

**January 15, 2003**  
**Air Quality Advisory Council**

**February 28, 2003**  
**Environmental Quality Board**

**Effective Date: June 1, 2003**

# Notices of Rulemaking Intent

## **PUBLIC HEARING:**

A public hearing has been scheduled for Monday, January 27, 2003 at 10:00 a.m. in Shephard Mall, 2401 NW 23<sup>rd</sup> Street, Suite 65, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door at 10:05 a.m.

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

The only known business entity affect by these rules are cosmetology schools. There may be some direct and indirect costs to implement a credit hour program but it is anticipated that the costs will be minimal compared to the revenue that will be generated through tuition fees collected for the teaching of these courses. Cosmetology schools in the state of Oklahoma are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred due to compliance with the proposed rules. Business entities may submit this information to Betty Moore, Executive Director, Oklahoma State Board of Cosmetology at 2401 NW 23<sup>rd</sup> Street, Suite 84, Oklahoma City, Oklahoma 73107 during the comment period from December 17, 2002 to January 26, 2003.

## **COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained from the Oklahoma State Board of Cosmetology, 2401 NW 23<sup>rd</sup> Street, Suite 84, Oklahoma City, Oklahoma. Copies may be obtained by written request mailed to the attention of Betty Moore, Executive Director, 2401 NW 23<sup>rd</sup> Street, Suite 84, Oklahoma City, OK 73107.

## **RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. § 303 (D), a rule impact statement will be prepared and available for review after December 17, 2002 at the office of the Oklahoma State Board of Cosmetology, 2401 NW 23<sup>rd</sup> Street, Suite 84, Oklahoma City, Oklahoma 73107.

## **CONTACT PERSON(S):**

Betty Moore, Executive Director (405) 521-2441 and Jennifer McRee, Principal Assistant (405) 521-2441.

*[OAR Docket #02-1479; filed 11-19-02]*

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

*[OAR Docket #02-1481]*

## **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

## **PROPOSED RULES:**

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]
- Subchapter 7. Permits for Minor Facilities [AMENDED]
- Subchapter 8. Permits for Part 70 Sources [AMENDED]
- Subchapter 13. Open Burning [AMENDED]

- Subchapter 17. Incinerators [AMENDED]
- Subchapter 31. Control of Emission of Sulfur Compounds [AMENDED]
- Subchapter 35. Control of Emission of Carbon Monoxide [AMENDED]
- Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]
- Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]

## **SUMMARY:**

The Department is proposing changes to Subchapters 1, 7, 8, 17, 31, 35, 37, and 39 as a single action. The intent of these changes is to simplify and clarify defined terms. The proposed changes include the addition of new definitions, changes to existing definitions, and deletion of redundant definitions and definitions no longer being used. To correct an earlier oversight in Subchapter 7, a cross-reference is inserted to direct the reader to the location of two existing permits by rule.

The proposed changes to Subchapter 5, Registration, Emission Inventory and Annual Operating Fees, require periodic stack testing to verify the reported emissions for certain types of fuel-burning equipment. Frequency of testing is based on number of hours of operation. Grounds are set forth for waiver or partial waiver of the stack testing requirement. Standards for stack testing of identical equipment are clarified.

The Department is proposing amendments to Subchapter 13, Open Burning, to clarify the scope of exemptions that allow open burning for purposes of fire training. Section 9 will also be amended to exempt hydrocarbon flares from the prohibition against burning between sunset and sunrise.

The Department proposes the addition of Subchapter 17, Part 9, Commercial and Industrial Solid Waste Incinerator Units (CISWI), to establish state emission standards and other enforceable requirements for existing CISWI. A CISWI is considered an existing CISWI if its construction commenced on or before November 30, 1999, and it was not modified or reconstructed on or after June 1, 2001. These proposed rules would provide the means for implementing and enforcing the federal emission guidelines (40 CFR 60, Subpart DDDD). The new Part 9 incorporates by reference sections of the New Source Performance Standards for CISWI (40 CFR 60, Subpart CCCC). In addition to establishing emission standards for certain regulated pollutants, the new rule will establish permitting, CISWI operator training and qualifications, waste management plans, testing and monitoring of pollutants, and operating parameter requirements. The new Part 9, an inventory of existing CISWI in Oklahoma and their emissions, and other essential elements required by 40 CFR 60 Subparts B and DDDD will comprise Oklahoma's draft State 111(d)/129 Plan. The draft State Plan is available for inspection and comment. The public hearing on the proposed plan will be held concurrently with the hearing on the proposed rules. Also, Parts 1 and 5 of Subchapter 17 would be amended to make them consistent with the proposed new Part 9. Sections in Parts 5 and 7 of Subchapter 17 would be amended to

update the incorporations by reference of federal New Source Performance Standards 40 CFR 60 Subparts Eb and Ec to the versions of these standards that exist on July 1, 2002. The proposed changes to Parts 5 and 7 will be submitted to the U.S. Environmental Protection Agency as amendments to Oklahoma's federally-approved State 111(d) Plans for large municipal waste combustors and hospital, medical and infectious waste incinerators. The hearing on the proposed amended plans will be held concurrently with the hearing on the proposed rule changes.

The Department is proposing to revise Subchapter 31 to further clarify that compliance with the ambient air concentration limits in OAC 252:100-31-7(a) and (b) for sulfur oxides include the entire facility and not just a single emission point or process. The Department also proposes to reinstate the annual ambient air concentration limit for sulfur oxides. In addition, the Department proposes to correct a scrivener's error discovered in the regulatory text of Section 26.

**AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101, 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

**COMMENT PERIOD:**

Written comments will be accepted prior to and at the hearing on January 15, 2003. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by January 8, 2003. Oral comments may be made at the January 15, 2003 hearing and the February 28, 2003 Environmental Quality Board meeting.

**PUBLIC HEARINGS:**

Before the Air Quality Council at 9:00 a.m. on Wednesday, January 15, 2003, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on February 28, 2003, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

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

**COPIES OF PROPOSED RULES:**

The proposed rules are available for review at the Air Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Air Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-4100.

**RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained from the contact person.

**CONTACT PERSON:**

Please send written comments to Max Price (Subchapter 5), Cheryl Bradley (Subchapter 17), Joyce Sheedy (Subchapter 31), Michelle Martinez (Subchapters 1, 4, 7, 17-2.2, 35, 37, and 39), and Lisa Donovan (Subchapter 13). Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-4100, fax (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) 702-4100.

[OAR Docket #02-1481; filed 11-19-02]

**TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY  
CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE**

[OAR Docket #02-1451]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking  
**PROPOSED RULES:**

- Subchapter 5. Individual Providers and Specialties
- Part 9. Long Term Care Facilities
- 317:30-5-131.2 [AMENDED]
- Part 41. Family Support Services
- 317:30-5-412 [AMENDED]
- Part 79. Dentists
- 317:30-5-700.1 [AMENDED]
- Part 83. Residential Behavior Management Services in Foster Care Settings
- 317:30-5-740 [AMENDED]
- 317:30-5-740.1 [AMENDED]
- 317:30-5-741 [AMENDED]
- 317:30-5-742 [AMENDED]
- 317:30-5-742.1 [AMENDED]
- 317:30-5-742.2 [AMENDED]
- 317:30-5-745 [AMENDED]

(Reference APA WF # 02-14, 02-16, 02-18A, and 02-19)

**SUMMARY:**

Medical Providers-Fee for Service, Long Term Care specific, rules are revised to comply with provisions of House Bill 2218 of the 2<sup>nd</sup> Session of the 48<sup>th</sup> Legislature related to the Quality of Care fund. Revisions comply with these Legislative mandates by allowing: (1) the activity and social services staff who do not provide direct care to patients to be included in the direct-care-staff-to resident ratio until September 1, 2003; and (2) the Agency to assess the daily administrative penalty for incomplete or non-timely filed Quality of Care Reports only after written notification from the Agency has been received by the facility. Current rules allow the activity

**REGULAR MEETING/ HEARING AGENDA**  
**AIR QUALITY COUNCIL**  
**January 15, 2003, 9:00 a.m.**  
**Multi-purpose Room**  
**707 North Robinson**  
**Oklahoma City, Oklahoma**

*Please turn off your cell phones.*

1. Call to Order – David Branecky
2. Roll Call – Myrna Bruce
3. Election of Officers – Calendar Year 2003
4. Approval of Minutes – October 16, 2002 Regular Meeting
5. Public Rulemaking Hearings
  - A. OAC 252:100-5-2.3. Registration, Emission Inventory and Annual Operating Fees.  
[NEW]

The Department proposes to add 252:100-5-2.3 to require stack testing to verify reported emissions for certain categories of fuel-burning equipment. Testing will be required every 44,000 hours of operation, provided there is no other acceptable method to verify the reported emissions. The new requirement supplements existing requirements for verification of incomplete or incorrect facility emission inventories contained in 252:100-5-2.1(e).

1. Presentation – Max Price
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**B. OAC 252:100-31. Control of Emission of Sulfur Compounds. [AMENDED]**

The Department proposes revision to Subchapter 31 to further clarify that the ambient air concentration limits for sulfur oxides are measured in terms of facility-wide impact on the ambient air concentration. The Department also proposes to reinstate the annual ambient air concentration limit for sulfur oxides and to correct a scrivener's error discovered in the regulatory text of Section 26.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**C. OAC 252:100-1. General Provisions. [AMENDED]**

The Department proposes changes to Subchapters 1, 7, 8, 17, 31, 35, 37 and 39 as a single action. The intent of these changes is to simplify and clarify language and remove redundant definitions from Chapter 100.

1. Presentation – Michelle Martinez
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**D. OAC 252:100-13. Open Burning. [AMENDED]**

The Department proposes to clarify the scope of exemptions that allow open burning for purposes of fire training. Section 9 will also be amended to exempt hydrocarbon flares from the prohibition against burning between sunset and sunrise.

1. Presentation – Lisa Donovan
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**E. OAC 252:100-17. Incinerators. [AMENDED]**

The Department proposes to add OAC 242:100-17, Part 9, Commercial and Industrial Solid Waste Incinerator Units (CISWI), to provide the means for implementing and enforcing the federal emission guidelines at 40 CFR 60, Subpart DDDD and incorporates by reference sections of 40 CFR 60, Subpart CCCC. In addition to establishing emission standards for certain regulated pollutants, the new rule will establish permitting, operator qualifications and training, waste management plans, testing and monitoring of pollutants, and operating parameter requirements.

1. Presentation – Cheryl Bradley
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**F. OAC 252:100-33. Control of Emission of Nitrogen Oxides. [AMENDED]**

The Department proposes an emergency revision to Section 1.2 of Subchapter 33 which will exempt glass-melting furnaces from the NO<sub>x</sub> (nitrogen oxides) emission limits for fuel-burning equipment contained in OAC 252:100-33-2. This will eliminate an unintended barrier to the construction of new glass plants in the State due to an inability of glass-melting furnaces to meet these NO<sub>x</sub> emission limits.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for emergency adoption

**6. Division Director's Report – Eddie Terrill**

**7. New Business –** (Any matter not known about, or which could not have been reasonably foreseen prior to the time of posting the Agenda.)

**8. Adjournment --** Next Regular Meeting is proposed for 9 a.m. April 16, 2003, OSU @ Tulsa, 700 North Greenwood, Room 150, Tulsa, Oklahoma.

Lunch Break, if necessary.

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4212.



## SUBCHAPTER 1. GENERAL PROVISIONS

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

~~It is the purpose of this Subchapter to provide definitions of words and phrases used in the field of air pollution and which are consistent with accepted usage. The definitions contained in the Oklahoma Clean Air Act, under which this regulation is promulgated, shall also apply. Definitions having specialized applications are followed by parenthetical citations to the particular Subchapter wherein they are used. This Subchapter provides definitions of words and phrases used in Chapter 100. The definitions contained in the Oklahoma Clean Air Act, under which this regulation is promulgated, shall also apply. The Subchapter also contains a list of commonly used units with their abbreviations and a list of commonly used acronyms.~~

### 252:100-1-2. Statutory definitions

~~The definitions contained in the Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2-5-101 et seq., Oklahoma Environmental Quality Code at 27A O.S. Sections 2-01-102 and 2-05-101(2002) under which this Chapter is promulgated, shall also apply. for the following terms.~~

- ~~(1) board,~~
- ~~(2) department,~~
- ~~(3) Executive Director,~~
- ~~(4) council,~~
- ~~(5) director,~~
- ~~(6) person,~~
- ~~(7) air pollution, and~~
- ~~(8) air contaminants.~~
- (1) air contaminants,
- (2) air pollution,
- (3) council,
- (4) department,
- (5) director,
- (6) Executive Director, and
- (7) person.

### 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.

~~"Acrylic" means a chemical coating containing polymers or copolymers of acrylic or substitute acrylic acid in combination with suitable resinous modifiers and its primary mode of cure is solvent evaporation. (252.100-37)~~

~~"Actual emissions" when used in OAC 252.100-7, Part 5, means the~~

~~actual rate of emissions of a pollutant from an emission unit, as determined in accordance with the following.~~

~~(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may 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. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.~~

~~(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.~~

~~(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (OAC 252.100-7, Part 5)~~

~~"Actual emissions" when used in OAC 252.100-7, Part 7, means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following.~~

~~(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may 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. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.~~

~~(B) The reviewing authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.~~

~~(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (OAC 252.100-7, Part 7)~~

"Air contaminant source" means any and all sources of emission of air contaminants, 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.

~~"Alkyd primer" when used in Subchapter 37 means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional paint. (OAC 252.100-37)~~

~~"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. (OAC 252.100-7, Parts 5 and 7)~~

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

~~"Architectural coating" means coating used for residential, commercial and/or industrial buildings and their appurtenances.~~

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

~~"Automatic tread end cementing" means the application of a solvent based cement to the tire tread ends by automated devices. (OAC 252.100-39-44)~~

~~"Baseline area" means any area designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m<sup>3</sup> (annual average) of the pollutant for which the minor source baseline date is established. (OAC 252.100-7, Part 5) (Effective May 11, 1991)~~

~~"Baseline concentration"~~

~~(A) when used in OAC 252.100-7, Part 5, means that ambient concentration level which exists in the baseline area at the time of the applicable baseline date.~~

~~(i) 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 baseline date, except as provided in (B) of this definition.~~

~~(II) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. (Effective May 11, 1991)~~

~~(ii) 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 source on which construction commenced after the major source baseline date, and,~~

~~(II) actual emission increases and decreases at any source occurring after the minor source baseline date. (OAC 252.100-7, Part 5) (Effective May 11, 1991)~~

~~(B) when used in the remainder of this Chapter, in regard to prevention of significant deterioration (PSD), means the ambient concentration levels which exist at the time application for permit in an area plus emissions from sources not yet operating on which construction commenced prior to January 6, 1975. Emissions from major sources as defined in Section 169 of the Federal Clean Air Act on which construction commenced after January 6, 1975 will not be counted in the baseline and shall be counted against the maximum allowable increase in pollution concentration. (Effective April 1, 1979)~~

~~**"Baseline date"**~~

~~(A) means:~~

~~(i) for major sources,~~

~~(I) in the case of particulate matter and sulfur dioxide, January 6, 1975, and~~

~~(II) in the case of nitrogen dioxide, February 8, 1988, and,~~

~~(ii) for minor sources, the earliest date after the trigger date on which a major stationary source or a major modification (subject to 40 CFR 52.21 or OAC 252.100-7, Part 5) submits a complete application. The trigger date is:~~

~~(I) in the case of particulate matter and sulfur dioxide, August 7, 1977, and,~~

~~(II) in the case of nitrogen oxides, February 8, 1988. (OAC 252.100-7, Part 5) (Effective May 11, 1991)~~

~~(B) is established for each pollutant for which increments have been established if:~~

~~(i) the area in which the proposed source or modification~~

~~would construct is designated as attainment or unclassifiable for the pollutant on the date of its complete application, and~~

~~(ii) in the case of a major 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. (OAC 252.100-7, Part 5)~~

~~"Basic oxygen furnace" means a furnace in which the melting and refining of iron are accomplished by the addition at high velocities of large amounts of high purity oxygen to the atmosphere above the surface of the metal bath. The metal is held in a tiltable vessel with a basic refractory lining. Such a furnace includes the furnace proper, oxygen lance, scrap and flux charging units, iron transfer units, gas collecting and cleaning equipment, stacks and any other auxiliaries pertinent to the process.~~

~~"Bead dipping" means the dipping of an assembled tire bead into a solvent based cement. (OAC 252.100-39-44)~~

~~"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. 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. (OAC 252.100-7, Parts 5 and 7)~~

~~"Best available control technology" or "BACT" means the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case by case basis taking into account energy, environmental, costs and economic impacts of alternative control systems. (OAC 252.100-7, Part 5) 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.~~

~~"Blast furnace" means furnace and equipment used in connection with the smelting process of reducing metallic ores to molten metal in which primarily oxygen is removed from the ore and gas is produced as a by product. The furnace and equipment consists of, but is not limited to, the furnace proper, charging equipment, stoves, bleeders, gas dust cleaning devices, after-burner, and other auxiliaries pertinent to the process.~~

~~"Building, structure, facility" 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. (OAC 252.100-7, Part 7)~~

**"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. ~~(OAC 252.100-7, Part 5)~~

**"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.

~~"Chimney" means any conduit, duct, stack, vent, flue, or opening of any kind whatsoever arranged to conduct any emission of products to the atmosphere.~~

**"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. ~~(OAC 252.100-13)~~

~~"Commence" means as applied to construction of a major stationary source or major modification means 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 canceled 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. (OAC 252.100-7, Parts 5 and 7)~~

**"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.

**"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 reviewing authority from requesting or accepting any additional information. ~~(OAC 252.100-7, Part 5)~~

~~"Component" means any piece of equipment which has the potential to leak volatile organic compounds when tested in the manner described in Appendix B, EPA Guideline Series Document, Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment, EPA 450/2-78-036, or an equivalent method as determined by the Director. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open ended pipes. Excluded from these sources are valves which are not externally regulated. (OAC 252.100-39, Part 3)~~

~~"Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at normal operating conditions. (OAC 252.100-39, Part 5)~~

**"Construction"**

~~(A) when used in OAC 252.100-7, Parts 5 and 7, means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. (OAC 252.100-7, Parts 5 and 7)~~

~~(B) when used in the remainder of this Chapter means, unless specifically defined otherwise, means fabrication, erection, or installation of a source. (Effective June 22, 1974)~~

~~"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. (OAC 252.100-39, Part 5)~~

~~"Custom product finishes" means a proprietary chemical coating designed for a specific customer and end use. (OAC 252.100-37)~~

~~"Cutback asphalt" means basic asphalt or asphaltic concrete containing a petroleum distillate. (OAC 252.100-37)~~

~~"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.~~

~~"Effluent water separator" means any tank, box, sump, or other container in which any material compound floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water. (OAC 252.100-37)~~

~~"Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. (OAC 252.100-7, Parts 5 and 7)~~

~~"Epoxy" means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. Epoxies prime mode of cure~~

~~involves a chemical reaction between the epoxy and the cross-linking agent. (OAC 252.100-37)~~

~~"Equivalent opacity" means the degree to which an emission, other than gray or black smoke, is partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as an equivalent of the obstruction caused by a gray or black smoke emission of a given density as measured by a Ringelmann Smoke Chart.~~

~~"Excess air" means air entering a combustion chamber in excess of the amount theoretically required to complete combustion of materials in the combustion chamber.~~

~~"Excess emissions" means the emission of regulated air contaminants pollutants in excess of an applicable limitation or requirement as specified in the applicable limiting regulation (OAC 252.100-9) Subchapter, permit, or order of the DEO. 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.~~

~~"External floating roof" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall. (OAC 252.100-39, Part 5)~~

~~"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).~~

~~"Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials. (OAC 252.100-39-43)~~

~~"Fly ash" means particulate matter capable of being gasborne or airborne consisting essentially of fused ash and/or burned or unburned material.~~

~~"Foundry cupola" means shaft-type furnace used for the melting of metals usually consisting of, but not limited to, the furnace proper, tuyeres, fans or blowers, tapping spout, charging equipment, gas-cleaning devices and other auxiliaries. Shaft furnaces used for processing non-metallic materials are not included under this definition but are included in the definition~~



~~of process equipment.~~

**"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. — (Effective July 1, 1977)

**"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. (OAC 252.100-7, Parts 5 and 7)

**"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.

~~"Gas service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the gaseous phase. (OAC 252.100-39, Part 3)~~

~~"Green tire spraying" means the spraying of green tires, both inside and outside, with release compounds which help remove air from the tire during molding and prevent the tire from sticking to the mold after curing. (OAC 252.100-39-44)~~

~~"Green tires" means assembled tires before molding and curing have occurred. (OAC 252.100-39-44)~~

~~"Hazardous air contaminant" means any hazardous air pollutant regulated under Section 112 of the federal Clean Air Act, 42 U.S.C. Section 7412, and subject to national emission standards (NESHAP). (OAC 252.100-41)~~

**"In being"** means as used in the definitions of New Installation and Existing Source means 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 of the application as specified by the applicable regulation. — (Effective June 22, 1974)

**"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.

~~"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.  
(OAC 252.100-7, Part 5)~~

~~"Installation" means an identifiable piece of process equipment.  
(OAC 252.100-7, Part 7)~~

~~"Lease custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation. (OAC 252.100-39, Part 5)~~

~~"Liquid-mounted seal" means a primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof. (OAC 252.100-39, Part 5)~~

~~"Liquid service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the liquid phase. (OAC 252.100-39, Part 3)~~

~~"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act). (OAC 252.100-7 Part 7)~~

~~"Maintenance finishes" means a chemical coating formulated to form a protection of a given substrate to adverse chemical or physical condition. (OAC 252.100-37)~~

~~"Major modification" when used in OAC 252.100-7, Part 5, means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.~~

~~(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.~~

~~(B) A physical change or change in the method of operation shall not include.~~

~~(i) routine maintenance, repair and replacement,~~

~~(ii) use of an alternate 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 Federal Clean Air 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.~~

~~(I) the source was capable of accommodating before~~

~~January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975, or~~

~~(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252.100-7,~~

~~(vi) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975, or~~

~~(vii) any change in source ownership. (OAC 252.100-7, Part 5)~~

~~"Major modification" when used in OAC 252.100-7, Part 7, means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.~~

~~(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.~~

~~(B) A physical change or change in the method of operation shall not include:~~

~~(i) routine maintenance, repair and replacement,~~

~~(ii) use of an alternate 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 Federal Clean Air Act,~~

~~(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste,~~

~~(v) use of an alternate fuel or raw material by a source which:~~

~~(I) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or~~

~~(II) the source is approved to use under any Permit issued under 40 CFR 52.21 or OAC 252.100-7,~~

~~(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or~~

~~(vii) Any change in source ownership. (OAC 252.100-7, Part 7)~~

~~"Major source (major emitting facility)" means any stationary facility or source of an air pollution which directly emits or has the potential to emit (i.e., as if no controls were to be applied)~~

~~100 tons or more per year. (Effective April 1, 1979)~~

~~"Major sources 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).~~

~~"Major stationary source" when used in OAC 252.100-7, Part 5, means:~~

~~(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:~~

~~(i) fossil fuel fired steam electric plants of more than 250 million BTU per hour heat input,~~

~~(ii) coal cleaning plants (with thermal dryers),~~

~~(iii) kraft pulp mills,~~

~~(iv) portland cement plants,~~

~~(v) primary zinc smelters,~~

~~(vi) iron and steel mill plants,~~

~~(vii) primary aluminum ore reduction plants,~~

~~(viii) primary copper smelters,~~

~~(ix) municipal incinerators capable of charging more than 50 tons of refuse per day,~~

~~(x) hydrofluoric, sulfuric or nitric acid plants,~~

~~(xi) petroleum refineries,~~

~~(xii) lime plants,~~

~~(xiii) phosphate rock processing plants,~~

~~(xiv) coke oven batteries,~~

~~(xv) sulfur recovery plants,~~

~~(xvi) carbon black plants (furnace process),~~

~~(xvii) primary lead smelters,~~

~~(xviii) fuel conversion plants,~~

~~(xix) sintering plants,~~

~~(xx) secondary metal production plants,~~

~~(xxi) chemical process plants,~~

~~(xxii) fossil fuel boilers (or combustion thereof) totaling more than 250 million BTU per hour heat input,~~

~~(xxiii) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,~~

~~(xxiv) taconite ore processing plants,~~

~~(xxv) glass fiber processing plants,~~

~~(xxvi) charcoal production plants, or~~

~~(xxvii) any other source not on the above list which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.~~

~~(B) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) of this definition if the change would constitute a major source by itself.~~

~~(C) For ozone, any source that is major for volatile organic compounds shall be considered major. (OAC 252.100-7, Part 5)~~

~~"Major stationary source" when used in OAC 252.100-7, Part 7, means:~~

~~(A) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation, or,~~

~~(B) Any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.~~

~~(C) For ozone, any source that is major for volatile organic compounds shall be considered major. (OAC 252.100-7, Part 7)~~

~~"Malfunction" means any sudden and unavoidable failure of air pollution control equipment on process or process equipment to operate in a normal and usual manner. Failures caused entirely or partially by poor maintenance, careless operation or any other preventable upset condition or preventable equipment failure shall not be considered a malfunction. (252.100-9) 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.~~

~~"Manual tread end cementing" means the application of a solvent based cement to the tire tread ends by manufacturers. (252.100-39-44)~~

~~"Mechanical fuel-burning equipment" means fuel-burning equipment incorporating means by which fuel is mechanically introduced into the combustion chamber.~~

~~"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. (Effective June 22, 1974)~~

~~"Motor vehicle" means a self-propelled, wheeled vehicle designed~~

~~for normal use of public streets and highways. (OAC 252.100-15)~~

~~"Motor vehicle pollution control devices" means any or all of the devices or systems referred to in this Section and designed to control or prevent air pollution emissions from motor vehicles. (OAC 252.100-15)~~

~~"Multiple-chamber incinerator" means any article, machine, equipment, or contrivance or part of a structure, used to dispose of refuse or garbage by burning, consisting of three or more refractory-lined chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design necessary for maximum combustion of material to be burned.~~

~~"Necessary preconstruction approvals or permits" means those permits or approvals required under all applicable air quality control laws and rules. (OAC 252.100-7, Parts 5 and 7)~~

~~"Net emissions increase" when used in OAC 252.100-7, Part 5, means:~~

~~(A) The amount by which the sum of the following exceeds zero:~~

~~(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source, and,~~

~~(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.~~

~~(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 the Executive Director has not relied on it in issuing a permit under OAC 252.100-7, Part 3, 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 or particulate matter which occurs before the applicable 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:~~

~~(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 at and after the time that actual~~

~~construction on the particular change begins.~~

~~(iii) 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 emission 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. (OAC 252.100-7, Part 5)~~

~~"Net emissions increase" when used in OAC 252.100-7, Part 7, means:~~

~~(A) The amount by which the sum of the following exceeds zero:~~

~~(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source, and,~~

~~(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.~~

~~(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 the Executive Director has not relied on it in issuing a permit under OAC 252.100-7, Part 7, 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 the allowable emissions, whichever is lower, exceeds the new level of actual emissions.~~

~~(ii) it is enforceable at and after the time that actual construction on the particular change begins.~~

~~(iii) the reviewing authority has not relied on it in issuing any permit under State air quality regulations.~~

~~(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. (OAC 252.100-7, Part 7)~~

~~"New installation (source or equipment)", "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 altered modified, replaced, or rebuilt-reconstructed after the effective date of the regulations such that the amount of air contaminant emissions is increased.~~

~~"New portable source" means a portable source that has never operated within the State of Oklahoma. This includes sources that are initially constructed and existing facilities that are relocating into Oklahoma from another state. (Effective July 1, 1977)~~

~~"Nitric acid plant" means process involving the high temperature oxidation of ammonia with air over a catalyst to form nitric oxide which is reacted with air to form nitrogen dioxide which is absorbed in water to weak nitric acid which may be concentrated. The plant consists of, but is not limited to, the reactor, absorber, concentrator and other auxiliaries pertinent to the process.~~

~~"Nitrocellulose lacquers" means a chemical coating containing nitrocellulose and suitable resinous modifiers, and whose primary mode of cure is solvent evaporation. (OAC 252.100-37)~~

~~"Odorant (odor)" means that property of a material that affects the sense of smell.~~

"Opacity" means equivalent opacity 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. (OAC 252.100-13)

~~"Organic materials" means chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates, and ammonium carbonate.~~

~~"Organic solvents"~~

~~(A) when used in Subchapter 37 of this Chapter, means organic materials including diluents and thinners which are liquids at standard conditions and which are used as solvers, viscosity reducers or cleaning agents, except that such materials which exhibit a boiling point higher than 220°F. at 0.5 millimeters of mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220°F. However, the following listed materials are presently judged to be suitable for exclusion to any control.~~

~~(i) methane,~~

~~(ii) ethane,~~

~~(iii) 1,1,1-trichloroethane (methyl chloroform),~~



~~(iv) trichlorotrifluoroethane (freon 113), and~~

~~(v) methylene chloride (dichloromethane). (OAC 252.100-37)~~

~~(B) when used in the remainder of this Chapter, unless specifically defined otherwise, means organic materials including diluents and thinners which are liquids at standard conditions and which are used as solvers, viscosity reducers or cleaning agents, except that such materials which exhibit a boiling point higher than 220°F. at 0.5 millimeters of mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220°F. (Effective June 22, 1974)~~

~~"Owner or operator" means any person who owns, leases, operates, controls or supervises a source. (Effective June 22, 1974)~~

~~"PM-10 emissions" means finely divided solid or liquid material particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, as measured during a stack test of the source's emissions.~~

~~"PM-10 (particulate matter - 10 micrometers)" means a portion of total suspended particulates, comprised by that fraction of particles which exhibit an average aerodynamic particle diameter of 10 micrometers or less and exists as a solid or a liquid, and is defined as particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a federal reference method based on Appendix J of 40 CFR Part 50.~~

~~"Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates which are, in subsequent operations, formed into packaging products and labels for articles to be sold. (252.100-39-43)~~

~~"Paper mill" means a plant in which paper, paperboard, cardboard, paper felt, or similar material is produced from waste paper products, wood chips and/or pulp slurry, including, but not limited to, mixers, forming screens, suction boxes, dryers, filters, paper rolls and other auxiliary equipment pertinent to the process.~~

~~"Particle board" means mat formed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.~~

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

~~"Particulate matter emissions" means are finely divided solid or liquid material as measured during a stack test of the sources emissions particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method.~~

~~"Passenger type tire" means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches. (252.100-39-44)~~

~~"Petroleum and natural gas processes" means processes used in the processing of crude petroleum and/or natural gas into refined products including, but 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 other auxiliary equipment pertinent to the process.~~

~~"Petroleum liquids" means crude oil, condensate, and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery. (OAC 252.100-39, Part 5)~~

~~"Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil and other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives. (OAC 252.100-39, Part 3)~~

~~"Photochemically reactive solvent" means any solvent with an aggregate more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composite limitations, referred to the total volume of solvent.~~

~~(A) a combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cyclo-olefinic type of unsaturation. 5 percent,~~

~~(B) a combination of aromatic compounds with either eight (8) or more carbon atoms to the molecule except ethylbenzene. 8 percent,~~

~~(C) a combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene. 20 percent. Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group, that is, that group having the least allowable percent of the total volume of solvents.~~

~~"Plywood" means panel built generally of a number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at an angle to the one adjacent to it.~~

~~"Pneumatic rubber tire manufacture" means the production of pneumatic rubber, passenger type tire on a mass production basis. (OAC 252.100-39-44)~~

~~"Portable source" means a source with design and intended use to allow disassembly or relocation. (Effective July 1, 1977)~~

"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. ~~(OAC 252.100-7, Parts 5 and 7)~~

**"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.

~~"Products of combustion" means all particulate and gaseous air contaminants emitted as a result of the burning of refuse and combustible materials. (OAC 252.100-13)~~

~~"Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials. (OAC 252.100-39-43)~~

~~"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.~~

**"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. ~~(OAC 252:100-37)~~

~~"Refinery unit" means a set of components which are a part of a basic process operation, such as, distillation, hydrotreating, cracking or reforming of hydrocarbons. (OAC 252:100-39, Part 3)~~

**"Refuse"**

~~(A) when used in Subchapter 13 of this Chapter, means garbage, rubbish, and all other wastes generated by a trade, business, industry, building operation, or household. (OAC 252:100-13)~~

~~(B) when used in the remainder of this Chapter, unless specifically defined otherwise, 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.

**"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 DEO;

(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.

~~—"Resource recovery facility" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a resource recovery facility under OAC 252.100-7, Part 7.~~

~~—"Ringelmann chart" means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.~~

~~—"Roll printing" means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage. (OAC 252.100-39-43)~~

~~—"Rotogravure printing" means the application of works, designs and pictures to a substrate by means of a roll printing technique which involves an intaglio or recessed image areas in the form of cells. (OAC 252.100-39-43)~~

~~—"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purposes of OAC 252.100-7, Parts 5 and 7, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:~~

~~(A) emissions from trains coming to or from the new or~~

~~modified stationary source, and,~~

~~(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. (OAC 252.100-7, Parts 5 and 7)~~

~~"Shutdown" means the cessation of operation of any process, process equipment, or air pollution control equipment process or process equipment other than routine phasing out of process units. As used in this regulation, the term "phasing out" refers to the permanent cessation of use of a piece of process equipment. (OAC 252.100-9)~~

~~"Significant" when used in OAC 252.100-7, Part 5, 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 rates:~~

~~(i) carbon monoxide. 100 tons per year (tpy)~~

~~(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) ozone. 40 tpy of volatile organic compounds~~

~~(vi) lead. 0.6 tpy~~

~~(vii) asbestos. 0.007 tpy~~

~~(viii) beryllium. 0.0004 tpy~~

~~(ix) mercury. 0.1 tpy~~

~~(x) vinyl chloride. 1 tpy~~

~~(xi) fluorides. 3 tpy~~

~~(xii) sulfuric acid mist. 7 tpy~~

~~(xiii) hydrogen sulfide (H<sub>2</sub>S): 10 tpy~~

~~(xiv) total reduced sulfur (including H<sub>2</sub>S): 10 tpy~~

~~(xv) reduced sulfur compounds (including H<sub>2</sub>S): 10 tpy~~

~~(B) notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or 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 ug/m<sup>3</sup> (24 hour average). (OAC 252.100-7, Part 5)~~

~~"Significant" when used in OAC 252.100-7, Part 7, means 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 rates.~~

~~(A) carbon monoxide: 100 tons per year (tpy)~~

~~(B) nitrogen oxides. 40 tpy~~

~~(C) sulfur dioxide. 40 tpy~~

~~(D) particulate matter. 15 tpy of PM-10 emissions~~

~~(E) ozone. 40 tpy of volatile organic compounds~~

~~(F) lead. 0.6 tpy. (OAC 252.100-7, Part 7)~~

"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.

~~"Soiling index" means a measure of the soiling properties of suspended particulates determined by drawing a known volume of air through a known area of filter paper tape and measuring the optical density of the filtered deposit as given in the American Society for Testing Materials Standard D 1704-61, expressed in coefficient of haze (COH's) per 1000 linear feet.~~

~~"Source gas volume" means the volume in standard cubic feet, of all gases leaving a source operation, for purposes of this definition, the boundary of a source operation is that point or surface at which the separation of the air contaminants from the process materials, or the conversion of the process materials, or the conversion of the process materials into air contaminants, is essentially complete.~~

"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 any chimney, flue, duct, conduit, exhaust, vent or opening of any kind whatsoever capable of, or used for, the emission of air contaminants, unless specifically defined otherwise, any chimney, flue, duct, conduit, exhaust, vent or opening 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.

~~"Standard cubic foot of gas" means that amount of gas which would occupy a cube having dimensions of one foot on each side, if the gas were at standard conditions, calculations to determine the number of standard cubic feet corresponding to actual measured conditions shall follow accepted engineering practice.~~

~~"Standard dry cubic foot of gas" means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at standard condition, calculations to determine the number of standard dry cubic feet corresponding to actual measured conditions shall follow accepted engineering practice.~~

"Startup" means the setting into operation of any process, process equipment, or air pollution control equipment, ~~process or process equipment for any purpose other than routine phasing in of process units.~~ As used in this Chapter, the term "phasing in"

~~refers to the initial introduction of a piece of process equipment into the particular process. (OAC 252.100-9)~~

~~"Stationary engine" means an internal combustion engine not providing motive power to a motor vehicle. Stationary external combustion engines are included in the definition for fuel-burning equipment.~~

**"Stationary source"**

~~(A) when used in OAC 252.100-7, Parts 5 and 7, means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation. (OAC 252.100-7, Parts 5 and 7)~~

~~(B) when used in the remainder of this Chapter means, unless specifically defined otherwise, means 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. (Effective July 1, 1977)~~

~~"Submerged fill pipe" means any fill pipe or discharge nozzle which meets any one of the following conditions:~~

~~(A) the bottom of the discharge pipe or nozzle is below the surface of liquid in the receiving vessel for at least 95 percent of the volume filled;~~

~~(B) the bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel;~~

~~(C) the bottom of the discharge pipe or nozzle is less than two (2) pipe or nozzle diameters from the bottom of the receiving vessel, or;~~

~~(D) other equivalent methods acceptable to the Executive Director. (OAC 252.100-37 and 252.100-39)~~

~~"TSP (total suspended particulates)" "Total Suspended Particulates" or "TSP" means is defined as 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.~~

~~"Undertaking cementing" means the application of a solvent based cement to the underside of a tire tread. (OAC 252.100-39-44)~~

~~"Valves not externally regulated" means valves that have no external controls, such as in-line check valves. (OAC 252.100-39, Part 3)~~

~~"Vapor-mounted seal" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof. (OAC 252.100-39, Part 5)~~

~~"Veneer" means a thin panel of wood usually not exceeding 1/4 inch in thickness, formed by slicing or peeling from a log.~~

~~"Vinyl" means a chemical coating containing plasterized or unplasterized polymers and co-polymers of vinyl acetate, vinyl~~



~~chloride, polyvinyl alcohols or their condensation products and the primary mode of cure is solvent evaporation. (OAC 252.100-37)~~

~~"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 compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage condition. (OAC 252.100-37) of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonates, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.~~

~~"Water based sprays" means release compounds, sprayed on the inside and outside of green tires, in which solids, water and emulsifiers have been substituted for organic solvents. These sprays may contain an average of up to five percent organic solvent. (OAC 252.100-39-44)~~

~~"Waxy, high pour point crude oil" means a crude oil with a pour point of 50°F. or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils." (OAC 252.100-39, Part 5)~~

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#### 252:100-1-4. Units, abbreviations and acronyms

##### (a) Abbreviations and symbols of units of measure.

- (1) Btu - British thermal unit
- (2) cm/sec - centimeter per second
- (3) dscf - dry cubic feet at standard conditions
- (4) dscm - dry cubic meter at standard conditions
- (5) ft/min - feet per minute
- (6) gal - gallon
- (7) gal/d - gallons per day
- (8) gal/yr - gallons per year
- (9) gr/dscf - grains per dry standard cubic foot
- (10) hr - hour
- (11) Hg - mercury
- (12) hp - horsepower
- (13) H<sub>2</sub>O - water
- (14) H<sub>2</sub>S - hydrogen sulfide
- (15) H<sub>2</sub>SO<sub>4</sub> - sulfuric acid
- (16) kg - kilogram
- (17) kg/metric ton - kilograms per metric ton
- (18) kPa - kilopascals
- (19) l - liter
- (20) l/yr - liters per year
- (21) LT/D - long tons per day

- (22) lb/wk - pounds per week
- (23) lb - pound
- (24) lbs/hr - pounds per hour
- (25) m<sup>3</sup> - cubic meter
- (26) mg/dscm - milligrams per dry standard cubic meter
- (27) MMBTU/hr - heat input in million british thermal units per hour
- (28) Mg - megagram - 10<sup>6</sup> gram
- (29) Mg/yr - megagrams per year
- (30) mg/l - milligrams per liter
- (31) m/min - meter per minute
- (32) ng/dscm - nanograms per dry standard cubic meter
- (33) oz/in<sup>2</sup> - ounce per square inch
- (34) ppm - parts per million
- (35) psia - pounds per square inch absolute
- (36) psig - pounds per square inch gage
- (37) ppmv - parts per million by volume
- (38) SO<sub>2</sub> - sulfur dioxide
- (39) TPY - tons per year
- (40) ug/m<sup>3</sup> - micrograms per cubic meter

**(b) Acronyms.**

- (1) A.I.S.I. - American Iron and Steel Institute
- (2) A.S.M.E. - American Society of Mechanical Engineers
- (3) A.S.T.M. - American Society for Testing and Materials
- (4) BACT - Best Available Control Technology
- (5) CEM - Continuous Emission Monitor
- (6) CFR - Code of Federal Regulations
- (7) COM - Continuous Opacity Monitor
- (8) DEQ - Department of Environmental Quality
- (9) EPA - Environmental Protection Agency
- (10) HAP - Hazardous Air Pollutants
- (11) HMIWI - Hospital/Medical/Infectious Waste Incinerator
- (12) MACT - Maximum Achievable Control Technology
- (13) MSW - Municipal Solid Waste
- (14) MWC - Municipal Waste Combustors
- (15) NAAQS - National Ambient Air Quality Standards
- (16) NESHAP - National Emissions Standards for Hazardous Air Pollutants
- (17) NSPS - New Source Performance Standards
- (18) OAC - Oklahoma Administrative Code
- (19) PBR - Permit by Rule
- (20) PM - Particulate Matter
- (21) PSD - Prevention of Significant Deterioration
- (22) SIC - Standard Industrial Classification
- (23) SIP - State Implementation Plan
- (24) TSP - Total Suspended Particulates
- (25) VOC - Volatile Organic Compound
- (26) 27A O.S. - Title 27A Oklahoma Statutes Annotated

**DRAFT MINUTES  
AIR QUALITY COUNCIL  
January 15, 2003**

**Department of Environmental Quality  
Multipurpose Room 707 N. Robinson  
Oklahoma City Oklahoma**

Draft for EQBoard Feb 28, 2003  
For AQC approval Apr 16, 2003

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. January 15, 2003, in the Multipurpose Room of the Department of Environmental Quality, 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. At least twenty-four hours prior to the meeting, agendas were posted on the entrance doors at the DEQ Central Office in Oklahoma City.

As protocol officer, Mr. David Dyke 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. Mr. Dyke entered the Agenda and the Oklahoma Register Notice into the record. He added that forms were at the sign-in table for anyone wishing to comment on any of the rules.

Chairman David Branecky called the meeting to order stating that the Agenda would be in a different order because Mr. Eddie Terrill had been called to another meeting. Roll was called and a quorum confirmed.

**MEMBERS PRESENT**

David Branecky  
Bill Breisch  
Gary Kilpatrick  
Bob Lynch  
Sharon Myers  
Rick Treeman  
Joel Wilson

**MEMBERS ABSENT**

Gary Martin

**OTHERS PRESENT**

Sign-in sheet is attached as an official part of these Minutes

**DEQ STAFF PRESENT**

Eddie Terrill  
David Dyke  
Scott Thomas  
Pam Dizikes  
Kendall Cody  
Joyce Sheedy  
Max Price  
Cheryl Bradley  
Michelle Martinez  
Lisa Donovan  
Pat Sullivan  
Dawson Lasseter  
Gary Kurtz  
Doyle McWhirter  
Annette Sharp  
Myma Bruce

**Election of Officers Calendar Year 2003** - Mr. Branecky nominated Ms. Sharon Myers to serve as Chair and Dr. Robert Lynch to serve as Vice-Chair. Mr. Branecky made that motion and Mr. Kilpatrick made the second. Following the unanimous vote, Mr. Branecky turned the gavel to Ms. Myers.

<b>Roll call.</b>		Sharon Myers	Yes
Gary Kilpatrick	Yes	Bob Lynch	Yes
Bill Breisch	Yes	Joel Wilson	Yes
Rick Treeman	Yes	David Branecky	Yes
		<b>Motion carried.</b>	

**Approval of Minutes** Ms. Myers called agenda item number 4, Approval of Minutes of the October 16, 2002, Regular Meeting. Hearing no discussion, she called for a motion

to approve the Minutes as presented. Mr. Branecky made the motion with Mr. Treeman making the second.

<b>Roll call.</b>		David Branecky	Yes
Gary Kilpatrick	Yes	Bob Lynch	Yes
Bill Breisch	Yes	Joel Wilson	Yes
Rick Treeman	Yes	Sharon Myers	Yes

**Motion carried.**

**OAC 252:100-17 Incinerators**

As hearing protocol officer, Mr. Dyke called for Agenda item 5E and called upon Ms. Cheryl Bradley for staff presentation. Ms. Bradley advised that the new Part 9 provided the means for implementing and enforcing the federal emission guidelines at 40 CFR 60, Subpart DDDD. The proposed rules would establish Part 70 permitting, emission standards, operator training and qualifications, waste management plans, testing and monitoring, and set operator parameter requirements for commercial and industrial solid waste incinerators constructed before November 30, 1999. Ms. Bradley identified the changes and corrections that had been made plus two corrections that should have been made to the draft version of the rule in the agenda packet. Staff requested approval to forward proposed rulemaking to the Environmental Quality Board for permanent adoption. Mr. Kilpatrick also pointed out a section that was numbered incorrectly. Mr. Branecky made motion for passage with direction to staff to correct those sections identified. Mr. Kilpatrick made the second.

<b>Roll call.</b>		David Branecky	Yes
Gary Kilpatrick	Yes	Bob Lynch	Yes
Bill Breisch	Yes	Joel Wilson	Yes
Rick Treeman	Yes	Sharon Myers	Yes

**Motion carried.**

**Rulemaking - OAC 252:100-33 Control of Emission of Nitrogen Oxides**

Mr. Dyke called Agenda item 5F and asked Dr. Joyce Sheedy to present staff's recommendations. Dr. Sheedy advised that staff has determined that glass melting furnaces cannot meet the current requirements; and that this emergency action was prompted by a permit application received recently from a glass manufacturing company with operations in other states proposing to construct a new facility in Oklahoma. She went on to say that the NO<sub>x</sub> emission limits for fuel-burning equipment contained in Subchapter (SC) 33, Section 2 became effective in 1972 and have not been changed since that time. The term "fuel-burning equipment" is used throughout the Air Quality rules, and is defined in SC 1. Dr. Sheedy pointed out that in 1972, the definition of fuel-burning equipment did not include glass-melting furnaces or other direct-fired equipment. However, in 1977 the definition of fuel-burning equipment was changed to include direct-fired processes and equipment such as glass-melting furnaces became subject to all of the Division's rules for fuel-burning equipment, including the NO<sub>x</sub> limits in SC 33. She expressed that staff was unable to find any evidence that consideration was given at that time to the ability of direct-fired processes, such as glass-melting furnaces, to meet the previously set NO<sub>x</sub> emission limits. She added that during the processing of a new permit application, it became clear that glass-melting furnaces are unable to meet the NO<sub>x</sub> emission limits set for fuel-burning equipment in SC 33. A review of the Division's

records of stack tests performed on existing glass-melting furnaces in the state and a search of EPA's BACT, RACT, LEAR Clearinghouse for recently issued permits for glass-melting furnaces throughout the United States indicates that glass-melting furnaces are not required to and are unable to meet such limits. She remarked that staff did not feel that the Department intended to set a NO<sub>x</sub> emission limit for glass-melting furnaces that could not be met, thus precluding the installation of any new glass plants in the state.

Staff's recommendation was that the proposed exemption be limited to glass melting-furnaces that are subject to BACT permitting requirements. Dr. Sheedy pointed out that glass-melting furnaces must demonstrate that BACT will be used in the design and operation of the equipment to be eligible for the exemption, which should be sufficient to protect the environment.

Dr. Sheedy expressed that this would be an emergency only revision. She related that before proposing the permanent revision, staff would determine if there are other industries that have direct-fired fuel-burning equipment that may be in the same situation as the glass industry that may need the same relief. We do not, however, want to delay relief for the glass industry while making that determination. Dr. Sheedy pointed out the changes that were proposed to SC 33 and entered into the record a letter from EPA stating that the proposed revision is acceptable. She expressed the importance to the economic well being of the citizens of the State that this unintended barrier to industrial growth be removed as quickly as possible to prevent the loss of a new industry. Dr. Sheedy and Dawson Lasseter fielded questions from Council and public.

Ms. Myers called for a motion on the rule. Mr. Wilson made the motion to pass the proposal and forward it to the Environmental Quality Board for emergency rulemaking. Mr. Treeman made the second.

<b>Roll call.</b>		David Branecky	Yes
Gary Kilpatrick	Yes	Bob Lynch	Yes
Bill Breisch	Yes	Joel Wilson	Yes
Rick Treeman	Yes	Sharon Myers	Yes
			<b>Motion carried.</b>

**Rulemaking – OAC 252:100-1 General Provisions [AMENDED]**

Mr. Dyke called Agenda Item 5C and called upon Ms. Michelle Martinez for staff presentation. Ms. Martinez advised Council of each of the proposed changes and advised that the proposal involved a single action vote for changes to Subchapters 1, 7, 17, 31, 35, 37, and 39. Ms. Martinez entered into the record comments received from EPA and Trinity Consultants. She added that staff recommendation to the Council was that Subchapter 1 and its associated subchapters be recommended to the Environmental Quality Board for permanent adoption. Ms. Martinez, Dr. Sheedy, and Ms. Donovan fielded questions and comments. Mr. Joel Wilson felt that these amendments had needed to be made for a long time and expressed his appreciation to staff for the substantial amount of work involved in amending this subchapter. Ms. Myers entertained a motion for approval to forward the proposal to the Environmental Quality Board for permanent adoption. Mr. Wilson made the motion and Mr. Treeman made the second.

<b>Roll call.</b>		David Branecky	Yes
Gary Kilpatrick	Yes	Bob Lynch	Yes
Bill Breisch	Yes	Joel Wilson	Yes
Rick Treeman	Yes	Sharon Myers	Yes
			<b>Motion carried.</b>

## **Rulemaking - OAC 252:100-5-2.3 Registration, Emissions Inventory and Annual Operating Fees**

Motion was made by Mr. Branecky to continue the rulemaking hearing to a later unspecified date. Mr. Kilpatrick made the second. (Minutes and transcripts will be made ready for the next Air Quality Council meeting.)

<b>Roll call.</b>		David Branecky	Yes
Gary Kilpatrick	Yes	Bob Lynch	Yes
Bill Breisch	Yes	Joel Wilson	Yes
Rick Treeman	Yes	Sharon Myers	Yes
			<b>Motion carried.</b>

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

Mr. Dyke called Agenda Item 5B and called upon Dr. Joyce Sheedy for staff recommendation. Dr. Sheedy advised that SC 31, Section 7 sets ambient air concentration limits or impacts for sulfur compounds. She pointed out that although staff completed the re-right/de-wrong process on SC 31 in 2001, it was realized that the intent of Section 7 remained unclear. Dr. Sheedy set forth the proposed changes and entered into the record a letter of comments signed by Thomas H. Diggs of EPA. She requested that the Council recommend the proposed rule, as amended, to the Board for adoption as a permanent rule. She and Dawson Lasseter fielded questions from Council and public. Ms. Myers entertained a motion. Mr. Kilpatrick moved for adoption of this section as a permanent rule. Mr. Wilson made the second.

<b>Roll call.</b>		David Branecky	Yes
Gary Kilpatrick	Yes	Bob Lynch	Yes
Bill Breisch	Yes	Joel Wilson	Yes
Rick Treeman	Yes	Sharon Myers	Yes
			<b>Motion carried.</b>

## **Rulemaking - OAC 252:100-13 Open Burning**

Motion was made by Mr. Branecky to continue the rulemaking hearing to a later unspecified date. Mr. Breisch made the second. (Minutes and transcripts will be made ready for the next Air Quality Council meeting.)

<b>Roll call.</b>		David Branecky	Yes
Gary Kilpatrick	Yes	Bob Lynch	Yes
Bill Breisch	Yes	Joel Wilson	Yes
Rick Treeman	Yes	Sharon Myers	Yes
			<b>Motion carried.</b>

**Division Director's Report** - Mr. David Dyke, Assistant Director, gave an update to Council on budget related issues. Mr. Dawson Lasseter, Division Engineer Manager of the Permitting Sections, gave an update on the status of the permitting sections and introduced Mr. Phillip Fielder, the Manager of an additional engineering section.

**A copy of the hearing transcripts are attached and made an official part of these Minutes.**

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION  
STATE OF OKLAHOMA

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS  
ITEM 5C PRESENTED BY MICHELLE MARTINEZ  
OF PUBLIC HEARING ON OAC 252:100-1  
GENERAL PROVISIONS  
HELD ON JANUARY 15, 2003, AT 9:00 A.M.  
707 NORTH ROBINSON  
IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE

(405) 721-2882

Page 2

1

2 MEMBERS OF THE COUNCIL

3

4 1. MR. GARY KILPATRICK - ABSENT

5 2. MR. RICK TREEMAN - MEMBER

6 3. MR. JOEL WILSON - MEMBER

7 4. MS. SHARON MYERS - CHAIR

8 5. MR. DAVID BRANECKY - CHAIRMAN

9 6. MR. BILL BREISCH - ABSENT

10 7. MR. GARY MARTIN - MEMBER

11 8. DR. BOB LYNCH - VICE CHAIR

12 9. DR. FRED GROSZ - ABSENT

13

14 STAFF MEMBERS

15 MS. MYRNA BRUCE - SECRETARY

16 MR. DAVID DYKE - ASSISTANT

17

18

19

20

21

22

23

24

25 PROCEEDINGS

Page 4

1 The changes are as follows:

2 "Chimney" has been deleted since it

3 is only being used in a few definitions and

4 the term "stack" is used throughout the

5 Chapter.

6

7 "Particulate Matter Emissions" on

8 page twenty-two was changed to correlate to

9 the federal definition.

10 On page twenty-six, staff corrected

11 an oversight in the definition of

12 "responsible official" by adding Subsection

13 (D) for affected sources and changed the

14 upper case (I) to a lower case (i) under

15 that heading.

16 The last sentence was removed

17 from the definition of "BACT" on page

18 seven, which added a requirement to include

19 health risks when making BACT

20 determinations required by Subchapter 41

21 for toxic air contaminants.

22

23

24

25

Page 3

1 if there is no objections, I would like to

2 call on Ms. Michelle Martinez and call up

3 Item 5C, OAC 252:100-1, General Provisions,

4 as the next item. Thank you, Joyce.

5 MS. MARTINEZ: Madam Chairman,

6 Members of the Council, ladies and

7 gentlemen, the Department is proposing

8 changes to Subchapters 1, 7, 17, 31, 35,

9 37, and 39 as a single action. The intent

10 of these changes is to simplify and clarify

11 language and re-redundant definitions from

12 Chapter 100.

13 Today, I will be going over the

14 changes made to Subchapter 1 and it's

15 associated subchapters as a result of

16 comments made at the last Council meeting,

17 held on October 16, 2002.

18 Staff has once again included the

19 action document to better facilitate your

20 understanding of the action taken on each

21 definition, for example, whether the

22 definition has been moved, deleted or

23 revised. This document is included in your

24 Council packet and copies are also

25 available on the sign-in table.

Page 5

1

2 The term "in being" on page twelve

3 was clarified by changing the ending of the

4 definition to read "as specified by the

5 applicable regulation".

6

7 The terms "startup" and

8 "shutdown" were clarified.

9 The term for "Ambient air quality

10 standards" on page five is now renamed to

11 mean both "Ambient air standards" and

12 "Ambient air quality standards".

13

14 In Section 1-4 on page thirty-

15 one; the following changes were made:

16 "megagrams" was added, the word maximum was

17 deleted from (27), and (37) now reads

18 "parts per million by volume".

19 Three changes also need to be made

20 in addition to what is in your Council

21 packets. First, on page fifteen, in the

22 definition of "major source", a reference

23 is made to Subchapter 7. That should be

24 changed to reference Subchapter 8.

25 Secondly, on page thirty-one, the



Page 6

1 title of new Section 1-4 should read  
 2 "Units, Abbreviations and Acronyms".  
 3 And finally, on page thirty-two, the  
 4 acronym "CEM" for continuous emission  
 5 Monitor will be added to the new Section 1-  
 6 4, Units, Abbreviations and Acronyms.  
 7 MR. BRANECKY: Michelle, are we  
 8 considering 1-4 today?  
 9 MS. MARTINEZ: Yes. These three  
 10 additional changes.  
 11 MR. BRANECKY: I thought we --  
 12 there was some concern about being  
 13 advertised properly. Am I mistaken?  
 14 MS. MARTINEZ: No, that was  
 15 Subchapter 4.  
 16 MR. BRANECKY: Subchapter 4,  
 17 okay. Thank you.  
 18 MS. MARTINEZ: Staff received  
 19 comments from Trinity Consultants on  
 20 January 13, 2003. The first comment was  
 21 requesting that we deleted the term  
 22 "affected source" from Subchapter 8.  
 23 The second comment was questioning  
 24 the use of incorporation by reference in  
 25 Subchapter 4 and adopted by reference in

Page 7

1 Subchapter 41 and it was requested that  
 2 staff make the use of these terms  
 3 consistent.  
 4 Staff has determined to make no  
 5 changes at this time but will place these  
 6 comments in departmental files for  
 7 consideration at some future date.  
 8 Comments were also received from the  
 9 EPA on January 13, 2003, stating they had  
 10 previously commented in support of the  
 11 changes being made to Subchapter 1 and the  
 12 associated subchapters. I would like to  
 13 enter both of these comments into the  
 14 record.  
 15 The notice for today's hearing was  
 16 published in the Oklahoma Register on  
 17 December 16, 2002.  
 18 Staff recommends to the Council that  
 19 Subchapter 1 and its associated subchapters  
 20 be recommended as a permanent rule to the  
 21 Environmental Quality Board.  
 22 Dr. Joyce Sheedy, Lisa Donovan and I  
 23 would be glad to answer any questions you  
 24 may have at this time.  
 25 MR. DYKE: Questions from the

Page 8

1 Council.  
 2 MR. WILSON: Michelle, I have  
 3 some questions. How does the staff  
 4 accumulate suggested changes like what  
 5 Trinity has, how do you keep those and  
 6 accumulate those over a period of time so  
 7 that maybe when action comes up again on  
 8 these definitions, they can be brought in  
 9 all at once? Do you have a method of doing  
 10 that?  
 11 MS. MARTINEZ: We actually have a  
 12 notebook that we have titled "Orphan  
 13 Comments".  
 14 MR. WILSON: Okay.  
 15 MS. MARTINEZ: And that's what we  
 16 call those. We make sure and take any  
 17 comments, such as these, and put those in  
 18 each subchapter that it's relating to. So  
 19 before you start a new rulemaking on a  
 20 subchapter, then you go to that comment  
 21 book.  
 22 MR. WILSON: So you can pull  
 23 those out and put those in?  
 24 MS. MARTINEZ: Whether they are  
 25 from the staff or industry, either way.

Page 9

1 MR. WILSON: And if I understand  
 2 it right, you are taking no action on what  
 3 the comments as said, Trinity's comments --  
 4 I take it really that that's because you  
 5 want to get this thing passed and begin  
 6 anew, as you accumulate these comments?  
 7 MS. MARTINEZ: Yes, that's  
 8 basically it.  
 9 MR. WILSON: Okay. And you're  
 10 making no judgment on what Trinity has  
 11 suggested?  
 12 MS. MARTINEZ: No, not at this  
 13 time.  
 14 MR. WILSON: You're just saying,  
 15 no, we don't want to do it at this time, we  
 16 want to put those away and consider them  
 17 next time?  
 18 MS. MARTINEZ: Right.  
 19 MR. WILSON: Okay.  
 20 MS. MARTINEZ: Mainly, because if  
 21 we do try to make comments and you do  
 22 decide to hold this subchapter over, it  
 23 will be -- it won't go through this  
 24 legislative session, which in turn will  
 25 make it not effective until 2004.

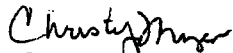
		Page 10		Page 12
1	MR. WILSON: Okay.		1	(End of Proceedings)
2	MS. MYERS: Michelle, on page		2	
3	fifteen, we talked about it once before		3	
4	under the definition of "major sources" as		4	
5	a reference to Subchapter 7, that was to be		5	
6	corrected to Subchapter 8; is that correct?		6	
7	MS. MARTINEZ: That's correct.		7	
8	MR. DYKE: Are there any		8	
9	questions from the public? Anyone wishing		9	
10	to speak on this rulemaking? Additional		10	
11	questions from the Council?		11	
12	MR. WILSON: David, it's really		12	
13	not a question, it's just when you go		13	
14	through this and look at what it took to do		14	
15	this, this is a substantial amount of work.		15	
16	And, I mean, I have to applaud the staff		16	
17	for the work and effort that was put into		17	
18	this to come to the point that we are right		18	
19	now. I think we've needed it for a long		19	
20	time and it represents a substantial amount		20	
21	of work. So my hat's off.		21	
22	MS. MARTINEZ: Thank you. Well,		22	
23	it's taken several -- about two or three		23	
24	years, to -- Lisa Donovan, Joyce Sheedy and		24	
25	Jeannette Buttram and myself, so.		25	
		Page 11		Page
1	MR. WILSON: Well, thank you.		1	
2	MR. DYKE: Anything further from		2	
3	the Council? Madam Chair.		3	
4	MS. MYERS: At this point, we'll		4	
5	entertain a motion.		5	
6	MR. WILSON: So moved, a motion		6	
7	to recommend this to the Board.		7	
8	MR. TREEMAN: Second.		8	
9	MS. MYERS: Motion has been made		9	
10	and seconded. Myrna, would you call roll,		10	
11	please.		11	
12	MS. BRUCE: Mr. Kilpatrick.		12	
13	MR. KILPATRICK: Yes.		13	
14	MS. BRUCE: Mr. Breisch.		14	
15	MR. BREISCH: Yes.		15	
16	MS. BRUCE: Mr. Treeman.		16	
17	MR. TREEMAN: Yes.		17	
18	MS. BRUCE: Mr. Branecky.		18	
19	MR. BRANECKY: Yes.		19	
20	MS. BRUCE: Dr. Lynch.		20	
21	DR. LYNCH: Yes.		21	
22	MS. BRUCE: Mr. Wilson.		22	
23	MR. WILSON: Yes.		23	
24	MS. BRUCE: Ms. Myers.		24	
25	MS. MYERS: Yes.		25	

1 C E R T I F I C A T E

2 STATE OF OKLAHOMA )  
3 COUNTY OF OKLAHOMA ) SS:

4 I, CHRISTY A. MYERS, Certified  
5 Shorthand Reporter in and for the State of  
6 Oklahoma, do hereby certify that the above  
7 proceedings are the truth, the whole truth,  
8 and nothing but the truth, in the  
9 proceedings aforesaid; that the foregoing  
10 proceeding was taken by me in shorthand and  
11 thereafter transcribed under my direction;  
12 that said proceedings was taken on the 15th  
13 day of January, 2003, at Oklahoma City,  
14 Oklahoma; and that I am neither attorney  
15 for nor relative of any of said parties,  
16 nor otherwise interested in said  
17 proceedings.

18 IN WITNESS WHEREOF, I have hereunto  
19 set my hand and official seal on this, the  
20 10th day of February, 2003.

21  
22   
23 CHRISTY A. MYERS, C.S.R.  
24 Certificate No. 00310  
25



O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Attendance Record

January 15, 2002

Oklahoma City, Oklahoma

Page One

NAME/AFFILIATION	ADDRESS	Telephone or E-Mail
DON WHITNEY	TRINITY CONSULTANTS	
Ada Johnson	TAFB	ada.johnson@berka.com
Donna Lautzenhiser	CHAM-HILL	734-4552
TERESA Wheeler	TAFB	734-7071
Julia Bevers	OGE	553-3439 beversjo@oep.gov
Mike Wood	Weyerhaeuser	
Anja Vesanen	AEP	akvesanen@aep.com
Mark Gilson	AEP-PSO	MGILSON@AEP.com
Glen Travis	Sanoco Tulsa	
John Shriver	Valero	580-221-3110
Gregory Watson	Valero	580-221-3114
Steve Landers	Georgia-Pacific	918-683-7671
Mary Lambeth	ONEOK	918-588-7530
Sooi Doi	AT&T	918-496-0059
Al Learned	Marathon Oil	405-720-5690
Bonnie McGilbray	Conoco	918-583-3925
Marshall Bullard	Victora P.O. Box 555 Tulsa 74102	918-254-5370
Kenneth M. Motley	P.O. Box 555 Tulsa 74102	918-254-5267
Madame Justice	Tulsa CASE	
ANGIE BURCHHART	OIPA	405-942-2834 x221

REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Friday, February 28, 2003  
DEQ Multipurpose Room  
707 North Robinson  
Oklahoma City, Oklahoma

1. Call to Order – Jerry Johnston, Chair
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the November 14, 2002, Regular Meeting
4. **Election of Officers** – Election of Chair and Vice-Chair for Calendar Year 2003
5. **Rulemaking – OAC 252:100 Air Pollution Control**  
Three sets of amendments are proposed for permanent rulemaking:
  - Changes to Subchapters 1, 7, 17, 31, 35, 37, and 39 are proposed as a single action. These changes are intended to simplify and clarify defined terms and remove redundant definitions.
  - New Part 9 of Subchapter 17 establishes state emissions standards for existing Commercial and Industrial Solid Waste Incineration Units. It also establishes requirements for permitting, operator qualifications and training, waste management plans, testing and monitoring of pollutants, and operating parameters. Corresponding changes and updates of incorporation by reference occur in Parts 1, 5 and 7.
  - The proposed amendment to Section 31-7 clarifies that the ambient air concentration limits for sulfur dioxides are measured in terms of facility-wide impact. Also proposed is reinstatement of the annual ambient air concentration limit for sulfur dioxides. The amendment to Section 31-26 corrects a scrivener's error.
    - A. Presentation – David Branecky, 2002 Chair, Air Quality Advisory Council
    - B. Questions and discussion by the Board
    - C. Questions, comments and discussion by the public
    - D. Discussion by the Board
    - E. Roll call votes on permanent adoption
6. **OAC 252:100-33 Air Pollution Control - Control of Emission of Nitrogen Oxides**  
The proposed emergency revision exempts glass-melting furnaces from the nitrogen oxides (NO<sub>x</sub>) emission limits for fuel-burning equipment. This eliminates an unintended barrier to construction of new glass plants in the state because glass-melting furnaces cannot meet these limits. Best Available Control Technology (BACT) requirements will apply.
  - A. Presentation – David Branecky, 2002 Chair, Air Quality Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion by the Board
  - E. Roll call vote on finding of emergency\*
  - F. Roll call vote on emergency adoption

7. **Rulemaking - OAC 252:205 Hazardous Waste Management**

The proposed amendment to Section 3-1 updates the incorporation by reference of federal hazardous waste regulations to July 1, 2002. Besides technical corrections, incorporated regulations include: 1) the listing of three wastes generated from inorganic chemical manufacturing processes; 2) amendments to the Corrective Action Management Unit Rule; 3) the declassification of mineral processing characteristic sludges and by-products being reclaimed as RCRA "solid wastes"; and (4) a provision that the Toxicity Characteristic Leaching Procedure may not be used for determining whether manufactured gas plant waste is hazardous waste. The amendment to Section 3-2 and the revocation of Section 3-3 correspond to the update of the incorporation by reference.

- A. Presentation – David Bradshaw, Chair, Hazardous Waste Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote(s) on permanent adoption

8. **Rulemaking - OAC 252:410 Radiation Management**

The proposed rule adds a new fee for the registration of certain generally licensed devices containing sources of radioactive material. In March of 2002, the Environmental Quality Board adopted enabling rules relating to a registration requirement for these generally licensed devices. To date, the registration requirement has not been implemented but will be upon promulgation of the registration fee.

- A. Presentation – Steve Woods, Vice-Chair, Radiation Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion by the Board
- E. Roll call vote on permanent adoption

9. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)

10. Executive Director's Report, including discussion of pending legislation

11. Adjournment

**Public Forum** (after adjournment): The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100.

Some members of the Board, as well as senior staff members from the DEQ, will meet for dinner in Oklahoma City the evening of February 27. This is a social occasion. No Board or DEQ business will be conducted or discussed.

\* Specification of proposed adoption by emergency rulemaking, by permanent rulemaking, or by both, is based on the recommendations of the respective advisory councils. Adoption or amendment of rules as emergency rulemaking requires a finding by the Board that a compelling extraordinary circumstance warrants the seeking of emergency certification, so that the rules will take effect immediately upon the Governor's signature. Absent a finding and certification of emergency, rules adopted today will not become effective until June of 2003.

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

**SUBCHAPTER 1. GENERAL PROVISIONS**

**EXECUTIVE SUMMARY:**

The Department is proposing changes to Subchapters 1, 7, 17, 31, 35, 37, and 39 as a single action. The intent of these changes is to simplify and clarify defined terms. The proposed changes include the addition of new definitions, changes to existing definitions, and deletion of redundant definitions and definitions no longer being used. To correct an earlier oversight, in Subchapter 7 a cross reference is inserted to direct the reader to the location of two existing permits by rule.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

This rulemaking entails changes to defined terms. Existing definitions include state-only definitions, for which there are no analogous federal rules, as well as terms which are analogous to terms in federal rules. The proposed rules make no substantive change to existing rules.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not applicable since these rules are not more stringent than analogous federal rules.

**SUMMARY OF COMMENTS AND RESPONSES:**

Attached.

**WRITTEN COMMENTS RECEIVED FOR THE OCTOBER 16, 2002 MEETING**

**Trinity Consultants** - Letter dated September 23, 2002, signed by Donald C. Whitney, was received on September 24, 2002.

1. **COMMENT:** Requested Subchapter 1 "Major sources" definition reference be changed from Subchapter 7 to Subchapter 8.

**RESPONSE:** Staff agreed and made the referenced change.

2. **COMMENT:** Requested the addition of the acronym "CEM" to new section 100-1-4. Units, abbreviations and acronyms.

**RESPONSE:** Staff agreed and made the referenced addition.

**EPA Region 6** - Letter received by fax on October 15, 2002, signed by Thomas H. Diggs, Chief, Air Planning Section.

3. **COMMENT:** Stated EPA had no objection to the changes as they mainly remove redundant definitions from Subchapter 1 and move them to or retain them in the Subchapters in which they are used.

**RESPONSE:** Staff agreed.

**VERBAL COMMENTS RECEIVED AT THE OCTOBER 16, 2002 HEARING**

4. **COMMENT:** Julia Bevers with OG&E stated the definition of "in being" seemed confusing and requested changing the ending of the definition.

**RESPONSE:** Staff agreed and changed the end of the definition to read "applicable regulation".

5. **COMMENT:** Steve Moyer with Sinclair requested that the word "maximum" be deleted from the unit MMBTU under 100:1-4.

**RESPONSE:** Staff agreed and made the change.

**WRITTEN COMMENTS RECEIVED AT THE JANUARY 15, 2003 MEETING**

**Trinity Consultants** - Letter received on January 3, 2003, signed by Donald C. Whitney.

6. **COMMENT:** Requested the deletion of the term "Affected source" in Subchapter 8. Mr. Whitney also mentioned the use of "incorporate by reference" in Subchapter 4 and "adopt by reference" in Subchapter

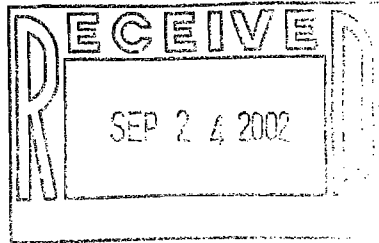


41 and requested staff use only one term throughout the Chapter.

**RESPONSE:** Staff determined to make no changes at this time but will keep these comments for consideration at some future date.

**EPA Region 6** - Letter received on January 13, 2003, signed by Thomas H. Diggs, Chief, Air Planning Section.

7. **COMMENT:** Stated EPA previously commented on this rulemaking. (see October 15, 2002 letter)



September 23, 2002

Mr. Edie Terrill
Air Quality Division Director
Oklahoma Department of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

Re: Comments on Proposed Rulemaking
OAC 252:100-5
OAC 252:100-43-7
OAC 252:100-1

Dear Mr. Terrill:

This letter is to comment on proposed rule changes which are scheduled to be presented at the Air Quality Council (AQC) meeting scheduled for October 16, 2002. Trinity believes that certain areas of the proposed rule changes would prove to be a significant regulatory burden for Oklahoma Industry and for AQD to administer. Our specific concerns with the proposed rule changes include the following issues:

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES
SECTION 252:100-5-2.3. PERIODIC STACK TEST REQUIRED [NEW]

Unnecessary Authority The existing OAC 252:100-5-2.1 (e) currently gives AQD the authority to require stack tests for verification of emission inventories:

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

This provides sufficient authority to require tests in those situations where a reported inventory is significantly outside the range of normal emissions for similar activities. Why is it needed to require stack testing for a large group of sources when only a small percentage of this group are reporting questionable emissions? Surely it is more efficient and appropriate to target stack testing requirements selectively rather than to include an entire group.

**Stack Tests Expensive** EPA Reference Method (RM) stack testing procedures are costly. A minimum charge for a single unit could be \$5,000 to \$10,000 for a basic test and test report for the proposed four pollutants (NO<sub>x</sub>, CO, VOC, and PM<sub>10</sub>). In many cases the costs will be higher since stack parameters, sampling ports, and testing platforms may not be readily available to perform the tests.

**Recordkeeping Burden** Using the threshold criteria proposed, the universe of potentially affected sources is large. Almost all of the Title V sources would be subject (est. 450) and a significant number of the minor and synthetic minor compressor stations have engines rated at 600 horsepower or more (est. 1500). Thus, this requirement could apply to approximately 2,000 facilities.

All of those facilities which are not already required to conduct periodic stack tests (such as Acid Rain power plants), would be required to keep a running total of operating hours for each applicable piece of equipment. As the magic number of 43,000 hours is approached, each company would probably submit to AQD their request for a waiver of the stack test requirement. AQD would then have to review each request to determine if the past submitted emission inventories are sufficiently credible to warrant a waiver of the stack test. Then AQD would have to issue a letter with their determination. Again, this is a significant burden just in recordkeeping for industry and processing for AQD even if testing waivers are granted in most cases.

**Waiver Options** The proposed rule offers four situations where stack testing may be waived by the Director. Item (d)(1) is surprising since practically all affected facilities have permits which limit these pollutants. Thus, only “grandfathered” units with no emission limits would be subject to testing. Item (d)(4) allows for the provision of other data in place of stack testing. Portable engine analyzer (PEA) data would presumably not be acceptable since this method of establishing emission rates was specifically prohibited by the Inventory Section in a letter dated January 2, 2002. Ironically, PEA quarterly tests are a specific requirement of many permits to confirm compliance with engine emission limits.

**Alternative Proposal** We recommend that AQD withdraw the proposed rule change and institute the following procedure. The AQD Emission Inventory Section currently reviews and tracks the range of emissions inventories (EI) for each general class of combustion equipment. When an EI report claims to have an emission rate that is significantly lower than the normal range, it would be flagged. AQD could then send a letter to the company to point out the problem and offer basically two alternatives:

- Agree to use emission factors within the normal range, or
- Conduct a stack test by EPA Reference Methods of the suspect equipment as required by the current OAC 252:100-5-2.1 (e)

Logically, most companies will accept the first alternative. Thus, the focus of attention is on the reported inventories with suspect data and does not impact the large majority of facilities. A further option for facilities where there are not enough examples of data to establish a normal emission rate would be to require EPA stack testing as a condition for the next renewal of the Title V permit. For non-Title V facilities, the existing permit could be reopened and a testing requirement inserted.

**SUBCHAPTER 43. TESTING, MONITORING AND RECORDKEEPING**  
**SECTION 252:100-43-7. RECORDS AND REPORTS REQUIRED**

**Revised Requirement** This proposed rule is a result of a merger of Subchapter 45 into Subchapter 43. The current Section 252:100-45-3 is to be replaced by the new Section 252:100-43-7. Unfortunately, in the conversion from one Subchapter to the other, subtle changes in wording have been introduced which can be interpreted to significantly change the meaning.

**Burden Shifted from Executive Director to Owner / Operator** The existing rule says the Executive Director “shall prescribe” records and reports. As a practical matter, the means of accomplishing this continues to be through the Specific Conditions of issued air quality permits. The proposed rule says the owner or operator “shall record and maintain records...” Thus, the proposed rule can be interpreted to require each owner or operator to comply with each of the listed records for each source no matter what the air permit says.

**Examples Changed to Requirements** The existing rule says “The procedures below are examples of such requirements.” The key word “examples” has been removed from the new wording which supports an interpretation of firm requirements rather than potential requirements.

**Open to Interpretation** The proposed rule can definitely be interpreted as a firm requirement for each owner / operator to perform the listed emissions monitoring for each and every source. If such an interpretation ever became the accepted norm, the listed requirements would exceed the requirements of practically every current permit. In many cases this would be a huge and unwarranted burden.

In general, the latitude for rule interpretation should be limited as much as possible for regulatory purposes (particularly in this case). Both the regulated community and the regulators need a common understanding of applicable rules based on a plain-English reading. It is not appropriate to rely on verbal assurances or current interpretations in place of clear wording.

**Proposed Wording** To clarify the proposed Section, we recommend the following changes:

- Replace first sentence with the following: “The Director may require the owner or operator of a source to record and maintain records on emissions and other data to demonstrate compliance with any federal or state emissions limit or standard, or any requirement set forth in a valid permit.”
- Replace paragraph (b) with the following: “The procedures described in paragraphs (1) through (5) of this subsection are examples of such potential requirements.”

## SUBCHAPTER 1. GENERAL PROVISIONS

“Major Sources” definition reference should be changed from Subchapter 7 to Subchapter 8

Section 252;100-1-4. Units and abbreviations.

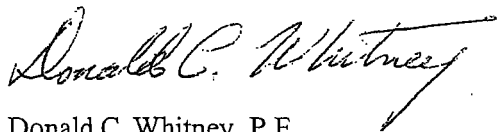
Recommend addition of acronym “CEM” for Continuous Emission Monitor.

### SUMMARY

We appreciate your cooperation and consideration of these proposed changes. Please call me if you have any questions or if I can assist with a work group to discuss these issues.

Sincerely,

TRINITY CONSULTANTS



Donald C. Whitney, P.E.  
Project Supervisor

Copy: Mr. Howard Ground  
Air Quality Committee  
Environmental Federation of Oklahoma  
201 Robert S. Kerr, Suite 600  
Oklahoma City, OK 73102-4267



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

**OCT 15 2002**

Scott Thomas, Program Director  
Analysis and Inventory Section  
Air Quality Division  
Oklahoma Department of Environmental Quality  
707 North Robinson  
Oklahoma City, OK 73101-1677

Dear Mr. Thomas:

Thank you for the opportunity to comment on proposed changes for Oklahoma Air Pollution Control rules as listed below.

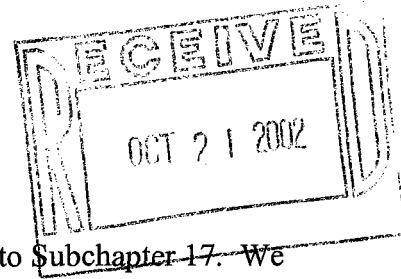
- 252:100-1 Amendments to Subchapter 1, including changes to Subchapters 1,7,17,31,35,37 and 39
- 252:100-4 New Source Performance Standards
- 252:100-5 Registration, Emission Inventory and Annual Operating Fees
- 252:100-7 Permits for Minor Facilities
- 252:100-8 Permits for Part 70 Sources
- 252:100-17 Hospital, Medical and Infectious Waste Incinerators
- 252:100-31 Control of Emissions of Sulfur Compounds
- 252:100-39 Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas
- 252:100-41 Control of Emissions of Hazardous Air Pollutants and Toxic Air Contaminants
- 252:100-43 Sampling and Testing Methods
- 252:100-45 Monitoring of Emissions
- 252:100-47 Control of Emissions from Existing Municipal Solid Waste Landfills
- Appendix O Toxic Air Contaminants

### **Amendments to Subchapter 1**

We have no objections to the changes to Subchapter 1 as they mainly remove redundant definitions from this location and move them to or retain them in the Subchapters in which they are used.

### **Subchapter 4, Subchapter 17, and Subchapter 47**

The changes in these subchapters are incorporation by reference according to 40 CFR 60, and are fully acceptable.



We previously commented on the addition of new Part 9 to ~~Subchapter 17~~. We understand that this rule will be held over for additional proposed amendments to be considered at the next meeting.

### **Subchapter 31 and Subchapter 39**

We previously commented on these subchapters and have no additional comments at this time.

### **Subchapter 41 and Appendix O**

We agree with the language clarification in Subchapter 41 and with the addition of the list in Appendix O.

### **Subchapter 43 and Subchapter 45**

We have no objections to revoking Subchapter 45 as it is being merged into Subchapter 43, with modifications for clarity. In addition, we have no objections to moving Subchapter 43-15 as it is being merged into Subchapter 39-41.1, again with modifications for clarity. Whenever clarity is brought to a State rule, the State Implementation Plan is strengthened.

We appreciate the opportunity to comment on the proposed rules prior to the public hearing on October 16, 2002. Comments from the Air Permitting Section will be sent under a separate letter. If you have any questions regarding the EPA's comments, please feel free to contact me or Sandra Rennie at (214) 665-7367.

Sincerely yours,

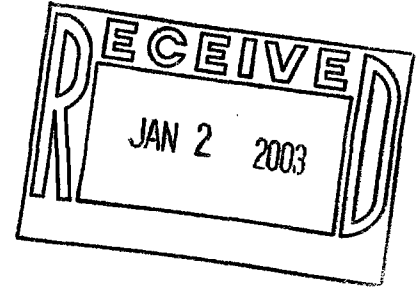
A handwritten signature in black ink that reads "Thomas H. Diggs". The signature is fluid and cursive.

Thomas H. Diggs  
Chief  
Air Planning Section

cc: Joyce Sheedy  
Oklahoma Department of Environmental Quality



December 30, 2002



Mr. Edie Terrill  
Air Quality Division Director  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

Re: *Comments on Proposed Rulemaking and NSR Reform  
OAC 252:100-5, OAC 252:100-8, and Definitions*

Dear Mr. Terrill:

This letter is to comment on proposed rule changes that are scheduled to be presented at the Air Quality Council (AQC) meeting on January 15, 2003. Trinity believes that certain areas of the proposed rule changes would prove to be a significant regulatory burden for Oklahoma Industry and for AQD to administer. Our specific concerns with the proposed rule changes and suggestions include the following issues:

**SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL  
OPERATING FEES  
SECTION 252:100-5-2.3. PERIODIC STACK TEST REQUIRED [NEW]**

**Current Proposed Version** The most significant change from the previous version is that the waiver authority of the Director is changed from optional to automatic ("may waive" to "shall waive"). Thus, the only category of equipment that would be subject to the periodic testing requirement is those applicable units without emission limits established in their air permits known as "grandfathered." This is an improvement over previous proposed versions but it still leaves an unnecessary regulatory burden for industry and AQD to manage.

**Unnecessary Authority** The existing OAC 252:100-5-2.1 (e) currently gives AQD the authority to require stack tests for verification of emission inventories:

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



This provides sufficient authority to require tests in those relatively few situations where a reported inventory is significantly outside the range of normal emissions for similar activities. Why is it needed to potentially require stack testing for a large group of sources when only a small percentage of this group are reporting questionable emissions? Surely it is more efficient and appropriate to target stack testing requirements selectively rather than to include an entire group.

**Stack Tests Expensive** EPA Reference Method (RM) stack testing procedures are costly. A minimum charge for a single unit could be \$5,000 to \$10,000 for a basic test and test report for the proposed four pollutants (NO<sub>x</sub>, CO, VOC, and PM<sub>10</sub>). In many cases the costs will be higher since stack parameters, sampling ports, and testing platforms may not be readily available to perform the tests.

**Recordkeeping Burden** Using the threshold criteria proposed, the universe of potentially affected sources is large. Almost all of the Title V sources would be subject (est. 450) and a significant number of the minor and synthetic minor compressor stations have engines rated at 600 horsepower or more (est. 1500). Thus, this requirement could apply to approximately 2,000 facilities.

All of those facilities which are not already required to conduct periodic stack tests (such as Acid Rain power plants), would be required to keep a running total of operating hours for each applicable piece of equipment. As the magic number of 43,000 hours is approached, each company would probably submit to AQD their request for a waiver of the stack test requirement. AQD would then have to review each request to determine if the past submitted emission inventories are sufficiently credible to warrant a waiver of the stack test. Then AQD would have to issue a letter with their determination. Again, this is a significant burden just in recordkeeping for industry and processing for AQD even if testing waivers are granted in almost all cases.

**Alternative Proposal** Trinity recommends that AQD withdraw the proposed rule change and institute the following procedure. The AQD Emission Inventory Section currently reviews and tracks the range of emissions inventories (EI) for each general class of combustion equipment. When an EI report claims to have an emission rate that is significantly lower than the normal range, it would be flagged. AQD could then send a letter to the company to point out the problem and offer basically two alternatives:

- Agree to use emission factors within the normal range, or
- Conduct a stack test by EPA Reference Methods of the suspect equipment as required by the current OAC 252:100-5-2.1 (e)

Logically, most companies will accept the first alternative. Thus, the focus of attention is on the reported inventories with suspect data and does not impact the large majority of facilities. A further option for facilities where there are not enough examples of data to establish a normal emission rate would be to require EPA stack testing as a condition for renewal of the Title V permit. A Title V renewal application is required every 5 years that is approximately the same period as the proposed 44,000 operating hours. A simple Specific Condition of the Title V permit could address essentially all equipment with “grandfathered” status that would be subject to the proposed testing requirement.

## **SUBCHAPTERS 1, 4, 7, 8, 17, 31, 35, 37, 39 AND 41 DEFINITIONS**

The following clarifications are recommended for the terminology and definitions used in the air rules.

**“Affected source”** This term is defined in OAC 252:100-8-2 in the exclusive context of the Acid Rain Program. This definition should be deleted from the Oklahoma air rules since the term “affected source” is widely used in many other contexts besides Acid Rain. For example, many EPA Subparts under 40 CFR Parts 60, 61, and 63 use the term “affected source” to describe particular equipment / source characteristics for each Subpart. Therefore, it is not appropriate for Oklahoma air definitions to limit the meaning to Acid Rain (Part IV).

### **“Incorporate by Reference” / “Adopt by Reference”**

Both terms are used in the air rules but seem to have the same meaning. Therefore, one should be deleted and the other used throughout.

OAC 252:100-4-3 and 4-5 currently use “incorporate.”

OAC 252:100-41-15 (a) and (b) currently use “adopt.”

## **SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES**

EPA recently announced a major reform of the New Source Review (NSR) Program. Publication in the Federal Register of the promulgated final rule change is expected imminently. Since the Oklahoma air rules do not adopt / incorporate by reference the applicable portion of the Federal regulations, it is possible that some rule making action may be necessary to include these changes in the Oklahoma air rules. However, if there are no conflicts between the new NSR reforms and the current Oklahoma rules, then no changes would be necessary. Our reading of the current PSD / NSR guidance in Subchapter 8 does not find any conflicts with the Federal NSR reforms. Trinity requests that your staff review this issue and provide an update at the AQC meeting since the new NSR changes could have a major impact on the review of changes at major facilities. The basic question is: will the NSR reforms be effective in Oklahoma as soon as they are published in the Federal Register?

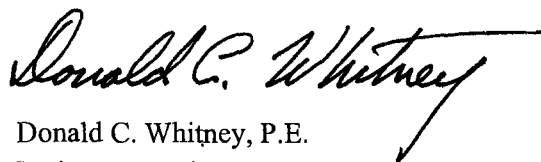
Mr. Eddie Terrill – Page 4  
December 30, 2002

## SUMMARY

We appreciate your cooperation and consideration of these proposed changes. Please call me if you have any questions or if I can assist with a working group to discuss these issues.

Sincerely,

TRINITY CONSULTANTS

A handwritten signature in black ink that reads "Donald C. Whitney". The signature is written in a cursive style with a long horizontal stroke at the end.

Donald C. Whitney, P.E.  
Project Supervisor

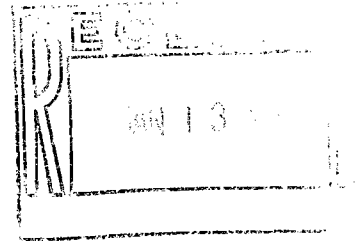
Copy: Mr. Howard Ground  
Air Quality Committee  
Environmental Federation of Oklahoma  
201 Robert S. Kerr, Suite 600  
Oklahoma City, OK 73102-4267



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

JAN 07 2003



Scott Thomas  
Environmental Program Manager  
Air Quality Division  
Oklahoma Department of Environmental Quality  
707 North Robinson  
Oklahoma City, OK 73101-1677

Dear Mr. Thomas:

Thank you for the opportunity to comment on proposed changes for Oklahoma Air Pollution Control rules as listed below.

252:100-1	General Provisions
252:100-5	Registration, Emission Inventory and Annual Operating Fees
252:100-13	Open Burning
252:100-17	Incinerators
252:100-31	Control of Emissions of Sulfur Compounds
252:100-33	Control of Emissions of Nitrogen Oxides

### Subchapter 1

We have previously commented on the changes to Subchapter 1.

### Subchapter 13

The proposed revisions to Subchapter 13 clarify and detail requirements under 252:100-13-7(a) for fire training. Proposed revisions to 252:100-13-9 for general conditions and requirements for allowed open burning, clarify requirements under this subsection. We find these proposals to be not only acceptable, but strengthening the State Implementation Plan (SIP) once the revisions are approved. Aside from the SIP, the requirements under fire training provide additional public health benefits with regard to lead-based paint, asbestos, and toxics. This is to be commended when writing air rules.

### Subchapter 17

We previously commented on the addition of new Part 9 to Subchapter 17.

**Subchapter 31**

We previously commented on this subchapter.

**Subchapter 33**

It is our understanding that the proposed revision to Subchapter 33 is an addition of new subsection 252:100-33-1.2(b) in the applicability provisions of the rule. Under this new subsection, new glass plants in the State are or will be subject to the Best Available Control Technology requirements. Furthermore, other emissions from new glass melting furnaces will be subject to Standards of Performance for Glass Manufacturing Plants as described in 40 CFR 60 Subpart CC. We find these proposed revisions acceptable.

We appreciate the opportunity to comment on the proposed rules prior to the public hearing on January 15, 2003. Comments from the Air Permitting Section will be sent under a separate letter. If you have any questions regarding EPA's comments, please feel free to contact me, Sandra Rennie at (214) 665-7367, or Alan Shar at (214) 665-6691.

Sincerely yours,



Thomas H. Diggs, Chief  
Air Planning Section

cc: Joyce Sheedy  
Oklahoma Department of Environmental Quality

# Permanent Final Adoptions

person, registrant or entity, shall contact the Board office and provide all information requested. ~~to insure that the Board can complete all necessary forms.~~ The complainant shall ~~may~~ document the allegations with evidence available and shall submit one copy of the documentation to the Board office. The Executive Director of the Board shall make appropriate inquiry to verify such information and shall, based upon such information and inquiry, proceed to one of the following courses:

- (1) Terminate the investigation when it appears no violation has occurred or there is insufficient evidence to support any violation, or that the Board lacks jurisdiction; or
- (2) Refer the matter to the investigation committee; or
- (3) Appoint an individual investigator; or
- (4) Attempt informal resolution of the matter; or
- (5) Refer directly to Board; or
- (6) Refer the matter to other Boards, Agencies, or Authorities.

## 245:15-23-22. Procedures to file exceptions to proposed orders

Exceptions to ~~the written a proposed~~ final order, together with a brief in support, shall be filed with the Executive Director within ten (10) days of the entry of the final order. If exceptions are filed, the Executive Director shall set the time and place for the Board to consider the exceptions. The exceptions and cause notice of the time and place to hear the exceptions shall be mailed to the registrant, person or entity or to the attorney of record. Such time shall not be less than twenty (20) days after said notice is mailed. Briefs in response to the exceptions must be filed with the Board at least seven (7) days before such meeting. The registrant, person or entity may personally or through counsel be present and present oral argument to the Board in support of the exceptions. No exceptions to the final order shall be considered without full compliance of this section by the respondent, individual, or entity.

[OAR Docket #03-883; filed 5-7-03]

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

[OAR Docket #03-874]

### RULEMAKING ACTION: PERMANENT final adoption

#### RULES:

- Subchapter 1. General Provisions [AMENDED]
- Subchapter 7. Permits for Minor Facilities [AMENDED]
- Subchapter 17. Incinerators [AMENDED]
- Subchapter 31. Control of Emission of Sulfur Compounds [AMENDED]
- Subchapter 35. Control of Emission of Carbon Monoxide [AMENDED]
- Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]
- Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [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 16, 2002 through October 16, 2002  
December 16, 2002 through January 15, 2003  
February 28, 2003

##### Public hearing:

October 16, 2002  
January 15, 2003  
February 28, 2003

##### Adoption:

February 28, 2003

##### Submitted to Governor:

March 6, 2003

##### Submitted to House:

March 6, 2003

##### Submitted to Senate:

March 6, 2003

##### Gubernatorial approval:

April 21, 2003

##### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2003

##### Final adoption:

May 1, 2003

##### Effective:

June 12, 2003

##### SUPERSEDED EMERGENCY ACTIONS:

N/A

##### INCORPORATIONS BY REFERENCE:

N/A

##### ANALYSIS:

The Department is proposing changes to Subchapters 1, 7, 17, 31, 35, 37, and 39 as a single action. The intent of these changes is to simplify and clarify defined terms. The proposed changes include the addition of new definitions, changes to existing definitions, and deletion of redundant definitions and definitions no longer being used. In Subchapter 7 a cross reference is inserted to direct the reader to the location of two existing permits by rule.

##### CONTACT PERSON:

Michelle Martinez, 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 JUNE 12, 2003:**

## SUBCHAPTER 1. GENERAL PROVISIONS

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

~~It is the purpose of this Subchapter to provide definitions of words and phrases used in the field of air pollution and which are consistent with accepted usage. The definitions contained in the Oklahoma Clean Air Act, under which this regulation is promulgated, shall also apply. Definitions having specialized applications are followed by parenthetical citations to the particular Subchapter wherein they are used. This Subchapter provides definitions of words and phrases used in Chapter 100. The definitions contained in the Oklahoma Clean Air Act, under which this regulation is promulgated, shall also apply. The Subchapter also contains a list of commonly used units with their abbreviations and a list of commonly used acronyms.~~

**252:100-1-2. Statutory definitions**

The definitions contained in the Oklahoma Clean Air Act, 27A O.S. 1993 Supp. Sec. 2-5-101 et seq., Oklahoma Environmental Quality Code at 27A O.S. Sections 2-01-102 and 2-05-101(2002) under which this Chapter is promulgated, shall also apply for the following terms.

- (1) board,
- (2) department,
- (3) Executive Director,
- (4) council,
- (5) director,
- (6) person,
- (7) air pollution, and
- (8) air contaminants.
- (1) air contaminants.
- (2) air pollution.
- (3) council.
- (4) department.
- (5) director.
- (6) Executive Director, and
- (7) person.

**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.

~~"Acrylic" means a chemical coating containing polymers or copolymers of acrylic or substitute acrylic acid in combination with suitable resinous modifiers and its primary mode of cure is solvent evaporation. (252:100-37)~~

~~"Actual emissions" when used in OAC 252:100-7, Part 5, means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with the following:~~

- ~~(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The reviewing authority may 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. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.~~
- ~~(B) The reviewing authority may presume that source specific allowable emissions for the unit are equivalent to the actual emissions of the unit.~~
- ~~(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (OAC 252:100-7, Part 5)~~

~~"Actual emissions" when used in OAC 252:100-7, Part 7, means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:~~

- ~~(A) In general, actual emissions as of a particular date shall equal the average rate in tons per year at which the unit actually emitted the pollutant during a two-year period which precedes the operation. The reviewing authority may 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. Actual emissions may also be determined by source tests, or by best engineering judgment in the absence of acceptable test data.~~
- ~~(B) The reviewing authority may presume that source specific allowable emissions for the unit are equivalent to the actual emissions of the unit.~~
- ~~(C) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. (OAC 252:100-7, Part 7)~~

~~"Air contaminant source" means any and all sources of emission of air contaminants, 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.~~

~~"Alkyd primer" when used in Subchapter 37 means a chemical coating composed primarily of alkyd applied to a surface to provide a firm bond between the substrate and any additional paint. (OAC 252:100-37)~~

~~"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. (OAC 252:100-7, Parts 5 and 7)~~

## Permanent Final Adoptions

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

"Architectural coating" means coating used for residential, commercial and/or industrial buildings and their appurtenances.

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

~~"Automatic tread end cementing" means the application of a solvent based cement to the tire tread ends by automated devices. (OAC 252:100-39-44)~~

"Baseline area" means any area designated as attainment or unclassifiable in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m<sup>3</sup> (annual average) of the pollutant for which the minor source baseline date is established. (OAC 252:100-7, Part 5) (Effective May 11, 1991)

### "Baseline concentration"

(A) when used in OAC 252:100-7, Part 5, means that ambient concentration level which exists in the baseline area at the time of the applicable baseline date.

(i) 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 baseline date, except as provided in (B) of this definition.

(II) the allowable emissions of major sources which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date. (Effective May 11, 1991)

(ii) 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 source on which construction commenced after the major source baseline date; and,

(II) actual emission increases and decreases at any source occurring after the minor source baseline date. (OAC 252:100-7, Part 5) (Effective May 11, 1991)

(B) when used in the remainder of this Chapter, in regard to prevention of significant deterioration (PSD), means the ambient concentration levels which exist at the time application for permit in an area plus emissions from sources not yet operating on which construction commenced prior to January 6, 1975. Emissions from major sources as defined in Section 169 of the Federal Clean Air Act on which construction commenced after January 6, 1975 will not be counted in the baseline and shall be counted against the maximum allowable increase in pollution concentration. (Effective April 1, 1979)

### "Baseline date"

(A) means:

(i) for major sources,

(I) in the case of particulate matter and sulfur dioxide, January 6, 1975; and

(II) in the case of nitrogen dioxide, February 8, 1988; and,

(ii) for minor sources, the earliest date after the trigger date on which a major stationary source or a major modification (subject to 40 CFR 52.21 or OAC 252:100-7, Part 5) submits a complete application. The trigger date is:

(I) in the case of particulate matter and sulfur dioxide, August 7, 1977; and,

(II) in the case of nitrogen oxides, February 8, 1988. (OAC 252:100-7, Part 5) (Effective May 11, 1991)

(B) is established for each pollutant for which increments have been established if:

(i) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable for the pollutant on the date of its complete application; and

(ii) in the case of a major 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. (OAC 252:100-7, Part 5)

"Basic oxygen furnace" means a furnace in which the melting and refining of iron are accomplished by the addition at high velocities of large amounts of high purity oxygen to the atmosphere above the surface of the metal bath. The metal is held in a tiltable vessel with a basic refractory lining. Such a furnace includes the furnace proper, oxygen lance, scrap and flux charging units, iron transfer units, gas collecting and cleaning equipment, stacks and any other auxiliaries pertinent to the process.

"Bead dipping" means the dipping of an assembled tire bead into a solvent based cement. (OAC 252:100-39-44)

"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. 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. (OAC 252:100-7, Parts 5 and 7)

"Best available control technology" or "BACT" means the control technology to be applied for a major source or modification is the best that is available as determined by the Executive Director on a case-by-case basis taking into account energy, environmental, costs and economic impacts of alternative control systems. (OAC 252:100-7, Part 5) 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.

"Blast furnace" means furnace and equipment used in connection with the smelting process of reducing metallic ores to molten metal in which primarily oxygen is removed from



~~the ore and gas is produced as a by product. The furnace and equipment consists of, but is not limited to, the furnace proper, charging equipment, stoves, bleeders, gas dust cleaning devices, after burner, and other auxiliaries pertinent to the process.~~

~~"Building, structure, facility" 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. (OAC 252:100-7, Part 7)~~

"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. (OAC 252:100-7, Part 5)

"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.

~~"Chimney" means any conduit, duct, stack, vent, flue, or opening of any kind whatsoever arranged to conduct any emission of products to the atmosphere.~~

"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. (OAC 252:100-13)

~~"Commence" means as applied to construction of a major stationary source or major modification means 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 canceled 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. (OAC 252:100-7, Parts 5 and 7)~~

"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.

"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 reviewing authority from requesting or accepting any additional information. (OAC 252:100-7, Part 5)

"Component" means any piece of equipment which has the potential to leak volatile organic compounds when tested in the manner described in Appendix B, EPA Guideline Series Document, Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment, EPA 450/2-78-036, or an equivalent method as determined by the Director. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open ended pipes. Excluded from these sources are valves which are not externally regulated. (OAC 252:100-39, Part 3)

"Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at normal operating conditions. (OAC 252:100-39, Part 5)

**"Construction"**

(A) when used in OAC 252:100-7, Parts 5 and 7, means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. (OAC 252:100-7, Parts 5 and 7)

(B) when used in the remainder of this Chapter means, unless specifically defined otherwise, means fabrication, erection, or installation of a source. (Effective June 22, 1974)

"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. (OAC 252:100-39, Part 5)

"Custom product finishes" means a proprietary chemical coating designed for a specific customer and end use. (OAC 252:100-37)

"Cutback asphalt" means basic asphalt or asphaltic concrete containing a petroleum distillate. (OAC 252:100-37)

"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.

"Effluent water separator" means any tank, box, sump, or other container in which any material compound floating on or entrained or contained in water entering such tank, box, sump or other container is physically separated and removed from such water prior to outfall, drainage, or recovery of such water. (OAC 252:100-37)

"Emissions unit" means any part of a source which emits or would have the potential to emit any pollutant subject to regulation. (OAC 252:100-7, Parts 5 and 7)

~~"Epoxy" means a chemical coating containing epoxy groups and suitable chemical cross-linking agents. Epoxies~~

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~~prime mode of cure involves a chemical reaction between the epoxy and the cross linking agent. (OAC 252:100-37)~~

~~"Equivalent opacity" means the degree to which an emission, other than gray or black smoke, is partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as an equivalent of the obstruction caused by a gray or black smoke emission of a given density as measured by a Ringelmann Smoke Chart.~~

~~"Excess air" means air entering a combustion chamber in excess of the amount theoretically required to complete combustion of materials in the combustion chamber.~~

~~"Excess emissions" means the emission of regulated air contaminants/pollutants in excess of an applicable limitation or requirement as specified in the applicable limiting regulation (OAC 252:100-9) 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.~~

~~"External floating roof" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall. (OAC 252:100-39, Part 5)~~

~~"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).~~

~~"Flexographic printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials. (OAC 252:100-39-43)~~

~~"Fly ash" means particulate matter capable of being gas-borne or airborne consisting essentially of fused ash and/or burned or unburned material.~~

~~"Foundry cupola" means shaft type furnace used for the melting of metals usually consisting of, but not limited to, the furnace proper, tuyeres, fans or blowers, tapping spout, charging equipment, gas cleaning devices and other auxiliaries. Shaft furnaces used for processing non-metallic materials are not included under this definition but are included in the definition of process equipment.~~

~~"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. (Effective July 1, 1977)~~

~~"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. (OAC 252:100-7, Parts 5 and 7)~~

~~"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.~~

~~"Gas service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the gaseous phase. (OAC 252:100-39, Part 3)~~

~~"Green tire spraying" means the spraying of green tires, both inside and outside, with release compounds which help remove air from the tire during molding and prevent the tire from sticking to the mold after curing. (OAC 252:100-39-44)~~

~~"Green tires" means assembled tires before molding and curing have occurred. (OAC 252:100-39-44)~~

~~"Hazardous air contaminant" means any hazardous air pollutant regulated under Section 112 of the federal Clean Air Act, 42 U.S.C. Section 7412, and subject to national emission standards (NESHAP). (OAC 252:100-41)~~

~~"In being" means as used in the definitions of New Installation and Existing Source means 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 of the application as specified by the applicable regulation. (Effective June 22, 1974)~~

~~"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.~~

~~"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. (OAC 252:100-7, Part 5)~~

~~"Installation" means an identifiable piece of process equipment. (OAC 252:100-7, Part 7)~~

~~"Lease custody transfer" means the transfer of produced crude oil and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation. (OAC 252:100-39, Part 5)~~

~~"Liquid mounted seal" means a primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof. (OAC 252:100-39, Part 5)~~

~~"Liquid service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the liquid phase. (OAC 252:100-39, Part 3)~~

~~"Lowest achievable emissions rate" means the control technology to be applied to a major source or modification which the Executive Director, on a case by case basis, determines is achievable for a source based on the lowest achievable emission rate achieved in practice by such category of source (i.e., lowest achievable emission rate as defined in the Federal Clean Air Act). (OAC 252:100-7 Part 7)~~

~~"Maintenance finishes" means a chemical coating formulated to form a protection of a given substrate to adverse chemical or physical condition. (OAC 252:100-37)~~

~~"Major modification" when used in OAC 252:100-7, Part 5, means any physical change in, or change in the method of operation of, a major source that would result in a significant net emissions increase of any pollutant subject to regulation.~~

~~(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.~~

~~(B) A physical change or change in the method of operation shall not include:~~

- ~~(i) routine maintenance, repair and replacement;~~
- ~~(ii) use of an alternate 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 Federal Clean Air 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:~~

~~(I) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975, or~~

~~(II) the source is approved to use under any permit issued under 40 CFR 52.21 or OAC 252:100-7;~~

- ~~(vi) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit limitation which was established after January 6, 1975; or~~
- ~~(vii) any change in source ownership. (OAC 252:100-7, Part 5)~~

~~"Major modification" when used in OAC 252:100-7, Part 7, means any physical change in, or change in the method of operation of, a major source that would result in a~~

~~significant net emissions increase of any pollutant subject to regulation.~~

~~(A) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.~~

~~(B) A physical change or change in the method of operation shall not include:~~

- ~~(i) routine maintenance, repair and replacement;~~
- ~~(ii) use of an alternate 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 Federal Clean Air Act;~~
- ~~(iv) use of an alternate fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;~~
- ~~(v) use of an alternate fuel or raw material by a source which:~~

~~(I) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976, or~~

~~(II) the source is approved to use under any Permit issued under 40 CFR 52.21 or OAC 252:100-7;~~

- ~~(vi) An increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit limitation which was established after December 21, 1976; or~~
- ~~(vii) Any change in source ownership. (OAC 252:100-7, Part 7)~~

~~"Major source (major emitting facility)" means any stationary facility or source of an air pollution which directly emits or has the potential to emit (i.e., as if no controls were to be applied) 100 tons or more per year. (Effective April 1, 1979)~~

~~"Major sources 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)~~

~~"Major stationary source" when used in OAC 252:100-7, Part 5, means:~~

- ~~(A) Any of the following sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation:~~
  - ~~(i) fossil fuel fired steam electric plants of more than 250 million BTU per hour heat input;~~
  - ~~(ii) coal cleaning plants (with thermal dryers);~~
  - ~~(iii) kraft pulp mills;~~
  - ~~(iv) portland cement plants;~~
  - ~~(v) primary zinc smelters;~~

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- (vi) iron and steel mill plants,
- (vii) primary aluminum ore reduction plants,
- (viii) primary copper smelters,
- (ix) municipal incinerators capable of charging more than 50 tons of refuse per day,
- (x) hydrofluoric, sulfuric or nitric acid plants,
- (xi) petroleum refineries,
- (xii) lime plants,
- (xiii) phosphate rock processing plants,
- (xiv) coke oven batteries,
- (xv) sulfur recovery plants,
- (xvi) carbon black plants (furnace process),
- (xvii) primary lead smelters,
- (xviii) fuel conversion plants,
- (xix) sintering plants,
- (xx) secondary metal production plants,
- (xxi) chemical process plants,
- (xxii) fossil fuel boilers (or combustion thereof) totaling more than 250 million BTU per hour heat input,
- (xxiii) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels,
- (xxiv) taconite ore processing plants,
- (xxv) glass fiber processing plants,
- (xxvi) charcoal production plants, or
- (xxvii) any other source not on the above list which emits, or has the potential to emit, 250 tons per year or more of any pollutant subject to regulation.

(B) Any physical change that would occur at a source not otherwise qualifying as a major source under (A) of this definition if the change would constitute a major source by itself.

(C) For ozone, any source that is major for volatile organic compounds shall be considered major. (OAC 252:100-7, Part 5)

~~"Major stationary source" when used in OAC 252:100-7, Part 7, means:~~

~~(A) Any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation; or,~~

~~(B) Any physical change that would occur at a source not qualifying under (A) of this definition as a major source, if the change would constitute a major source by itself.~~

~~(C) For ozone, any source that is major for volatile organic compounds shall be considered major. (OAC 252:100-7, Part 7)~~

"Malfunction" means any sudden and unavoidable failure of air pollution control equipment on process or process equipment to operate in a normal and usual manner. Failures caused entirely or partially by poor maintenance, careless operation or any other preventable upset condition or preventable equipment failure shall not be considered a malfunction. (252:100-9) 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.

"Manual tread end cementing" means the application of a solvent based cement to the tire tread ends by manufacturers. (252:100-39-44)

"Mechanical fuel burning equipment" means fuel burning equipment incorporating means by which fuel is mechanically introduced into the combustion chamber.

"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. (Effective June 22, 1974)

"Motor vehicle" means a self-propelled, wheeled vehicle designed for normal use of public streets and highways. (OAC 252:100-15)

"Motor vehicle pollution control devices" means any or all of the devices or systems referred to in this Section and designed to control or prevent air pollution emissions from motor vehicles. (OAC 252:100-15)

"Multiple chamber incinerator" means any article, machine, equipment, or contrivance or part of a structure, used to dispose of refuse or garbage by burning, consisting of three or more refractory lined chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design necessary for maximum combustion of material to be burned.

"Necessary preconstruction approvals or permits" means those permits or approvals required under all applicable air quality control laws and rules. (OAC 252:100-7, Parts 5 and 7)

"Net emissions increase" when used in OAC 252:100-7, Part 5, means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

~~(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 the Executive Director has not relied on it in issuing a permit under OAC 252:100-7, Part 3, 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 or particulate matter which occurs before the applicable 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:~~

~~(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 at and after the time that actual construction on the particular change begins;~~

~~(iii) 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 emission 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. (OAC 252:100-7, Part 5)~~

**"Net emissions increase"** when used in OAC 252:100-7, Part 7, means:

(A) The amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a source; and,

(ii) any other increases and decreases in actual emission at the source that are contemporaneous with the particular change and are otherwise creditable.

~~(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 the Executive Director has not relied on it in issuing a permit under OAC 252:100-7, Part 7, 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 the allowable emissions, whichever is lower, exceeds the new level of actual emissions;~~

~~(ii) it is enforceable at and after the time that actual construction on the particular change begins;~~

~~(iii) the reviewing authority has not relied on it in issuing any permit under State air quality regulations;~~

~~(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. (OAC 252:100-7, Part 7)~~

**"New installation (source or equipment)", "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 altered, modified, replaced, or rebuilt, reconstructed after the effective date of the regulations such that the amount of air contaminant emissions is increased.

**"New portable source"** means a portable source that has never operated within the State of Oklahoma. This includes sources that are initially constructed and existing facilities that are relocating into Oklahoma from another state. (Effective July 1, 1977)

**"Nitric acid plant"** means process involving the high temperature oxidation of ammonia with air over a catalyst to form nitric oxide which is reacted with air to form nitrogen dioxide which is absorbed in water to weak nitric acid which may be concentrated. The plant consists of, but is not limited to, the reactor, absorber, concentrator and other auxiliaries pertinent to the process.

**"Nitrocellulose lacquers"** means a chemical coating containing nitrocellulose and suitable resinous modifiers, and whose primary mode of cure is solvent evaporation. (OAC 252:100-37)

**"Odorant (odor)"** means that property of a material that affects the sense of smell.

**"Opacity"** means equivalent opacity 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. (OAC 252:100-13)

**"Organic materials"** means chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic

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acid, metallic carbides, metallic carbonates, and ammonium carbonate.

### "Organic solvents"

(A) when used in Subchapter 37 of this Chapter, means organic materials including diluents and thinners which are liquids at standard conditions and which are used as solvents, viscosity reducers or cleaning agents, except that such materials which exhibit a boiling point higher than 220°F. at 0.5 millimeters of mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220°F. However, the following listed materials are presently judged to be suitable for exclusion to any control:

- (i) methane,
  - (ii) ethane,
  - (iii) 1,1,1 trichloroethane (methyl chloroform),
  - (iv) trichlorotrifluoroethane (freon 113), and
  - (v) methylene chloride (dichloromethane).
- (OAC 252:100-37)

(B) when used in the remainder of this Chapter, unless specifically defined otherwise, means organic materials including diluents and thinners which are liquids at standard conditions and which are used as solvents, viscosity reducers or cleaning agents, except that such materials which exhibit a boiling point higher than 220°F. at 0.5 millimeters of mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220°F. (Effective June 22, 1974)

"Owner or operator" means any person who owns, leases, operates, controls or supervises a source. — (Effective June 22, 1974)

"PM-10 emissions" means finely divided solid or liquid material particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers, as measured during a stack test of the source's emissions.

"PM-10 (particulate matter - 10 micrometers)" means a portion of total suspended particulates, comprised by that fraction of particles which exhibit an average aerodynamic particle diameter of 10 micrometers or less and exists as a solid or a liquid, and is defined as particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a federal reference method based on Appendix J of 40 CFR Part 50.

"Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates which are, in subsequent operations, formed into packaging products and labels for articles to be sold. (252:100-39-43)

"Paper mill" means a plant in which paper, paperboard, cardboard, paper felt, or similar material is produced from waste paper products, wood chips and/or pulp slurry, including, but not limited to, mixers, forming screens, suction boxes, dryers, filters, paper rolls and other auxiliary equipment pertinent to the process.

"Particle board" means mat formed flat panels consisting of wood particles bonded together with synthetic resin or other suitable binder.

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

"Particulate matter emissions" means are finely divided solid or liquid material as measured during a stack test of the source's emissions particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method.

"Passenger type tire" means agricultural, airplane, industrial, mobile home, light and medium duty truck, and passenger vehicle tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches. (252:100-39-44)

"Petroleum and natural gas processes" means processes used in the processing of crude petroleum and/or natural gas into refined products including, but 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 other auxiliary equipment pertinent to the process.

"Petroleum liquids" means crude oil, condensate, and any finished or intermediate liquid products manufactured or extracted in a petroleum refinery. (OAC 252:100-39, Part 5)

"Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of crude oil and other hydrocarbons or through redistillation, cracking, rearrangement or reforming or unfinished petroleum derivatives. (OAC 252:100-39, Part 3)

"Photochemically reactive solvent" means any solvent with an aggregate more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composite limitations, referred to the total volume of solvent:

- (A) a combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cyclic olefinic type of unsaturation: 5 percent;
- (B) a combination of aromatic compounds with either eight (8) or more carbon atoms to the molecule except ethylbenzene: 8 percent;
- (C) a combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent. Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group; that is, that group having the least allowable percent of the total volume of solvents.

"Plywood" means panel built generally of a number of thin sheets of veneers of wood in which the grain direction of each ply or layer is at an angle to the one adjacent to it.

"Pneumatic rubber tire manufacture" means the production of pneumatic rubber, passenger type tire on a mass production basis. (OAC 252:100-39-44)

~~"Portable source" means a source with design and intended use to allow disassembly or relocation. (Effective July 1, 1977)~~

"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. (OAC 252:100-7, Parts 5 and 7)

"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.

~~"Products of combustion" means all particulate and gaseous air contaminants emitted as a result of the burning of refuse and combustible materials. (OAC 252:100-13)~~

~~"Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials. (OAC 252:100-39-43)~~

"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.

"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. (OAC 252:100-37)

~~"Refinery unit" means a set of components which are a part of a basic process operation, such as, distillation, hydrotreating, cracking or reforming of hydrocarbons. (OAC 252:100-39, Part 3)~~

"Refuse"

~~(A) when used in Subchapter 13 of this Chapter, means garbage, rubbish, and all other wastes generated by a trade, business, industry, building operation, or household. (OAC 252:100-13)~~

~~(B) when used in the remainder of this Chapter, unless specifically defined otherwise, 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.

"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



## Permanent Final Adoptions

(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.

**"Resource recovery facility"** means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Energy conversion facilities must utilize solid waste to provide more than 50 percent of the heat input to be considered a resource recovery facility under OAC 252:100-7, Part 7.

**"Ringelmann chart"** means the chart published and described in the U.S. Bureau of Mines Information Circular 8333.

**"Roll printing"** means the application of words, designs and pictures to a substrate usually by means of a series of hard rubber or steel rolls each with only partial coverage. (OAC 252:100-39-43)

**"Rotogravure printing"** means the application of works, designs and pictures to a substrate by means of a roll printing technique which involves an intaglio or recessed image areas in the form of cells. (OAC 252:100-39-43)

**"Secondary emissions"** means emissions which occur as a result of the construction or operation of a major stationary source or modification, but do not come from the source or modification itself. For the purposes of OAC 252:100-7, Parts 5 and 7, secondary emissions must be specific, well defined, quantifiable, and impact the same general areas as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(A) emissions from trains coming to or from the new or modified stationary source; and,

(B) emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or modification. (OAC 252:100-7, Parts 5 and 7)

**"Shutdown"** means the cessation of operation of any process, process equipment, or air pollution control equipment process or process equipment other than routine phasing out of process units. As used in this regulation, the term "phasing out" refers to the permanent cessation of use of a piece of process equipment. (OAC 252:100-9)

**"Significant"** when used in OAC 252:100-7, Part 5, 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 rates:

- (i) carbon monoxide: 100 tons per year (tpy)
- (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) ozone: 40 tpy of volatile organic compounds
- (vi) lead: 0.6 tpy
- (vii) asbestos: 0.007 tpy
- (viii) beryllium: 0.0004 tpy
- (ix) mercury: 0.1 tpy
- (x) vinyl chloride: 1 tpy
- (xi) fluorides: 3 tpy
- (xii) sulfuric acid mist: 7 tpy
- (xiii) hydrogen sulfide (H<sub>2</sub>S): 10 tpy
- (xiv) total reduced sulfur (including H<sub>2</sub>S): 10 tpy
- (xv) reduced sulfur compounds (including H<sub>2</sub>S): 10 tpy

(B) notwithstanding (A) of this definition, "significant" means any emissions rate or any net emissions increase associated with a major source or 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 µg/m<sup>3</sup> (24-hour average). (OAC 252:100-7, Part 5)

**"Significant"** when used in OAC 252:100-7, Part 7, means 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 rates:

- (A) carbon monoxide: 100 tons per year (tpy)
- (B) nitrogen oxides: 40 tpy
- (C) sulfur dioxide: 40 tpy
- (D) particulate matter: 15 tpy of PM-10 emissions
- (E) ozone: 40 tpy of volatile organic compounds
- (F) lead: 0.6 tpy. (OAC 252:100-7, Part 7)

**"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.

**"Soiling index"** means a measure of the soiling properties of suspended particulates determined by drawing a known volume of air through a known area of filter paper tape and measuring the optical density of the filtered deposit as given in the American Society for Testing Materials Standard D-1704-61, expressed in coefficient of haze (COH's) per 1000 linear feet.

**"Source gas volume"** means the volume in standard cubic feet, of all gases leaving a source operation; for purposes of this definition, the boundary of a source operation is that point or surface at which the separation of the air contaminants from the process materials, or the conversion of the process materials, or the conversion of the process materials into air contaminants, is essentially complete.



"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 ~~any chimney, flue, duct, conduit, exhaust, vent or opening of any kind whatsoever capable of, or used for, the emission of air contaminants, unless specifically defined otherwise, any chimney, flue, duct, conduit, exhaust, vent or opening 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.

"Standard cubic foot of gas" means that amount of gas which would occupy a cube having dimensions of one foot on each side, if the gas were at standard conditions; calculations to determine the number of standard cubic feet corresponding to actual measured conditions shall follow accepted engineering practice.

"Standard dry cubic foot of gas" means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at standard condition; calculations to determine the number of standard dry cubic feet corresponding to actual measured conditions shall follow accepted engineering practice.

"Startup" means the setting into operation of any process, process equipment, or air pollution control equipment, process or process equipment for any purpose other than routine phasing in of process units. As used in this Chapter, the term "phasing in" refers to the initial introduction of a piece of process equipment into the particular process. (OAC 252:100-9)

"Stationary engine" means an internal combustion engine not providing motive power to a motor vehicle. Stationary external combustion engines are included in the definition for fuel burning equipment.

"Stationary source"

- (A) when used in OAC 252:100-7, Parts 5 and 7, means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation. (OAC 252:100-7, Parts 5 and 7)
- (B) when used in the remainder of this Chapter means, unless specifically defined otherwise, means 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. (Effective July 1, 1977)

"Submerged fill pipe" means any fill pipe or discharge nozzle which meets any one of the following conditions:

- (A) the bottom of the discharge pipe or nozzle is below the surface of liquid in the receiving vessel for at least 95 percent of the volume filled;
- (B) the bottom of the discharge pipe or nozzle is less than 6 inches from the bottom of the receiving vessel;

(C) the bottom of the discharge pipe or nozzle is less than two (2) pipe or nozzle diameters from the bottom of the receiving vessel; or,

(D) other equivalent methods acceptable to the Executive Director. (OAC 252:100-37 and 252:100-39)

~~"TSP (total suspended particulates)" "Total Suspended Particulates" or "TSP" means is defined as 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.

"Undertaking cementing" means the application of a solvent based cement to the underside of a tire tread. (OAC 252:100-39-44)

~~"Valves not externally regulated" means valves that have no external controls, such as in line check valves. (OAC 252:100-39, Part 3)~~

~~"Vapor-mounted seal" means a primary seal mounted so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof. (OAC 252:100-39, Part 5)~~

"Veneer" means a thin panel of wood usually not exceeding 1/4 inch in thickness, formed by slicing or peeling from a log.

~~"Vinyl" means a chemical coating containing plasterized or unplasterized polymers and co-polymers of vinyl acetate, vinyl chloride, polyvinyl alcohols or their condensation products and the primary mode of cure is solvent evaporation. (OAC 252:100-37)~~

"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 compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage condition. (OAC 252:100-37) of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonates, which participates in atmospheric photochemical reactions. Any organic compound listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.~~

~~"Water based sprays" means release compounds, sprayed on the inside and outside of green tires, in which solids, water and emulsifiers have been substituted for organic solvents. These sprays may contain an average of up to five percent organic solvent. (OAC 252:100-39-44)~~

~~"Waxy, high pour point crude oil" means a crude oil with a pour point of 50°F or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils." (OAC 252:100-39, Part 5)~~

# Permanent Final Adoptions

## 252:100-1-4. Units, abbreviations and acronyms

### (a) Abbreviations and symbols of units of measure.

- (1) Btu - British thermal unit
- (2) cm/sec - centimeter per second
- (3) dscf - dry cubic feet at standard conditions
- (4) dscm - dry cubic meter at standard conditions
- (5) ft/min - feet per minute
- (6) gal - gallon
- (7) gal/d - gallons per day
- (8) gal/yr - gallons per year
- (9) gr/dscf - grains per dry standard cubic foot
- (10) hr - hour
- (11) Hg - mercury
- (12) hp - horsepower
- (13) H<sub>2</sub>O - water
- (14) H<sub>2</sub>S - hydrogen sulfide
- (15) H<sub>2</sub>SO<sub>4</sub> - sulfuric acid
- (16) kg - kilogram
- (17) kg/metric ton - kilograms per metric ton
- (18) kPa - kilopascals
- (19) l - liter
- (20) l/yr - liters per year
- (21) L/D - long tons per day
- (22) lb/wk - pounds per week
- (23) lb - pound
- (24) lbs/hr - pounds per hour
- (25) m<sup>3</sup> - cubic meter
- (26) mg/dscm - milligrams per dry standard cubic meter
- (27) MMBTU/hr - heat input in million british thermal units per hour
- (28) Mg - megagram - 10<sup>6</sup> gram
- (29) Mg/yr - megagrams per year
- (30) mg/l - milligrams per liter
- (31) m/min - meter per minute
- (32) ng/dscm - nanograms per dry standard cubic meter
- (33) oz/in<sup>2</sup> - ounce per square inch
- (34) ppm - parts per million
- (35) psia - pounds per square inch absolute
- (36) psig - pounds per square inch gage
- (37) ppmv - parts per million by volume
- (38) SO<sub>2</sub> - sulfur dioxide
- (39) TPY - tons per year
- (40) ug/m<sup>3</sup> - micrograms per cubic meter

### (b) Acronyms.

- (1) A.I.S.I. - American Iron and Steel Institute
- (2) A.S.M.E. - American Society of Mechanical Engineers
- (3) A.S.T.M. - American Society for Testing and Materials
- (4) BACT - Best Available Control Technology
- (5) CEM - Continuous Emission Monitor
- (6) CFR - Code of Federal Regulations
- (7) COM - Continuous Opacity Monitor
- (8) DEQ - Department of Environmental Quality
- (9) EPA - Environmental Protection Agency
- (10) HAP - Hazardous Air Pollutants
- (11) HMTWI - Hospital/Medical/Infectious Waste Incinerator

- (12) MACT - Maximum Achievable Control Technology
- (13) MSW - Municipal Solid Waste
- (14) MWC - Municipal Waste Combustors
- (15) NAAQS - National Ambient Air Quality Standards
- (16) NESHAP - National Emissions Standards for Hazardous Air Pollutants
- (17) NSPS - New Source Performance Standards
- (18) OAC - Oklahoma Administrative Code
- (19) PBR - Permit by Rule
- (20) PM - Particulate Matter
- (21) PSD - Prevention of Significant Deterioration
- (22) SIC - Standard Industrial Classification
- (23) SIP - State Implementation Plan
- (24) TSP - Total Suspended Particulates
- (25) VOC - Volatile Organic Compound
- (26) 27A O.S. - Title 27A Oklahoma Statutes Annotated

## SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

### PART 1. GENERAL PROVISIONS

#### 252:100-7-1.1. Definitions

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

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

"**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.

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

"**De minimis facility**" means a facility that

(A) Is on the de minimis list contained in Appendix H or meets all of the following de minimis criteria:

- (i) Has actual emissions of five (5) tons per year or less of each regulated air pollutant, except Total Suspended Particulates (TSP).
- (ii) Is not a "major source" as defined in 252:100-8-2.
- (iii) Is not a "major stationary source" as defined in 252:100-8-31 for facilities in attainment areas.
- (iv) Is not a "major stationary source" as defined in 252:100-8-51 for facilities in nonattainment areas.

**July 18, 2007**  
**Air Quality Advisory Council**

**November 15, 2007**  
**Environmental Quality Board**

**Effective Date: July 1, 2008**

# 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 #07-1218]

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### RULES:

- Subchapter 1. General Provisions
- 252:100-1-3. Definitions [AMENDED]
- Subchapter 5. Registration, Emission Inventory and Annual Operating Fees
- 252:100-5-2.2. Annual operating fees [AMENDED]
- Subchapter 7. Permits for Minor Facilities
- Part 1. General Provisions
- 252:100-7-2. Requirement for permits for minor facilities [AMENDED]
- Part 3. Construction Permits
- 252:100-7-15. Construction permit [AMENDED]
- Part 4. Operating Permits
- 252:100-7-18. Operating permit [AMENDED]
- Subchapter 8. Permits for Part 70 Sources
- Part 1. General Provisions
- 252:100-8-1.1. Definitions [AMENDED]
- Subchapter 17. Incinerators
- Part 5. Municipal Waste Combustors
- 252:100-17-14.1. Definitions [AMENDED]
- 252:100-17-16. Standards for particulate matter and opacity [AMENDED]
- 252:100-17-17. Standards for municipal waste combustor metals [AMENDED]
- 252:100-17-19. Standards for municipal waste combustor organics expressed as total mass dioxins/furans [AMENDED]
- 252:100-17-20. Standards for nitrogen oxides [AMENDED]
- 252:100-17-21. Standards for municipal waste combustor operating practices [AMENDED]
- 252:100-17-24. Standards for municipal waste combustor operator training and certification [AMENDED]
- 252:100-17-25. Compliance and performance testing [AMENDED]
- 252:100-17-26. Reporting and recordkeeping requirements [AMENDED]
- Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs)
- Part 1. General Provisions

- 252:100-37-2. Definitions [AMENDED]
- Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas
- Part 1. General Provisions
- 252:100-39-2. Definitions [AMENDED]
- Subchapter 44. Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units [NEW]
- 252:100-44-1. Purpose [NEW]
- 252:100-44-2. [RESERVED]
- 252:100-44-3. Reference to 40 CFR [NEW]

### SUMMARY:

The Department is proposing to amend OAC 252:100-1-3, 252:100-8-1.1, 252:100-37-2 and 252:100-39-2 to clarify definitions.

The Department is considering increases in fees found in OAC 252:100-5-2.2(b)(2) for both minor facilities and Part 70 sources. Additional income resulting from a fee increase is needed to cover current and anticipated staffing requirements in administering the Department's programs.

The Department is proposing to amend OAC 252:100-7-2, 252:100-7-15 and 252:100-7-18. The proposed revision will provide consistency with state statutes and other Air Pollution Control rules; remove reference to Subchapter 41, which has been revoked; delete the emissions calculation methods for determining if a permit is required; clarify when construction permits are required; and provide for administrative amendments to operating permits for minor facilities.

The Department proposes to amend OAC 252:100-17, Part 5, to meet federal requirements for state plans under section 111(d) of the federal Clean Air Act applicable to existing sources. The proposed changes would incorporate standards (40 CFR 60, Subpart Cb) published on May 5, 2006, in the Federal Register that apply to Municipal Waste Combustor (MWC) units with the capacity to combust more than 250 tons per day of municipal solid waste. The proposed changes to Subchapter 17 are accompanied by a 111(d) plan. Staff intends that the July 18, 2007, Council meeting serve as a public hearing for both the rule and the plan.

The Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units. The proposed new subchapter will incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in March 2005 with proposed allocations and set-asides. Prior to and at the July 18, 2007, public hearing, the Department will accept public comments regarding the proposed rule and the 111(d) plan. Staff intends this Council

## Notices of Rulemaking Intent

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meeting to serve as a public hearing for both the rule and the 111(d) plan.

### **AUTHORITY:**

Environmental Quality Board 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.*

### **COMMENT PERIOD:**

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on July 18, 2007. For comments received at least 5 business days prior to the Council meeting, staff will post written responses on the Department's web page at least 1 day prior to the Council meeting and provide hard copy written responses to these comments to the Council and the public at that Council meeting. Oral comments may be made at the July 18, 2007, hearing and at the appropriate Environmental Quality Board meeting.

### **PUBLIC HEARING:**

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, July 18, 2007, in Ponca City, Oklahoma. Before the Environmental Quality Board on August 21, 2007, in Guthrie, Oklahoma.

The Council hearing shall also serve as the public hearing to receive comments on the proposed revisions to the SIP under the requirements of 40 CFR § 51.102 of the EPA regulations concerning the SIPs and 27A O.S. § 2-5-107(6)(c).

### **REQUESTS 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 at the Air Quality Division of the Department at [http://www.deq.state.ok.us/AODnew/council\\_mtgs/index.htm](http://www.deq.state.ok.us/AODnew/council_mtgs/index.htm). Copies may also be obtained from the Department by calling Cheryl Bradley, Environmental Programs Manager, at (405) 702-4100.

### **RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained by contacting Cheryl Bradley at (405) 702-4100.

### **CONTACT PERSON:**

Please send written comments on the proposed rule changes to Cheryl Bradley at [cheryl.bradley@deq.state.ok.us](mailto:cheryl.bradley@deq.state.ok.us). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl Bradley. The Air Quality Division FAX is (405) 702-4101.

### **ADDITIONAL INFORMATION:**

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) 702-4100.

*[OAR Docket #07-1218; filed 5-25-07]*

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# Notices of Rulemaking Intent

requirements of 40 CFR § 51.102 of the EPA 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:

Copies of the proposed rules may be obtained from the contact person or reviewed online at [http://www.deq.state.ok.us/AODnew/council\\_mtgs/index.htm](http://www.deq.state.ok.us/AODnew/council_mtgs/index.htm).

## RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

## CONTACT PERSON:

The contact person is Cheryl Bradley. She may be reached via email at [cheryl.bradley@deq.state.ok.us](mailto:cheryl.bradley@deq.state.ok.us), telephone at (405) 702-4100, or by fax at (405) 702-4101.

## PERSONS WITH DISABILITIES:

Should you desire to attend but have a disability and need an accommodation, please notify the contact person three (3) days in advance. 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 #07-1371; filed 8-24-07]

(For EQB meeting)

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

[OAR Docket #07-1372]

## RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

## PROPOSED RULES:

- Subchapter 1. General Provisions
- 252:100-1-3. Definitions [AMENDED]
- Subchapter 7. Permits for Minor Facilities
- Part 1. General Provisions
- 252:100-7-2. Requirement for permits for minor facilities [AMENDED]
- Part 3. Construction Permits
- 252:100-7-15. Construction permit [AMENDED]
- Part 4. Operating Permits
- 252:100-7-18. Operating permit [AMENDED]
- Subchapter 8. Permits for Part 70 Sources
- Part 1. General Provisions
- 252:100-8-1.1. Definitions [AMENDED]

Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs)

Part 1. General Provisions

252:100-37-2. Definitions [AMENDED]

Part 7. Control of Specific Processes

252:100-37-38. Pumps and compressors [REVOKED]

Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas

Part 1. General Provisions

252:100-39-2. Definitions [AMENDED]

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

## SUMMARY:

The Department is proposing to amend OAC 252:100-1-3, 252:100-8-1.1, 252:100-37-2 and 252:100-39-2 to clarify definitions.

The Department is proposing to amend OAC 252:100-7-2, 252:100-7-15 and 252:100-7-18. The proposed revisions will provide consistency with state statutes and other Air Pollution Control rules, remove reference to Subchapter 41 which has been revoked, delete the emissions calculation methods for determining if a permit is required, clarify when construction permits are required and provide for administrative amendments to operating permits for minor facilities.

The Department proposes to revoke OAC 252:100-37-38, Pumps and compressors.

The Department is proposing to update Appendices E and F to be consistent with federal standards.

## AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act §§ 2-5-101 *et seq.*

## REGISTER PUBLICATION OF NOTICE:

Previous Notices of Rulemaking Intent for this action were published at 24 Ok Reg 643 on 3/15/07 and at 24 Ok Reg 1703 on 6/15/07.

## COMMENT PERIOD:

Oral comments may be made at the Environmental Quality Board meeting on November 15, 2007.

## PUBLIC HEARING:

Before the Environmental Quality Board on November 15, 2007, at 9:30 a.m. at Southwestern Oklahoma State University, 800 N. Custer, Student Union Bldg., Weatherford, Oklahoma 73096.

## REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

N/A

## Notices of Rulemaking Intent

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### COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person or reviewed online at [http://www.deq.state.ok.us/AODnew/council\\_mtgs/index.htm](http://www.deq.state.ok.us/AODnew/council_mtgs/index.htm).

### RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

### CONTACT PERSON:

The contact person is Cheryl Bradley. She may be reached via email at [cheryl.bradley@deq.state.ok.us](mailto:cheryl.bradley@deq.state.ok.us), telephone at (405) 702-4100, or by fax at (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 contact person three (3) days in advance. 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 #07-1372; filed 8-24-07]*

**REGULAR MEETING/HEARING AGENDA**  
**AIR QUALITY ADVISORY COUNCIL**  
**July 18, 2007, 9:00 a.m.**  
**4<sup>th</sup> Street Clubhouse, 1500 4<sup>th</sup> Street**  
**Ponca City, OK**

1. **Call to Order – David Branecky, Chair**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes – April 18, 2007 Regular Meeting**
4. **Public Rulemaking Hearings**

**A. OAC 252:100-17. Incinerators [AMENDED]**

The Department proposes to amend Subchapter 17, Part 5 to meet federal requirements for state plans under Section 111(d) of the federal Clean Air Act applicable to existing sources.

1. Presentation - Pat Sullivan, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**B. OAC 252:100-7. Permits for Minor Facilities [AMENDED]**

The Department is proposing to amend Subchapter 7 to provide consistency with State Statutes and other Air Pollution Control rules; remove reference to Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants, which has been revoked; correct the emissions calculation methods for determining if a permit is required; clarify when construction permits are required; and provide for administrative amendments to operating permits for minor facilities.

1. Presentation - Dr. Joyce Sheedy, Engineer, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**C. OAC 252:100-1. General Provisions [AMENDED]**

**OAC 252:100-8. Permits for Part 70 Sources [AMENDED]**

**OAC 252:100-37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]**

**OAC 252:100-39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]**

The Department is proposing to amend Subchapters 1, 8, 37 and 39 to clarify certain definitions.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**D. OAC 252:100-44. Control of Mercury Emissions from Coal Fired Electric Steam Generating Units [NEW] and Proposed Mercury 111d Plan – Public Hearing**

The Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal Fired Electric



Steam Generating Units, which would incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in May 2005. The Clean Air Act requires a state to prepare a 111(d) plan in order to incorporate the CAMR. This Council meeting will serve as a public hearing for the 111(d) plan.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council

**E. OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

The Department is considering increases in OAC 252:100-5-2.2 fees for minor facilities and for Part 70 sources.

1. Presentation - Nancy Marshment, Environmental Programs Specialist, and  
Beverly Botchlet-Smith, Assistant Director, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council

**5. Subchapter 19. Control of Emission of Particulate Matter – Dawson Lasseter, Engineer Manager, DEQ Air Quality Division**

**6. Division Director's Report – Eddie Terrill**

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

**8. Adjournment – The next regular meeting is scheduled for October 17, 2007, in Oklahoma City.**

Lunch break if necessary.

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4212. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

## 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.

"**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.

**"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.

**"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.

**"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.

**"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.

**"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 emissions"** means particulate matter emitted to the ambient air with an aerodynamic diameter of 10 micrometers or less than or equal to a nominal 10 micrometers, as measured during a stack test of the source's emissions by applicable reference methods, or an equivalent or alternative method.

**"PM-10 (particulate matter - 10 micrometers)"** means particulate matter with an aerodynamic diameter of 10 micrometers or less than or equal to a nominal 10 micrometers as measured by a federal reference method based on Appendix J of 40 CFR Part 50.

**"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.

**"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 ~~compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonates,~~organic compound which 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 Any organic compound~~compounds~~ listed in 40 CFR 51.100(s)(1) ~~will be~~are presumed to have negligible photochemical reactivity and ~~will be~~are not ~~be~~ considered to be a VOC.

**DRAFT MINUTES  
AIR QUALITY COUNCIL  
July 18, 2007  
Ponca City Oklahoma**

For AQC Approval  
October 17, 2007

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. July 18, 2007 in the Fourth Street Clubhouse, Ponca 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 30, 2006. 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. Mr. Eddie Terrill, Director, Air Quality Division, welcomed Mr. Jim Haught to the Council replacing Bob Curtis. David Branecky, Council Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

Sharon Myers  
David Branecky  
Jim Haught  
Bob Lynch  
Gary Martin  
Jerry Purkapple  
Rick Treeman  
Laura Worthen

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Cheryl Bradley  
Pat Sullivan  
Joyce Sheedy  
Max Price

**DEQ STAFF PRESENT**

Matt Paque  
Dawson Lasseter  
Nancy Marshment  
Myrna Bruce

**MEMBERS ABSENT**

Don Smith

**OTHERS PRESENT**

Christy Myers, Court Reporter  
Brita Cantrell, BQB

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

**Approval of Minutes** Mr. Branecky called for approval of the April 18, 2007 Minutes. Mr. Martin made motion for approval and Mr. Treeman made the second. Roll call as follows with motion passing.

Jerry Purkapple	Yes	Gary Martin	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Jim Haught	Yes	Laura Worthen	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-17. Incinerators [AMENDED]** Ms. Pat Sullivan advised that the proposes would amend Subchapter 17, Part 5 to meet federal requirements for state plans under section 111(d) of the federal Clean Air Act applicable to existing sources. She explained that at Council's last meeting, staff had asked that this rule be continued while

EPA reconsidered three aspects of the proposed federal regulation. Ms. Sullivan noted that staff had not received notification of signature on the proposed standards; therefore, asked that the rule be carried over to the next appropriate Air Quality Council meeting. Mr. Branecky opened the floor for questions, then called for a motion to continue the rule to the next meeting. Ms. Myers made that motion and Mr. Purkaple made the second.

Jerry Purkaple	Yes	Gary Martin	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Jim Haught	Yes	Laura Worthen	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-7. Permits for Minor Facilities [AMENDED]** Dr. Joyce Sheedy stated that the proposal would amend Subchapter 7 to provide clarity and consistency with other Chapter 100 Air Pollution Control rules. Amendments would also remove reference to Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants, which has been revoked; correct the emissions calculation methods for determining if a permit is required; clarify when construction permits are required; and provide for administrative amendments to operating permits for minor facilities. Dr. Sheedy provided a letter of comments from OIPA for the record. Dr. Sheedy, Mr. Terrill, and Mr. Dawson Lasseter fielded questions regarding those suggested amendments. Mr. Branecky pointed out that staff recommended that the rule be passed and called for a motion. Mr. Haught made motion to accept with modifications as presented. Dr. Lynch made the second.

Jerry Purkaple	Yes	Gary Martin	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Jim Haught	Yes	Laura Worthen	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-1. General Provisions [AMENDED]**

**OAC 252:100-8. Permits for Part 70 Sources [AMENDED]**

**OAC 252:100-37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]**

**OAC 252:100-39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]**

Mr. Max Price related that the proposal would clarify and/or remove redundant definitions in Subchapters 1, 8, 37 and 39. Staff recommended that Council pass the rulemaking as proposed and forward to the Environmental Quality Board for permanent adoption. During questions, a typo was noted on page 8. Mr. Price confirmed that the term "carbonic acid" was the correct term to use and the wording would be changed. Ms. Myers made motion to pass the rule with the change. Ms. Worthen made the second.

Jerry Purkaple	Yes	Gary Martin	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Jim Haught	Yes	Laura Worthen	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-44. Control of Mercury Emissions from Coal Fired Electric Steam Generating Units [NEW] and Proposed Mercury 111(d) Plan Public Hearing**

Mr. Max Price stated that the proposed adds a new Subchapter 44, Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units, which would incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in May 2005. Due to the controversial nature of this proposal and possible litigation in the federal courts, staff recommended that the rule be continued to Council's January 2008 meeting. Public comments were received from Karen Hadden, Sustainable Energy and Economic Development Coalition; Pat Phillips, retired business owner; Sylvia Pratt; Lawrence Edison, Sierra Club; Montelle Clark; Earl Hatley; Senator Paul Muegge; Chuck Gross, Sustainability NOW; Darryl Phillips; Seneca Scott; Jeff Edwards, Sequoyah County Clean Air Coalition; and Dwayne Camp.

Mr. Terrill discussed the issues involved in the rulemaking and the scenarios for continuing the rule until further information is obtained. Mr. Purkapple made a motion to table the rulemaking until the January Council meeting with instructions for staff to bring back alternative recommendations based on public comment which has been submitted, along with an economic cost benefit analysis and incorporate the technological feasibility part as well. Mr. Terrill interjected that staff will use the cost benefit analysis studies that are already available. Ms. Myers made the second to Mr. Purkapple's motion and roll call was taken.

Jerry Purkapple	Yes	Gary Martin	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Jim Haught	Yes	Laura Worthen	Yes
Rick Treeman	Yes	David Branecky	Abstain

**Proposed Mercury 111(d) Plan Public Hearing** (notation in transcript 4E page 4)

During the next hearing on Subchapter 5, Ms. Botchlet-Smith reminded that the Proposed Mercury 111d Plan is tied to this Subchapter 44 to incorporate the CAMR rule.

**OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]** Ms. Nancy Marshment explained that the Department is considering increases in OAC 252:100-5-2.2 fees for minor facilities and for Part 70 sources. Along with Mr. Terrill, Ms. Beverly Botchlet-Smith, Assistant Director, Air Quality Division, provided a slide presentation stating the needs related to the fee increases. Following comments from Council and the public, Mr. Treeman moved to continue the rulemaking to the October meeting per staff's recommendation. Mr. Purkapple made the second.

Jerry Purkapple	Yes	Gary Martin	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Jim Haught	Yes	Laura Worthen	Yes
Rick Treeman	Yes	David Branecky	Yes

**Subchapter 19. Control of Emission of Particulate Matter** – Dawson Lasseter, Engineer Manager, DEQ, Air Quality Division provided an update as requested by Council at its April 18, 2007 meeting. No action was necessary.

**Division Director's Report** Eddie Terrill gave an update on Division activities and thanked Ponca City, Mr. Martin, and Mr. Purkale for hosting the Council meeting

**New Business** None

**Adjournment** The next regular meeting is proposed for 9:00 a.m., Wednesday, October 17, in Oklahoma City, Oklahoma. Meeting adjourned at 12:45 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  
REGULAR MEETING

ITEM NUMBER 4C

HELD ON JULY 18, 2007, AT 9:00 A.M.

IN PONCA CITY, OKLAHOMA

\* \* \* \* \*

18-37-39

MYERS REPORTING SERVICE  
(405) 721-2882

ORIGINAL

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2 MEMBERS OF THE COUNCIL</p> <p>3</p> <p>4 DAVID BRANECKY - CHAIRMAN</p> <p>5 RICK TREEMAN - VICE-CHAIRMAN</p> <p>6 JERRY PURKAPLE - MEMBER</p> <p>7 JIM HAUGHT - MEMBER</p> <p>8 SHARON MYERS - MEMBER</p> <p>9 GARY MARTIN - MEMBER</p> <p>10 DR. BOB LYNCH - MEMBER</p> <p>11 LAURA WORTHEN - MEMBER</p> <p>12 DON SMITH - ABSENT</p> <p>13</p> <p>14 STAFF MEMBERS</p> <p>15</p> <p>16 MYRNA BRUCE - SECRETARY</p> <p>17 EDDIE TERRILL - DIVISION DIRECTOR</p> <p>18 BEVERLY BOTCHLET-SMITH - AQD</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 amendments approved by the Council, staff</p> <p>2 has removed the troublesome definitions for</p> <p>3 filterable and condensable PM from this</p> <p>4 proposal.</p> <p>5 We ask that the Council vote to send</p> <p>6 these proposals to the Environmental</p> <p>7 Quality Board with a recommendation that</p> <p>8 they be adopted as permanent rules. Thank</p> <p>9 you.</p> <p>10 MS. BOTCHLET-SMITH: Do we have</p> <p>11 any questions from the Council?</p> <p>12 DR. LYNCH: Excuse me, I'll just</p> <p>13 make a comment. On the face of it, the</p> <p>14 definition of VOCs seems -- I was thinking</p> <p>15 of VOCs in terms of vapor pressure or</p> <p>16 something, not really defining what it is</p> <p>17 as what it does.</p> <p>18 MR. PRICE: Yes, sir. If you</p> <p>19 look at the original definitions for</p> <p>20 Volatile Organic Compounds the vapor</p> <p>21 pressure is irrelevant. It's actually --</p> <p>22 it's full of chemical reactivity under a</p> <p>23 certain test that the EPA conducts.</p> <p>24 DR. LYNCH: I just wonder if it</p> <p>25 ought not to be called something other than</p>
<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 PROCEEDINGS</p> <p>3</p> <p>4 MS. BOTCHLET-SMITH: The next</p> <p>5 item on the Agenda is Item Number 4C. This</p> <p>6 is OAC 252:100-1 General Provisions;, OAC</p> <p>7 252:100-8 Permits for Part 70 Sources; OAC</p> <p>8 252:100-37 Control of Emission of Volatile</p> <p>9 Organic Compounds; OAC 252:100-39 Emission</p> <p>10 of Volatile Organic Compounds in</p> <p>11 Nonattainment Areas and Former</p> <p>12 Nonattainment Areas. And Mr. Max Price</p> <p>13 will be giving the staff presentations.</p> <p>14 MR. PRICE: Thank you, Beverly.</p> <p>15 Mr. Chairman, Members of the</p> <p>16 Council, ladies and gentlemen.</p> <p>17 These proposed amendments to the</p> <p>18 definition Sections 1-3, 8-1.1, 37-2 and</p> <p>19 39-2 are being undertaken to clarify and/or</p> <p>20 remove redundant definitions from Chapter</p> <p>21 100. Among the proposals is a refined</p> <p>22 definition for volatile organic compounds.</p> <p>23 This will be the fourth time for the</p> <p>24 Council to hear these amendments. In hopes</p> <p>25 of having these necessary definition</p>	<p style="text-align: right;">Page 5</p> <p>1 VOCs. The Lab does not see that as a VOC;</p> <p>2 to the Lab, the VOC is something totally</p> <p>3 different.</p> <p>4 MR. PRICE: I understand that.</p> <p>5 But the definition is pretty well set by</p> <p>6 NSPS and the NESHAP rules. We would be</p> <p>7 hard pressed to change the name of it.</p> <p>8 MR. TERRILL: It's kind of</p> <p>9 ingrained in EPA's lexicon. They're just -</p> <p>10 - I know what you're saying, but we'd have</p> <p>11 a mess if we tried to do that.</p> <p>12 MR. LYNCH: The confusion I can</p> <p>13 see is if someone's out measuring VOCs and</p> <p>14 ambient air in terms of a potential</p> <p>15 exposure to something toxic, this is not</p> <p>16 like they're -- wondering maybe they think</p> <p>17 they're measuring one thing and somebody is</p> <p>18 measuring something totally -- a little</p> <p>19 difference so that could create a problems.</p> <p>20 MR. TERRILL: We'll take a look</p> <p>21 at that, but we may (inaudible) somewhere</p> <p>22 else.</p> <p>23 MR. PURKAPLE: Max?</p> <p>24 MR. PRICE: Yes, sir.</p> <p>25 MR. PURKAPLE: Have the questions</p>

1 or concerns expressed in previous meetings  
 2 concerning the confusion of the effluent,  
 3 what's it, (inaudible) separators?  
 4 MS. WORTHEN: Effluent water  
 5 separators.  
 6 MR. PURKAPLE: Effluent water  
 7 separators, have those all been resolved or  
 8 --  
 9 MR. PRICE: I believe so, sir.  
 10 That was actually a problem. It wasn't a  
 11 problem with the definition, it was a  
 12 problem with the way that it was being  
 13 interpreted at one time. And I'd like to  
 14 point out that the -- to show you how badly  
 15 this thing was done, the definition in  
 16 question was in Subchapter 1, which was a  
 17 general definition, but the actual, what I  
 18 call applicable definitions, were in the  
 19 Subchapters that actually applied to those  
 20 things and those definitions were much more  
 21 detailed and much more -- this mistake  
 22 should never have occurred. So I believe  
 23 it can be resolved and that's the reason we  
 24 took out the waste water from that proposed  
 25 change from last time.

1 MR. LASSETER: It looks like on  
 2 37 and 39 you struck VOCs all together.  
 3 MR. PRICE: That is correct.  
 4 MS. BOTCHLET-SMITH: It doesn't  
 5 appear anyone else from the public has a  
 6 comment on this. So if we don't have any  
 7 other comments or questions for the  
 8 Council, then go ahead David.  
 9 MR. BRANECKY: Staff has  
 10 recommended we adopt this rule and send it  
 11 to the Board as a permanent rule. I'll  
 12 entertain a Motion for whatever the Council  
 13 wishes to do.  
 14 MS. MYERS: I make a motion that  
 15 we pass it and send it to the Board.  
 16 MR. BRANECKY: We have a motion -  
 17 - is that --  
 18 MS. MYERS: I make a motion that  
 19 we pass this onto the Board.  
 20 MS. WORTHEN: I'll second.  
 21 MR. BRANECKY: -- motion with the  
 22 change made?  
 23 MS. MYERS: Yes. With the change  
 24 that was made.  
 25 MR. BRANECKY: Okay. All right.

1 MR. PURKAPLE: Thank you.  
 2 MS. BOTCHLET-SMITH: It looks  
 3 like we have one commentor from the public  
 4 who would like to comment.  
 5 Be sure and state your name when you  
 6 come to the podium.  
 7 MS. SHELBY: Sharon Shelby, AES  
 8 at Shady Point. Just looking at the  
 9 definition on Page 8 it looks like there  
 10 might be a typo and I just wanted to double  
 11 check that as I was reading it.  
 12 In the strikeout where it lists the  
 13 excluded compounds it has "carbonic acid"  
 14 but then down in the underline it has  
 15 "carbolic acid." Just checking to see if  
 16 that's actually supposed to be a change or  
 17 just a typo.  
 18 MR. PRICE: I'm glad you pointed  
 19 that out. That should be -- let me find  
 20 the definition of VOC here.  
 21 That should be "carbonic acid."  
 22 That's a good catch. And chances are that  
 23 is also on 37 and 39, in that definition.  
 24 So that's one change that we need to make,  
 25 immediately upon passage of it.

1 We have a motion and a second. Myrna.  
 2 MS. BRUCE: Jerry Purkapple.  
 3 MR. PURKAPLE: Yes.  
 4 MS. BRUCE: Sharon Myers.  
 5 MS. MYERS: Yes.  
 6 MS. BRUCE: Jim Haught.  
 7 MR. HAUGHT: Yes.  
 8 MS. BRUCE: Rick Treeman.  
 9 MR. TREEMAN: Yes.  
 10 MS. BRUCE: Gary Martin.  
 11 MR. MARTIN: Yes.  
 12 MS. BRUCE: Bob Lynch.  
 13 DR. LYNCH: Yes.  
 14 MS. BRUCE: Laura Worthen.  
 15 MS. WORTHEN: Yes.  
 16 MS. BRUCE: David Branecky.  
 17 MR. BRANECKY: Yes.  
 18 MS. BRUCE: Motion passed.  
 19 MR. TERRILL: Chairman, before we  
 20 go on to mercury, while I'm thinking about  
 21 it, for those of you who follow these rules  
 22 through the Board process, I want to let  
 23 everybody know that these rules will not be  
 24 going with the August Board meeting in  
 25 Guthrie. There was a problem with the



1 notice and rather than try to clarify that  
 2 and figure it out, the decision was made  
 3 that we would not be taking any rules to  
 4 the Board meeting in Guthrie, but they'll  
 5 be held over and we'll take them to the, I  
 6 believe it's the November Board meeting in  
 7 Weatherford. So for those of you who might  
 8 be following these rules that we pass today  
 9 plus the ones that we did in the last  
 10 Council meeting, they will not be going to  
 11 the Guthrie Board meeting. So I wanted to  
 12 make everyone aware of that.

13 MR. BRANECKY: It shouldn't make  
 14 any difference because they wouldn't become  
 15 effective until next June anyway.

16 MR. TERRILL: It won't make any  
 17 difference from a practical standpoint, but  
 18 if you show up at the Guthrie meeting to  
 19 see what they do with the rules, they will  
 20 not be on the Agenda.

21 (End of Item 4C)

22  
 23  
 24  
 25

C E R T I F I C A T E

1 STATE OF OKLAHOMA )  
 2 )  
 3 ) ss:  
 4 COUNTY OF OKLAHOMA )

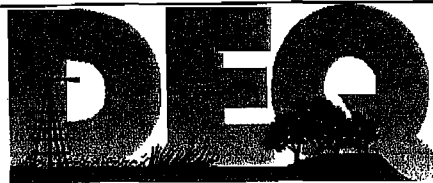
5  
 6 I, CHRISTY A. MYERS, Certified  
 7 Shorthand Reporter in and for the State of  
 8 Oklahoma, do hereby certify that the above  
 9 proceedings is the truth, the whole truth,  
 10 and nothing but the truth; that the  
 11 foregoing proceeding was recorded by  
 12 shorthand by me and thereafter transcribed  
 13 under my direction to the best of my  
 14 ability; that said proceedings were taken  
 15 on the 18th day of July, 2007, at  
 16 PoncaCity, Oklahoma; and that I am neither  
 17 attorney for nor relative of any of said  
 18 parties, nor otherwise interested in said  
 19 action.

20 IN WITNESS WHEREOF, I have hereunto  
 21 set my hand and official seal on this, the  
 22 18th day of August, 2007.

23  
 24 CHRISTY A. MYERS, C.S.R.  
 25 Certificate No. 00310

<p><b>-0-</b> 00310 [1] 11:25</p> <p><b>-1-</b> 1 [1] 6:16 1-3 [1] 3:18 100 [1] 3:21 18 [1] 1:12 18th [2] 11:15,22</p>	<p>Among [1] 3:21 anyway [1] 10:15 appear [1] 8:5 applicable [1] 6:18 applied [1] 6:19 approved [1] 4:1 AQD [1] 2:18 Areas [2] 3:11,12 attorney [1] 11:17 August [2] 9:24 11:22 aware [1] 10:12</p>	<p>confusion [2] 5:12 6:2 Control [1] 3:8 correct [1] 8:3 Council [10] 1:9 2:2 3:16 3:24 4:1,5,11 8:8,12 10:10 COUNTY [1] 11:4 create [1] 5:19</p>	<p>foregoing [1] 11:11 Former [1] 3:11 fourth [1] 3:23 full [1] 4:22</p>	<p><b>-M-</b> Martin [3] 2:9 9:10,11 Max [2] 3:12 5:23 may [1] 5:21 measuring [3] 5:13,17 5:18 meeting [7] 1:10 9:24 10:4,6,10,11,18 meetings [1] 6:1 MEMBER [6] 2:6,7,8,9 2:10,11 Members [3] 2:2,14 3:15 mercury [1] 9:20 mess [1] 5:11 might [2] 7:10 10:7 mistake [1] 6:21 motion [7] 8:12,14,16,18 8:21 9:1,18 MS [21] 3:4 4:10 6:4 7:2 7:7 8:4,14,18,20,23 9:2,4 9:5,6,8,10,12,14,15,16,18 Myers [9] 1:24 2:8 8:14 8:18,23 9:4,5 11:6,24 Myrna [2] 2:16 9:1</p>
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DEPARTMENT OF ENVIRONMENTAL QUALITY

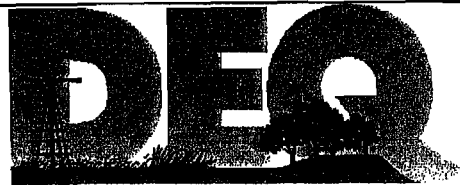
# AIR QUALITY COUNCIL

## Attendance Record

July 18, 2007

Ponca City, Oklahoma

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
Heather Bragg	DEQ -x4176
Beverly Bitchlet Smith	DEQ 4156
Cheri Tuli	DEQ 4154
EARL HATLEY	LEAD Agency, chotley@neor.com
DANSON LASSEFEN	ONEQ 4185
Phillip Fielder	DEQ 4180
M. Pin	DEQ —
ANGIE BURCHHALTER	OIPA 405-942-2334 x221
Cheryl Bradley	DEQ 405 702 4218
Jayce D. Sheedy	DEQ
MORRIS MOFFETT	DEQ
LAWRENCE R. EDMISSON	Sierra Club 405-996-8990
Julia Bowers	OGE
Melody Martin	OGE
Perry Friedrich	GRDA (918) 824-1034
Myrna Bruce	DEQ 102-7170
PAT PHILLIPS	INDIVIDUAL 918-775-4010
DARRYL PHILLIPS	SELF 918-775-2010
GLEN TRAVIS	Sunoco 594-6572
Karim Assaf	Sinclair 594 3266
Bud Ground	PSO hlgound@aep.com
JEFF EDWARDS	RT1 Box 943, Roland, OK <sup>74454</sup> 918-427-1475
Steve Moyer	Sinclair 718 588 1197
Calvin Pryor	OGE 405-553-3667
Sen. Paul Muegge	580-628-3600
Bob Lynch	OUTSC
Jim Haught	AQC



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DEPARTMENT OF ENVIRONMENTAL QUALITY

# AIR QUALITY COUNCIL

## Attendance Record

July 18, 2007

Ponca City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Gerald Butcher	WFEC	405-247-4341
KEN RUFFIN	PSO	214-777-1112
Rusty Krull	DSDA	918 582 1211
FDB BETTS	CONT. Res. Inc	580 548 5766
Chuck Gross	Sustainability N.O.W.	918-337-0538
SYLVIA PRATT		sjpratt@ponacity.net
GARY MARTIN	CITY PC	580-262-0340
Mark Lawson	Spirit Aero Systems	Mark.Lawson@spiritair.com
BRADON BRASHEARS	DCL Midstream	405-705-7435
Karen Hadden	SEED Coalition	512-797-8481
Kathryn Crenwold	Weyerhaeuser	580-933-1449
Gray Elliott	Valero Ardmore Refinery	580-221-6232
STEVE NICHOLS	VALERO	210-395-4616
Sidley Cabness	Wynnewood Refining	405 665 6601
David Provenza	Chardon Phillips Chardon	918-661-7999
Sharon Shelby	AES Shady Point	sharon.shelby@aes.com
Montelle Clark	OSN	montelle@cox.net
Lydia Patitsas	Sustainable Green Country	mail4lydia@cox.net
DAVID DYKE	ODEB	
Bill Parrish	STANTECH	bparrish@stantest.com
Bob Gusnard	ECT	
Pat Sullivan	DEQ-AIR	



**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m. Thursday, November 15, 2007  
Southwestern Oklahoma State University  
Ballroom, Student Union Building  
North Custer Street  
Weatherford, Oklahoma 73096

1. **Call to Order** – Brita Cantrell, Vice-Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the August 21, 2007 Regular Meeting
4. **Rulemaking – OAC 252:100 Air Quality Control**  
Five items are proposed for consideration:
  - A. Section 37-38, relating to pumps and compressors, is proposed for revocation because the requirements are outdated and addressed in operating permits where required.
  - B. The proposed updates to Appendices E and F, which relate to primary and secondary ambient air quality standards, are for consistency with federal standards. The update to Appendix E makes it correspond to the federal particulate matter primary standards and the update to Appendix F makes it correspond to the federal carbon monoxide and particulate matter secondary standards.
  - C. The proposed amendments to Subchapters 1, 8, 37 and 39 clarify certain definitions, including "particulate matter" and "volatile organic compounds."
  - D. The proposed revisions to Subchapter 7 provide consistency with state statutes and other Air Pollution Control rules; remove references to Subchapter 41, which has been revoked; correct the emissions calculation methods for determining whether a permit is required; clarify when construction permits are required; and provide for administrative amendments to operating permits for minor facilities.
  - E. The proposed Appendix Q amendments incorporate by reference the latest changes to federal regulations, including New Source Performance Standards in 40 C.F.R. Part 60 and National Emission Standards for Hazardous Air Pollutants in 40 C.F.R. Part 63. Standards being unincorporated because they were vacated by the D.C. Circuit Court include 40 C.F.R Part 63 Subparts JJJJ (Brick MACT), KKKKK (Clay MACT) and DDDDD (Boilers and Process Heaters MACT).
    - (i) Presentation – David Branecky, Chair, Air Quality Advisory Council
    - (ii) Questions and discussion by the Board
    - (iii) Questions, comments and discussion by the public
    - (iv) Discussion and possible action by the Board, which may include roll call votes on permanent adoption

**5. Rulemaking – OAC 252:205 Hazardous Waste Management**

The proposed rulemaking updates to July 1, 2007, the incorporation by reference of federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279. The update does not involve any major changes to existing requirements.

- (i) Presentation – Bob Kennedy, Chair, Hazardous Waste Management Advisory Council
- (ii) Questions and discussion by the Board
- (iii) Questions, comments and discussion by the public
- (iv) Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

**6. Rulemaking – OAC 252:515 Solid Waste Management**

Two items are proposed for consideration:

- A. The proposed amendments to Subchapter 19 arise from legislation enacted in 2007, effective July 1, 2007. Senate Bill 509 changed the wheel wash law by eliminating the provision for “recoupment” and providing instead for “reimbursement”. The rule changes are to correspond to the changes in statute.
- B. The proposed revision to Appendix C deletes the “Suggested Methods” and “PQL” (Practical Quantitation Limits) columns to correspond to the current Appendix II to 40 CFR 258. Deleting the two columns generally will allow regulated entities to use any appropriate analytical test methods, rather than just SW-846 methods, in demonstrating compliance with the RCRA regulations.
  - (i) Presentation – Jeff Shepherd, Vice-Chair, Solid Waste Management Advisory Council
  - (ii) Questions and discussion by the Board
  - (iii) Questions, comments and discussion by the public
  - (iv) Discussion and possible action by the Board, which may include roll call votes on permanent and emergency adoption of the Subchapter 19 amendments and on permanent adoption of the revised Appendix C

**7. Rulemaking – OAC 252:004 Rules of Practice and Procedure**

The proposed changes to the Water Quality Application Tier rules make the classifications of Tier I permits consistent, clarify that modifications to or the addition of impoundments to an existing permitted industrial wastewater system is a Tier I application, and clarify that a new industrial wastewater treatment system application is a Tier II application.

- (i) Presentation – Jeffrey Short, Vice-Chair, Water Quality Management Advisory Council
- (ii) Questions and discussion by the Board
- (iii) Questions, comments and discussion by the public
- (iv) Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

**8. Rulemaking – OAC 252:633 Drinking Water State Revolving Fund**

Proposed revisions to the Priority Project System and the Finding Priority Formula are necessary to meet federal and state requirements. Additionally, some of the proposed changes reconcile the requirements of this chapter with the DWSRF requirements of the Oklahoma Water Resources Board. The remaining changes are for clarification and to correct typographical errors.

- (i) Presentation – Jeffrey Short, Vice-Chair, Water Quality Management Advisory Council
- (ii) Questions and discussion by the Board
- (iii) Questions, comments and discussion by the public
- (iv) Discussion and possible action by the Board, which may include a roll call vote on permanent adoption



**9. Rulemaking – OAC 252:710 Waterworks & Wastewater Works Operator Certification**

The proposed amendment adds the words “and/or collection system” to the “Wastewater Works” column of Appendix A to make clear that a certified operator is required to operate a wastewater collection system.

- (i) Presentation – Arnold Miller, Chair, Waterworks and Wastewater Works Advisory Council
- (ii) Questions and discussion by the Board
- (iii) Questions, comments and discussion by the public
- (iv) Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

**10. Consideration of and Action on the Environmental Quality Report:**

The Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1<sup>st</sup> of each year. Despite the statutory title, the statutorily prescribed purpose of this report is to outline the DEQ’s annual needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.

- (i) Presentation – Wendy Caperton, DEQ Director of Policy and Planning
- (ii) Questions and discussion by the Board
- (iii) Questions, comments and discussion by the public
- (iv) Discussion and possible action by the Board, which may include a roll call vote on approval

**11. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**12. Executive Director’s Report** – Steve Thompson

**13. Adjournment**

2008 Meetings: February 29, DEQ; August 19, Duncan; November 18, Tahlequah

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

**Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.**

Some members of the Board and senior staff members from DEQ will meet for dinner in Weatherford the evening of November 14. This is a social occasion. It is uncertain whether a majority of the Board will be present, but no Board or DEQ business will be conducted.

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

**SUBCHAPTERS 1, 8, 37 AND 39**

**EXECUTIVE SUMMARY:**

The Department is proposing amendments to the Chapter 100 definition sections 252:100-1-3, 252:100-8-1.1, 252:100-37-2 and 252:100-39-2 to clarify and/or remove redundant definitions from Chapter 100. Among the proposals is a refined definition for volatile organic compounds including an exemption for tert-butyl acetate (TBAC). These changes will clarify these terms as they are meant to be used in the Chapter.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

EPA has exempted TBAC from all federal content and emission limitation rules (40CFR 50.100(s)(5)). They have not exempted TBAC from any federal reporting or inventory requirements. The Department has determined that such an approach is overly burdensome, especially in light of TBAC's low potential for the production of ozone. Thus, the Department is proposing to exempt TBAC as a VOC for all purposes. This will lower the cost of compliance for entities emitting TBAC.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not required because these rules are not more stringent than corresponding federal rules.

**SUMMARY OF COMMENTS AND RESPONSES:**

**COMMENTS RECEIVED PRIOR TO AND AT THE  
JULY 19, 2006, AIR QUALITY ADVISORY COUNCIL MEETING**

**Written Comments**

**EPA Region 6 – Letter dated July 13, 2006, received by FAX on July 13, 2006, signed by Thomas H. Diggs, Chief, Air Planning Section and David Neleigh, Chief, Air Permits Section.**

1. **COMMENT:** We [EPA] provided comments on the amended definition for VOCs (Subchapter 1) in a letter dated July 13, 2005. As we indicated in that letter, we support the ODEQ revision to exempt tert-butyl acetate (tBAC) from VOC emissions limitations [Subchapters 1, 9, 37 and 39], but we cannot support the exemption of tBAC from emissions reporting and recordkeeping requirements. EPA made clear in its revisions to 40 CFR Part 51- Requirements for Preparation, Adoption and Submittal of Implementation Plans that tBAC was not being exempted for the purposes of recordkeeping and reporting (51.100(s)(5)) and our Federal Register of November 29, 2004 (69 FR 69298) provides details of why exemption from reporting and recordkeeping could not be allowed. We will work with you in drafting revised language to require reporting and recordkeeping for tBAC; however, we will not be able to approve a revision to the plan that exempts tBAC from reporting and recordkeeping requirements.

**RESPONSE:** DEQ appreciates EPA's concerns, but this particular rule change only exempts TBAC as a VOC. DEQ is working with EPA on this issue and, if necessary, will address EPA's concerns in future rule making.

**COMMENTS RECEIVED PRIOR TO THE  
April 18, 2007, AIR QUALITY ADVISORY COUNCIL MEETING**

**EPA Region Six - Email from Shar Alan, dated March 21, 2007**

2. **COMMENT:** The current 252:100-1-3 (Definitions) states "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.

Although this specific portion of the Definitions is not being proposed for revision at this time, for consistency purposes we recommend that ODEQ adopt EPA's long standing definition of RACT from 44 FR 53761, September 17, 1979 "the lowest emission limitation that a particular source can meet by applying a control technique that is reasonably available considering technological and economic feasibility" in 252:100-1-3.

**RESPONSE:** RACT is defined in two different subchapters in Chapter 100. Both definitions are slightly different from the definition recommended in the above comment. The Division will not propose a change these definitions at this time, but will consider changing the definitions for RACT in the next round of definition changes.

**VERBAL COMMENTS RECEIVED  
AT THE April 18, 2007, AIR QUALITY ADVISORY COUNCIL MEETING**

**Mr. Jay Eubanks and Ms. Angie Burckhalter (Oklahoma Independent Petroleum Association).**

3. **COMMENTS (paraphrased):** Effluent water separators (EWS) are not normally found at oil and gas production sites, yet in the past the Department has taken enforcement actions based the misidentification of other tank types as EWS. We want this definition changed so that such things can not happen in the future.

**RESPONSE (paraphrased):** No definition change is necessary because the problem was actually procedural in nature and that problem has since been resolved. In addition changing the definition could result in other as yet unrecognized problems in its application in other rules.

DRAFT DOCUMENT - DO NOT CITE OR QUOTE

Mr. Scott Thomas  
Environmental Program Manager  
Air Quality Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

Dear Mr. Thomas:

Thank you for the opportunity to comment on the proposed revisions to Oklahoma's Air Pollution Control Rules, OAC 252:100, as listed below:

Subchapter 1	General Provisions
Subchapter 2	Incorporations by Reference
Subchapter 4	New Source Performance Standards
Subchapter 5	Registration, Emission Inventory and Annual Operating Fees
Subchapter 7	General Provisions
Subchapter 8	Permits for Major Sources
Subchapter 9	Excess Emission Reporting Requirements
Subchapter 17	Incinerators
Subchapter 23	Control of Emissions from Cotton Gins
Subchapter 37	Control of Emission of Volatile Organic Compounds (VOCs)
Subchapter 39	Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas
Subchapter 40	Control of Emission of Friable Asbestos During Demolition and Renovation Operations
Subchapter 41	Control of Emission Hazardous Air Pollutants and Toxic Air Contaminants
Subchapter 44	Control of Mercury Emissions
Appendix H	De Minimis Facilities List
Appendix I	Insignificant Activities (Registration) List
Appendix J	Trivial Activities (de Minimis) List
Appendix P	Regulated Air Pollutants
Appendix Q	Title 40, Code of Federal Regulations, Incorporation by Reference

**Subchapters 1, 2, and 4**

We provided comments on the amended definition for VOCs (Subchapter 1) in a letter dated July 13, 2005. As we indicated in that letter, we support the ODEQ revision to exempt tert-butyl acetate (tBAC) from VOC emissions limitations, but we cannot support the exemption of tBAC from emissions reporting and recordkeeping requirements. EPA made clear in its revisions to 40 CFR Part 51- Requirements for Preparation, Adoption and Submittal of Implementation Plans that tBAC was not being exempted for the purposes of recordkeeping and

DRAFT DOCUMENT - DO NOT CITE OR QUOTE

reporting (§51.100(s)(5)) and our Federal Register of November 29, 2004 (69 FR 69298) provides details of why exemption from reporting and recordkeeping could not be allowed. We will work with you in drafting revised language to require reporting and recordkeeping for tBAC; however, we will not be able to approve a revision to the plan that exempts tBAC from reporting and recordkeeping requirements.

The Air Permits Section will provide additional comments, as necessary, in a separate communication.

**Subchapter 5. Registration, Emission Inventory and Annual Operating Fees**

We provided comments on the proposed amendment to the definition of regulated air pollutant in Subchapters 5-1.1, 7-1.1, and 9-2 in a letter dated April 12, 2006. The current amendment addresses the concerns we raised; we support the current proposed rule and have no adverse comments.

**Subchapters 7 and 8**

The Air Permits Section will provide comments as necessary in a separate communication.

**Subchapter 9 Excess Emission Reporting Requirements**

See the comment for Subchapter 5 above regarding the proposed amendment to the definition of regulated air pollutant in Subchapter 9-2.

**Subchapter 17 Incinerators**

Per our April 12, 2006 letter, we support the proposed rule and have no adverse comments.

**Subchapter 23 Control of Emissions from Cotton Gins**

The current amendment deletes the reference to Total Suspended Particulate (TSP) but does not substitute Gross Particulate Matter for TSP. It is not clear that the concerns expressed in our April 12, 2006 letter have been addressed.

**Subchapters 37 and 39**

The current amendment deletes the definition for VOC in Subchapters 37 and 39. Our concern is with the amended definition for VOC proposed for Subchapter 1, as indicated above.

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**Subchapter 40      Control of Emission of Friable Asbestos During Demolition and  
Renovation Operations**

The Air Enforcement Section will provide comments as necessary in a separate communication.

**Subchapters 41 and 44, and all Appendices**

The Air Permits Section will provide comments as necessary in a separate communication.

We appreciate the opportunity to review and comment on the proposed rules prior to the public hearing on July 19, 2006. If you have questions regarding any of these comments, please feel free to contact me or Carrie Paige at (214) 665-6521.

Sincerely yours,

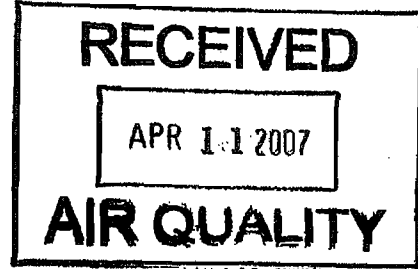
Thomas H. Diggs  
Chief  
Air Planning Section

cc: Heather Bragg, ODEQ  
Morris Moffitt, ODEQ  
Max Price, ODEQ  
Joyce Sheedy, ODEQ  
David Neleigh, 6PD-R  
Ragan Tate, 6RC-M  
Esteban Herrera, 6EN-AT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

Ms. Cheryl E. Bradley  
Environmental Programs Manager  
Air Quality Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677



Dear Ms. Bradley:

Thank you for the opportunity to comment on the proposed revisions to Oklahoma's Air Pollution Control Rules, OAC 252:100, as listed below:

Subchapter 1	General Provisions
Subchapter 7	Permits for Minor Facilities
Subchapter 8	Permits for Major Sources
Subchapter 9	Excess Emission Reporting Requirements
Subchapter 17	Incinerators
Subchapter 37	Control of Emission of Volatile Organic Compounds (VOCs)
Subchapter 39	Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas
Subchapter 44	Mercury Emissions from Coal-fired Electric Steam Generating Units
Appendix E	Primary Ambient Air Quality Standards
Appendix F	Secondary Ambient Air Quality Standards

We provided comments on proposed revisions to the Subchapters listed above in a letter dated January 11, 2007. In addition, while the current definition of "**Reasonably Available Control Technology**" or "**RACT**" in Subchapter 1 (252:100-1-3) is not being proposed for revision at this time, for consistency we recommend that Oklahoma adopt EPA's definition of RACT, per 44 FR 53761, September 17, 1979: "*the lowest emission limitation that a particular source can meet by applying a control technique that is reasonably available considering technological and economic feasibility.*"

#### Appendices E and F

We support the proposed revisions, which are consistent with the National Ambient Air Quality Standards for particulate matter and carbon monoxide.

We appreciate the opportunity to review and comment on the proposed rules prior to the public hearing on April 18, 2007. We have incorporated comments provided by the Air Permitting Section. If you have questions regarding any of these comments, please feel free to contact me or Carrie Paige at (214) 665-6521.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas H. Diggs". The signature is written in a cursive style with a large initial "T" and "D".

Thomas H. Diggs  
Chief  
Air Planning Section

cc: Dr. Joyce Sheedy, ODEQ  
Max Price, ODEQ  
Morris Moffett, ODEQ  
Pat Sullivan, ODEQ  
Jeff Robinson, EPA  
Victoria Johnson, EPA



DOERNER, SAUNDERS, DANIEL & ANDERSON, L.L.P.

ATTORNEYS AT LAW

SAM P. DANIEL  
WILLIAM C. ANDERSON  
G. MICHAEL LEWIS  
LAWRENCE T. CHAMBERS, JR.  
DALLAS E. PERGUSON  
SAM G. BRAYTON II  
GARY M. McDONALD  
H. WAYNE COOPER  
KEVIN C. COULTANT  
RICHARD P. HIX  
WILLIAM F. RIGGS  
LEWIS N. CARTER  
LINDA C. MARTIN  
JAMES P. McCANN  
RICHARD H. FOSTER  
CHARLES S. PLUMB  
LEONARD I. PATAKI  
S. DOUGLAS DODD  
ELISE DUNITZ BRENNAN  
JON E. BRIGHTMIRE  
TOM Q. PERGUSON  
REBECCA M. FOWLER  
MICHAEL C. REDMAN  
STEVEN K. METCALP  
RUSSELL W. KROLL  
RACHEL BLUE

320 SOUTH BOSTON AVENUE, SUITE 500  
TULSA, OKLAHOMA 74103-3725  
TELEPHONE (918) 582-1211  
FACSIMILE (918) 591-5360  
www.dsda.com

201 ROBERT S. KERR AVENUE, SUITE 700  
OKLAHOMA CITY, OKLAHOMA 73102-4203  
TELEPHONE (405) 319-3500  
FACSIMILE (405) 319-3509

WRITER'S DIRECT:  
(918) 591-5330 (telephone)  
(918) 925-5330 (facsimile)  
rkroll@dsda.com

JAMES C. MILTON  
AUDRA K. HAMILTON  
DAVID McCULLOUGH  
WILLIAM H. SPITLER  
JOHNATHAN D. HORTON  
LESLIE FORD RICHER  
N. LANCE BRYAN  
CHAD J. KUTMAS  
HEATHER FLYNN KARNHART  
MCLAINE DEWITT HERNDON  
ELIZABETH W. CARROLL  
COURTNEY BRU  
SHAROLYN C. WHITING  
MATTHEW L. CHRISTENSEN  
M. SCOTT HALL  
BRYAN J. NOWLIN

Of Counsel:  
VARLEY H. TAYLOR, JR.  
MICHAEL MINNIS  
HARRY V. ROUSE, P.C.  
JAMES P. HARVEY, III  
CYNTHIA J. BECKER

E. J. DOERNER (1897-1980)  
DICKSON M. SAUNDERS (1920-2001)

April 18, 2007

Mr. Max Price  
Air Quality Division  
Oklahoma Department of Environmental Quality  
707 North Robinson  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

Re: Proposed Rules Amending Chapter 100 of Title 252 of the Oklahoma  
Administrative Code, before the Air Quality Council on April 18, 2007

Dear Mr. Price:

These comments are submitted on behalf of Public Service Company of Oklahoma ("PSO"), and supplement its comments of July 17, 2006 and October 18, 2006 concerning the proposed definitional change in particulate matter and particulate matter emissions at OAC 252, Chapter 100, Subchapter 1.

PSO's prior comments pointed out that proposed inclusion of condensables in the definition of particulate matter and particulate matter emissions, makes Oklahoma's PM rule in Subchapter 19 more stringent than its federal NSPS counterpart as it applies to fossil fuel fired steam generating units such as those at PSO's Northeastern Station in Oologah, Oklahoma. Accordingly, because the proposed definitional change makes Oklahoma PM regulation more stringent than its federal counterpart, pursuant to Title 27A, Section 1-1-206 of the Oklahoma Statutes, the regulation must be accompanied by a cost benefit analysis justifying the increased stringency, and be subject to additional procedures, including, among other things, submittals to the Governor and State Legislature. At the October 18, 2006 Air Quality Council meeting, several Council members requested that industry present data to support comments made that inclusion of condensables resulted in Subchapter 19 being more strict than federal regulations. Accordingly, PSO is submitting these comments for that purpose.

In its Final Promulgation of the Standards of Performance for New Stationary Sources, EPA directly addressed the back half contribution to particulate matter for steam generators at 37 Fed. Reg. 5767 (March 21, 1972) (attached). There, EPA explained that its originally proposed standard of 0.20 lb/mmbtu for steam generators included the full sample train, including the front half (that removed in the filter) and back half (that removed in the impinger). EPA stated that the originally proposed standard was based upon the best controlled steam generators that it had tested. EPA further stated: "In the case of steam generators, the installations which were found to be best controlled showed reasonably large concentration (about 50 percent) of materials in the impingers [back half]." EPA ultimately decided to base the final NSPS standard on only the front half (filterable portion) of the sample train because of concerns that materials captured in the impingers may include "artifacts" of particulate matter created through chemical reactions caused by the sampling apparatus, that would never be "particulates in the atmosphere under normal dispersion conditions."<sup>1</sup> Because the data indicated that approximately 50% of the particulates from steam generators were captured in the impingers, it set the standard based upon the front half only at 0.10 lb/mmbtu (½ of the originally proposed standard).

A recent technical article provides further support for the large contribution of back-half condensables at coal burning power plant. Corio & Sherwell, *In-Stack Condensible Particulate Matter Measurements and Issues*, 60 Journal of the Air & Waste Management Association 207 (Feb. 2000) evaluated available data on the contribution of back-half condensables at various power plants. That paper reported eighteen (18) test results for coal-fired boilers for seven (7) different facilities. It concluded: "The overall average condensible PM percentage for all plants shown in the table is approximately 49%, which is similar to the EPA survey result (44%). The condensable PM fractions for the collection of power plant test results vary between 12 and 92%"

Testing at PSO's Northeastern Station has also confirmed the substantial back half contribution to PM as follows:

PSO, Northeastern, (Oklahoma)	Front half (%) <sup>1</sup>	Back half (%) <sup>1</sup>
Unit 3, 1980	25.6%	75.4%
Unit 3, 1981	53.3%	46.7%
Unit 4, 1980	18.8%	81.1%
Unit 3, 2006	37.7%	62.3%
Unit 4, 2006	43.9%	56.1%

<sup>1</sup>Percentage of total PM.

<sup>1</sup> The accuracy and reliability of the back half test methods is still not resolved even today. Most recently, EPA commissioned a study to, among other things, evaluate the positive bias such artifacts have on EPA's Method 202. See *Laboratory Test Plan and Quality Assurance Project Plan for Method 202 Assessment and Evaluation for Bias and Other Uses*, Eastern Research Group (Nov. 2, 2006).

Testing at AEP Texas facilities has shown similar results.

CSW, Welsh (Texas)	Front half (%) <sup>1</sup>	Back half (%) <sup>1</sup>
Unit 1, 2004	55.3%	44.7%
Unit 2, 2004	29.1%	70.9%
Unit 3, 2004	31.5%	68.5%

<sup>1</sup>Percentage of total PM.

Based upon this data, it is clear that the proposed definitional change to include condensable materials as part of PM will have the effect of making the state Subchapter 19 rule as applied to steam generators more stringent than the federal NSPS, which measures compliance with only a front half analysis. The expected impact is illustrated in the tables below:

For 10,000 MMBTU/HR Rating  
 Subchapter 19 Limit 0.10 lb/MMBTU (Appendix C)

Percentage of Back Half Contribution to Total PM	Subchapter 19 Limit (lb/MMBTU)	Front Half PM Contribution of the Subchapter 19 Standard (lb/MMBTU)	Federal Standard 40 C.F.R. 60.42 front half (lb/MMBTU)
50	0.10	0.05	0.10
60	0.10	0.04	0.10
70	0.10	0.03	0.10
80	0.10	0.02	0.10

For 6280 MMBTU/HR Rating  
 Subchapter 19 Limit 0.12 lb/MMBTU (Appendix C)

Percentage of Back Half Contribution to Total PM	Subchapter 19 Limit (lb/MMBTU)	Front Half PM Contribution of the Subchapter 19 Standard (lb/MMBTU)	Federal Standard 40 C.F.R. 60.42 front half (lb/MMBTU)
50	0.12	0.06	0.10
60	0.12	0.05	0.10
70	0.12	0.04	0.10
80	0.12	0.02	0.10

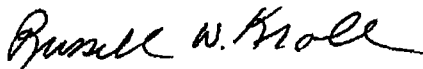
Mr. Max Price  
April 17, 2007  
Page 4

As the above table demonstrates, the proposed rules, in the case of steam generating units, result in a PM limit that is significantly lower than the corresponding federal NSPS standard. The proposed rules will obviously impact existing facilities' ability to comply with the more stringent standards. This is particularly true where existing PM controls such as the electrostatic precipitators at Northeastern Station are not designed to control condensable PM. The cost benefit analysis required by Oklahoma law should address impacts on existing facilities including any costs that the new regulation will impose on them to comply.

Texas has a rule similar to Oklahoma's OAC 252:100, Subchapter 19, which measures PM compliance through a full sampling train, including back and front half. In recognition of the significant back half contribution, Texas set its limit applicable to steam generating units to 0.30 lb/mmbtu—that is 3 times the federal NSPS limit. *See* Texas Administrative Code, tit. 30, § 111.153. Increasing the Subchapter 19 limits to account for the condensables is one alternative Oklahoma could look at to avoid creating limits more stringent than the federal standard.

For these reasons, PSO respectfully requests the Council not to adopt the proposed regulations as currently drafted.

Sincerely,



Russell W. Kroll of  
DOERNER, SAUNDERS, DANIEL & ANDERSON, L.L.P.

RWK:dc

# federal register

TUESDAY, MARCH 21, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 55

Pages 5735-5805



PART I

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### FEDERAL REGISTER

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Affairs), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*

[FR Doc.72-4286 Filed 3-20-72;8:49 am]

#### DEPARTMENT OF THE INTERIOR

##### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by non-career executive assignment in the excepted service the position of Associate Director, Office of Oil and Gas, Office of the Secretary, Office of the Assistant Secretary for Mineral Resources.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*

[FR Doc.72-4283 Filed 3-20-72;8:49 am]

#### DEPARTMENT OF THE INTERIOR

##### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by non-career executive assignment in the excepted service the position of Deputy Assistant Secretary, Mineral Resources (Energy Programs), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*

[FR Doc.72-4284 Filed 3-20-72;8:49 am]

#### U.S. ARMS CONTROL AND DISARMAMENT AGENCY

##### Notice of Title Change in Noncareer Executive Assignment

By notice of June 5, 1970, F.R. Doc. 70-5997 the Civil Service Commission authorized the U.S. Arms Control and Disarmament Agency to fill by noncareer executive assignment the position of Deputy Assistant Director, Economic Bureau. This is notice that the title of this position is now being changed to Deputy Assistant Director, Economic Affairs Bureau.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*

[FR Doc.72-4287 Filed 3-20-72;8:49 am]

#### U.S. ARMS CONTROL AND DISARMAMENT AGENCY

##### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the U.S. Arms Control and Disarmament Agency to fill by noncareer executive assignment in the excepted service the position of Disarmament Adviser, Disarmament Advisory Staff.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*

[FR Doc.72-4285 Filed 3-20-72;8:49 am]

#### U.S. ARMS CONTROL AND DISARMAMENT AGENCY

##### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the U.S. Arms Control and Disarmament Agency to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Director, Economics Bureau.

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*

[FR Doc.72-4282 Filed 3-20-72;8:49 am]

#### ENVIRONMENTAL PROTECTION AGENCY

##### MOTOR VEHICLE POLLUTION CONTROL

##### Suspension Request; Notice of Public Hearing; Procedures Therefor

Section 202(b) (5) (A) of the Clean Air Act, as amended, provides that at any time after January 1, 1972, any automobile manufacturer may file with the Administrator an application requesting the suspension for 1 year only of the effective date, with respect to that manufacturer, of the carbon monoxide or hydrocarbon (or both) emission standards applicable to light duty vehicles manufactured beginning with the model year 1975. Section 202(b) (5) (D) provides that the Administrator shall make his determination with respect to any such application within 60 days.

If the Administrator determines that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim

emission standards which shall apply to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles manufactured during model year 1975. Section 202(b) (5) (C) provides that such interim standards shall reflect the greatest degree of emission control which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

Section 202(b) (5) (D) provides that the Administrator shall issue a decision granting such suspension after a public hearing and only if he determines that (1) such suspension is essential to the public interest or the public health and welfare of the United States, (2) all good faith efforts have been made to meet the established standards, (3) the applicant has established that effective control technology, processes, operating methods or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (4) the study and investigation of the National Academy of Sciences and other information available to him have not indicated that technology, processes, or other alternatives are available to meet such standards.

On March 13, 1972, Volvo, Inc., filed with the Administrator an application for a 1-year suspension with respect to that company, of the effective date of the 1975 emission standards. A public hearing on this application will be held in Washington, D.C., commencing at 10 a.m. on April 10, 1972. A subsequent Federal Register notice will specify the location of the public hearing.

The public hearing is intended to provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information concerning the action requested of the Administrator by the applicant. Any person desiring to make an oral statement at the hearing should file a notice of such intention and, if practicable, five copies of his proposed statement with the Director, Mobile Source Enforcement Division, Environmental Protection Agency, Room 3809, 401 M Street SW., Washington, DC 20460, not later than April 5, 1972. Written statements and information may be submitted to the Director, Mobile Source Enforcement Division, at the above address for inclusion in the record of the hearing at any time prior to completion of the hearing.

The hydrocarbon and carbon monoxide emission standards for model year 1975 light duty vehicles subject to suspension are contained in 40 CFR Part 65.21(n). The application and such portions of the applicant's supporting documentation as may properly be made public will be available for public inspection in the Office of Public Affairs, Environmental Protection Agency, Room 3241, 401 M Street SW., 20460. Any person may obtain copies of public portions of the applications as provided for by 40 CFR Part 2.



**Procedures.** Since the public hearing is designed to give all interested members of the public an opportunity to participate in this proceeding, participants may present data, views, arguments, or other pertinent information concerning the action requested of the Administrator and may submit written questions to be propounded to the applicant by the hearing panel to the extent practicable. Appropriate representatives of the applicant will be required to attend the hearing and respond to questions propounded by the hearing panel. Questions submitted by the public to be propounded to Volvo, Inc., must be received by the Director, Mobile Source Enforcement Division no later than April 5, 1972. The panel may limit the length of oral presentations, may exclude irrelevant or redundant material or questions, and may direct that corroborative material be submitted in writing rather than presented orally.

Presentations by participants shall be addressed exclusively to the following considerations:

1. Whether the requested suspension is essential to the public interest or the public health and welfare of the United States.
2. Whether the applicant has made all good faith efforts to meet the standard or standards for which suspension is sought.
3. Whether the applicant has shown that there is not available effective control technology, processes, operating methods, or other alternatives that would enable the applicant to achieve compliance prior to the effective date of such standards.
4. Whether the study conducted by the National Academy of Sciences and other information indicate that technology, processes, or other alternatives are available for any manufacturer to meet such standards.

5. What interim standards for the 1976 model year would reflect the greatest degree of emission control achievable by available technology, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

A verbatim transcript of the proceeding will be made and copies will be available from the reporter at the expense of any person requesting them.

Dated: March 16, 1972.

WILLIAM D. RUCKELSHAUS,  
Administrator.

[FR Doc. 72-4837 Filed 3-20-72; 8:51 am]

**STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES**

**Supplemental Statement in Connection With Final Promulgation**

I. EPA published Standards of Performance for New Stationary Sources in final form, prefaced by a "concise general statement of their basis and pur-

pose" as required by section 4(c) of the Administrative Procedure Act, 5 U.S.C. 553(c), on December 23, 1971. 36 F.R. 24876. Petitions for review of certain of these standards were filed on January 21 and 24 by the Essex Chemical Corp. et al., the Portland Cement Association, and the Appalachian Power Co. et al. (U.S. Court of Appeals for the District of Columbia, Nos. 72-1072, 72-1073, and 72-1079).

On February 18, 1972, almost 2 months after EPA published the New Stationary Source Standards, the U.S. Court of Appeals for the District of Columbia Circuit handed down its decision in "Kennecott Copper Corp. v. Environmental Protection Agency" (C.A.D.C. No. 71-1410), which concerned a national secondary ambient air quality standard promulgated by EPA pursuant to section 109(b) of the Clean Air Amendments of 1970, 42 U.S.C. 1857C-4(b). The court there held that although the "concise general statement" prefacing the standard involved satisfied the requirements of section 4(c) of the Administrative Procedure Act, it would nonetheless remand the cause to the Administrator for a more specific explanation of how he had arrived at the standard.

In light of the decision in "Kennecott Copper," and in the interest of a speedy judicial determination of the validity of the Standards of Performance for New Stationary Sources, we have prepared this statement of the basis of the Administrator's decision to promulgate the standards to supplement that appearing as the preface to the final standards as published in December 1971. Although if the point were raised it might ultimately be determined that this statement was not necessary to satisfy the doctrine expressed by the "Kennecott Copper" opinion, EPA considers it fundamental to the national policy embodied in the Clean Air Amendments of 1970 to expedite all steps of promulgation and enforcement of standards and implementation plans to bring about clean air. The speedy eradication of any uncertainty as to the validity of the standards for new stationary sources is an important part of this process. Accordingly, considering the particular sequence of events and pressures of time involved here, we think it most appropriate to include this supplementary statement in the record now, thereby ensuring the rapid conclusion of judicial review of the validity of the standards.

II. 1. **The Particulate Test Method.** Particulate emission limits were proposed for steam generators, incinerators, and cement plants, based on measurements made with the full EPA sampling train, which includes a dry filter as well as impingers, which contain water and act as condensers and scrubbers. In the impingers the gases are cooled to about 70° F. before metering.

There were objections to the use of impingers in the EPA sampling train,

with suggestions that the particulate standards be based either on the "front half" (probe and filter) of the EPA sampling train or on the American Society of Mechanical Engineers test procedure. Both of these methods measure only those materials that are solids or liquids at 250° F. and greater temperatures.

It is the opinion of EPA engineers that particulate standards based either on the front half or the full EPA sampling train will require the same degree of control if appropriate limits are applied. Analyses by EPA show that the material collected in the impingers of the sampling train is usually although not in every case a consistent fraction of the total particulate loading. Nevertheless, there is some question that all of the material collected in the impingers would truly form particulates in the atmosphere under normal dispersion conditions. For instance, gaseous sulfur dioxide may be oxidized to a particulate form—sulfur trioxide and sulfuric acid—in the sampling train. Much of the material found in the impingers is sulfuric acid and sulfates. There has been only limited sampling with the full EPA train such that the occasional anomalies cannot be explained fully at this time. In any case, the front half of the EPA train is considered a more acceptable means of measuring filterable particulates than the ASME method in that a more efficient filter is required and the filter has far less mass than the principal ASME filter in relation to the sample collected. The latter position was reinforced by a recommendation of the Air Pollution Control Association.

Accordingly, we determined that, for the three affected source categories, steam generators, incinerators, and cement plants, particulate standards should be based on the front half of the EPA sampling train with mass emission limits adjusted as follows:

	Originally proposed particulate standards, full EPA train	Recommended particulate standards, revised sample method (front half only)
Steam Generators—pounds per million Btu heat input	0.20	0.10
Incinerators—pounds per standard cubic foot at 12 percent CO <sub>2</sub>	0.10	0.05
Cement Kilns—pounds per ton feed	0.30	0.30
Cement Coilers—pounds per ton feed	0.10	0.10

The adjusted standards are based on EPA sampling results and are designed to provide the same degree of control as the originally proposed standards. In the case of steam generators, the installations which were found to be best controlled showed reasonably large concentrations (about 50 percent) of materials in the impingers. The five incinerator

## NOTICES

tests which showed compliance with the originally proposed standard all indicated impinger catches of 20 to 30 percent. All five of these tests indicate compliance with the original and the revised standard.

In the case of cement plants, holding to the same allowable emission rate while changing the sampling method results in a slight relaxation of the standard. This permits an electrostatic precipitator as well as a fabric filter to meet the emission standard.

2. *The Sulfur Dioxide Standard for Steam Generators of 1.2 Pounds Per Million B.T.U. Heat Input.* The Administrator took into account the following facts in determining that there has been adequate demonstration of the achievability of the standard.

There are at present three SO<sub>2</sub> removal systems in operation at U.S. power stations. Moreover, a total of 13 electric power companies have contracted for the construction of seventeen additional units, most of which will become operational in the next 2 years. Most of these employ lime or limestone scrubbing, but magnesium oxide and sodium hydroxide scrubbing and catalytic oxidation also will be used. In addition, seven units will be equipped with water scrubbers for fly ash collection in the anticipation that they may be converted to SO<sub>2</sub> removal in the future. Eight different firms are designing the installations. One of the installations, a sodium hydroxide scrubber, is guaranteed by the designer to achieve 90 percent or better SO<sub>2</sub> removal. Four others are guaranteed at 80 percent or better. Table I summarizes information about these installations. Generally, the standard of 1.2 pounds of sulfur dioxide per million B.t.u. input can be met by the removal of 70-75 percent of the sulfur dioxide formed in the burning of coal of average sulfur content (i.e., 2.8-3 percent).

A 125-megawatt unit now operated by the Kansas Power and Light Co. at Lawrence, Kans., was put into operation in December 1968. Several problems were experienced originally and appreciable revisions have been made to improve the system. The most successful operation of the scrubber has occurred during 1971.

In some respects the plant is atypical in that it is not required to burn coal continually. Natural gas is available much of the time, and the station also has a supply of fuel oil that can be burned in emergencies when natural gas is not available. Kansas Power and Light has used this flexibility to advantage in the operation of the scrubber. It frequently switches the unit from coal to natural gas, bypassing the scrubber, so that they can inspect the internals for possible malfunction. The generating unit was seldom operated longer than 4 weeks on coal firing without making such inspections. In most instances, little or no maintenance was required during the outage, and the company then merely inspected the scrubber.

TABLE I—SULFUR DIOXIDE REMOVAL SYSTEMS AT U.S. STEAM-ELECTRIC PLANTS

Power station	Unit size	Designer	SO <sub>2</sub> system	New or retro-fit	Scheduled startup	Anticipated efficiency of SO <sub>2</sub> removal
<b>Limestone Scrubbing:</b>						
1. Union Electric Co., Meramec No. 2	140	AFV	Combustion Engineer	R	September 1969	Operated at 73% efficiency during EPA test.
2. Kansas Power & Light, Lawrence Station No. 4	125		Combustion Engineer	R	December 1968	Do.
3. Kansas Power & Light, Lawrence Station No. 5	430		Combustion Engineer	N	December 1971	Will start at 65% and be upgraded to 83%. Guaranteed 70%.
4. Kansas City Power & Light, Hawthorne Station No. 3	100		Combustion Engineer	R	Late 1972	Do.
5. Kansas City Power & Light, Hawthorne Station No. 4	100		Combustion Engineer	R	Late 1972	Do.
6. Kansas City Power & Light, Leavenworth Station	600		Babcock & Wilcox	N	Late 1972	80% as target.
7. Detroit Edison Co., St. Clair Station No. 3	180		Feabody	R	Late 1972	00% as target.
8. Detroit Edison Co., River Rouge Station No. 1	265		Feabody	R	Late 1972	Do.
9. Commonwealth Edison Co., Will County Station No. 1	175		Babcock & Wilcox	R	February 1972	Guaranteed 69%.
10. Northern States Power Co., Shabara County Station, Minn., No. 1	700		Combustion Engineer	N	1970	
11. Arizona Public Service, Oholla Station Co.	115		Research Cottrell	R	December 1972	
12. Tennessee Valley Authority, Widow's Creek Station No. 8	550		Undecided	R	1974-76	
13. Duquesne Light Co., Phillips Station	100		Chemico	R	March 1973	Do.
14. Louisville Gas & Electric Co., Paddy's Run Station	70		Combustion Engineer	R	Mid-late 1973	Do.
15. City of Key West, Stock Island	87		Zurn	N	Early 1972	Guaranteed 83% removal.
16. Union Electric Co., Meramec No. 1	125		Combustion Engineer	R	Spring 1973	69% as target.
<b>Sodium Hydroxide Scrubbing Installations:</b>						
1. Nevada Power Co., Reed Gardner Station	250		Combustion Equipment Associates	R	1973	Guaranteed 80% SO <sub>2</sub> while burning 1% S coal.
<b>Magnesium Oxide Scrubbing Installations:</b>						
1. Boston Edison Co., Mystic Station No. 4	150		Chemico	R	February 1972	90% target.
2. Potomac Electric Power, Dickerson No. 3	195		Do.	R	Early 1974	85%.
<b>Catalytic Oxidation:</b>						
1. Illinois Power, Wood River	100		Mesanto	R	June 1972	Guaranteed 85% SO <sub>2</sub> removal.

<sup>1</sup> Oil-fired plants (remainder are coal-fired).  
<sup>2</sup> Partial EPA funding.

All water from the pond is recycled back to the scrubber. Blowdown from cooling towers constitutes makeup water. The sludge oxidizes to sulfate in the pond. Eventually, sulfate may be removed from the system and taken with the ash to landfills.

The limestone system for the new 430-megawatt steam-electric unit at the Lawrence station is essentially the same as the smaller unit. It has been operated only on a limited basis to date. The company plans to operate at 65 percent SO<sub>2</sub> removal, then upgrade to 80 percent or more based on experience with the 125-megawatt unit. With the new system sulfate crystallization will be accomplished in tanks. The company plans to run clarified liquor from the crystallizers directly back to the scrubbers. A solids content of 6-10 percent will be maintained in the recycle liquor to prevent scaling in exposed surfaces.

*Combustion engineering pilot studies.* Pilot studies conducted by the Combustion Engineering Co. on a 1 mw. equivalent steam showed 95 percent SO<sub>2</sub> removal with continuous crystallization and 100 percent water recycle from crystallizers. The studies form the basis upon

which CE is guaranteeing that its new installations will remove at least 70 percent of SO<sub>2</sub>.

*Battersea scrubber.* The principle of alkaline scrubbing has been demonstrated at the Battersea Power Station in England, where a scrubber has been in use since 1932. A multiple stage process is employed. Alkaline river water is used in the first stage and lime-neutralized liquor in subsequent stages. The steam generator is of 3,500 million B.t.u. rating. Reports indicate that the efficiency of this system exceeds 90 percent when the boiler is fired with 0.8 to 1 percent sulfur coal. Similar systems are in operation on two 150-mw. oil-fired boilers at the Bankside Power Station in England.

*Swansea scrubber.* Lime scrubbing processes were installed on coal-fired units at the Swansea Power Station and the Fulham Power Station in England prior to World War II. The system at the Fulham Station reportedly operated successfully until shut down for security reasons early during World War II. It was not reactivated after the war. The Swansea installation was operated for about 2 years on a coal-fired power boiler

and is not now in service. Unlike the Battersea and Bankside operations, these units utilized a continuous liquid recycle. The systems were reported to operate at SO<sub>2</sub> efficiencies of 90 percent or greater.

**Bahco lime scrubbing.** The two-stage system has been demonstrated at about 98 percent SO<sub>2</sub> removal over a 6-month period on a 7-mw, oil-fired steam generator in Sweden. The process is now being offered under license in the United States by Research Cottrell. None of the Bahco systems have yet been installed on coal-fired boilers. Nevertheless, the two-stage scheme appears to offer definite advantages over single-stage processes in achieving high removal efficiencies.

**Wellman power gas sulfite scrubbing.** The sulfite-bisulfite system has been installed on two oil-fired boilers in Japan. The combined capacity is about 650 million B.t.u. per hour. Since it was put into operation in June 1971, removal efficiencies of 95 percent have been reported with exit levels of about 0.2 pounds SO<sub>2</sub> per million B.t.u. The system has not been operated on a coal-fired boiler. However, since precipitators have been shown to remove particulates down to the same level as oil-fired units, application of the sulfite system to coal-fired boilers should be feasible.

A principal difficulty in operating lime based scrubbing systems has been the tendency to form scale on scrubber surfaces. Union Electric, TVA, and to a lesser extent Kansas Power and Light have reported scaling problems. The experience of Kansas Power and Light and European and Japanese installations show that scaling can be held to a tolerable level. Present designs probably will be revised to optimize cost versus scaling. The use of two or more stages would appear desirable for high sulfur coals.

In all probability, there will be some scale formation in all closed circuit lime scrubbing systems for SO<sub>2</sub> abatement. At the Bahco installation as at the Kansas Power and Light installation in the United States, this is minimized by keeping the solution pH in the acid region. In addition to this, a Mitsubishi Heavy Industries pilot plant in Japan has employed seed crystals and a delay tank and was reportedly able to operate for 500 hours without any sign of scaling (i.e., the scaling took place on the seed crystals).

In addition to operating at an acid pH, the Bahco system employs a wide open scrubber that can tolerate appreciable scale deposits. It was reported that the installation of additional spray heads to more thoroughly wash the wetted surfaces at the Bischaff installation in West Germany helped to prevent scale formations.

All three installations cited above have reported successful periods of operation while employing the above-mentioned techniques. The most successful of these is the Bahco unit which has had no serious operational difficulties since November 1969. These examples show that lime systems can be operated without unscheduled shutdown due to scale problems.

3. *Cost of compliance with steam generator standards.* The economic impact of the new source performance standards and requisite pollution control expenditures have been developed for a typical new coal-fired unit of 600-megawatt (MW) capacity. The investment cost for such a plant would be \$120 million plus \$18 million for sulfur dioxide and particulate control and \$1 million for nitrogen oxide control. The \$19 million total can be compared to \$3.6 million which would have been expended for particulate control if sulfur dioxide and nitrogen oxide abatement were not required.

On an annualized basis the pollution control costs would be 0.13 cents per kw.-hr. for sulfur dioxide and particulate control plus 0.01 cents per kw.-hr. for nitrogen oxide control. Particulate control alone would cost 0.01 cents per kw.-hr. An average revenue of 1.56 cents per kw.-hr. is assumed. Based on these figures, the cost of pollution control will be about 9 percent of the delivered cost of electricity if all plants operated by the utility in question had to incur a comparable cost. Using a figure of \$130 per year as the average residential electric bill, the increased cost of electricity to a residential customer would be about \$1 per month if the total cost of control is passed on to the customer.

An indication of the impact of increased electricity cost on industrial consumers may be obtained by examining the relationship of electricity cost to production costs. An upper limit may be approximated by considering the aluminum industry, a large consumer of electrical energy. If the aluminum industry were to incur an increase of nine percent in electricity cost, production costs would increase by about 1.4 percent. Although aluminum smelters usually consume hydroelectric power and would not realize pollution control costs increases, nonetheless, the figures show that even for a large consumer the impact of increased electricity cost is fairly small. In general, the estimated electricity cost increase will have only a minor impact on production costs.

Each year the power industry puts into operation about 48 new steam-electric units. On the average, 29 are fired with coal, seven with oil, and 13 with natural gas. Most of the oil-fired units and a few of the coal-fired units may burn low sulfur fuel. The number requiring flue gas desulfurization is estimated to be between 20 and 30 per year. Most of these, 15 to 20, will be located east of the Mississippi River.

The foregoing cost projections are based on estimated costs of \$30 per installed kilowatt for sulfur dioxide scrubbing systems which will also be capable of controlling coal particulate to the level of the standard. Some power distributors have questioned the figure and suggest that the actual cost may be close to \$70 per kw. Nevertheless, a review of applicable cost estimates for calcium base SO<sub>2</sub> scrubbing system shows support for the EPA estimate.

The four estimates listed in table II for new plants range from \$18.7 to \$26.67

per kw. Three of the plants are large—880 to 1,000 mw. All five estimates for retrofitting existing plants show greater cost, ranging from \$28.6 to \$61.8 per kw. The retrofit estimates tend to cover smaller steam generators, only one of the five being greater than 180 mw. In addition, the retrofit costs tend to reflect unusual circumstances which would not be expected at new plants. All are closed circuit limestone or calcium hydroxide systems except for the small unit at Key West, Fla. In the closed circuit system, all waters are recycled to avoid problems of liquid and solid waste disposal.

TABLE II

COST ESTIMATES FOR EQUIPPING COAL FIRED STEAM-ELECTRIC PLANTS WITH CALCIUM BASE SCRUBBER SYSTEMS (1971 ESTIMATES)

Source of estimate	Size	Capital cost
Zorn Industries (Key West Installation)	37 MW (New)	\$20.4/kw.
Northern States Power Co.	2-630 MW (New)	\$18.7/kw.
Bartock & Wilcox (Hydrothermal plant in mid-west)	630 MW (New)	\$23.67/kw.
Tennessee Valley Authority	1650 MW (New)	\$19.20/kw.
Do	225 MW (Retrofit)	\$24.6 to \$61.8/kw.
Louisville Gas & Electric Co.	70 MW (Retrofit)	\$23.6/kw.
Duquesne Light Co.	100 MW (Retrofit)	\$35.2/kw.
Commonwealth Edison Co.	176 MW (Retrofit)	\$40/kw.
Detroit Edison Co.	4-350 MW (Retrofit)	\$40.6/kw.

Projected capital costs for nitrogen control will range from nil to \$3.50 per kw. The greatest cost will be incurred from those units which will use combinations of flue gas recirculation and off-stoichiometric combustion to achieve the standard. Many of these will be gas-fired boilers which will not have to expend any capital for sulfur dioxide or particulate control. The least cost will be for corner-fired coal burning boilers which should be able to meet the standards without any modification. Corner-fired units are sold by only one of the four major U.S. power boiler manufacturers. The other three firms have experience with nitrogen oxide reduction schemes for gas and oil burning but it is uncertain what methods they will employ with coal burning. Consequently, precise costs are uncertain, but it is expected that the nitrogen oxide standard will stimulate interest in combustion techniques which can achieve the required emission levels at little or no increase in cost.

4. *The nitrogen oxide standard for coal-fired steam generators.* The standards set an emission limit of 0.7 pound of nitrogen oxide per million B.t.u. coal-fired steam generators. This is roughly equivalent to a stack gas concentration of 550 parts per million for a bituminous-fired operation. Several electric utilities and three of the four major boiler manufacturers commented that the technology was not fully demonstrated to achieve the standard.

The coal standard is based principally on nitrogen oxide levels achieved with corner-fired boilers which are manufactured by only one company—Combustion Engineering. This firm has confirmed in writing that it will guarantee to meet the nitrogen oxide standard. Investigations by an EPA contractor showed that other types of boilers could meet the standard under modified burning conditions. In fact, two of the three remaining companies have informed EPA they will guarantee that their new installations will meet the EPA standard of 0.7 pound/million B.t.u. on new installations.

**6. Particulate standards for kilns in portland cement plants.** Particulate emission limits of 0.3 pound per ton of feed to the kiln were proposed for cement kilns. This is roughly equivalent to a stack gas concentration of 0.03 grains per standard cubic foot.

The Portland Cement Association, American Mining Congress, a local control agency and the major cement producers commented that the kiln standard was either too strict or it is not based on adequately demonstrated technology, i.e. fabric filters can not be used for all types of cement plants. On the other hand, a comment was received from an equipment manufacturer stating that equipment other than fabric filters also can be used to meet the standard and citing supportive data for electrostatic precipitators. In addition, the AMC, a local agency and cement producers commented that the particulate standards for cement kilns are stricter than those promulgated for power plants and municipal incinerators. Further they objected to the test method to be used to determine compliance.

The proposed standard was based principally on particulate levels achieved at a kiln controlled by a fabric filter. Several other kilns controlled by fabric filters had no visible emissions, but could not be tested due to the physical layout of the equipment. After proposal, but prior to promulgation a second kiln controlled by a fabric filter was tested and found to have particulate emissions in excess of the proposed standard. However, based on the revised particulate test method, the second installation showed particulate emissions to be less than 0.3 pound per ton of kiln feed.

The promulgated standard is roughly equivalent to a stack gas concentration of 0.03 grains per standard cubic foot. The power plant standard is equivalent to 0.06 grains per standard cubic foot at normal excess air rates. The incinerators standard is 0.08 grains per standard cubic foot corrected to 12 percent carbon dioxide. Uncorrected, at normal conditions of 7.5 percent carbon dioxide it is equivalent to 0.05 grains per standard cubic foot. The difference between the particulate standard for cement plants and those for steam generators and incinerators is attributable to the superior technology available therefor (that is, fabric

filter technology has not been applied to coal-fired steam generators or incinerators).

In sum, considering the revision of the particulate test method, there are sufficient data to indicate that cement plants equipped with fabric filters and precipitators can meet the standard.

**6. Cost of achieving particulate standard for kilns at portland cement plants.** A limit of 0.3 pounds per ton of feed to the kiln was proposed. The limit applies to all new wet or dry process cement kilns.

Three cement producers commented that a well-controlled plant would cost much more than indicated by EPA. A meeting between American Mining Congress and EPA revealed that that association felt the cost of an uncontrolled cement plant as reported by EPA was low by a factor of 1.5 to 2. However, the association agreed that EPA had accurately estimated the cost of the pollution control equipment itself. Accordingly, no change in the standard was warranted on account of cost. Indeed, if the industry is correct in asserting that the cost of an uncontrolled plant is higher than that estimated by EPA, that means that the cost of pollution control expressed as a percentage of total cost is less than the 12 percent figure cited in the background document, APTD-0711, which was distributed by EPA at the time the standards were proposed.

**7. Sulfur dioxide and acid mist standards for sulfuric acid plants.** Sulfur dioxide emission limits of 4 pounds per ton of acid produced and acid mist emission limits of 0.15 pounds per ton of acid produced were proposed for sulfuric acid plants.

Several sulfuric acid manufacturers and the Manufacturing Chemists Association commented that the proposed SO<sub>2</sub> standard is unattainable in day-to-day operation at one of the plants tested or that it is unduly restrictive. They asserted that to meet the standard, the plant would have to be "designed to 2 pounds per ton" to allow for the inevitable gradual loss of conversion efficiency during a period of operation, and that units capable of such performance have not been demonstrated in this country. Essentially, the same parties commented that there is published data showing that due to the vapor pressure of sulfuric acid, the acid mist standard is not attainable.

The proposed standard was based principally on sulfur dioxide levels achieved with dual absorption acid plants and one single absorption plant controlling emissions with a sodium sulfite SO<sub>2</sub> recovery system. There are only three dual absorption plants in this country. Company emission data at one of the plants tested indicates the plant was meeting the proposed standard for a year of operation when the production rate was less than 600 tons per day. The plant is rated at 700 tons per day. At the second U.S. plant, emissions were about 2 pounds per ton about two months after startup. Dis-

cussion with foreign dual absorption plant designers and operators indicates normal operation at 99.8 percent conversion or higher for 99 percent of the time over a period of years. This conversion efficiency is equivalent to approximately 2.5 pounds per ton of acid produced.

Complaints from the industry that it cannot meet the acid mist standard appear to be based on experience with other test methods than EPA's. Such other methods measure more sulfur trioxide and acid vapor, in addition to acid mist, than does the EPA method. Tests of several plants with the EPA test method have shown acid mist emissions well below the emission limits as set in the standards.

**8. Cost of achieving sulfur dioxide standard at sulfuric acid plants.** A limit of 4 pounds of sulfur dioxide per ton of acid produced is set by the regulation. The limit applies to all types of new contact acid plants except those operated for control purposes, as at smelters.

The sulfuric acid industry has commented that (1) the cost of achieving the proposed sulfur dioxide standard is about three times the EPA estimate, and (2) promulgation of a standard 60 percent less restrictive than proposed by EPA would reduce the control cost 47 percent.

In developing the parallel cost estimates, both the industry and EPA assume the dual absorption process will be used to control sulfur burning plants and many spent acid plants. The more costly Wellman-Power Gas sulfite scrubbing system will be used with plants which process the most contaminated spent acid feedstocks where capital investment historically is 80 percent greater than sulfur burning plants. The Wellman-Power Gas process would also be used for retrofitting existing plants where appropriate. Both the dual absorption and Wellman-Power Gas processes have been demonstrated on commercial installations. Seventy-six dual absorption plants have been constructed or designed since the first in 1964. Only three, however, are located in this country. One sulfite scrubbing process is now in operation in the United States and four more will be put into service in 1973. All are retrofit installations. Two other such scrubbers are being operated in Japan. These seven installations consist of three acid plants, two Claus sulfur recovery plants, an oil-fired boiler, and a kraft pulp mill boiler.

**Control costs.** EPA engineers have reviewed the industry analysis and find no reason to change their original cost estimate. As summarized in Table III, EPA estimates that the cost of achieving the standard is \$1.07 to \$1.32 per ton of acid for dual absorption systems and \$3.60 per ton for sulfite scrubbing systems. The industry estimate for a sulfur burning dual absorption plant is \$2.31 greater than EPA's. We believe the industry's estimate to be excessive for the following reasons.

TABLE III  
ESTIMATED COSTS OF CONTROLLING SULFUR DIOXIDE FROM CONTACT SULFURIC ACID PLANTS

	Dual absorption process		Sodium sulfite scrubbing	
	In- dustry	EPA	In- dustry	EPA
<b>Sulfur burning plants:</b>				
Direct Investment (Thousands of \$)---	2,000	850	Not antici-	
Total Added Cost (\$/Ton) <sup>a</sup> -----	3.38	1.07	ated for new sulfur burning plants.	
<b>Spent acid plants:</b>				
Direct Investment (Thousands of \$)---	3,100	900	2,200	2,300
Total Added Cost (\$/Ton) <sup>a</sup> -----	4.45	1.32	4.11	3.70

<sup>a</sup> Total added cost includes depreciation, taxes, 10% return on investment after taxes and other allocated costs.

Seventy-two percent of the difference between the Du Pont and EPA estimates is due to direct investment, plant overhead, and operating costs for auxiliary process and storage equipment which Du Pont predicts will be necessary to satisfy the standards. EPA does not believe that such auxiliary equipment will be necessary in practice to meet the standard.

Twenty percent of the difference is due to differences in estimates of the cost and consumption of utilities. Elimination of auxiliary equipment referred to above reduces the consumption rate of both electricity and steam. Eight percent results from the industry's apportionment of "other allocated costs" (Corporate Administration, i.e., sales, research, and development, main office, etc.) in proportion to their estimate of the additional investment required for control. Although an accepted procedure for internal cost accounting, this does not represent a true out-of-pocket cost.

In sum, the EPA analysis shows that meeting the proposed standard with a dual absorption plant requires a substantial investment over an uncontrolled plant but only 30 percent as great as indicated by the industry. Moreover, relaxation of the proposed standard by 60 percent (to the level recommended by the industry) would decrease the cost of control in dual absorption plants only 10 to 15 percent. For sulfur burning plants the cost differential would be \$0.10 per ton of acid. For spent acid plants, it would be \$0.17.

**Economic impact of proposed standard.** Most sulfuric acid production is captive to large vertically integrated chemical, petroleum, or fertilizer manufacturers. An increasing volume of production also results from the recovery of sulfur dioxide from stack gases or the regeneration of spent acid instead of its discharge into streams.

Depending on the abatement process selected and the plant size, the direct investment for control can range from 14 to 38 percent of the investment in an uncontrolled acid plant.

The added cost of air pollution control, coupled with the inherent market disadvantage of the small manufacturer, may make future construction of plants

of less than 500 tons per day economically unattractive except as a sulfur recovery system for another manufacturing process.

It is estimated that the average market price will increase by \$1.07 per ton reflecting the lower end of the cost range. This represents a small increase in the \$31 per ton market price and will have little effect on the demand for acid.

The increasing production of recovered and regenerated acid, as a result of abatement efforts, will inhibit the growth of conventional acid production and threaten eventually to displace much of that production.

WILLIAM D. RUCKELSHAUS,  
Administrator.

MARCH 16, 1972.

[FR Doc.72-4338 Filed 3-20-72; 8:51 am]

## FEDERAL MARITIME COMMISSION

### CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

#### Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p) (1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/operator and vessels
01039	Den Norske Amerikalinje A/S (Norwegian America Line): Kongsjord.
01049	Delos Maritime Co., Ltd.: Black Knight.
01066	Reederi Richard Schröder: Erich Schröder.
01071	Kommanditselskabet AF 10. August 1963 (Komplementar: P.F.S. Heering): Heering Kirco.
01076	Valdemar Skogland A/S: Noto.
01107	N.V. Stroomvaart-Maatschappij "Oostzee" (Curacao) (Steamship Co. "Oostzee" (Curacao), Ltd.): Poinclana.
01108	Hvalfangerskibsselskabet "Reedhavet" & "Vestfold" (Reedhavet) Whaling Co., Ltd. & "Vestfold" Whaling Co., Ltd.: Ross Lake.
01155	Ernst Jacob, Reeder und Schiffsmakler: Stelnhoff.
01318	Aug. Nolten, Wm. Miller's Nachfolger: Bell Volunteer.
01323	Manchester Liners, Ltd.: Manchester Port, Manchester Progress, Manchester City, Manchester Renewa.
01334	American President Lines, Ltd.: President Folk.
01413	Kinyrus Shipping Co., Ltd. of Nicosia, Cyprus: Paphos.
01454	Hunting (Eden) Tankers, Ltd.: Gretafield.
01481	Chico Shipping Co., Ltd.: Chico.
01517	Salambi A/S: Stolt Skaukar.
01530	Herm. Daueberg, Bremen: Bellavia.
01627	Atlantic Oil Carriers, Ltd.: Eugenio Livana.
01714	Elio S.p.A.-Palermo: Pandego.
01759	Morania Compania Naviera S.A.: Etola.
01818	Aug.-Tayzenhutte A.G., Duisburg, as Bareboat Chartered Owner: Franzeo.
01844	Nationale Tankvaart Maatschappij N.V.: Forest Hill.
01891	BP Tanker Co., Ltd.: British Spartan, British Guardian, British Engineer, British Fame.
01918	Akcijselskabet Felagos: Pontia.
01936	Interessentskab Mellem Aktieselskabet Dampskibsselskabet Svendborg & Damp . . . AF 1912 Aktieselskabet: Carolina Maerz.
01985	Aktiebolaget Svenska Atlant Linjen: Sagaholm, Odensholm.
01989	Aktiebolaget Transmarin: Astrid.
01988	Angfartygsaktiebolaget Tifring: Atlant.
02010	A. L. Hocking Barge Lines, Inc.: MBL-16T, JIE 14, JIE 10.
02043	Suomen Tankkilaiva oy Finsta Tankfartyg AB: Wilca.
02053	World Dale Corp.: World Dale.
02093	Thor Tanker Corp.: World Majesty.
02094	Lysander Shipping Co.: World Memory.
02095	Uranus Tanker Corp.: World Merchant.
02131	Houlder Line, Ltd.: Orwetry Grange.
02133	South American Saint Line, Ltd.: St. Merril.
02138	Sioux City & New Orleans Barge Lines, Inc.: Ellis 1301, Ellis 1302, Ellis 1303, UMI 1250, UMI 1251.
02163	Rederiet "Ocean" A/S, Copenhagen: Roman Reeder.
02181	James L. Bryan: BBC-2002, BBC-2001.
02194	Compagnie Generale Transatlantique: Carimara.
02203	Humble Oil & Refining Co.: Eco 15.
02264	Dr. Erich Retzlaff: Benito Retzlaff, Emma Retzlaff, Ingal Retzlaff.
02370	Enco-Gutzeit Osekeyatio: Flankawz, Finneagle, Finnarrow.

**RYAN, WHALEY & COLDIRON**

A Professional Corporation  
Attorneys and Counselors at Law  
900 Robinson Renaissance  
119 North Robinson Avenue  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 239-6040  
Facsimile: (405) 239-6766  
[www.ryanwhaley.com](http://www.ryanwhaley.com)

MICHAEL A. PETERS  
[mpeters@ryanwhaley.com](mailto:mpeters@ryanwhaley.com)  
(405) 228-2137

July 17, 2006

Mr. Eddie Terrill, Director  
Air Quality Division  
Department of Environmental Quality  
707 N. Robinson  
Oklahoma City, OK 73101

Mr. Max Price  
Air Quality Division  
Department of Environmental Quality  
707 N. Robinson  
Oklahoma City, OK 73101

RE: Submittal of Written Comments  
Proposed Rulemaking - OAC 252:100-1, -8, -37, and -39  
Definition of "Particulate Matter"

Dear Mr. Cook and Mr. Thomas:

The law firm of Ryan, Whaley & Coldiron ("RWC"), on behalf of Continental Carbon Company ("CCC"), respectfully submits the following written comments regarding the proposed rule changes to the Oklahoma Air Pollution Control Rules ("OAPCR") - Oklahoma Administrative Code ("OAC"), Title 252, Chapter 100, regarding the scope and applicability of the proposed definitions which impact the determination of "Particulate matter emissions." The following comments identify concerns regarding the proposed revisions which would specifically include both "Filterable particulate matter" and "Condensable particulate matter" in the determination of "Particulate matter emissions."

CCC appreciates the opportunity to submit comments on the proposed rule changes. To the extent possible, CCC would like to work with the DEQ to address the below comments and questions as the proposed rule changes have the potential to significantly affect ongoing operations and compliance determinations at a number of facilities (including CCC) currently operating in the State of Oklahoma.

COMMENTS AND QUESTIONS:

*No. 1: The proposed changes to the definitions in OAC 252:100-1-3 of the OAPCR seek to specifically include both "Condensable particulate matter" and "Filterable particulate matter" in the determination of "Particulate matter" and "Particulate matter emissions." If promulgated as currently proposed, how will compliance with existing permit particulate matter ("PM") emission limitations (some of which are based solely on filterable PM (sometimes referenced as the "front half") be determined?*

*No. 2: If such rules are adopted, how will the DEQ allow/authorize industry to review existing permit PM emission limitations and revise the currently permitted emission limitations as necessary to account for potential PM emissions increases associated with the inclusion of condensable PM (sometimes referenced as the "back half") which were not previously required, identified or included in previous permit determinations?*

*No. 3: If such rules are adopted, and assuming the DEQ allows/authorizes industry the opportunity to revise existing PM emission limitations to incorporate condensable PM, will affected industry be authorized to continue current operations at currently permitted PM emission rates until such time as the permit emission limitations are revised?*

*No. 4: For those facilities which are currently subject to an NSPS standard which includes a PM emission limitation which has been adopted and/or otherwise incorporated in the currently applicable permit, will compliance with such limitation be based on the currently proposed PM definitions (i.e., filterable and condensable PM) or will compliance be based on filterable PM only as previously determined by EPA?*

*No. 5: How will the increased levels of water born, non-process related solids which are naturally occurring be accounted for by the DEQ?*

*No. 6: For those facilities which previously did not report condensable PM, will the DEQ require such facilities to file amended emissions inventory documents and remit past annual operating fees based on the indicated level of condensable PM?*

*No. 7: Will the DEQ seek to differentiate between process generated condensable PM vs. non-process generated condensable PM?*



DISCUSSION:

Currently, numerous facilities located in the State of Oklahoma (including CCC's Ponca City plant) are subject to permit emission limitations addressing particulate matter ("PM") and/or PM with an aerodynamic diameter less than or equal to 10 micrometers ("PM<sub>10</sub>"). Such permits either expressly state or otherwise indicate (based on the calculation methodology utilized and/or the compliance demonstration method specified) such limitations are based on and/or compliance is demonstrated based solely on the filterable PM emission rate. Such limits can be specifically stated in the permit or the associated permit memorandum that discusses the origination of the permit emission limitation, or it can be established by the performance testing methodology required pursuant to the permit to demonstrate compliance with such emissions limitations [*i.e.*, Reference Method 5-Determination of Particulate Matter Emissions From Stationary Sources ("Method 5") in Appendix A of the Standards of Performance for New Stationary Sources, 40 CFR Part 60 ("NSPS")]. Additionally, numerous existing permit PM emissions limitations are based on and/or directly incorporate applicable PM emission standards from the NSPS, compliance with which has historically been demonstrated pursuant to Method 5.<sup>1</sup>

Reference Method 5 was originally proposed on August 17, 1971 by the U.S. Environmental Protection Agency ("EPA") as an appendix to the initially proposed NSPS (40 CFR part 466, §§ 466.10).<sup>2</sup> As proposed, PM emissions were determined based on the total amount of PM collected from the sum of the weights of the PM collected in the following containers of the test apparatus:

- Container No. 1 – glass fiber filter,
- Container No. 2 – loose PM and acetone washings from sample-exposed surfaces prior to the filter,
- Container No. 3a – water rinsings of all samples –exposed surfaces between the filter and fourth impinger (organic particulate extract fraction)
- Container No. 3b – silica gel from the fourth impinger (residual water fraction from spent silica), and
- Container No. 5 – acetone washings from all sample-exposed surfaces between the filter and fourth impinger.<sup>3</sup>

<sup>1</sup> For example, each of the following NSPS standards contain applicable PM emission standards:

- Subpart D-Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971 (40 CFR §§ 60.40 *et seq.*);
- Subpart Da-Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978 (40 CFR §§ 60.40a *et seq.*);
- Subpart Db-Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units (40 CFR §§ 60.40b *et seq.*);
- Subpart F-Standards of Performance for Portland Cement Plants (40 CFR §§ 60.60 *et seq.*);
- Subpart BB-Standards of Performance for Kraft Pulp Mills (40 CFR §§ 60.280 *et seq.*);
- Subpart OOO-Standards of Performance for Nonmetallic Mineral Processing Plants (40 CFR §§ 60.670 *et seq.*).

<sup>2</sup> See 36 Fed. Reg. 15704 (August 17, 1971); copy attached as Exhibit 1.

<sup>3</sup> *Id.* at pp. 15715 and 15716.



Following public comment and further review by EPA, reference Method 5 was subsequently promulgated on December 23, 1971.<sup>4</sup> As stated in the preamble to the final regulation, Method 5 was specifically limited to filterable PM (or the "front-half"):

1. Particulate matter performance testing procedures have been revised to eliminate the requirement for impingers in the sampling train. Compliance will be based only on material collected in the dry filter and the probe preceding the filter. ... (Emphasis added)<sup>5</sup>

As promulgated, the total particulate weight used to determine PM emissions pursuant to Reference Method 5 was based on the PM collected from the glass filter (Container No. 1) and the loose material and acetone washings from all sample-exposed surfaces *prior to the filter* (Container No. 2) which is commonly known as the filterable fraction or front-half of the Method 5 sampling train. The demonstrated methods of calculations contained in Method 5 to determine PM clearly show that only the filterable fraction or front-half results are considered in the calculus.<sup>6</sup>

Concerns regarding the inclusion of condensable PM or the back-half of the Method 5 sampling train were identified and discussed by EPA in response to subsequent rulemaking, where EPA explained its reasons for not using the back-half results from Method 5 as follows:

The citizens group suggested that the method for determining compliance with a mass particulate standard during pushing should be to analyze particulate matter caught in front and back halves of the sampling train. EPA believes that front half analysis is adequate to determine compliance with a mass particulate standard of .040 lb/ton of coke pushed, for a number of reasons. EPA agrees that a full train sampling methodology would capture some of the finer particulate matter which is not collected by the front half, but also *cautions that the back half train also tends to collect materials which condense or react in the impingers of the back half and which do not exist as particulate matter in the ambient air.* Therefore, while the front half analysis may permit a small quantity of very fine particulate to escape undetected, *the back half catch is generally not totally representative of the particulate matter which exists in the atmosphere.* Furthermore, EPA's Reference Method 5 does not specify a methodology for analyzing particulate matter captured in the back half of the sampling train. Finally, EPA notes that *all of the performance tests upon which EPA and the States have relied in their determinations that certain standards are RACT and are achievable are based upon measuring particulate matter which is captured in the front half of the sampling train.* (Emphasis added).<sup>7</sup>

As a result of this federal rule making which was adopted by Oklahoma and incorporated by reference in the OAPCR (*see* OAC 252:100-4-5), analysis and inclusion of condensable PM (the back-half of the Method 5 sampling train) has not previously been considered for purposes of determining compliance with existing NSPS PM emission standards or included in permit limits.

<sup>4</sup> See 36 Fed. Reg. 24876 (December 23, 1971); copy attached as Exhibit 2.

<sup>5</sup> *Id.* at p. 24876.

<sup>6</sup> *Id.* at pp. 24889 and 24890

<sup>7</sup> See 48 Fed. Reg. 54599, 54611 (December 6, 1983) (partial copy attached as Exhibit 3) commenting on and explaining the determination of PM pursuant to Method 5 testing.

Many facilities utilize captured rainwater and/or clean-up/wash down water as part of their process. This use/reuse of water reduces natural resource demand on surface and groundwater supplies. Recycled water contains increased levels of suspended and dissolved water solids; however, its use is encouraged by the Water Quality Division of the DEQ. The background level of water hardness in Oklahoma normally contains approximately 250 mg/liter (plus or minus 50 mg/liter) of dissolved and suspended solids. Therefore, a large portion of the condensable PM may be directly attributed to the beneficial use/reuse of water as encouraged by the DEQ.

To determine compliance with the proposed changes, a significant number of facilities will be required to undertake stack testing to determine potential emissions of condensable PM as previous permitting and required testing did not address the same. Certain emission sources (e.g., cooling towers, chillers, etc.) will require testing to determine their emissions. As these sources previously were not tested (let alone on a frequent basis), the inclusion of condensable PM could potentially reclassify such sources and/or previous modifications as being "major stationary sources" or resulting in "significant net emission increases," respectively, thereby triggering additional permit requirements. Further, to the extent condensable PM emissions were not previously identified or required to be reported, inclusion of the same could significantly impact (*i.e.*, increase) the annual operating fees required to be paid by industry.

#### CONCLUSION:

The proposed revisions to the definitions of PM in the OAPCR carry with them significant and profound impacts for major sectors of industry currently operating in the State of Oklahoma and would create "noncompliance" by such rule change on CCC's plant unless appropriate consideration of increasing permitted PM emissions limitations is recognized and allowed. Such consideration should not impose unreasonable cost of compliance requirements on industry for back-half considerations that may or may not exist in the atmosphere.

We are cognizant of EPA's requirements for emission inventories to include condensable PM as well as other contaminants, in part, to allow an expanded use of dispersion modeling to predict ambient air concentrations in support of such things as attainment determinations/plans. Further, we are aware of additional PM test methods which have been promulgated over the past few years (or are expected to be promulgated in the near future) which specifically pertain to condensable PM. However, industry is currently subject to and required to comply with existing permit requirements and emissions limitations which were developed based on prior applicable requirements and test methods. Therefore, to the extent the proposed revisions to the PM definitions will, in many cases, contravene existing permit requirements, careful review, consideration (including the above-referenced comments), and permitting relief should be undertaken prior to or as part of the adoption of the proposed revisions. Otherwise, imposing such rule changes will unfairly impose noncompliance conditions and increased annual operating fee requirements on Oklahoma industry and could force shut downs or complete closures if such relief is not allowed as part of the rulemaking. This consideration is clearly indicated for a standard that has existed for 30 plus years and as part thereof, EPA specifically considered and rejected the need to incorporate such "back half" for permitting purposes.

Mr. Eddie Terrill and Mr. Max Price  
July 17, 2006  
Page 6 of 6

Upon your receipt and review, please contact me should you have any questions or wish to discuss the above comments in further detail prior to the July 19<sup>th</sup>, 2006 Air Quality Council meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael A. Peters". The signature is stylized with a large initial "M" and a long horizontal stroke extending to the right.

MICHAEL A. PETERS  
For the Firm

# DOERNER, SAUNDERS, DANIEL & ANDERSON, L.L.P.

ATTORNEYS AT LAW

SAM P. DANIEL  
WILLIAM C. ANDERSON  
G. MICHAEL LEWIS  
LAWRENCE T. CHAMBERS, JR.  
DALLAS E. FERGOUSON  
SAM O. BRATTON II  
GARY M. McDONALD  
H. WAYNE COOPER  
KEVIN C. COUTANT  
RICHARD P. HIX  
WILLIAM F. RIGGS  
LEWIS N. CARTER  
LINDA C. MARTIN  
JAMES P. McCANN  
RICHARD H. FOSTER  
CHARLES S. PLUMB  
LEONARD I. PATAKI  
S. DOUGLAS DODD  
ELISE DUNITZ BRENNAN  
JON E. BRIGHTMIRE  
TOM Q. FERGOUSON  
RICHARD J. EAGLETON  
REBECCA M. FOWLER  
MICHAEL C. REDMAN  
STEVEN K. NETCALF  
RUSSELL W. KROLL

320 SOUTH BOSTON AVENUE, SUITE 500  
TULSA, OKLAHOMA 74103-3725  
TELEPHONE (918) 582-1211  
FACSIMILE (918) 591-5360

ONE LEADERSHIP SQUARE, SUITE 501  
211 NORTH ROBINSON  
OKLAHOMA CITY, OKLAHOMA 73102-7112  
TELEPHONE (405) 319-3500  
FACSIMILE (405) 319-3509

WRITER'S DIRECT:  
(918) 591-5330 (telephone)  
(918) 925-5330 (facsimile)  
rkroll@dsda.com

RACHEL BLUE  
JAMES C. MILTON  
AUDRA K. HAMILTON  
WILLIAM H. SPITLER  
YOUNG PEI  
JOHNATHAN D. HORTON  
ROBERT SPOO  
LESLEY FORD RICHER  
N. LANCE BRYAN  
CHAD J. KUTMAS  
HEATHER FLYNN EARNHART  
MCLAINE DEWITT HERNDON  
ELIZABETH W. CARROLL  
RAYMOND H. TIPTON, III

Of Counsel:  
VARLEY H. TAYLOR, JR.  
MICHAEL MINNIS & ASSOCIATES, P.C.  
MICHAEL MINNIS  
DAVID McCULLOUGH  
HARRY V. ROUSE, P.C.  
JAMES F. HARVEY, III  
CYNTHIA J. BECKER

E. J. DOERNER (1897-1980)  
DICKSON M. SAUNDERS (1920-2001)

July 18, 2006

Mr. Max Price  
Oklahoma Department of  
Environmental Quality  
Air Quality Division  
707 North Robinson  
P.O. Box 1677  
Oklahoma City, OK 73101-1677  
max.price@deq.state.ok.us

Re: Proposed Rules Amending Chapter 100 of Title 252 of the Oklahoma  
Administrative Code Proposed June 15, 2006, before the Air Quality Council on  
July 19, 2006

Dear Mr. Price:

We represent Public Service Company of Oklahoma ("PSO") and are submitting these comments on its behalf on the Proposed Rules Amending Chapter 100 of Title 252 of the Oklahoma Administrative Code, published at 23 Okla. Reg. 19 on June 15, 2006. Our comments primarily focus on Subchapter 1.

## EXECUTIVE SUMMARY

The ODEQ proposed permanent rulemaking on June 15, 2006, which is set for hearing before the Air Quality Council on July 19, 2006. One aspect of the proposed rules is a change in the definition of "particulate matter emissions" to include condensable particulate matter or PM-2.5. In the Rule Impact Statement, ODEQ has described the proposed rules as merely clarifying the existing rules. We do not agree that the proposed change is merely a clarification.

In the Rule Impact Statement, ODEQ states that no persons will be impacted by the proposed rules and that no new costs will be associated with them as well. If the new rules are

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promulgated as currently drafted, they will have a significant impact to regulated entities in the State of Oklahoma.

The proposed rules depart from the long-standing definition of "particulate matter" and "particulate matter emissions", which include only liquid or solid in a finely divided form. The proposed definition broadens the current definition to include materials that exist as vapor when exiting a source, but condense in certain testing equipment. This proposed expansion in the definition is not a clarification but a new substantive requirement of the regulations.

We believe that for many regulated entities in the State of Oklahoma, ODEQ has not previously required that condensable particulate matter be counted to determine compliance with various state particulate matter regulations. We believe ODEQ's records will show that many entities' permits incorporated a test method that captured only filterable particulate matter. Accordingly, for many entities, the requirement of the proposed rules to include condensable particulate matter, may affect the ability of their facilities to achieve and maintain compliance with applicable particulate matter standards.

Additionally, the proposed regulations will have a significant impact on air emissions fees paid by such entities. We believe that a significant number of entities in the State of Oklahoma have reported particulate matter emissions in annual air emissions inventories based upon test results or emissions factors that did not include condensable particulate matter within their scope. Because inclusion of condensable particulate matter will increase the reported quantity of emissions, the air emissions fees paid by the regulated community to ODEQ will increase as a result of the proposed regulations. In recent stack tests at PSO's NE station, coal fire generation units, condensable particulate matter was about twice the amount of filterable particulate matter shown by a Method 5 test result. Thus, in some circumstances, the admissions fees paid based on particulate matter emissions could double or triple as a result of the proposed regulations.

Furthermore, some of the proposed regulations are more stringent than federal law, and as a result, cannot be implemented without the justification analysis set forth in 27A O.S. § 1-1-206. In the case of PSO's Northeastern Station, the applicable federal New Source Performance Standard ("NSPS") does not require condensable particulate matter to be included to establish compliance with the applicable federal standard in 40 C.F.R. § 60.42 for steam generating equipment. PSO has historically relied on an interpretation of the equivalent applicable state particulate matter regulations as not including condensable particulate matter, consistent with federal law. The proposed regulations now including condensable particulate matter, have the potential to be more stringent than applicable federal regulations for steam generating equipment. We expect other industries may be similarly affected.

Oklahoma law requires that before a state regulation that is more stringent than federal requirements can be proposed, the ODEQ must prepare a justification analysis of the economic impact compared to the environmental benefit of the rule, which must be submitted to the Governor and State Legislature. To our knowledge, this required analysis has not been performed and, if that is the case, applicable rulemaking procedures have not been followed. The

Rule Impact Statement states that the proposed regulations will not have any impact on public, health, safety or the environment. It thus appears that no information on any benefit of the proposed rule has been developed by ODEQ.

PSO has made open records requests to ODEQ for the purpose, among other things, of determining ODEQ's practice with respect to requiring condensable particulate matter to be included for the purpose of determining compliance with applicable particulate matter standards. Additionally, open records requests have been made to determine to what extent air emissions fees paid by industries have historically been based on particulate matter measurements that do not include condensable particulate matter. This data is necessary to understand the extent of the impact on the regulated community of the proposed rules and was required by Oklahoma law to have been examined by ODEQ prior to this stage of the rulemaking process. The current rulemaking cannot legally proceed absent an analysis of this data. PSO's open records requests are pending.

PSO requests that the proposed rules not be considered for approval unless and until ODEQ develops the required data, and follows the applicable procedures. PSO reserves the right to submit additional comments as more information becomes available.

### DISCUSSION

The Oklahoma Department of Environmental Quality ("ODEQ") published a notice of proposed permanent rulemaking in the Oklahoma Register on June 15, 2006.<sup>1</sup> Among other things, ODEQ is proposing to amend Okla. Admin. Code § 252:100-1-3 to change the definitions of "PM-10 emissions" and "particulate matter emissions" to include both filterable and condensable particulate matter.<sup>2</sup> Additionally, ODEQ proposes to add definitions for "filterable particulate matter," "condensable particulate," and "PM-2.5" as follows:

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

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

PM-2.5 means condensable and/or filterable particulate matter with a nominal aerodynamic diameter of 2.5 micrometers or less.<sup>3</sup>

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<sup>1</sup> 23 Okla. Reg. 19 ( June 15, 2006).

<sup>2</sup> Id.

<sup>3</sup> Id.

Pursuant to the Oklahoma Administrative Procedure Act (APA),<sup>4</sup> ODEQ issued a Rule Impact Statement, which states the purpose of the definition changes is “to clarify and/or remove redundant definitions.”<sup>5</sup> In assessing who would bear the costs of the proposed amendment and the probable economic impact upon the persons bearing the cost, the ODEQ predicted no new costs associated with these rule changes because “the proposed changes do not add any new requirements.”<sup>6</sup> Additionally, ODEQ determined the proposed changes “will have no net effect on public health, safety or environment.”<sup>7</sup>

### 1. The ODEQ’s Proposed Definitional Changes May Have Great Economic Impact.

Okla. Admin. Code § 252:100-1-3 currently defines “particulate matter” as “any material that exists in a finely divided form as a liquid or a solid.” The term “particulate matter emissions” is defined as “particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method.”<sup>8</sup>

The proposed regulation is fundamentally changing these definitions to now include a different form of matter (i.e. vapor) in addition to liquid and solid that is emitted from a source as part of particulate matter. From the plain language of the regulations, it is apparent that the proposed change fundamentally modifies the regulations in a substantive way.

Moreover, the proposal modifies by implication the Reference Test Methods that can be employed to determine “particulate matter emissions.” The regulations contain no definition for “applicable reference methods.” Acceptable methods are set forth at OAC 252:100-43-5, which states:

Acceptable testing methods for determining compliance with all state emissions limits include, as applicable:

[M]ethods required by rule or permit, ASTM methods, and methods contained in 40 CFR parts 51, 60, 61 and 75. The owner or operator may modify an acceptable method or use an alternate method, if the owner or operator can demonstrate to the satisfaction of the Director that:

- (1) proposed modification or alternative method is necessary;
- (2) the results of the proposed modification or alternative method will be at least as accurate as the unmodified method for the purpose intended; and

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<sup>4</sup> Okla. Stat. tit. 75, Chap. 8 Administrative Procedure Act.

<sup>5</sup> ODEQ Rule Impact Statement for Air Pollution Control Rules Subchapters 1, 8, 37 and 39.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Okla. Admin. Code § 252:100-1-3 (2006).

(3) such modification or alternative method is allowed by any applicable federal rule.<sup>9</sup>

The proposed amendments change the definition of "particulate matter" and "particulate matter emission" to include both condensable and filterable particulate matter. Some acceptable testing methods, however, only measure "filterable particulate matter." For example, Test Method 5 as described in 40 C.F.R. Part 60, Appendix A measures only filterable or front half particulate matter to determine if a source is in compliance with New Source Performance Standards.<sup>10</sup> In contrast, Test Method 202, as described in 40 C.F.R. Part 51 Appendix M, measures condensable particulate matter.<sup>11</sup> In altering the definition of "particulate matter," the ODEQ is effectively limiting the acceptable testing or measuring methods to only those methods that measure both filterable and condensable particulate matter. Contrary to the ODEQ's Rule Impact Statement, to the extent facilities have used Test Method 5 to determine compliance or report emissions, this may have a great economic impact on regulated entities.

For example, new testing methods could affect emission inventories and subsequent operating fees. The ODEQ requires the owner or operator of any facility that is a source of air emissions to submit an annual emission inventory.<sup>12</sup> The owner or operator bears the burden of selecting the best available data at the time he/she prepares the emission inventory "based on an acceptable method of calculation."<sup>13</sup> Acceptable methods of calculation include stack tests "using appropriate EPA test methods."<sup>14</sup> The ODEQ calculates operating fees "on a source-specific basis and based on actual emissions of regulated pollutants (for fee calculation) as set forth in the facility emission inventory..." If the applicable test methods now are limited to those measuring condensable particulate matter, emissions inventories will be affected.

Not only could the new tests affect operating fees, they could also affect construction and operating permits. The ODEQ prohibits causing or allowing the construction or installation of any new minor facility without first obtaining an ODEQ-issued air quality construction permit.<sup>15</sup> A construction permit is also necessary for adding a piece of equipment or process "that results in an increase in actual emissions of any one regulated air pollutant by more than 5 tpy at an existing facility covered by an individual permit."<sup>16</sup> Applications for individual and general permits must provide data and information "required by this Chapter on an application form available from the ODEQ." This data and information includes emission data. Furthermore, the

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<sup>9</sup> Id. at § 252:100-43-5.

<sup>10</sup> 40 C.F.R. Part 60 Appendix A

<sup>11</sup> 40 C.F.R. Part 51 Appendix M

<sup>12</sup> Okla. Admin. Code § 252:100-5-2.1.

<sup>13</sup> Id. at § 252:100-5-2.1(d).

<sup>14</sup> Id. at § 252:100-5-2.1(d)(2).

<sup>15</sup> Id. at § 252: 100-7-15.



ODEQ prohibits causing or authorizing the operation of a new or modified minor facility for more than a sixty day period without applying for a ODEQ permit to operate. Before granting a permit to operate a new or modified minor facility, the ODEQ may require emissions tests in accordance with methods approved by the ODEQ. The ODEQ incorporates and enforces the emission limitations established and made a part of a construction permit in the subsequently issued operating permit.<sup>17</sup>

Importantly, limited testing methods will affect any facility currently meeting particulate matter emission standards utilizing a testing method that only measures filterable particulate matter. By limiting the testing methods available to tests that measure additional emissions, the ODEQ is essentially lowering the standard for particulate emissions in many cases, with a commensurate cost to the facility.

## 2. The ODEQ's Proposed Definitional Amendments Are Substantive Changes That Affect Individual Rights And Not Mere Clarifications.

Oklahoma courts have addressed whether an amendment changes or merely clarifies an existing rule in the context of applying amendments retrospectively. The Oklahoma Supreme Court has found generally statutes operate prospectively unless the Legislature clearly expresses a contrary intent.<sup>18</sup> Courts may, however, apply retrospectively a new rule that simply clarifies an old one, only if it does not impair vested rights.<sup>19</sup>

The ODEQ's proposed definitional changes will impact regulated entities for the reasons stated above. The ODEQ's amendments do not clarify these standards, but rather they alter a person's substantive rights by effectively changing substantive particulate matter standards by inclusion of condensable material in particular the proposed definition of particulate matter.

Oklahoma's original definitions of "particulate matter" and "particulate matter emissions" were patterned after the EPA's guidance to the state's for development of state implementation plans ("SIPS"). See 40 C.F.R. 51.100(o), (pp). As such Oklahoma's definitions are similar to the definitions used by other states. In 1990, EPA revised its regulations to emphasize that states not clearly setting forth the requirements and test methods to include condensables in particulate matter were required to amend their SIPs to specifically provide for this. 55 Fed. Reg. 14246 (April 17, 1990) ("If a state intends to require the

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<sup>17</sup> Id. at § 252:100-7-18(d)(1).

<sup>18</sup> Forest Oil Corp. v. Corp. Comm'n of Okla., 807 P.2d 774, 781-82 (Okla. 1990) (citing Matter of McNeely, 734 P.2d 1294, 1296 (Okla. 1987); Seal v. Corp. Comm'n, 725 P.2d 278, 294 (Okla. 1986); Hammons v. Muskogee Medical Center Auth., 697 P.2d 539, 542 (Okla. 1985)).

<sup>19</sup> See Texas County Irrigation, 803 P.2d at 1122 (citing Magnolia Pipeline Co. v. Okla. Tax Comm'n, 167 P.2d 884, 888 (Okla. 1946) ("Where the earlier statute definitely expressed an intent or had been judicially interpreted, the legislature is presumed to have changed an existing law, but where the meaning of the earlier statute was in doubt or where the conflict as to the law's meaning did exist, a presumption arises that the amendment was designed to "more clearly express the legislative intent previously indefinitely expressed").

measurement of condensable emissions, then an enforceable method for the measurement of condensable emissions shall also be included in the SIP"). Other states that include condensable particulate matter have amended their regulations to clearly add this requirement. For instance, Texas defines "particulate matter" as "any materials, except uncombined water, that exists as a solid or liquid in the atmosphere or in a gas stream at standard conditions" as well as the test requirement using Method 5 "modified to include particulate caught by an impinger train." Tex. Admin. Code tit. 30, Sec. 101.1.

It is clear that the EPA did not think the definitions of "particulate matter" and "particulate matter emissions" that were included in the original SIP guidance to states, and upon which Oklahoma's definitions were based included condensable particulate matter. This clearly supports the conclusion that ODEQ's proposed regulations constitute new requirements, not clarifications of existing rules.

In discussions with ODEQ representatives, we have been told that it is ODEQ's current policy to include condensable particulate matter for purposes of determination of compliance with Oklahoma's particulate matter standards. Based upon ODEQ's responses, if such a policy exists, it has never been submitted to EPA for inclusion in Oklahoma's SIP. Nor has it ever been promulgated in a regulation or rule. To the extent such a policy exists, it has not been through the required rulemaking procedures and therefore cannot form the basis of an enforceable regulation.

In discussions with ODEQ representatives, we have also been told that the regulatory basis for the ODEQ's current policy lies in OAC 252:100-42-4, which purportedly gives the Director discretion to require certain tests to determine compliance. Assuming for the purposes of argument only that it does, the proposed rulemaking, to the extent it now requires condensables to be measured to determine compliance, takes the matter away from the discretion of the Director. This again supports the conclusions that the proposed regulation is a new requirement, not a clarification of existing rules.

### 3. Oklahoma Law, Which Requires an Economic Cost-Benefit Analysis to Precede State Air Rules That Are More Stringent Than Federal Standards, Has Not Been Met

Okla. Stat. tit 27A, § 1-1-206 requires each state environmental agency, prior to submitting for public comment and review any rule more stringent than corresponding federal requirements, to determine the economic impact and the environmental benefit of the rule on the people of Oklahoma, unless a state statute authorizes such stringency.<sup>20</sup> The agency must issue this written determination prior to or within fifteen days after the date of publishing the proposed permanent rule adoption notice and must submit the statement to the Governor and the Legislature pursuant to the APA,<sup>21</sup> along with any public comments and agency responses

<sup>20</sup> Okla. Stat. tit 27A, § 1-1-206(A) (2006). The Legislature passed this statute in 1994, and it became effective Sept. 1, 1994.

<sup>21</sup> Id.; See Okla. Stat. tit. 75, §§ 303.1, 308.

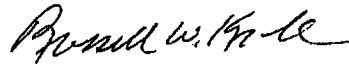
July 18, 2006

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concerning the statement "demonstrating a reasoned evaluation of the relative impacts and benefits of the more stringent regulation."<sup>22</sup> We understand that no analysis of this has been performed to date and accordingly, the procedural rules applicable to the proposed regulations have not been met.

For the above and foregoing reasons, PSO requests that the proposed rules not be considered for approval.

Sincerely,



Russell W. Kroll of  
DOERNER, SAUNDERS, DANIEL & ANDERSON, L.L.P.

RWK:ta

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<sup>22</sup> Id. at § 1-1-206(B) and (C).

**Marshment, Nancy**

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**Subject:** FW: Please review OK proposed revisions {COMMENTS}

-----Original Message-----

From: Shar.Alan@epamail.epa.gov [mailto:Shar.Alan@epamail.epa.gov]  
Sent: Wednesday, March 21, 2007 10:48 AM  
To: Bradley, Cheryl  
Subject: Fw: Please review OK proposed revisions

----- Forwarded by Alan Shar/R6/USEPA/US on 03/21/2007 10:45 AM -----

Alan  
Shar/R6/USEPA/US

03/19/2007 03:03  
PM

Carrie Paige/R6/USEPA/US

To  
cc

Subject

Re: Please review OK proposed  
revisions(Document link: Alan  
Shar)

Carrie - My comment in blue:

The current 252:100-1-3 (Definitions) states "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.

Although this specific portion of the Definitions is not being proposed for revision at this time, for consistency purposes we recommend that ODEQ adopt EPA's long standing definition of RACT from 44 FR 53761, September 17, 1979 "the lowest emission limitation that a particular source can meet by applying a control technique that is reasonably available considering technological and economic feasibility" in 252:100-1-3.

Alan

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Pages 1011 - 1482

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DEQ LEGAL

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed changes to the Water Quality Application Tier rules clean up language to make the classifications of Tier I permits consistent, clarify that modifications to or the addition of impoundments to an existing permitted industrial wastewater system is a Tier I application, and add language to clarify that a new industrial wastewater treatment system application is classified as a Tier II.

**CONTACT PERSON:**

Donald D. Maisch, don.maisch@deq.state.ok.us, at the Oklahoma Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-7189, fax (405) 702-7199.

**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, 2008:**

**SUBCHAPTER 7. ENVIRONMENTAL PERMIT PROCESS**

**PART 7. WATER QUALITY DIVISION TIERS AND TIME LINES**

**252:4-7-73. Water quality applications - Tier I**

The following water quality authorizations require Tier I applications.

- (1) Permit for flow-through impoundment(s) as part of the pretreatment process.
- (2) Permit renewal for a facility with an expiring permit for industrial non-discharging impoundment or industrial septic tank system.
- (3) Permit renewal for an expiring permit with minor or no change(s) for land application of sludge and/or wastewater for same site.
- (4) New, modified or renewed authorization under a general permit.
- (5) Approval of new pretreatment program.
- (6) Closure plan approval.
- (7) Certifications issued pursuant to Section 401 of the Clean Water Act.
- (8) Approval of exemption for water line extensions.
- (9) Approval of exemption for water distribution and wastewater collection systems.
- (10) Approval for alternative individual on-site sewage treatment systems.
- (11) Approval for alternative small public on-site sewage treatment systems.
- (12) Residential development approval.
- (13) Transfer of discharge permit.
- (14) Minor modification of discharge permit.
- (15) Modification of an existing individual municipal permit for land application of biosolids and/or wastewater.

- (16) Modification of or addition to a an existing permitted municipal wastewater treatment system (including sewer line extensions).
- (17) Modification of or addition to a an existing permitted public water supply treatment and/or distribution system (including line extensions).
- (18) Modification of or addition to an existing permitted industrial non-discharging impoundment, and/or industrial septic tank system, and/or industrial wastewater treatment system permit.
- (19) Modification of an approved pretreatment program.
- (20) Administrative amendment of permits or other authorizations for the correction of administrative or typographical errors.
- (21) New, modified or renewed individual categorical or significant industrial user pretreatment permit.
- (22) 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) New discharge permit for minor facility.
- (4) Individual storm water permit.
- (5) New permit for industrial non-discharging impoundment, or industrial septic tank, or industrial wastewater system.
- (6) New individual permit for land application of sludge, biosolids and/or wastewater.
- (7) Permit renewal for a facility with expiring discharge permit.
- (8) Permit renewal for a facility with expiring individual storm water discharge permit.
- (9) Variance including thermal components of effluent limitations for an individual discharge permit.
- (10) Major modification of discharge permit.
- (11) Modification of an individual industrial permit for land application of sludge and/or wastewater.
- (12) New, modified or renewed general permit.

[OAR Docket #08-645; filed 4-11-08]

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

[OAR Docket #08-646]

**RULEMAKING ACTION:**  
PERMANENT final adoption

# Permanent Final Adoptions

## RULES:

Subchapter 1. General Provisions  
252:100-1-3. Definitions [AMENDED]  
Subchapter 8. Permits for Part 70 Sources  
Part 1. General Provisions  
252:100-8-1.1. Definitions [AMENDED]  
Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs)  
Part 1. General Provisions  
252:100-37-2. Definitions [AMENDED]  
Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas  
Part 1. General Provisions  
252:100-39-2. Definitions [AMENDED]

## AUTHORITY:

Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201 and 2-5-101 *et seq.*

## DATES:

### Comment period:

June 15, 2006, through July 18, 2007  
July 18, 2007

### Public hearing:

July 19, 2006  
October 18, 2006  
April 18, 2007  
July 18, 2007  
November 15, 2007

### Adoption:

November 15, 2007

### Submitted to Governor:

November 26, 2007

### Submitted to House:

November 26, 2007

### Submitted to Senate:

November 26, 2007

### Gubernatorial approval:

December 27, 2007

### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2008

### Final adoption:

March 27, 2008

### Effective:

July 1, 2008

## SUPERSEDED EMERGENCY ACTIONS:

N/A

## INCORPORATIONS BY REFERENCE:

N/A

## ANALYSIS:

The Department is proposing amendments to the Chapter 100 definition sections 252:100-1-3, 252:100-8-1.1, 252:100-37-2 and 252:100-39-2 to clarify and/or remove redundant definitions from Chapter 100. Among the proposals is a refined definition for volatile organic compounds including an exemption for tert-butyl acetate (TBAC). These changes will clarify these terms as they are meant to be used in the Chapter.

## CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 794-6800.

**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, 2008:**

## 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.

"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.

**"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.

**"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.

**"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.

**"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.

**"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



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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 emissions**" means particulate matter emitted to the ambient air with an aerodynamic diameter of 10 micrometers or less than or equal to a nominal 10 micrometers, as measured during a stack test of the source's emissions by applicable reference methods, or an equivalent or alternative method.

"**PM-10 (particulate matter - 10 micrometers)**" means particulate matter with an aerodynamic diameter of 10 micrometers or less than or equal to a nominal 10 micrometers as measured by a federal reference method based on Appendix J of 40 CFR Part 50.

"**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.

"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

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which is passed into the atmosphere and which is perceptible to the human eye.

"Volatile organic compound" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonates, organic compound which 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 Any organic compound compounds listed in 40 CFR 51.100(s)(1) will be presumed to have negligible photochemical reactivity and will not be considered to be a VOC.

### SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

#### PART 1. GENERAL PROVISIONS

##### 252:100-8-1.1. Definitions

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

"A stack in existence" means for purposes of OAC 252:100-8-1.5 that the owner or operator had:

- (A) begun, or caused to begin, a continuous program of physical on-site construction of the stack; or
- (B) entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

"Actual emissions" means, except for Parts 7 and 9 of this Subchapter, the total amount of any regulated air pollutants emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d).

"Adverse impact on visibility" means, for purposes of Parts 7 and 11, visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made by the DEQ on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

"Dispersion technique" means for purposes of OAC 252:100-8-1.5 any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations

of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

- (A) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.
- (B) The merging of exhaust gas streams where:
  - (i) the source owner or operator documents that the facility was originally designed and constructed with such merged streams;
  - (ii) after July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from "dispersion technique" applicability shall apply only to the emission limitation for the pollutant affected by such change in operation; or
  - (iii) before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation existed prior to the merging, there was an increase in the quantity of pollutants actually emitted prior to the merging, it shall be presumed that merging was primarily intended as a means of gaining emissions credit for greater dispersion. Before such credit can be allowed, the owner or operator must satisfactorily demonstrate that merging was not carried out for the primary purpose of gaining credit for greater dispersion.
- (C) Manipulation of exhaust gas parameters, merging of exhaust gas streams from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise in those cases where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emission limitations and emission standards" means for purposes of OAC 252:100-8-1.5 requirements that limit the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirements that limit the level of opacity, prescribe equipment, set fuel specifications or prescribe operation or maintenance procedures for a source to assure continuous reduction.

"Natural conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

"Secondary emissions" means, for purposes of Parts 7 and 9 of this Subchapter, emissions which occur as a result of the construction or operation of a major stationary source or

**July 16, 2008**  
**Air Quality Advisory Council**

**August 19, 2008**  
**Environmental Quality Board**

**Effective Date: July 1, 2009**

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# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

# 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 #08-1002]*

### 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 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1. Definitions [AMENDED]

Subchapter 8. Permits for Part 70 Sources

Part 5. Permits for Part 70 Sources

252:100-8-2. Definitions [AMENDED]

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

Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas

252:100-8-30. Applicability [AMENDED]

252:100-8-31. Definitions [AMENDED]

252:100-8-33. Exemptions [AMENDED]

252:100-8-37. Innovative control technology [AMENDED]

252:100-8-38. Actuals PAL [AMENDED]

Part 9. Major Sources Affecting Nonattainment Areas

252:100-8-50. Applicability [AMENDED]

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]

252:100-8-53. Exemptions [AMENDED]

252:100-8-54.1. Ozone and PM-10 precursors [NEW]

252:100-8-55. Source obligation [AMENDED]

252:100-8-56. Actuals PAL [AMENDED]

Subchapter 9. Excess Emission Reporting Requirements

252:100-9-1. Purpose [AMENDED]

252:100-9-1.1. Applicability [NEW]

252:100-9-2. Definitions [AMENDED]

252:100-9-3.1. Excess emission reporting requirements [AMENDED AND RENUMBERED TO 252:100-9-7]

252:100-9-3.3. Demonstration of cause [AMENDED AND RENUMBERED TO 252:100-9-8]

252:100-9-7. Excess emission reporting requirements [NEW]

252:100-9-8. Affirmative defenses [NEW]

Subchapter 33. Control of Emission of Nitrogen Oxides

252:100-33-1.1. Definitions [AMENDED]

252:100-33-1.2. Applicability [AMENDED]

252:100-33-2. Emission limits [AMENDED]

### SUMMARY:

Staff is proposing to amend the definitions sections in OAC 252:100-1-3, 252:100-1-4 and 252:100-5-1.1 to remove redundant definitions.

The Department is proposing revisions to OAC 252:100-8 that will correct errors in the existing rule; make changes required by revisions to the federal rule published in the *Federal Register* on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict between OAC 252:100-8-4(b)(8) and 252:100-8-7.1(d) regarding permit renewal and expiration.

The Department is proposing to amend OAC 252:100-9, Excess Emission Reporting Requirements, to clarify its requirements and make them more compatible with EPA guidelines.

The Department is proposing to revise OAC 252:100-33 to resolve issues regarding emission standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

### COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on July 16, 2008. For comments received at least 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 and provide hard copy written responses to the comments to the Council and the public at that Council meeting. Oral comments may be made at the July 16, 2008, hearing and at the August 19, 2008, Environmental Quality Board meeting.

### PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, July 16, 2008, at the 4<sup>th</sup> Street Clubhouse, 1500 4<sup>th</sup> St., Ponca City, Oklahoma.

## **Notices of Rulemaking Intent**

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Before the Environmental Quality Board at 9:30 a.m. on Tuesday, August 19, 2008, at the Red River Technology Center, Business and Industry Building, Room 108, 3300 W. Bois D'Arc, Duncan, 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 of the EPA 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 at the Air Quality Division of the Department at [http://www.deq.state.ok.us/AODnew/council\\_mtgs/index.htm](http://www.deq.state.ok.us/AODnew/council_mtgs/index.htm),

or copies 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.state.ok.us](mailto:cheryl.bradley@deq.state.ok.us). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl Bradley. The Air Quality Division FAX 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 #08-1002; filed 5-21-08]*

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**REGULAR MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL**

**July 16, 2008, 9:00 a.m.  
4<sup>th</sup> Street Clubhouse, 1500 4<sup>th</sup> Street  
Ponca City, OK**

*Please turn off cell phones.*

1. **Call to Order - David Branecky, Chair**
2. **Roll Call - Myrna Bruce**
3. **Approval of Minutes - April 16, 2008 Regular Meeting**
4. **Resolution for Mr. Martin - David Branecky, Chair**
5. **Public Rulemaking Hearings**
  - A. **OAC 252:100-1. General Provisions [AMENDED]  
OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

The Department proposes to amend the definitions sections in OAC 252:100-1-3, 252:100-1-4 and 252:100-5-1.1 to remove redundant definitions.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**B. OAC 252:100-8. Permits for Part 70 Sources [AMENDED]**

The Department is proposing to amend Subchapter 8 to correct errors in the existing rule; make changes required by revisions to the federal rule published in the *Federal Register* on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict between OAC 252:100-8-4(b)(8) and 252:100-8-7.1(d) regarding permit renewal and expiration.

1. Presentation - Dr. Joyce Sheedy, Engineer, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**C. OAC 252:100-9. Excess Emission Reporting Requirements [AMENDED]**

The Department is proposing to amend Subchapter 9 to clarify its requirements and make them more compatible with EPA guidelines.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council



**D. OAC 252:100-33. Control of Emission of Nitrogen Oxides [AMENDED]**

The Department is proposing to revise OAC 252:100-33 to resolve issues regarding emission standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations.

1. Presentation - Dr. Joyce Sheedy, Engineer, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**6. Division Director's Report - Eddie Terrill**

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

**8. Adjournment**

Lunch break if necessary

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4216. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

## 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.

**"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.

**"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.

**"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.

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

**"PM-2.5"** means particulate matter with an aerodynamic diameter of 2.5 micrometers or less.

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

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

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

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

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

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

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

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

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

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

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

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

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

**"Reconstruction"** means

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

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

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

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

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

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

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

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

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

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

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

#### **252:100-1-4. Units, abbreviations and acronyms**

- (a) Abbreviations and symbols of units of measure.
- (1) Btu - British thermal unit
  - (2) cm/sec - centimeter per second
  - (3) dscf - dry cubic feet at standard conditions
  - (4) dscm - dry cubic meter at standard conditions
  - (5) ft/min - feet per minute
  - (6) gal - gallon
  - (7) gal/d - gallons per day
  - (8) gal/yr - gallons per year



- (9) gr/dscf - grains per dry standard cubic foot
- (10) hr - hour
- (11) Hg - mercury
- (12) hp - horsepower
- (13) H<sub>2</sub>O - water
- (14) H<sub>2</sub>S - hydrogen sulfide
- (15) H<sub>2</sub>SO<sub>4</sub> - sulfuric acid
- (16) kg - kilogram
- (17) kg/metric ton - kilograms per metric ton
- (18) kPa - kilopascals
- (19) l - liter
- (20) l/yr - liters per year
- (21) LT/D - long tons per day
- (22) lb/wk - pounds per week
- (23) lb - pound
- (24) lbs/hr - pounds per hour
- (25) m<sup>3</sup> - cubic meter
- (26) mg/dscm - milligrams per dry standard cubic meter
- (27) MMBTU/hr - ~~heat input in~~ million british thermal units per hour
- (28) Mg - megagram - 106 gram
- (29) Mg/yr - megagrams per year
- (30) mg/l - milligrams per liter
- (31) m/min - meter per minute
- (32) ng/dscm - nanograms per dry standard cubic meter
- (33) ng/J - nanograms per Joule
- ~~(33)~~(34) oz/in<sup>2</sup> - ounce per square inch
- (34)(35) ppm - parts per million
- (35)(36) psia - pounds per square inch absolute
- (36)(37) psig - pounds per square inch gage
- (37)(38) ppmv - parts per million by volume
- (38)(39) SO<sub>2</sub> - sulfur dioxide
- (39)(40) TPY - tons per year
- (40)(41) ug/m<sup>3</sup> - micrograms per cubic meter

(b) Acronyms.

- (1) A.I.S.I. - American Iron and Steel Institute
- (2) A.S.M.E. - American Society of Mechanical Engineers
- (3) A.S.T.M. - American Society for Testing and Materials
- (4) BACT - Best Available Control Technology
- (5) CEM - Continuous Emission Monitor
- (6) CFR - Code of Federal Regulations
- (7) COM - Continuous Opacity Monitor
- (8) DEQ - Department of Environmental Quality
- (9) EPA - Environmental Protection Agency

- (10) HAP - Hazardous Air Pollutants
- (11) HMIWI - Hospital/Medical/Infectious Waste Incinerator
- (12) MACT - Maximum Achievable Control Technology
- (13) MSW - Municipal Solid Waste
- (14) MWC - Municipal Waste Combustors
- (15) NAAQS - National Ambient Air Quality Standards
- (16) NESHAP - National Emissions Standards for Hazardous Air Pollutants
- (17) NSPS - New Source Performance Standards
- (18) OAC - Oklahoma Administrative Code
- (19) PBR - Permit by Rule
- (20) PM - Particulate Matter
- (21) PSD - Prevention of Significant Deterioration
- (22) SIC - Standard Industrial Classification
- (23) SIP - State Implementation Plan
- (24) TSP - Total Suspended Particulates
- (25) VOC - Volatile Organic Compound
- (26) 27A O.S. - Title 27A Oklahoma Statutes Annotated

**DRAFT MINUTES  
AIR QUALITY COUNCIL  
July 16, 2008  
4<sup>th</sup> Street Clubhouse, 1500 4<sup>th</sup> Street  
Ponca City, Oklahoma**

For EQB August 19, 2008  
For AQC Approved October 15, 2008

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. July 16, 2008 in the 4<sup>th</sup> Street Clubhouse, Ponca 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 2, 2007. 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. Mr. David Branecky, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
Montelle Clark  
Jim Haught  
Laura Worthen Lodes  
Bob Lynch  
Sharon Myers  
Jerry Purkapple  
Rick Treeman

**MEMBERS ABSENT**

VACANCY

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Scott Thomas  
Cheryl Bradley  
Joyce Sheedy  
Max Price

**OTHERS PRESENT**

Christy Myers, Court Reporter

**DEQ STAFF PRESENT**

Nancy Marshment  
Sarah Penn  
Rob Singletary  
Dawson Lasseter  
Kendall Stegmann  
Myrna Bruce

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

**Approval of Minutes** Mr. Haught made motion to approve as amended with Ms. Lodes making the second.

Jerry Purkapple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

**Resolution for Mr. Martin** – Mr. Branecky read into the record a resolution acknowledging Mr. Martin's contribution to the Council.

**OAC 252:100-1 General Provisions [AMENDED]**

**OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

Mr. Max Price identified definitions that the proposal would amend in OAC 252:100-1-3, 252:100-1-4 and 252:200-5-1.1. He noted that the changes are housekeeping in nature and asked Council's approval to forward to the Environmental Quality Board for permanent adoption. Hearing no discussion, Mr. Branecky called for a motion. Ms. Myers made the motion and Dr. Lynch made the second.

Jerry Purkapple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-8 Permits for Part 70 Sources [AMENDED]** Dr. Joyce Sheedy indicated changes proposed that would amend Subchapter 8 to correct errors in the existing rule; make changes required by revisions to the federal rule published in the *Federal Register* on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict between OAC 252:100-8-4(b)(8) and 252:200-8-7.1(d) regarding permit renewal and expiration time periods. Comments received from Council included the need for “ozone transport region” to be defined. Ms. Sarah Penn, staff attorney, explained that the citation for the definition is located in U.S.C.42 §7511c. referencing control of interstate ozone air pollution. Ms. Lodes then made a motion to pass the rule with the changes noted and Ms. Myers made the second.

Jerry Purkapple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-9 Excess Emission Reporting Requirements [AMENDED]** Mr. Max Price advised that the proposal would amend OAC 252:100-9 to modify excess emissions reporting requirements to make the rule consistent with the current interpretation of the EPA guidelines on excess emissions. He explained that a workgroup had been working on proposed language and asked that the rulemaking be continued to Council’s next meeting. After comments, Mr. Branecky called for a motion. Mr. Purkapple made the motion to continue and Ms. Lodes made the second.

Jerry Purkapple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-33 Control of Emission of Nitrogen Oxides** Ms. Cheryl Bradley related that the Department proposed to revise Subchapter 33 to resolve issues regarding emissions standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations. Ms. Bradley also identified non-substantive changes for consistencies with the other rules in Chapter 100 and corrections to grammatical errors. Mr. Terrill conveyed how staff would be looking at these rule changes and how they would be presented to the Council for permanent approval. Mr. Branecky called for a motion to continue this rulemaking to Council’s October meeting. Motion was made by Ms. Myers and second was made by Mr. Purkapple.

Jerry Purkapple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

**Division Director’s Report** – Mr. Terrill stated that Council had requested that in future, his report would become part of the transcript. He provided an update on the fish flesh analysis activity; explained that the DC Circuit Court had vacated and remanded the Clean Air Interstate Rule (CAIR) back to the EPA; spoke about climate change and the Climate Registry; advised that within the next few weeks they hoped to have an audit

proposal to the Council Finance Committee; and lastly, commented about the ozone season.

**New Business** – Mr. Branecky announced that the current Vice-Chair, Rick Treeman, resigned effective July 18, 2008. He thanked Mr. Treeman for his help and support during his time spent on the Council. Mr. Branecky called for nominations for replacement of the Vice-Chair position. Sharon Myers nominated Laura Worthen Lodes and the second was made by Mr. Purkaple.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

Mr. Terrill suggested that the October 15 meeting currently scheduled in Broken Bow should be moved to the DEQ office. After spirited discussion, Dr. Lynch moved that the next meeting be held in Oklahoma City at the DEQ. Mr. Haught made the second.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	No	Montelle Clark	No
Rick Treeman	Abstain	David Branecky	Yes

**Adjournment** -- Meeting adjourned at 11:00 a.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 REGULARLY SCHEDULED MEETING  
OF THE AIR QUALITY  
ADVISORY COUNCIL

ITEMS 1-5A

HELD ON July 16, 2008

AT 9:00 A. M.

IN PONCA CITY, OKLAHOMA

\* \* \* \* \*

MYERS REPORTING SERVICE  
Christy Myers, CSR  
P.O. BOX 721532  
OKLAHOMA CITY, OKLAHOMA 73172-1532  
405-721-2882

**ORIGINAL**

1 COUNCIL MEMBERS  
 2  
 3 DAVID BRANECKY, CHAIRMAN  
 4 RICK TREEMAN, VICE-CHAIRMAN  
 5 JIM HAUGHT, MEMBER  
 6 DR. ROBERT LYNCH, MEMBER  
 7 SHARON MYERS, MEMBER  
 8 JERRY PURKAPLE, MEMBER  
 9 LAURA LODES, MEMBER  
 10 MONTELLE CLARK, MEMBER  
 11  
 12 DEQ STAFF  
 13  
 14 EDDIE TERRILL - DIRECTOR  
 15 BEVERLY BOTCHLET-SMITH - ASSISTANT DIRECTOR  
 16 MYRNA BRUCE - SECRETARY  
 17 CHERYL BRADLEY - ENVIRONMENTAL PROGRAMS  
 18 MANAGER  
 19 DR. JOYCE SHEEDY - ENGINEER  
 20 MAX PRICE - ENVIRONMENTAL PROGRAM  
 21 SPECIALIST  
 22  
 23  
 24  
 25

1 was not the vacancy, sir, I promise.  
 2 MR. BRANECKY: Thank you, Myrna.  
 3 The next item on the agenda is the Approval  
 4 of the Minutes from our last meeting. Do  
 5 we have any discussion on the Minutes?  
 6 No discussion, I'll ask for a motion  
 7 for approval.  
 8 MR. HAUGHT: I move we approve  
 9 the minutes, as written.  
 10 MS. LODES: I'll second.  
 11 MR. BRANECKY: I have a motion  
 12 and a second. Myrna, call the roll please.  
 13 MS. BRUCE: Jerry Purkaple.  
 14 MR. PURKAPLE: Yes.  
 15 MS. BRUCE: Laura Lodes.  
 16 MS. LODES: Yes.  
 17 MS. BRUCE: Sharon Myers.  
 18 MS. MYERS: Yes.  
 19 MS. BRUCE: Rick Treeman.  
 20 MR. TREEMAN: Yes.  
 21 MS. BRUCE: Jim Haught.  
 22 MR. HAUGHT: Yes.  
 23 MS. BRUCE: Bob Lynch.  
 24 DR. LYNCH: Yes.  
 25 MS. BRUCE: Montelle Clark

1  
 2 PROCEEDINGS  
 3  
 4 MR. BRANECKY: Good morning.  
 5 We'll get this started.  
 6 Before we do, I'd like to remind  
 7 everyone to turn your cell phones off or  
 8 put them on mute.  
 9 The first item on the agenda, we'd  
 10 ask Myrna to call the roll.  
 11 MS. BRUCE: Jerry Purkaple.  
 12 MR. PURKAPLE: Here.  
 13 MS. BRUCE: Laura Lodes.  
 14 MS. LODES: Here.  
 15 MS. BRUCE: Sharon Myers.  
 16 MS. MYERS: Yes.  
 17 MS. BRUCE: Rick Treeman.  
 18 MR. TREEMAN: Here.  
 19 MS. BRUCE: Jim Haught.  
 20 MR. HAUGHT: Here.  
 21 MS. BRUCE: Bob Lynch.  
 22 DR. LYNCH: Here.  
 23 MS. BRUCE: Montelle Clark  
 24 MR. CLARK: Here.  
 25 MS. BRUCE: And we have a

1 MR. CLARK: Yes.  
 2 MS. BRUCE: David Branecky.  
 3 MR. BRANECKY: Yes.  
 4 MS. BRUCE: Motion passed.  
 5 MR. BRANECKY: Thank you. The  
 6 next item is that we would like to just  
 7 point out that Mr. Gary Martin will no  
 8 longer be on the Council, he was unable to  
 9 get reappointed. We had a resolution and a  
 10 dinner honoring him last night.  
 11 In addition, Mr. Treeman has  
 12 resigned. He has taken another job and has  
 13 resigned from the Council, so this will be  
 14 his last Council Meeting. We would like to  
 15 thank Rick for all his support and help  
 16 over the years.  
 17 So we currently have two vacancies  
 18 on the Council and we'll be actively trying  
 19 to fill those.  
 20 MR. TERRILL: Yes.  
 21 MR. BRANECKY: With that,  
 22 Beverly, I guess we'll go on to the public  
 23 hearing portion.  
 24 MS. BOTCHLET-SMITH: Good  
 25 morning, I am Beverly Botchlet-Smith, I am

1 the Assistant Director of Air Quality  
 2 Division. As such, I will be serving as  
 3 the Protocol Officer for today's hearings.  
 4 The hearings will be convened by the  
 5 Air Quality Council in compliance with the  
 6 Oklahoma Administrative Procedures Act and  
 7 Title 40 of the Code of Federal  
 8 Regulations, Part 51, as well as the  
 9 authority of Title 27A of the Oklahoma  
 10 Statutes, and Section 2-2-201, Sections  
 11 2-5-101 through 2-5-118.

12 Notice of the July 16, 2008 hearings  
 13 were advertised in Oklahoma Register for  
 14 the purpose of receiving comments  
 15 pertaining to the proposed OAC Title 252  
 16 Chapter 100 rules as listed on the Agenda  
 17 and will be entered into each record along  
 18 with the Oklahoma Register filing. Notice  
 19 of the meeting was filed with the Secretary  
 20 of State on November 2, 2007. The Agenda  
 21 was duly posted 24 hours prior to the  
 22 meeting at this facility and at DEQ.

23 If you wish to make a statement, it  
 24 is very important that you complete the  
 25 form that was at the registration table and

1 definitions will be used in the proposed  
 2 Subchapter 33 as well as Subchapter 19.  
 3 The other significant change is the  
 4 addition of a definition for regulated air  
 5 pollutant to Subchapter 1 because the  
 6 definition is used in other subchapters.  
 7 The definition for regulated air  
 8 pollutant is also being deleted from  
 9 Subchapter 5, Registration, Emission  
 10 Inventory and Annual Operating  
 11 Fees.

12 In addition, the abbreviation for  
 13 nanograms per Joule is being added and the  
 14 phrase "heat input in" is being deleted  
 15 from the phrase "heat input in million  
 16 British thermal units per hour" in OAC  
 17 252:100-1-4.

18 Since these amendments are primarily  
 19 simple housekeeping, staff asks that the  
 20 Council vote to send these proposals to the  
 21 Environmental Quality Board with a  
 22 recommendation that they be adopted as  
 23 permanent rules. Thank you.

24 MS. BOTCHLET-SMITH: At this  
 25 time, we'll take any questions or comments

1 we will call upon you at the appropriate  
 2 time. Audience members please come to the  
 3 podium and state your name before making a  
 4 comment.

5 At this time, we will proceed with  
 6 what's marked as agenda Item Number 5A on  
 7 the hearing agenda.

8 This is OAC 252:100-1; General  
 9 Provisions.

10 And OAC 252:100-5; Registration,  
 11 Emission Inventory and Annual Operating  
 12 Fees.

13 Mr. Max Price of our staff will give  
 14 the presentation.

15 MR. PRICE: Thank you, Beverly.

16 Mr. Chairman, Members of the  
 17 Council, ladies and gentlemen, the  
 18 Department is proposing to amend the  
 19 definitions sections OAC 252:100-1-3,  
 20 252:100-1-4 and 252:100-1.1.

21 The definitions for "direct" and  
 22 "indirect fired" are being moved from  
 23 Subchapter 19 to Subchapter 1, General  
 24 Provisions.

25 This is being done because these

1 from the Council.

2 Hearing none -- I also have not  
 3 received any notice of comment from the  
 4 public. Is there anyone that has a  
 5 question?

6 Seeing no hands and hearing no  
 7 comments, David, I'll put it back to you.

8 MR. BRANECKY: Okay. Well with  
 9 no discussion we're up for a motion for  
 10 approval.

11 MS. MYERS: So moved.

12 DR. LYNCH: Second.

13 MR. BRANECKY: All right. I have  
 14 a motion and a second. Myrna, call the  
 15 roll, please.

16 MS. BRUCE: Jerry Purkaple.

17 MR. PURKAPLE: Yes.

18 MS. BRUCE: Laura Lodes.

19 MS. LODES: Yes.

20 MS. BRUCE: Sharon Myers.

21 MS. MYERS: Yes.

22 MS. BRUCE: Rick Treeman.

23 MR. TREEMAN: Yes.

24 MS. BRUCE: Jim Haught.

25 MR. HAUGHT: Yes.



1 MS. BRUCE: Bob Lynch.  
 2 DR. LYNCH: Yes.  
 3 MS. BRUCE: Montelle Clark  
 4 MR. CLARK: Yes.  
 5 MS. BRUCE: David Branecky.  
 6 MR. BRANECKY: Yes.  
 7 MS. BRUCE: Motion passed.

8  
9 (Items 1-5A Concluded)

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1  
2 C E R T I F I C A T E

3 STATE OF OKLAHOMA )  
4 COUNTY OF OKLAHOMA ) ss:

5  
6 I, CHRISTY A. MYERS, Certified  
 7 Shorthand Reporter in and for the State of  
 8 Oklahoma, do hereby certify that the above  
 9 proceedings is the truth, the whole truth,  
 10 and nothing but the truth; that the  
 11 foregoing proceedings were taken by me in  
 12 shorthand and thereafter transcribed under  
 13 my direction; that said proceedings were  
 14 taken on the 16th day of July, 2008, at  
 15 Ponca City, Oklahoma; and that I am neither  
 16 attorney for nor relative of any of said  
 17 parties, nor otherwise interested in said  
 18 action.

19 IN WITNESS WHEREOF, I have hereunto  
 20 set my hand and official seal on this, the  
 21 18th day of July, 2008.

22  
23  
24 CHRISTY A. MYERS, C.S.R.  
 25 Certificate No. 00310

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# AIR QUALITY COUNCIL

## Attendance Record

July 16, 2008

Ponca City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Mary Markment	DEQ
Perry Friedrich GRDA	Chautau OK (918) 824 1034 pfriedrich@grda.org
Cheryl Bradley DEQ	
JARROD GREGG ATLAS PIPELINE	918-574-3779 jgregg@atlas.com
Marcea Cole RWCS	405-228-2143
Laura Winkler	405-701-3195
Diana Hinson	DEQ
Julia Bevers	OGE
David Branceby	AQC
RICH ARMSTRONG DAL-TILE	rich-armstrong@mhawkind.com
Kathryn Crenshaw	Weyerhaeuser.com
Gerald Butcher	g-butcher@wfec.com
Kendal Stegmann	DEQ
Robert Singletary	DEQ
Phillip Fielder	DEQ
Brad Burris	Weyerhaeuser.
Sarah Penn	DEQ
Bud Ground	PSO
JAY ELIENKES	MOSH
Melissa Aspelund	"
ANGIE BURKHALTER	OIPA
Sheila Bahr	StanTech
Ashley Bass	StanTech
Kandi Jones	StanTech
Nick Vieles	WB Johnston Grain
Maryna Bruce	DEQ



O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

# AIR QUALITY COUNCIL

## Attendance Record

July 16, 2008

Ponca City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Jaren Hill		DEQ	
Brandi Fitzgerald	Chesapeake		405-767-4882
Hillary Moseley		DEQ	
Jim Schellhorn	TERRA		918-266-9633 j.schellhorn@terra-industries.com
David Provence	OGIE		provenpdca.ogie.com
Beverly Bochetto-Smith		DEQ	
Adwinde Burchett	Cardinal Eng.		405-842-1066
Glen TRAV. S	Sunoco, INC		918 594 6572
Gregory Campbell	CHESAPEAKE		405-879-7543
Joseph E. Cowen, PE	Buzzi Unicem USA	Prysto, OK	918 824 4123
Montelle Clark	AQAC	Tulsa	918 592.5082
Lydia Patikas	SBC/OSN	Tulsa	918 592.5082
Ken Ruffin	AEP-PSO	DALLAS	214-777-1112, Kwruffin@aep.com

**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m. Tuesday, August 19, 2008  
Red River Technology Center  
Business & Industry Building  
3300 W. Bois D'Arc  
Duncan, Oklahoma

1. **Call to Order** – Jennifer Galvin, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the February 29, 2008 Regular Meeting
4. **Rulemaking – OAC 252:100 Air Pollution Control**
  - A. The DEQ proposes to amend Subchapter 1, Sections 1-3 and 1-4 and Subchapter 5, Section 5-1.1 to make minor corrections and remove redundant definitions.
  - B. The DEQ proposes to amend Subchapter 8 to update incorporations by reference; correct errors; make changes required by revisions to federal rules; and resolve a conflict between Sections 8-4(b)(8) and 8-7.1(d) regarding permit renewal deadline.
  - C. The DEQ proposes to amend Subchapter 17 (Incinerators) to meet federal requirements for state plans under section 111(d) of the federal Clean Air Act applicable to existing sources. The requirements relate to municipal waste combustors.
  - D. The DEQ proposes amendments to Subchapter 19 (Control of Emission of Particulate Matter) and corresponding changes to three appendices. The changes clarify that the particulate matter emission rates in Section 19-11 (Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units) and the appendices refer to “total” particulate matter, *i.e.*, both condensable and filterable particulate matter.
    - Presentation – David Branecky, Chair, Air Quality Advisory Council
    - Questions and discussion by the Board
    - Questions, comments and discussion by the public
    - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption
5. **Executive Director’s Report** – Steve Thompson, DEQ Executive Director  
The report will include (a) the disclosure of certain employee financial interests as required by statute and (b) a summary of key actions in the recent legislative session and implementation strategies. These updates and summaries are for informational purposes and do not require action by the Board. The report is presented at this point in the meeting because it may help provide context for agenda items 6 and 7.
6. **DEQ Operational Budget Request**  
DEQ budget requests to the Governor through the Office of State Finance require approval of the Board. The operational budget request for State Fiscal Year 2010 (beginning July 1, 2009) must be submitted to the OSF by October 1<sup>st</sup> of this year. The law requires that all state agencies submit a five-year budget. The request for the coming year, SFY 2010, is the most critical. DEQ

is requesting additional state funding for the DEQ/OWRB Beneficial Use Monitoring Program and state funding for small municipal lagoon biosolids removal.

- Presentation – Steve Thompson, DEQ Executive Director
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include a roll call vote on approval of the budget request

**7. Annual Performance Review of Executive Director**

Among the statutory duties of the Board are responsibilities to appoint and set the compensation of the Executive Director and to assist the DEQ in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the DEQ. In connection with these responsibilities, the Board has determined that it should perform an annual performance review of the Executive Director.

- A. Discussion by the Board in open session
- B. Possible executive session pursuant to Title 25 Oklahoma Statutes Section 307(B)(1) (discussion of employment actions related to any individual salaried public officer or employee), if authorized by recorded majority vote of the Board members present
  - (1) Vote in open session on entering into executive session
  - (2) If executive session approved, designation in open session of person to keep minutes in executive session
  - (3) Discussion in executive session of Executive Director's performance and of employment actions by the Board relating to the Executive Director (Executive Session will be held in Room B114)
- C. Further discussion by the Board in open session
- D. Possible roll call vote on specific actions or recommendations as a result of performance review

**8. Calendar Year 2009 Board meeting dates and locations:** Discussion and vote by the Board

**9. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**10. Adjournment**

Upcoming 2008 Meeting: November 18 at the Tahlequah Armory Municipal Center (Rm #3), 100 N. Water Street, Tahlequah, OK.

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

**Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.**

Some members of the Board and senior staff members from DEQ will meet for dinner in Duncan the evening of August 18. This is a social occasion. It is uncertain whether a majority of the Board will be present, but no Board or DEQ business will be conducted.

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

**EXECUTIVE SUMMARY**

**Subchapter 1. General Provisions**

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

**252:100-1-4. Units and abbreviations [AMENDED]**

**Subchapter 5. Registration, Emission Inventory and Annual Operating Fees**

**252:100-5-1.1. Definitions [AMENDED]**

Before the Air Quality Advisory Council, July 16, 2008

Before the Environmental Quality Board, August 19, 2008

**EXECUTIVE SUMMARY:**

The Department is proposing to amend sections OAC 252:100-1-3, 252:100-1-4 and 252:100-5-1.1 to remove redundant definitions from Chapter 100 rules. These proposed amendments are routine housekeeping and considered non-substantive.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

Not applicable.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not applicable.

**SUMMARY OF COMMENTS AND RESPONSES:**

No comments were received concerning these amendments.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

JUL 14 2008

Ms. Cheryl E. Bradley  
Environmental Programs Manager  
Air Quality Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

Dear Ms. Bradley:

Thank you for the opportunity to comment on the proposed revisions to Oklahoma's Air Pollution Control Rules, Oklahoma Administrative Code 252:100, as listed below:

Subchapter 1	General Provisions
Subchapter 5	Registration, Emission Inventory and Annual Operating Fees
Subchapter 8	Permits for Part 70 Sources Permit Application Fees
Subchapter 9	Excess Emission Reporting Requirements
Subchapter 33	Control of Emissions of Nitrogen Oxides

#### Subchapter 1

The new definitions in Subchapter 1 were taken from Subchapters 5 and 19. We concur with the addition of the abbreviation for nanograms per Joule. We have no adverse comments on the proposed revisions.

#### Subchapters 5 and 8

The Air Permits Section will provide comments, as necessary, in a separate communication.

#### Subchapter 9

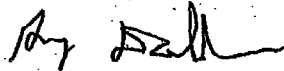
We understand that Subchapter 9 will have additional revisions, including a new threshold for immediate reporting. We would like an opportunity to evaluate the ongoing revisions and would like to provide the Office of Enforcement and Compliance Assurance with an opportunity to review and comment on the final revisions.

**Subchapter 33**

We have no adverse comments on the proposed revisions.

We appreciate the opportunity to review and comment on the proposed rules prior to the public hearing on July 16, 2008. If you have questions regarding any of these comments, please feel free to contact me or Carrie Paige at (214) 665-6521.

Sincerely yours,



Guy Donaldson  
Chief  
Air Planning Section

cc: Mr. Max Price  
Oklahoma Department of Environmental Quality  
Dr. Joyce Sheedy  
Oklahoma Department of Environmental Quality  
Jeff Robinson (6PD-R)  
EPA  
Alan Shar (6PD-L)  
EPA  
William Puplampu (6RC-M)  
EPA

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without notice. A Reseller that disconnects an end-user's service under this section will:

- (1) provide written or verbal notice to the Consumer Services Division of the disconnect action prior to the actual disconnect;
  - (2) within three (3) business days of the actual disconnect, provide a written description of the circumstances leading to the disconnect action; and
  - (3) give the customer written notice, which will include an address and telephone number, for the Consumer Services Division.
- (c) The Consumer Services Division may, after an informal inquiry and review of the written description of the circumstances leading to the disconnect action, direct the Reseller to restore services to the affected end-user and / or file an application with the Commission requesting a finding of contempt and the imposition of a fine or other penalty against a Reseller that unreasonably suspends or disconnects an end-user pursuant to subsection (b) of this section.

### 165:56-9-4.2. Notice of Disconnection or Notice of Suspension requirements

(a) A notice of disconnection or notice of suspension shall contain the following information:

- (1) The words "NOTICE OF DISCONNECTION" or "NOTICE OF SUSPENSION" or words with the same meaning, in print type larger than the print type of the notice text.
  - (2) Name, address, and telephone number of customer.
  - (3) Statement of reason for the proposed disconnection or suspension of service.
  - (4) The date on or after which service will be disconnected or suspended unless appropriate action is taken.
  - (5) The telephone number of the Reseller where the customer may make an inquiry.
  - (6) Charges and procedures for reconnection or approved charges and procedures to avoid suspension.
  - (7) The address and telephone number of the Commission's Consumer Services Division in print size which is smaller than the print size used for the Reseller's telephone number.
  - (8) A statement that the end-user must contact the Reseller regarding the disconnection or suspension, prior to contacting the Commission's Consumer Services Division.
  - (9) Notice of suspension of service relating to past-due amounts shall inform the end-user that the total amount due may include charges for non-deniable and/or not regulated services which would not cause interruption of local service. The notice must indicate a toll-free telephone number of a service center where questions can be referred and payment arrangements made.
- (b) The Reseller shall not be required to give the written notice provided for in this Section in situations where the Reseller has evidence of fraudulent or illegal use of the Reseller's services, which if allowed to continue, would present a high risk of financial loss to the Reseller.

(c) The following additional information shall be in the notice unless said information can be obtained in the telephone directory and the notice refers the end-user to the location in the directory where the information can be obtained:

- (1) A statement of how an end-user may avoid the disconnection of service or suspension of service, including a statement that the end-user must notify the reseller on the day of payment as to the place and method of such payment when the bill is paid at a place other than the office of the reseller.
  - (2) A statement that informs the end-user where payments may be made or how to obtain a listing of authorized payment agencies.
- (d) Notice of disconnection and/or notice of suspension shall be received via the United States mail, unless the end-user agrees with the Reseller to receive a bill through different means.

[OAR Docket #09-728; filed 4-17-09]

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

[OAR Docket #09-738]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions  
252:100-1-3. Definitions [AMENDED]  
252:100-1-4. Units, abbreviations and acronyms [AMENDED]  
Subchapter 5. Registration, Emission Inventory and Annual Operating Fees  
252:100-5-1.1. Definitions [AMENDED]

### 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:

March 17, 2008, through July 16, 2008, and August 19, 2008

#### Public hearing:

July 16, 2008, and August 19, 2008

#### Adoption:

August 19, 2008

#### Submitted to Governor:

August 29, 2008

#### Submitted to House:

August 29, 2008

#### Submitted to Senate:

August 29, 2008

#### Gubernatorial approval:

September 24, 2008

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.

#### Final adoption:

March 24, 2009

#### Effective:

July 1, 2009

#### SUPERSEDED EMERGENCY ACTIONS:

N/A

#### INCORPORATIONS BY REFERENCE:

N/A

## ANALYSIS:

The Department is proposing to amend OAC 252:100-1-3, Definitions; 252:100-1-4, Units, abbreviations and acronyms; and 252:100-5-1.1, Definitions, to remove redundant definitions from Chapter 100 rules. These proposed amendments are routine housekeeping and considered non-substantive.

## CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4218.

**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, 2009:**

## 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.

"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.

"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

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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.

**"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.

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

**"PM-2.5"** means particulate matter with an aerodynamic diameter of 2.5 micrometers or less.

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

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

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

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

**"Process equipment"** means any equipment, device or contrivance for changing any materials or for storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants into the open air, but not

including that equipment specifically defined as fuel-burning equipment, or refuse-burning equipment.

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

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

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

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

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

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

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

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

**"Reconstruction"** means

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

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

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

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

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

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

**"Refuse"** means, unless specifically defined otherwise, the inclusive term for solid, liquid or gaseous waste products which are composed wholly or partly of such materials as garbage, sweepings, cleanings, trash, rubbish, litter, industrial, commercial and domestic solid, liquid or gaseous waste; trees or shrubs; tree or shrub trimmings; grass clippings; brick,

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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.

### 252:100-1-4. Units, abbreviations and acronyms

(a) Abbreviations and symbols of units of measure.

- (1) Btu - British thermal unit
- (2) cm/sec - centimeter per second
- (3) dscf - dry cubic feet at standard conditions
- (4) dscm - dry cubic meter at standard conditions
- (5) ft/min - feet per minute
- (6) gal - gallon
- (7) gal/d - gallons per day
- (8) gal/yr - gallons per year
- (9) gr/dscf - grains per dry standard cubic foot
- (10) hr - hour
- (11) Hg - mercury
- (12) hp - horsepower
- (13) H<sub>2</sub>O - water
- (14) H<sub>2</sub>S - hydrogen sulfide
- (15) H<sub>2</sub>SO<sub>4</sub> - sulfuric acid
- (16) kg - kilogram
- (17) kg/metric ton - kilograms per metric ton
- (18) kPa - kilopascals

- (19) l - liter
- (20) l/yr - liters per year
- (21) LT/D - long tons per day
- (22) lb/wk - pounds per week
- (23) lb - pound
- (24) lbs/hr - pounds per hour
- (25) m3 - cubic meter
- (26) mg/dscm - milligrams per dry standard cubic meter
- (27) MMBTU/hr - ~~heat input in~~ million british thermal units per hour
- (28) Mg - megagram - 106 gram
- (29) Mg/yr - megagrams per year
- (30) mg/l - milligrams per liter
- (31) m/min - meter per minute
- (32) ng/dscm - nanograms per dry standard cubic meter
- (33) ng/J - nanograms per Joule
- ~~(334) oz/in2 - ounce per square inch~~
- ~~(3435) ppm - parts per million~~
- ~~(3536) psia - pounds per square inch absolute~~
- ~~(3637) psig - pounds per square inch gage~~
- ~~(3738) ppmv - parts per million by volume~~
- ~~(3839) SO2 - sulfur dioxide~~
- ~~(3940) TPY - tons per year~~
- ~~(4041) ug/m3 - micrograms per cubic meter~~

(b) Acronyms.

- (1) A.I.S.I. - American Iron and Steel Institute
- (2) A.S.M.E. - American Society of Mechanical Engineers
- (3) A.S.T.M. - American Society for Testing and Materials
- (4) BACT - Best Available Control Technology
- (5) CEM - Continuous Emission Monitor
- (6) CFR - Code of Federal Regulations
- (7) COM - Continuous Opacity Monitor
- (8) DEQ - Department of Environmental Quality
- (9) EPA - Environmental Protection Agency
- (10) HAP - Hazardous Air Pollutants
- (11) HMIWI - Hospital/Medical/Infectious Waste Incinerator
- (12) MACT - Maximum Achievable Control Technology
- (13) MSW - Municipal Solid Waste
- (14) MWC - Municipal Waste Combustors
- (15) NAAQS - National Ambient Air Quality Standards
- (16) NESHAP - National Emissions Standards for Hazardous Air Pollutants
- (17) NSPS - New Source Performance Standards
- (18) OAC - Oklahoma Administrative Code
- (19) PBR - Permit by Rule
- (20) PM - Particulate Matter
- (21) PSD - Prevention of Significant Deterioration
- (22) SIC - Standard Industrial Classification
- (23) SIP - State Implementation Plan
- (24) TSP - Total Suspended Particulates
- (25) VOC - Volatile Organic Compound
- (26) 27A O.S. - Title 27A Oklahoma Statutes Annotated

**SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES**

**252:100-5-1.1. Definitions**

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

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

"**Allowable emissions**" means:

- (A) The total amount of any regulated air pollutant emitted based on limits contained in an enforceable permit or potential to emit, or
- (B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

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

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

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

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

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

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

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

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

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



**OAC 252:100-5**  
**Public Hearings**

**January 14, 2004**  
**Air Quality Advisory Council**

**February 27, 2004**  
**Environmental Quality Board**

**Effective Date: June 11, 2004**

25

Volume 21  
Number 4  
December 15, 2003  
Pages 135 - 272

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

RECEIVED  
DEC 18 2003  
DEQ LEGAL

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be requested or obtained for review at the District Attorneys Council, Victim Services Division, 421 N.W. 13, Ste. 290, OKC, OK, 73103, 405-264-5006.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., section 303(D), a rule impact statement is being prepared and will be available for review after December 30, 2003, and may be obtained from the District Attorneys Council, Victim Services Division at the above address.

**CONTACT PERSON:**

Tina Harman, Public Information Officer, 405-264-5006.

*[OAR Docket #03-3273; filed 11-24-03]*

**TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION  
CHAPTER 1. GENERAL PROVISIONS**

*[OAR Docket #03-3270]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking  
**PROPOSED RULES:**

- Subchapter 3. Records and Inspections
- 240:1-3-3. Confidential records [AMENDED]
- 240:1-3-4. Copies [AMENDED]
- 240:1-3-7. Receipt of requests [AMENDED]

**SUMMARY:**

In the 2003 legislative session, the confidentiality statute at 40 O.S. §4-508 was amended to state that subpoenas would be invalid to obtain unemployment claim information and employer wage information. The statute now provides that this information can be obtained by court order. Administrative subpoenas from federal, state or local government agencies with subpoena power will also be allowed. The amendments to these rules will implement the statutory amendment.

**AUTHORITY:**

40 O.S. §§4-302; 4-508; and the Oklahoma Employment Security Commission.

**REQUEST FOR COMMENTS:**

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

**COMMENT PERIOD:**

Written and oral comments will be accepted through January 15, 2004, during regular business hours by the contact person listed below.

**PUBLIC HEARING:**

No public hearing is scheduled at this time, but will be scheduled if a written request is submitted to the contact person listed below by: (1) at least twenty-five individuals, (2) a political subdivision, (3) an agency, or (4) an association having not less than twenty-five members.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review from the contact person listed below.

**RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained for review from the contact person listed below.

**CONTACT PERSON:**

For information regarding processing of proposed rulemaking for this agency contact Melissa Copenhagen at P. O. Box 53039, Oklahoma City, OK 73152-0039, or 405/557-7146, FAX: 405/557-5320, E-Mail: [Melissa.Copenhagen@oesc.state.ok.us](mailto:Melissa.Copenhagen@oesc.state.ok.us)

*[OAR Docket #03-3270; filed 11-24-03]*

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

*[OAR Docket #03-3284]*

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking  
**PROPOSED RULES:**

- Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]
- Subchapter 7. Permits for Minor Facilities [AMENDED]
- Subchapter 13. Open Burning [AMENDED]
- Subchapter 29. Control of Fugitive Dust [AMENDED]

**SUMMARY:**

The Department proposes to establish a new permit exempt facility category for facilities with actual emissions of each regulated pollutant of 40 tons per year or less and with potential emissions less than the Part 70 and PSD threshold levels. To do this, the Department is proposing revisions to sections in Subchapters 5 and 7. This will include the elimination of annual operating fees for permit exempt facilities and a change in the requirement to submit emission inventories. A Technical Support Document is also available for review.

The Department is proposing amendments to Subchapter 13, Open Burning, for compatibility with a recently enacted legislative requirement: Oklahoma Clean Air Act, 27A O.S. § 2-5-106.1, in regard to fire training. Amendments are also proposed to address open burning of yard brush. Revisions to address general conditions and requirements for allowed open burning are proposed, and a correction is made in Section 9 that will add an exemption for hydrocarbon flares from the prohibition against burning between sunset and sunrise.

## Notices of Rulemaking Intent

A public petition for rulemaking has been filed with the Department of Environmental Quality. The petition was referred to the Air Quality Council. The petitioners seek to amend Subchapter 29 by removing the words "visible" and "adjacent" from OAC 252:100-29-2(c)(1) and adding the concept of "credible evidence" as sufficient to determine violation of the rule.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101, 2-2-201; and Oklahoma Clean Air Act, § 2-5-101 *et seq.*

### COMMENT PERIOD:

Written comments on the proposed rulemakings and permit exempt technical support document will be accepted prior to and at the hearing on January 14, 2004. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by December 31, 2003. Oral comments may be made at the January 14, 2004 hearing and the February 27, 2004 Environmental Quality Board meeting.

### PUBLIC HEARINGS:

Before the Air Quality Council at 9:00 a.m. on Wednesday, January 14, 2004, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on February 27, 2004, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

### COPIES OF PROPOSED RULES:

The proposed rules and permit exempt technical support document are available for review at the Air Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Air Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-4100.

### RULE IMPACT STATEMENT:

Copies of the rule impact statement may be obtained from the contact person.

### CONTACT PERSON:

Please send written comments to Lisa Donovan (Subchapter 13), Joyce Sheedy (Subchapters 5 and 7), and Pat Sullivan (Subchapter 29), Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-4100, fax (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) 702-4100.

[OAR Docket #03-3284; filed 11-25-03]

## TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 710. WATERWORKS AND WASTEWATER WORKS OPERATOR CERTIFICATION

[OAR Docket #03-3283]

### RULEMAKING ACTION:

Notice of PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 3. Certification

252:710-3-32. [AMENDED]

252:710-3-34. [AMENDED]

252:710-3-38. [REVOKED]

Subchapter 5. Duties and Responsibilities

252:710-5-53. [AMENDED]

252:710-5-58. [NEW]

252:710-5-59. [NEW]

Appendix B. Certificate Requirements [REVOKED]

Appendix B. Certificate Requirements [NEW]

### SUMMARY:

This rulemaking is to revise and clarify the current operator certification rules. These rules amend existing procedures and requirements for the certification of operators of waterworks and wastewater works and operators of laboratories which do analyses for waterworks and wastewater works. New provisions include providing additional credit for experience under certain classifications, certification exception for certain laboratory operators, and duties and responsibilities for distribution and collection operator and distribution and collection technicians. The provision on reciprocity is being revoked because said provision is contained in state statutes at 59 O.S. § 1107.

### AUTHORITY:

Environmental Quality Board and Waterworks and Wastewater Works Advisory Council; 27A O.S. §§ 2-2-101 and 2-2-201; 59 O.S. §§ 1103, 1104 and 1105

### REQUEST FOR COMMENTS:

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

**REGULAR MEETING/ HEARING AGENDA**  
**AIR QUALITY COUNCIL**  
**January 14, 2004, 9 a.m.**  
**Multi-Purpose Room DEQ Building**  
**707 N. Robinson**  
**Oklahoma City, Oklahoma**

*Please silence your cell phone*

1. Call to Order – Sharon Myers
2. Roll Call – Myrna Bruce
3. Approval of Minutes – October 8, 2003 Regular Meeting
4. Election of Officers – CY 2004
5. Public Rulemaking Hearings

**A. Permit Exempt Facility: OAC 252:100-5. Registration, Emissions Inventory and Annual Operating Fees & OAC 252:100-7. Permits for Minor Facilities**

The Department proposes creation of a new category of facility to be called “permit exempt facility”. The proposal exempts facilities with actual emissions of criteria pollutants of 40 tons per year or less and potential emissions below Title V, PSD, and non-attainment major source thresholds from requirements to obtain permits, pay annual operating fees, and report emissions annually. The new category will require amendment of OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees and OAC 252:100-7 Permits for Minor Facilities. The technical support document prepared by Staff has been revised to reflect the rule’s impact in metropolitan statistical areas per verbal comments from EPA Region 6.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**B. OAC 252:100-13. Open Burning**

The Department proposes amendments to Subchapter 13 to conform with changes to the Oklahoma Clean Air Act, OKLA. STAT. Tit 27A, § 2-5-106.1. Amendments are also proposed to address open burning of yard brush. Revisions to address general conditions and requirements for allowed open burning are proposed, and a correction is made in Section 9 that will add an exemption for hydrocarbon flares from the prohibition against burning between sunset and sunrise.

1. Presentation – Lisa Donovan
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**C. OAC 252:100-29. Control of Fugitive Dust**

A third party petition for rulemaking has been filed with the Department and was referred to the Air Quality Council for rulemaking. The petitioners seek to amend Subchapter 29 by removing the words “visible” and “adjacent” from OAC 252:100-29-2(c)(1) and adding the concept of “credible evidence” as sufficient to determine violation of the rule.

1. Presentation – Petitioners
  2. Questions and discussion by Council/DEQ/Public
  3. Possible action by Council
  4. Roll call vote for permanent adoption
6. **New Business** – (Any matter not known about, or which could not have been reasonably foreseen prior to the time of posting the Agenda.)
7. **Adjournment** -- Next Regular Meeting is proposed for 9 a.m. Wednesday, April 14, at OSU @ Tulsa, North Hall Room 150, 707 North Greenwood, Tulsa, Oklahoma.

Lunch Break, if necessary.

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4212.

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL  
OPERATING FEES

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the Division.

(1) **General requirements.** The inventory shall cover operations during a calendar year and shall be submitted prior to March 1 of the following year, unless ~~a 30-day extension has been granted by the Division~~ the Division has granted a 30-day extension. An additional 30-day extension may be granted for good cause shown.

(2) **Permit by rule.** ~~Facilities~~ The owner or operator of a facility registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated air pollutant ~~are~~ is required to submit an emission inventory for that facility once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.

(3) **Permit exempt facilities and de minimis facilities.** ~~De minimis facilities as defined in 252:100-7-1.1~~ The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory.

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

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

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

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination.

(3) If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference.

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

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with



OAC 252:100-5-2.1(d), below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.

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

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

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

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

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

(B) Copies of the tests results and methods are available for review by the ~~Air Quality~~ Division.

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

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

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

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

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

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

(e) **Methods of verification.** Emission inventories determined by the Division to be substantially incomplete or substantially incorrect shall, upon the request of the Division, be subject to verification if not satisfactorily completed or corrected within a

reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Division.

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

~~252:100-5-2.2: Annual operating fees~~

~~(a) Applicability.~~

~~(1) This Section OAC 252:100-5-2.2 applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by OAC 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.~~

~~(2) This Section OAC 252:100-5-2.2 does not apply to de minimis facilities or to permit exempt facilities.~~

~~(b) Fee schedule.~~

~~(1) Minor facilities.~~

~~(A) Until January 1, 1998, the owner or operator of a facility subject to this Section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:~~

~~(i) 10 - 24.99 tpy - \$10/year~~

~~(ii) 25 - 49.99 tpy - \$250/year~~

~~(iii) 50 - 74.99 tpy - \$500/year~~

~~(iv) 75 - 99.99 tpy - \$750/year~~

~~(B) In calendar year 1998, annual operating fees shall be invoiced at \$10 per ton of regulated pollutant (for fee calculation).~~

~~(C) (A) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).~~

~~(D) (B) Beginning January 1, 2003, annual operating fees shall be no more than \$22.28 per ton of regulated pollutant (for fee calculation).~~

~~(2) Part 70 Sources.~~

~~(A) From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).~~

~~(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant.~~

**DRAFT MINUTES  
AIR QUALITY COUNCIL  
January 14, 2004  
Department of Environmental Quality  
Multipurpose Room 707 N. Robinson  
Oklahoma City Oklahoma**

Draft for EQB 2-27-04  
For AQC Approval April 14, 2004

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. January 14, 2004 in the Multipurpose Room of the Department of Environmental Quality, 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 October 13, 2003; and agendas were posted on the entrance doors at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting.

As protocol officer, 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. She entered the Agenda and the Oklahoma Register Notice into the record. Ms. Smith announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Sharon Myers called the meeting to order. Roll was called and a quorum confirmed.

**MEMBERS PRESENT**

David Branecky  
Bill Breisch  
Gary Kilpatrick  
Bob Lynch  
Gary Martin  
Sharon Myers  
Sandra Rose  
Rick Treeman  
Joel Wilson

**MEMBERS ABSENT**

**OTHERS PRESENT** Sign-in sheet is attached as an official part of these Minutes

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Scott Thomas  
Pam Dizikes  
Kendall Cody  
Joyce Sheedy  
Lisa Donovan  
Pat Sullivan  
Lynne Moss  
Dawson Lasseter  
Myrna Bruce

**Approval of Minutes** Ms. Myers called for approval of the October 8, 2003 Minutes. Hearing no discussion, she called for a motion to approve the Minutes as presented. Mr. Wilson made the motion with Mr. Martin making the second.

**Roll call.**

Sandra Rose      Yes  
Gary Martin      Yes  
Joel Wilson      Yes  
Bill Breisch      Yes  
Bob Lynch        Yes

David Branecky      Yes  
Rick Treeman        Yes  
Gary Kilpatrick     Yes  
Sharon Myers        Yes

**Motion carried.**

**Election of Officers** Mr. Branecky moved to retain Ms. Sharon Myers for Chair and Dr. Bob Lynch for Vice-Chair. The second was made by Mr. Breisch.

<b>Roll call.</b>			
Sandra Rose	Yes	David Branecky	Yes
Gary Martin	Yes	Rick Treeman	Yes
Joel Wilson	Yes	Gary Kilpatrick	Yes
Bill Breisch	Yes	Sharon Myers	Yes
Bob Lynch	Yes		<b>Motion carried.</b>

**OAC 252:100-5 Registration, Emissions Inventory and Annual Operating Fees  
OAC 252:100-7 Permits for Minor Facilities**

Ms. Botchlet-Smith convened the hearings and called upon Dr. Joyce Sheedy for staff presentation. Dr. Sheedy advised that the proposal establishing a new permit exempt facility category was before the Air Quality Council in April, July, and October of 2003 and was continued to January 14, 2004 to allow time to resolve outstanding issues. She stated that the proposed revision would create a permit exempt facility category for facilities with actual emissions of 40 tons-per-year or less of each regulated air pollutant emitted and with potential emissions less than the threshold levels for PSD and Title V; and that owners and operators of facilities that qualify for this category would not be required to obtain air quality permits, pay annual operating fees, nor be required to submit an annual emission inventory, but would remain subject to all other applicable state and federal air quality rules and regulations. Dr. Sheedy set forth the staff's recommended changes.

Dr. Sheedy entered into the record letters of comment received from Trinity Consultants, MOGA, and EPA and heard comments from OIPA, MOGA, Martin Marietta Materials, CC Environmental, and Bob Kellogg. Dr. Sheedy and Mr. Terrill fielded questions from the Council and from the audience. After discussion, Mr. Branecky made motion to approve the proposal as presented with the additions that were made with the understanding that the DEQ continue to review and fine-tune the rule and bring it before the Council whenever necessary. Mr. Treeman made the second.

<b>Roll call.</b>			
Sandra Rose	Yes	David Branecky	Yes
Gary Martin	Yes	Rick Treeman	Yes
Joel Wilson	Yes	Gary Kilpatrick	Yes
Bill Breisch	Yes	Sharon Myers	Yes
Bob Lynch	Yes		<b>Motion carried.</b>

**OAC 252:100-13 Open Burning** Ms. Lisa Donovan provided staff's recommendations stating that the proposed amendments would bring the rule in line with changes in the Oklahoma Clean Air Act and would also address open burning of yard brush. She entered into the record a letter of comments received from EPA. Comments were received from the Guthrie Fire Department, Guthrie Public Schools, and Bob Kellogg. Mr. Martin made motion to approve with the changes addressed and Mr. Kilpatrick made the second.

<b>Roll call.</b>			
Sandra Rose	Yes	David Branecky	Yes
Gary Martin	Yes	Rick Treeman	Yes
Joel Wilson	Yes	Gary Kilpatrick	Yes
Bill Breisch	Yes	Sharon Myers	Yes
Bob Lynch	Yes		<b>Motion carried.</b>

**OAC 252:100-29 Control of Fugitive Dust** A third party petition for rulemaking was filed by Pace International Union, Ponca Tribe of Oklahoma, and Concerned Neighbors of Continental Carbon seeking to amend Subchapter 29 by removing the words “visible” and “adjacent” and adding the concept of “credible evidence” as sufficient to determine violation of the rule. Speaking for the petitioners was Mr. Rick Abraham, environmental consultant. Comments were received from Julie Faw Faw, Bud Vance, Todd Carlson, Ralph Mangrum, David Westerman, Wally Shops, Michael Bigheart, Lalit Bhatnagar, CC Environmental, Bruce Evans, Pat Jaynes, and Mike Peters. Ms. Sullivan entered into the record three letters of comment in addition to the three letters in the Agenda Packet.

Ms. Pat Sullivan presented staff recommendations and Ms. Lynne Moss provided information regarding the Agency’s program to investigate and resolve citizens’ environmental complaints. Considerable discussion followed and Mr. Terrill addressed issues and concerns that were raised by the Council and the public.

Mr. Branecky felt that the changes to the rule as presented were not necessary in the state of Oklahoma, therefore moved that Council reject the petitioners’ recommendation for changes and leave the rule as it is currently written. Mr. Kilpatrick made the second.

<b>Roll call.</b>			
Sandra Rose	No	David Branecky	Yes
Gary Martin	Yes	Rick Treeman	Yes
Joel Wilson	Yes	Gary Kilpatrick	Yes
Bill Breisch	Yes	Sharon Myers	Yes
Bob Lynch	Yes		<b>Motion carried.</b>

**Division Director’s Report** None

**NEW BUSINESS** - None

**ADJOURNMENT** - 1:30 p.m. Next meeting scheduled for April 14, 2004.

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY COUNCIL  
STATE OF OKLAHOMA

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS  
OF PUBLIC HEARING ON NOS. ITEM 1-5A  
OAC 252:100-5  
REGISTRATION, EMISSIONS  
INVENTORY AND ANNUAL OPERATING FEES  
AND OAC 252:100-7  
PERMITS FOR MINOR FACILITIES  
HELD ON JANUARY 14, 2004, AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE  
(405) 721-2882

**ORIGINAL**

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1 MEMBERS OF THE COUNCIL  
2  
3 DAVID BRANECKY - MEMBER  
4 BILL BREISCH - MEMBER  
5 GARY KILPATRICK - MEMBER  
6 BOB LYNCH - VICE CHAIRMAN  
7 GARY MARTIN - MEMBER  
8 SHARON MYERS - CHAIR  
9 SANDRA ROSE - MEMBER  
10 RICK TREEMAN - MEMBER  
11 JOEL WILSON - MEMBER  
12 STAFF MEMBERS  
13  
14 MYRNA BRUCE - SECRETARY  
15 EDDIE TERRILL - DIVISION DIRECTOR  
16 SCOTT THOMAS - AQD  
17 JOYCE SHEEDY - AQD  
18 PAM DIZIKES - LEGAL  
19 KENDAL CODY - LEGAL  
20 LISA DONOVAN - AQD  
21 MAX PRICE - AQD  
22 BEVERLY BOTCHLET-SMITH - AQD  
23 MICHELLE MARTINEZ - AQD  
24 CHERYL BRADLEY - AQD  
25 PAT SULLIVAN - AQD

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1 MS. MYERS: Here. The first item  
2 on the agenda is approval of the Minutes  
3 from the October 2003 meeting.  
4 MS. BRUCE: Everyone might have  
5 to pull your mikes a little bit closer.  
6 MR. WILSON: Sharon, I'll make a  
7 motion that we approve the Minutes.  
8 MS. MYERS: We have a motion. Do  
9 we have a second?  
10 MR. MARTIN: Second.  
11 MS. MYERS: Myrna.  
12 MS. BRUCE: Ms. Rose.  
13 MS. ROSE: Yes.  
14 MS. BRUCE: Mr. Martin.  
15 MR. MARTIN: Yes.  
16 MS. BRUCE: Mr. Wilson.  
17 MR. WILSON: Yes.  
18 MS. BRUCE: Mr. Breisch.  
19 MR. BREISCH: Yes.  
20 MS. BRUCE: Dr. Lynch.  
21 DR. LYNCH: Yes.  
22 MS. BRUCE: Mr. Branecky.  
23 MR. BRANECKY: Yes.  
24 MS. BRUCE: Mr. Treeman.  
25 MR. TREEMAN: Yes.

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1 PROCEEDINGS  
2  
3 MS. MYERS: Good morning. I  
4 would like to call this meeting to order,  
5 please. Myrna, are you ready to call roll?  
6 MS. BRUCE: Yes, I am. I was  
7 just making sure Jamie was ready over  
8 there.  
9 Ms. Rose.  
10 MS. ROSE: Here.  
11 MS. BRUCE: Mr. Martin.  
12 MR. MARTIN: Here.  
13 MS. BRUCE: Mr. Wilson.  
14 MR. WILSON: Here.  
15 MS. BRUCE: Mr. Breisch.  
16 MR. BREISCH: Here.  
17 MS. BRUCE: Dr. Lynch.  
18 DR. LYNCH: Here.  
19 MS. BRUCE: Mr. Branecky.  
20 MR. BRANECKY: Here.  
21 MS. BRUCE: Mr. Treeman.  
22 MR. TREEMAN: Here.  
23 MS. BRUCE: Mr. Kilpatrick.  
24 MR. KILPATRICK: Here.  
25 MS. BRUCE: And Ms. Myers.

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1 MS. BRUCE: Mr. Kilpatrick.  
2 MR. KILPATRICK: Yes.  
3 MS. BRUCE: Ms. Myers.  
4 MS. MYERS: Yes. The next item  
5 is the election of officers for 2004.  
6 MR. BRANECKY: I would like to go  
7 ahead and move that we retain Ms. Myers and  
8 Dr. Lynch as Chairman -- Chairwoman, excuse  
9 me, and Vice-Chair for another year.  
10 MR. WILSON: David, should we ask  
11 them first?  
12 MR. BRANECKY: No.  
13 MR. BREISCH: I'll second that.  
14 MS. MYERS: Myrna.  
15 MS. BRUCE: Ms. Rose.  
16 MS. ROSE: Yes.  
17 MS. BRUCE: Mr. Martin.  
18 MR. MARTIN: Yes.  
19 MS. BRUCE: Mr. Wilson.  
20 MR. WILSON: Yes.  
21 MS. BRUCE: Mr. Breisch.  
22 MR. BREISCH: Yes.  
23 MS. BRUCE: Dr. Lynch.  
24 DR. LYNCH: Yes.  
25 MS. BRUCE: Mr. Branecky.

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1 MR. BRANECKY: Yes.  
2 MS. BRUCE: Mr. Treeman.  
3 MR. TREEMAN: Yes.  
4 MS. BRUCE: Mr. Kilpatrick.  
5 MR. KILPATRICK: Yes.  
6 MS. BRUCE: Ms. Myers.  
7 MS. MYERS: We'll move into the  
8 public hearing portion of it. Beverly.  
9 MS. BOTCHLET-SMITH: Good  
10 morning, I'm Beverly Botchlet-Smith,  
11 Program Manager with the Air Quality  
12 Division. And as such, I'll serve as the  
13 Protocol Officer for today's hearing.  
14 These hearings will be convened by  
15 the Air Quality Council in compliance with  
16 the Oklahoma Administrative Procedures Act  
17 and Title 40 of the Code of Federal  
18 Regulations Part 51, as well as the  
19 Authority of Title 27A of the Oklahoma  
20 Statutes Section 2-2-201, Sections 2-5-101  
21 through 2-5-118.  
22 These hearings were advertised in  
23 the Oklahoma Register for the purpose of  
24 receiving comments pertaining to the  
25 proposed OAC Title 252 Chapter 100 Rules,

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1 as listed on the agenda, and will be  
2 entered into each record along with the  
3 Oklahoma Register filing.  
4 If you wish to make a statement,  
5 it's very important you complete the form  
6 at the registration table and you will be  
7 called on at the appropriate time.  
8 Audience members, please come to the  
9 podium for your comments and please state  
10 your name. Today we have two podiums set  
11 up because we have a pretty full house.  
12 There is one in the back center and then  
13 one up here by the Council table.  
14 At this time, we will proceed with  
15 what's marked as Agenda Item No. 5A on the  
16 Hearing Agenda, OAC 252:100-5,  
17 Registration, Emissions Inventory and  
18 Annual Operating Fees and OAC 252:100-7,  
19 Permits for Minor Facilities.  
20 We'll call Dr. Joyce Sheedy, who  
21 will give the staff position on the  
22 proposed rule.  
23 For anyone who hasn't gotten an  
24 agenda, we have brought some others in and  
25 they are on the table at this time, if you

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1 need one.  
2 DR. SHEEDY: Okay. The  
3 microphone and I will have to come to an  
4 agreement here.  
5 Madam Chair, Members of the Council,  
6 ladies and gentlemen, the proposal to  
7 establish a new permit exempt facility  
8 category was first presented to the Air  
9 Quality Council on April 16, 2003. The  
10 hearing was continued to July 2003 and to  
11 October 2003 to allow time for input from a  
12 workgroup convened to study the proposed  
13 revision. At the October meeting, the  
14 hearing was continued again to January 14,  
15 2004, to allow time to resolve outstanding  
16 issues.  
17 The proposed revision creates a  
18 permit exempt facility category for  
19 facilities with actual emissions of 40 tons  
20 per year or less of each regulated air  
21 pollutant emitted and with potential  
22 emissions less than the threshold levels  
23 for PSD and Title V.  
24 Owners and operators of facilities  
25 that qualify for this category will not be

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1 required to obtain air quality permits,  
2 will not be required to pay annual  
3 operating fees, and will not be required to  
4 submit an annual emission inventory. These  
5 facilities, however, will remain subject to  
6 all other applicable state and federal air  
7 quality rules and regulations.  
8 The changes necessary to add the  
9 permit exempt facility category are located  
10 in Subchapters 5 and 7. We believe a  
11 permit exempt facility category will reduce  
12 the time staff spends on permits for minor  
13 facilities without any appreciable  
14 lessening of the control of air pollutant  
15 emissions. The proposed revision will also  
16 provide relief for owners and operators of  
17 those minor facilities that will no longer  
18 be required to obtain permits.  
19 While we have these sections open,  
20 we are proposing to correct some errors in  
21 grammar and punctuation, to delete some  
22 language that is no longer relevant, to  
23 update rule citations, to make some non-  
24 substantive formatting changes for  
25 uniformity, and some language changes for



<p style="text-align: right;">Page 10</p> <p>1 clarity.</p> <p>2 Since there are a number of these</p> <p>3 nonsubstantive changes, I will not go</p> <p>4 through them individually. If there are</p> <p>5 any questions about them, however, I will</p> <p>6 be glad to address those at the end of this</p> <p>7 presentation.</p> <p>8 The substantive revisions to</p> <p>9 Subchapter 5 are primarily to exempt</p> <p>10 facilities from the requirements to submit</p> <p>11 annual emission inventories and to pay</p> <p>12 annual operating fees. We have made the</p> <p>13 following substantive changes to Subchapter</p> <p>14 5 since the October 2003 Council meeting.</p> <p>15 In Section 5-2.1, Emission</p> <p>16 Inventory, in Subsection (a), Paragraph (3)</p> <p>17 on page 1, we propose to exempt permit</p> <p>18 exempt facilities from the requirement to</p> <p>19 submit an annual emission inventory.</p> <p>20 Proposed revisions to Subchapter 7</p> <p>21 since the last meeting -- these changes are</p> <p>22 primarily to define permit exempt facility</p> <p>23 and to add this new category to the permit</p> <p>24 continuum. We have made the following</p> <p>25 substantive changes to Subchapter 7. In</p>	<p style="text-align: right;">Page 12</p> <p>1 easier to find.</p> <p>2 We are proposing one change to</p> <p>3 Subchapter 5. Based on verbal comments</p> <p>4 received from industry on January the 8th</p> <p>5 and 9th, we propose to delete Subsection 5-</p> <p>6 2.1(g) that was on page 3 of the rule in</p> <p>7 the packet. This subsection required</p> <p>8 owners or operators of facilities to notify</p> <p>9 the DEQ of transfer of ownership or name</p> <p>10 changes within 10 days of the event.</p> <p>11 Industry stated that this 10-day period is</p> <p>12 too short.</p> <p>13 Since this change is not germane to</p> <p>14 the permit exempt facility revision, we</p> <p>15 propose to delay its addition to the rule</p> <p>16 in order to study it further, as far as the</p> <p>17 timing's concerned.</p> <p>18 We are proposing several changes to</p> <p>19 Subchapter 7 based on comments received and</p> <p>20 additional errors that we have found.</p> <p>21 We have capitalized the word</p> <p>22 "federal" in several places for format</p> <p>23 uniformity. Those are located in paragraph</p> <p>24 (B) of the definition of "de minimis</p> <p>25 facility", in the definition of "hazardous</p>
<p style="text-align: right;">Page 11</p> <p>1 Section 7-2, requirements for permits for</p> <p>2 minor facilities, we added new Subsection</p> <p>3 7-2(g) Emission Calculation Methods on page</p> <p>4 5.</p> <p>5 Paragraph (1) delineates the methods</p> <p>6 that may be used in calculating emission</p> <p>7 rates for purposes of determining if an Air</p> <p>8 Quality Division permit is necessary and,</p> <p>9 if so, what type of permit is required.</p> <p>10 Paragraph (2) contains the criteria</p> <p>11 that may be used in lieu of calculating</p> <p>12 regulated air pollutant emission rates, to</p> <p>13 determine if an oil and gas exploration and</p> <p>14 production facility or a natural gas</p> <p>15 compressor facility can be considered a</p> <p>16 permit exempt facility.</p> <p>17 We are proposing some changes to the</p> <p>18 revision as it appears in the Council</p> <p>19 packet. Copies of the revised version have</p> <p>20 been furnished to the Council and are</p> <p>21 available to the public on the table with</p> <p>22 the other rule changes.</p> <p>23 In the new version, except for one</p> <p>24 deletion, the changes from the version in</p> <p>25 the Council packet are shaded to make them</p>	<p style="text-align: right;">Page 13</p> <p>1 air pollutant" in paragraph (G) of the</p> <p>2 definition of "permit exempt facility" and</p> <p>3 in 7-2(b)(2). Those, of course, are</p> <p>4 nonsubstantive.</p> <p>5 Based on verbal comments received</p> <p>6 from OIPA on January 9th, we have revised</p> <p>7 7-2(g)(2)(A) and (B) on page 5 to clarify</p> <p>8 the method that may be used by oil and gas</p> <p>9 exploration facilities and compressor</p> <p>10 facilities to determine permit exempt</p> <p>11 facility eligibility in lieu of</p> <p>12 calculations.</p> <p>13 On page 9, Section 7-18, Operating</p> <p>14 Permit, in Paragraph (1) of Subsection (c),</p> <p>15 we propose to replace "will" with "shall"</p> <p>16 for uniformity. This change is based on a</p> <p>17 comment from Mr. Don Whitney of Trinity</p> <p>18 Consultants.</p> <p>19 On page 9, also, Section 7-18, we</p> <p>20 propose to add the tagline "emission tests"</p> <p>21 to Paragraph (2). Since Paragraph (1) has</p> <p>22 a tagline, formatting requires that</p> <p>23 Paragraph (2) also have a tagline.</p> <p>24 On page 10, we propose to delete</p> <p>25 Subsection 7-18(e) in response to a comment</p>

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1 from Mr. Whitney. Since the date when all  
2 existing Title V facilities were required  
3 to submit initial Title V permit  
4 applications has passed, this section is no  
5 longer valid.

6 We have one change that, I'm sorry,  
7 is not on the handout that I gave you  
8 because we just received it very late  
9 yesterday afternoon and this particular one  
10 does deserve looking at. It's on page 5 in  
11 7-2(g)(A).

12 We are adding after maximum  
13 "manufacturer's design rated" in front of  
14 horsepower to make it clear, to try not to  
15 have any loopholes on the horsepower that  
16 the engines may have on site.

17 We have received a letter of comment  
18 on December 12, 2003, from Don Whitney of  
19 Trinity Consultants. A copy of the letter  
20 is in the Council packet and the letter  
21 will be made part of the hearing record.

22 In addition to the comments that  
23 resulted in some of the changes just  
24 mentioned, Mr. Whitney pointed out that the  
25 rewording of (A)(i) of the definition of de

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1 de minimis facility is a significant  
2 tightening of the de minimis facility  
3 exemption and makes the exclusion much more  
4 limited than current interpretation, which  
5 allows other individual activities with  
6 actual emissions less than 5 tons per year  
7 that are not on Appendix H to be conducted  
8 at a de minimis facility.

9 The proposed wording would allow  
10 such non-listed activities only if the  
11 total facility emissions were less than 5  
12 tons per year. We intended, when we first  
13 introduced the de minimis facility concept,  
14 that all emissions from all emitting units  
15 at a facility be counted in determining if  
16 a facility is de minimis and the proposed  
17 revision merely clarifies this.

18 The inclusion of Appendix H was an  
19 attempt to simplify the determination of de  
20 minimis facility status for small  
21 facilities without expertise in calculating  
22 emission rates.

23 If all the emitting activities at a  
24 facility are listed on Appendix H, then the  
25 facility may be considered to be de

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1 de minimis. Otherwise, the facility may be  
2 considered to be de minimis in the total of  
3 all emissions from all the emitting  
4 activities at the facility are less than 5  
5 tons per year of each regulated air  
6 pollutant emitted.

7 As a safeguard to ensure that Title  
8 V facilities are not mistakenly identified  
9 as de minimis facilities, total facility  
10 emissions must be counted in the same  
11 manner that emissions are counted in  
12 determining Title V and PSD applicability  
13 when determining de minimis facility  
14 eligibility.

15 Mr. Whitney pointed out that in  
16 keeping with the permit continuum concept,  
17 the exclusion for a smaller de minimis  
18 facility should be at least as broad as  
19 that for a larger permit exempt facility  
20 and that as far as NSPS and NESHAP  
21 limitations are concerned this is not the  
22 case. He suggested that Paragraph (B) of  
23 the definition of de minimis facility be  
24 changed to mirror Paragraph (G) of the  
25 definition of permit exempt facility that

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1 only excludes facilities that are subject  
2 to an emission standard, equipment  
3 standard, or work practice standard in NSPS  
4 or NESHAP.

5 We don't agree. It must be kept in  
6 mind that although both permit exempt  
7 facilities and de minimis facilities are  
8 exempted from the requirements to obtain  
9 permits, submit annual emission  
10 inventories, and pay annual operating fees,  
11 de minimis facilities remain subject to  
12 only four air quality rules.

13 Our rule then basically says that de  
14 minimis facilities are not subject to NSPS  
15 or NESHAP. If we made the suggested  
16 change, there could be a problem if there  
17 is a NESHAP or an NSPS requirement other  
18 than an emission standard, equipment  
19 standard, or work practice standard that  
20 applies to a facility that has been  
21 designated as de minimis. This could  
22 include such things as recordkeeping,  
23 reporting requirements, and notification  
24 requirements.

25 Permit exempt facilities, on the

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1 other hand, remain subject to all other  
2 applicable state and federal rules and  
3 regulations and standards and requirements,  
4 including NSPS and NESHAP.  
5 Mr. Whitney's remaining comments are  
6 related to Parts 7 and 9 of Subchapter 8,  
7 which contain the NSR program. These parts  
8 are not being revised at this time. There  
9 are currently at least two ongoing lawsuits  
10 regarding the proposed NSR revision and in  
11 one case a portion of the regulation has  
12 been stayed. Our actions with regards to  
13 the NSR revisions may be affected by the  
14 outcome of these lawsuits.  
15 We received a letter of comment from  
16 EPA Region 6, dated December 19, 2003,  
17 signed by Rick Barrett for David Neleigh.  
18 The letter will be made part of the Council  
19 -- of the hearing record and is in the  
20 Council packet.  
21 EPA expressed concern that the  
22 Technical Support Document does not fully  
23 explain how emissions from existing and new  
24 facilities that qualify for the proposed  
25 permit exempt facility category will not

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1 cause a violation of the control strategy  
2 or interfere with the maintenance of a  
3 national standard in certain Metropolitan  
4 Statistical Areas (MSA).  
5 They suggest that since the current  
6 readings obtained from the ozone monitors  
7 located in some of these MSA's in the state  
8 are very close to the new 8-hour ozone  
9 standard, the existing 5 ton per year  
10 threshold should be retained in those  
11 areas, especially Tulsa and Oklahoma City.  
12 They stated that the Technical Support  
13 Document should include emissions of --  
14 estimations of emissions from undocumented  
15 facilities and that -- our response is that  
16 since all of the proposed rule -- all the  
17 proposed rule revision does is remove the  
18 requirements to obtain a permit, pay an  
19 annual fee and submit an annual emission  
20 inventory for facilities that qualify for  
21 permit exempt status, and since we have no  
22 current mechanism for requiring these small  
23 facilities to reduce their emissions, it is  
24 the Department's position that this will  
25 not affect our ability to stay in

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1 attainment with the ozone standard.  
2 At the same time, removing these  
3 facilities from permitting and inspection  
4 requirements will allow us to shift our  
5 responses -- our resources to the larger  
6 Title V facilities, which have the greatest  
7 potential for environmental harm.  
8 The rule as proposed contains a  
9 mechanism for requesting information that  
10 will allow us to assess the impact of these  
11 small facilities on Tulsa, Oklahoma City  
12 airsheds, in the event that we have a  
13 future attainment issue in any of these  
14 areas.  
15 On January 9, 2004, we received  
16 comments from MOGA via e-mail. They were  
17 received too late to be included in the  
18 Council packet, but they will be made part  
19 of the hearing record.  
20 MOGA suggested that we add new  
21 Paragraph (I) to the definition of permit  
22 exempt facility in 7-1.1. This paragraph  
23 allows a facility that is associated with  
24 an oil or gas well to be permit exempt  
25 facility during the initial 90 operating

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1 days prior to custody transfer.  
2 We don't think this is the  
3 appropriate place to add this language.  
4 Permit exempt facility category, for one  
5 thing, is not limited to just oil and gas.  
6 We recognize that the industry has a  
7 problem and we -- but we feel it is a  
8 separate issue and we will work with them  
9 further on this.  
10 In conjunction with the previous  
11 suggestion, MOGA asked that we add a  
12 definition for oil and gas facility. Since  
13 we do not -- since we're not going to add  
14 Paragraph (I), we don't see the need to add  
15 this definition.  
16 They also suggest that we add a new  
17 Paragraph (3) to 7-2(b) under Exceptions.  
18 This new paragraph allows owners or  
19 operators to determine permit exempt  
20 facility eligibility based on rated  
21 horsepower of the internal combustion  
22 engine at the facility.  
23 We don't think we need to have this  
24 change in that particular place. We  
25 already have added 7-2(g)(2), which

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1 simplifies the determination of permit  
2 exempt facility eligibility based on total  
3 horsepower of the facility and the  
4 facility's throughput.  
5       Because this rulemaking increases  
6 the threshold for requiring a permit, EPA  
7 has required a demonstration that the  
8 proposed revision will not violate  
9 applicable portions of control strategy or  
10 interfere with the attainment or  
11 maintenance of the NAAQS. We are now  
12 presenting this demonstration for the  
13 second time at public hearing as the  
14 Technical Support Document.  
15       Some changes have been made to this  
16 document since the last Council meeting.  
17 We have added new language in Section (I),  
18 Permit Exempt Facilities, on pages 1 and 2,  
19 to further explain our position. We have  
20 added a new Section (III) which summarizes  
21 the data for the Oklahoma City MSA and the  
22 Tulsa MSA.  
23       In the technical document, we  
24 provide gross data for emission inventory  
25 YOR (year of record) 1999. We summarize

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1 this data for facilities reporting greater  
2 than 5 tons per year and less than or equal  
3 to 40 tons per year of each regulated air  
4 pollutant. These are the facilities that  
5 may qualify for permit exempt facility  
6 status.  
7       As requested by EPA, we have also  
8 separated out the data for Oklahoma City  
9 MSA and Tulsa MSA. We also discussed fee  
10 losses based on the facilities that may  
11 qualify for the permit exempt facility  
12 category and the document includes a list  
13 of the potential permit exempt facilities  
14 that reported emissions on the YOR 1999  
15 emission inventory.  
16       While the numbers in the Technical  
17 Support Document are based on the emission  
18 inventory data, we are aware that there are  
19 a number of facilities with emissions  
20 greater than 5 tons a year of any one  
21 pollutant and that are not on the  
22 inventory. We understand there are  
23 numerous oil and gas production facilities  
24 that have emissions of at least one air  
25 pollutant that is greater than 5 tons per

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1 year and with emissions of each air  
2 pollutant that are less than 40 tons per  
3 year that are not on our emission  
4 inventory.  
5       We have not included an estimate of  
6 emissions from these facilities because  
7 these emissions will be the same whether we  
8 have a permit exempt facility category or  
9 not, therefore, they could be considered as  
10 a sort of "background noise" and ignored  
11 for the purposes of this demonstration. We  
12 do not believe that the fees generated by  
13 these undocumented facilities would cover  
14 the cost of permitting, inventory, and  
15 inspecting them.  
16       Staff requests the Council to  
17 recommend the proposed rules as amended to  
18 the Board for adoption as permanent rules.  
19 Thank you.  
20       MS. BOTCHLET-SMITH: Before we go  
21 to questions, I would like to remind  
22 everyone to please turn off your cell  
23 phones and pagers or put them on a silent  
24 ring.  
25       Now, questions from the Council.

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1       MS. MYERS: Joyce, I've got one  
2 question for you. In the memorandum, it  
3 refers to staff's currently evaluating  
4 promising alternative methods to obtain the  
5 information without getting it directly  
6 from the owners and operators of the  
7 individual facilities. Can you share a  
8 little bit about how -- what you're looking  
9 at or what's being considered?  
10       DR. SHEEDY: I can share a little  
11 bit about that. I'm not sure if our person  
12 who is doing that is here with us today.  
13 But the Corporation Commission now has on  
14 their website lists of -- and throughputs,  
15 I believe, on all the producing facilities  
16 or well sites that report to them. And I  
17 believe it's got locations and the whole  
18 thing, so that will give us a handle on  
19 well sites.  
20       And another portion that we are  
21 concerned with would be those that have  
22 compressor engines, which ones may have  
23 them in their sizes. And we have received,  
24 I think, some information from a compressor  
25 rental company. We have been told that

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1 this information may be available from the  
2 Tax Commission as ad valorem tax, maybe.  
3 So -- and I believe there is one or two  
4 other (inaudible) that Morris has -- that  
5 he knows of that may be a possibility for  
6 finding information on how many compressor  
7 engines are out there and perhaps what size  
8 they are.  
9 MS. MYERS: Thank you.  
10 MR. TERRILL: Joyce, let me  
11 clarify something and make sure I heard you  
12 correctly. On Subchapter 5, 5-2.1(g),  
13 transfer of ownership or change of name.  
14 We're deleting that section, not delaying  
15 it, right?  
16 DR. SHEEDY: Yes.  
17 MR. TERRILL: Okay.  
18 DR. SHEEDY: We're deleting it.  
19 If there is a need for it, we can look at  
20 it again at another time. But right now,  
21 we're just -- we're taking it out.  
22 MR. TERRILL: Well, I heard you  
23 say delay and we're not delaying it --  
24 DR. SHEEDY: I'm sorry.  
25 MR. TERRILL: -- we're deleting

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1 it.  
2 DR. SHEEDY: I meant to say  
3 delete, my tongue just got carried away  
4 with itself.  
5 MR. TERRILL: I just wanted to  
6 clear that up.  
7 MS. BOTCHLET-SMITH: Other  
8 questions from the Council.  
9 MR. KILPATRICK: I have a  
10 question. On the documentation, Paragraph  
11 (C), I notice that it requires that the  
12 documentation be maintained at the  
13 facility. Is that an actual practice done  
14 that the compressor stations might have to  
15 calculate?  
16 DR. SHEEDY: I don't believe so,  
17 because some compressor stations, of  
18 course, have no --  
19 MR. KILPATRICK: Nobody there.  
20 DR. SHEEDY: -- nobody there and  
21 no -- and they don't always have a building  
22 or -- I think in practice --  
23 MR. KILPATRICK: I'm just  
24 wondering -- it looks like that's not  
25 something that's going to change.

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1 DR. SHEEDY: No.  
2 MR. KILPATRICK: I guess that's  
3 been the wording forever, but I'm wondering  
4 what the real practice is. I'm assuming  
5 maintained back at an office somewhere.  
6 MR. TERRILL: Yeah, we always get  
7 it. And they try to -- at an unmanned  
8 station, that's one of the few instances  
9 where we may notify the owner or the  
10 operator that we're going to do an  
11 inspection so they can have those records  
12 available.  
13 In fact, that's probably the only  
14 time we do that, is when we know that  
15 there's not going to be anybody at a  
16 particular facility and they'll have those  
17 records back at their -- generally a  
18 centralized location out in the field.  
19 I think that came directly out of  
20 the federal requirement and it's kind of a  
21 generic thing that just doesn't work very  
22 well with this particular industry.  
23 MS. BOTCHLET-SMITH: Okay. We're  
24 now going to move on to questions from the  
25 public and I have several that have

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1 indicated they want to speak. Angie  
2 Burkhalter.  
3 MS. BURKHALTER: My name is Angie  
4 Burkhalter and I'm the Director of  
5 Regulatory Affairs for the Oklahoma  
6 Independent Petroleum Association.  
7 And you are just now getting a copy  
8 of my comments. There are a number of  
9 items on there, but I would just like to  
10 talk about a few of those in specific.  
11 This rulemaking is going to impact  
12 probably a large majority of our members.  
13 We -- I represent about fifteen hundred oil  
14 and gas members here and small independent  
15 oil and gas operators here in Oklahoma.  
16 One of the items that we have a  
17 concern with and it's item number two  
18 listed on our letter and it's the special  
19 inventories. That's in 252:100-5-  
20 2.1(a)(4). We are very concerned with this  
21 proposed language that would allow the  
22 Director to request emission inventory data  
23 for anything at any time, without going  
24 through a rulemaking process and justifying  
25 a problem or a need to the regulated

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1 community.  
 2 I believe that ODEQ states that they  
 3 feel like that they have authority to make  
 4 this request by statute. However, my  
 5 interpretation of the statute is that it  
 6 says that it basically -- it specifically  
 7 states that the request is to determine a  
 8 compliance with the Clean Air Act.  
 9 So this means that rules must be in  
 10 place first. And it does not allow ODEQ to  
 11 randomly request data for planning purposes  
 12 without some kind of adequate justification  
 13 or cost impact analysis.  
 14 For example, emission inventory data  
 15 for small oil and gas operators could be as  
 16 costly or range from twenty-five hundred to  
 17 five thousand dollars per facility. So  
 18 we're just requesting that there -- you  
 19 know, there is a concern here and that this  
 20 language be stricken from the rulemaking.  
 21 Item number three on my letter is  
 22 related to certifications. This is under  
 23 Section 252:100-5-2.1(f). I have provided  
 24 some comments on that, but I have talked  
 25 with some folks here this morning and

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1 understand that that type of certification  
 2 is basically for Title V sources and it  
 3 basically applies to those companies that  
 4 have a certain number of employees.  
 5 I think that this statement is very  
 6 onerous for our operators that potentially  
 7 could have minor source permits. You know,  
 8 we have -- they are very, very small, and  
 9 so we feel like that, you know, that person  
 10 is the person and the company that, you  
 11 know, has direct knowledge or maybe has  
 12 done those emission inventories and is not  
 13 the responsible official of the company.  
 14 MR. BRANECKY: But that person  
 15 can be anybody in the company.  
 16 MS. BURKHALTER: Well, the way it  
 17 -- the way I -- the way it reads, it  
 18 doesn't really -- it doesn't really allow  
 19 any designation to appoint someone or -- I  
 20 mean, that's the way I read it. It reads,  
 21 like, pretty strict, that it has to be that  
 22 responsible official.  
 23 MR. BRANECKY: But that  
 24 individual company can decide who that  
 25 responsible official is.

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1 MS. BURKHALTER: Well, if that's  
 2 -- if that's truly the way it is, then we'd  
 3 like to see something in there that  
 4 clarifies that, that that can be designated  
 5 to someone.  
 6 DR. SHEEDY: Angie.  
 7 MS. BURKHALTER: Uh-huh.  
 8 DR. SHEEDY: I think that the  
 9 definition of responsible official that's  
 10 in Subchapter 1 does have provisions for  
 11 designation.  
 12 MS. BURKHALTER: Oh, does it?  
 13 Okay. Well, I just thought the way it's  
 14 listed in the new version and I didn't see  
 15 -- I didn't go back and see the -- so, if  
 16 that's the way it is then, you know, that's  
 17 acceptable.  
 18 Item number four of my comments,  
 19 which is related to the definitions of  
 20 permit exempted facility, that's in Section  
 21 252:100-7-1.1. I just -- this is more of a  
 22 clarification that the definition states  
 23 that the facility has actual emissions in  
 24 every calendar year that are 40 tons per  
 25 year or less of each regulated pollutant.

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1 In our business, you know, the well  
 2 -- certain wells come online and they may  
 3 be very productive in the beginning, but as  
 4 time goes by the production level drops.  
 5 And so, in this situation, we assume  
 6 that maybe there might be some wells or  
 7 facilities out there that over time, as  
 8 they decline, they maybe meet the  
 9 requirements of the permit exempt facility  
 10 and can be designated as such.  
 11 Some of the facilities may  
 12 immediately meet those requirements, but we  
 13 are just assuming that that's what that  
 14 means, that every calendar year doesn't  
 15 exclude a facility if it can ultimately  
 16 become or meet the requirements of the  
 17 definition.  
 18 Item number six of my comments, this  
 19 is related to transfer of permit and this  
 20 is in 252:100-7-2(f). We have talked with  
 21 Eddie about this. This is the requirement  
 22 to notify DEQ within ten days of a transfer  
 23 of permit and Eddie has told us that this  
 24 is something that they're looking into and  
 25 that he thinks would require a statutory

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1 change.  
2 My comment on this is we would just  
3 like the Air Quality Division to pursue  
4 this statutory change and at least increase  
5 that to thirty days. And this would be  
6 similar to what the Corporation Commission  
7 notice requirements allows, and it's worked  
8 very well over there.  
9 Item number seven on my comments,  
10 this is related to emission calculation  
11 Methods, this is in 252:100-7-2(g)(1) and  
12 (2). And this is really more of a  
13 clarification in our assumptions by the  
14 statement that companies can calculate  
15 actual emissions to determine if they meet  
16 the permit exempt facility requirements.  
17 If actual emissions do not exceed those 40  
18 ton per year limit, companies can assume  
19 they are permit exempt and do not have to  
20 submit any data to ODEQ showing that the  
21 actual emissions prove that they meet this  
22 requirement.  
23 Number nine on my comments, this is  
24 related to the same section but it's  
25 252:100-7-2(g)(2), but it's part (b)(i).

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1 And this is where it talks about other  
2 equipment. In December, this was the first  
3 time that we had seen a VOC requirement  
4 that DEQ had proposed, so we were somewhat  
5 surprised about that requirement. And then  
6 I know yesterday that DEQ had revised this  
7 language and we got a copy of it late  
8 yesterday.  
9 I guess what we would like to  
10 reserve or our assumptions on this are the  
11 following items that basically we assume  
12 that the oil and gas operators, if they  
13 meet the existing requirements of (i), that  
14 they are exempt, if they meet those  
15 throughputs and equipment requirements. If  
16 those types of equipment are not on the  
17 facility, we assume that the facility is  
18 permit exempt.  
19 We also assume that if the  
20 throughput or there is other sources on  
21 site that are not listed there, we assume  
22 that we are permit exempt if we go ahead  
23 and do the calculations for those emission  
24 sources and the actual emissions are less  
25 than 40 tons per year.

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1 Also on this one, we assume that  
2 operators do not need to submit any type of  
3 data whatsoever. One of our reservations  
4 on this is that since we only received it  
5 yesterday, I mean, we don't -- we have not  
6 had time to route this, you know, through a  
7 lot of our committee members and through  
8 other various members that might have some  
9 good input on this, but what we'd like to  
10 do is request or reserve the right to  
11 request the Air Quality Division or the Air  
12 Quality Council to make any type of  
13 immediate amendments to this rulemaking for  
14 any unforeseen or unintended consequences  
15 of this language.  
16 Item number ten on my comments is  
17 really an item that was not proposed but we  
18 have talked with the Air Quality Division  
19 about this. And this really has to do with  
20 oil and gas well testing procedures. New  
21 oil and gas wells are drilled and tested  
22 before their potential to produce can be  
23 determined. This test period usually could  
24 be as much as a hundred and twenty days or  
25 longer in length and we would like ODEQ to

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1 consider or to work on language to propose  
2 in the next Air Quality Council that allows  
3 oil and gas wells to be completed, the  
4 necessary testing conducted, before the  
5 company is required to determine if a  
6 permit is needed or if one is needed, what  
7 kind that is.  
8 That concludes my comments. I don't  
9 know if you all have any questions.  
10 MS. BOTCHLET-SMITH: Thank you.  
11 MR. WILSON: Dr. Sheedy, I have a  
12 question on this.  
13 DR. SHEEDY: Yes.  
14 MR. WILSON: Are these types of  
15 letters, like from OIPA, is this the only  
16 means by which the state is getting  
17 feedback on development of this rule?  
18 DR. SHEEDY: No. We had -- we  
19 had, as you know, a workgroup that met  
20 about three or four times, at least, to  
21 talk about this rule and to try and answer  
22 these kinds of questions.  
23 Other than that, we get these  
24 letters, we also sometimes will get phone  
25 calls where they do not make an actual

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1 official comment, they just want some  
2 clarification. But the letters are  
3 certainly an important part of the feedback  
4 that we get. Of course, they also --  
5 people come to these Council meetings and -  
6 -  
7 MR. BRANECKY: When was the last  
8 time that workgroup met?  
9 DR. SHEEDY: That workgroup met -  
10 - I believe the last time was the end of  
11 August.  
12 MR. TERRILL: Was your question  
13 really getting at, do we get a lot of other  
14 industry participating other than oil and  
15 gas?  
16 MR. WILSON: Well, I --  
17 MR. TERRILL: Because we didn't.  
18 We tried to get a lot of other folks  
19 interested, but we just didn't get a lot of  
20 other interest other than the oil and gas  
21 folk. It was primarily driven by them and  
22 we figured that, because they've got the  
23 bulk of the sources.  
24 DR. SHEEDY: That's right.  
25 MR. WILSON: What I'm trying to

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1 determine is whether or not the workgroup  
2 process is still an open and ongoing thing  
3 on this because the rule is appearing to us  
4 today for consideration. I think the state  
5 is going to recommend that we stay this, at  
6 least.  
7 DR. SHEEDY: No, we're going to  
8 recommend that we pass it. I think that  
9 the issues that Angie brought up, I think a  
10 good number of those have been solved by  
11 our -- by the recent changes we made and  
12 that perhaps the problem is that we haven't  
13 talked about them or we haven't clarified  
14 them enough. But --  
15 MS. MYERS: It appears that the  
16 comments submitted by OIPA could have been  
17 handled in a more timely fashion instead of  
18 waiting until the fourth time the rule  
19 comes before the Council. Some of those  
20 changes appear to be fairly significant and  
21 I'm not sure that we'll ever get this rule  
22 exactly right for everybody.  
23 DR. SHEEDY: Well, some of the  
24 changes were made in response to concerns  
25 that OIPA had.

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1 MR. TERRILL: Let me talk here a  
2 little bit. We met with both MOGA and OIPA  
3 last week. And they have committees that  
4 work within their organization that look at  
5 these rules and they get back with their  
6 members, as most of you all know. And they  
7 did point out some things that -- from the  
8 draft that was posted that we needed to  
9 make some changes or clarifications that we  
10 had missed. And we think we have taken  
11 care of that.  
12 The real stickler here that this  
13 deal left is this business of special  
14 inventories. And I would have to disagree  
15 that -- I believe we do have the authority  
16 under statute to ask for these inventories,  
17 but I also feel like that we need to have  
18 this in the rule simply because there may  
19 become a time where we have to have  
20 inventories from a lot of small sources.  
21 I don't know where EPA is going to  
22 go with some of their MACT standards, I  
23 don't know what they're going to require  
24 toxics-wise, there is a lot of things that  
25 could happen that we need to have this

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1 ability to ask for these inventories. And  
2 I think that by us giving to the industry  
3 the ability to be permit exempt on  
4 somewhere between seventy-five and a  
5 hundred thousand sources, that we need to  
6 have this right reserved to ask for this if  
7 we need it.  
8 It costs us time and money to  
9 process these inventories and to just ask  
10 for one is just -- we wouldn't do that, it  
11 would be nonsensical. And if there was a  
12 need to do it, it would be something that  
13 would be read at the Council meeting  
14 because it would probably be in response to  
15 some type of new state or federal  
16 requirement that came through the Council  
17 that everyone was aware of, there would be  
18 plenty of notice that we're going to have  
19 to ask for these inventories.  
20 But I just -- that's just a sticking  
21 point with me and I just believe that has  
22 to be in here as a trade-off and we'll just  
23 have to be accountable to the Council and  
24 to the DEQ Board, to the Legislature and to  
25 the regulated community that we won't abuse



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1 that.

2 MR. KILPATRICK: Eddie, today,

3 are all these sources that are qualified

4 under this proposed rule, are they having

5 to submit annual inventories today?

6 MR. TERRILL: The vast majority

7 of them don't have permits or anything.

8 And that's the reason that when we were

9 looking at this whole issue in relation to

10 what we call SOP 20, which is permitting of

11 sources five tons and below that we

12 exempted when we shouldn't have in the oil

13 and gas sector, we just realized that if we

14 were going to enforce the rules the way

15 they were written, we were going to have

16 thousands of sources that we were going to

17 have to go out and find and get permitted

18 and all we were going to do is find them

19 and permit them and fee them, and it just

20 wasn't worth our time to do that.

21 I mean, it just didn't make sense

22 for us to go out and do that. But I also

23 felt like if we were going to make this

24 rule change, it shouldn't just be for one

25 sector, this is a burden. If you're just

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1 going to get a permit and pay a fee, it's

2 all small business and why not make this a

3 blanket -- a lot of states do this. We

4 really should have done this when we set

5 our de minimis at five tons. That was at

6 the time we should have done this and we

7 just didn't do it.

8 So it's correcting something we

9 should have done several years ago, but

10 that's exactly the reason that we decided

11 to look real strongly at this 40 ton permit

12 exempt, is because we had these thousands

13 of small, you know, ten, fifteen, twenty

14 ton sources out there that, you know -- we

15 think we've got a way to get the majority

16 of them through the Tax Commission,

17 Corporation Commission and things like that

18 if we need it. But there may just

19 come an instance at some point where we

20 really have to work with OIPA and the MOGA

21 folks, primarily OIPA, to figure out how to

22 get these inventories and we want us to

23 have that ability to do that.

24 DR. SHEEDY: Yes, I think we're

25 far more comfortable in exempting them from

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1 the annual inventory, if we have a method

2 of inventorying them if the need arises.

3 And I think EPA is more comfortable with us

4 having that --

5 MR. TERRILL: Yes. And let me

6 speak to these other changes that Angie

7 brought out from OIPA. You're always going

8 to have some uncertainty when you make a

9 rule revision like this. And we've looked

10 at this and looked at this and invariably

11 we'll miss something. And, you know, we'll

12 do this just like we done the excess

13 emission malfunction rule.

14 When we changed that rule, we said

15 that once it had been in effect for a year

16 or two, industry could take a look and come

17 back to us with things that we could have

18 done better to improve that rule, same way

19 here. If this has an unintended

20 consequence that we haven't thought about,

21 we'll come back to the Council and fix it.

22 MR. KILPATRICK: I have a

23 question about the comment number four of

24 the OIPA letter that involves every

25 calendar. What does that line mean when it

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1 says actual emission in every calendar

2 year?

3 DR. SHEEDY: I can explain to you

4 why we put that in, because we don't want

5 certain facilities that will be under 40

6 tons one year and then 45 the next year and

7 20 the next year, that bounce up and down,

8 coming in and out of permit exempt. You

9 meet the permit one year, don't meet it the

10 next year -- I mean, that's going to cause

11 us a lot more work. And so that's why we

12 said every year.

13 I think we hadn't thought about oil

14 and gas in particular where they may have a

15 well site that will be going down in

16 production over time steadily and not come

17 back up again. But some -- a lot of

18 facilities are not uniform in their

19 emissions from one year to the next, it

20 varies depending on the market economy and

21 that sort of thing.

22 MR. KILPATRICK: So it sounds

23 like what you kind of need in there to do

24 what I think you're saying you wanted to

25 do, is something that says every year for

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1 the last three years or, you know -- some  
2 trigger so you don't go on saying this well  
3 came on at 45 or twenty years ago but for  
4 the last nineteen years it's been under  
5 that. But, yet, if you say every year  
6 means every year, you're still going to  
7 hold it at that original level. We need  
8 some sort of window there to look at. But  
9 what the right window is, I don't know.

10 MR. TERRILL: Well, in reality,  
11 we're not going to be looking at any window  
12 because we're going to rely on the  
13 owner/operator to make that determination  
14 for themselves if they're 40 tons and  
15 below.

16 I mean, if we had -- if we were  
17 going to go out and verify this, that would  
18 be worse than trying to get them permitted.  
19 I mean, I would rather permit everybody and  
20 figure out how to do that than I would  
21 spend the time trying to figure out if  
22 they're 41 or 42.

23 I mean, we get in this debate with  
24 facilities that are around the borderline  
25 of a major source. And, so, how are we

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1 going to find these sources? Through a  
2 complaint or if it becomes a real problem,  
3 then we'll look at addressing it some other  
4 way. But most of this is going to be  
5 pretty much on the honor system for these  
6 sources that are small to begin with.

7 MR. KILPATRICK: So you're  
8 leaving it up to the facilities to decide  
9 what the definition of every year is?

10 MR. TERRILL: Well, I'm not --

11 MR. KILPATRICK: I mean, that's  
12 what you're saying. In a well that  
13 declined five years ago before 40 and has  
14 been below ever since, it could go ahead  
15 and say I'm under 40, therefore, I'm permit  
16 exempt.

17 DR. SHEEDY: I don't think we  
18 would disagree with them because that's not  
19 -- I see your point.

20 MR. TERRILL: Yes, I do, too.

21 DR. SHEEDY: That's not what we  
22 intended to do here.

23 MS. DIZIKES: As a practical  
24 matter, we're limited in any action against  
25 any facility by statutes of limitations.

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1 And so I don't really think it's really  
2 necessary to add any further limiting  
3 language.

4 MR. KILPATRICK: What's the limit  
5 -- the statute of limitations? Seven years  
6 or something?

7 MS. DIZIKES: No, I think it --  
8 is it five years?

9 DR. SHEEDY: You mean that --

10 MS. DIZIKES: Go ahead. Go  
11 ahead, Mr. Peters.

12 MR. PETERS: Five years.

13 MS. DIZIKES: Five years.

14 MS. BOTCHLET-SMITH: Joyce, do  
15 you have further response to those  
16 comments?

17 DR. SHEEDY: Does anyone on the  
18 Council have any particular comments that  
19 they would like a response to? Any -- is  
20 there any comment that would cause you to  
21 think that we need to delay this passage  
22 another time? Because if there is, I would  
23 like to respond to it. Yes, Angie.

24 MS. BURKHALTER: I just want to  
25 make one comment that, you know, I just

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1 outlined some issues. We are generally  
2 not, you know, opposed. We would like the  
3 -- we would just like to make sure, on the  
4 record, that, you know, the Division will  
5 work with this to try to refine some of  
6 these issues that we have, that we have  
7 identified. And I think a lot of them are  
8 minor, you know, some word changes and  
9 things like that. So I just want to  
10 clarify that with you.

11 DR. SHEEDY: And I'm sure that we  
12 will, as we do with all of our rules, if  
13 when this is in actual practice there is a  
14 problem, then we will work to resolve that  
15 problem. If there is language that is a  
16 problem, we'll look at it again.

17 MR. TERRILL: That's our  
18 commitment on all these rules. And I  
19 encouraged both OIPA and MOGA to make their  
20 comments on the record so that if that  
21 would make them more comfortable so that we  
22 would have these things nailed down and we  
23 continue to work on them. So I'm probably  
24 as much at fault as anybody.

25 I believe that we do need to have

<p style="text-align: right;">Page 50</p> <p>1 these things out there so that we can -- 2 you know, I could leave tomorrow and the 3 whole tenor of what we do here may change 4 and there needs to be some certainty or 5 some consistency in what we're doing. And 6 so the commitment through the dialogue on 7 the record is there for us to continue to 8 work on this. I'm sure we'll be fine- 9 tuning this particular rule a year from now 10 or two years from now. 11 It's just you can't do anything 12 that's this sweeping without missing 13 something and finding out you need to make 14 a few corrections as you actually implement 15 it, so -- and that's -- that's part of what 16 we're doing here, too. 17 DR. SHEEDY: That's right. And 18 what we've tried to do here is -- right now 19 the way the rules are written, all these 20 sources should have permits and if they are 21 not grandfathered, they should have permits 22 and they should be on our inventory 23 regardless of whether they are 24 grandfathered from permits. That's the way 25 the rules -- the regulations read. And we</p>	<p style="text-align: right;">Page 52</p> <p>1 have time to get finalized, as read by Ms. 2 Sheedy and Mr. Terrill alluded to. But we 3 do believe that the rule should be 4 finalized today and authorized and 5 submitted for final approval. Thank you. 6 MS. BOTCHLET-SMITH: I have a 7 gentleman from Martin-Marietta. I'm not 8 sure I can pronounce the name. 9 MR. BHATNAGAR: My name is Lalit 10 Bhatnagar. I'm the Division Environmental 11 Manager for Martin Marietta Materials. 12 We are the second largest rock 13 crushers in the country. We have 14 operations pretty much in most of the 15 eastern and western part of the country, 16 including Oklahoma, and we also operate a 17 few asphalt plants and ready mix 18 operations. 19 And the comments that I have, they 20 pretty much relate to two items in these 21 proposed rules. These -- just to kind of 22 give you a background, I'm a little bit new 23 in Oklahoma, I've been here about four 24 months, but I come with about twelve years 25 of environmental permitting background,</p>
<p style="text-align: right;">Page 51</p> <p>1 want to make -- we want to put in the rules 2 what we actually are doing, which is, we 3 are not requiring them to do an inventory 4 and we are not requiring them to permit 5 because we think the cost of doing that 6 would be far more than it is worth. 7 MS. BOTCHLET-SMITH: Okay. We 8 would like to continue with comments from 9 the public. Mr. Jay Eubanks from Mid- 10 Continent Oil and Gas Association. 11 MR. EUBANKS: Thank you. My name 12 is Jay Eubanks and I'm here representing 13 the Mid-Continent Oil and Gas Association. 14 I'm the Chairman of the Environmental 15 Safety Committee at the Association. 16 On behalf of the Association, I 17 would like to thank the staff for allowing 18 us to have input into this rulemaking 19 process. We believe the permit exempt 20 facility rule changes are a positive step 21 in clarifying the permitting process for 22 industry. 23 However, we would like to continue 24 to work with the staff on some 25 modifications to this rule that we did not</p>	<p style="text-align: right;">Page 53</p> <p>1 both Title V's and minors, in about a dozen 2 states or so. 3 And these proposed rules, I think 4 these are just extremely progressive way of 5 looking at these things where these large 6 number of minor sources are permit exempt 7 facilities, the rule is trying to define 8 their having such a minimal impact on the 9 air quality. From the Technical Support 10 Document, it offers potentially four 11 hundred twenty-plus facilities that would 12 potentially be covered under permit exempt 13 status. They are contributing less than 14 six percent of the emissions. 15 And I think the Technical Support 16 Document, it talks about if these rules 17 were to go into effect, there will be 18 minimal to no impact on the ambient air 19 quality standards. And so I think I want 20 to congratulate the Director and the staff 21 for the outstanding job that they have 22 done. 23 And in regards to these rules, there 24 are a couple of comments that we have. 25 Under Section 7-1-1, the definition for the</p>

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1 de minimis facilities and the permit exempt  
 2 facilities, my comments pretty much relate  
 3 to the definition at the very bottom where  
 4 it talks about the facilities, even though  
 5 through the actual emissions between, say,  
 6 5 tons and less than 40 tons per year for  
 7 permit exempt facilities. Even though  
 8 those emissions are smaller than that  
 9 number, that would potentially include them  
 10 as part of permit exempt facility, but the  
 11 facilities which are subject to NSPS or  
 12 NESHAP, they are explicitly excluded from  
 13 seeking coverage under this new category.  
 14 Our industry, we are pretty much  
 15 regulated by NSPS Subpart OOO and OOO has  
 16 been in effect since 1983. And most of our  
 17 facilities, they are minor facilities with  
 18 minimal impact on the environment and just  
 19 because we are subject to NSPS with the  
 20 smaller emissions that we have from these  
 21 facilities, I think I was going to bring it  
 22 to the Council's attention that there are  
 23 other parts in Oklahoma regulations where  
 24 in Oklahoma it's a fully delegated state or  
 25 NSPS federal regulations that are adopted

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1 by reference.  
 2 So I think by excluding facilities,  
 3 which, even though they have so small  
 4 emissions, just because they are subject to  
 5 NSPS standard or NESHAP standard, I think  
 6 we shouldn't be excluding those facilities  
 7 from these permit exempt category. And  
 8 staff has, in the Technical Support  
 9 Document, of the four hundred twenty-plus  
 10 facilities, I was just doing a brief count,  
 11 there are approximately ten to fifteen  
 12 percent of these four hundred twenty  
 13 facilities where NSPS Subpart OOO applies.  
 14 And even though these emissions are just so  
 15 small, we won't be able to seek coverage  
 16 under the permit exempt facility.  
 17 And the point that I was trying to  
 18 make was, this is an extremely progressive  
 19 approach that I've seen working in a dozen  
 20 states or so. And I think we ought to do  
 21 this thing completely, not halfway where we  
 22 create these categories and still exclude a  
 23 lot of minor sources from seeking coverage.  
 24 Those minor sources, even after this rule  
 25 goes into effect, will still have to comply

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1 with all the permitting, recordkeeping  
 2 requirements, even though our emissions are  
 3 just so small.  
 4 And as ODEQ would agree that  
 5 irrespective of whether the NSPS or NSPS  
 6 language is part of this permit exempt  
 7 facility definition or de minimis facility  
 8 definition, ODEQ retains the right to  
 9 enforce all other state/federal  
 10 requirements. And the NSPS requirements  
 11 will continue to apply, irrespective of  
 12 whether we are included or excluded as part  
 13 of these permit exempt facilities. And so  
 14 we would request Council to remove this  
 15 requirement where NSP -- just because a  
 16 small source is subject to NSPS or NESHAP,  
 17 they can seek coverage under the permit  
 18 exempt facility.  
 19 Those are pretty much all the  
 20 comments I have. Any questions?  
 21 MR. WILSON: Do you know of any  
 22 states that have done a similar type or  
 23 taken a similar type of action that have  
 24 included the exemption of NSPS facilities?  
 25 MR. BHATNAGAR: There are a few.

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1 I think the states are moving in this  
 2 direction. Primarily, in the past there  
 3 was a hodgepodge of states where certain  
 4 states had fully -- were fully delegated on  
 5 NSPS, some were not, some were in between.  
 6 So permitting was pretty much the only way  
 7 where they could bring not only the state  
 8 permitting requirements but also NSPS  
 9 requirements under one rule. But that has  
 10 changed over the years.  
 11 And like here in Oklahoma, we are a  
 12 fully delegated state, we have all the NSPS  
 13 standards. Those are referenced by rule  
 14 directly to what the federal standards are.  
 15 And as this Technical Support Document  
 16 says, even though these permit exempt  
 17 facilities don't have to do permitting,  
 18 recordkeeping and those kind of things, but  
 19 they are still applicable to all the other  
 20 requirements like NSPS or say fugitive dust  
 21 or open burning, those kind of regulations,  
 22 those still continue to apply.  
 23 And we think that just by including  
 24 that one line in the definition, we are  
 25 excluding, just from our industry, about

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1 fifteen percent of the four hundred  
2 facilities that the staff has included in  
3 the potentially permit exempt facility.  
4 And I think what we are trying -- what the  
5 Director and staff is trying to do here, I  
6 think this was extremely progressive  
7 because we are contributing these four  
8 hundred some facilities, they are  
9 contributing less than six percent of the  
10 emissions and we are spending a lot of  
11 resources which could go towards major  
12 source compliance.  
13 And I think the intent is good but I  
14 think the unintended consequence of this  
15 one line is -- that of this four hundred  
16 when we come down to it, it may just end up  
17 being a handful. I just want to make sure  
18 that these comments, we bring this thing to  
19 Council's attention, that the good things  
20 that we are trying to do, we just don't  
21 want to defeat the purpose of what they are  
22 trying to do here.  
23 MS. MYERS: Have you submitted  
24 written comments?  
25 MR. BHATNAGAR: I just became

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1 aware of this three days ago, but we will  
2 be submitting written comments in regards  
3 to this.  
4 MS. MYERS: Thank you.  
5 MR. BRANECKY: I guess I would  
6 like to maybe hear what DEQ's response to  
7 that would be.  
8 MR. WILSON: I agree. I brought  
9 this issue up at the last two Council  
10 meetings regarding NSPS and NESHAP and why  
11 this rule can't benefit from those being  
12 part of the permit exempt family. Maybe we  
13 ought to hear one more time from DEQ.  
14 DR. SHEEDY: When we initially  
15 started writing this rule, we looked into -  
16 - we wrote it without exempting NSPS and  
17 NESHAP and then when we took it to our  
18 staff to review, they had reasons why they  
19 felt that sources subject to these should  
20 be exempt.  
21 Some of those reasons were that  
22 while they're -- because we're not going to  
23 charge an annual fee to these companies or  
24 -- for these facilities and that we will  
25 still be required to maybe inspect them, do

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1 -- they may have reporting requirements to  
2 us and notification requirements to us, so  
3 we will still be dealing with them, whereas  
4 a lot of the sources, the other sources  
5 that aren't subject to NSPS or NESHAP, we  
6 won't have dealings with them unless --  
7 basically unless we have a complaint or a  
8 reason to think that they had erroneously  
9 taken permit exempt status.  
10 Another reason is we do have this  
11 program delegated. We have, of course, IBR  
12 rules. But part of that delegation  
13 responsibility is that we know that these  
14 facilities have indeed done the  
15 notifications and kept the records and done  
16 those testing or whatever the NSPS or  
17 NESHAP may require in a timely manner. Or  
18 if not, we take enforcement proceedings.  
19 And if we have no permit and we have  
20 no emission inventory, we may have some  
21 problem in finding these facilities or  
22 knowing who they are. So I think those are  
23 some of the reasons why we did decide to  
24 exclude them in the end.  
25 MR. WILSON: But, you know, this

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1 rule is full of places where there are  
2 elements of trust involved. In fact, I've  
3 never seen a regulation so full of that.  
4 It depends upon trust between the regulator  
5 and the regulated community.  
6 And really what you're talking about  
7 there is whether or not you want to extend  
8 trust to facilities that are regulated,  
9 that are employing controls, recordkeeping,  
10 whatever prescriptive parts of the  
11 regulation are involved and, you know, in  
12 the spirit of what we're trying to achieve  
13 here, which is trying to relieve the  
14 burden, you know, I have to agree.  
15 I'm not sure we're going to get  
16 there today, but I have to agree. I see  
17 that the element of trust can be extended  
18 to these facilities and further be relieve  
19 the burden of the regulated from the  
20 regulators.  
21 MR. TERRILL: But on the flip  
22 side of that, we've got the responsibility,  
23 as part of the delegated program, to  
24 inspect and verify these sources, trust  
25 only goes so far. And if we're going to

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1 have to continue to regulate these  
2 facilities, they need to be in the system.  
3  
4 And another thing that we would have  
5 to look at here is this would be a  
6 substantial change, it would have to be  
7 approved by EPA. You know, I'm not opposed  
8 to saying that we'll continue to look at  
9 this as we evaluate how the rule is  
10 implemented. But I'm not willing at all to  
11 delete that today.  
12 MS. MYERS: Eddie, what's the  
13 time frame on needing to pass this rule?  
14 Is there a time crunch on it or any?  
15 MR. TERRILL: Well, I don't know  
16 that there is any time crunch on it except  
17 that we've got a -- you know, right now our  
18 rule says 5 tons and above need to be  
19 permitted. And for the last three or four  
20 years, five years, however long we've had  
21 this rule, we've had a significant number  
22 of sources that don't have permits. And  
23 we're trying to move away from that.  
24 We've got a situation now where  
25 we're trying to align ourselves with what

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1 our rules say and we're requiring these  
2 sources that have 40 tons and below to  
3 start coming in and getting permits. The  
4 longer we put this off, the -- I just don't  
5 see the value of putting it off.  
6 MR. BRANECKY: And -- help me  
7 here. If we don't pass this today -- well,  
8 if we pass it today, we have the potential  
9 of it being implemented this June.  
10 DR. SHEEDY: That's correct.  
11 MR. BRANECKY: If we don't pass  
12 it today, it will be delayed a year.  
13 MR. TERRILL: We'll have to make  
14 it --  
15 MR. BRANECKY: So is it worth  
16 that year to industry and DEQ to pass it  
17 with known concerns and correct those at a  
18 later date? Or do we delay the whole thing  
19 for another year?  
20 MR. TERRILL: If -- we'll  
21 continue to look at this and if it looks  
22 like that we've truly made a mistake here,  
23 we can ask the Board to send it back. I  
24 mean, the next step is it goes to the  
25 Board.

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1 MR. BRANECKY: Right.  
2 MR. TERRILL: And they can send  
3 the whole thing back. And if we're not  
4 going to pass it now, whether or not we  
5 pass it six months from now or three months  
6 from now really won't make any difference.  
7 MR. WILSON: Well, I think this  
8 is just another example of the need for  
9 ongoing discussion and input from the  
10 regulated community to, you know, once we  
11 pass this, to continue to look at ways to  
12 make it better.  
13 MR. TERRILL: I absolutely agree  
14 with that.  
15 DR. SHEEDY: And we have taken  
16 one step in that direction by saying that  
17 they had to be subject to a standard or a  
18 work practice, that basically was our  
19 knowledge from KB at that time. I think  
20 it's since changed, where there was a  
21 requirement that if you were a certain  
22 size, you were subject to KB, but all you  
23 had to do was keep an onsite record of your  
24 size. So we have made a step in that  
25 direction.

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1 MR. TERRILL: But we'll commit to  
2 look at this if you all see fit to pass  
3 this today, we'll take a look and see what  
4 impact that might have. And if it really  
5 is minimal and it won't create any problems  
6 for our folks in tracking this and if the  
7 industry wants to come to us and say, we've  
8 identified ways that we can do that, we'll  
9 look at that, too. I mean, that's -- I'm  
10 not opposed to that at all.  
11 MS. BOTCHLET-SMITH: Do we have  
12 any other questions from the public?  
13 Please state your name.  
14 MS. CANTY: I'm Cathy Canty and I  
15 have an environmental consulting firm. I  
16 want to compliment you guys on the rule,  
17 because we've been watching this for a long  
18 time and we knew that permit exemption was  
19 coming.  
20 I did not find out until this  
21 morning, so I've not been able to do any  
22 research on this new NSPS requirement. I  
23 cannot think of a single client out of  
24 about a hundred and fifty plants that we  
25 did consulting for last year that would be

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1 able to now be permit exempt.  
2 I think there's complications on  
3 both sides. These companies spend  
4 thousands of dollars hiring people like us  
5 to do their inventories and their  
6 permitting. From a consultant's  
7 perspective, you know, we want to spend  
8 that money doing training, being proactive,  
9 having them be proactive as opposed to  
10 doing paperwork and filling out money.  
11 I think there is some fee issues  
12 that, you know, certainly that would impact  
13 you greatly. I don't know if you've had  
14 the opportunity to continue to require fees  
15 in addition to being allowed for people to  
16 be permit exempt. I mean, that may be an  
17 option. I just want to reiterate that the  
18 NSPS being put in there is going to exclude  
19 the majority of industry that I know of  
20 that probably would have been able to fall  
21 under that. And for me, personally, we did  
22 about a hundred and fifty plants last year  
23 and there won't be one of them -- all you  
24 have to do is have one conveyor at a quarry  
25 site or an asphalt plant that is older than

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1 1983.  
2 And, to me, this doesn't make sense  
3 because environmentally, if you're older,  
4 which means you're probably not as  
5 efficient, you get exempt. If you are  
6 older than 1983, you're subject to NSPS and  
7 you've got to get permits and you've got --  
8 that doesn't necessarily make sense to me.  
9 I don't have the answer, but I want to say  
10 having just found out about this this  
11 morning, I think this is something new  
12 that's popped up at DEQ, they've thrown  
13 this in here and maybe they've been looking  
14 at it for a long time, I just have not  
15 followed it. I found out about it this  
16 morning. I don't know what other states  
17 are doing, but if there is a way to look  
18 around that, I certainly would encourage  
19 that from our company's perspective and the  
20 various industries we represent. Thank  
21 you. If there is no questions, I'll sit  
22 down.  
23 DR. SHEEDY: I would just like to  
24 state that the NSPS/NESHAP, that exclusion  
25 has been in the rule since it first was

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1 available to the public. So it's not a new  
2 change.  
3 MS. BOTCHLET-SMITH: Any further  
4 comments? Bob.  
5 MR. KELLOGG: Thank you, Beverly.  
6 Good morning, ladies and gentlemen. I'm  
7 Bob Kellogg with Shipley and Kellogg.  
8 I applaud the DEQ for moving forward  
9 on simplifying the rules and the processes.  
10 Those of you that know me know that I've  
11 always been of that vein and I have one  
12 more suggestion. I would like the rules to  
13 go forward, because you're going to  
14 implement something.  
15 And I would like you to change one  
16 word, if you would, please, so that people  
17 who aren't in the room today will know what  
18 you have said today. And that's the  
19 definition of permit exempt facility in 7-  
20 1.1. Change the word "in every calendar  
21 year" to "the last five calendar years" and  
22 then that makes it clear to everyone that  
23 needs to follow this to know precisely what  
24 it means. And being clear is always, I  
25 think, a good thing to do. Thank you.

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1 MR. WILSON: Does the DEQ want to  
2 respond as to whether or not that  
3 suggestion makes it clear?  
4 MS. DIZIKES: I don't have any  
5 objection to it. I just want to note that  
6 we've had so many suggestions today, I'm  
7 not sure where we begin and where we end.  
8 MR. WILSON: Well, is that one  
9 worthy of correction today?  
10 MS. DIZIKES: I would have no  
11 objection to that.  
12 MR. TERRILL: Well, the technical  
13 folks are the ones that are going to have  
14 to live with this and I don't have any  
15 objection if it makes it clearer. But I  
16 want to -- and this is not unusual for us  
17 to do this, we just haven't done it in the  
18 last several Council meetings. So in times  
19 past, there would be a lot of changing on  
20 the day of the Council before we pass it.  
21 Joyce.  
22 MS. DIZIKES: Scott Thomas just  
23 pointed out that we don't know when the  
24 five years begin or end, and I guess we  
25 would have to then take on trust that it is

1 measured from the time that (inaudible).  
 2 DR. SHEEDY: This change may not  
 3 be as simple as it sounded.  
 4 MR. TERRILL: It's up to the  
 5 Council. I propose to leave the rule like  
 6 it is. I mean, either that or we can carry  
 7 it over and we'll permit them. I don't  
 8 know what the best solution here is. We  
 9 could mull this thing around for another  
 10 year. I would propose to leave it like it  
 11 is. If we need to fix it, we'll come back  
 12 and make adjustments. I can't imagine that  
 13 it's going to create that much of a --  
 14 we'll be looking at the NSPS issue and I  
 15 can't imagine it will make that much  
 16 difference in a year's time. That's -- I  
 17 think, don't we have to leave it closed for  
 18 a year? We can't reopen it for a year, or  
 19 can we?  
 20 MS. DIZIKES: We would be able to  
 21 reopen it this fall. It's just a matter of  
 22 publication. But I think we want to give  
 23 it some time for some experience to see how  
 24 it's doing.  
 25 MR. TERRILL: Yeah, and I would

1 effective date of the regulation. There is  
 2 an effective date of the regulation and it  
 3 could be misinterpreted and then you would  
 4 only have a specific five year period.  
 5 MR. KILPATRICK: I tend to agree  
 6 with Bob that I don't like the fact that it  
 7 says in every year when we really don't  
 8 mean every year. It would be a whole lot  
 9 better if we said what we meant. And since  
 10 we set the statute of limitations at five  
 11 years, we pick five years and just say the  
 12 last five calendar years. Even if you have  
 13 that misinterpretation about well, you  
 14 could start from the time -- I think you  
 15 would be a lot closer to saying what you  
 16 mean by changing it to every five years,  
 17 the last five calendar years then just  
 18 saying every calendar year. Because you  
 19 could say every calendar year since the  
 20 regulation was passed, I mean, if you want  
 21 to take that sort of interpretation. The  
 22 clock starts when we pass the regulation,  
 23 which I don't think is the right  
 24 interpretation, but --  
 25 DR. SHEEDY: I think that we can

1 propose to do that. I mean, we're not  
 2 trying to do something that would be this  
 3 unclear. But I agree. If we're not going  
 4 to pass this rule today, then we probably -  
 5 - I just don't believe that this one change  
 6 is enough to warrant creating a bigger  
 7 problem and I would prefer to leave it like  
 8 it is and we'll see what happens. If we  
 9 need to change it, we will in the fall or  
 10 this time next year.  
 11 MR. KILPATRICK: I still don't  
 12 quite understand we don't know the time  
 13 period. If you're looking at an actual  
 14 emissions in the last five calendar years,  
 15 that means that at whatever point in time  
 16 you're looking at it, you go back five  
 17 calendar years. And if you meet the  
 18 requirement, then you are now permit  
 19 exempt. If in the last five calendar  
 20 years, you don't meet it -- I'm not quite  
 21 understanding what we mean, we don't know  
 22 what the period is.  
 23 MR. THOMAS: My comment was maybe  
 24 the last five years could be from the  
 25 effective -- could be considered from the

1 make it work if we put "has actual  
 2 emissions" in each of the last five  
 3 calendar years that are 40 tons -- in each  
 4 of the last five calendar years.  
 5 MR. KILPATRICK: I'm in favor of  
 6 making that one change to the proposal.  
 7 MS. MYERS: Joyce, read that back  
 8 to me, please.  
 9 DR. SHEEDY: Has actual emissions  
 10 in each of the last five calendar years  
 11 that are 40 tons per year or less in each  
 12 regulated air pollutant.  
 13 MS. MYERS: So what happens if  
 14 they have four out of five?  
 15 DR. SHEEDY: Then they'll have to  
 16 wait another year.  
 17 MR. KILPATRICK: It's trying to  
 18 get the ones that are on a decline, so if  
 19 they only meet four, they've got to wait  
 20 until they get five years to comply.  
 21 MS. MYERS: Five consecutive  
 22 years of less than 40 tons.  
 23 MR. KILPATRICK: That's right.  
 24 DR. SHEEDY: What we're trying to  
 25 --



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1 MR. KILPATRICK: And it will  
2 block out the ones that are going up and  
3 down, because you have to have five years  
4 of data, five consecutive years.  
5 DR. SHEEDY: We thought it would  
6 be more work for industry and for us if you  
7 could hop in and out of permit exempt  
8 status.  
9 MS. MYERS: So the language that  
10 you read said something about -- read that  
11 one more time for me, please.  
12 DR. SHEEDY: Has actual emissions  
13 in each of the last five calendar years  
14 that are 40 tons per year or less of each  
15 regulated air pollutant.  
16 MS. MYERS: Does it need to be --  
17 do we need to rephrase that to five  
18 consecutive calendar years?  
19 MR. KILPATRICK: It says the last  
20 five, but that means consecutive.  
21 DR. SHEEDY: Five consecutive.  
22 MS. MYERS: It says in each of  
23 the last five. Five consecutive years --  
24 there is a little bit of difference I'm  
25 hearing on five consecutive years of forty

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1 tons or less.  
2 MR. KILPATRICK: The OIPA is  
3 probably going to say they just as soon we  
4 don't change it, because then it's up to  
5 them to interpret what every means. They  
6 might interpret it to mean two consecutive  
7 years.  
8 MS. BURKHALTER: Well, just a  
9 quick comment. You know, I had a comment  
10 about this in just that we were making an  
11 assumption, but I was listening to some  
12 folks talk behind me and around me to the  
13 side and I guess their presumption was that  
14 once you claim it from that point forward,  
15 it's every calendar year forward that that  
16 would apply. That's their assumption. And  
17 if you include a time frame, then from my  
18 perspective you would exclude some people  
19 unnecessarily that could really apply for  
20 it if you put a five year or three year or  
21 something like that. As long as you are  
22 compliant from that point forward, I mean,  
23 that's the whole point is where you are  
24 permit exempt, so, that's my comment.  
25 DR. SHEEDY: Well, that point

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1 forward would be the effective date of the  
2 rule; is that correct?  
3 MR. KILPATRICK: Well, maybe you  
4 better discuss the thing, because it could  
5 be -- if you're trying to block out the  
6 ones that are going up and down, you could  
7 say in the last year. So if a facility  
8 last year went above, they now are out of  
9 permit exempt. The next year if they go  
10 below, they become permit exempt, they will  
11 be flip-flopping and you may not want that  
12 to happen. You may want to consider how do  
13 you write the language so that you  
14 accomplish what you want to do.  
15 DR. SHEEDY: We definitely don't  
16 want the flip-flopping.  
17 MS. MYERS: That's why I was  
18 looking at five consecutive years 40 tons  
19 or less.  
20 MR. KILPATRICK: Well, the last  
21 five years does the same thing.  
22 Consecutive, even less, seem to do the same  
23 thing. That's what the intention was,  
24 anyway.  
25 DR. SHEEDY: Sharon, did you want

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1 it -- how did you want it to read? In each  
2 of the last five consecutive years or --  
3 MS. MYERS: 40 tons or less for  
4 five consecutive years.  
5 DR. SHEEDY: 40 tons or less for  
6 five consecutive years.  
7 MS. MYERS: If you go 40 tons and  
8 40 tons and drop down below and then you go  
9 back up to 45, that's not five consecutive  
10 years. You would still need to maintain a  
11 permit.  
12 MR. WILSON: I think it ought to  
13 say the previous reporting period.  
14 Companies are not going to want to go out  
15 and get a permit because they're emitting  
16 45 tons. It's incentive.  
17 MR. TERRILL: And we're not --  
18 I'm not going to create a problem here  
19 where we have got to go out and do massive  
20 verification on this thing in order to have  
21 a level playing field, and that's what --  
22 we're getting into a situation here where  
23 we've got a bigger problem then -- because  
24 I've already got a PBR written.  
25 I mean, we can fee every -- we can

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1 permit and fee every single one of them  
2 right now, if we wanted to expend that  
3 effort and we're just about to the point  
4 where I can do that easier than I can do  
5 this. So, you know, I'll stick with what I  
6 said earlier. I would propose we pass this  
7 rule as it is, we'll let it -- we'll  
8 implement it for a year, nine months to a  
9 year, we'll come back and fix things that  
10 need to be fixed because you can imagine,  
11 if we're struggling with this simple  
12 concept, what else have we missed or, you  
13 know, we've been looking at this for so  
14 long and this has not come up.  
15 We just didn't think this was that  
16 big a deal and obviously neither did the  
17 group or we would have had this discussion  
18 before now. So I'll stick with what I said  
19 before. Let's pass this rule as it is,  
20 let's let it work for nine months to a  
21 year, we'll come back and do a report and  
22 tell you how it's working, if nothing else,  
23 and allow for comments from folks to say,  
24 well, it's not working for me, look at  
25 this.

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1 MR. BRANECKY: Well, I guess I  
2 hate to pass a rule that has confusion  
3 already built into it.  
4 MR. TERRILL: Well, then, carry  
5 it over.  
6 MR. KILPATRICK: I've come around  
7 to thinking that we may create more  
8 confusion or create other problems by  
9 trying to change it on the floor.  
10 MR. BRANECKY: Yes, I've got that  
11 concern, too.  
12 MR. KILPATRICK: I think the best  
13 thing to do is do exactly what Eddie  
14 suggests, go ahead and pass it and people  
15 can think about this section and come back  
16 later.  
17 MR. BRANECKY: But I think what  
18 everybody needs to understand is, what is  
19 the intent? I mean, what is DEQ's intent  
20 behind this Section A?  
21 MR. TERRILL: They just need to  
22 trust us.  
23 MR. BRANECKY: I'm going to get  
24 it on record, is what I'm going to do.  
25 What I think people need to understand is

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1 what it is, what your intent is here. And  
2 then we can fix the language later, but we  
3 need to understand.  
4 DR. SHEEDY: And our intent is  
5 that we don't have minor facilities that,  
6 because of market fluctuation, economy,  
7 that sort of thing, that one year they are  
8 25 and they say, oh, we're permit exempt.  
9 And then maybe the next year or the year  
10 after they are 41 because, hey, we have a  
11 market and so they've come up.  
12 We don't want them going in and out  
13 of permit exempt status, so that if they  
14 need a permit one year then they won't need  
15 it next year and then they'll need it  
16 again, because that would cause a lot more  
17 work than just to give them the permit in  
18 the first place.  
19 MR. BRANECKY: So from this point  
20 in time, I go back five calendar years and  
21 I'm below 40 tons, I'm permit exempt?  
22 DR. SHEEDY: Well, the way it's  
23 written now --  
24 MR. BRANECKY: No?  
25 DR. SHEEDY: -- you don't have to

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1 do that. The way it's written now, if  
2 you're below 40, you could be permit  
3 exempt, but you better stay under permit  
4 exempt. Yeah. And if you go above it  
5 after --  
6 MR. BRANECKY: As long as  
7 everybody understands that and we can fix  
8 the language later.  
9 MS. BOTCHLET-SMITH: Any further  
10 questions from the public or the Council?  
11 MR. BHATNAGAR: Can I make one  
12 comment?  
13 MS. BOTCHLET-SMITH: Please  
14 identify yourself.  
15 MR. BHATNAGAR: My name is Lalit  
16 Bhatnagar, I'm with Martin Marietta  
17 Materials. I think with some of the gray  
18 areas that are part of this rule, I think  
19 this is -- this is an extremely good  
20 progressive step. I think what we are,  
21 personally from the industry, the rock  
22 crushing people, I think what we would  
23 recommend that it is important to create,  
24 time to move forward with the rule and  
25 create the permit exempt facility.

1 There are details to be worked out.  
 2 I think there are concerns about NSPS and  
 3 some of the timing that is being brought  
 4 forth by several other people, but I think  
 5 we ought to take a forward step, but at the  
 6 same time, I think what we've been hearing  
 7 is a commitment to revisit this sometime  
 8 down the road and I think what our  
 9 recommendation would be, that I think it's  
 10 important to pass the -- create and pass  
 11 the permit exemption category and possibly  
 12 create a workgroup where we can look into  
 13 more details and come back to the Council  
 14 with appropriate rule changes within next  
 15 six months, nine months, something like  
 16 that. Thank you.

17 MS. MYERS: If there is no  
 18 further questions or comments from the  
 19 Council or the public, I would like to  
 20 entertain a motion, please.

21 MR. BRANECKY: I will make the  
 22 motion that we approve Subchapters 5 and 7  
 23 as presented to us today with the  
 24 corrections that were made, the additions  
 25 that were made, with DEQ, with also the

1 understanding that DEQ will continue to  
 2 review and fine-tune this rule and will  
 3 bring it back to the Council as necessary.

4 MS. MYERS: I have a motion. Is  
 5 there a second?

6 MR. TREEMAN: I'll second.

7 MS. MYERS: We have a motion and  
 8 a second. Myrna, would you call roll,  
 9 please.

10 MS. BRUCE: Ms. Rose.

11 MS. ROSE: Yes.

12 MS. BRUCE: Mr. Martin.

13 MR. MARTIN: Yes.

14 MS. BRUCE: Mr. Wilson.

15 MR. WILSON: Yes.

16 MS. BRUCE: Mr. Breisch.

17 MR. BREISCH: Yes.

18 MS. BRUCE: Dr. Lynch.

19 DR. LYNCH: Yes.

20 MS. BRUCE: Mr. Branecky.

21 MR. BRANECKY: Yes.

22 MS. BRUCE: Mr. Treeman.

23 MR. TREEMAN: Yes.

24 MS. BRUCE: Mr. Kilpatrick.

25 MR. KILPATRICK: Yes.

1 MS. BRUCE: Ms. Myers.

2 MS. MYERS: Yes.

3 Could we call about a ten minute  
 4 break, please?

5 MR. TERRILL: You're the boss.

6 MS. MYERS: We'll take a break  
 7 for about ten minutes. Be back on time, we  
 8 will start without you. Time out, time  
 9 out.

10 MR. TERRILL: We've got a parking  
 11 issue because we've got so many folks here.  
 12 So the security guard has asked us that  
 13 anybody that's parked directly north of the  
 14 building to move across the street to the  
 15 church parking lot during the break. That  
 16 will allow folks that are just here, coming  
 17 and going, to get their business done.  
 18 We're totally out of parking out there. So  
 19 if you can do that, that would be good.

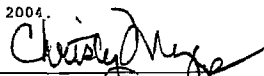
21 (END OF PROCEEDINGS)

C E R T I F I C A T E

1 STATE OF OKLAHOMA ) ) ss:  
 2 ) )  
 3 COUNTY OF OKLAHOMA ) )

4 I, CHRISTY A. MYERS, Certified  
 5 Shorthand Reporter in and for the State of  
 6 Oklahoma, do hereby certify that the above  
 7 proceedings is the truth, the whole truth,  
 8 and nothing but the truth; that the  
 9 foregoing proceedings were tape recorded  
 10 and taken in stenography by me and  
 11 thereafter transcribed under my direction;  
 12 that said proceedings were taken on the  
 13 14th day of January, 2004, at Oklahoma  
 14 City, Oklahoma; and that I am neither  
 15 attorney for nor relative of any of said  
 16 parties, nor otherwise interested in said  
 17 action.

18 IN WITNESS WHEREOF, I have hereunto  
 19 set my hand and official seal on this, the  
 20 28th day of January, 2004.

21   
 22 CHRISTY A. MYERS, C.S.R.  
 23 Certificate No. 00310



O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Attendance Record

January 14, 2004

Oklahoma City, Oklahoma

Page One

NAME / AFFILIATION

Contact Information

Address and/or Phone and/or E-Mail

BLAKE RHODEN	chevronTexaco	P.O. Box 36366 Houston Texas 77236	BLAKE RHODEN@CHEVRONTXACO.COM
Pam Bennett			pamela.bennett@lafarge-na.com
GARY ELLIOTT	LAFARGE NA		gary.elliott@lafarge-na.com
Todd Miller	Continental Carbon		tmiller@continentalcarbon.com
Bryce Parker	Continental Carbon		bparker@continentalcarbon.com
ANGIE BURCKHALTER	OIPA	3555 NW 58th St, Ste 400 OKC OK 73112	942-2384 aburckhalter@oipa.com
Dennis Pool	DOMINION	14000 QUAK SPRINGS PARKWAY OKC	Dennis_w_pool@dominioni.com
MARK GIPSON	AEP		MCGIPSON@AEP.COM
JAY EUBANKS	MOGA/bp	1110 W. SMALL RD WILBURTON OK	
Steve Landers	Georgia-Pacific	4401 Chandler, Muskogee, 74401	stephen.land@gpapoc.com
LANCE LODES	ENOGEX	P.O. Box 29300, MC EWSA, OKC, OK 73124	lodes@enogex.com
Julia Bowers	OGE		bowersj@oge.com
Mike Bichent, Atty		P.O. Box 1108, Eustach, OK 73701	
Jim Haight	ONEOK, Inc.	P.O. Box 871, Tulsa 74102	jhaight@oneok.com
Bob Kellogg	Shipping		kellogg@okc.com
Kirk Ritter	Boeing	P.O. Box 582808, Tulsa, OK 74158	
Al Learned	Magathon	7301 NW Expressway, OKC	
Todd Carlson	PACE		
Cathy Canty/CE		P.O. Box 1292, Norman, OK 73070	
Dave Clark	Pace		
Hilary Huber		805 1/2 N Knobelville St, OKC 74115	
Ralph Mancini	PACE		
Wayne Kellogg	OPEs		rkellogg@aol.com
Leslie Bull	GFA	1115 2nd, Guthrie	
Jerry Gamaill	GFO	" "	
Wally Spent	GFA	1115 2nd, Guthrie	



AIR QUALITY COUNCIL

Attendance Record

January 14, 2004

Page Two

NAME / AFFILIATION

Contact Information

Address and/or Phone and/or E-Mail

David Westerman	CB	Ponca City	WESTUENT@FULLNET.NET
Rodney Ramirez	CR	Ponca City	-
Steve Myer	Sinclair	Tulsa	
Mike Peters	Raydon & Whelan		
Tom Dupuis	Dolesee	PO Box 677	OKC
Richard Wierlein	ODEQ Board	Rt. 1 Box 92A	Kremden OK
Jerry Gammill			
TEESSA Wheeler	Tinker		
VERN CHOQUETTE	TRINITY CONSULTANTS	120 E. Sheridan,	OKC
DON WHITNEY	"	"	"
MARTIN WHEELER	TINKER AFB		
Bruce Evans	Oklahoma Ready Mixed Concrete Ass.		
Lesla McDonald	Tinker AFB		
BOB JAMES	OKLAHOMA READY MIXED CONCRETE ASSOC		
Lalit Bhatnagar	Martin Marietta	(210) 722-3458	
Doug Tex	ACOG	21 E. Main St.	405-234-2264
Kathryn Crenshaw	Weferhaeuser	-Valleant	580-933-1449



O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Attendance Record

January 14, 2004

Page Three

NAME / AFFILIATION

Contact Information

Address and/or Phone and/or E-Mail

NAME / AFFILIATION	Contact Information
	Address and/or Phone and/or E-Mail
Tam TARR Cooper Cameron	(405) 631-1321
Glean TRAVIS SWOCO INC	918 594-6572
CAPT JONATHAN WRIGHT TINKER	(405) 734-4111
Mike Barnard Muel-croft	405-843-5741
Gerald BUTCHER WFEC	405-247-4341
OLIVIA ENGLE WILLIAMS	918/578-5314
Roxanna Roberts Williams	918/573-0195
Josie Adams AEOG	405-234-2264
Maya Colled ODEQ	
Tommy Allitt RPER	
Mike Wood Weyerhaeuser	(501) 824-8569
Summer Goebel OGE	405-553-3523
Dave Tedford CARDINAL ENRG	405-842-1066
Laura Barth-Bonham	(405) <del>825-06</del> 701-3195
Mary Ellen Terres M'Affee Taft	405-552-2303
Melody Martin OGE	(405) 553-3297
Julie Fawcett Ponca Tribe	(580) 765-2218

**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m., Friday February 27, 2004  
707 North Robinson  
Multipurpose Room  
Oklahoma City, Oklahoma

1. Call to Order – Richard Wuerflein, Chair
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the November 18, 2003 Regular Meeting
4. Election of Officers - Election of Chair and Vice-Chair for Calendar Year 2004
5. **Rulemaking – OAC 252:100 Air Pollution Control**
  - The proposed amendments to Subchapters 5 and 7 create a new category of facility to be called “permit exempt facility”. The proposal exempts facilities with actual emissions of regulated air pollutants of 40 tons per year or less and potential emissions below Title V, PSD, and non-attainment major source thresholds from requirements to obtain permits, pay annual operating fees, and report emissions annually.
  - Proposed Subchapter 13 amendments conform with changes to the Oklahoma Clean Air Act regarding fire training; address open burning of yard brush; address general conditions and requirements for open burning; and exempt hydrocarbon flares from the prohibition on burning between sunset and sunrise.
    - A. Presentation – Sharon Myers, Chair, Air Quality Advisory Council
    - B. Questions and discussion by the Board
    - C. Questions, comments and discussion by the public
    - D. Discussion and action by the Board, which may include roll call votes on permanent adoption
6. **Rulemaking - OAC 252:205 Hazardous Waste Management**

Proposed amendments to Section 3-1 incorporate by reference federal hazardous waste rule amendments through July 1, 2003. Included are amendments regarding zinc fertilizers made from recycled hazardous secondary materials; a national treatment variance to designated new treatment categories for radioactively contaminated batteries; and standards for hazardous air pollutants for hazardous waste combustors (corrections to NESHAP). Proposed changes to Section 3-2 correct specific errors in previously incorporated federal rules and add language to implement the waste exclusion rule in Oklahoma.

  - A. Presentation – Jody Reinhart, Chair, Hazardous Waste Management Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**7. Rulemaking - OAC 252:300 Laboratory Accreditation**

Proposed changes include adding a category of laboratory accreditation for Petroleum Hydrocarbons Testing; updating method references; updating language concerning minimum requirements for Quality Assurance/Quality Control Plans; and establishing a reduced fee for interim accreditation changes at an established laboratory.

- A. Presentation – Elaine Stebler, Vice-Chair, Laboratory Services Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**8. Rulemaking - OAC 252:410 Radiation Management**

- Proposed amendments in Subchapter 1 bring definitions in line with the Atomic Energy Act. A new provision would require that DEQ be notified of incidents involving radiation machines. Administrative changes are proposed for clarification. Amendments in Subchapter 3 include new requirements for industrial x-ray radiography records, and clarification of other recordkeeping requirements.
- The proposed change to Subchapter 5 provides a means to authorize industrial radiographers certified by an out-of-state entity to operate under reciprocity in Oklahoma. Proposed changes to Subchapter 7 add to and clarify existing notice and information requirements for persons operating under reciprocity in Oklahoma.
- Proposed revisions to Subchapter 10 change the current “Agreement State Program” to the “Radioactive Materials Program”. The license program would be expanded to include radium sealed sources and accelerator-produced material. The proposal includes a new fee for the issuance of licenses to radium sealed sources and accelerator-produced material, along with a fee increase for most fee categories. Part 19 of this subchapter would be moved to a new Subchapter 23.
- Amendments proposed for Subchapter 15 include new requirements for utilization logs, personnel monitoring, and notification to DEQ for incidents involving x-ray machines used for industrial radiography. Changes strengthen the requirements for industrial radiographers using x-ray machines and align them more closely with those in other states and with those for industrial radiographers using sealed sources.
- Proposed amendments to Subchapter 19 change the language such that operators/owners of certain portable x-ray fluorescence instruments used to detect lead-based paint would no longer be exempt from Subchapter 19.
- Subchapter 20 would be amended to add provisions related to the reporting of the theft or loss of a radiation machine, the notification of incidents, and the reporting of human exposure to machine-produced radiation when such exposure exceeds certain limits.
- Proposed new Subchapter 23 contains requirements concerning worker communications that are currently in Subchapter 10, Part 19, but the new Subchapter 23 standardizes requirements for all radiation programs.
  - A. Presentation – Dr. David Gooden, Chair, Radiation Management Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include roll call votes on permanent adoption



9. **Rulemaking - OAC 252:605, 606, 648 OPDES/Land Application of Biosolids**  
The DEQ proposes to revoke Chapters 605 (Discharges – OPDES) and 648 (Land Application of Biosolids) in favor of a new consolidated Chapter 606 (Oklahoma Pollutant Discharge Elimination System (OPDES) Standards). The new chapter includes updates of incorporations by reference and language clarifications.
- A. Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption
10. **Rulemaking – OAC 252:616 Industrial Wastewater Systems**  
Proposed minor changes to Subchapter 616 (Industrial Wastewater Systems) clarify the definition of “beneficial use” to be consistent with other rule chapters and simplify language related to separation distances.
- A. Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption
11. **Rulemaking – OAC 252:641 Individual and Small Public On-Site Sewage Disposal Systems**  
Proposed changes to OAC 252:641 (Individual and Small Public On-Site Sewage Disposal Systems) include an increase in fees to compensate for recent budget cuts in allocated monies. Other amendments include changes in requirements relating to soil tests and soil profiles; revisions to the classification system for certified installers; changes in standards and requirements for certain aerobic systems, small public lagoons, subsurface systems and septic tanks; revisions to financial assurance requirements; and clarification and formatting changes and typographical corrections.
- A. Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption
12. **Rulemaking – OAC 252:710 Waterworks and Wastewater Works Operator Certification**  
Proposed changes revise and clarify the current operator certification rules, and amend existing procedures and requirements for the certification of waterworks and wastewater works operators and laboratory operators. New provisions include opportunity for additional credit and/or options for experience under certain classifications; addition of a certification exception for certain laboratory operators; and addition of provisions regarding distribution and collection operators and technicians. The provision on reciprocity is proposed for revocation because the provision is contained in state statutes.
- A. Presentation – Rick Ritter, Chair, Waterworks and Wastewater Works Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

13. New Business (any matter not known about, or which could not have been reasonably foreseen, prior to the time of posting of agenda)
14. Executive Director's Report, including status of petitions for rulemaking
15. Adjournment

**Public Forum** (after adjournment): The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.

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Some members of the Board, as well as senior staff members from the DEQ, will meet for dinner in Oklahoma City the evening of February 26. This is a social occasion. No Board or DEQ business will be conducted or discussed.

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

**252:100-5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES [AMENDED]**

**252:100-7. PERMITS FOR MINOR FACILITIES [AMENDED]**

**EXECUTIVE SUMMARY:**

The Department proposes to establish a new Permit Exempt Facility category. The revision creates a Permit Exempt Facility category for facilities with actual emissions of 40 tpy or less of each regulated air pollutant emitted and potential emissions less than the threshold levels for PSD and Title V. Facilities that qualify for this category will be exempt from the requirements to obtain air quality permits, to pay annual operating fees, and to submit annual emission inventories. These facilities, however, will remain subject to all other applicable State and Federal air quality rules and regulations. The revisions necessary to accomplish this include changes to OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees and OAC 252:100-7 Permits for Minor Facilities.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

There are no analogous federal rules.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not required because there are no analogous federal rules.

**SUMMARY OF COMMENTS AND RESPONSES:**

Attached.

VERBAL COMMENTS RECEIVED AT THE APRIL 16, 2003 MEETING

1. **COMMENT:** Ms. Angie Burckhalter, OIPA, expressed support of the effort to establish a permit exempt facility category and the formation of a workgroup to provide additional input on the proposed new category. Ms. Burckhalter stated that she didn't know exactly how many facilities belonging to OIPA members would be impacted by this revision, but felt that it would be a very large number.

2. **COMMENT:** Mr. Mark Dalton, Samson, expressed support of the proposed new permit exempt facility category. He stated that his company has a large number of very small compressors and that these compressors could be moved in or out of a field or on or off of a well in a very short time making it almost impossible to keep up with the current permitting requirements. He pointed out that since there are now many low pressure pipelines throughout the State, a lot of very small compressors that could fall into the permit exempt facility category are in use. He suggested that the emission inventory could be put on a rolling basis to provide for a more even work flow.

3. **COMMENT:** Ms. Nadine Barton asked if the AQD has enough staff to handle emission inventories for all the permit exempt facilities at one time once every three years.

**RESPONSE:** There may be a burden on the emission inventory staff once every 3 years, but the Department continues to handle more of the emission inventory electronically which should help. (The requirement for a triennial emission inventory has been removed from the revision.)

4. **COMMENT:** Mr. Steve Moyer, Sinclair Oil, expressed concern about the effect the permit exempt facility category might have on obtaining data for EAC (Early Action Compact) modeling.

**RESPONSE:** This will not impact the EAC modeling efforts. Language has been added to provide for special inventories to obtain such data if necessary.

5. **COMMENT:** Mr. Don Whitney, Trinity Consultants expressed support for the concept and added that the rule should make crystal clear what counties would be exempt from the proposed new permit exempt facility category. Mr. Whitney asked what kind of transition would there be for facilities currently registered under a permit by rule to become permit exempt and suggested that any registration form for this purpose be kept

simple.

**RESPONSE:** At this time these are details that will be worked out. The workgroup may play a role in this. However, the Department does not intend to be in the position of requiring a facility to obtain the equivalent of a permit in order to be exempt from the requirement for a permit.

6. **COMMENT:** Mr. Jay Eubanks, Mid-Continent Oil and Gas Association (MOGA), expressed support for the proposed revision and stated that his organization would work with the workgroup.
7. **COMMENT:** Mr. Lee Paden, ODEQ Board member, expressed concern about the transport of pollutants from counties adjacent to Tulsa County or Oklahoma County and stated that it is important to maintain some semblance of control to make sure those areas don't go into nonattainment again.

**RESPONSE:** The Department concurs. Language has been added to Subchapter 5 to provide for special inventories so that any impact from these small facilities can be assessed if necessary.

**WRITTEN COMMENTS RECEIVED FOR THE JULY 16, 2003 MEETING**

OG&E - Letter dated July 2, 2003, signed by Melody Martin, Staff Chemist, OG&E Energy Corp.

8. **COMMENT:** Ms. Martin identified errors in grammar, punctuation, and format.

**RESPONSE:** These errors have been corrected.

9. **COMMENT:** Ms. Martin asked why, when the DEQ is removing outdated references to permit fees, OAC 252:100-5-2.2(b)(1)(A) and 252:100-5-2.2(b)(2)(A) and (B) were not deleted.

**RESPONSE:** OAC 252:100-5-2.2(b)(1)(A) and (B) have been deleted. However, OAC 252:100-5-2.2(b)(2)(A) and (B) cannot be deleted since OAC 252:100-5-2.2(c)(1) and (2) allow the DEQ 5 years in which to recover delinquent fees and assess an administrative fine and to issue an administrative order to recover fees that would have been invoiced had the emission inventory been submitted when due. OAC 252:100-5-2.2(c)(3) allows an owner or operator 5 years from the date of payment in which to seek a credit for overpayment of the annual fee. Therefore, fees that were in effect in 1999 or later cannot be deleted at this time.

**EPA Region 6** - Letter signed by Thomas H. Diggs, Chief Air Planning Section dated July 11, 2003 was received on July 15, 2003.

10. **COMMENT:** Mr. Diggs stated that EPA Region 6 Air Planning Section has no objection to renaming and rearranging the permit by rule sections to a permit exempt facility section. He further stated that comments from the Air Permitting Section, if any, would be sent under a separate letter.

**VERBAL COMMENTS RECEIVED AT THE JULY 16, 2003 MEETING**

11. **COMMENT:** Mr. Don Whitney, Trinity Consultants, expressed his support for allowing facilities with only recordkeeping requirements to be eligible for permit exempt facility category status.

**WRITTEN COMMENTS RECEIVED FOR THE OCTOBER 8, 2003 MEETING**

**EPA Region 6** - Letter signed by Thomas H. Diggs, Chief Air Planning Section dated October 1, 2003 was received via FAX on October 1, 2003.

12. **COMMENT:** Mr. Diggs stated that the EPA Region 6 Air Planning Section had reviewed OAC 252:100-5-2.1 and had no comments on the proposed revision. He stated that the comments from the Air Permitting Section, if any, would be sent under a separate letter.

**Trinity Consultants** - Letter signed by Donald C. Whitney, Project Manager, dated September 22, 2003 was received on September 23, 2003.

13. **COMMENT:** Mr. Whitney pointed out that in keeping with the permit continuum concept, the exclusion for a smaller de minimis facility should be at least as broad as that for a larger permit exempt facility and that as far as NSPS and NESHAP limitations are concerned this is not the case. He suggested that paragraph (B) of the definition of de minimis facility be changed to mirror paragraph (G) of the definition of permit exempt facility that only excludes facilities that are subject to an emission standard, equipment standard, or work practice standard in NSPS or NESHAP.

**RESPONSE:** This change was not made. Although both permit exempt facilities and de minimis facilities are exempted from the requirements to obtain permits, submit annual emission inventories, and pay annual operating fees, de minimis facilities remain subject to only four air quality rules. As currently written, this means that de minimis facilities are

not subject to NSPS or NESHAP. There would be a problem if an NSPS or NESHAP requirement other than an emission standard, equipment standard, or work practice standard applies to a facility that has been designated as a de minimis facility. Permit exempt facilities, on the other hand, remain subject to all other applicable State and Federal rules, regulations, standards, and requirements including NSPS and NESHAP.

**Oklahoma Independent Petroleum Association (OIPA)** - Letter dated October 7, 2003 signed by Angie Burckhalter, Director of Regulatory Affairs.

14. **COMMENT:** Ms. Burckhalter stated that OIPA could not support the proposed revision as written since it contained a requirement for triennial emission inventory reporting for small oil and gas facilities emitting less than 40 tpy.

**RESPONSE:** In response to industry's concern and the ability of the Department to obtain much of the needed information through other channels, this requirement was removed from the revision. However, language was added to Subchapter 5 authorizing the Director to request a special inventory when needs justify it.

**WRITTEN COMMENTS RECEIVED FOR THE JANUARY 14, 2004 MEETING**

**Trinity Consultants** - Letter signed by Donald C. Whitney, Project Manager, dated December 17, 2003 was received on December 18, 2003.

15. **COMMENT:** Mr. Whitney stated that the rewording of (A)(i) of the definition of De minimis facility is a significant tightening of the de minimis facility exemption and makes the exclusion much more limited than current interpretation, which allows other individual activities with actual emissions less than 5 tpy that are not on the Appendix H list to be conducted at de minimis facilities. The proposed wording would allow such non-listed activities only if total facility emissions were less than 5 tpy.

**RESPONSE:** The Department intended when first introducing the de minimis facility concept that all emissions from all emitting units at a facility be counted in determining if a facility is de minimis and the proposed revision merely clarifies this. The inclusion of Appendix H was an attempt to simplify the determination of de minimis facility status for owners and operators of small facilities without expertise in calculating emission rates. If all the emitting activities at a facility are listed in Appendix H, then the facility may be de minimis, otherwise, the facility may be considered de minimis if the total of all the emissions from all the

emitting activities at the facility are less than 5 tpy of each regulated air pollutant emitted. As a safeguard to ensure that Title V facilities are not mistakenly identified as de minimis facilities, total facility emissions must be counted in the same manner that emissions are counted in determining Title V and PSD applicability when determining de minimis facility eligibility.

16. **COMMENT:** Mr. Whitney stated that OAC 252:100-7-18(e) should be deleted since the date when all existing Title V facilities were required to submit initial Title V permit applications has passed.

**RESPONSE:** This change has been made.

**EPA Region 6** - Letter signed by Rick Barrett for David Neleigh, Chief Air Permits Section, EPA Region 6, dated December 19, 2003 was received via FAX on December 22, 2003.

17. **COMMENT:** Mr. Neleigh expressed concern that the Technical Support Document did not fully explain how emissions from existing and new facilities that qualify for the proposed permit exempt facility category will not cause a violation of the control strategy or interfere with maintenance of a national standard in certain Metropolitan Statistical Areas (MSA). He suggests that since current readings obtained from the ozone monitors located in specific MSAs in the State are very close to the new 8-hour ozone standard, the existing 5 tpy threshold should be retained in these areas, especially Tulsa and Oklahoma City.

**RESPONSE:** Since all the proposed rule revision does is remove the requirements to obtain a permit, pay an annual operating fee and submit an annual emission inventory for facilities that qualify for permit exempt facility status and since the Department has no current mechanism for requiring these small facilities to reduce their emissions, it is the Department's position that this will not affect the ability to stay in attainment with the ozone standard. At the same time, removing these facilities from permitting and inspection requirements will allow resources to be shifted to the larger Title V facilities, which have the greatest potential for environmental harm. The rule as proposed contains a mechanism for requesting information that will allow the Department to assess the impact these small facilities may have on the Tulsa and Oklahoma City air sheds in the event of future attainment issues in these areas.

**Mid-Continent Oil and Gas Association (MOGA)** - E-mail received January 9, 2004 from Michael Bernard



18. **COMMENT:** MOGA suggested that new paragraph (I) be added to the definition of permit exempt facility in 7-1.1. This new paragraph would allow a facility that is associated with an oil or gas well to be a permit exempt facility during the initial 90 operating days prior to custody transfer. MOGA also provided a definition for oil and gas facility.

**RESPONSE:** This change was not made. The Department recognizes MOGA's position, but feels the permit exempt facility revision is not the appropriate place to address this concern. The Department will continue to work with the industry to resolve this issue if it proves to be a problem.

19. **COMMENT:** MOGA suggested that new paragraph (3) be added to OAC 252:100-7-2(b). The new paragraph would allow owners or operators to determine permit exempt facility eligibility based on rated horsepower of the internal combustion engine at the facility and spelled out the requirements to which the facility would be subject based on horsepower.

**RESPONSE:** The suggested change was not made. OAC 252:100-7-2(g)(2) allows the determination of permit exempt facility eligibility based on total horsepower at the facility and the facility throughput and OAC 252:100-7-2(b)(2) states that permit exempt facilities are not required to submit an annual emission inventory, pay an annual fee, or obtain a permit.

**RFS Consulting** - E-mail received January 13, 2004 from Ronald F. Sober

20. **COMMENT:** Mr. Sober proposed that potential to emit in the definition of permit exempt facility in OAC 252:100-7-1 be set at less than 100 tpy.

**RESPONSE:** This change was not made. To ensure that no permit exempt facility may inadvertently be subject to Title V, the definition of permit exempt facility states that the facility cannot be subject to PSD and/or Title V, or be a major facility in a nonattainment area. The limit on potential to emit cannot be set to less than 100 tpy because the trigger levels for Title V and for major facilities in a nonattainment areas may be less than that.

21. **COMMENT:** Mr. Sober stated that horsepower as used in OAC 252:100-7-2(g)(A) needed to be defined since an engine may be rated at a much higher horsepower than on-site with a compressor attached. He suggested that horsepower be defined as manufacturer's design rated horsepower.

**RESPONSE:** Horsepower has been clarified in OAC 252:100-7-2(g)(2)(A) to be the manufacturer's designed rated horsepower.

22. **COMMENT:** Mr. Sober stated that he found OAC 252:100-7-2(g)(2)(B) confusing and that he would prefer to see an emission limitation.

**RESPONSE:** Upon request from the oil and gas industry, OAC 252:100-7-2(g)(2) was added and is intended to be used in place of calculation of emissions for those small operators that may not have the expertise to calculate emission rates. The definition of permit exempt facility in OAC 252:100-7-1.1 limits actual emissions to 40 tpy or less.

23. **COMMENT:** Mr. Sober pointed out that the term NOI is used in OAC 252:100-7-3(a)(2), but it is not defined and asked what is NOI.

**RESPONSE:** The term "NOI" (notice of intent) is used in OAC 252:100-7-15(c)(2) for general permits. This is not a new term and the Department felt its meaning was self evident. If this is not the case, the term can be defined at a later date.

24. **COMMENT:** Mr. Sober states that OAC 252:100-7-15(a) is confusing and it appears that a facility can add less than 5 tpy actual emissions indefinitely until some other limit is triggered.

**RESPONSE:** OAC 252:100-7-15(a) states that 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 status. For example if a modification would cause a minor facility to become a Title V facility, a construction permit would be required. If a modification would not cause an existing facility to no longer qualify for de minimis status, permit exempt facility status, or its current permit status and the modification does not add a piece of equipment or a process that is subject to NSPS or NESHAP or 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, a construction permit is not required. The requirement for a construction permit if the modification would result in a change to the facility's permit status should offer adequate protection. The change made to this subsection allows the modification of a facility without a construction permit if the modification does not include a physical change. This does not, however, relieve the owner or operator from the obligation to modify the facility's operating permit.

25. **COMMENT:** Mr. Sober expressed concern that a facility could be a permit exempt facility and be above the Subchapter 41 de minimis levels. He stated that since BACT may be required, there should be some form of formal clearing process related to BACT requirements.

**RESPONSE:** The relationship between Subchapter 41 and the permit exempt facility category will be addressed in the upcoming revision to Subchapter 41. The Department can handle BACT determinations by applicability determination.

**Oklahoma Independent Petroleum Association (OIPA)** - Letter dated January 14, 2004 signed by Angie Burckhalter, Director of Regulatory Affairs. Ms. Burckhalter also read some of these comments into the record. The comments read into the record are identified below and will not be repeated in the verbal comment section of the January 14, 2004 Air Quality Council meeting.

26. **COMMENT:** Ms. Burckhalter requested that the language in OAC 252:100-5-2.1(a)(3) be amended to include that annual operating fees are not required.

**RESPONSE:** The additional language is not necessary. OAC 252:100-5-2.2(a)(2) exempts permit exempt facilities from the requirement to pay annual operating fees.

27. **COMMENT:** Ms. Burckhalter stated that OIPA could not support the current language in OAC 252:100-5-2.1(a)(4) that allows the Director to request emission inventory data without going through a rulemaking process and justifying the need to the regulated community. Ms. Burckhalter pointed out that the statute (27A Section 2-5-105) giving DEQ the authority to request an emission inventory specifically states that it is for determining compliance with the Oklahoma Clean Air Act, which means that rules must be in place first. The statute does not allow ODEQ to randomly request data for planning purposes without adequate justification or cost impact analysis on the regulated community. Ms. Burckhalter also read this comment into the record at the Council meeting.

**RESPONSE:** The Department has the authority under statute to ask for these inventories. This needs to remain in the rule because there may come a time when inventories are required for a lot of small sources. It costs the department time and money to process these inventories, so a special inventory would not be requested on a whim. Such a request might be in response to some new State or Federal rulemaking requirement that would go through the Council and there would be notice that the Department was going to require special inventories. The special inventory is a tradeoff for dropping the permit

requirements and the annual inventory requirements for these facilities.

28. **COMMENT:** Ms Burckhalter stated that the requirement to have a responsible official of a company certify an emission inventory appears overly burdensome. The responsible official should be allowed to designate a person within the company to make that certification. Ms. Burckhalter also read this comment at the Council meeting.

**RESPONSE:** The definition of responsible official in OAC 252:100-1.3 allows the responsible official to designate a person to make this certification.

29. **COMMENT:** Ms. Burckhalter stated that the definition of permit exempt facility in OAC 252:100-7-1.1 states that a permit exempt facility must have actual emission in every calendar year that are 40 tpy or less of each regulated air pollutant. She pointed that while some wells/facilities may meet the requirements of the exemption immediately, other oil and gas wells/facilities may be able to meet the requirements of a permit exempt facility over time (because of production decline) and can be designated as such when their emissions are reduced to the appropriate level. Ms. Burckhalter also read this comment into the record at the Council meeting.

**RESPONSE:** The requirement that a permit exempt facility must have actual emission in every calendar year that are 40 tpy or less is in the rule to avoid the possibility of a facility that is under 40 tpy one year and over it the next and then under again from "hopping" in and out of the permit exempt status which would result in more time and expense for the department rather than less. The case of oil and gas wells/facilities that have emission reductions over time due to production decline had not been anticipated. The Department will give further consideration to this issue and amend the rule at a later date if this proves to be a problem.

30. **COMMENT:** Ms. Burckhalter stated that OIPA assumes de minimis facilities are not subject to fees and requested that ODEQ add a statement to OAC 252:100-7-2(b) that fees are not required.

**RESPONSE:** OAC 252:100-5-2.2(a)(2) states that de minimis facilities are not subject to 252:100-5-2.2 which contains the requirement to pay an annual operating fee. Since de minimis facilities are not required to obtain a permit, the permit application fees in OAC 252:100-7-3 do not apply. In light of this, the Department sees no need to add a statement to OAC 252:100-7-2(b) that fees are not required for de minimis facilities.

31. **COMMENT:** Ms. Burckhalter stated that the requirement contained in OAC 252:100-7-2(f) to notify ODEQ in writing within 10 days of a transfer of ownership of a permitted facility is unreasonable. In the oil and gas industry, acquisitions occur among operators that may encompass hundreds of wells at a time. OIPA requests that ODEQ follow the notice requirements of the Oklahoma Corporation Commission that allows at least 30 days to provide this notification. Ms. Burckhalter also read this comment into the record at the Council meeting.

**RESPONSE:** This is a statutory requirement and to extend the 10-day notification period will require a statutory change. The Department is investigating this possibility.

32. **COMMENT:** Ms. Burckhalter stated that OIPA believes ODEQ has come up with a reasonable method in OAC 252:100-7-2(g)(1) and (2) to allow oil and gas operators to determine the compliance status with the permit exempt facility requirements for compressors that emit NOx and CO emissions without requiring onerous and costly calculations.

33. **COMMENT:** Ms. Burckhalter stated that OIPA had not had time to circulate the changes proposed to OAC 252:100-7-2(g)(2) late on January 13, 2004, to their members and thoroughly evaluate it, but that it appeared to be acceptable under the following assumptions and reservations:

- a. Oil and gas operators can assume they are permit exempt if they meet these throughput and equipment requirements at their facility;
- b. Oil and gas operators can assume they meet the requirements if their facility throughput exceeds the limits in the rule, or if other emission sources are operating onsite, if calculations of actual emissions are less than 40 tpy; and
- c. Operators do not need to submit data to ODEQ to verify their permit exempt status.
- d. OIPA reserves the right to request that the Air Quality Division and the Air Quality Council make immediate amendments to the rulemaking for any unforeseen or unintended consequences of this language on the industry.

**RESPONSE:** The assumptions are basically correct. Oil and gas operators can assume their facilities are permit exempt if they meet the throughput and equipment requirements in OAC 252:100-7-2(g)(2). A facility may also be permit exempt if the throughput at the facility exceeds the limits in OAC 252:100-7-2(g)(2) and/or the facility contains equipment other than those listed in paragraph 7-2(g)(2) if the calculated actual emissions are 40 tpy or less and the potential to emit

is less than the threshold levels for Title V, PSD, or major facilities in nonattainment areas. In both of these cases the facility must also meet the other criteria contained in the definition of permit exempt facility. Operators are not required to submit data to the Department to verify their permit exempt status. As for OIPA's reservations, it is the Department's policy when making significant modifications to a rule to bring the rule back to the Council if there are unforeseen consequences that need to be addressed or if it needs fine tuning.

34. **COMMENT:** Ms. Burckhalter pointed out that new oil and gas wells are drilled and tested before their potential to produce can be determined and that this test period could be up to 120 days in length or longer. She asked that ODEQ include language that allows oil and gas wells to be completed and the necessary testing conducted before a company is required to determine if a permit is needed, and if one is needed, what type. Ms. Burckhalter also read this comment into the record at the Council meeting.

**RESPONSE:** This suggestion was also contained in MOGA's E-mail of January 9, 2004. The Department recognizes the industry's position, but feels the permit exempt facility revision is not the appropriate place to address this concern. The Department will continue to work with the industry to resolve this issue if it proves to be a problem.

**VERBAL COMMENTS RECEIVED PRIOR TO/AT THE JANUARY 14, 2004 MEETING**

35. **COMMENT:** Ms. Angie Burckhalter of OIPA, in a telephone conversation on January 9, 2004, expressed concern about the way OAC 252:100-7-2(g)(2)(A) and (B) were written. She stated that the rule did not make clear that if the site did not contain a storage vessel with potential flash emissions, a compressor engine, or a glycol dehydration unit, the throughput limits in paragraphs (A) and (B) would not be applicable.

**RESPONSE:** OAC 252:100-7-2(g)(2)(A) and (B) has been rewritten in response to this concern.

36. **COMMENT:** Ms. Angie Burckhalter, in addition to the comments she read into the record from the OIPA letter dated January 14, 2004, which are included in the previous "Written Comments Received For The January 14, 2004 Meeting" section of this document, stated that although OIPA still had some issues, they are not opposed to the proposed revision, but just wanted to put their concerns on record and work with the Division to refine some of the issues at a later date.

37. **COMMENT:** Mr. Jay Eubanks from Mid-Continent Oil and Gas Association stated that MOGA believes that the permit exempt facility rule changes are a positive step in clarifying the permitting process for industry, but MOGA would like to continue to work with the AQD staff on some modifications to this rule. He also stated that the rule should be finalized today and authorized for submittal to the EQB.

38. **COMMENT:** Mr. Lalit Bhatnager, Division Environmental Manager, Martin Marietta Materials complimented the Department on its progressive way of looking at facilities that have a minimal effect on air quality. He requested the Department to reconsider excluding facilities subject to NSPS and NESHAP from the permit exempt facility category. He said this would exclude a lot of facilities that would otherwise qualify for the permit exempt facility category. He stated most of the facilities his company owned were minor facilities with minimal impact on the environment, but they would be excluded from the permit exempt facility category because they are subject to NSPS Subpart 000. He stated that since Oklahoma has full delegation for NSPS and NESHAP and has incorporated those standards by reference into their rules, permits are not necessary for enforcement of NSPS or NESHAP.

**RESPONSE:** The Department excluded facilities subject to NSPS or NESHAP from the permit exempt facility category because these standards contain notification, recordkeeping, and reporting requirements that DEQ staff must confirm have been met. Sometimes these standards are quite complicated and having the requirements spelled out in a permit facilitates both compliance by the owners or operators and determination of compliance by DEQ staff. Since staff will still be required to confirm compliance with the requirements of these standards, it also seems fair that these facilities continue to pay an annual fee. However, the Department understands industries concern that the exclusion of facilities subject to NSPS or NESHAP may cut down significantly the number of facilities that qualify for the permit exempt facility category. The Department will continue to assess the impact of allowing facilities subject to NSPS or NESHAP to be permit exempt facilities.

39. **COMMENT:** Ms. Cathy Canty, an environmental consultant, complimented the Department on the rule revision, but went on to state that because of the NSPS and NESHAP exclusion, she could not think of a single client out of about 150 plants that have a plant that would be considered a permit exempt facility. She requested that the Department give further consideration to this issue.

**RESPONSE:** The Department's reasons for excluding NSPS and NESHAP remain the same as in the response to the previous comment. And as stated in that response, the Department will continue to study this issue.

40. **COMMENT:** Bob Kellogg, Shipley and Kellogg, complimented the Department on going forward with this revision, but asked that in the definition of permit exempt facility in OAC 252:100-7-1.1, the phrase "in every calendar year" be changed to "the last five calendar years." He stated that the proposed change would make clear to everyone who had to follow the rule precisely what it means.

**RESPONSE:** The Department is reluctant to make such a change without opportunity to consider exactly what effect it might have on the various types of industries that may be impacted by such a change. The Department will, however, study this issue further and if a change is desirable, bring it back to the Council for further revision next year.





April 30, 2002

Mr. Edie Terrill  
Air Quality Division Director  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

Re: *Comment on Proposed Rulemaking*  
*OAC 252:100-5*

Dear Mr. Terrill:

This letter is to comment on a proposed rule change to require stack testing that was presented at the last Air Quality Council (AQC) meeting on April 17, 2002. Trinity believes that the proposed rule would prove to be a significant regulatory burden for Oklahoma Industry and for the DEQ to administer. Additionally, the existing rules currently provide for stack testing to confirm the accuracy of emission inventories. Our specific concerns with the proposed rule change include the following:

- ▲ **Unnecessary Authority** The existing OAC 252:100-5-2.1 (e) currently gives the Division the authority to require stack tests for verification of emission inventories:

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

This provides sufficient authority to require tests in those situations where reported inventories are widely outside the range of normal emissions for similar activities. Why is it needed to set specific test milestones when testing can be required by the DEQ at any time?

- ▲ **Stack Tests Are Expensive** EPA Reference Method (RM) stack testing procedures are costly. A minimum charge could be \$10,000 to \$20,000 for a basic one-day test and test report for two or three criteria pollutants. In many cases the costs will be much higher since stack parameters, sampling ports, and testing platforms may not be readily available to perform the tests on many sources.
- ▲ **Recordkeeping Burden** Using the threshold criteria presented at the AQC meeting, the universe of potentially affected sources is large. Almost all of the Title V sources would be subject (est. 450) and probably half of the minor and synthetic minor compressor stations have engines rated at 400 horsepower or more (est. 1500). Thus, this requirement could apply to approximately 2,000 to 3,000 facilities.

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DEQ LEGAL

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

# Permanent Final Adoptions

An agency may promulgate rules on a permanent basis upon "final adoption" of the proposed new, amended, or revoked rules. "Final adoption" occurs upon approval by the Governor and the Legislature, or upon enactment of a joint resolution of approval by the Legislature. Before proposed permanent rules can be reviewed and approved/disapproved by the Governor and the Legislature, the agency must provide the public an opportunity for input by publishing a Notice of Rulemaking Intent in the *Register*.

Permanent rules are effective ten days after publication in the *Register*, or on a later date specified by the agency in the preamble of the permanent rule document.

Permanent rules are published in the *Oklahoma Administrative Code*, along with a source note entry that references the *Register* publication of the permanent action.

For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 303.2, 308 and 308.1.

## TITLE 55. BOARD OF GOVERNORS OF THE LICENSED ARCHITECTS AND LANDSCAPE ARCHITECTS OF OKLAHOMA CHAPTER 10. LICENSURE AND PRACTICE OF ARCHITECTS AND LANDSCAPE ARCHITECTS

[OAR Docket #04-765]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 3. Administrative Operations  
55:10-3-13. Fees and penalties [AMENDED]

### AUTHORITY:

The Board of Governors of Licensed Architects and Landscape Architects of Oklahoma; 59 Oklahoma Statutes, Section 46.1, et seq.

### DATES:

#### Comment period:

January 15, 2004 - February 16, 2004

#### Public hearing:

February 18, 2004

#### Adoption:

February 18, 2004

#### Submitted to Governor:

February 26, 2004

#### Submitted to House:

February 26, 2004

#### Submitted to Senate:

February 26, 2004

#### Gubernatorial approval:

April 6, 2004

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 21, 2004.

#### Final adoption:

April 21, 2004

#### Effective:

June 11, 2004

### SUPERSEDED EMERGENCY ACTIONS:

n/a

### INCORPORATIONS BY REFERENCE:

n/a

### ANALYSIS:

The proposed amendments decrease the biennial registration fees currently paid by out-of-state registrants (\$250.00) to the level paid by in-state registrants (\$200.00). The proposed amendments also decrease the Certificate of Authority application/revision fee charged to out-of-state applicants to match the fee currently charged to in-state applicants (\$75.00). The proposed rule amendments also clarify the CE reinstatement penalty. Currently, a reinstatement penalty of \$500.00 per year must be paid. However, reinstatements are determined biennially and therefore the applicant for reinstatement must pay \$1,000. The language has been modified to clarify the amount due for reinstatement. The proposed amendments are not intended to increase fees and will have no impact on small businesses or others.

### CONTACT PERSON:

Jean Williams, Executive Director and Liaison, P.O. Box 53430, Oklahoma City, Oklahoma 73152, 405-949-2383

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 JUNE 11, 2004:

## SUBCHAPTER 3. ADMINISTRATIVE OPERATIONS

### 55:10-3-13. Fees and penalties

(a) Schedule of fees and penalties are as follows:

- (1) Initial registration and subsequent biennial fee -- \$ 200.00 (~~in state, \$250.00 out of state~~)
- (2) Reciprocal license application fee -- \$ 100.00
- (3) Examination & Retake application fee -- \$ 75.00
- (4) Examination -- Actual Cost
- (5) Late payment penalty -- \$ 25.00
- (6) Returned (insufficient funds) check fee -- \$ 25.00
- (7) Reinstatement penalty -- \$ 100.00
- (8) Certificate of Authority application/revision -- \$ 75.00 (~~in state, \$100.00 out of state~~)
- (9) Duplicate certificate -- \$ 20.00
- (10) Roster -- \$ .25 per page
- (11) Transcript of hearing -- Actual Cost
- (12) Copy of public records -- \$ .25 per page
- (13) Emeritus license -- All fees waived
- (14) CE reinstatement penalty -- ~~\$1,000.00 \$500.00 (per year of noncompliance)~~
- (15) Civil penalties -- Set by the Ad
- (16) Manual processing fee -- \$25.00 per transaction

(b) CE reinstatement penalties are in addition to any other reinstatement penalties under these Chapter 10 rules.

[OAR Docket #04-765; filed 4-28-04]

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

[OAR Docket #04-822]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

# Permanent Final Adoptions

252:100-5-2.1 [AMENDED]  
252:100-5-2.2 [AMENDED]  
Subchapter 7. Permits for Minor Facilities  
Part 1. General Provisions  
252:100-7-1.1 [AMENDED]  
252:100-7-2 [AMENDED]  
Part 2. Permit Application Fees  
252:100-7-3 [AMENDED]  
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, 2-2-201 and Oklahoma Clean Air Act, 27A O.S. § 2-5-101, *et seq.*

## DATES:

### Comment period:

March 17, 2003 through April 15, 2003  
June 16, 2003 through July 16, 2003  
September 2, 2003 through October 8, 2003  
December 15, 2003 through January 14, 2004  
February 27, 2004

### Public hearing:

April 15, 2003, July 16, 2003, October 8, 2003, January 14, 2004, and February 27, 2004

### Adoption:

February 27, 2004

### Submitted to Governor:

March 5, 2004

### Submitted to House:

March 5, 2004

### Submitted to Senate:

March 5, 2004

### Gubernatorial approval:

April 16, 2004

### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on April 28, 2004

### Final adoption:

April 28, 2004

### Effective:

June 11, 2004

### SUPERSEDED EMERGENCY ACTIONS:

None

### INCORPORATIONS BY REFERENCE:

None

### ANALYSIS:

The Department proposes to establish a new Permit Exempt Facility category. The revision creates a Permit Exempt Facility category for facilities with actual emissions of 40 tpy or less of each regulated air pollutant emitted and potential emissions less than the threshold levels for PSD and Title V. Facilities that qualify for this category will be exempt from the requirements to obtain air quality permits, to pay annual operating fees, and to submit annual emission inventories. These facilities, however, will remain subject to all other applicable State and Federal air quality rules and regulations. The revisions necessary to accomplish this include changes to OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees and OAC 252:100-7 Permits for Minor Facilities.

### CONTACT PERSON:

Joyce D. Sheedy, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 794-6800

**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 JUNE 11, 2004:**

## SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

### 252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the Division.

(1) **General requirements.** The inventory shall cover operations during a calendar year and shall be submitted prior to March 1 of the following year, unless ~~a 30-day extension has been granted by the Division~~ the Division has granted a 30-day extension. An additional 30-day extension may be granted for good cause shown.

(2) **Permit by rule.** ~~Facilities~~ The owner or operator of a facility registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated air pollutant ~~are~~ is required to submit an emission inventory for that facility once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.

(3) **Permit exempt facilities and de minimis facilities.** ~~De minimis facilities as defined in 252:100-7-1.1~~ The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory.

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

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

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

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination.

(3) If the actual emissions vary from the allowable or from the previous year's actual by more than 30%, an explanation for the difference.

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

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with OAC 252:100-5-2.1(d), below, must

be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.

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

- (1) Emission factors utilized in the issuance of a relevant currently applicable Oklahoma Air Quality permit(s) for the facility.
- (2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Air Quality Division.
- (3) Stack tests using appropriate EPA test methods may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:
  - (A) Tests are performed by persons qualified by training and experience to perform said tests.
  - (B) Copies of the tests results and methods are available for review by the Air Quality Division.
- (4) Continuous emissions monitoring data, when supported by required certification and calibration data.
- (5) Current AP-42 factors or other factors acceptable to the Division.
- (6) Manufacturer's test data, when approved by the Division as reliable.
- (7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Division.
- (8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Division.
- (9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Division.

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

(f) **Certification.** The emission inventory shall contain certification by a responsible official of the truth, accuracy,

and completeness of the document. This certification shall be signed by a responsible official and shall contain the following language: "I certify, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete."

~~(a) **Applicability.**~~

~~(1) This Section OAC 252:100-5-2.2 applies to all facilities that are sources of air pollution, including government facilities, regardless of whether the source is currently permitted or whether an emission inventory has or has not at any time been submitted for the facility. The owners or operators of Part 70 sources shall pay annual fees that are sufficient to cover the Part 70 program costs. The permitting authority shall ensure that the fees required by OAC 252:100-5-2.2(b)(2) will be used solely for Part 70 program costs.~~

~~(2) This Section OAC 252:100-5-2.2 does not apply to de minimis facilities or to permit exempt facilities.~~

~~(b) **Fee schedule.**~~

~~(1) **Minor facilities.**~~

~~(A) Until January 1, 1998, the owner or operator of a facility subject to this Section shall pay an annual operating fee based on annual emissions of regulated pollutants (for fee calculation), in accordance with the following fee schedule:~~

- |                  |                           |                       |
|------------------|---------------------------|-----------------------|
| <del>(i)</del>   | <del>10 - 24.99 tpy</del> | <del>\$100/year</del> |
| <del>(ii)</del>  | <del>25 - 49.99 tpy</del> | <del>\$250/year</del> |
| <del>(iii)</del> | <del>50 - 74.99 tpy</del> | <del>\$500/year</del> |
| <del>(iv)</del>  | <del>75 - 99.99 tpy</del> | <del>\$750/year</del> |

~~(B) In calendar year 1998, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).~~

~~(CA) Beginning January 1, 1999, annual operating fees shall be invoiced at \$17.12 per ton of regulated pollutant (for fee calculation).~~

~~(DB) Beginning January 1, 2003, annual operating fees shall be no more than \$22.28 per ton of regulated pollutant (for fee calculation).~~

~~(2) **Part 70 Sources.**~~

~~(A) From January 1, 1995, until January 1, 1999, the annual operating fee for Part 70 sources shall be \$15.19 per ton of regulated pollutant (for fee calculation).~~

~~(B) Beginning January 1, 1999, the annual operating fee for Part 70 sources shall be \$17.12 per ton of regulated pollutant (for fee calculation).~~

~~(C) Beginning January 1, 2003, the annual operating fee for Part 70 sources shall be no more than \$22.28 per ton of regulated pollutant (for fee calculation).~~

~~(D) The annual operating fee shall be adjusted automatically each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year differs from the Consumer Price Index for the calendar year 1994. The Consumer Price~~

**July 16, 2006**  
**Air Quality Advisory Council**

**November 14, 2006**  
**Environmental Quality Board**

**Effective Date: June 15, 2007**

Heather Bragg - AQD

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# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

# 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 #06-1090]*

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. General Provisions

252:100-1-3. [AMENDED]

Subchapter 2. Incorporation By Reference [NEW]

Subchapter 4. New Source Performance Standards

252:100-4-1. [REVOKED]

252:100-4-2. [REVOKED]

252:100-4-3. [REVOKED]

252:100-4-4. [REVOKED]

252:100-4-5. [REVOKED]

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1. [AMENDED]

252:100-5-2.1. [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

252:100-7-1.1. [AMENDED]

Subchapter 8. Permits for Part 70 Sources

Part 1. General Provisions

252:100-8-1.1. [AMENDED]

Subchapter 9. Excess Emission Reporting Requirements

252:100-9-2. [AMENDED]

Subchapter 17. Incinerators

Part 11. Other Solid Waste Incineration Units [NEW]

Subchapter 23. Control of Emissions From Cotton Gins

252:100-23-2. [AMENDED]

Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs)

Part 1. General Provisions

252:100-37-2. [AMENDED]

Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas

Part 1. General Provisions

252:100-39-2. [AMENDED]

Subchapter 40. Control of Emission of Friable Asbestos During Demolition and Renovation Operations [NEW]

Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants

Part 1. General Provisions

252:100-41-1. [REVOKED]

252:100-41-1.1. [REVOKED]

252:100-41-2. [REVOKED]

Part 3. Hazardous Air Pollutants

252:100-41-13. [REVOKED]

252:100-41-14. [REVOKED]

252:100-41-15. [REVOKED]

252:100-41-16. [REVOKED]

Part 5. Toxic Air Contaminants

252:100-41-35. [REVOKED]

252:100-41-36. [REVOKED]

252:100-41-37. [REVOKED]

252:100-41-38. [REVOKED]

252:100-41-39. [REVOKED]

252:100-41-40. [REVOKED]

252:100-41-41. [REVOKED]

252:100-41-42. [REVOKED]

252:100-41-43. [REVOKED]

252:100-41-44. [REVOKED]

Subchapter 44. Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units [NEW]

Appendix H. De Minimis Facilities [REVOKED]

Appendix H. De Minimis Facilities [NEW]

Appendix I. Insignificant Activities (Registration) List [REVOKED]

Appendix I. Insignificant Activities List [NEW]

Appendix J. Trivial Activities (De Minimis) List [REVOKED]

Appendix J. Trivial Activities List [NEW]

Appendix P. Regulated Air Pollutants [NEW]

Appendix Q. Title 40, Code of Federal Regulations, Incorporation by Reference [NEW]

### SUMMARY:

The Department is proposing to amend Oklahoma Administrative Code (OAC) Title 252 Chapter 100-1-3, OAC 252:100-8-1.1, OAC 252:100-37-2, and OAC 252:100-39-2 to clarify definitions including particulate matter and volatile organic compounds.

The Department proposes to add to Title 252 Chapter 100, a new Subchapter 2, Incorporation by Reference, a new Subchapter 40, Control of Emission of Friable Asbestos During Demolition and Renovation Operations, and a new Appendix Q, Title 40, Code of Federal Regulations, Incorporation by Reference. Staff proposes revoking Subchapter 4, New Source Performance Standards, and Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants. This proposal would



## Notices of Rulemaking Intent

assure that all incorporations by reference to 40 CFR have effective dates.

The Department proposes to amend OAC 252:100-5-1.1, 7-1.1 and 9-2 to add a new definition for "regulated air pollutant." A new Appendix P, Regulated Air Pollutants, is being proposed as part of these amendments. Amendments to the terms "Actual emissions", "Allowable emissions" and "Regulated pollutant (for fee calculation)" are proposed in OAC 252:100-5-1.1. The addition of a new definition is proposed in Section 5-1.1 for "Gross particulate matter"(GPM) which would replace the term "TSP" in that section. The term "TSP" is proposed to be deleted in OAC 252:100-23-2. The term "Actual emissions" is also proposed to be amended in OAC 252:100-7-1.1.

The Department is proposing changes to OAC 252:100-5, Registration, Emission Inventory and Annual Operating Fees. In OAC 252:100-5.2.1(b)(3) staff proposes to change the requirement to provide written explanation when yearly emission changes are in excess of 30 percent. The written explanation would be required only if the Department requests that documentation. The authority to request this information is in the next paragraph, 252:100-5.2.1(c) Documentation. The other proposed change would set the due date for submittal of the annual emission inventory to April 1<sup>st</sup> each year, removing the necessity of applying for a 30-day extension.

The Department proposes the addition of 100-17, Part 11, Other Solid Waste Incinerators (OSWI), to establish state emission standards and other enforceable requirements for existing OSWI. An OSWI is considered an existing OSWI if construction commenced on or before Dec. 9, 2004. These proposed rules would provide the means for implementing and enforcing the federal emission guidelines (40 CFR 60, Subpart FFFF). The new Part 11 incorporates by reference sections of the New Source Performance Standards (NSPS) for OSWI (40 CFR 60, Subpart EEEE). In addition to establishing emission standards for certain regulated pollutants, the proposed rule would establish requirements for OSWI operator training and qualifications, waste management plans, testing and monitoring of pollutants, and operating parameters.

The Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal Fired Electric Steam Generating Units. The Department is proposing to incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in March 2005 with some variation of allocations and set-asides. The Department seeks public comments concerning the most appropriate method of allocating, distributing, and setting aside the Mercury credits.

The Department proposes to amend the De Minimis Facilities List in Appendix H, the Insignificant Activities (Registration) List in Appendix I, and the Trivial Activities (de Minimis) List in Appendix J of OAC 252:100. These amendments consist of reformatting all three lists, updating the facilities included on the De Minimis Facilities List, and updating the activities on the Insignificant Activities (Registration) List and the Trivial Activities (De Minimis) List. It was anticipated when these lists were first compiled

and made part of Chapter 100 that the Department would revisit them and make appropriate changes based on the staff's experience in using them. The Department proposes to delete some activities or facilities from the lists based on more accurate emissions factors and modify some activities or facilities that are currently on the lists. The Department is also considering the possibility of combining Appendices H and J.

### **AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101, 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

### **COMMENT PERIOD:**

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on July 19, 2006. For comments received at least 5 business days prior to the Council meeting, staff will post written responses on the Department's web page at least 1 day prior to the Council meeting and provide hard copy written responses to these comments to the Council and the public at that Council meeting. Oral comments may be made at the July 19, 2006 hearing and at the August 22, 2006 Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, July 19, 2006, at the DEQ, 707 N. Robinson, Oklahoma City.

Before the Environmental Quality Board on August 22, 2006 at the Kruse Auditorium, 2510 Sam Noble Parkway, Ardmore, OK.

This hearing shall also serve as the public hearing to receive comments on the proposed revisions to the SIP under the requirements of 40 CFR § 51.102 of the EPA regulations concerning the SIPs 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 at the Air Quality Division of the Department and on the Department's website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Air Quality Division, Council Meetings, or copies may be obtained from the contact person by calling (405) 702-4100.

### **RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained from the contact person.

### **CONTACT PERSON:**

Please send written comments to Max Price at [max.price@deq.state.ok.us](mailto:max.price@deq.state.ok.us) for Subchapters 1, 8, 37 and 39; for Subchapters 5 (5-1.1), 7, 9 and 23, and Appendix P; and for Subchapters 2, 4, 40 and 41, and Appendix Q. Written

## Notices of Rulemaking Intent

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comments for the new Part 11 of Subchapter 17 should be sent to Heather Bragg at [heather.bragg@deq.state.ok.us](mailto:heather.bragg@deq.state.ok.us). For Subchapter 5 (5-2.1) and the new Subchapter 44, please send written comments to Morris Moffett at [morris.moffett@deq.state.ok.us](mailto:morris.moffett@deq.state.ok.us). For Appendices H, I and J, please send written comments to Dr. Joyce Sheedy at [joyce.sheedy@deq.state.ok.us](mailto:joyce.sheedy@deq.state.ok.us). The mailing address is Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, FAX (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)702-4100.

*[OAR Docket #06-1090; filed 5-25-06]*

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**REGULAR MEETING/ HEARING AGENDA**  
**AIR QUALITY ADVISORY COUNCIL**  
July 19, 2006, 9:00 a.m.  
DEQ Building, 707 N. Robinson  
Oklahoma City, OK

*Please turn off your cell phones.*

1. Call to Order – Sharon Myers, Chair
2. Roll Call – Myrna Bruce
3. Approval of Minutes – April 19, 2006 Regular Meeting
4. Public Rulemaking Hearings
  - A. OAC 252:100-1. General Provisions [AMENDED]  
OAC 252:100-8. Permits for Part 70 Sources [AMENDED]  
OAC 252:100-37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]  
OAC 252:100-39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]

The Department is proposing to amend Subchapters 1, 8, 37 and 39 to clarify certain definitions, including “particulate matter” and “volatile organic compounds.”

1. Presentation – Max Price
  2. Questions and discussion by Council/public
  3. Possible action by Council
- B. OAC 252:100-2. Incorporation by Reference [NEW]**  
**OAC 252:100-4. New Source Performance Standards [REVOKED]**  
**OAC 252:100-40. Control of Emission of Friable Asbestos during Demolition and Renovation Operations [NEW]**  
**OAC 252:100-41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]**  
**Appendix Q. Title 40, Code of Federal Regulations, Incorporation by Reference [NEW]**

The Department proposes to add new Subchapters 2 and 40 and Appendix Q, and proposes to revoke Subchapters 4 and 41. This proposal would assure that all incorporations by reference to 40 CFR have effective dates in the agency rules.

1. Presentation – Max Price
  2. Questions and discussion by Council/public
  3. Possible action by Council
- C. OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

The Department proposes to amend Subchapter 5 by modifying the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent by clarifying that

the written explanation would be required only on request by the Department. Another proposed amendment would change the due date for submittal of the annual emission inventory from March 1 to April 1 of each year and removing the provision for applying for a 30-day extension.

1. Presentation – Morris Moffett
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**D. OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

**OAC 252:100-7. Permits for Minor Facilities [AMENDED]**

**OAC 252:100-9. Excess Emission Reporting Requirements [AMENDED]**

**OAC 252:100-23. Control of Emissions from Cotton Gins [AMENDED]**

**Appendix P. Regulated Air Pollutants [NEW]**

The Department proposes to add a new definition for “regulated air pollutant” to Subchapters 5, 7 and 9. A new Appendix P is being added to Chapter 100 as part of these amendments. The terms “Actual emissions,” “Allowable emissions” and “Regulated pollutant (for fee calculation)” are proposed to be amended in OAC 252:100-5-1.1. In addition, staff proposes to amend Section 5-1.1 by the addition of a new definition for “Gross particulate matter” (GPM) which replaces the term “TSP” in the section. The term “for TSP” is proposed to be deleted in OAC 252:100-23-2. The term “Actual emissions” is also proposed to be amended in OAC 252:100-7-1.1.

1. Presentation – Max Price
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**E. OAC 252:100-17. Incinerators**

**Part 11. Other Solid Waste Incineration Units [NEW]**

The Department proposes to add a new Part 11, Other Solid Waste Incinerators (OSWI), to establish state emission standards and other enforceable requirements for existing OSWI.

1. Presentation – Heather Bragg
2. Questions and discussion by Council/Public
3. Possible action by Council

**F. OAC 252:100-44. Control of Mercury Emissions from Coal Fired Electric Steam Generating Units [NEW]**

The Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal Fired Electric Steam Generating Units, which would incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in May 2005.

1. Presentation – Morris Moffett
2. Questions and discussion by Council/Public
3. Possible action by Council

- G. **Appendix H. De Minimis Facilities**
- Appendix I. Insignificant Activities (Registration) List**
- Appendix J. Trivial Activities (De Minimis) List**

The Department proposes to reformat and update the information in all three lists in Appendices H, I and J.

1. Presentation – Joyce Sheedy
  2. Questions and discussion by Council/Public
  3. Possible action by Council
- 
5. **Division Director's Report** – Eddie Terrill
  
  6. **New Business** – Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.
  
  7. **Adjournment** – The next regular meeting is proposed for 9 a.m., Wednesday, October 18, 2006, in Broken Bow.

Lunch Break, if necessary.

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4212. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL  
OPERATING FEES

252:100-5-1.1. Definitions

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

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

"Allowable emissions" means:

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

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

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

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

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

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

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

"Gross particulate matter" or "GPM" means particulate matter with a nominal aerodynamic diameter greater than 10 micrometers.

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

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

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

~~"Regulated air pollutant" means:~~

~~(A) Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.~~

~~(B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.~~

~~(C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.~~

~~(D) Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.~~

~~(E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule.~~

"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.

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

~~(A) Carbon monoxide.~~

~~(B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.~~

~~(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.~~

~~(DB) Total suspended particulates (TSP) ~~Group~~ particulates matter (GPM).~~

**DRAFT MINUTES  
AIR QUALITY COUNCIL  
July 19, 2006  
707 North Robinson  
Oklahoma City, Oklahoma**

For AQC Approval  
October 18, 2006

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. July 19, 2006 in the DEQ Multipurpose Room, 707 N. 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 5, 2005. Agendas were posted on the entrance doors of 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. Mr. David Branecky, Vice-Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
Bob Curtis  
Bob Lynch  
Jerry Purkapple  
Rick Treeman  
Laura Worthen

**MEMBERS ABSENT**

Sharon Myers  
Gary Martin  
Don Smith

**OTHERS PRESENT**

Christy Myers, Court Reporter

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Scott Thomas  
Joyce Sheedy  
Max Price  
Heather Bragg  
Morris Moffett  
Matt Paque

**DEQ STAFF PRESENT**

Rhonda Jeffries  
Dawson Lasseter  
Philip Fielder  
Kendal Stegmann  
Pat Sullivan  
Nancy Marshment  
Jamie Fannin  
Myrna Bruce

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

**Approval of Minutes** Mr. Branecky called for approval of the April 19, 2006 Minutes. Hearing no discussion, she called for a motion to approve the Minutes as presented. Mr. Curtis made the motion with Ms. Worthen making the second. Roll call as follows with motion passing.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes



**OAC 252:100-1. General Provisions [AMENDED]**

**OAC 252:100-8. Permits for Part 70 Sources [AMENDED]**

**OAC 252:100-37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]**

**OAC 252:100-39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]**

Mr. Max Price advised that the proposed amendments would clarify and/or remove redundant definitions from Chapter 100. He added that the revisions were extensive; therefore, staff asked for continuation of the rulemaking to allow for public comment. Mr. Branecky opened the floor for comments and questions then entertained a motion. Mr. Rick Treeman moved to continue the hearing to Council's next meeting and the second was made by Mr. Curtis.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-2. Incorporation by Reference [NEW]**

**OAC 252:100-4. New Source Performance Standards [REVOKED]**

**OAC 252:100-40. Control of Emission of Friable Asbestos during Demolition and Renovation Operations [NEW]**

**OAC 252:100-41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]**

**Appendix Q. Title 40, Code of Federal Regulations, Incorporation by Reference [NEW]**

Mr. Max Price advised that the proposal would add new Subchapters 2 and 40 and a new Appendix Q. Existing subchapters 4 and 41 would be revoked. Mr. Price pointed out that the purpose of the changes was to assure that all incorporations by reference to 40 CFR would have effective dates in the agency rules. He added that the revisions are extensive and that staff's recommendation was to continue the rulemaking to Council's next meeting to allow for public comment. With no comments from the public, Mr. Branecky entertained a motion. Dr. Lynch made motion to continue and Ms. Worthen made the second.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-5 Registration, Emission Inventory and Annual Operation Fees [AMENDED]**

Mr. Morris Moffett advised that the amendment to OAC 252:100-5-2.1(b)(3) concerned the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent clarifying that requirement to be only at the request of the Department. Mr. Moffett identified another proposed amendment that would change the due date for submittal of the annual emission inventory from March 1 to April 1 of each year and removes the provision for applying for a 30-day extension. Mr. Moffett stated that comments had been received from Fort James Operating Company. Following discussion, Mr. Purkapple made motion to continue the hearing to Council's next meeting. The second was made by Mr. Curtis.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-5 Registration, Emission Inventory and Annual Operation Fees [AMENDED]**

**OAC 252:100-7 Permits for Minor Facilities [AMENDED]**

**OAC 252:100-9 Excess Emission Reporting Requirements [AMENDED]**

**OAC 252:100-23 Control of Emissions From Cotton Gins [AMENDED]**

**Appendix P Regulated Air Pollutants [NEW]**

Mr. Max Price advised that these proposals had first been presented at Council's April meeting. He pointed out the changes that had been made in response to public comments. Following discussion, Mr. Curtis moved to adopt the staff's recommendation with the stated changes. Mr. Treeman made the second.

Jerry Purkable	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-17 Incinerators Part 11 Other Solid Waste Incineration Units [NEW]**

Ms. Heather Bragg advised that the proposal would add a new Part 11 which would establish state emission standards and other enforceable requirements for existing OSWI. During discussion, it was determined that changes would need to be made before adoption by the Board. Mr. Purkable made motion to table until later in the meeting to allow for time to consider whether those changes could be made during this meeting. Ms. Worthen made the second.

Jerry Purkable	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

Mr. Branecky reconvened the hearing to address the new changes. Ms. Bragg identified the new changes and stated that staff's recommendation was to forward the rule to the Environmental Quality Board for permanent adoption. Mr. Purkable made the motion and Mr. Curtis made the second.

Jerry Purkable	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-44 Control of Mercury Emissions From Coal Fired Electric Steam Generating Units [NEW]** Mr. Morris Moffett related that the new Subchapter 44 would incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in May of 2005.

Following discussion, Mr. Branecky entertained a motion to continue the hearing to Council's October meeting. Mr. Purkable made the motion and Ms. Worthen made the second. Mr. Terrill added that his hopes were to pass the rule in October in order to meet all the deadlines.

Jerry Purkable	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**Appendix H. De Minimis Facilities**

**Appendix I. Insignificant Activities (Registration) List**

**Appendix J. Trivial Activities (De Minimis) List**

Dr. Joyce Sheedy advised that the Department proposes to reformat and update the information in all three lists in Appendices H, I, and J. She related that EPA requires a demonstration that each activity on each appendix complies with the appropriate definition of the de minimis activity, insignificant activity, or trivial activity. Dr. Sheedy conveyed that the demonstration is taking longer than anticipated; therefore, recommended that the hearing be tabled until such a time as the demonstration can be completed. Mr. Branecky entertained a motion to table, not continue, the hearing until such time as staff is ready to bring it back. Dr. Lynch made the motion and Mr. Curtis made the second.

Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Freeman	Yes	David Branecky	Yes

**New Business** None.

**Adjournment** The meeting adjourned 11:20 a.m.

DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY COUNCIL  
REGULAR MEETING  
ITEM NUMBER 4D

HELD ON JULY 19, 2006, AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

ORIGINAL

1 MEMBERS OF THE COUNCIL  
 2 SHARON MYERS - CHAIR (ABSENT )  
 3 DAVID BRANECKY - VICE-CHAIR  
 4 BOB CURTIS - MEMBER  
 5 BOB LYNCH - MEMBER  
 6 GARY MARTIN - MEMBER (ABSENT)  
 7 JERRY PURKAPLE - MEMBER  
 8 DON SMITH - MEMBER (ABSENT)  
 9 RICK TREEMAN - MEMBER  
 10 LAURA WORTHEN - MEMBER

11  
 12  
 13 STAFF MEMBERS  
 14 MYRNA BRUCE - SECRETARY  
 15 EDDIE TERRILL - DIVISION DIRECTOR  
 16 DR. JOYCE SHEEDY - AQD  
 17 MATT PAQUE - LEGAL  
 18 BEVERLY BOTCHLET-SMITH - AQD  
 19 MAX PRICE - AQD  
 20 HEATHER BRAGG - AQD  
 21 MORRIS MOFFETT - AQD

1 modification to its description field. In  
 2 addition, the NOTES at the bottom of  
 3 Appendix P have been reworded to replace  
 4 the term, delegation by EPA with the  
 5 term, authority , and note (3) has been  
 6 added.

7 Two. The definition of RAP,  
 8 Regulated Air Pollutant, in Section 5-1.1,  
 9 7-1.1, and 9-2 has been slightly reworded  
 10 to replace the term, delegation by EPA  
 11 with the term, "authority".

12 Three. The definition of Actual  
 13 emissions has only been slightly amended  
 14 and now retains the term, calendar year .

15 I might note that this is the  
 16 definition prior -- that applied to the  
 17 previous presentation.

18 Four. The term, "for TSP" has been  
 19 deleted from 23-1.

20 Also, I d like to make a small  
 21 change to the definition of gross  
 22 particulate matter -- or suggest that the  
 23 Council make this change. I would like to  
 24 replace the term "a nominal" with the term  
 25 "and". It was pointed out yesterday that

1 PROCEEDINGS  
 2 MS. BOTCHLET-SMITH: The next  
 3 item on the Agenda is 4D. This is OAC  
 4 252:100-5, Registration, Emission  
 5 Inventory, and Annual Operating Fees; OAC  
 6 252:100-7, Permits for Minor Facilities;  
 7 OAC 252:100-9, Excess Emission Reporting  
 8 Requirements; OAC 252:100-23, Control of  
 9 Emissions from Cotton Gins; and Appendix P,  
 10 Regulated Air Pollutants.

11 Mr. Max Price of the staff, will  
 12 give a presentation.  
 13 MR. PRICE: Mr. Vice-chairman, Members of  
 14 the Council, ladies and gentlemen.

15 These proposals were first presented  
 16 to the Air Quality Council at the April  
 17 19th Meeting. At that time staff  
 18 recommended that they be held over until  
 19 this meeting, to allow time for more public  
 20 comment. In response to those comments,  
 21 the following changes have been made since  
 22 the original proposals:

23 One. Appendix P has been modified  
 24 by merging the PM-10 and the PM-2.5 records  
 25 into the PM record with an appropriate

1 the term nominal should only be applied to  
 2 discreet data and not to a range of data  
 3 and if you read the definition, of course,  
 4 we re talking about a range of data here.  
 5 The term was misused there. So I want to  
 6 delete that if that s possible.

7 Staff ask that the Council vote to  
 8 send these provisions to the DEQ Board with  
 9 the recommendation that they be adopted as  
 10 permanent rules. Thank you.

11 MS. BOTCHLET-SMITH: Do we have  
 12 questions from the Council of Mr. Price?

13 MR. PURKAPLE: Max, take a look  
 14 at Appendix P and in the bottom quarter

15 where it says particulate matter of PM --  
 16 MR. PRICE: Uh-huh.

17 MR. PURKAPLE: -- it says it s  
 18 defined in OAC 252:100 and then that s it.  
 19 Is there supposed to be more added to that?

20 MR. PRICE: No, sir. The  
 21 definition for PM -- actually, I was  
 22 thinking about the context, and the way  
 23 it s used. In some Subchapters we use PM-  
 24 10, some chapters we use PM-2.5, sometimes  
 25 we use different -- in different context.

1 It s defined in Subchapter 1.  
 2 MR. PURKAPLE: Okay, so that s  
 3 intended to refer to the whole body of the  
 4 recommendation.  
 5 MR. PRICE: Right, right. And it  
 6 depends on -- in any context how you re  
 7 using PM. PM is rather a squirrely group  
 8 right now, obviously.  
 9 MR. PURKAPLE: Okay. And the  
 10 same, then, applies to the VOCs?  
 11 MR. PRICE: Yes, sir.  
 12 MR. PURKAPLE: Okay. Thank you.  
 13 MR. PRICE: You re welcome.  
 14 MS. BOTCHLET-SMITH: Do we have  
 15 any questions from the public? Hearing  
 16 none, one more chance for the Council.  
 17 MR. TREEMAN: Okay. With this  
 18 change of adding gross particulate matter  
 19 and doing away with TSP, is there going to  
 20 be any substantive change to industry?  
 21 MR. PRICE: I suppose you re  
 22 talking about Subchapter 23; is that  
 23 correct?  
 24 MR. TREEMAN: That s one, yes.  
 25 MR. PRICE: Okay. Well, TSP was

1 Max, would you like to restate the staff s  
 2 recommendation on this rule?  
 3 MR. BRANECKY: And there was one  
 4 change that the staff recommended.  
 5 MR. PRICE: Okay. Staff will  
 6 recommend that the Council send this --  
 7 with this one minor change to remove the  
 8 term "a nominal" with the term "and" under  
 9 the definition of GPM and send these  
 10 provisions to the Air Quality Board as a  
 11 recommendation as a permanent rule.  
 12 MR. BRANECKY: All right. Thank  
 13 you, Max. It looks like we do have one  
 14 public comment.  
 15 MS. BOTCHLET-SMITH: Julia  
 16 Bevers.  
 17 MS. BEVERS: Julia Bevers, OGE  
 18 Energy. I just -- I m curious --  
 19 MS. BOTCHLET-SMITH: Microphone,  
 20 please.  
 21 MS. BEVERS: Okay. I was just  
 22 curious, gross particulate matter is also  
 23 defined in Subchapter 1, and the word  
 24 "nominal" is not removed, so will that --  
 25 does it need to be in both places?

1 never an emission, the term was actually  
 2 misused in that particular Subchapter, what  
 3 it should have been is PM. You can t test  
 4 TSP at a stack, it s impossible. What it  
 5 was is people were, back in the old days,  
 6 they got confused. They got PM and TSP  
 7 confused in their minds and they ended up  
 8 in the rules a few times. And in that one  
 9 it is really kind of sad because we  
 10 actually have control efficiencies on the  
 11 control standards in 23, on a substance  
 12 that you can t test for.  
 13 So obviously it s -- it would -- it  
 14 was -- rendered a whole section  
 15 (inaudible). And that s why we just pulled  
 16 it. It s obvious it s PM, we don t need to  
 17 mention it in PM control efficiencies.  
 18 MS. BOTCHLET-SMITH: Doesn t seem  
 19 to be any other questions from the Council.  
 20 Do you want to entertain a Motion?  
 21 MR. BRANECKY: All right. I will  
 22 entertain a Motion from the Council on  
 23 action on these rules that DEQ has given us  
 24 this morning.  
 25 MS. BOTCHLET-SMITH: Staff --

1 MR. PRICE: Yes, ma am. That was  
 2 in there originally but it s going to be  
 3 removed.  
 4 MR. BRANECKY: In Subchapter 1 it  
 5 will be removed when it comes back --  
 6 MR. PRICE: When you get to the  
 7 final rulemaking.  
 8 MR. BRANECKY: Okay. Is that it?  
 9 MS. BOTCHLET-SMITH: Okay. We  
 10 have a staff recommendation. Do we have  
 11 any other comments from the public or  
 12 questions from the Council? David.  
 13 MR. BRANECKY: All right. We  
 14 have before us, the staff has recommended  
 15 that we adopt these rules as permanent as  
 16 presented to us in our Council packet with  
 17 the one change in the definition to gross  
 18 particulate matter removing the word  
 19 "nominal" and striking the -- changing the  
 20 "and" to an "a" -- or an "a" to an "and".  
 21 So with that, I ll entertain a  
 22 Motion.  
 23 MR. CURTIS: I move that we adopt  
 24 the staff s recommendation and make the  
 25 stated changes.

1 MR. TREEMAN: Second.  
 2 MR. BRANECKY: Okay. We ve got a  
 3 Motion and a second that we adopt  
 4 Subchapters 5, 7, 9, and 23, and Appendix P  
 5 with the change to Subchapter 5 of striking  
 6 the word "nominal" and changing the word  
 7 "a" before that to "and".  
 8 Myrna, call roll, please.  
 9 MS. BRUCE: Mr. Purkapple.  
 10 MR. PURKAPLE: Yes.  
 11 MS. BRUCE: Ms. Worthen.  
 12 MS. WORTHEN: Yes.  
 13 MS. BRUCE: Mr. Treeman.  
 14 MR. TREEMAN: Yes.  
 15 MS. BRUCE: Mr. Curtis.  
 16 MR. CURTIS: Yes.  
 17 MS. BRUCE: Dr. Lynch.  
 18 DR. LYNCH: Yes.  
 19 MS. BRUCE: Mr. Branecky.  
 20 MR. BRANECKY: Yes.  
 21 MS. BRUCE: Motion approved.

(End of Proceedings)

1  
 2 C E R T I F I C A T E  
 3 STATE OF OKLAHOMA )  
 4 ) SS:  
 5 COUNTY OF OKLAHOMA )  
 6 I, CHRISTY A. MYERS, Certified  
 7 Shorthand Reporter in and for the State of  
 8 Oklahoma, do hereby certify that the above  
 9 proceedings is the truth, the whole truth,  
 10 and nothing but the truth; that the  
 11 foregoing proceedings was taken down in  
 12 shorthand and transcribed under my  
 13 direction; that said proceedings weretaken  
 14 on the 19th day of July, 2006, at Oklahoma  
 15 City, Oklahoma; and that I am neither  
 16 attorney for nor relative of any of said  
 17 parties, nor otherwise interested in said  
 18 action.  
 19 IN WITNESS WHEREOF, I have hereunto  
 20 set my hand and official seal on this, the  
 21 10th day of August, 2006.

22  
 23 CHRISTY A. MYERS, C.S.R.  
 24 Certificate No. 00310  
 25

<p align="center"><b>-0-</b></p> <p>00310 [1] 11:23</p>	<p>Annual [1] 3:5 Appendix [5] 3:9,23 4:3 5:14 10:4 applied [2] 4:16 5:1 applies [1] 6:10 appropriate [1] 3:25 approved [1] 10:21 April [1] 3:16 AQD [5] 2:16,18,19,20 2:21 attorney [1] 11:16 August [1] 11:21 authority [2] 4:5,11 away [1] 6:19</p>	<p>COUNTY [1] 11:5 course [1] 5:3 curious [2] 8:18,22 Curtis [4] 2:4 9:23 10:15 10:16</p>	<p align="center"><b>-G-</b></p> <p>GARY [1] 2:6 gentlemen [1] 3:14 Gins [1] 3:9 given [1] 7:23 GPM [1] 8:9 gross [4] 4:21 6:18 8:22 9:17 group [1] 6:7</p>	<p>Members [3] 2:1,13 3:13- mention [1] 7:17 merging [1] 3:24 Microphone [1] 8 might [1] 4:15 minds [1] 7:7 minor [2] 3:6 8:7 misused [2] 5:5 7:2 modification [1] 4:1 modified [1] 3:23 MOFFETT [1] 2:21 morning [1] 7:24 MORRIS [1] 2:21 Motion [5] 7:20,22 9:22 10:3,21 move [1] 9:23 Ms [19] 3:2 5:11 6:14 7:18 7:25 8:15,17,19,21 9:9 10:9,11,11,12,13,15,17,19 10:21 MYERS [3] 2:2 11:6,23 Myrna [2] 2:14 10:8</p>
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<p align="center"><b>-2-</b></p> <p>2006 [3] 1:13 11:14,21 23 [3] 6:22 7:11 10:4 23-1 [1] 4:19 252:100 [1] 5:18 252:100-23 [1] 3:8 252:100-5 [1] 3:4 252:100-7 [1] 3:6 252:100-9 [1] 3:7</p>	<p>BEVERLY [1] 2:18 Bever [4] 8:16,17,17,21 Board [2] 5:8 8:10 BOB [2] 2:4,5 body [1] 6:3 BOTCHLET-SMITH [9] 2:18 3:2 5:11 6:14 7:18,25 8:15,19 9:9 bottom [2] 4:2 5:14 BRAGG [1] 2:20 Branecy [10] 2:3 7:21 8:3,12 9:4,8,13 10:2,19 10:20 BRUCE [8] 2:14 10:9,11 10:13,15,17,19,21</p>	<p align="center"><b>-E-</b></p> <p>E [2] 11:2,2 EDDIE [1] 2:15 efficiencies [2] 7:10,17 emission [3] 3:4,7 7:1 emissions [2] 3:9 4:13 End [1] 10:23 ended [1] 7:7 Energy [1] 8:18 entertain [3] 7:20,22 9:21 ENVIRONMENTAL [1] 1:1 EPA [2] 4:4,10 Excess [1] 3:7</p>	<p align="center"><b>-J-</b></p> <p>JERRY [1] 2:7 JOYCE [1] 2:16 Julia [2] 8:15,17 July [2] 1:13 11:14</p>	<p align="center"><b>-N-</b></p> <p>need [2] 7:16 8:25 neither [1] 11:15 never [1] 7:1 next [1] 3:2 nominal [6] 4:24 5:1 8:24 9:19 10:6 none [1] 6:16 nor [2] 11:16,17 note [2] 4:5,15 NOTES [1] 4:2 nothing [1] 11:10 now [2] 4:14 6:8 NUMBER [1] 1:12</p>
<p align="center"><b>-3-</b></p> <p>3 [1] 4:5</p>	<p align="center"><b>-C-</b></p>	<p align="center"><b>-F-</b></p> <p>F [1] 11:2 Facilities [1] 3:6 Fees [1] 3:5 few [1] 7:8 field [1] 4:1 final [1] 9:7 first [1] 3:15 following [1] 3:21 foregoing [1] 11:11 Four [1] 4:18</p>	<p align="center"><b>-K-</b></p> <p>kind [1] 7:9</p>	<p align="center"><b>-O-</b></p> <p>OAC [5] 3:3,5,7,8 5:18 obvious [1] 7:16 obviously [2] 6:8 7:13 official [1] 11:20 OGE [1] 8:17 Oklahoma [8] 1:2,14,14 11:3,5,8,14,15 old [1] 7:5 one [8] 3:23 6:16,24 7:8 8:3,7,13 9:17 Operating [1] 3:5 original [1] 3:22 originally [1] 9:2 otherwise [1] 11:17</p>
<p align="center"><b>-4-</b></p> <p>4D [2] 1:12 3:3</p>	<p>C [2] 11:2,2 C.S.R. [1] 11:23 calendar [1] 4:14 Certificate [1] 11:23 Certified [1] 11:6 certify [1] 11:8 CHAIR [1] 2:2 chance [1] 6:16 change [8] 4:21,23 6:18 6:20 8:4,7 9:17 10:5 changes [2] 3:21 9:25 changing [2] 9:19 10:6 chapters [1] 5:24 CHRISTY [2] 11:6,23 City [2] 1:14 11:15 comment [2] 3:20 8:14 comments [2] 3:20 9:11 confused [2] 7:6,7 context [3] 5:22,25 6:6 control [4] 3:8 7:10,11 7:17 correct [1] 6:23 Cotton [1] 3:9 Council [13] 1:10 2:1 3:14,16 4:23 5:7,12 6:16 7:19,22 8:6 9:12,16</p>	<p align="center"><b>-L-</b></p> <p>ladies [1] 3:14 LAURA [1] 2:10 LEGAL [1] 2:17 ll [1] 9:21 look [1] 5:13 looks [1] 8:13 Lynch [3] 2:5 10:17,18</p>	<p align="center"><b>-P-</b></p> <p>P [5] 3:9,23 4:3 5:14 10:4 packet [1] 9:16 PAQUE [1] 2:17</p>	
<p align="center"><b>-5-</b></p> <p>5 [2] 10:4,5 5-1.1 [1] 4:8</p>	<p align="center"><b>-A-</b></p>	<p align="center"><b>-M-</b></p>	<p align="center"><b>-M-</b></p> <p>m [1] 8:18 MARTIN [1] 2:6 MATT [1] 2:17 matter [5] 4:22 5:15 6:18 8:22 9:18 Max [5] 2:19 3:11 5:13 8:1,13 meeting [3] 1:11 3:17,19 MEMBER [7] 2:4,5,6,7 2:8,9,10</p>	<p align="center"><b>-P-</b></p>
<p align="center"><b>-7-</b></p> <p>7 [1] 10:4 7-1.1 [1] 4:9</p>	<p align="center"><b>-A-</b></p>	<p align="center"><b>-M-</b></p>	<p align="center"><b>-M-</b></p>	<p align="center"><b>-P-</b></p>
<p align="center"><b>-9-</b></p> <p>9 [1] 10:4 9-2 [1] 4:9 9:00 [1] 1:13</p>	<p align="center"><b>-A-</b></p>	<p align="center"><b>-M-</b></p>	<p align="center"><b>-M-</b></p>	<p align="center"><b>-P-</b></p>
<p>A.M [1] 1:13 above [1] 11:8 ABSENT [3] 2:2,6,8 action [2] 7:23 11:18 Actual [1] 4:12 added [2] 4:6 5:19 adding [1] 6:18 addition [1] 4:2 adopt [3] 9:15,23 10:3 adopted [1] 5:9 Agenda [1] 3:3 Air [5] 1:10 3:10,16 4:8 8:10 allow [1] 3:19 amended [1] 4:13</p>	<p align="center"><b>-A-</b></p>	<p align="center"><b>-M-</b></p>	<p align="center"><b>-M-</b></p>	<p align="center"><b>-P-</b></p>



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O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

# AIR QUALITY COUNCIL

## Attendance Record

July 19, 2006

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
Myma Bruce	DEQ x1170
Heather Bragg	DEQ x4176
Nancy Measurement	DEQ x4178
Don Whitney	TRINITY C. 228-3292
MATT PAQUE	DEQ #7160
Rory Friedrich	GRDA (918) 829-1034
JANNIE LITTLE	DEQ 405-702-4151
Melody Martin	OG&E 553-3297
Chonda Juffin	DEQ 918-293-1626
Kendal Stegmann	DEQ 702-7173
Laura Herron	OG&E 553-3057
Bob Kellogg	OKC
Mike Peters	OKC 228-2197
Bud Ground	PSO 841-1322
Deanna Estrada	PSO 214-777-1112
Rush Knoll	PSO 918-258-2352
Tracy Rudisill	DEQ 405-702-4167
TERESA Whittle	Tinker 734-7071
Ada Johnson	" 734-4548
Lyndee Lambert	DEQ 702-4159
Nolan Newkirk	DEQ 702-4171
Bryce Parker	CCC 580-763-8132
Lea McDonald	Tinker 734-9701
Wilma Turner	Tinker 736-3597
DAVE CANNING	Tinker/CH2M 734-4567
Julia Bevers	OG&E



**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m., Tuesday, November 14, 2006  
B. S. Roberts Conference Room – Room 151  
OSU-Tulsa Campus, 700 N. Greenwood, Tulsa, OK

1. **Call to Order** – Steve Mason, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the August 22, 2006, Regular Meeting

4. **Rulemaking – OAC 252:100 Air Pollution Control**

Several sets of amendments are proposed:

- Amendments in Subchapters 5, 7 and 9 add definitions for “regulated air pollutant” and “gross particulate matter” (replacing the term “total suspended particulates”), and revise the definitions for “actual emissions,” “allowable emissions” and “regulated pollutant (for fee calculation)”. Corresponding changes are made where needed. Appendix P, pertaining to Regulated Air Pollutants, is added.
- A new Part 11 of Subchapter 17, pertaining to Other Solid Waste Incinerators (“OSWI”), establishes state emission standards and other enforceable requirements for existing OSWI.
- The addition of Subchapters 2 and 40 and Appendix Q, and revocation of Subchapters 4 and 41, assure that all incorporations by reference of 40 CFR provisions have specified incorporation dates.
- One Subchapter 5 amendment makes the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent conditional on a request by the DEQ. A second amendment changes the due date for submittal of the annual emission inventory from March 1 to April 1, with the opportunity for a 30-day extension.
  - A. Presentation – Sharon Myers, Chair, Air Quality Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

5. **Rulemaking – OAC 252:4 Rules of Practice and Procedure  
OAC 252:205 Hazardous Waste Management**

Two sets of amendments are proposed:

- Amendments to OAC 252:4-7-51, 4-7-52, and 4-7-53 modify the DEQ rules related to hazardous waste permitting requirements to include provisions for the new RCRA Standardized Permit.
- Revisions to OAC 252:205-3-1 and 205-3-2 update the incorporation by reference of the federal hazardous waste regulations to July 1, 2006, and incorporate later federal amendments that relate to management of cathode ray tubes and to corrections of miscellaneous errors in the federal rules.
  - A. Presentation – Bob Kennedy, Vice-Chair, Hazardous Waste Management Advisory Council
  - B. Questions and discussion by the Board

- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include roll call vote(s) on emergency and permanent adoption

**6. Rulemaking – OAC 252:210 Highway Spill Remediation [New]**

New Chapter 210 is designed to implement the requirements of Senate Bill 1938, the Oklahoma Highway Remediation and Cleanup Services Act, passed by the Oklahoma Legislature during the 2006 regular session and effective November 1, 2006. The Act gives the DEQ the responsibility “to license, supervise, govern, and regulate highway remediation and cleanup services . . . and operators” in Oklahoma, and authorizes the Board to adopt implementing rules.

- A. Presentation – Bob Kennedy, Vice-Chair, Hazardous Waste Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on emergency adoption

**7. Rulemaking – OAC 252:300 Laboratory Accreditation**

Proposed changes update references to methods used in the Drinking Water Program to the current citation. In addition a method for the Daphnia Magna Life-Cycle Toxicity Test is added to the list of approved methodologies and Salmonella testing is added to the General Water Quality Laboratory Microbiology Category since these tests will be required for some OPDES permits.

- A. Presentation – Brian Duzan, Chair, Laboratory Services Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**8. Rulemaking – OAC 252:410 Radiation Management**

Several amendments comprise a single rulemaking proposal:

- Subchapter 1, Section 7 amendments update the incorporation by reference of Nuclear Regulatory Commission (NRC) regulations to January 1, 2005. They also add later-promulgated NRC regulations pertaining to the recognition of specialty boards and the training of Radiation Safety Officers as related to the medical use of byproduct material, and increased security requirements for portable gauges. A new subsection (c) clarifies that when a provision of the Code of Federal Regulations is incorporated by reference, all referenced citations are also incorporated by reference.
- Changes to Subchapter 10, Section 1 include revisions to subsection (b) to correct the list of NRC rules that are not incorporated by reference, for which enforcement remains with the NRC. Subsection (c) is revised, and subsection (d) is deleted, because language regarding the effect of becoming an “agreement state” is no longer needed.
- The amendments within Parts 30, 31, 32, 34, 35, 39, 70, and 71 of Subchapter 10 and in Subchapter 20, Section 1 make conforming changes resulting from updated incorporations by reference, correct scrivener's errors, and make minor formatting changes.
  - A. Presentation – Dr. David Gooden, Chair, Radiation Management Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**9. Rulemaking – OAC 252:515 Solid Waste Management**

This rulemaking reflects the addition of a new Part 13 to Subchapter 19, relating to landfill wheel washes. The new Part 13 contains provisions concerning applicability, eligibility deadlines, definitions, approved costs, disapproved costs, the recoupment process, limitation on funds, and water management and control.

- A. Presentation – Jay Stout, Chair, Solid Waste Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**10. Consideration of and Action on the Environmental Quality Report**

The Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1<sup>st</sup> of each year. Despite the statutory title, the statutorily prescribed purpose of this report is to outline the DEQ’s annual needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.

- A. Presentation – Craig Kenamer, DEQ Deputy Executive Director
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on approval

**11. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**12. Executive Director’s Report** – Steve Thompson

**13. Adjournment**

2007 Meetings: February 23, DEQ; June 19, Ada (if needed); August 21, Guthrie; November 15, Weatherford

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

**Should you desire to attend but have a disability and need an accommodation,  
please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD  
Relay Number is 1-800-722-0353 for TDD machine use only.**

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Some members of the Board, as well as senior staff members from the DEQ, will attend the annual Metropolitan Environmental Trust (M.e.t.) Recycling Awards Banquet in Tulsa the evening of November 13. It is uncertain whether a majority of the Board will be present. No Board or DEQ business will be conducted.

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

**SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES**

**SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES**

**SUBCHAPTER 9. EXCESS EMISSION REPORTING REQUIREMENTS**

**SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS**

**APPENDIX P. REGULATED AIR POLLUTANTS (RAP)**

**EXECUTIVE SUMMARY:**

The proposed amendments to the definition sections OAC 252:100-5-1.1, OAC 252:100-7-1.1 and OAC 252:100-9-2 will add a new definition for "regulated air pollutant". A new Appendix P, Regulated Air Pollutants, is being added to Chapter 100 as part of these amendments. The terms "Actual emissions", "Allowable emissions" and "Regulated pollutant (for fee calculation)" are being amended in OAC 252:100-5-1.1. In addition, Section 5-1.1 is being amended by the addition of a new definition for "Gross particulate matter" or "GPM" which replaces the term "TSP" in the section. The term "Actual emissions" is also being amended in OAC 252:100-7-1.1.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

The term, "Gross Particulate Matter" is not defined in any analogous federal rules, however it is implied in the definitions for particulate matter found in 40 CFR Part 51, Appendix A.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not required because these rules are not more stringent than corresponding federal rules.

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# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules



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

[OAR Docket #07-819]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1 [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

252:100-7-1.1 [AMENDED]

Subchapter 9. Excess Emission Reporting Requirements

252:100-9-2 [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins

252:100-23-2 [AMENDED]

Appendix P. Regulated Air Pollutants [NEW]

AUTHORITY:

Environmental Quality Board, 27A O.S. 2005, §§ 2-2-101, and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. 2005 § 2-5-101, et seq.

DATES:

Comment period:

March 15, 2006, through July 19, 2006

Public hearing:

April 19, July 19, and November 14, 2006

Adoption:

November 14, 2006

Submitted to Governor:

November 21, 2006

Submitted to House:

November 21, 2006

Submitted to Senate:

November 21, 2006

Gubernatorial approval:

January 4, 2007

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

Final adoption:

March 27, 2007

Effective:

June 15, 2007

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The proposed amendments to the definition sections OAC 252:100-5-1.1, OAC 252:100-7-1.1 and OAC 252:100-9-2 will add a new definition for Aregulated air pollutant@. A new Appendix P, Regulated Air Pollutants, is being added to Chapter 100 as part of these amendments. This is being done to more strictly define what is and what is not a regulated air pollutant. The terms AActual emissions@, AAllowable emissions@ and ARegulated pollutant (for fee calculation) are being amended in OAC 252:100-5-1.1 to clarify these terms. In addition, Section 5-1.1 is being amended by the addition of a new definition for AGross particulate matter@ or AGPM@ which replaces the term ATSP@ in the section. The term Afor TSP@ in OAC 252:100-23-2 is being deleted and the definition for AActual emissions@ in OAC 252:100-7-1.1 is being amended.

CONTACT PERSON:

Max Price, 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 JUNE 15, 2007:

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

252:100-5-1.1. Definitions

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

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

"Allowable emissions" means:

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

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

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

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

"Error" means, with regard to fees, a fee overpayment and does not mean a mistake made in the decision to use or not to use a particular emission factor or method of calculation.

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

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

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

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

"Process Fugitive Emissions" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and

# Permanent Final Adoptions

could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

**"Regulated air pollutant"** means:

- (A) ~~Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.~~
- (B) ~~Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.~~
- (C) ~~Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.~~
- (D) ~~Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.~~
- (E) ~~Any other substance for which an air emission limitation or equipment standard is set by permit or rule, 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.~~

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

- ~~(A) Carbon dioxide.~~
- (B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.
- (C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.
- (D) Total suspended particulates (TSP) or particulate matter (PM<sub>10</sub>).

## SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

### PART 1. GENERAL PROVISIONS

#### 252:100-7-1.1. Definitions

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

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

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

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

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

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

- (i) The facility has actual emissions of 5 tpy or less of each regulated air pollutant, except that fraction of particulate matter that exhibits an aerodynamic particulate diameter of more than 10 micrometers (µm).
- (ii) The facility is not a major source as defined in OAC 252:100-8-2.
- (iii) The facility is not a major stationary source as defined in OAC 252:100-8-31 for facilities in attainment areas.
- (iv) The facility is not a major stationary source as defined in OAC 252:100-8-51 for facilities in nonattainment areas.
- (v) The facility is not operated in conjunction with another facility or source that is subject to air quality permitting.
- (vi) The facility has not opted to obtain or retain an Air Quality Division permit.

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

**"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).

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

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

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

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

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

APPENDIX P. REGULATED AIR POLLUTANTS [NEW]

REGULATED AIR POLLUTANT	DESCRIPTION
Acid gas expressed as SO <sub>2</sub> and HCl	As defined in OAC 252:100-17.
Acid mist expressed as H <sub>2</sub> SO <sub>4</sub>	As defined in 40 CFR 60.81 and OAC 252:100-31.
Arsenic, inorganic	NESHAP
Asbestos	NESHAP
Benzene	NESHAP
Beryllium	NESHAP
Cadmium	NSPS
Carbon Monoxide or CO	Criteria pollutant
Dioxins/furans	NSPS: Tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
Fluorides	NSPS: Elemental fluorine and all fluoride compounds.
Hazardous Air Pollutants or HAP(s)	Listed in 42 U.S.C. 7412(b)(1) and as modified in 40 CFR Part 63, Subpart C, List of Hazardous Air Pollutants, Petitions Process, Lesser Quantity Designations, Source Category List.
Hydrogen chloride or HCl	NSPS
Hydrogen sulfide or H <sub>2</sub> S	NSPS
Lead	Criteria pollutant
Mercury	NSPS and NESHAP
Nitrogen dioxide or NO <sub>2</sub>	Criteria pollutant
NonMethane Organic Compounds or NMOC expressed as hexane	As defined in 40 CFR 60.754.
Oxides of nitrogen or NO <sub>x</sub>	NSPS: Ozone precursors
Oxides of sulfur or SO <sub>x</sub>	NSPS: PM-2.5 precursors
Ozone	Criteria pollutant
Particulate Matter or PM	As defined in OAC 252:100. (criteria pollutant)
Reduced sulfur compounds	As defined in 40 CFR 60.101.
Reduced Sulfur, Total or TRS	As defined in OAC 252:100-31.
Sulfur dioxide or SO <sub>2</sub>	Criteria pollutant
Toxic Air Contaminates or TAC(s)	As listed in OAC 252:100, Appendix O.

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Vinyl chloride	NESHAP
Volatile Organic Compounds or VOC(s)	As defined in OAC 252:100. (ozone precursors)

**NOTES:**

1. The Department does not have authority over Class I and II stratospheric ozone depleting substances or CFCs as listed under 40 CFR, Part 82. These substances are RAP, however, under the Federal Clean Air Act.

2. The Department does not have authority over Section 112(r) substances as listed in 40 CFR 68.130, Tables 1-4. These substances are, however, RAP under the Federal Clean Air Act.

3. The Department does not have the authority over radionuclides as listed in 40 CFR, Part 61. These substances are RAP, however, under the Federal Clean Air Act.

[OAR Docket #07-819; filed 4-23-07]

**October 18, 2006**  
**Air Quality Advisory Council**

**November 14, 2006**  
**Environmental Quality Board**

**Effective Date: June 15, 2007**

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Office of Administrative Rules

# 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 #06-1276]

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. General Provisions

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

Subchapter 2. Incorporation by Reference [NEW]

252:100-2-1. Purpose [NEW]

252:100-2-2. [RESERVED]

252:100-2-3. Reference to 40 CFR [NEW]

Subchapter 4. New Source Performance Standards [REVOKED]

252:100-4-1. Purpose [REVOKED]

252:100-4-2. [REVOKED]

252:100-4-3. Reference to 40 CFR [REVOKED]

252:100-4-4. [REVOKED]

252:100-4-5. Incorporation by reference [REVOKED]

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.1. Emission inventory [AMENDED]

Subchapter 8. Permits for Part 70 Sources

Part 1. General Provisions

252:100-8-1.1 Definitions [AMENDED]

Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs)

Part 1. General Provisions

252:100-37-2. Definitions [AMENDED]

Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas

Part 1. General Provisions

252:100-39-2. Definitions [AMENDED]

Subchapter 40. Control of Emission of Friable Asbestos During Demolition and Renovation Operations [NEW]

252:100-40-1. Purpose [NEW]

252:100-40-2. [RESERVED]

252:100-40-3. Definitions [NEW]

252:100-40-4. [RESERVED]

252:100-40-5. Additional provisions for handling, storing, and transporting of friable asbestos during demolition or renovation operations [NEW]

Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]

Part 1. General Provisions [REVOKED]

252:100-41-1. Purpose [REVOKED]

252:100-41-1.1. Supersession by Subchapter 42 [REVOKED]

252:100-41-2. Definitions [REVOKED]

Part 3. Hazardous Air Pollutants

252:100-41-13. Purpose [REVOKED]

252:100-41-14. Reference to 40 CFR [REVOKED]

252:100-41-15. National emission standards for hazardous air pollutants (NESHAP) [REVOKED]

252:100-41-16. Asbestos [REVOKED]

Part 5. Toxic Air Contaminants

252:100-41-35. Applicability [REVOKED]

252:100-41-36. General prohibition; scope [REVOKED]

252:100-41-37. New sources [REVOKED]

252:100-41-38. Existing sources [REVOKED]

252:100-41-39. Area sources [REVOKED]

252:100-41-40. Maximum acceptable ambient concentrations (MAAC) [REVOKED]

252:100-41-41. Emissions inventories [REVOKED]

252:100-41-42. Compliance requirements [REVOKED]

252:100-41-43. Exemptions [REVOKED]

252:100-41-44. Compliance date [REVOKED]

Subchapter 44. Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units [NEW]

252:100-44-1. Purpose [NEW]

252:100-44-2. [RESERVED]

252:100-44-3. Reference to 40 CFR [NEW]

252:100-44-4. [RESERVED]

252:100-44-5. Timing requirements for Hg allowance allocations [NEW]

252:100-44-6. [RESERVED]

252:100-44-7. Hg allowance allocations [NEW]

252:100-44-8. [RESERVED]

252:100-44-9. Auction to offset Hg program costs [NEW]

Appendix Q. Title 40, Code of Federal Regulations, Incorporations by Reference [NEW]

### SUMMARY:

The Department is proposing to amend Oklahoma Administrative Code (OAC) Title 252 Chapter 100-1-3, OAC 252:100-8-1.1, OAC 252:100-37-2, and OAC 252:100-39-2 to clarify definitions including particulate matter and volatile organic compounds.

The Department proposes to add to Title 252 Chapter 100, a new Subchapter 2, Incorporation by Reference, a new Subchapter 40, Control of Emission of Friable Asbestos During Demolition and Renovation Operations, and a new Appendix Q, Title 40, Code of Federal Regulations,

## Notices of Rulemaking Intent

**Incorporation by Reference.** Staff proposes revoking Subchapter 4, New Source Performance Standards, and Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants.

The Department is proposing amendments of OAC 252:100-5, Registration, Emission Inventory and Annual Operating Fees. In OAC 252:100-5.2.1(b)(3) staff proposes to change the requirement to provide written explanation when yearly emission changes are in excess of 30 percent. The written explanation would be required only if the Department requests that documentation. The authority to request this information is in the next paragraph, 252:100-5.2.1(c) Documentation. The other proposed change would set the due date for submittal of the annual emission inventory to April 1st each year, and allowing the opportunity for a 30-day extension.

The Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal Fired Electric Steam Generating Units. The Department is proposing to incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in March 2005 with some variation of allocations and set-asides. Prior to and at the October 18, 2006 public hearing, the Department will accept public comments regarding the allocation of mercury credits for inclusion in Oklahoma's CAMR State Implementation Plan ("SIP").

### **AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101, 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101

*et seq.*

### **COMMENT PERIOD:**

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 18, 2006. For comments received at least 5 business days prior to the Council meeting, staff will post written responses on the Department's web page at least 1 day prior to the Council meeting and provide hard copy written responses to these comments to the Council and the public at that Council meeting. Oral comments may be made at the October 18, 2006 hearing and at the appropriate Environmental Quality board meeting.

### **PUBLIC HEARINGS:**

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 18, 2006, at the Forest Heritage Center, Beavers Bend State Park, Broken Bow, Oklahoma. Before the Environmental Quality Board on November 14, 2006 in Tulsa.

This hearing shall also serve as the public hearing to receive comments on the proposed revisions to the SIP under the requirements of 40 CFR § 51.102 of the EPA regulations concerning the SIPs 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 at the Air Quality Division of the Department and on the Department's website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Air Quality Division, Council Meetings, or copies may be obtained from the contact person by calling (405) 702-4100.

### **RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained from the contact person.

### **CONTACT PERSON:**

Please send written comments to Max Price at [max.price@deq.state.ok.us](mailto:max.price@deq.state.ok.us) for Subchapters 1, 8, 37 and 39; and for Subchapters 2, 4, 40 and 41, and Appendix Q. For Subchapters 5 (5-2.1) and the new Subchapter 44, please send written comments to Morris Moffett at [morris.moffett@deq.state.ok.us](mailto:morris.moffett@deq.state.ok.us). Mailing address is: Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, Fax (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) 702-4100.

[OAR Docket #06-1276; filed 8-24-06]

## **TITLE 435. STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION CHAPTER 15. PHYSICIAN ASSISTANTS**

[OAR Docket #06-1269]

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **PROPOSED RULES:**

- Subchapter 3. Licensure of Physician Assistants
- 435:15-3-1. Application for licensure [AMENDED]
- 435:15-3-18. License renewal period; reinstatement [AMENDED]
- Subchapter 11. Prescriptive Guidelines and Drug Formulary
- 435:15-11-1. Prescriptive and dispensing authority [AMENDED]

### **SUMMARY:**

The application requirements are being amended to specify what the physician assistant program should consist of and to require a jurisprudence examination to be passed for both initial licensure and renewal/reinstatement of licensure. The prescriptive guidelines are being amended to change the amount of schedules III, IV and V controlled medications that may be prescribed by physician assistants.



**REGULAR MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL**

**October 18, 2006, 9:00 a.m.**

**Beavers Bend State Park**

**Broken Bow, OK**

*Please turn off your cell phones.*

1. **Call to Order – Sharon Myers, Chair**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes – July 19, 2006 Regular Meeting**
4. **Meeting Schedule for Calendar Year 2007**
5. **Public Rulemaking Hearings**
  - A. **OAC 252:100-1. General Provisions [AMENDED]**  
**OAC 252:100-8. Permits for Part 70 Sources [AMENDED]**  
**OAC 252:100-37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]**  
**OAC 252:100-39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]**

The Department is proposing to amend Subchapters 1, 8, 37 and 39 to clarify certain definitions, including “particulate matter” and “volatile organic compounds.”

1. **Presentation – Max Price**
  2. **Questions and discussion by Council/public**
  3. **Possible action by Council**
  4. **Roll call vote for permanent adoption**
- B. **OAC 252:100-2. Incorporation by Reference [NEW]**  
**OAC 252:100-4. New Source Performance Standards [REVOKED]**  
**OAC 252:100-40. Control of Emission of Friable Asbestos during Demolition and Renovation Operations [NEW]**  
**OAC 252:100-41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]**  
**Appendix Q. Title 40, Code of Federal Regulations, Incorporation by Reference [NEW]**

The Department proposes to add new Subchapters 2 and 40 and Appendix Q, and proposes to revoke Subchapters 4 and 41. This proposal would assure that all incorporations by reference to 40 CFR have incorporation dates in the agency rules.

1. **Presentation – Max Price**
2. **Questions and discussion by Council/public**
3. **Possible action by Council**
4. **Roll call vote for permanent adoption**

**C. OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

The Department proposes to amend Subchapter 5 by modifying the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent by clarifying that the written explanation would be required only on request by the Department. Another proposed amendment would change the due date for submittal of the annual emission inventory from March 1 to April 1 of each year and allow the opportunity for a 30-day extension.

1. Presentation – Morris Moffett
2. Questions and discussion by Council/public
3. Possible action by Council
4. Roll call vote for permanent adoption

**D. OAC 252:100-44. Control of Mercury Emissions from Coal Fired Electric Steam Generating Units [NEW]**

The Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal Fired Electric Steam Generating Units, which would incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in May 2005.

1. Presentation – Morris Moffett
2. Questions and discussion by Council/public
3. Possible action by Council
4. Roll call vote for permanent adoption

**6. Proposed Mercury Allocations for Oklahoma EGUs**

Oklahoma may meet its statewide mercury emissions budget by allowing affected sources to participate in the EPA-managed cap and trade program. Oklahoma has proposed regulations identical to 40 CFR 60, Subpart HHHH. Mercury budget allocations will be made in accordance with Subpart HHHH, specifically 40 CFR 60.4140-4142. The allocations will be included with DEQ's CAMR 111(d) plan submittal to the EPA.

1. Presentation – Morris Moffett
2. Questions and discussion by Council/public

**7. Division Director's Report – Eddie Terrill**

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

**9. Adjournment** – The next regular meeting is proposed for 9:00 a.m., Wednesday, January 17, 2007, in Oklahoma City.

Lunch break if necessary.

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4212. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL  
OPERATING FEES

252:100-5-2.1. Emission inventory

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions shall submit a complete emission inventory annually on forms obtained from the Division.

(1) **General requirements.** The inventory shall cover operations during a calendar year and shall be submitted prior to ~~March~~ April 1 of the following year. Upon receiving a written demonstration of good cause the Director may grant an extension for submittal beyond the April 1 deadline., unless the Division has granted a 30 day extension. An additional 30 day extension may be granted for good cause shown.

(2) **Permit by rule.** The owner or operator of a facility registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated air pollutant is required to submit an emission inventory for that facility once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.

(3) **Permit exempt facilities and de minimis facilities.** The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory.

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

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

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

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination. If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or from the previous year's actual by more than 30%, the Department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.

(3)(4) For those emissions not the subject of a permit and

when requested by the AQD, a list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.

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

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

- (1) Emission factors utilized in the issuance of a currently applicable Oklahoma Air Quality permit(s) for the facility.
- (2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Division.
- (3) Stack tests using appropriate EPA test methods may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:
  - (A) Tests are performed by persons qualified by training and experience to perform said tests.
  - (B) Copies of the tests results and methods are available for review by the Division.
- (4) Continuous emissions monitoring data, when supported by required certification and calibration data.
- (5) Current AP-42 factors or other factors acceptable to the Division.
- (6) Manufacturer's test data, when approved by the Division as reliable.
- (7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Division.
- (8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission

inventory by the Division.

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

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

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

**DRAFT MINUTES  
AIR QUALITY COUNCIL  
October 18, 2006  
707 North Robinson  
Oklahoma City, Oklahoma**

For EQB November 14, 2006  
For AQC Approval  
January 17, 2007

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. October 18, 2006 at the Forest Heritage Center, Broken Bow, 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 5, 2005. 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. Sharon Myers, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

Sharon Myers  
David Branecky  
Bob Curtis  
Gary Martin  
Jerry Purkaple  
Rick Treeman  
Laura Worthen

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Scott Thomas  
Max Price  
Morris Moffett

**DEQ STAFF  
PRESENT**

Matt Paque  
Dawson Lasseter  
Nancy Marshment  
Myrna Bruce

**MEMBERS ABSENT**

Bob Lynch  
Don Smith

**OTHERS PRESENT**

Christy Myers, Court Reporter

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

**Approval of Minutes** Ms. Myers called for approval of the July 19, 2006 Minutes. With one change suggested, she called for a motion to approve the Minutes with suggested changes. Mr. Curtis made the motion and Mr. Martin made the second. Roll call as follows with motion passing.

Bob Curtis	Yes	Jerry Purkaple	Yes
Rick Treeman	Yes	Gary Martin	Yes
David Branecky	Yes	Sharon Myers	Abstain
Laura Worthen	Yes		

**Meeting Schedule for Calendar Year 2007** After discussion, Council decided on January 17 in Oklahoma City; April 18 in Tulsa; July 18 in Ponca City; and October 17 in Oklahoma City.

Bob Curtis	Yes	Jerry Purkaple	Yes
Rick Treeman	Yes	Gary Martin	Yes
David Branecky	Yes	Sharon Myers	Abstain
Laura Worthen	Yes	Motion Passed	

**OAC 252:100-1. General Provisions [AMENDED]**

**OAC 252:100-8. Permits for Part 70 Sources [AMENDED]**

**OAC 252:100-37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]**

**OAC 252:100-39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]**

Mr. Max Price explained that the Department proposes to amend Subchapters 1, 8, 37 and 39 to clarify certain definitions, including "particulate matter" and "volatile organic compounds." He noted that adding these definitions clarifies the Department's policy of including the back half which is otherwise known as condensable PM in emission calculations for stack tests utilizing Method 5 found in 40 CFR Appendix A to show compliance with state particulate matter emission regulations. He pointed out that this is the second time this rulemaking has been before the Council and staff recommended that it is forwarded to the Environmental Quality Board for permanent adoption. Staff fielded questions from the Council and public comment was submitted for the record by Mr. Rusty Kroll; Mr. Michael Peters, and Ms. Julia Bevers. Further discussion led to a motion by Mr. Rick Treeman to continue the rulemaking to Council's next meeting. Mr. Branecky made the second.

Bob Curtis	No	Jerry Purkaple	Yes
Rick Treeman	Yes	Gary Martin	Yes
David Branecky	Yes	Sharon Myers	Yes
Laura Worthen	Yes	Motion Passed	

**OAC 252:100-2. Incorporation by Reference [NEW]**

**OAC 252:100-4. New Source Performance Standards [REVOKED]**

**OAC 252:100-40. Control of Emission of Friable Asbestos during Demolition and Renovation Operations [NEW]**

**OAC 252:100-41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]**

**Appendix Q. Title 40, Code of Federal Regulations, Incorporation by Reference [NEW]** Mr. Max Price related that the proposed amendments would assure that all incorporations by reference to 40 CFR have incorporation dates in the agency rules. The proposal would add new Subchapters 2 and 40 and Appendix Q, and revokes Subchapters 4 and 41. He added that the proposal had been before the Council twice and staff's recommendation was for permanent adoption. Mr. Branecky made a motion to recommend the rulemaking to the Environmental Quality Board with the changes he had suggested to Appendix Q and 100-2-3(b)(1). Ms. Worthen made the second.

Bob Curtis	Yes	Jerry Purkaple	Yes
Rick Treeman	Yes	Gary Martin	Yes
David Branecky	Yes	Sharon Myers	Yes
Laura Worthen	Yes	Motion Passed	

**OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]** Mr. Morris Moffett advised that the Department proposal would modify

the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent by clarifying that the written explanation would be required only on request by the Department. He added that the second proposed amendment would change the due date for submittal of the annual emission inventory from March 1 to April 1 of each year and allow the opportunity for a 30-day extension. These changes were recommended for permanent adoption. Mr. Purkapple made motion for approval with the change suggested. Mr. Curtis made the second.

Bob Curtis	Yes	Jerry Purkapple	Yes
Rick Treeman	Yes	Gary Martin	Yes
David Branecky	Yes	Sharon Myers	Yes
Laura Worthen	Yes	Motion Passed	

**OAC 252:100-44. Control of Mercury Emissions from Coal Fired Electric Steam Generating Units [NEW]**

Mr. Morris Moffett advised that the Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal Fired Electric Steam Generating Units, which would incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in May 2005. He pointed out that recent discussion between staff, the EPA, and stakeholders indicate there may be further changes to the federal model rule, therefore, staff asked for continuation of the hearing to the January meeting. Mr. Branecky made that motion and Ms Worthen made the second.

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Bob Curtis	Yes	Jerry Purkapple	Yes
Rick Treeman	Yes	Gary Martin	Yes
David Branecky	Yes	Sharon Myers	Yes
Laura Worthen	Yes	Motion Passed	

**Proposed Mercury Allocations for Oklahoma EGUs**

Mr. Morris Moffett advised that this public hearing was to receive public comments on the proposed revision to the State Implementation Plan (SIP) concerning the mercury emission credit allocations from the Clean Air Mercury Rule (CAMR) as Oklahoma may meet its statewide mercury emissions budget by allowing affected sources to participate in the EPA-managed cap and trade program. Oklahoma has proposed regulations identical to 40 CFR 60, Subpart HHHH. Mercury budget allocations will be made in accordance with Subpart HHHH, specifically 40 CFR 60.4140-4142. The allocations will be included with DEQ's CAMR 111(d) plan submittal to the EPA. No comments were received and no action from the Council was necessary.

**Division Director's Report** – Eddie Terrill gave an update on Division activities.

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

**Adjournment** – The next regular meeting is proposed for 9:00 a.m., Wednesday, January 17, 2007 in Oklahoma City.

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



DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY COUNCIL

REGULAR MEETING

ITEM NUMBER 5C

HELD ON OCTOBER 18, 2006, AT 9:00 A.M.

IN BROKEN BOW, OKLAHOMA

\* \* \* \* \*

MYERS REPORTING SERVICE  
Christy A. Myers, CSR  
(405) 721-2882

ORIGINAL

<p style="text-align: center;">MEMBERS OF THE COUNCIL</p> <p>SHARON MYERS - CHAIR</p> <p>DAVID BRANECKY - VICE-CHAIR</p> <p>BOB CURTIS - MEMBER</p> <p>BOB LYNCH - MEMBER</p> <p>GARY MARTIN - MEMBER</p> <p>JERRY PURKAPLE - MEMBER</p> <p>DON SMITH - MEMBER</p> <p>RICK TREEMAN - MEMBER</p> <p>LAURA WORTHEN - MEMBER</p> <p style="text-align: center;">STAFF MEMBERS</p> <p>MYRNA BRUCE - SECRETARY</p> <p>EDDIE TERRILL - DIVISION DIRECTOR</p> <p>MAX PRICE - AQD</p> <p>MATT PAQUE - LEGAL</p> <p>BEVERLY BOTCHLET-SMITH - AQD</p> <p>MORRIS MOFFETT - AQD</p>	<p style="text-align: right;">Page 2</p> <p>emissions, and the basis for such determination. If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or from the previous years actual by more than 30 percent, the Department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.</p> <p>And (b)(3). For those emissions not the subject of a permit and when requested by the AQD, a list of all OAC 252:100 rules setting forth emission limitations applicable to the facility in question and the maximum yearly allowable for the facility.</p> <p>The second amendment is in response to comments at the April meeting to change the due date for the annual emission inventory from March 1 to April 1 each year. The Department proposes to replace</p> <p style="text-align: right;">Page 4</p>
<p style="text-align: center;">PROCEEDINGS</p> <p>MS. BOTCHLET-SMITH: Okay. The next item on the Agenda is OAC 252:100-5, Registration, Emission Inventory and Annual Operating Fees. And Mr. Morris Moffett will be giving the staff's presentation.</p> <p>MR. MOFFETT: Good morning. I am Morris Moffett. Madam Chairman, Members of the Council, ladies and gentlemen.</p> <p>The Department is proposing two amendments to Section 2 of Subchapter 5. The first will change the requirement to provide documentation for emission changes of 30 percent or more from emission inventory document. This requirement could place an unnecessary burden on the reporting community and on the Department in complying with the requirements for reporting both of the minor changes in emissions. The Department proposes to replace OAC 252:100-5-2.1(b)(2) and to renumber the subsequent paragraph (b)(4) to (b)(3) as follows:</p> <p>(b)(2). The amount of the actual emissions, including quantifiable excess</p>	<p style="text-align: right;">Page 3</p> <p>OAC 252:100-5-2.1(a)(1) with the following:</p> <p>(1) General requirements. The inventory shall cover operations during a calendar year and shall be submitted prior to April 1 of the following year. Upon receiving a written demonstration of good cause the Director may grant an extension for submittal beyond the April 1 deadline.</p> <p>Notice of the proposed rule changes was published in the Oklahoma Register on September 15, 2006 and comments were requested from members of the public.</p> <p>Staff asks the Council to recommend these changes to the Environmental Quality Board for adoption as a permanent rule.</p> <p>MS. BOTCHLET-SMITH: Any comments from the Council?</p> <p>MR. TREEMAN: On the part where it's talking about the 30 percent, and this is just a comment, what kind of time frame is this before they're asked to submit that verification and are they going to have to do that?</p> <p>MR. MOFFETT: I don't think a time frame has been decided.</p> <p style="text-align: right;">Page 5</p>

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MR. TERRILL: It s at my discretion. And I don t mean that to be a flippant comment. It would depend on the circumstances and those sort of things. Generally 30 days before it starts.

MR. BRANECKY: I have a question on (1)(A), requirement to file an emission inventory. I think the word, "air emissions" in that first sentence, the owner or operator of any facility that is a source of air emissions, would that be more accurate to say air contaminants or air pollutants since we ve used those words before? Air emissions --

MR. MOFFETT: Contaminants?

MR. BRANECKY: Contaminants. (Inaudible).

(Multiple inaudible conversations between Council Members and Staff)

MR. MOFFETT: Is that a change that we can make?

MR. BRANECKY: Change air contaminant --

MR. TERRILL: David, are you making that suggestion?

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MR. BRANECKY: Yes, I am.

MS. BOTCHLET-SMITH: Any other comments from the Council?

Is there anyone from the public who wishes to ask a question or make a comment on this rule?

Hearing none, Sharon, would you ask for a Motion.

MS. MYERS: Rick, did you want to make a comment on the emissions inventory that we we re talking about (inaudible)?

MR. TREEMAN: Well, I can. This is probably not the most appropriate time to do it but it s going back to the first thing we put off. We put it to the next Council Meeting, but I think it would -- might behoove the agency and give industry a heads up when the emissions inventory questionnaire is mailed out or emailed or electronic communication goes out that it s reiterated to those people that have the possibility of having condensable contaminants, to make sure that both the front and back half are included in their inventories. And I think what that might

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do is, it might possibly open the eyes of some people that are affected that may or may not know they re affected by this -- not necessarily a change, but by this clarification.

MR. TERRILL: Actually, I think what -- we ve already talked to Ray about putting some kind of language together in here on that. Good suggestion.

MS. MYERS: So now bback to this rule, is there a Motion?

MR. PURKAPLE: So moved.

MS. MYERS: With the changes that Mr. Branecky made?

MR. PURKAPLE: Yes.

MR. CURTIS: Second.

MS. MYERS: I have a Motion and a second to adopt this rule as proposed with the minor changes that Mr. Branecky suggested.

Myrna, call the roll, please.

MS. BRUCE: Bob Curtis.

MR. CURTIS: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

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MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Laura Worthen.

MS. WORTHEN: Yes.

MS. BRUCE: Jerry Purkapple.

MR. PURKAPLE: Yes.

MS. BRUCE: Gary Martin.

MR. MARTIN: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Motion passed.

(End of Proceedings)

CERTIFICATE

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 proceedings is the truth, the whole truth, and nothing but the truth; that the foregoing proceedings were tape recorded by me and thereafter transcribed under my direction, to the best of my ability; that said proceedings were taken on the 18th day of October, 2006, at Broken Bow, 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 19th day of October, 2006.

CHRISTY A. MYERS, C.S.R.  
Certificate No. 00310

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O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

# AIR QUALITY COUNCIL

Attendance Record

October 18, 2006

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Garry Keele	Hall Estill	(918) 594-0553	gkeele@hall-estill.com
Mike Petres	Ryan Whaley	(405) 228-2137	mpetres@ryanwhaley.com
Marcia Cole	Ryan Whaley	(405) 228-2143	mcole@ryanwhaley.com
Mynna Bruce	DEQ		
Maui Moffett	DEQ		
MATT PAQUE	DEQ	405 702-7189	
Beverly B. Smith	DEQ	702-4156	
Dawson Cosseton	DEQ	702-4185	
Nancy Marshment	DEQ	702-4178	
Bob Burris	Weyerhaeuser	580 933 1454	
Rudell Maul	Weyerhaeuser	580-933-1951	
Jim Bacon	"	580 981-1339	
Janet Price	Weyerhaeuser	580 933-1472	
Julia Beveis	OGE		
Melody Martin	OGE	405 553-3297	
Rusty Kroll	PSO	918 591-5330	
Adrienne Jones	Cardinal Engineering	405 6151957	aj@cardinaleng.com
Bonnie McGilbra	WBH Generators	918-272-0893	

**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m., Tuesday, November 14, 2006  
B. S. Roberts Conference Room – Room 151  
OSU-Tulsa Campus, 700 N. Greenwood, Tulsa, OK

1. **Call to Order** – Steve Mason, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the August 22, 2006, Regular Meeting

4. **Rulemaking – OAC 252:100 Air Pollution Control**

Several sets of amendments are proposed:

- Amendments in Subchapters 5, 7 and 9 add definitions for “regulated air pollutant” and “gross particulate matter” (replacing the term “total suspended particulates”), and revise the definitions for “actual emissions,” “allowable emissions” and “regulated pollutant (for fee calculation)”. Corresponding changes are made where needed. Appendix P, pertaining to Regulated Air Pollutants, is added.
- A new Part 11 of Subchapter 17, pertaining to Other Solid Waste Incinerators (“OSWI”), establishes state emission standards and other enforceable requirements for existing OSWI.
- The addition of Subchapters 2 and 40 and Appendix Q, and revocation of Subchapters 4 and 41, assure that all incorporations by reference of 40 CFR provisions have specified incorporation dates.
- One Subchapter 5 amendment makes the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent conditional on a request by the DEQ. A second amendment changes the due date for submittal of the annual emission inventory from March 1 to April 1, with the opportunity for a 30-day extension.
  - A. Presentation – Sharon Myers, Chair, Air Quality Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

5. **Rulemaking – OAC 252:4 Rules of Practice and Procedure**

**OAC 252:205 Hazardous Waste Management**

Two sets of amendments are proposed:

- Amendments to OAC 252:4-7-51, 4-7-52, and 4-7-53 modify the DEQ rules related to hazardous waste permitting requirements to include provisions for the new RCRA Standardized Permit.
- Revisions to OAC 252:205-3-1 and 205-3-2 update the incorporation by reference of the federal hazardous waste regulations to July 1, 2006, and incorporate later federal amendments that relate to management of cathode ray tubes and to corrections of miscellaneous errors in the federal rules.
  - A. Presentation – Bob Kennedy, Vice-Chair, Hazardous Waste Management Advisory Council
  - B. Questions and discussion by the Board



- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include roll call vote(s) on emergency and permanent adoption

**6. Rulemaking – OAC 252:210 Highway Spill Remediation [New]**

New Chapter 210 is designed to implement the requirements of Senate Bill 1938, the Oklahoma Highway Remediation and Cleanup Services Act, passed by the Oklahoma Legislature during the 2006 regular session and effective November 1, 2006. The Act gives the DEQ the responsibility “to license, supervise, govern, and regulate highway remediation and cleanup services . . . and operators” in Oklahoma, and authorizes the Board to adopt implementing rules.

- A. Presentation – Bob Kennedy, Vice-Chair, Hazardous Waste Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on emergency adoption

**7. Rulemaking – OAC 252:300 Laboratory Accreditation**

Proposed changes update references to methods used in the Drinking Water Program to the current citation. In addition a method for the Daphnia Magna Life-Cycle Toxicity Test is added to the list of approved methodologies and Salmonella testing is added to the General Water Quality Laboratory Microbiology Category since these tests will be required for some OPDES permits.

- A. Presentation – Brian Duzan, Chair, Laboratory Services Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**8. Rulemaking – OAC 252:410 Radiation Management**

Several amendments comprise a single rulemaking proposal:

- Subchapter 1, Section 7 amendments update the incorporation by reference of Nuclear Regulatory Commission (NRC) regulations to January 1, 2005. They also add later-promulgated NRC regulations pertaining to the recognition of specialty boards and the training of Radiation Safety Officers as related to the medical use of byproduct material, and increased security requirements for portable gauges. A new subsection (c) clarifies that when a provision of the Code of Federal Regulations is incorporated by reference, all referenced citations are also incorporated by reference.
- Changes to Subchapter 10, Section 1 include revisions to subsection (b) to correct the list of NRC rules that are not incorporated by reference, for which enforcement remains with the NRC. Subsection (c) is revised, and subsection (d) is deleted, because language regarding the effect of becoming an “agreement state” is no longer needed.
- The amendments within Parts 30, 31, 32, 34, 35, 39, 70, and 71 of Subchapter 10 and in Subchapter 20, Section 1 make conforming changes resulting from updated incorporations by reference, correct scrivener's errors, and make minor formatting changes.
  - A. Presentation – Dr. David Gooden, Chair, Radiation Management Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**9. Rulemaking – OAC 252:515 Solid Waste Management**

This rulemaking reflects the addition of a new Part 13 to Subchapter 19, relating to landfill wheel washes. The new Part 13 contains provisions concerning applicability, eligibility deadlines, definitions, approved costs, disapproved costs, the recoupment process, limitation on funds, and water management and control.

- A. Presentation – Jay Stout, Chair, Solid Waste Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**10. Consideration of and Action on the Environmental Quality Report**

The Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1<sup>st</sup> of each year. Despite the statutory title, the statutorily prescribed purpose of this report is to outline the DEQ’s annual needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.

- A. Presentation – Craig Kennamer, DEQ Deputy Executive Director
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on approval

**11. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**12. Executive Director’s Report** – Steve Thompson

**13. Adjournment**

2007 Meetings: February 23, DEQ; June 19, Ada (if needed); August 21, Guthrie; November 15, Weatherford

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

**Should you desire to attend but have a disability and need an accommodation,  
please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD  
Relay Number is 1-800-722-0353 for TDD machine use only.**

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Some members of the Board, as well as senior staff members from the DEQ, will attend the annual Metropolitan Environmental Trust (M.e.t.) Recycling Awards Banquet in Tulsa the evening of November 13. It is uncertain whether a majority of the Board will be present. No Board or DEQ business will be conducted.

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

**SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY  
AND ANNUAL OPERATING FEES**

**EXECUTIVE SUMMARY:** The Department is proposing to amend OAC 252:100-5. The proposed amendments will change the annual due date and modify the requirement to submit certain documentation for relatively minor changes in annual emissions unless that documentation is requested by the Department of Environmental Quality. The annual due date will now be April 1 and any extension for submittal beyond that date must be approved by the Director. The submittal of documentation for emission changes exceeding thirty percent per year will be necessary only if requested by the Department.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

There are no substantive differences.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not required because this rule is not more stringent than corresponding federal rules.

**SUMMARY OF COMMENTS AND RESPONSES:**

Attached.

**SUMMARY OF COMMENTS AND STAFF RESPONSES FOR  
AMENDED SUBCHAPTER 5, REGISTRATION, EMISSION  
INVENTORY AND ANNUAL OPERATING FEES**

**COMMENTS RECEIVED PRIOR TO THE  
APRIL 19, 2006 AIR QUALITY ADVISORY COUNCIL MEETING**

**Written Comments**

**EPA Region 6** – E-mail received April 11, 2006 from Carrie Paige of the EPA

1. **COMMENT:** The requirement that actual emissions varying from the allowable or from the previous year's actual emissions by more than 30% be explained is being struck. Where is this provision adequately covered elsewhere in the regulations? If not adequately covered elsewhere, justify the decision.

**RESPONSE:** Due to recent staff recommendations, we request that the rule be amended rather than struck. This change is in response to requests from our clients and from Air Quality personnel. The rule as it stands indicates that the annual Emission Inventory should include an explanation for any emission that has changed from the permitted allowable or from the previous year by 30% or more. In a study of 2002 and 2003 inventories there were 10,933 reported emission records that changed by 30% or more but the amount of the change was less than one ton. The amended version states that the Department may require the information to be provided on request for such documentation. The amended rule will allow the Department to focus on documentation requested rather than on thousands of explanations of minimal emission changes. The Department proposes to amend OAC 252:100-5-2.1(b)(3) to read:

OAC 252:100-5-2.1(b)(3) If the actual emissions vary from the allowable or from the previous year's emissions by more than 30% the Department may require the operator or owner to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.

The authority to request the information also appears the next paragraph of this section, paragraph (c) Documentation:

OAC 252:100-5-2.1(c) Documentation. All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data utilized in accordance with OAC 252:100-5-2.1(d), below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility

records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.

#### **Verbal Comments Received at the April 19, 2006 AQC Meeting**

2. **COMMENT:** At the April 19, 2006 Melody Martin of OG&E made oral comment suggesting that the due date for the annual emission inventory be set to April 1 each year and that the provisions concerning extension requests and the granting of extensions by the Department be removed. After discussion the Council moved to "change that language and also put in language for a thirty day extension."

**RESPONSE:** Staff has made the changes requested

#### **COMMENTS RECEIVED PRIOR TO THE JULY 19, 2006, AIR QUALITY ADVISORY COUNCIL MEETING**

**Fort James Operating Company - E-mail received June 26, 2006 from Stephen E. Landers of the Fort James Operating Company.**

3. **COMMENT:** Please consider our comments concerning the proposed rulemakings that will be considered at the July 19, 2006 Air Quality Advisory Council meeting. We would first like to offer our support to the proposed change of OAC 252:100-5-2.1(a)(1). Our Muskogee mill operates a number of complex emissions sources. Operating data that is needed to estimate these complex emissions quite often is not completely known until February following the year's end. The proposed April 1 deadline will allow sufficient time for the needed data retrieval and emissions estimates.

**RESPONSE:** Staff concurs

4. **COMMENT:** Secondly, we would like to offer the same support to the proposed change of OAC 252:100-5.2.1(b)(3). We would recommend however that the proposal state that any request by the Department for an explanation in emissions differences described in the proposal, be made in writing through the emission inventory staff. Our concern is that during a compliance evaluation, such explanations may not be immediately and readily available upon the request of an inspector.

**RESPONSE:** Staff believes it is not necessary to require a written request. The intent of this rule change is to reduce unnecessary paperwork. This request will generally be for a clarification of information on a previously submitted Emission Inventory document. A phone call will suffice in most instances.

DRAFT DOCUMENT - DO NOT CITE OR QUOTE

Mr. Scott Thomas  
Environmental Program Manager  
Air Quality Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

Dear Mr. Thomas:

Thank you for the opportunity to comment on the proposed revisions to Oklahoma's Air Pollution Control Rules, OAC 252:100, as listed below:

Subchapter 1	General Provisions
Subchapter 2	Incorporations by Reference
Subchapter 4	New Source Performance Standards
Subchapter 5	Registration, Emission Inventory and Annual Operating Fees
Subchapter 7	General Provisions
Subchapter 8	Permits for Major Sources
Subchapter 9	Excess Emission Reporting Requirements
Subchapter 17	Incinerators
Subchapter 23	Control of Emissions from Cotton Gins
Subchapter 37	Control of Emission of Volatile Organic Compounds (VOCs)
Subchapter 39	Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas
Subchapter 40	Control of Emission of Friable Asbestos During Demolition and Renovation Operations
Subchapter 41	Control of Emission Hazardous Air Pollutants and Toxic Air Contaminants
Subchapter 44	Control of Mercury Emissions
Appendix H	De Minimis Facilities List
Appendix I	Insignificant Activities (Registration) List
Appendix J	Trivial Activities (de Minimis) List
Appendix P	Regulated Air Pollutants
Appendix Q	Title 40, Code of Federal Regulations, Incorporation by Reference

**Subchapters 1, 2, and 4**

We provided comments on the amended definition for VOCs (Subchapter 1) in a letter dated July 13, 2005. As we indicated in that letter, we support the ODEQ revision to exempt tert-butyl acetate (tBAC) from VOC emissions limitations, but we cannot support the exemption of tBAC from emissions reporting and recordkeeping requirements. EPA made clear in its revisions to 40 CFR Part 51- Requirements for Preparation, Adoption and Submittal of Implementation Plans that tBAC was not being exempted for the purposes of recordkeeping and

DRAFT DOCUMENT - DO NOT CITE OR QUOTE

reporting (§51.100(s)(5)) and our Federal Register of November 29, 2004 (69 FR 69298) provides details of why exemption from reporting and recordkeeping could not be allowed. We will work with you in drafting revised language to require reporting and recordkeeping for tBAC; however, we will not be able to approve a revision to the plan that exempts tBAC from reporting and recordkeeping requirements.

The Air Permits Section will provide additional comments, as necessary, in a separate communication.

**Subchapter 5. Registration, Emission Inventory and Annual Operating Fees**

We provided comments on the proposed amendment to the definition of regulated air pollutant in Subchapters 5-1.1, 7-1.1, and 9-2 in a letter dated April 12, 2006. The current amendment addresses the concerns we raised; we support the current proposed rule and have no adverse comments.

**Subchapters 7 and 8**

The Air Permits Section will provide comments as necessary in a separate communication.

**Subchapter 9 Excess Emission Reporting Requirements**

See the comment for Subchapter 5 above regarding the proposed amendment to the definition of regulated air pollutant in Subchapter 9-2.

**Subchapter 17 Incinerators**

Per our April 12, 2006 letter, we support the proposed rule and have no adverse comments.

**Subchapter 23 Control of Emissions from Cotton Gins**

The current amendment deletes the reference to Total Suspended Particulate (TSP) but does not substitute Gross Particulate Matter for TSP. It is not clear that the concerns expressed in our April 12, 2006 letter have been addressed.

**Subchapters 37 and 39**

The current amendment deletes the definition for VOC in Subchapters 37 and 39. Our concern is with the amended definition for VOC proposed for Subchapter 1, as indicated above.

DRAFT DOCUMENT - DO NOT CITE OR QUOTE

**Subchapter 40      Control of Emission of Friable Asbestos During Demolition and  
Renovation Operations**

The Air Enforcement Section will provide comments as necessary in a separate communication.

**Subchapters 41 and 44, and all Appendices**

The Air Permits Section will provide comments as necessary in a separate communication.

We appreciate the opportunity to review and comment on the proposed rules prior to the public hearing on July 19, 2006. If you have questions regarding any of these comments, please feel free to contact me or Carrie Paige at (214) 665-6521.

Sincerely yours,

Thomas H. Diggs  
Chief  
Air Planning Section

cc: Heather Bragg, ODEQ  
Morris Moffitt, ODEQ  
Max Price, ODEQ  
Joyce Sheedy, ODEQ  
David Neleigh, 6PD-R  
Ragan Tate, 6RC-M  
Esteban Herrera, 6EN-AT



Volume 24  
Number 17  
May 15, 2007  
Pages 1151 - 1460

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

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

[OAR Docket #07-820]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULE:**

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.1 [AMENDED]

**AUTHORITY:**

Environmental Quality Board; 27A O.S., §§ 2-2-101, 2-2-201, and 2-5-101, *et seq.*

**DATES:**

**Comment period:**

March 15, 2006 through April 19, 2006  
June 15, 2006 through July 19, 2006  
September 15, 2006 through October 18, 2006

**Public hearings:**

April 19, July 19, October 18, and November 14, 2006

**Adoption:**

November 14, 2006

**Submitted to Governor:**

November 21, 2006

**Submitted to House:**

November 21, 2006

**Submitted to Senate:**

November 21, 2006

**Gubernatorial approval:**

January 4, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

June 15, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed amendments will change the annual due date and modify the requirement to submit certain documentation for relatively minor changes in annual emissions unless that documentation is requested by the Department of Environmental Quality. The annual due date will now be April 1 and any extension for submittal beyond that date must be approved by the Director. The submittal of documentation for emission changes exceeding thirty percent per year will be necessary only if requested by the Department.

**CONTACT PERSON:**

Morris Moffett, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-4100, fax (405) 702-4101, e-mail morris.moffett@deq.state.ok.us.

**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 JUNE 15, 2007:**

**SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES**

**252:100-5-2.1. Emission inventory**

(a) **Requirement to file an emission inventory.** The owner or operator of any facility that is a source of air emissions contaminants shall submit a complete emission inventory annually on forms obtained from the Division.

(1) **General requirements.** The inventory shall cover operations during a calendar year and shall be submitted prior to ~~March~~ April 1 of the following year. Upon receiving a written demonstration of good cause the Director may grant an extension for submittal beyond the April 1 deadline, unless the Division has granted a 30-day extension. An additional 30-day extension may be granted for good cause shown.

(2) **Permit by rule.** The owner or operator of a facility registered under a permit by rule as outlined in Subchapter 7 and emitting 5 tons per year or less of each regulated air pollutant is required to submit an emission inventory for that facility once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year.

(3) **Permit exempt facilities and de minimis facilities.** The owners or operators of permit exempt facilities or de minimis facilities, as these terms are defined in OAC 252:100-7-1.1, are not required to submit an annual emission inventory.

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

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

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

(2) The amount of the actual emissions, including quantifiable excess emissions, and the basis for such determination.

(3) If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or from the previous year's actual by more than 30%, the Department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.

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

(c) **Documentation.** All calculations and assumptions must be verified by proper documentation. All supporting data, including actual production, throughput and measurement records along with engineering calculations and other data

## Permanent Final Adoptions

utilized in accordance with OAC 252:100-5-2.1(d),—below, must be maintained for at least 5 years by the current owner or operator at the facility in conjunction with facility records of the emission inventory. This information must either be submitted to the Division or made available for inspection upon request.

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

- (1) Emission factors utilized in the issuance of a currently applicable Oklahoma Air Quality permit(s) for the facility.
  - (2) Stack tests using appropriate EPA test methods, with advance notification and opportunity for observation by the Division.
  - (3) Stack tests using appropriate EPA test methods may be used for determining the emissions of identical equipment (i.e., same model, same location, and same operating conditions and parameters) when:
    - (A) Tests are performed by persons qualified by training and experience to perform said tests.
    - (B) Copies of the tests results and methods are available for review by the Division.
  - (4) Continuous emissions monitoring data, when supported by required certification and calibration data.
  - (5) Current AP-42 factors or other factors acceptable to the Division.
  - (6) Manufacturer's test data, when approved by the Division as reliable.
  - (7) EPA and EPA-contracted industry-specific emission study data when it can be shown to be applicable to the facility in question and approved for use in the emission inventory by the Division.
  - (8) Fuel usage and other mass-balance methods when supported by specific records applicable to the materials on which the calculations are based and approved for use in the emission inventory by the Division.
  - (9) Any other method that can be shown to be reasonably accurate when supported by engineering data and calculations, and approved for use in the emission inventory by the Division.
- (e) **Methods of verification.** Emission inventories determined by the Division to be substantially incomplete or substantially incorrect shall, upon the request of the Division, be subject to verification if not satisfactorily completed or corrected within a reasonable time. Verification shall be accomplished by an appropriate stack test using EPA approved methods, installation of continuous monitoring equipment, or other methods acceptable to the Division.

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

[OAR Docket #07-820; filed 4-23-07]

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

[OAR Docket #07-821]

#### RULEMAKING ACTION:

PERMANENT final adoption

#### RULES:

Subchapter 8. Permits for Part 70 Sources

Part 11. Visibility Protection Standards [NEW]

252:100-8-70 [NEW]

252:100-8-71 [NEW]

252:100-8-72 [NEW]

252:100-8-73 [NEW]

252:100-8-74 [NEW]

252:100-8-75 [NEW]

252:100-8-76 [NEW]

252:100-8-77 [NEW]

252:100-8-78 [NEW]

#### AUTHORITY:

Environmental Quality Board: 27A O.S., §§ 2-2-101, 2-2-201 and 2-5-101, *et seq.*

#### DATES:

##### Comment period:

September 15, 2005 through October 19, 2005

December 15, 2005 through January 18, 2006

February 24, 2006

March 15, 2006 through April 19, 2006

August 22, 2006

##### Public hearing:

October 19, 2005

January 18, 2006

February 24, 2006

April 19, 2006

August 22, 2006

##### Adoption:

August 22, 2006

##### Submitted to Governor:

August 29, 2006

##### Submitted to House:

August 29, 2006

##### Submitted to Senate:

August 29, 2006

##### Gubernatorial approval:

October 8, 2006

##### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

##### Final adoption:

March 27, 2007

##### Effective:

June 15, 2007

#### SUPERSEDED EMERGENCY ACTIONS:

##### Superseded rules:

Subchapter 8. Permits for Part 70 Sources

Part 11. Visibility Protection Standards [NEW]

252:100-8-70 [NEW]

252:100-8-71 [NEW]

**OAC 252:100-19**  
**Appendices C, D, G**  
**Public Hearings**

**April 16, 2008**  
**Air Quality Advisory Council**

**August 19, 2008**  
**Environmental Quality Board**

**Effective Date: July 1, 2009**

Volume 25  
Number 13  
March 17, 2008  
Pages 707 - 734

**RECEIVED**

MAR 18 2008

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# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

# 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 #08-278]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking.

### PROPOSED RULES:

- Subchapter 17. Incinerators
- Part 5. Municipal Waste Combustors
- 252:100-17-14.1. Definitions [AMENDED]
- 252:100-17-14.2. Terminology related to 40 CFR [AMENDED]
- 252:100-17-15. Exemptions [AMENDED]
- 252:100-17-16. Standards for particulate matter and opacity [AMENDED]
- 252:100-17-17. Standards for municipal waste combustor metals [AMENDED]
- 252:100-17-19. Standards for municipal waste combustor organics expressed as total mass dioxins/furans [AMENDED]
- 252:100-17-20. Standards for nitrogen oxides [AMENDED]
- 252:100-17-21. Standards for municipal waste combustor operating practices [AMENDED]
- 252:100-17-24. Standards for municipal waste combustor operator training and certification [AMENDED]
- 252:100-17-25. Compliance and performance testing [AMENDED]
- 252:100-17-26. Reporting and recordkeeping requirements [AMENDED]
- Subchapter 19. Control of Emission of Particulate Matter
- 252:100-19-1.1. Definitions [AMENDED]
- 252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units [AMENDED]
- Subchapter 44. Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units [NEW]
- 252:100-44-1. Purpose [NEW]
- Appendix C. Allowable Rate of Emissions for Indirectly Fired Fuel-Burning Units [REVOKED]
- Appendix C. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units [NEW]
- Appendix D. Allowable Rate of Emissions for Indirectly Fired Wood Fuel-Burning Units [REVOKED]
- Appendix D. Allowable Particulate Matter Emission Rates for Indirectly Fired Wood Fuel-Burning Units [NEW]

Appendix G. Allowable Rate of Emissions [REVOKED]

Appendix G. Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units And Industrial Process [NEW]

### SUMMARY:

The Department proposes to amend OAC 252:100-17, Incinerators, Part 5, to meet federal requirements for state plans under section 111(d) of the federal Clean Air Act applicable to existing sources. The proposed changes would incorporate standards from 40 CFR 60, Subpart Cb and update references to 40 CFR 60, Subpart Eb published on May 10, 2006, in the *Federal Register* that apply to Municipal Waste Combustor (MWC) units with the capacity to combust more than 250 tons per day of municipal solid waste. The proposed changes to Subchapter 17 are accompanied by a 111(d) plan. Staff intends that this council meeting serve as a public hearing for both the rule and the plan.

The Department is proposing to amend OAC 252:100-19-1.1, Definitions, to add definitions for condensable, filterable and total particulate matter. OAC 252:100-19-11, Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units, is being amended to add the word "total" before the words "particulate matter." In addition, Appendices C, D and G are being revoked and new Appendices C, D and G are being added to Chapter 100.

The Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units. The purpose of this subchapter is to limit emissions of mercury (Hg) from coal-fired electric steam generating units. The previously proposed incorporation by reference of the Clean Air Mercury Rule (CAMR) is no longer under consideration due to the vacating of the federal rule by the D.C. Court of Appeals on February 8, 2008. More than one regulatory option may be presented to the Council.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S. §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

### COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on April 16, 2008. For comments received at least 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 and provide hard copy written responses to the comments to the Council and the public at that Council meeting. Oral

## Notices of Rulemaking Intent

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comments may be made at the April 16, 2008 hearing and at the August 19, 2008 Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, April 16, 2008, at the Tulsa campus of Oklahoma State University, 700 North Greenwood, Tulsa, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on Tuesday, August 19, 2008, at a location to be determined, in Duncan, 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 of the EPA 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 at the Air Quality Division of the Department at

[http://www.deq.state.ok.us/AODnew/council\\_mtgs/index.htm](http://www.deq.state.ok.us/AODnew/council_mtgs/index.htm)

or copies 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.state.ok.us](mailto:cheryl.bradley@deq.state.ok.us). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl Bradley. The Air Quality Division FAX 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 #08-278; filed 2-22-08]*



**REGULAR MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL**

**April 16, 2008, 9:00 a.m.  
OSU - Tulsa Campus  
700 North Greenwood Drive  
Tulsa, OK**

*Please turn off cell phones.*

1. **Call to order - David Branecky, Chair**
2. **Roll Call - Myrna Bruce**
3. **Approval of Minutes - February 5, 2008 Regular Meeting**
4. **Public Rulemaking Hearings**
  - A. **OAC 252:100-17. Incinerators [AMENDED]**

The Department proposes to amend Subchapter 17, Part 5 to meet federal requirements for state plans under section 111(d) of the federal Clean Air Act applicable to existing sources.

1. Presentation - Pat Sullivan, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

- B. **OAC 252:100-19. Control of Emission of Particulate Matter [AMENDED]**
  - OAC 252:100 Appendix C. Allowable Rate of Emissions for Indirectly Fired Fuel-Burning Units [REVOKED]**
  - OAC 252:100 Appendix C. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units [NEW]**
  - OAC 252:100 Appendix D. Allowable Rate of Emissions for Indirectly Fired Wood Fuel-Burning Units [REVOKED]**
  - OAC 252:100 Appendix D. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units [NEW]**
  - OAC 252:100 Appendix G. Allowable Rate of Emissions [REVOKED]**
  - OAC 252:100 Appendix G. Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Process [NEW]**

The Department is proposing to amend OAC 252:100-19-1.1, Definitions, to add definitions for condensable, filterable and total particulate matter. OAC 252:100-19-11, Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units, is being amended to add the word "total" before the words "particulate matter." In addition, the Department is proposing to update Appendices C, D and G for clarification and to conform with the proposed changes to Subchapter 19.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council

3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**5. OAC 252:100-44. Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units – Comments from the Council and the Public**

The notice of rulemaking intent for the April Air Quality Advisory Council meeting included a proposed new Subchapter 44, Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units. On February 8, 2008, the United States Court of Appeals for the District of Columbia vacated the Clean Air Mercury Rule (CAMR), thus rendering the proposed Subchapter 44 unenforceable. The Department may propose a new state rule on mercury at a later date. Staff believes a rule may be necessary to preserve the mercury monitoring requirements imposed by CAMR which are contained in Subpart I of Part 75 in Title 40 of the Code of Federal Regulations.

**6. Division Director's Report - Eddie Terrill**

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

**8. Adjournment.**

Lunch break if necessary

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4216. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

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

**SUBCHAPTER 19. CONTROL OF EMISSION OF PARTICULATE MATTER**

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

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

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

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

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

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

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

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

**"Indirectly 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:~~

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

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

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

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

**252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units**

Any combined wood fuel and fossil fuel fired steam generating unit with a maximum design heat input of more than 250 million BTUs per hour which commenced construction after March 4, 1978, shall not emit total particulate matter in excess of 0.1 pound per million BTUs.

**APPENDIX C. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED FUEL-BURNING UNITS [REVOKED]**

**APPENDIX C. ALLOWABLE PARTICULATE MATTER EMISSION RATES FOR INDIRECTLY FIRED FUEL-BURNING UNITS [NEW]**

<b>Maximum Heat Input In Million British Thermal Units (MMBTU) Per Hour</b>	<b>Allowable Total Particulate Matter Emissions In Pounds Per MMBTU</b>
---	---

<b>Less than or equal to 10 .....</b>	<b>0.60</b>
---------------------------------------	-------------

<b>10,000 or more .....</b>	<b>0.10</b>
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Allowable total particulate matter emissions for values of X greater than 10 MMBTU, but less than 1,000 MMBTU may be calculated using the formula:

$$E = 1.0428080X^{-0.238561}$$

Allowable total particulate matter emissions for values of X greater than or equal to 1,000 MMBTU, but less than 10,000 MMBTU may be calculated using the formula:

$$E = 1.60X^{-0.30103}$$

Where:

**E** = allowable total particulate matter emissions in pounds per MMBTU and

**X** = the maximum heat input in MMBTU per hour.

**APPENDIX D. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED  
WOOD FUEL-BURNING UNITS [REVOKED]**

**APPENDIX D. ALLOWABLE PARTICULATE MATTER EMISSION RATES FOR  
INDIRECTLY FIRED WOOD FUEL-BURNING UNITS [NEW]**

<b>Maximum Heat Input In Million British Thermal Units Per Hour</b>	<b>Allowable Total Particulate Matter Emissions In Pounds Per Million British Thermal Units</b>
<b>Less than 10 .....</b>	<b>0.60</b>
<b>10 and less than 1,000 .....</b>	<b>0.50</b>
<b>1,000 and less than 10,000 .....</b>	<b>0.35</b>
<b>10,000 or more .....</b>	<b>0.15</b>

**APPENDIX G. ALLOWABLE RATE OF EMISSIONS [REVOKED]**

**APPENDIX G. ALLOWABLE PARTICULATE MATTER EMISSION RATES FOR DIRECTLY FIRED FUEL-BURNING UNITS AND INDUSTRIAL PROCESS [NEW]**

Allowable total particulate matter emission rates for process weight rates of 30 tons per hour (60,000 pounds per hour) or less shall be calculated using the formula:

$$E = 4.10P^{0.67}$$

Allowable total particulate matter emission rates for process weight rates greater than 30 tons per hour (60,000 pounds per hour) shall be calculated using the formula:

$$E = (55.00P^{0.11}) - 40$$

Where:

**E** = allowable total particulate matter emission rate in pounds per hour and  
**P** = process weight rate in tons per hour.

**DRAFT MINUTES  
AIR QUALITY COUNCIL**

**April 16, 2008**

OSU – Tulsa Campus  
700 N. Greenwood, Tulsa Oklahoma

For AQC Approval  
July 16, 2008

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. April 16, 2008 at Oklahoma State University Tulsa Campus, 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 November 2, 2007. 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. Mr. David Branecky, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed. Mr. Eddie Terrill introduced the newest Council member, Montelle Clark, who is filling Mr. Don Smith's unexpired term.

**MEMBERS PRESENT**

Sharon Myers  
David Branecky  
Jim Haught  
Laura Worthen Lodes  
Jerry Purkaple  
Rick Treeman  
Montelle Clark

**MEMBERS ABSENT**

Bob Lynch  
Gary Martin

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Scott Thomas  
Cheryl Bradley  
Max Price  
Pat Sullivan

**OTHERS PRESENT**

Christy Myers, Court Reporter

**DEQ STAFF PRESENT**

Nancy Marshment  
Sarah Penn  
Dawson Lasseter  
Myrna Bruce

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

**Approval of Minutes** Ms. Lodes moved to approve the February 5, 2008 Minutes as presented. Mr. Purkaple made the second.

Sharon Myers	Yes	Jerry Purkaple	Yes
Laura Lodes	Yes	Montelle Clark	Yes
Jim Haught	Yes	David Branecky	Yes
Rick Treeman	Yes		

**OAC 252:100-17. Incinerators [AMENDED]** Ms. Pat Sullivan stated that the Department's proposal would amend Subchapter 17, Part 5 to meet federal requirements for state plans under section 111(d) of the federal Clean Air Act applicable to existing sources. Ms. Sullivan identified the revisions that resulted from the EPA review stating that the EPA sees no further reason to delay the rulemaking. Staff asked for Council's recommendation to send the proposal to the Environmental Quality Board for permanent adoption.

Following Council discussion, public comments were heard from Earl Hatley, Grand River Keeper for the Grand River Watershed; and Nadine Barton, Citizens Action for a Safe Environment (CASE).

Mr. Haught made motion to accept the recommended changes plus removing the references to large facilities in 17-19(b) as discussed and Ms. Myers made the second

Sharon Myers	Yes	Jerry Purkapple	Yes
Laura Lodes	Yes	Montelle Clark	Yes
Jim Haught	Yes	David Branecky	Yes
Rick Treeman	Yes		

**OAC 252:100-19. Control of Emission of Particulate Matter [AMENDED]**

**OAC 252:100 Appendix C. Allowable Rate of Emissions for Indirectly Fired Fuel-Burning Units [REVOKED]**

**OAC 252:100 Appendix C. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units [NEW]**

**OAC 252:100 Appendix D. Allowable Rate of Emissions for Indirectly Fired Wood Fuel-Burning Units [REVOKED]**

**OAC 252:100 Appendix D. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units [NEW]**

**OAC 252:100 Appendix G. Allowable Rate of Emissions [REVOKED]**

**OAC 252:100 Appendix G. Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Process [NEW]**

Mr. Max Price stated that the Department's proposal would amend OAC 252:100-19-1.1, Definitions, to add definitions for condensable, filterable and total particulate matter. OAC 252:100-19-11, Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units, is being amended to add the word "total" before the words "particulate matter." In addition, the Department is proposing to update Appendices C, D and G for clarification and to conform with the proposed changes to Subchapter 19. Mr. Price pointed out that the amendments would clarify that the particulate matter emission rates contained in the rule and appendices refer to both condensable and filterable particulate matter.

Following discussion by Council, public comments were heard from Rusty Kroll for Public Service Company of Oklahoma; and Nadine Barton, CASE. Mr. Branecky then called for a motion. Mr. Purkapple moved for approval and permanent adoption and Mr. Treeman made the second.

Sharon Myers	Yes	Jerry Purkapple	Yes
Laura Lodes	Yes	Montelle Clark	Yes
Jim Haught	Yes	David Branecky	Yes
Rick Treeman	Yes		

**OAC 252:100-44. Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units – Comments from the Council and the Public**

Mr. Max Price advised that the notice of rulemaking intent for the April Air Quality Advisory Council meeting included a proposed new Subchapter 44, Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units. On February 8, 2008, the United States Court of Appeals for the District of Columbia vacated the Clean Air Mercury Rule (CAMR), thus rendering the proposed Subchapter 44 unenforceable. The Department may propose a new state rule on mercury at a later date. Staff believes a rule



may be necessary to preserve the mercury monitoring requirements imposed by CAMR which are contained in Subpart I of Part 75 in Title 40 of the Code of Federal Regulations.

Mr. Eddie Terrill provided additional insight and public comments were heard from Earl Hatley, Grand River Keeper for the Grand River Watershed; Chuck Gross, President to Sustainability N.O.W.; Bridgett Wood, Sustainability N.O.W. and mother; Nadine Barton, CASE; Kenya Taylor, 15-year old member of Sustainability NOW; Lydia Patitsas, Oklahoma Sustainability Network; Jean McMahon, Green Party of Oklahoma; and Joni LeVeness, Green Party of Oklahoma.

Mr. Branecky announced that no action by Council was required on the rulemaking and thanked the public for their comments.

**Division Director's Report** – Mr. Terrill gave a brief update on Division activities.

**New Business** – None

**Adjournment** -- Meeting adjourned at 11:30. Next meeting July 16, 2008 in Ponca City.

**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 REGULARLY SCHEDULED

AIR QUALITY COUNCIL MEETING

HELD ON APRIL 16, 2008, AT 9:00 AM

IN TULSA, OKLAHOMA

ITEM 4B

\* \* \* \* \*

MYERS REPORTING SERVICE

Christy A. Myers, CSR

P.O. Box 721532

Oklahoma City, Oklahoma 73172-1532

(405) 721-2882

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1 COUNCIL MEMBERS

2

3 DAVID BRANECKY, CHAIRMAN

4 RICK TREEMAN, VICE-CHAIRMAN

5 JIM HAUGHT, MEMBER

6 SHARON MYERS, MEMBER

7 JERRY PURKAPLE, MEMBER

8 LAURA LODES, MEMBER

9 MONTELLE CLARK, MEMBER

10

11 DEQ STAFF

12

13 MYRNA BRUCE

14 BEVERLY BOTCHLET-SMITH

15 EDDIE TERRILL

16 PAT SULLIVAN

17 MAX PRICE

18 CHERYL BRADLEY

19

20 OTHERS PRESENT

21 RUSTY KROLL

22 NADINE BARTON

23

24

25

Page 4

1 Council, ladies and gentlemen.

2 Staff is proposing to amend section

3 OAC 252:100-19-1.1, Definitions, by adding

4 definitions for filterable, condensable and

5 total particulate matter.

6 Staff is also proposing to amend

7 section OAC 252:100-19-11, allowable

8 particulate matter emissions rates from

9 combined wood fuel and fossil fuel fired

10 steam generating fossil fuel fired steam

11 generating units, by adding the word

12 "total" to the phrase "particulate matter".

13

14 In addition staff is proposing to

15 revoke three appendices in Chapter 100 and

16 replace them with the following new

17 appendices:

18 Appendix C. Allowable Particulate

19 Matter Emission Rates for Indirectly Fired

20 Fuel-Burning Units.

21 Appendix D. Allowable Particulate

22 Matter Emission Rates for Indirectly Fired

23 Wood Fuel-Burning Units.

24 Appendix G. Allowable Particulate

25 Matter Emission Rates for Directly Fired

Page 3

1

2 PROCEEDINGS

3

4 MS. BOTCHLET-SMITH: All right.

5 Before we go on to the next Agenda Item, I

6 just want to make a note, we referred

7 earlier to anyone in the public filling out

8 these forms, Notice of Speaking. Those are

9 actually located on the table just outside

10 the door. If you wish to comment on this

11 rule that is coming up or the next Item on

12 the Agenda, if you would kindly fill one of

13 these out just so that we make sure that we

14 include everyone who does want to speak.

15 Thank you.

16 The next item on the Agenda is 4B.

17 This is OAC 252:100-19, Control of Emission

18 of Particulate Matter; OAC 252:100 Appendix

19 C, both revoked and new; OAC 252:100

20 Appendix D, revoked and new; OAC 252:100

21 Appendix G, revoked and new.

22 And Mr. Max Price of our staff will

23 be making the presentation.

24 MR. PRICE: Thank you, Beverly.

25 Mr. Chairman, Members of the

Page 5

1 Fuel-Burning Units and Industrial Process.

2

3 These amendments are being made to

4 clarify that the particulate matter

5 emission rates contained in this rule and

6 appendices refer to both condensable and

7 filterable particulate matter.

8 It has always been the staff's

9 position that the standards contained in

10 Subchapter 19 are for total particulate

11 matter which includes both condensable and

12 filterable particulate matter.

13 At five previous meetings, staff has

14 presented its case for this position and

15 provided documentation to the Council that,

16 in the opinion of the staff, proves the

17 standards in Subchapter 19 have always been

18 interpreted as total particulate matter as

19 defined in this proposal.

20 While this is the first time for the

21 proposed changes to Subchapter 19 here

22 before the Council, it is not the first

23 time we've had to adjust this issue.

24 Staff first proposed to add the

25 definitions for filterable and condensable

1 particulate matter to Subchapter 1 in July  
2 of 2006. Due to the comments received, the  
3 definitions were removed from the July 2006  
4 proposals, and Council passed the rest of  
5 proposed changes in July of 2007.

6 Copies of the comments, staff  
7 responses, and presentations on the  
8 previous rule proposals and Subchapter 19  
9 have already been provided to the Council  
10 and are posted on the Air Quality Division  
11 web pages.

12 Staff received one comment from EPA  
13 on this and it has been included in your  
14 packet.

15 Staff asked that the Council vote to  
16 send these proposals to the Environmental  
17 Quality Board with a recommendation that  
18 they be adopted as permanent rules.

19 Thank you.

20 MS. BOTCHLET-SMITH: At this time  
21 we'll take questions from the Council.

22 MR. BRANECKY: Any questions,  
23 comments? Montelle.

24 MR. CLARK: Forgive me, because I  
25 am way behind on this one. I know it's

1 product, we are not turning it into usable  
2 energy. So Subchapter 19 wouldn't  
3 necessarily apply.

4 MS. LODER: Because combustion of  
5 fuel is part of a product, not usable  
6 energy.

7 MS. MYERS: We are producing  
8 product, not energy.

9 MR. PRICE: That's an interesting  
10 point. I hadn't thought about that.

11 MS. MYERS: I haven't thought  
12 about it from that specific viewpoint, Max,  
13 I mean, we do control emissions of  
14 particulate matter. We have precipitators  
15 or bag houses or whatever. But in trying  
16 to revisit this rule, if you go through  
17 some of the other portions of it, this  
18 would not apply to cement kilns.

19 MR. PRICE: Well, it should have.  
20 You would fall under industrial process, I  
21 believe.

22 MS. MYERS: But industrial  
23 process, even on that, the industrial  
24 process excludes fuel-burning units. And  
25 our fuel consumption is not to produce

1 been worked on for quite some time. Can  
2 you give me an example of facilities --  
3 specific facilities that this is referring  
4 to?

5 MR. PRICE: It refers to any  
6 facility that actually is a fuel-burning --  
7 it can be anything, it could be a boiler.  
8 In this case, EGU, it could be fuel-burning  
9 equipment such as an engine. This is a  
10 general particulate matter rule for all of  
11 those. Indirectly fired refers to kilns,  
12 things of that nature where the material  
13 being used actually (inaudible) with the  
14 fuel. A kiln would be an example of  
15 indirectly fired (inaudible).

16 MS. MYERS: Okay. We've all  
17 directly fired, by this definition, which  
18 has been eliminated. But sitting here  
19 reading through some of the definitions  
20 that are still there, such as a fuel-  
21 burning unit, "Internal combustion engine  
22 or gas turbine, or other combustion device  
23 used to convert the combustion of fuel into  
24 usable energy".

25 We combust fuel, but we're producing

1 energy. It's to produce product.

2 MR. PRICE: Well, I hadn't  
3 thought about that to tell you the truth.  
4 I was worried about getting my filterable  
5 and condensable in there.

6 I don't have an answer for that. So  
7 it probably needs to be changed.

8 MR. BRANECKY: Well, it sounds  
9 like we need an answer before we proceed.  
10 At least I do.

11 MR. PURKAPLE: Would you be a  
12 particulate matter facility?

13 MS. MYERS: We do have some  
14 particulate matter that is produced as a  
15 byproduct of the process.

16 MR. PURKAPLE: We're not  
17 isolating you, but there is another  
18 definition down here that it seems like  
19 could apply.

20 MR. BRANECKY: It is the  
21 predominant emissions and that may not  
22 necessarily be the case.

23 MR. PRICE: That has to do with  
24 the rule -- the permit by rule provisions.  
25 We made a provision but it was last

1 modified way back in the stone age. When  
2 we talk about particulate matter  
3 facilities, I think you get a permit by  
4 rule.

5 MS. MYERS: Then we have other  
6 restrictions under different federal rules.  
7 The way I'm reading this rule right now, it  
8 does not appear to apply to facilities that  
9 are using fuel to produce product, not  
10 energy.

11 MR. PRICE: Is it in your permit?

12 MS. MYERS: I'm trying to  
13 remember what that reads in the permit,  
14 Max, and I don't remember off-hand.

15 MR. PRICE: You know, it kind of  
16 took me -- because I hadn't thought about  
17 that. But I agree the definition probably  
18 needs tweaking there, because I know it has  
19 always been part of the permit division on  
20 this. So perhaps if Council wants, we can  
21 go back and re-look at this definition.

22 MS. MYERS: No. You can leave us  
23 out, that's fine.

24 MR. PRICE: I do believe we need  
25 the permits in there.

1 that they really didn't. Apparently, they  
2 were goofing up the test, that is what I  
3 understand. And all the facilities in the  
4 state, don't have any problem meeting this  
5 -- filterable and the condensable in the  
6 back.

7 MR. HAUGHT: And is this the  
8 definition then that if facilities are  
9 depending on manufacturer's specifications  
10 for particulate matter for emissions that  
11 this would already be, this

12 front-half/back-half or that the total --  
13 or that the condensable and filterable are  
14 included in manufacturer's estimates?

15 MS. LODES: I'll answer that.  
16 No, they are not unless you specifically  
17 ask the manufacturer to include both.  
18 Because when I'm working with facilities, I  
19 always make sure, that's one assurance that  
20 -- that I request is that it will provide  
21 filterable and condensable. Because most  
22 of them only provide filterable because a  
23 lot of -- while Texas and Oklahoma are very  
24 big on being combined, there are other  
25 regions in this country that don't and they

1 MS. MYERS: Well, it may be  
2 something you want to clarify, because the  
3 way it reads to me right now, if I take it  
4 literally, it does not apply.

5 MR. PRICE: I wished you had  
6 talked to me about that earlier. I  
7 appreciate it.

8 MS. BOTCHLET-SMITH: Do we have  
9 other questions from the Council today?

10  
11 MR. HAUGHT: Yeah, I do. Max,  
12 are there examples of facilities that -- I  
13 mean if this total definition of -- the  
14 particulate matter definition where it's  
15 filterable and condensable, that's in  
16 question. Are there facilities now, that  
17 by going through this and really clarifying  
18 that both of these are going to be  
19 considered as part of the total, that would  
20 be out of compliance with their permits?

21 MR. PRICE: As far as I know -- I  
22 mean, this is on the previous (inaudible)  
23 there is only one facility that probably  
24 might have a problem with front-in/back-out  
25 situation (inaudible), and it turned out

1 look at the NSPS's which are filterable.  
2 So if you're looking for it, ask for it  
3 because they won't necessarily put it on  
4 there.

5 MR. HAUGHT: That's may be people  
6 who have done permit representations based  
7 on manufacturer's specifications that may  
8 find that they are not representing the  
9 correct total number then, given in this  
10 definition.

11 MR. PRICE: I know it's always  
12 been policy in the department. And this is  
13 what -- we're trying to make this rule  
14 simply for clarification. We've always  
15 included the back-half and the front-half  
16 in these standards for 19. So if they were  
17 issued a permit that was included in there,  
18 we've always had that policy. This rule  
19 has been around since the '70s.

20 MR. HAUGHT: But when issued the  
21 permit it's based on what the  
22 manufacturer's specifications are, or what  
23 the permittee is making representations to  
24 is what I don't know. And what I want to  
25 see is if this is in debate enough that it

1 is going to cause some kind of widespread -  
2 - there's a lot of permits out there, I  
3 want to see what the --

4 MR. PRICE: Well, I researched  
5 all permits that we have on file. And I  
6 can't really speak to what -- one  
7 individual particulate facility that is out  
8 there. I do not know. But I researched  
9 all the permits in our files and there are  
10 about 4,000 of them. And whenever we refer  
11 to Subchapter 19 and whenever the permit  
12 writer designed whether or not it is  
13 applicable to it, (inaudible) they're going  
14 to have to meet this standard, they always  
15 refer to front-half and back-half. And I  
16 have never had a permit where they didn't  
17 meet it. Of course, we would not have  
18 issued the permit if it couldn't have met  
19 the rule. So I've never run across one and  
20 I've looked at over 4,000 documents. It's  
21 really more of a clarification than it is  
22 anything else.

23 MR. HAUGHT: Okay, one more. On  
24 the definition of condensable as being  
25 added. Is this pulled directly from some

1 incinerator, their matonics come out as  
2 vapor and they immediately condense once  
3 they leave the stack. They cool down  
4 (inaudible). There is no chemical reaction  
5 downstream where the gases (inaudible) form  
6 (inaudible). This is what we're talking  
7 about. These are the things you also catch  
8 on the stack test, that the back is  
9 sometimes called back-half. They condense  
10 and form in the test. So the condensable  
11 is really the back-half.

12 MR. BRANECKY: Max, are those two  
13 definitions "directly and indirectly fired"  
14 have those moved somewhere?

15 MR. PRICE: Yes, sir. We are  
16 going to bring up the definition sections  
17 next month. And Subchapter 33 also uses  
18 each of these definitions. So (inaudible)  
19 this rule (inaudible). It is also going to  
20 be used in Subchapter 33. They are being  
21 moved to Subchapter 30.

22 MR. BRANECKY: So if we take them  
23 out of here and pass this rule then they  
24 don't exist anywhere.

25 MR. PRICE: Well, when Subchapter

1 other source? My question on this is where  
2 it talks about the condensing immediately  
3 after discharge from the stack. When you  
4 use words like immediate, that could be up  
5 for some interpretation. So is that  
6 defined or is that --

7 MR. PRICE: Yes, sir. These  
8 definitions came right out of the federal  
9 standards. And they also define secondary  
10 particulate matter. This particulate  
11 matter is formed some distance from the  
12 stack. This is why they're trying to make  
13 a clarification on it. "Immediately" means  
14 it's right there. At the stack, it  
15 immediately becomes ambient temperature,  
16 and that's condensable. And this  
17 definition is taken right out of the  
18 federal rule.

19 MR. HAUGHT: Well, it doesn't  
20 from the ambient temperatures, it may be  
21 suppose to at the exhaust point but it  
22 doesn't become ambient temperature until --

23 MR. PRICE: It condenses  
24 immediately, it doesn't have a chemical  
25 reaction downstream. It's like say an

1 1 passes, they both come together at the  
2 same time.

3 MR. BRANECKY: Okay.

4 MS. BRADLEY: I took a moment to  
5 confer with Dawson Lassiter, who is our  
6 Chief Engineer, regarding the useable  
7 energy issue. It is not part of the  
8 proposed changes which I think is clear to  
9 Council, and to the audience. And with  
10 regard to the energy specifically  
11 mentioned, permits feel it is applicable to  
12 the cement kiln issue. We have  
13 consistently applied it in the past. And  
14 because the process does utilize the energy  
15 created during combustion, it is a useable  
16 energy, it's just not useable in the sense  
17 of electricity -- an electric generator.  
18 So it is our opinion at this time that we  
19 would not recommend a change and we have  
20 not had difficulty in applying it to the  
21 permitting situation.

22 MS. MYERS: I do believe it is  
23 part of our permit and we did comply with  
24 it. It was just one of those points that  
25 kind of got my attention this morning.

1 MS. BRADLEY: Well, it peaked my  
2 interest as well, so I thought I would go  
3 back to the people who apply it day-in and  
4 day-out and get their opinion on that.

5 MS. MYERS: Thank you.

6 MR. BRANECKY: Any other  
7 questions from the Council? Sharon, is  
8 that satisfactory with you?

9 MS. MYERS: Sure.

10 MR. PRICE: If I may, Sharon,  
11 that is something I will look in to. If  
12 there is any redundancy in these  
13 definitions, it really, really, bothers me  
14 and it's hard for people to understand.  
15 You made a point, and we'll look at it  
16 again. And if it's necessary we'll bring  
17 it back next year and fix it.

18 MS. MYERS: Okay.

19 MS. BOTCHLET-SMITH: All right.  
20 I received one notice of comment from the  
21 public. Mr. Rusty Kroll.

22 MR. KROLL: I'm Rusty Kroll. And  
23 I'm speaking on behalf of the Public  
24 Service Company of Oklahoma this morning.

25 Ladies and gentlemen of the Council,

1 stringent than an equivalent federal  
2 standard that there be a justification done  
3 prior to the proposal of the rule. I mean,  
4 it's been our persistent position as we've  
5 talked about this rule, that needs to be  
6 done in this case. And I think we're still  
7 in that position. For today I will just  
8 incorporate and adopt our prior comments on  
9 this rule on this particular topic.

10 Thank you very much.

11 MS. BOTCHLET-SMITH: Okay.  
12 Nadine, did you want to comment?

13 MS. BARTON: I'm Nadine Barton  
14 with CASE. After listening to the comments  
15 from PSO, I guess that question was  
16 answered. It appears, at least in his  
17 case, that this standard for particulate  
18 matter would be more stringent than what is  
19 now in place.

20 Could I have clarification on that?

21 MR. TERRILL: I guess we would  
22 disagree with that. We believe that this  
23 has been part of the state requirement that  
24 goes back -- that predates the NSPS  
25 requirement and that it is not stricter.

1 We would simply want to reiterate some  
2 previous comments that we have made on this  
3 rule that has to do with the fact that  
4 steam generating units and particularly  
5 PSO's Northeastern Plant is subject to a  
6 federal standard under NSPS. And that  
7 standard does not include condensable  
8 matter, but filterable matter only. And a  
9 level of -- should I repeat what I just  
10 said?

11 We've made previous comments based  
12 on the fact that PSO's Northeastern section  
13 station is subject to a federal standard  
14 that does not include condensable  
15 particulate matter. And this rule has the  
16 effect of making a state standard that is  
17 potentially two to three times more  
18 stringent than the applicable federal  
19 standard. And the reason is because in the  
20 exhaust from the coal-fired power plant,  
21 based upon our coal data, the condensable  
22 material can be as much as 75 percent of  
23 the emitted particulate matter. There is a  
24 state statute that requires when these --  
25 the ODEQ develops a rule that is more

1 We do not feel that we have to -- the  
2 statute that's been raised doesn't really  
3 apply in this case because it's been part  
4 of our SIP previous to that time. All this  
5 is, is a clarification that came up because  
6 we had a specific facility that we had  
7 complaints against, that it turned out that  
8 the bulk of the complaints were probably  
9 being generated by the back-half. And I  
10 decided that we needed to clarify what  
11 we've been doing for the last 25 years,  
12 again, and that's what started all this.

13 MS. BARTON: Thanks.

14 MR. TERRILL: We do not believe  
15 this is anything different than what we've  
16 been requiring and what we've required, for  
17 the last 25 years. To our knowledge, all  
18 these facilities in Oklahoma comply with  
19 this rule, back-half/front-half, because  
20 it's part of the total particulate matter.

21 MS. BARTON: Thank you for your  
22 clarification.

23 MS. BOTCHLET-SMITH: Do we have  
24 any other questions from the Council?  
25 David.

1 MR. BRANECKY: All right. I'll  
 2 try to get it right this time.  
 3 If there's no further discussion  
 4 from the Council, staff has asked that we  
 5 pass this rule as presented. So I'm  
 6 looking for a motion.  
 7 MR. CLARK: Is there still some  
 8 confusion on what Ms. Myers raised?  
 9 MR. BRANECKY: Are you okay with  
 10 the explanation?  
 11 MS. MYERS: I'm sure that  
 12 Subchapter 19 is in my permit.  
 13 MR. BRANECKY: Okay. But you're  
 14 okay with the way the wording is?  
 15 MS. MYERS: I think it would be  
 16 good for Max to check into it further and  
 17 we can revisit it another time.  
 18 MR. BRANECKY: You don't need  
 19 that before we take action?  
 20 MS. MYERS: Is there any big  
 21 hurry to pass this today?  
 22 MR. TERRILL: It's been to the  
 23 Council at least five times and we've got a  
 24 lot of stuff coming up. So at some point  
 25 we're going to have to have a two-day

1 recommendation and vote yes.  
 2 MS. BRUCE: David Branecky.  
 3 MR. BRANECKY: Yes.  
 4 MS. BRUCE: Motion passed.  
 5

(Item 4B Concluded)

1 meeting to get to all of our rules if we  
 2 don't pass some of this.  
 3 MR. BRANECKY: I'm still looking  
 4 for a motion.  
 5 MR. PURKAPLE: I move that we  
 6 adopt this as a permanent rule.  
 7 MR. BRANECKY: I have a motion.  
 8 I need a second.  
 9 MR. TREEMAN: I'll second it.  
 10 MR. BRANECKY: I have a motion  
 11 and a second. Myrna, will you call the  
 12 roll, please.  
 13 MS. BRUCE: Sharon Myers.  
 14 MS. MYERS: Yes.  
 15 MS. BRUCE: Laura Lodes.  
 16 MS. LODES: Yes.  
 17 MS. BRUCE: Jim Haught.  
 18 MR. HAUGHT: Yes.  
 19 MS. BRUCE: Rick Treeman.  
 20 MR. TREEMAN: Yes.  
 21 MS. BRUCE: Jerry Purkaple.  
 22 MR. PURKAPLE: Yes.  
 23 MS. BRUCE: Montelle Clark.  
 24 MR. CLARK: I don't have a lot of  
 25 background on this but I'll go with staff's

1  
 2 CERTIFICATE  
 3  
 4 STATE OF OKLAHOMA )  
 5 COUNTY OF OKLAHOMA ) ss:  
 6 I, CHRISTY A. MYERS, Certified  
 7 Shorthand Reporter in and for the State of  
 8 Oklahoma, do hereby certify that the above  
 9 proceeding is the truth, the whole truth,  
 10 and nothing but the truth; that the  
 11 foregoing proceeding was taken down in  
 12 shorthand by me and thereafter transcribed  
 13 under my direction; that said proceeding  
 14 was taken on the 16th day of April, 2008,  
 15 at Tulsa, Oklahoma; and that I am neither  
 16 attorney for, nor relative of any of said  
 17 parties, nor otherwise interested in said  
 18 action.  
 19 IN WITNESS WHEREOF, I have hereunto  
 20 set my hand and official seal on this, the  
 21 26th day of May, 2008.  
 22  
 23  
 24  
 25

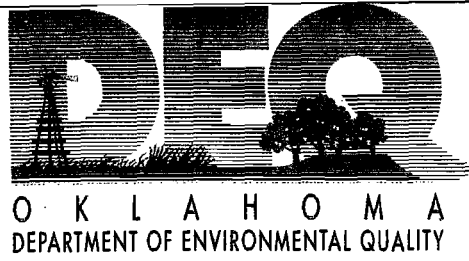
CHRISTY A. MYERS, C.S.R.  
Certificate No. 00310



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**AIR QUALITY COUNCIL**  
**Attendance Record**  
 April 16, 2008  
 Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Myrna Bruce	DEQ	9170
Cheryl E. Bradley	DEQ	x4218
Paul Sweeney		
Nancy Marchant	DEQ	x4216
Christy Myers	DEQ	Court Rep.
Bobbie Hull	AES Shady Point	Bobbie.Hull@AES.com
Beverly Bitchlit-Smith	DEQ	
JGM, Tal	DEQ	
Dandy Reason	Emercon Services, Inc.	
Joseph E. Cowen, PE	Buzzi Unicem USA	918 824 423 Puyor
Brad Burris	Weyerhaeuser	Vallant, OK
Mark Lawson	Spirit Aero Systems	Tulsa, OK MARK.LAWSON@spiritac.com
Jim HAUGHT	AQC	
Gerald Berkha	DEP	405-247-4341 gberkha@dep.ok.gov
David Branedey	AQC	
Julia Bevers	OGE	
Perry Friedrich	GRDA	(918) 824-1034
EARL HATLEY	Maand Ruckhagen	918-256-5269
Ford Benham	OGE	405-553-3221
Chuck Gross	Sustainability N.O.W.	918-337-0531
David Prouen	Charon Phillips Chemical Co	918-661-7999
Michelle Rousseau		918-331-3966
Lytic Roberts	Sustainability Green Country	918-592-5052
Montelle Clark	OSN	"
Garry L. Keck, Jr	Hall Estill	gkeck@hallkestill.com
Steve Moyer	Sinclair Tulsa Refining Co	smoyer@tcsoc.com



O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

# AIR QUALITY COUNCIL

## Attendance Record

April 16, 2008

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Ru Sty Kroll	DSIDA	320 S. Boston, Suite 500	RKROLL@dsida.com
Deanne Hughes	Cardinal Engineering	1015 N Broadway	OKC 73102
Bridget K Wood	The Current	1524 S Dewey Ave	B'ville 74001
Kanyon Taylor	S.N.O.W.	1524 S Dewey Ave	B'ville 74003
LARRY MOORE	WHIRLPOOL	LARRY_W_MOORE@WHIRLPOOL.COM	
Soni LeViness	GPOK		
Madame Barton	CASE	6609 E 8th	Tulsa 74133
Justin Malitor	Harrison Gypsum		jmalitor@harrisongypsum.com
Chak Sette	C&D		cccsec@aol.com
Laura Heron	OGE		heronlk@oge.com
Jason Lipscomb	OGE		lipscobjb@oge.com
Nancy Graham	INCOG		
Leslie Moyer	Sust. <sup>institute</sup> Green Country		LeslieMoyer@gmail.com
Josh Davis	Tulsa Young Professionals		jddavis79@gmail.com
Jean McMahon	Green Party		jean-mac@regulaw.com

**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m. Tuesday, August 19, 2008  
Red River Technology Center  
Business & Industry Building  
3300 W. Bois D'Arc  
Duncan, Oklahoma

1. **Call to Order** – Jennifer Galvin, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the February 29, 2008 Regular Meeting
4. **Rulemaking – OAC 252:100 Air Pollution Control**
  - A. The DEQ proposes to amend Subchapter 1, Sections 1-3 and 1-4 and Subchapter 5, Section 5-1.1 to make minor corrections and remove redundant definitions.
  - B. The DEQ proposes to amend Subchapter 8 to update incorporations by reference; correct errors; make changes required by revisions to federal rules; and resolve a conflict between Sections 8-4(b)(8) and 8-7.1(d) regarding permit renewal deadline.
  - C. The DEQ proposes to amend Subchapter 17 (Incinerators) to meet federal requirements for state plans under section 111(d) of the federal Clean Air Act applicable to existing sources. The requirements relate to municipal waste combustors.
  - D. The DEQ proposes amendments to Subchapter 19 (Control of Emission of Particulate Matter) and corresponding changes to three appendices. The changes clarify that the particulate matter emission rates in Section 19-11 (Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units) and the appendices refer to “total” particulate matter, *i.e.*, both condensable and filterable particulate matter.
    - Presentation – David Branecky, Chair, Air Quality Advisory Council
    - Questions and discussion by the Board
    - Questions, comments and discussion by the public
    - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption
5. **Executive Director’s Report** – Steve Thompson, DEQ Executive Director  
The report will include (a) the disclosure of certain employee financial interests as required by statute and (b) a summary of key actions in the recent legislative session and implementation strategies. These updates and summaries are for informational purposes and do not require action by the Board. The report is presented at this point in the meeting because it may help provide context for agenda items 6 and 7.
6. **DEQ Operational Budget Request**  
DEQ budget requests to the Governor through the Office of State Finance require approval of the Board. The operational budget request for State Fiscal Year 2010 (beginning July 1, 2009) must be submitted to the OSF by October 1<sup>st</sup> of this year. The law requires that all state agencies submit a five-year budget. The request for the coming year, SFY 2010, is the most critical. DEQ

is requesting additional state funding for the DEQ/OWRB Beneficial Use Monitoring Program and state funding for small municipal lagoon biosolids removal.

- Presentation – Steve Thompson, DEQ Executive Director
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include a roll call vote on approval of the budget request

**7. Annual Performance Review of Executive Director**

Among the statutory duties of the Board are responsibilities to appoint and set the compensation of the Executive Director and to assist the DEQ in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the DEQ. In connection with these responsibilities, the Board has determined that it should perform an annual performance review of the Executive Director.

- A. Discussion by the Board in open session
- B. Possible executive session pursuant to Title 25 Oklahoma Statutes Section 307(B)(1) (discussion of employment actions related to any individual salaried public officer or employee), if authorized by recorded majority vote of the Board members present
  - (1) Vote in open session on entering into executive session
  - (2) If executive session approved, designation in open session of person to keep minutes in executive session
  - (3) Discussion in executive session of Executive Director's performance and of employment actions by the Board relating to the Executive Director (Executive Session will be held in Room B114)
- C. Further discussion by the Board in open session
- D. Possible roll call vote on specific actions or recommendations as a result of performance review

**8. Calendar Year 2009 Board meeting dates and locations:** Discussion and vote by the Board

**9. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**10. Adjournment**

Upcoming 2008 Meeting: November 18 at the Tahlequah Armory Municipal Center (Rm #3), 100 N. Water Street, Tahlequah, OK.

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

**Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.**

Some members of the Board and senior staff members from DEQ will meet for dinner in Duncan the evening of August 18. This is a social occasion. It is uncertain whether a majority of the Board will be present, but no Board or DEQ business will be conducted.

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

**EXECUTIVE SUMMARY**

**Subchapter 19. Control of Emission of Particulate Matter**

**252:100-19-1.1. Definitions [AMENDED]**

**252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units [AMENDED]**

**Appendix C. Allowable Rate of Emissions for Indirectly Fired Fuel-Burning Units [REVOKED]**

**Appendix C. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units [NEW]**

**Appendix D. Allowable Rate of Emissions for Indirectly Fired Wood Fuel-Burning Units [REVOKED]**

**Appendix D. Allowable Particulate Matter Emission Rates for Indirectly Fired Wood Fuel-Burning Units [NEW]**

**Appendix G. Allowable Rate of Emissions [REVOKED]**

**Appendix G. Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Process [NEW]**

Before the Air Quality Advisory Council on April 16, 2008

Before the Environmental Quality Board on August 19, 2008

**EXECUTIVE SUMMARY:**

The Department is proposing to amend OAC 252:100-19-1.1, Definitions, by adding definitions for filterable, condensable, and total particulate matter. In addition, 252:100-19-11, Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units, is being amended by the addition of the word "total". Staff is also proposing to revoke the existing Chapter 100 Appendices C, D and G and add the following new appendices:

Appendix C. Allowable Particulate Matter Emission Rates For Indirectly Fired Fuel-Burning Units

Appendix D. Allowable Particulate Matter Emission Rates For Indirectly Fired Wood Fuel-Burning Units

Appendix G. Allowable Particulate Matter Emission Rates For Directly Fired Fuel-Burning Units and Industrial Process

The Department originally proposed amendments to Subchapter 1 to clarify that particulate matter emissions included both filterable and condensable particulate matter. These proposals were considered at the July 19, 2006, October 18, 2006, and April 18, 2007, Air Quality Advisory Council meetings. The Department later decided to amend Subchapter 19 instead and proposed those changes at the April 16, 2008, Air Quality Advisory Council meeting. Prior to formally proposing changes to Subchapter 19, the Department made a presentation on the rule at both the July 18, 2007, and October 17, 2007, council meetings. The presentation was included on the meeting agenda for each council meeting.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

Not applicable.



**ENVIRONMENTAL BENEFIT STATEMENT:**

Not applicable.

**SUMMARY OF COMMENTS AND RESPONSES:**

**Rusty Kroll, attorney with Doerner, Saunders, Daniel & Anderson, L.L.P.** and representing Public Service Company of Oklahoma - Verbal comments at the April 16, 2008, Air Quality Advisory Council and August 19, 2008, Environmental Quality Board meetings.

(Note: Mr. Kroll provided comments similar to those listed below when the Department previously proposed changes to OAC 252:100-1, General Provisions, involving condensable and filterable particulate matter emissions.)

**COMMENT:** The proposed rule change, which makes condensable particulate emissions subject to state emission standards in Subchapter 19, would make state standards more stringent than the corresponding federal New Source Performance Standards. Existing industries could have difficulty achieving compliance with the proposed standards. Also, state statutes require that the ODEQ provide a cost benefit analysis to present reasons why it would make sense to have a more strict standard. Those procedures have not been followed.

**RESPONSE:** The changes to Subchapter 19 are merely clarifications of the existing rule and do not make the rule more stringent. The original rules became effective on July 21, 1970, before the U.S. Environmental Protection Agency (EPA) promulgated similar particulate matter standards including New Source Performance Standards. The Department has always considered both filterable and condensable particulate matter emissions when permitting facilities and evaluating compliance. The Department has always required that any facility's performance tests to demonstrate compliance with state particulate matter emission standards include both front-half and back-half analyses for filterable and condensable particulate emissions. (The part of the performance testing for condensable particulates is sometimes referred to as back-half, and the portion of the testing for filterable particulates is the front-half.) These performance testing requirements predate EPA's New Source Performance Standards. By analyzing performance test data and information provided by existing facilities, the Department has determined that existing sources are able to comply with these standards. Also, the Department contends that these requirements are part of its current EPA-approved State Implementation Plan (SIP).

The Department is responsible for implementing and enforcing the federal ambient air quality standards for particulate matter which are set at levels to protect public health. The Department's decision to clarify its emissions standards resulted from experiences working to resolve a complaint involving a source that adversely impacted an entire community with its condensable particulate matter emissions. These rules changes should make the rule easier to understand and prevent similar situations in the future.

**Since the proposed changes clarify the existing rule and do not make it more stringent, the Department has determined that no economic impact and economic benefit statement is required.**

**Comment:** The EPA test method results are inconsistent due to chemical reactions in the testing apparatus that create artifacts.

**Response:** EPA has identified problems with its stack testing method 202 for particulate matter. During testing, artifacts of particulate matter that would not be emitted into the atmosphere can form. EPA has since developed a way to modify the method to limit the formation of artifacts. A copy of an e-mail transmittal from EPA to Grand River Dam Authority, which addresses the modifications necessary to limit artifact formation, has been added to hearing record.

# Permanent Final Adoptions

(C) Twelve months after date of State plan approval.

(2) Annually, following the initial review required by paragraph (h)(1) of this section, each person specified in paragraph (h) of this section shall review the operating manual updates, any operational lessons learned/experiences of the past year, and provide for review of any section which an employee requests.

(i) The operating manual required by paragraph (h) of this section shall be kept in a readily accessible location for all persons required to undergo training under paragraph (h) of this section no later than 6 months after start-up or 12 months after the date of State plan approval. The operating manual and records of training shall be available for inspection by the DEQ upon request.

## 252:100-17-25. Compliance and performance testing

An owner or operator of a MWC shall comply with all provisions specified in 40 CFR 60.58b, which is hereby incorporated by reference as it exists on ~~July 1, 2002~~ November 6, 2006.

## 252:100-17-26. Reporting and recordkeeping requirements

Except for the provisions of subsection 60.59b(a), b(5), and d(1), 40 CFR 60.59b is hereby incorporated by reference as it exists on ~~July 1, 2002~~ November 6, 2006.

[OAR Docket #09-740; filed 4-17-09]

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

[OAR Docket #09-741]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 19. Control of Emission of Particulate Matter

252:100-19-1.1. Definitions [AMENDED]

252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units [AMENDED]

Appendix C. Allowable Rate of Emissions for Indirectly Fired Fuel-Burning Units [REVOKED]

Appendix C. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units [NEW]

Appendix D. Allowable Rate of Emissions for Indirectly Fired Wood Fuel-Burning Units [REVOKED]

Appendix D. Allowable Particulate Matter Emission Rates for Indirectly Fired Wood Fuel-Burning Units [NEW]

Appendix G. Allowable Rate of Emissions [REVOKED]

Appendix G. Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Process [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:

March 17, 2008, through April 16, 2008, and August 19, 2008

### Public hearing:

April 16, 2008, and August 19, 2008

### Adoption:

August 19, 2008

### Submitted to Governor:

August 29, 2008

### Submitted to House:

August 29, 2008

### Submitted to Senate:

August 29, 2008

### Gubernatorial approval:

September 24, 2008

### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.

### Final adoption:

March 24, 2009

### Effective:

July 1, 2009

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATIONS BY REFERENCE:

N/A

### ANALYSIS:

The Department is proposing to amend OAC 252:100-19-1.1, Definitions, by adding definitions for filterable, condensable, and total particulate matter. In addition, OAC 252:100-19-11, Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units, is being amended by the addition of the word "total". Staff is also proposing to revoke the existing Chapter 100 Appendices C, D and G and add the following new appendices:

Appendix C. Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units

Appendix D. Allowable Particulate Matter Emission Rates for Indirectly Fired Wood Fuel-Burning Units

Appendix G. Allowable Particulate Matter Emission Rates for Directly Fired Fuel-Burning Units and Industrial Process These amendments are being made to clarify that the particulate matter emission rates contained in this rule and its appendices refer to both condensable and filterable particulate matter.

### CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4218.

**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, 2009:**

## SUBCHAPTER 19. CONTROL OF EMISSION OF PARTICULATE MATTER

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

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

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

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

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

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

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

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

~~**"Indirectly 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.~~

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

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

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

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

**252:100-19-11. Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units**

Any combined wood fuel and fossil fuel fired steam generating unit with a maximum design heat input of more than 250 million BTUs per hour which commenced construction after March 4, 1978, shall not emit total particulate matter in excess of 0.1 pound per million BTUs.

**Permanent Final Adoptions**

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**APPENDIX C. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED FUEL-BURNING UNITS  
[REVOKED]**

**APPENDIX C. ALLOWABLE PARTICULATE MATTER EMISSION RATES FOR INDIRECTLY FIRED  
FUEL-BURNING UNITS [NEW]**

<b>Maximum Heat Input In Million British Thermal Units (MMBTU) Per Hour</b>	<b>Allowable Total Particulate Matter Emissions In Pounds Per MMBTU</b>
Less than or equal to 10 .....	0.60
10,000 or more .....	0.10

Allowable total particulate matter emissions for values of X greater than 10 MMBTU, but less than 1,000 MMBTU may be calculated using the formula:

$$E = 1.0428080X^{-0.238561}$$

Allowable total particulate matter emissions for values of X greater than or equal to 1,000 MMBTU, but less than 10,000 MMBTU may be calculated using the formula:

$$E = 1.60X^{-0.30103}$$

Where:

E = allowable total particulate matter emissions in pounds per MMBTU and  
X = the maximum heat input in MMBTU per hour.

**APPENDIX D. ALLOWABLE RATE OF EMISSIONS FOR INDIRECTLY FIRED WOOD FUEL-BURNING UNITS [REVOKED]**

**APPENDIX D. ALLOWABLE PARTICULATE MATTER EMISSION RATES FOR INDIRECTLY FIRED WOOD FUEL-BURNING UNITS [NEW]**

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<b>Maximum Heat Input In Million British Thermal Units Per Hour</b>	<b>Allowable Total Particulate Matter Emissions In Pounds Per Million British Thermal Units</b>
Less than 10 .....	0.60
10 and less than 1,000 .....	0.50
1,000 and less than 10,000 .....	0.35
10,000 or more .....	0.15

## Permanent Final Adoptions

### APPENDIX G. ALLOWABLE RATE OF EMISSIONS [REVOKED]

### APPENDIX G. ALLOWABLE PARTICULATE MATTER EMISSION RATES FOR DIRECTLY FIRED FUEL-BURNING UNITS AND INDUSTRIAL PROCESS [NEW]

Allowable total particulate matter emission rates for process weight rates of 30 tons per hour (60,000 pounds per hour) or less shall be calculated using the formula:

$$E = 4.10P^{0.67}$$

Allowable total particulate matter emission rates for process weight rates greater than 30 tons per hour (60,000 pounds per hour) shall be calculated using the formula:

$$E = (55.00P^{0.11}) - 40$$

Where:

**E** = allowable total particulate matter emission rate in pounds per hour and  
**P** = process weight rate in tons per hour.

*[OAR Docket #09-741; filed 4-17-09]*

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**July 16, 2008**  
**Air Quality Advisory Council**

**August 19, 2008**  
**Environmental Quality Board**

**Effective Date: July 1, 2009**



RECEIVED

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DEQ LEGAL

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Pages 1723 - 2136

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

# 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 #08-1002]

### 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 5. Registration, Emission Inventory and Annual Operating Fees
- 252:100-5-1.1. Definitions [AMENDED]
- Subchapter 8. Permits for Part 70 Sources
- Part 5. Permits for Part 70 Sources
- 252:100-8-2. Definitions [AMENDED]
- 252:100-8-4. Requirements for construction and operating permits [AMENDED]
- Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas
- 252:100-8-30. Applicability [AMENDED]
- 252:100-8-31. Definitions [AMENDED]
- 252:100-8-33. Exemptions [AMENDED]
- 252:100-8-37. Innovative control technology [AMENDED]
- 252:100-8-38. Actuals PAL [AMENDED]
- Part 9. Major Sources Affecting Nonattainment Areas
- 252:100-8-50. Applicability [AMENDED]
- 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]
- 252:100-8-53. Exemptions [AMENDED]
- 252:100-8-54.1. Ozone and PM-10 precursors [NEW]
- 252:100-8-55. Source obligation [AMENDED]
- 252:100-8-56. Actuals PAL [AMENDED]
- Subchapter 9. Excess Emission Reporting Requirements
- 252:100-9-1. Purpose [AMENDED]
- 252:100-9-1.1. Applicability [NEW]
- 252:100-9-2. Definitions [AMENDED]
- 252:100-9-3.1. Excess emission reporting requirements [AMENDED AND RENUMBERED TO 252:100-9-7]

252:100-9-3.3. Demonstration of cause [AMENDED AND RENUMBERED TO 252:100-9-8]

252:100-9-7. Excess emission reporting requirements [NEW]

252:100-9-8. Affirmative defenses [NEW]

Subchapter 33. Control of Emission of Nitrogen Oxides

252:100-33-1.1. Definitions [AMENDED]

252:100-33-1.2. Applicability [AMENDED]

252:100-33-2. Emission limits [AMENDED]

### SUMMARY:

Staff is proposing to amend the definitions sections in OAC 252:100-1-3, 252:100-1-4 and 252:100-5-1.1 to remove redundant definitions.

The Department is proposing revisions to OAC 252:100-8 that will correct errors in the existing rule; make changes required by revisions to the federal rule published in the *Federal Register* on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict between OAC 252:100-8-4(b)(8) and 252:100-8-7.1(d) regarding permit renewal and expiration.

The Department is proposing to amend OAC 252:100-9, Excess Emission Reporting Requirements, to clarify its requirements and make them more compatible with EPA guidelines.

The Department is proposing to revise OAC 252:100-33 to resolve issues regarding emission standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

### COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on July 16, 2008. For comments received at least 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 and provide hard copy written responses to the comments to the Council and the public at that Council meeting. Oral comments may be made at the July 16, 2008, hearing and at the August 19, 2008, Environmental Quality Board meeting.

### PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, July 16, 2008, at the 4<sup>th</sup> Street Clubhouse, 1500 4th St., Ponca City, Oklahoma.

## Notices of Rulemaking Intent

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Before the Environmental Quality Board at 9:30 a.m. on Tuesday, August 19, 2008, at the Red River Technology Center, Business and Industry Building, Room 108, 3300 W. Bois D'Arc, Duncan, 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 of the EPA 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 at the Air Quality Division of the Department at [http://www.deq.state.ok.us/AQDnew/council\\_mtg/index.htm](http://www.deq.state.ok.us/AQDnew/council_mtg/index.htm).

or copies 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.state.ok.us](mailto:cheryl.bradley@deq.state.ok.us). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl Bradley. The Air Quality Division FAX 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 #08-1002; filed 5-21-08]*

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**REGULAR MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL**

**July 16, 2008, 9:00 a.m.**

**4<sup>th</sup> Street Clubhouse, 1500 4<sup>th</sup> Street  
Ponca City, OK**

*Please turn off cell phones.*

1. **Call to Order - David Branecky, Chair**
2. **Roll Call - Myrna Bruce**
3. **Approval of Minutes - April 16, 2008 Regular Meeting**
4. **Resolution for Mr. Martin - David Branecky, Chair**
5. **Public Rulemaking Hearings**
  - A. **OAC 252:100-1. General Provisions [AMENDED]  
OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees  
[AMENDED]**

The Department proposes to amend the definitions sections in OAC 252:100-1-3, 252:100-1-4 and 252:100-5-1.1 to remove redundant definitions.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**B. OAC 252:100-8. Permits for Part 70 Sources [AMENDED]**

The Department is proposing to amend Subchapter 8 to correct errors in the existing rule; make changes required by revisions to the federal rule published in the *Federal Register* on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict between OAC 252:100-8-4(b)(8) and 252:100-8-7.1(d) regarding permit renewal and expiration.

1. Presentation - Dr. Joyce Sheedy, Engineer, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**C. OAC 252:100-9. Excess Emission Reporting Requirements [AMENDED]**

The Department is proposing to amend Subchapter 9 to clarify its requirements and make them more compatible with EPA guidelines.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council

**D. OAC 252:100-33. Control of Emission of Nitrogen Oxides [AMENDED]**

The Department is proposing to revise OAC 252:100-33 to resolve issues regarding emission standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations.

1. Presentation - Dr. Joyce Sheedy, Engineer, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**6. Division Director's Report - Eddie Terrill**

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

**8. Adjournment**

Lunch break if necessary

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4216. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

## SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES

### 252:100-5-1.1. Definitions

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

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

**"Allowable emissions"** means:

- (A) The total amount of any regulated air pollutant emitted based on limits contained in an enforceable permit or potential to emit, or
- (B) For grandfathered sources, emission limits based on maximum design capacity and considering all applicable rules.

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

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

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

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

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

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

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

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

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

~~**"Regulated air pollutant"** 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.~~

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

- ~~(A) Carbon monoxide.~~
- ~~(B) Gross particulate matter (GPM).~~

DRAFT MINUTES  
 AIR QUALITY COUNCIL  
 July 16, 2008  
 4<sup>th</sup> Street Clubhouse, 1500 4<sup>th</sup> Street  
 Ponca City, Oklahoma

For EQB August 19, 2008  
 For AQC Approved October 15, 2008

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. July 16, 2008 in the 4<sup>th</sup> Street Clubhouse, Ponca 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 2, 2007. 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. Mr. David Branecky, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
 Montelle Clark  
 Jim Haught  
 Laura Worthen Lodes  
 Bob Lynch  
 Sharon Myers  
 Jerry Purkapple  
 Rick Treeman

**DEQ STAFF PRESENT**

Eddie Terrill  
 Beverly Botchlet-Smith  
 Scott Thomas  
 Cheryl Bradley  
 Joyce Sheedy  
 Max Price

**DEQ STAFF PRESENT**

Nancy Marshment  
 Sarah Penn  
 Rob Singletary  
 Dawson Lasseter  
 Kendall Stegmann  
 Myrna Bruce

**OTHERS PRESENT**

Christy Myers, Court Reporter

**MEMBERS ABSENT**

VACANCY

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

**Approval of Minutes** Mr. Haught made motion to approve as amended with Ms. Lodes making the second.

Jerry Purkapple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

**Resolution for Mr. Martin** – Mr. Branecky read into the record a resolution acknowledging Mr. Martin's contribution to the Council.

**OAC 252:100-1 General Provisions [AMENDED]**

**OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

Mr. Max Price identified definitions that the proposal would amend in OAC 252:100-1-3, 252:100-1-4 and 252:200-5-1.1. He noted that the changes are housekeeping in nature and asked Council's approval to forward to the Environmental Quality Board for permanent adoption. Hearing no discussion, Mr. Branecky called for a motion. Ms. Myers made the motion and Dr. Lynch made the second.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-8 Permits for Part 70 Sources [AMENDED]** Dr. Joyce Sheedy indicated changes proposed that would amend Subchapter 8 to correct errors in the existing rule; make changes required by revisions to the federal rule published in the *Federal Register* on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict between OAC 252:100-8-4(b)(8) and 252:200-8-7.1(d) regarding permit renewal and expiration time periods. Comments received from Council included the need for "ozone transport region" to be defined. Ms. Sarah Penn, staff attorney, explained that the citation for the definition is located in U.S.C.42 §7511c. referencing control of interstate ozone air pollution. Ms. Lodes then made a motion to pass the rule with the changes noted and Ms. Myers made the second.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-9 Excess Emission Reporting Requirements [AMENDED]** Mr. Max Price advised that the proposal would amend OAC 252:100-9 to modify excess emissions reporting requirements to make the rule consistent with the current interpretation of the EPA guidelines on excess emissions. He explained that a workgroup had been working on proposed language and asked that the rulemaking be continued to Council's next meeting. After comments, Mr. Branecky called for a motion. Mr. Purkaple made the motion to continue and Ms. Lodes made the second.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-33 Control of Emission of Nitrogen Oxides** Ms. Cheryl Bradley related that the Department proposed to revise Subchapter 33 to resolve issues regarding emissions standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations. Ms. Bradley also identified non-substantive changes for consistencies with the other rules in Chapter 100 and corrections to grammatical errors. Mr. Terrill conveyed how staff would be looking at these rule changes and how they would be presented to the Council for permanent approval. Mr. Branecky called for a motion to continue this rulemaking to Council's October meeting. Motion was made by Ms. Myers and second was made by Mr. Purkaple.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

**Division Director's Report** – Mr. Terrill stated that Council had requested that in future, his report would become part of the transcript. He provided an update on the fish flesh analysis activity; explained that the DC Circuit Court had vacated and remanded the Clean Air Interstate Rule (CAIR) back to the EPA; spoke about climate change and the Climate Registry; advised that within the next few weeks they hoped to have an audit



proposal to the Council Finance Committee; and lastly, commented about the ozone season.

**New Business** – Mr. Branecky announced that the current Vice-Chair, Rick Treeman, resigned effective July 18, 2008. He thanked Mr. Treeman for his help and support during his time spent on the Council. Mr. Branecky called for nominations for replacement of the Vice-Chair position. Sharon Myers nominated Laura Worthen Lodes and the second was made by Mr. Purkaple.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

Mr. Terrill suggested that the October 15 meeting currently scheduled in Broken Bow should be moved to the DEQ office. After spirited discussion, Dr. Lynch moved that the next meeting be held in Oklahoma City at the DEQ. Mr. Haught made the second.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	No	Montelle Clark	No
Rick Treeman	Abstain	David Branecky	Yes

**Adjournment** -- Meeting adjourned at 11:00 a.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 REGULARLY SCHEDULED MEETING

OF THE AIR QUALITY

ADVISORY COUNCIL

ITEMS 1-5A

HELD ON July 16, 2008

AT 9:00 A. M.

IN PONCA CITY, OKLAHOMA

\* \* \* \* \*

MYERS REPORTING SERVICE  
Christy Myers, CSR  
P.O. BOX 721532  
OKLAHOMA CITY, OKLAHOMA 73172-1532  
405-721-2882

**ORIGINAL**

1 COUNCIL MEMBERS  
 2  
 3 DAVID BRANECKY, CHAIRMAN  
 4 RICK TREEMAN, VICE-CHAIRMAN  
 5 JIM HAUGHT, MEMBER  
 6 DR. ROBERT LYNCH, MEMBER  
 7 SHARON MYERS, MEMBER  
 8 JERRY PURKAPLE, MEMBER  
 9 LAURA LODES, MEMBER  
 10 MONTELLE CLARK, MEMBER  
 11  
 12 DEQ STAFF  
 13  
 14 EDDIE TERRILL - DIRECTOR  
 15 BEVERLY BOTCHLET-SMITH - ASSISTANT DIRECTOR  
 16 MYRNA BRUCE - SECRETARY  
 17 CHERYL BRADLEY - ENVIRONMENTAL PROGRAMS  
 18 MANAGER  
 19 DR. JOYCE SHEEDY - ENGINEER  
 20 MAX PRICE - ENVIRONMENTAL PROGRAM  
 21 SPECIALIST  
 22  
 23  
 24  
 25

1 was not the vacancy, sir, I promise.  
 2 MR. BRANECKY: Thank you, Myrna.  
 3 The next item on the agenda is the Approval  
 4 of the Minutes from our last meeting. Do  
 5 we have any discussion on the Minutes?  
 6 No discussion, I'll ask for a motion  
 7 for approval.  
 8 MR. HAUGHT: I move we approve  
 9 the minutes, as written.  
 10 MS. LODES: I'll second.  
 11 MR. BRANECKY: I have a motion  
 12 and a second. Myrna, call the roll please.  
 13 MS. BRUCE: Jerry Purkaple.  
 14 MR. PURKAPLE: Yes.  
 15 MS. BRUCE: Laura Lodes.  
 16 MS. LODES: Yes.  
 17 MS. BRUCE: Sharon Myers.  
 18 MS. MYERS: Yes.  
 19 MS. BRUCE: Rick Treeman.  
 20 MR. TREEMAN: Yes.  
 21 MS. BRUCE: Jim Haught.  
 22 MR. HAUGHT: Yes.  
 23 MS. BRUCE: Bob Lynch.  
 24 DR. LYNCH: Yes.  
 25 MS. BRUCE: Montelle Clark

1 PROCEEDINGS  
 2  
 3  
 4 MR. BRANECKY: Good morning.  
 5 We'll get this started.  
 6 Before we do, I'd like to remind  
 7 everyone to turn your cell phones off or  
 8 put them on mute.  
 9 The first item on the agenda, we'd  
 10 ask Myrna to call the roll.  
 11 MS. BRUCE: Jerry Purkaple.  
 12 MR. PURKAPLE: Here.  
 13 MS. BRUCE: Laura Lodes.  
 14 MS. LODES: Here.  
 15 MS. BRUCE: Sharon Myers.  
 16 MS. MYERS: Yes.  
 17 MS. BRUCE: Rick Treeman.  
 18 MR. TREEMAN: Here.  
 19 MS. BRUCE: Jim Haught.  
 20 MR. HAUGHT: Here.  
 21 MS. BRUCE: Bob Lynch.  
 22 DR. LYNCH: Here.  
 23 MS. BRUCE: Montelle Clark  
 24 MR. CLARK: Here.  
 25 MS. BRUCE: And we have a

1 MR. CLARK: Yes.  
 2 MS. BRUCE: David Branecky.  
 3 MR. BRANECKY: Yes.  
 4 MS. BRUCE: Motion passed.  
 5 MR. BRANECKY: Thank you. The  
 6 next item is that we would like to just  
 7 point out that Mr. Gary Martin will no  
 8 longer be on the Council, he was unable to  
 9 get reappointed. We had a resolution and a  
 10 dinner honoring him last night.  
 11 In addition, Mr. Treeman has  
 12 resigned. He has taken another job and has  
 13 resigned from the Council, so this will be  
 14 his last Council Meeting. We would like to  
 15 thank Rick for all his support and help  
 16 over the years.  
 17 So we currently have two vacancies  
 18 on the Council and we'll be actively trying  
 19 to fill those.  
 20 MR. TERRILL: Yes.  
 21 MR. BRANECKY: With that,  
 22 Beverly, I guess we'll go on to the public  
 23 hearing portion.  
 24 MS. BOTCHLET-SMITH: Good  
 25 morning, I am Beverly Botchlet-Smith, I am

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1 the Assistant Director of Air Quality  
 2 Division. As such, I will be serving as  
 3 the Protocol Officer for today's hearings.  
 4 The hearings will be convened by the  
 5 Air Quality Council in compliance with the  
 6 Oklahoma Administrative Procedures Act and  
 7 Title 40 of the Code of Federal  
 8 Regulations, Part 51, as well as the  
 9 authority of Title 27A of the Oklahoma  
 10 Statutes, and Section 2-2-201, Sections  
 11 2-5-101 through 2-5-118.  
 12 Notice of the July 16, 2008 hearings  
 13 were advertised in Oklahoma Register for  
 14 the purpose of receiving comments  
 15 pertaining to the proposed OAC Title 252  
 16 Chapter 100 rules as listed on the Agenda  
 17 and will be entered into each record along  
 18 with the Oklahoma Register filing. Notice  
 19 of the meeting was filed with the Secretary  
 20 of State on November 2, 2007. The Agenda  
 21 was duly posted 24 hours prior to the  
 22 meeting at this facility and at DEQ.  
 23 If you wish to make a statement, it  
 24 is very important that you complete the  
 25 form that was at the registration table and

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1 we will call upon you at the appropriate  
 2 time. Audience members please come to the  
 3 podium and state your name before making a  
 4 comment.  
 5 At this time, we will proceed with  
 6 what's marked as agenda Item Number 5A on  
 7 the hearing agenda.  
 8 This is OAC 252:100-1; General  
 9 Provisions.  
 10 And OAC 252:100-5; Registration,  
 11 Emission Inventory and Annual Operating  
 12 Fees.  
 13 Mr. Max Price of our staff will give  
 14 the presentation.  
 15 MR. PRICE: Thank you, Beverly.  
 16 Mr. Chairman, Members of the  
 17 Council, ladies and gentlemen, the  
 18 Department is proposing to amend the  
 19 definitions sections OAC 252:100-1-3,  
 20 252:100-1-4 and 252:100-1.1.  
 21 The definitions for "direct" and  
 22 "indirect fired" are being moved from  
 23 Subchapter 19 to Subchapter 1, General  
 24 Provisions.  
 25 This is being done because these

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1 definitions will be used in the proposed  
 2 Subchapter 33 as well as Subchapter 19.  
 3 The other significant change is the  
 4 addition of a definition for regulated air  
 5 pollutant to Subchapter 1 because the  
 6 definition is used in other subchapters.  
 7 The definition for regulated air  
 8 pollutant is also being deleted from  
 9 Subchapter 5, Registration, Emission  
 10 Inventory and Annual Operating  
 11 Fees.  
 12 In addition, the abbreviation for  
 13 nanograms per Joule is being added and the  
 14 phrase "heat input in" is being deleted  
 15 from the phrase "heat input in million  
 16 British thermal units per hour" in OAC  
 17 252:100-1-4.  
 18 Since these amendments are primarily  
 19 simple housekeeping, staff asks that the  
 20 Council vote to send these proposals to the  
 21 Environmental Quality Board with a  
 22 recommendation that they be adopted as  
 23 permanent rules. Thank you.  
 24 MS. BOTCHLET-SMITH: At this  
 25 time, we'll take any questions or comments

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1 from the Council.  
 2 Hearing none -- I also have not  
 3 received any notice of comment from the  
 4 public. Is there anyone that has a  
 5 question?  
 6 Seeing no hands and hearing no  
 7 comments, David, I'll put it back to you.  
 8 MR. BRANECKY: Okay. Well with  
 9 no discussion we're up for a motion for  
 10 approval.  
 11 MS. MYERS: So moved.  
 12 DR. LYNCH: Second.  
 13 MR. BRANECKY: All right. I have  
 14 a motion and a second. Myrna, call the  
 15 roll, please.  
 16 MS. BRUCE: Jerry Purkapple.  
 17 MR. PURKAPLE: Yes.  
 18 MS. BRUCE: Laura Lodes.  
 19 MS. LODES: Yes.  
 20 MS. BRUCE: Sharon Myers.  
 21 MS. MYERS: Yes.  
 22 MS. BRUCE: Rick Treeman.  
 23 MR. TREEMAN: Yes.  
 24 MS. BRUCE: Jim Haught.  
 25 MR. HAUGHT: Yes.

1 MS. BRUCE: Bob Lynch.  
 2 DR. LYNCH: Yes.  
 3 MS. BRUCE: Montelle Clark  
 4 MR. CLARK: Yes.  
 5 MS. BRUCE: David Branecky.  
 6 MR. BRANECKY: Yes.  
 7 MS. BRUCE: Motion passed.

8  
9 (Items 1-5A Concluded)

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1  
2 CERTIFICATE

3 STATE OF OKLAHOMA )  
4 COUNTY OF OKLAHOMA ) SS:

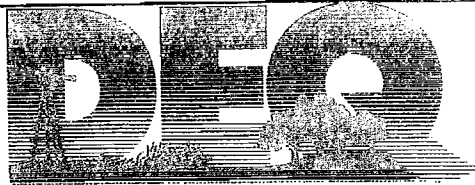
5  
6 I, CHRISTY A. MYERS, Certified  
 7 Shorthand Reporter in and for the State of  
 8 Oklahoma, do hereby certify that the above  
 9 proceedings is the truth, the whole truth,  
 10 and nothing but the truth; that the  
 11 foregoing proceedings were taken by me in  
 12 shorthand and thereafter transcribed under  
 13 my direction; that said proceedings were  
 14 taken on the 16th day of July, 2008, at  
 15 Ponca City, Oklahoma; and that I am neither  
 16 attorney for nor relative of any of said  
 17 parties, nor otherwise interested in said  
 18 action.

19 IN WITNESS WHEREOF, I have hereunto  
 20 set my hand and official seal on this, the  
 21 18th day of July, 2008.

22  
23  
24  
25  
 \_\_\_\_\_  
 CHRISTY A. MYERS, C.S.R.  
 Certificate No. 00310

<p>-0-</p>	<p>addition [3] 5:11 8:4,12</p>	<p>compliance [1] 6:5</p>	<p>hand [1] 11:20</p>	<p>million [1] 8:15</p>
<p>00310 [1] 11:25</p>	<p>Administrative [1] 6:6</p>	<p>Concluded [1] 10:9</p>	<p>hands [1] 9:6</p>	<p>minutes [3] 4:4,5,9</p>
<p>-1-</p>	<p>adopted [1] 8:22</p>	<p>convened [1] 6:4</p>	<p>Haught [8] 2:5 3:19,20 4:8,21,22 9:24,25</p>	<p>Montelle [4] 2:10 3:23 4:25 10:3</p>
<p>1 [2] 7:23 8:5 1-5A [2] 1:12 10:9 100 [1] 6:16 16 [2] 1:13 6:12 16th [1] 11:14 18th [1] 11:21 19 [2] 7:23 8:2</p>	<p>advertised [1] 6:13 ADVISORY [1] 1:11 agenda [6] 3:9 4:3 6:16, 6:20 7:6,7 air [5] 1:10 6:1,5 8:4,7 along [1] 6:17 amend [1] 7:18 amendments [1] 8:18 Annual [2] 7:11 8:10 appropriate [1] 7:1 approval [3] 4:3,7 9:10 approve [1] 4:8 asks [1] 8:19 Assistant [2] 2:15 6:1 attorney [1] 11:16 Audience [1] 7:2 authority [1] 6:9</p>	<p>COUNCIL [1] 11:4 CSR [1] 1:23</p>	<p>hearing [4] 5:23 7:7 9:2 9:6 hearings [3] 6:3,4,12 heat [2] 8:14,15 HELD [1] 1:13 help [1] 5:15 hereby [1] 11:8 hereunto [1] 11:19 honoring [1] 5:10 hour [1] 8:16 hours [1] 6:21 housekeeping [1] 8:19</p>	<p>morning [2] 3:4 5:25 motion [6] 4:6,11 5:4 9:9 9:14 10:7 move [1] 4:8 moved [2] 7:22 9:11 MS [36] 3:11,13,14,15,16 3:17,19,21,23,25 4:10,13 4:15,16,17,18,19,21,23,25 5:2,4,24 8:24 9:11,16,18 9:19,20,21,22,24 10:1,3,5 10:7 mute [1] 3:8 Myers [12] 1:23,23 2:7 3:15,16 4:17,18 9:11,20 9:21 11:6,24 Myrna [5] 2:16 3:10 4:2 4:12 9:14</p>
<p>-2-</p>	<p>-B-</p>	<p>-D-</p>	<p>-I-</p>	<p>-N-</p>
<p>2 [1] 6:20 2-2-201 [1] 6:10 2-5-101 [1] 6:11 2-5-118 [1] 6:11 2007 [1] 6:20 2008 [4] 1:13, 6:12 11:14 11:21</p>	<p>Beverly [4] 2:15 5:22,25 7:15 Board [1] 8:21 Bob [3] 3:21 4:23 10:1 Botchlet-Smith [4] 2:15 5:24,25 8:24 BOX [1] 1:24 BRADLEY [1] 2:17 Branecy [12] 2:3 3:4 4:2,11 5:2,3,5,21 9:8,13 10:5,6 British [1] 8:16 BRUCE [27] 2:16 3:11 3:13,15,17,19,21,23,25 4:13,15,17,19,21,23,25 5:2,4 9:16,18,20,22,24 10:1,3,5,7</p>	<p>David [4] 2:3 5:2 9:7 10:5 definition [3] 8:4,6,7 definitions [3] 7:19,21 8:1 deleted [2] 8:8,14 Department [2] 1:1 7:18 DEQ [2] 2:12 6:22 dinner [1] 5:10 direct [1] 7:21 direction [1] 11:13 Director [3] 2:14,15 6:1 discussion [3] 4:5,6 9:9 Division [1] 6:2 done [1] 7:25 DR [6] 2:6,19 3:22 4:24 9:12 10:2 duly [1] 6:21</p>	<p>important [1] 6:24 indirect [1] 7:22 input [2] 8:14,15 interested [1] 11:17 Inventory [2] 7:11 8:10 item [4] 3:9 4:3 5:6 7:6 Items [2] 1:12 10:9</p>	<p>name [1] 7:3 nanograms [1] 8:13 neither [1] 11:15 next [2] 4:3 5:6 night [1] 5:10 none [1] 9:2 nor [2] 11:16,17 nothing [1] 11:10 notice [3] 6:12,18 9:3 November [1] 6:20 Number [1] 7:6</p>
<p>24 [1] 6:21 252 [1] 6:15 252:100-1 [1] 7:8 252:100-1-3 [1] 7:19 252:100-1-4 [2] 7:20 8:17 252:100-1.1 [1] 7:20 252:100-5 [1] 7:10 27A [1] 6:9</p>	<p>-B-</p>	<p>-E-</p>	<p>-J-</p>	<p>-O-</p>
<p>33 [1] 8:2</p>	<p>BRUCE [27] 2:16 3:11 3:13,15,17,19,21,23,25 4:13,15,17,19,21,23,25 5:2,4 9:16,18,20,22,24 10:1,3,5,7</p>	<p>E [2] 11:2,2 EDDIE [1] 2:14 Emission [2] 7:11 8:9 ENGINEER [1] 2:19 entered [1] 6:17 Environmental [4] 1:1 2:17,20 8:21</p>	<p>Jerry [4] 2:8 3:11 4:13 9:16 Jim [4] 2:5 3:19 4:21 9:24 job [1] 5:12 Joule [1] 8:13 JOYCE [1] 2:19 July [4] 1:13 6:12 11:14 11:21</p>	<p>OAC [5] 6:15 7:8,10,19 8:16 off [1] 3:7 Officer [1] 6:3 official [1] 11:20 Oklahoma [12] 1:2,15 1:24,24 6:6,9,13,18 11:3 11:4,8,15 Operating [2] 7:11 8:10 otherwise [1] 11:17</p>
<p>40 [1] 6:7 405-721-2882 [1] 1:25</p>	<p>-C-</p>	<p>-F-</p>	<p>-L-</p>	<p>-P-</p>
<p>5 [1] 8:9 51 [1] 6:8 5A [1] 7:6</p>	<p>C [2] 11:2,2 C.S.R [1] 11:24 cell [1] 3:7 Certificate [1] 11:25 Certified [1] 11:6 certify [1] 11:8 Chairman [2] 2:3 7:16 change [1] 8:3 Chapter [1] 6:16 CHERYL [1] 2:17 Christy [3] 1:23 11:6,24 City [3] 1:15,24 11:15 Clark [7] 2:10 3:23,24 4:25 5:1 10:3,4 Code [1] 6:7 comment [2] 7:4 9:3 comments [3] 6:14 8:25 9:7 complete [1] 6:24</p>	<p>F [1] 11:2 facility [1] 6:22 Federal [1] 6:7 Fees [2] 7:12 8:11 filed [1] 6:19 filing [1] 6:18 fill [1] 5:19 fired [1] 7:22 first [1] 3:9 foregoing [1] 11:11 form [1] 6:25</p>	<p>ladies [1] 7:17 last [3] 4:4 5:10,14 Laura [4] 2:9 3:13 4:15 9:18 listed [1] 6:16 Lodes [8] 2:9 3:13,14 4:10,15,16 9:18,19 longer [1] 5:8 Lynch [8] 2:6 3:21,22 4:23,24 9:12 10:1,2</p>	<p>P.O [1] 1:24 Part [1] 6:8 parties [1] 11:17 passed [2] 5:4 10:7 per [2] 8:13,16 permanent [1] 8:23 pertaining [1] 6:15 phones [1] 3:7 phrase [2] 8:14,15 podium [1] 7:3 point [1] 5:7 pollutant [2] 8:5,8</p>
<p>721532 [1] 1:24 73172-1532 [1] 1:24</p>	<p>-A-</p>	<p>-G-</p>	<p>-M-</p>	<p>-H-</p>
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O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Attendance Record

July 16, 2008

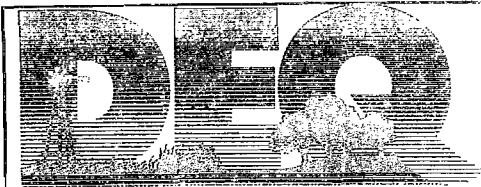
Ponca City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Mary Marshment	DEQ
Perry Friedrich GRDA	Chautauq OK (918)8241034 pfriedrich@grda.org
Cheryl Bradley DEQ	
JARRON GREGG ATLAS PIPELINE	918-574-3779 jgregg@atlas.com
Marcea Cole RWCS	405-228-2143
Laura Worthen	405-701-3195
Diana Hinson	DEQ
Julia Beers	OGE
David Brancey	ARC
RICH ARMSTRONG DAL-TILE	rich-armstrong@msbankind.com
Kathryn Crenshaw	Weyerhaeuser.com
Gerald Butcher	g-butcher@wfec.com
Kendal Stegmann	DEQ
Robert Singletary	DEQ
Phillip Fielder	DEQ
Brad Burris	Weyerhaeuser.
Sarah Penn	DEQ
Bud Ground	PSU
JAY FLIBANKS	MOSH
Melissa Aspelund	"
ANGIE BURKHULTER	OIPA.
Sheila Baker	StanTech
Ashley Bass	StanTech
Kandi Jones	StanTech
Nick Velle's	WB Johnston Grain
Maryna Bruce	DEQ





O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Attendance Record

July 16, 2008

Ponca City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Jaren Hill	DEQ		
Brandi Fitzgerald Chesapeake		405-767-1882	
Hillary Mosetey	DEQ		
Jim Schellhorn PEMA		918-266-9653	jschellhorn@pema.ok.gov
David Provence OGE			provenpdca@oge.com
Beverly Pochet-Smith	DEQ		
Adijunde Burchett Cardinal Eng.		405-842-1066	
Glenn Travis Suncor Inc		918 594 6572	
Gregory Campbell Chesapeake		405-879-7543	
Joseph E. Coenen, PE Buzziluxon USA Pryor, OK		918 824 4123	
Mantelle Clark ADAC	Tulsa	918 592.5082	
Hydia Pattsas SBC/OSN	Tulsa	918 592.5082	
Ken Ruffin AEP-PSO	DALLAS	214-777-1112	KRuffin@aep.co

**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m. Tuesday, August 19, 2008  
Red River Technology Center  
Business & Industry Building  
3300 W. Bois D'Arc  
Duncan, Oklahoma

1. **Call to Order** – Jennifer Galvin, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the February 29, 2008 Regular Meeting
4. **Rulemaking – OAC 252:100 Air Pollution Control**
  - A. The DEQ proposes to amend Subchapter 1, Sections 1-3 and 1-4 and Subchapter 5, Section 5-1.1 to make minor corrections and remove redundant definitions.
  - B. The DEQ proposes to amend Subchapter 8 to update incorporations by reference; correct errors; make changes required by revisions to federal rules; and resolve a conflict between Sections 8-4(b)(8) and 8-7.1(d) regarding permit renewal deadline.
  - C. The DEQ proposes to amend Subchapter 17 (Incinerators) to meet federal requirements for state plans under section 111(d) of the federal Clean Air Act applicable to existing sources. The requirements relate to municipal waste combustors.
  - D. The DEQ proposes amendments to Subchapter 19 (Control of Emission of Particulate Matter) and corresponding changes to three appendices. The changes clarify that the particulate matter emission rates in Section 19-11 (Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired steam generating units) and the appendices refer to “total” particulate matter, *i.e.*, both condensable and filterable particulate matter.
    - Presentation – David Branecky, Chair, Air Quality Advisory Council
    - Questions and discussion by the Board
    - Questions, comments and discussion by the public
    - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption
5. **Executive Director’s Report** – Steve Thompson, DEQ Executive Director  
The report will include (a) the disclosure of certain employee financial interests as required by statute and (b) a summary of key actions in the recent legislative session and implementation strategies. These updates and summaries are for informational purposes and do not require action by the Board. The report is presented at this point in the meeting because it may help provide context for agenda items 6 and 7.
6. **DEQ Operational Budget Request**  
DEQ budget requests to the Governor through the Office of State Finance require approval of the Board. The operational budget request for State Fiscal Year 2010 (beginning July 1, 2009) must be submitted to the OSF by October 1<sup>st</sup> of this year. The law requires that all state agencies submit a five-year budget. The request for the coming year, SFY 2010, is the most critical. DEQ

is requesting additional state funding for the DEQ/OWRB Beneficial Use Monitoring Program and state funding for small municipal lagoon biosolids removal.

- Presentation – Steve Thompson, DEQ Executive Director
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include a roll call vote on approval of the budget request

**7. Annual Performance Review of Executive Director**

Among the statutory duties of the Board are responsibilities to appoint and set the compensation of the Executive Director and to assist the DEQ in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the DEQ. In connection with these responsibilities, the Board has determined that it should perform an annual performance review of the Executive Director.

- A. Discussion by the Board in open session
- B. Possible executive session pursuant to Title 25 Oklahoma Statutes Section 307(B)(1) (discussion of employment actions related to any individual salaried public officer or employee), if authorized by recorded majority vote of the Board members present
  - (1) Vote in open session on entering into executive session
  - (2) If executive session approved, designation in open session of person to keep minutes in executive session
  - (3) Discussion in executive session of Executive Director's performance and of employment actions by the Board relating to the Executive Director (Executive Session will be held in Room B114)
- C. Further discussion by the Board in open session
- D. Possible roll call vote on specific actions or recommendations as a result of performance review

**8. Calendar Year 2009 Board meeting dates and locations:** Discussion and vote by the Board

**9. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**10. Adjournment**

Upcoming 2008 Meeting: November 18 at the Tahlequah Armory Municipal Center (Rm #3), 100 N. Water Street, Tahlequah, OK.

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

**Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.**

Some members of the Board and senior staff members from DEQ will meet for dinner in Duncan the evening of August 18. This is a social occasion. It is uncertain whether a majority of the Board will be present, but no Board or DEQ business will be conducted.

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

**EXECUTIVE SUMMARY**

**Subchapter 1. General Provisions**

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

**252:100-1-4. Units and abbreviations [AMENDED]**

**Subchapter 5. Registration, Emission Inventory and Annual Operating Fees**

**252:100-5-1.1. Definitions [AMENDED]**

Before the Air Quality Advisory Council, July 16, 2008

Before the Environmental Quality Board, August 19, 2008

**EXECUTIVE SUMMARY:**

The Department is proposing to amend sections OAC 252:100-1-3, 252:100-1-4 and 252:100-5-1.1 to remove redundant definitions from Chapter 100 rules. These proposed amendments are routine housekeeping and considered non-substantive.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

Not applicable.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not applicable.

**SUMMARY OF COMMENTS AND RESPONSES:**

No comments were received concerning these amendments.

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May 15, 2009  
Pages 1105 - 1352

**RECEIVED**

**MAY 15 2009**

**DEQ LEGAL**

# The Oklahoma Register

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Oklahoma  
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Office of Administrative Rules

## Permanent Final Adoptions

without notice. A Reseller that disconnects an end-user service under this section will:

- (1) provide written or verbal notice to the Consumer Services Division of the disconnect action prior to the actual disconnect;
  - (2) within three (3) business days of the actual disconnect, provide a written description of the circumstances leading to the disconnect action; and
  - (3) give the customer written notice, which will include an address and telephone number, for the Consumer Services Division.
- (c) The Consumer Services Division may, after an informal inquiry and review of the written description of the circumstances leading to the disconnect action, direct the Reseller to restore services to the affected end-user and / or file an application with the Commission requesting a finding of contempt and the imposition of a fine or other penalty against a Reseller that unreasonably suspends or disconnects an end-user pursuant to subsection (b) of this section.

### 165:56-9-4.2. Notice of Disconnection or Notice of Suspension requirements

- (a) A notice of disconnection or notice of suspension shall contain the following information:
- (1) The words "NOTICE OF DISCONNECTION" or "NOTICE OF SUSPENSION" or words with the same meaning, in print type larger than the print type of the notice text.
  - (2) Name, address, and telephone number of customer.
  - (3) Statement of reason for the proposed disconnection or suspension of service.
  - (4) The date on or after which service will be disconnected or suspended unless appropriate action is taken.
  - (5) The telephone number of the Reseller where the customer may make an inquiry.
  - (6) Charges and procedures for reconnection or approved charges and procedures to avoid suspension.
  - (7) The address and telephone number of the Commission's Consumer Services Division in print size which is smaller than the print size used for the Reseller's telephone number.
  - (8) A statement that the end-user must contact the Reseller regarding the disconnection or suspension, prior to contacting the Commission's Consumer Services Division.
  - (9) Notice of suspension of service relating to past-due amounts shall inform the end-user that the total amount due may include charges for non-deniable and/or not regulated services which would not cause interruption of local service. The notice must indicate a toll-free telephone number of a service center where questions can be referred and payment arrangements made.
- (b) The Reseller shall not be required to give the written notice provided for in this Section in situations where the Reseller has evidence of fraudulent or illegal use of the Reseller's services, which if allowed to continue, would present a high risk of financial loss to the Reseller.

(c) The following additional information shall be in the notice unless said information can be obtained in the telephone directory and the notice refers the end-user to the location in the directory where the information can be obtained:

- (1) A statement of how an end-user may avoid the disconnection of service or suspension of service, including a statement that the end-user must notify the reseller on the day of payment as to the place and method of such payment when the bill is paid in a place other than the office of the reseller.
  - (2) A statement that informs the end-user where payments may be made or how to obtain a listing of authorized payment agencies.
- (d) Notices of disconnection and/or notice of suspension shall be received via the United States mail, unless the end-user agrees with the Reseller to receive a bill through different means.

*[OAR Docket #09-728; filed 4-17-09]*

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

*[OAR Docket #09-738]*

### **RULEMAKING ACTION:**

PERMANENT final adoption

### **RULES:**

Subchapter 1. General Provisions

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

252:100-1-4. Units, abbreviations and acronyms [AMENDED]

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1. Definitions [AMENDED]

### **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:**

March 17, 2008, through July 16, 2008, and August 19, 2008

#### **Public hearing:**

July 16, 2008, and August 19, 2008

#### **Adoption:**

August 19, 2008

#### **Submitted to Governor:**

August 29, 2008

#### **Submitted to House:**

August 29, 2008

#### **Submitted to Senate:**

August 29, 2008

#### **Gubernatorial approval:**

September 24, 2008

#### **Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.

#### **Final adoption:**

March 24, 2009

#### **Effective:**

July 1, 2009

#### **SUPERSEDED EMERGENCY ACTIONS:**

N/A

#### **INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The Department is proposing to amend OAC 252:100-1-3, Definitions; 252:100-1-4, Units, abbreviations and acronyms; and 252:100-5-1.1, Definitions, to remove redundant definitions from Chapter 100 rules. These proposed amendments are routine housekeeping and considered non-substantive.

**CONTACT PERSON:**

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4218.

**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, 2009:**

**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 impact 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.

"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.

"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 liquid at standard conditions. It may contain sulfur, nitrogen and/or oxygen derivatives of hydrocarbon.

"Direct fired" means that the hot gases 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 VO.

- (19) l - liter
- (20) l/yr - liters per year
- (21) LT/D - long tons per day
- (22) lb/wk - pounds per week
- (23) lb - pound
- (24) lbs/hr - pounds per hour
- (25) m<sup>3</sup> - cubic meter
- (26) mg/dscm - milligrams per dry standard cubic meter
- (27) MMBTU/hr - heat input in million british thermal units per hour
- (28) Mg - megagram - 106 gram
- (29) Mg/yr - megagrams per year
- (30) mg/l - milligrams per liter
- (31) m/min - meter per minute
- (32) ng/dscm - nanograms per dry standard cubic meter
- (33) ng/J - nanograms per Joule
- (3334) oz/in<sup>2</sup> - ounce per square inch
- (3435) ppm - parts per million
- (3536) psia - pounds per square inch absolute
- (3637) psig - pounds per square inch gage
- (3738) ppmv - parts per million by volume
- (3839) SO<sub>2</sub> - sulfur dioxide
- (3940) TPY - tons per year
- (4041) ug/m<sup>3</sup> - micrograms per cubic meter

(b) Acronyms.

- (1) A.I.S.I. - American Iron and Steel Institute
- (2) A.S.M.E. - American Society of Mechanical Engineers
- (3) A.S.T.M. - American Society for Testing and Materials
- (4) BACT - Best Available Control Technology
- (5) CEM - Continuous Emission Monitor
- (6) CFR - Code of Federal Regulations
- (7) COM - Continuous Opacity Monitor
- (8) DEQ - Department of Environmental Quality
- (9) EPA - Environmental Protection Agency
- (10) HAP - Hazardous Air Pollutants
- (11) HMIWI - Hospital/Medical/Infectious Waste Incinerator
- (12) MACT - Maximum Achievable Control Technology
- (13) MSW - Municipal Solid Waste
- (14) MWC - Municipal Waste Combustors
- (15) NAAQS - National Ambient Air Quality Standards
- (16) NESHAP - National Emissions Standards for Hazardous Air Pollutants
- (17) NSPS - New Source Performance Standards
- (18) OAC - Oklahoma Administrative Code
- (19) PER - Permit by Rule
- (20) PM - Particulate Matter
- (21) PSD - Prevention of Significant Deterioration
- (22) SIC - Standard Industrial Classification
- (23) SIP - State Implementation Plan
- (24) TSP - Total Suspended Particulates
- (25) VOC - Volatile Organic Compound
- (26) 27A O.S. - Title 27A Oklahoma Statutes Annotated

**SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES**

**252:100-5-1.1. Definitions**

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

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

"**Allowable emissions**" means:

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

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

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

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

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

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

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

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

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

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

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



# Permanent Final Adoptions

**"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.

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

- (A) Carbon monoxide
- (B) Gross particulate matter (GPM)

[OAR Docket #09-738; filed 4-17-09]

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

[OAR Docket #09-739]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

- Subchapter 8. Permits for Part 70 Sources
- Part 5. Permits for Part 70 Sources
- 252:100-8-2. Definitions [AMENDED]
- 252:100-8-4. Requirements for construction and operating permits [AMENDED]
- Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas
- 252:100-8-30. Applicability [AMENDED]
- 252:100-8-31. Definitions [AMENDED]
- 252:100-8-33. Exemptions [AMENDED]
- 252:100-8-37. Innovative control technology [AMENDED]
- 252:100-8-38. Actuals PAL [AMENDED]
- Part 9. Major Sources Affecting Nonattainment Areas
- 252:100-8-50. Applicability [AMENDED]
- 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]
- 252:100-8-53. Exemptions [AMENDED]
- 252:100-8-54.1. Ozone and PM-10 precursors [NEW]
- 252:100-8-55. Source obligation [AMENDED]
- 252:100-8-56. Actuals PAL [AMENDED]

### 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:

June 16, 2008, through July 16, 2008, and August 19, 2008

#### Public hearing:

July 16, 2008, and August 19, 2008

#### Adoption:

August 19, 2008

#### Submitted to Governor:

August 29, 2008

#### Submitted to House:

August 29, 2008

#### Submitted to Senate:

August 29, 2008

#### Gubernatorial approval:

September 24, 2008

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.

### Final adoption:

March 24, 2009

### Effective:

July 1, 2009

### SUPERSEDED EMERGENCY ACTIONS:

N/A

### INCORPORATIONS BY REFERENCE:

#### Incorporated standards:

- 40 CFR 51.166(w), Actuals PALs, with some exceptions
- 40 CFR 51.165(a)(1) with some exceptions
- 40 CFR 51.165(a)(3)
- 40 CFR 51.165(a)(9)
- 40 CFR 51.165(b)
- 40 CFR 51.165(a)(4)
- 40 CFR 51.165(a)(5)
- 40 CFR 51.165(a)(6)(i) through (v)
- 40 CFR 51.165(a)(7)
- 40 CFR 51.165(f), Actuals PALs, with exceptions

#### Incorporating rules:

- 252:100-8-38(a)
- 252:100-8-51
- 252:100-8-51.1(a)
- 252:100-8-51.1(b)
- 252:100-8-52(a)
- 252:100-8-53(a)
- 252:100-8-55(b)
- 252:100-8-55(c)(1) and (2)
- 252:100-8-55(d)
- 252:100-8-56

#### 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.

#### ANALYSIS:

The Department proposes to amend OAC 252:100-8 to correct errors in the existing rule; make changes required by revisions to the federal rule published in the *Federal Register* on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict between OAC 252:100-8-4(b)(8) and 252:100-8-7.1(d) regarding permit renewal and expiration. The following changes are to implement the requirements contained in the *Federal Register* dated November 29, 2005, when EPA took final action on the remaining elements of the program to implement the 8-hour ozone NAAQS:

1) Paragraph (A)(i) of the definition of major modification and paragraph (B) of the definition of major stationary source in OAC 252:100-8-31 were changed to indicate that a major stationary source that is significant for NO<sub>x</sub> shall be considered significant for ozone;

2) Paragraph (A)(i) of the definition of regulated NSR pollutant in OAC 252:100-8-31 was changed to list NO<sub>x</sub> as a precursor for ozone;

3) Paragraph (A)(v) of the definition of significant in OAC 252:100-8-31 was changed to list the significant level for ozone as 40 TPY of VOC or NO<sub>x</sub>;

4) Subsection (c) of OAC 252:100-8-33 was changed to allow exemption from some air quality analysis requirements for ozone if the air quality impacts are less than 100 TPY of NO<sub>x</sub>;

5) New paragraphs (C) and (D) were added to the definition of major modification in OAC 252:100-8-51. Paragraph (C), in conjunction with OAC 252:100-8-54.1(a), makes the VOC requirements in Part 9 of Subchapter 8 also apply to NO<sub>x</sub> emissions and paragraph (D) provides that any physical change or change in operation of a major source of VOC that results in any increase in VOC emissions shall be considered a major modification for ozone if the source is located in an extreme ozone nonattainment area;

6) New subsection OAC 252:100-8-51.1(b) incorporates by reference the emission offset requirements in 40 CFR 51.165(a)(9); and

7) New subsection OAC 252:100-8-54.1(b) makes the PM-10 requirements in Part 9 of Subchapter 8 also apply to PM-10 precursors.

The revision finalized in the May 1, 2007, *Federal Register* made changes to the definitions of major stationary source in the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR), and to the definition of major source in Title V regulations. The definition of major stationary source in OAC 252:100-8-31 was revised to exclude certain ethanol production facilities from being considered chemical process plants and thus changing their PSD threshold emissions from 100 TPY to 250 TPY. The incorporation by reference of the definitions in OAC 252:100-8-51 was updated to include this revision to the definition of major stationary source for

**OAC 252:100-25**  
**Public Hearings**

**October 15, 2008**  
**Air Quality Advisory Council**

**November 18, 2008**  
**Environmental Quality Board**

**Effective Date: July 1, 2009**

Volume 26  
Number 1  
September 15, 2008  
Pages 1 - 24

RECEIVED

SEP 17 2008

DEQ LEGAL

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

# 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 #08-1235]*

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

- Subchapter 9. Excess Emission Reporting Requirements
- 252:100-9-1. Purpose [AMENDED]
- 252:100-9-1.1. Applicability [NEW]
- 252:100-9-2. Definitions [AMENDED]
- 252:100-9-3.1. Excess emission reporting requirements [AMENDED AND RENUMBERED TO 252:100-9-7]
- 252:100-9-3.3. Demonstration of cause [AMENDED AND RENUMBERED TO 252:100-9-8]
- 252:100-9-7. Excess emission reporting requirements [NEW]
- 252:100-9-8. Affirmative defenses [NEW]
- Subchapter 25. Visible Emissions and Particulates
- 252:100-25-3. Opacity limit [AMENDED]
- Subchapter 33. Control of Emission of Nitrogen Oxides
- 252:100-33-1.1. Definitions [AMENDED]
- 252:100-33-1.2. Applicability [AMENDED]
- 252:100-33-2. Emission limits [AMENDED]
- Appendix E. Primary Ambient Air Quality Standards [REVOKED]
- Appendix E. Primary Ambient Air Quality Standards [NEW]
- Appendix F. Secondary Ambient Air Quality Standards [REVOKED]
- Appendix F. Secondary Ambient Air Quality Standards [NEW]
- Appendix Q. Incorporation by Reference [REVOKED]
- Appendix Q. Incorporation by Reference [NEW]

### SUMMARY:

The Department is proposing to amend OAC 252:100-9, Excess Emission Reporting Requirements, to clarify its requirements and make them more compatible with EPA guidelines.

The Department is proposing to amend OAC 252:100-25-3 to correct a rule citation. The Department is proposing to revise OAC 252:100-33, Control of Emission of Nitrogen Oxides, to resolve issues regarding emission standards for nitrogen oxides from fuel-burning equipment. The changes would address emission standards for direct-fired fuel-burning equipment, fuel-burning equipment that uses more than one

type of fuel, and equipment with technological limitations. The Department is also considering changes to address emissions from low-NO<sub>x</sub> burners and ultra low-NO<sub>x</sub> burners when these are operated at low heat input values.

The Department proposes to update Appendices E and F to be consistent with federal standards for ozone.

The Department is proposing to update Appendix Q to incorporate the latest changes to federal regulations by reference. Among the changes are the addition of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

### COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 15, 2008. For comments received at least 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 October 15, 2008, hearing and at the November 18, 2008, Environmental Quality Board meeting.

### PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 15, 2008, at the DEQ headquarters, 707 N. Robinson St., Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board at 9:30 a.m. on Tuesday, November 18, 2008, at the City of Tahlequah Armory Municipal Center, 100 N. Water St., Tahlequah, Oklahoma 74464.

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 of the EPA 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.

# Notices of Rulemaking Intent

## COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing at the Air Quality Division of the Department at [http://www.deq.state.ok.us/AQDnew/council\\_mtg/index.htm](http://www.deq.state.ok.us/AQDnew/council_mtg/index.htm), or copies 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.state.ok.us](mailto:cheryl.bradley@deq.state.ok.us). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl 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 #08-1235; filed 8-22-08]

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

[OAR Docket #08-1236]

## RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

## PROPOSED RULES:

Subchapter 3. Incorporation by Reference  
252:205-3-1 [AMENDED]  
252:205-3-2 [AMENDED]

## SUMMARY:

The purpose of the proposed amendments is to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2008, to clarify that delisted zinc phosphating sludge will continue to be regulated as hazardous waste if it is characteristically hazardous, and to correct a typographical error discovered in OAC 252:205-3-2.

## AUTHORITY:

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

## COMMENT PERIOD:

Written comments may be delivered or mailed to the contact person from September 4, 2008, through October 16, 2008. Oral comments may be made at the meeting of the Hazardous Waste Management Advisory Council, October 16, 2008, and

at the Environmental Quality Board meeting, November 18, 2008.

## PUBLIC HEARINGS:

Before the Hazardous Waste Management Advisory Council on October 16, 2008, at 10:00 a.m. at the Oklahoma City office of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on November 18, 2008, at 9:30 a.m. at the City of Tahlequah Armory Municipal Center, 100 N. Water Street, Tahlequah, Oklahoma 74464.

## REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these modifications provide the DEQ, 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 rule.

## COPY OF PROPOSED RULES:

The proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/LPDnew/LPProprules.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/LPDnew/LPProprules.htm>.

## CONTACT PERSON:

Mike Edwards (405) 702-5226, 707 North Robinson, Fifth Floor, Oklahoma City, Oklahoma 73102. Mailing address is P. O. Box 1677, Oklahoma City, OK 73101-1677. E-mail address is [mike.edwards@deq.state.ok.us](mailto:mike.edwards@deq.state.ok.us).

## ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing. For the hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.

[OAR Docket #08-1236; filed 8-22-08]

## TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-1237]

## RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

## PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

**REGULAR MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL**

**October 15, 2008, 9:00 a.m.  
DEQ Multipurpose Room  
707 North Robinson Street  
Oklahoma City, OK**

*Please turn off cell phones.*

1. **Call to Order** - David Branecky, Chair
2. **Roll Call** - Myrna Bruce
3. **Approval of Minutes** - July 16, 2008 Regular Meeting
4. **Meeting Schedule for Calendar Year 2009** - Discussion and action by Council
5. **Public Rulemaking Hearings**

**A. OAC 252:100-9. Excess Emission Reporting Requirements [AMENDED]**

The Department is proposing to amend Subchapter 9 to clarify its requirements and make them more compatible with EPA guidelines.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**B. OAC 252:100-25. Visible Emissions and Particulates [AMENDED]**

The Department is proposing to amend Subchapter 25 to correct a rule citation.

1. Presentation - Diana Hinson, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**C. OAC 252:100-33. Control of Emission of Nitrogen Oxides [AMENDED]**

The Department is proposing to revise OAC 252:100-33 to resolve issues regarding emission standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations.

1. Presentation - Cheryl Bradley, Environmental Programs Manager, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

- D. Appendix E. Primary Ambient Air Quality Standards [REVOKED]**
- Appendix E. Primary Ambient Air Quality Standards [NEW]**
- Appendix F. Secondary Ambient Air Quality Standards [REVOKED]**
- Appendix F. Secondary Ambient Air Quality Standards [NEW]**

The Department proposes to update Appendices E and F to be consistent with federal standards for ozone.

1. Presentation - Leon Ashford, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

- E. Appendix Q. Incorporation By Reference [REVOKED]**
- Appendix Q. Incorporation By Reference [NEW]**

The Department is proposing to update Appendix Q to incorporate the latest changes to federal regulations by reference. Among the changes are the addition of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources.

1. Presentation - Nancy Marshment, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

- 6. Division Director's Report - Eddie Terrill**
- 7. New Business - Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.**
- 8. Adjournment - The next regular meeting is proposed for Wednesday, January 21, 2009 in Oklahoma City.**

Lunch break if necessary

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4216. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.



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

**SUBCHAPTER 25. VISIBLE EMISSIONS AND PARTICULATES**

**252:100-25-3. Opacity limit**

- (a) Units subject to an opacity limit promulgated under section 111 of the Federal Clean Air Act are exempt from this section.
- (b) No person shall allow the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof exhibiting greater than 20% opacity except for:
- (1) Short term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. For units with COMs operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B), short term occurrences which consist of not more than one six-minute period in any one-hour period, not to exceed three such periods in any consecutive 24 hours. In neither case shall the average of any six-minute period exceed 60% opacity.
  - (2) Smoke resulting from fires covered by the exceptions outlined in OAC 252:100-13-7.
  - (3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of OAC 252:100-25-3(a)(b).
  - (4) Smoke generated due to a malfunction in a facility, when the source of the fuel producing the smoke is not under the direct and immediate control of the facility and the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property.
- (c) To determine compliance with this Section, opacity shall be read by either:
- (1) A Certified Visible Emission Evaluator using Test Method 9 (40 CFR Part 60, Appendix A).
  - (2) A COM installed, calibrated, operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B).

**DRAFT MINUTES  
AIR QUALITY COUNCIL  
October 15, 2008  
DEQ Multipurpose Room  
707 North Robinson  
Oklahoma City, Oklahoma**

For EQB November 18, 2008  
TO be APPROVED by AQC  
January 14, 2009

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. October 15 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 2, 2007 and amended on September 18, 2008 to change the location from Broken Bow to Oklahoma City. 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. Mr. David Branecky, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
Jim Haught  
Laura Lodes  
Bob Lynch  
Sharon Myers  
Jerry Purkapple

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Cheryl Bradley  
Joyce Sheedy  
Max Price  
Nancy Marshment

**DEQ STAFF  
PRESENT**

Diana Hinson  
Sarah Penn  
Dawson Lasseter  
Kendal Stegmann  
Myrna Bruce

**MEMBERS ABSENT**

Montelle Clark  
Gary Collins  
Vacancy

**OTHERS PRESENT**

Christy Myers, Court  
Reporter

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

**Approval of Minutes** Mr. Purkapple made motion to approve the Minutes as presented and Mr. Haught made the second.

Jim Haught	Yes	Jerry Purkapple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Meeting Schedule for Calendar Year 2009** Proposed dates and locations discussed and scheduled were January 14 at the DEQ; April 15 in Tulsa; July 15 in Oklahoma City; and October 21 in Broken Bow Oklahoma. This motion was made by Ms. Myers and seconded by Dr. Lynch.

Jim Haught	Yes	Jerry Purkapple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**OAC 252:100-9. Excess Emission Reporting Requirements**

Mr. Max Price advised that the Department's proposal would amend Subchapter 9 to clarify its requirements and make them more compatible with EPA guidelines. Mr. Price conveyed that staff recommendation was that the rulemaking be continued to Council's next meeting and that workgroup sessions would be held to receive further input. Ms. Myers made motion to continue to the January meeting and Mr. Purkaple made the second.

Jim Haught	Yes	Jerry Purkaple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**OAC 252:100-25. Visible Emissions and Particulates**

Ms. Diana Hinson advised that the proposal would amend Subchapter 25 -3 (b) (3), Opacity limit, to correct an error in a rule reference for clarification and to add 'OAC' where it had been inadvertently left out. Staff recommendation was for permanent approval by the Environmental Quality Board. Hearing no comments, Mr. Branecky called for a motion as proposed. Mr. Haught made the motion and Ms. Myers made the second.

Jim Haught	Yes	Jerry Purkaple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**OAC 252:100-33. Control of Emission of Nitrogen Oxides**

Ms. Cheryl Bradley advised that this proposed revision would define "solid fossil fuel" to resolve issues regarding emission standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations. Ms. Bradley mentioned that there were still some outstanding issues and suggested that Council continue the rule to Council's next meeting. Staff fielded questions and comments from Council, then Mr. Branecky entertained a motion to continue the rulemaking to the January Council meeting. Mr. Jim Haught made the motion and Dr. Lynch made the second.

Jim Haught	Yes	Jerry Purkaple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Appendix E. Primary Ambient Air Quality Standards [REVOKED]**

**Appendix E. Primary Ambient Air Quality Standards [NEW]**

**Appendix F. Secondary Ambient Air Quality Standards [REVOKED]**

**Appendix F. Secondary Ambient Air Quality Standards [NEW]**

Mr. Leon Ashford advised that the proposal would update Appendices E and F to be consistent with federal standards for ozone changing the value of the standard from 0.08 to 0.075. He stated that the old Appendix E and F would be revoked and replaced with new Appendix E and F. Mr. Ashford mentioned a non-substantive change also proposed for footnote #4. Hearing no public comments, Mr. Branecky called for a motion to recommend the rulemaking to the Environmental Quality Board for permanent adoption. Mr. Purkaple made the motion and Ms. Lodes made the second.

Jim Haught	Yes	Jerry Purkaple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Appendix Q. Incorporation By Reference [REVOKED]**

**Appendix Q. Incorporation By Reference [NEW]**

Ms. Nancy Marshment advised that the proposal would update Appendix Q to incorporate the latest changes to federal regulations by reference. Among the changes are the additions of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources. Ms. Marshment read the new standards into the record. Staff recommendation was to forward the changes to the Environmental Quality Board for permanent adoption. Mr. Haught made the motion and Ms. Myers made the second.

Jim Haught	Yes	Jerry Purkaple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Division Director's Report -**

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

**Adjournment** -- Meeting adjourned at 10:45 a.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 REGULARLY SCHEDULED  
AIR QUALITY COUNCIL MEETING

ITEM 5B

HELD ON OCTOBER 15, 2008, AT 9:00 AM

IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

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

**ORIGINAL**

COUNCIL MEMBERS

- 1
- 2
- 3 DAVID BRANECKY, CHAIR
- 4 LAURA LODES, VICE-CHAIR
- 5 JIM HAUGHT, MEMBER
- 6 JERRY PURKAPLE, MEMBER
- 7 SHARON MYERS, MEMBER
- 8 MONTELLE CLARK, MEMBER (ABSENT)
- 9 GARY COLLINS, MEMBER (ABSENT)

DEQ STAFF

- 10
- 11
- 12
- 13 MYRNA BRUCE
- 14 BEVERLY BOTCHLET-SMITH
- 15 EDDIE TERRILL
- 16 MAX PRICE
- 17 CHERYL BRADLEY
- 18 NANCY MARSHMENT
- 19 LEON ASHFORD
- 20 DIANA HINSON

1 the first time the Council has considered  
 2 either of these changes.  
 3 Notice of the proposed rule changes  
 4 were published in the Oklahoma Register on  
 5 September 15, 2008, requesting comments  
 6 from members of the public. No written  
 7 comments have been received.

8 The Department suggests that the  
 9 Council vote to send the proposal to the  
 10 Environmental Quality Board with the  
 11 recommendation that it be adopted as a  
 12 permanent rule. Thank you.

13 MS. BOTCHLET-SMITH: Do we have  
 14 any questions from the Council? Hearing  
 15 none. I also have not received any notice  
 16 of comments from the public. David.

17 MR. BRANECKY: Okay. This looks  
 18 like an easy one to me. Any further  
 19 discussion from the Council? No  
 20 discussion, I'd entertain a motion.

21 MR. HAUGHT: I'll make a motion  
 22 that we adopt staff's proposed changes to  
 23 OAC 252:100-25 as recommended.

24 MR. BRANECKY: Do I have a  
 25 second?

PROCEEDINGS

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 4 MS. BOTCHLET-SMITH: The next  
 5 item on the agenda is Number 5B. This is  
 6 OAC 252:100-25, Visible Emissions and  
 7 Particulates. Ms. Diana Hinson of DEQ will  
 8 be giving the staff presentation.

9 MS. HINSON: Good morning, Mr.  
 10 Chairman, Members of the Council, ladies  
 11 and gentlemen.

12 I am Diana Hinson, an Environmental  
 13 Programs Specialist in the Rules and  
 14 Planning Section of Air Quality in the  
 15 Department of Departmental Quality.

16 The Department is proposing to amend  
 17 OAC 252:100-25-3(b)(3), Opacity limit, to  
 18 correct an error in a rule reference for  
 19 clarification. Also staff recommends the  
 20 addition of abbreviation "OAC" subchapter  
 21 25 section 3(b)(2) and 3(b)(3) in order to  
 22 be consistent with rule writing standards.  
 23 Although "OAC" was included in the  
 24 publication for 3(b)(3), it was  
 25 inadvertently left out 3(b)(2). This is

1 MS. MYERS: I'll second it.  
 2 MR. BRANECKY: Myrna, roll call,  
 3 please.

4 MS. BRUCE: Jim Haught.

5 MR. HAUGHT: Yes.

6 MS. BRUCE: Sharon Myers.

7 MS. MYERS: Yes.

8 MS. BRUCE: Laura Lodes.

9 MS. LODES: Yes.

10 MS. BRUCE: Jerry Purkaple.

11 MR. PURKAPLE: Yes.

12 MS. BRUCE: Bob Lynch.

13 DR. LYNCH: Yes.

14 MS. BRUCE: David Branecky.

15 MR. BRANECKY: Yes.

16 MS. BRUCE: Motion passed.

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 18 (Item 5B Concluded)  
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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  
proceeding is the truth, the whole truth,  
and nothing but the truth; that the  
foregoing proceeding was taken down in  
shorthand by me and thereafter transcribed  
under my direction; that said proceeding  
was taken on the 15th day of Oklahoma,  
2008, 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  
18th day of October, 2008.

CHRISTY A. MYERS, C.S.R.  
Certificate No. 00310

<p>-0- 00310 [1] 6:24</p>	<p>BRADLEY [1] 2:17 Branecy [6] 2:3 4:17 4:24 5:2,14,15 BRUCE [8] 2:13 5:4,6,8 5:10,12,14,16</p>	<p>-G- GARY [1] 2:9 gentlemen [1] 3:11 giving [1] 3:8 Good [1] 3:9</p>	<p>next [1] 3:4 none [1] 4:15 nor [2] 6:16,17 nothing [1] 6:10 notice [2] 4:3,15 Number [1] 3:5</p>	<p>Reporter [1] 6:7 REPORTING [1] 1:23 requesting [1] 4:5 roll [1] 5:2 rule [4] 3:18,22 4:3,12 Rules [1] 3:13</p>
<p>-1- 15 [2] 1:12 4:5 15th [1] 6:14 18th [1] 6:21</p>	<p>-C- C [2] 6:2,2 C.S.R [1] 6:23 Certificate [1] 6:24 Certified [1] 6:6 certify [1] 6:8 CHAIR [1] 2:3 Chairman [1] 3:10 changes [3] 4:2,3,22 CHERYL [1] 2:17 Christy [3] 1:23 6:6,23 City [3] 1:13,24 6:15 clarification [1] 3:19 CLARK [1] 2:8 COLLINS [1] 2:9 comments [3] 4:5,7,16 Concluded [1] 5:18 considered [1] 4:1 consistent [1] 3:22 correct [1] 3:18 Council [7] 1:10 2:1 3:10 4:1,9,14,19 COUNTY [1] 6:4 CSR [1] 1:23</p>	<p>-H- hand [1] 6:20 Haught [4] 2:5 4:21 5:4 5:5 Hearing [1] 4:14 HELD [1] 1:12 hereby [1] 6:8 hereunto [1] 6:19 Hinson [4] 2:20 3:7,9,12</p>	<p>-O- OAC [5] 3:6,17,20,23 4:23 October [2] 1:12 6:21 official [1] 6:20 Oklahoma [12] 1:2,13 1:13,24,24 4:4 6:3,4,8,14 6:15,15 one [1] 4:18 Opacity [1] 3:17 order [1] 3:21 otherwise [1] 6:17</p>	<p>-S- SCHEDULED [1] 1:9 seal [1] 6:20 second [2] 4:25 5:1 section [2] 3:14,21 send [1] 4:9 September [1] 4:5 SERVICE [1] 1:23 set [1] 6:20 Sharon [2] 2:7 5:6 shorthand [2] 6:7,12 Specialist [1] 3:13 ss [1] 6:3 staff [3] 2:11 3:8,19 staff's [1] 4:22 standards [1] 3:22 State [3] 1:2 6:3,7 subchapter [1] 3:20 suggests [1] 4:8</p>
<p>-2- 2 [2] 3:21,25 2008 [4] 1:12 4:5 6:15,21 25 [1] 3:21 252:100-25 [2] 3:6 4:23 252:100-25-3 [1] 3:17</p>	<p>-D- David [3] 2:3 4:16 5:14 Department [4] 1:1 3:15 3:16 4:8 Departmental [1] 3:15 DEQ [2] 2:11 3:7 Diana [3] 2:20 3:7,12 direction [1] 6:13 discussion [2] 4:19,20 down [1] 6:11 DR [1] 5:13</p>	<p>-I- inadvertently [1] 3:25 included [1] 3:23 interested [1] 6:18 item [3] 1:11 3:5 5:18</p>	<p>-P- P.O [1] 1:24 Particulates [1] 3:7 parties [1] 6:17 passed [1] 5:16 permanent [1] 4:12 Planning [1] 3:14 presentation [1] 3:8 PRICE [1] 2:16 proceeding [3] 6:9,11 6:13 PROCEEDINGS [2] 1:8 3:2 Programs [1] 3:13 proposal [1] 4:9 proposed [2] 4:3,22 proposing [1] 3:16 public [2] 4:6,16 publication [1] 3:24 published [1] 4:4 Purkale [3] 2:6 5:10,11</p>	<p>-T- T [2] 6:2,2 TERRILL [1] 2:15 Thank [1] 4:12 thereafter [1] 6:12 transcribed [1] 6:12 TRANSCRIPT [1] 1:8 truth [3] 6:9,9,10</p>
<p>-3- 3 [7] 3:17,21,21,21,24,24 3:25</p>	<p>-E- E [2] 6:2,2 easy [1] 4:18 EDDIE [1] 2:15 either [1] 4:2 Emissions [1] 3:6 entertain [1] 4:20 Environmental [3] 1:1 3:12 4:10 error [1] 3:18</p>	<p>-J- Jerry [2] 2:6 5:10 Jim [2] 2:5 5:4</p>	<p>-Q- Quality [5] 1:1,10 3:14 3:15 4:10 questions [1] 4:14</p>	<p>-U- under [1] 6:13</p> <p>-V- VICE-CHAIR [1] 2:4 Visible [1] 3:6 vote [1] 4:9</p>
<p>-4- 405 [1] 1:25</p>	<p>-F- F [1] 6:2 first [1] 4:1 foregoing [1] 6:11</p>	<p>-L- ladies [1] 3:10 Laura [2] 2:4 5:8 left [1] 3:25 LEON [1] 2:19 limit [1] 3:17 Lodes [3] 2:4 5:8,9 looks [1] 4:17 Lynch [2] 5:12,13</p>	<p>-R- R [1] 6:2 received [2] 4:7,15 recommendation [1] 4:11 recommended [1] 4:23 recommends [1] 3:19 reference [1] 3:18 Register [1] 4:4 REGULARLY [1] 1:9 relative [1] 6:16</p>	<p>-W- WHEREOF [1] 6:19 whole [1] 6:9 WITNESS [1] 6:19 writing [1] 3:22 written [1] 4:6</p>
<p>-5- 5B [3] 1:11 3:5 5:18</p>	<p>-N- NANCY [1] 2:18 neither [1] 6:16</p>	<p>-M- MARSHMENT [1] 2:18 MAX [1] 2:16 MEETING [1] 1:10 MEMBER [5] 2:5,6,7,8 2:9 members [3] 2:1 3:10 4:6 MONTELLE [1] 2:8 morning [1] 3:9 motion [3] 4:20,21 5:16 Ms [14] 3:4,7,9 4:13 5:1,4 5:6,7,8,9,10,12,14,16 Myers [8] 1:23,23 2:7 5:1 5:6,7 6:6,23 Myrna [2] 2:13 5:2</p>	<p>-R- R [1] 6:2 received [2] 4:7,15 recommendation [1] 4:11 recommended [1] 4:23 recommends [1] 3:19 reference [1] 3:18 Register [1] 4:4 REGULARLY [1] 1:9 relative [1] 6:16</p>	<p>-U- under [1] 6:13</p> <p>-V- VICE-CHAIR [1] 2:4 Visible [1] 3:6 vote [1] 4:9</p> <p>-W- WHEREOF [1] 6:19 whole [1] 6:9 WITNESS [1] 6:19 writing [1] 3:22 written [1] 4:6</p>
<p>-6- b [5] 3:17,21,21,24,25 BEVERLY [1] 2:14 Board [1] 4:10 Bob [1] 5:12 BOTCHLET-SMITH [3] 2:14 3:4 4:13 Box [1] 1:24</p>	<p>-N- NANCY [1] 2:18 neither [1] 6:16</p>	<p>-N- NANCY [1] 2:18 neither [1] 6:16</p>	<p>-R- R [1] 6:2 received [2] 4:7,15 recommendation [1] 4:11 recommended [1] 4:23 recommends [1] 3:19 reference [1] 3:18 Register [1] 4:4 REGULARLY [1] 1:9 relative [1] 6:16</p>	<p>-U- under [1] 6:13</p> <p>-V- VICE-CHAIR [1] 2:4 Visible [1] 3:6 vote [1] 4:9</p> <p>-W- WHEREOF [1] 6:19 whole [1] 6:9 WITNESS [1] 6:19 writing [1] 3:22 written [1] 4:6</p>





# AIR QUALITY COUNCIL

Attendance Record

October 15, 2008

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Joseph E. Cowen, PE	Buzzi Unicem USA	P.O. Box 68 Pryor, OK 74362
Nancy Marchment	DEQ	
Pat Sullivan	DEQ	
David Branceky	OGE	
Melody Martin	OGE	
Kendal Stegmann	DEQ	
Rick Gustafson	DEQ	
James D. Shedy	DEQ	
Julia Bevers	OGE	
M. Fox	DEQ	
Dawson Lasseter	DEQ	
Bob Lynch	OHSK	
Myrna Bruce	DEQ	27170
Laura Herron	OGE	(405) 553-3057
Ford Benham	OGE	" " - 3221
Steve Willis		
BOB HURT	DAL-TILE	bob.hurt@daltilite.com
Jerry Puvkyle	ConocoPhillips	
CRAIG DANIEL	TENASKA	
DON WHITNEY	TRINITY	
Garrett Bletcher	WPEC	
Laura London	Enercon	llondon@enercon.com
Wilma TURNER	TAFB	
Kent Stafford	DEQ/ROD	
Adam McHree	Atlas Pipeline	amchree@aplinc.com
Jim Haught	AQC	



# AIR QUALITY COUNCIL

## Attendance Record

October 15, 2008

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Rick Armfield	Tenaska Kiamichi	918-432-5117
Beverly Batchlet Smith	DEQ	
Garry Keele	Hall Estill	(918) 594-0553 gkeele@halleshill.com
Dustin Givens	Georgia-Pacific	918 684-4851
Cheryl Bradley	AQD DEQ	
Steve Moyer	Stclair	
Phillip Fielder	DEQ	
Adrienne Burchett	Cardinal	aj@cardinalengineers.com
Michelle Votter	Cardinal	my@cardinalengineers.com
Jam Hill	DEQ	
Glean Travis	Sunoco	
Mike Bednar	Sunoco	mbednar@sunocoinc.com
Randy Ward	ODEQ	
ANGIE BURCKHALTER	OIPA	ABURCKHALTER@OIPA.COM
DAVE CANNING	CIEM / INKUM	
LANCE LOES	ENOGEX	
LEON ASTFORI	ODEQ	
Sarah Penn	ODEQ	
Robert Singletary	ODEQ	405-702-7173
Marsha Cole	RWCS	228-2143
KEN RUFFIN	AEP-PSO	kwuffin@aep.com
DAVID DYKE	DEQ	
William Hildeson	AEP-PSO	wlhildeson@dep.com
Judith A Dunbar	ODEQ	



O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

# AIR QUALITY COUNCIL

## Attendance Record

October 15, 2008

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Ivan London RWCS	239-6040
Diana Hanson DEQ	702-4171
Julie Bob Kelly	702 4140
Don Shandy	22E-213E dshandy@ryanwhaley.com
Janet Davis Startech	424-8378
Kandi Jones Startech	424-8378
Mike Smith DCP Midstream	605-3886
Kathryn Cremler EP	580-933-1449

**REGULAR MEETING AGENDA**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m., Tuesday, November 18, 2008  
Tahlequah Municipal Armory  
100 Water Street  
Tahlequah, Oklahoma

*Please turn off cell phones*

1. **Call to Order** – Jennifer Galvin, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the August 19, 2008 Regular Meeting
4. **Rulemaking – OAC 252:100 Air Pollution Control**
  - A. The DEQ proposes to amend Subchapter 25 pertaining to visible emissions and particulates to correct a rule citation.
  - B. The DEQ proposes to update Appendices E and F pertaining to primary and secondary ambient air quality standards to be consistent with federal standards for ozone.
  - C. The DEQ proposes to update Appendix Q to incorporate the latest changes to federal regulations by reference. The updates include the addition of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources.
    - Presentation – David Branecky, Chair, Air Quality Advisory Council
    - Questions and discussion by the Board
    - Questions, comments and discussion by the public
    - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption
5. **Rulemaking – OAC 252:205 Hazardous Waste Management**

The DEQ proposes to update Subchapter 3, Sections 3-1 and 3-2 to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279, revised as of July 1, 2008.

  - Presentation – Michael Graves, Chair, Hazardous Waste Management Advisory Council
  - Questions and discussion by the Board
  - Questions, comments and discussion by the public
  - Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

## **6. Rulemaking – OAC 252:410 Radiation Management**

The DEQ proposes to amend Subchapters 1, 10, and 20 to change the date for the incorporation of federal regulations by reference to January 1, 2008. These incorporations include a new definition of “byproduct material;” amended rules governing the distribution of byproduct material; minor corrections pertaining to medical use of byproduct material; and amended rules for implementation of a National Source Tracking System.

- Presentation – Steve Woods, Chair, Radiation Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

## **7. Rulemaking – OAC 252:611 General Water Quality**

- A. The DEQ proposes to amend Subchapter 1, Section 1-3 to change the date of incorporation of applicable federal regulations from July 1, 2007 to July 1, 2008.
- B. The DEQ proposes to amend Subchapter 3, Sections 3-1 and 3-2 to require a mitigation plan with an application to DEQ for certification pursuant to Section 401 of the Clean Water Act when mitigation is required to obtain a permit from the federal permitting entity under Section 404 of the Clean Water Act.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call votes on permanent adoption

## **8. Rulemaking (emergency) - OAC 252:641 Individual and Small Public Onsite Sewage Treatment Systems**

The DEQ proposes to amend Appendix H, Figure 25 to correct an error classifying Delaware County as Net Evaporation Zone 1 when the Appendix was last adopted.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call votes on a finding of emergency and emergency adoption

## **9. Consideration of and Action on the Environmental Quality Report**

The Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1<sup>st</sup> of each year. The statutorily prescribed purpose of this report is to outline the DEQ’s annual needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.

- Presentation – Jimmy Givens, Acting Deputy Executive Director, DEQ
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion by the Board and roll call vote on approval

#### **10. Consideration of Executive Director Compensation**

During the Environmental Quality Board meeting on August 19, 2008, the Board decided to further study and consider appropriate compensation for Steve Thompson, Executive Director of the DEQ, and requested that the DEQ provide Board members with a recent salary study compiled by the Office of Personnel Management. The DEQ has provided the requested salary study and other relevant salary information. The Board is expected to discuss and may elect to go into executive session to further consider Mr. Thompson's compensation.

- A. Discussion by Board in open session
- B. Possible executive session pursuant to Title 25 § 307(B)(1) (discussion of employment actions related to any individual salaried public officer or employee), if authorized by recorded majority vote of the Board members present
  - (1) Vote in open session on whether to enter executive session
  - (2) If executive session approved, designation in open session of person to keep minutes in executive session
  - (3) Discussion of Executive Director's compensation in executive session
- C. Further discussion by the Board in open session
- D. Possible roll call vote on specific actions or recommendation as a result of executive session and/or open discussion

**11. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**12. Executive Director's Report** – Steve Thompson

**13. Adjournment**

**Upcoming Meetings in 2009:** February 27, DEQ  
 August 25, Tulsa (location to be determined)  
 November 17, Ada (location to be determined)

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. This Public Forum will include a presentation by Jon Craig, Director, Water Quality Division, DEQ.

**Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.**

Some members of the Board and senior staff members from DEQ will meet for dinner in Tahlequah the evening of November 17. This is a social occasion. It is uncertain whether a majority of the Board will be present, but no Board or DEQ business will be conducted.

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

**EXECUTIVE SUMMARY**

**Subchapter 25. Visible Emissions and Particulates  
252:100-25-3. Opacity limit [AMENDED]**

Before the Air Quality Advisory Council, October 15, 2008  
Before the Environmental Quality Board, November 18, 2008

**EXECUTIVE SUMMARY:**

The Department is proposing to amend OAC 252:100-25-3(b)(3), Opacity limit, to correct an error in a rule reference. In addition, there are two non-substantive changes in order to remain consistent with Chapter 100 rule writing standards.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

Not applicable.

**ENVIRONMENTAL BENEFIT STATEMENT:**

These rules are not more stringent than corresponding federal rules, therefore an Environmental Benefit Statement is not required.

**SUMMARY OF COMMENTS AND RESPONSES:**

No comments were received prior to or at the October 15, 2008, Air Quality Advisory Council meeting.

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

[OAR Docket #09-732]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 25. Visible Emissions and Particulates 252:100-25-3. Opacity limit [AMENDED]

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, 2008, through October 15, 2008 November 18, 2008

Public hearing:

October 15, 2008 November 18, 2008

Adoption:

November 18, 2008

Submitted to Governor:

November 25, 2008

Submitted to House:

November 25, 2008

Submitted to Senate:

November 25, 2008

Gubernatorial approval:

December 15, 2008

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.

Final adoption:

March 24, 2009

Effective:

July 1, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The Department is proposing to amend OAC 252:100-25-3(b)(3), Opacity limit, to correct an error in a rule reference. In addition, there are two non-substantive changes in order to remain consistent with Chapter 100 rule writing standards.

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, 2009:

SUBCHAPTER 25. VISIBLE EMISSIONS AND PARTICULATES

252:100-25-3. Opacity limit

(a) Units subject to an opacity limit promulgated under section 111 of the Federal Clean Air Act are exempt from this section.

(b) No person shall allow the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof exhibiting greater than 20% opacity except for:

(1) Short term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. For units with COMs operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B), short term occurrences which consist of not more than one six-minute period in any one-hour period, not to exceed three such periods in any consecutive 24 hours. In neither case shall the average of any six-minute period exceed 60% opacity.

(2) Smoke resulting from fires covered by the exceptions outlined in OAC 252:100-13-7.

(3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of OAC 252:100-25-3(a)(b).

(4) Smoke generated due to a malfunction in a facility, when the source of the fuel producing the smoke is not under the direct and immediate control of the facility and the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property.

(c) To determine compliance with this Section, opacity shall be read by either:

(1) A Certified Visible Emission Evaluator using Test Method 9 (40 CFR Part 60, Appendix A).

(2) A COM installed, calibrated, operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B).

[OAR Docket #09-732; filed 4-17-09]

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

[OAR Docket #09-733]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Appendix E. Primary Ambient Air Quality Standards [REVOKED] Appendix E. Primary Ambient Air Quality Standards [NEW] Appendix F. Secondary Ambient Air Quality Standards [REVOKED] Appendix F. Secondary Ambient Air Quality Standards [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, 2008, through October 15, 2008 November 18, 2008

Public hearing:

October 15, 2008 November 18, 2008

Adoption:

November 18, 2008

Submitted to Governor:

November 25, 2008



**OAC 252:100-33**  
**Public Hearings**

**July 16, 2003**  
**Air Quality Advisory Council**

**September 9, 2003**  
**Environmental Quality Board**

**Effective Date: June 1, 2004**

# 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 4. RULES OF PRACTICE AND PROCEDURE**

[OAR Docket #03-1014]

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **RULES:**

Subchapter 9. Administrative Proceedings [AMENDED]

### **SUMMARY:**

The Department proposes to delete the option for the Air Quality Advisory Council to conduct individual proceedings on enforcement matters. This amendment is for conformity with statute, as legislated in HB 1019 and approved by the Governor April 22, 2003.

### **AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101, 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

### **COMMENT PERIOD:**

Written comments will be accepted prior to and at the hearing on July 16, 2003. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by July 7, 2003. Oral comments may be made at the July 16, 2003 hearing and the September 9, 2003 Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

Before the Air Quality Council at 9:00 a.m. on Wednesday, July 16, 2003, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on September 9, 2003, Tulsa, Oklahoma (exact location to be announced).

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

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

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

The proposed rules are available for review at the Air Quality Division of DEQ and on the DEQ website

([www.deq.state.ok.us](http://www.deq.state.ok.us)), Air Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-4100.

### **RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained from the contact person.

### **CONTACT PERSON:**

Please send written comments to Pat Sullivan, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-4100, fax (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) 702-4100.

[OAR Docket #03-1014; filed 5-21-03]

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

[OAR Docket #03-1013]

### **RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

### **RULES:**

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]

Subchapter 7. Permits for Minor Facilities [AMENDED]

Subchapter 13. Open Burning [AMENDED]

Subchapter 19. Control of Emission of Particulate Matter [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins [AMENDED]

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

Subchapter 33. Control of Emission of Nitrogen Oxides [AMENDED]

Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]

Appendix L. PM-10 Emission Factors for Permit by Rule for Grain Elevators [REVOKED]

### **SUMMARY:**

The Department is proposing an increase in the annual operating fee for Part 70 sources in 252:100-5-2.2.

## Notices of Rulemaking Intent

---

The Department proposes to replace the permit by rule with a new category to be called permit exempt facility. To do this, the Department is proposing revisions to sections in Subchapters 5, 7, 19, 23, 24, and 37 and proposes to revoke Appendix L. This will include the elimination of annual operating fees for permit exempt facilities.

The Department is proposing amendments to Subchapter 13, Open Burning, to clarify the scope of exemptions that allow open burning for purposes of fire training. Section 9 will also be amended to exempt hydrocarbon flares from the prohibition against burning between sunset and sunrise.

The Department proposes to replace an existing emergency rule with a permanent rule to exempt glass-melting furnaces that utilize BACT from the requirements of Subchapter 33 or otherwise set a new standard for glass-melting furnaces that is attainable. The Department also proposes to revise the definition of "new fuel-burning equipment" to reflect that direct-fired fuel-burning equipment did not become subject to Subchapter 33 until 1977.

### **AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S., § 2-2-101, 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

### **COMMENT PERIOD:**

Written comments will be accepted prior to and at the hearing on July 16, 2003. To be thoroughly considered by staff prior to the hearing, written comments should be submitted to the contact person by July 9, 2003. Oral comments may be made at the July 16, 2003 hearing and the September 9, 2003 Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

Before the Air Quality Council at 9:00 a.m. on Wednesday, July 16, 2003, at the Department of Environmental Quality, Room 101, 707 North Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on September 9, 2003, Tulsa, Oklahoma (exact location to be announced).

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

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

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

The proposed rules are available for review at the Air Quality Division of DEQ and on the DEQ website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Air Quality Division, What's New, or copies may be obtained from the contact person by calling (405) 702-4100.

### **RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained from the contact person.

### **CONTACT PERSON:**

Please send written comments to Lisa Donovan (Subchapter 13) or Joyce Sheedy (Subchapters 5, 7, 19, 23, 24, 33, 37 and Appendix L). Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, phone (405) 702-4100, fax (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) 702-4100.

[OAR Docket #03-1013; filed 5-21-03]

**REGULAR MEETING/ HEARING AGENDA**

**AIR QUALITY COUNCIL**

**July 16, 2003, 9:00 a.m.**

**Multi-Purpose Room DEQ Building**

**707 N Robinson**

**Oklahoma City, Oklahoma**

*Please turn off your cell phones.*

1. **Call to Order – Sharon Myers**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes – April 16, 2003 Regular Meeting**
4. **Public Rulemaking Hearings**

**A. OAC 252:4-9. Administrative Proceedings.**

The Department proposes to delete the option for the Air Quality Advisory Council to conduct individual proceedings on enforcement matters. This amendment is for conformity with statute, as legislated in HB 1019 and approved by the Governor April 22, 2003.

1. Presentation – Pat Sullivan
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**B. Permit Exempt Facility.**

The Department proposes creation of a new category of facility to be called “permit exempt facility”. This new category will exempt many facilities with actual emissions of forty tons per year or less and potential emission less than the threshold levels for Title V and PSD from permitting requirements, and will reduce the emission inventory reporting for those facilities to every three years. In addition, these facilities will be exempt from annual operating fees. The new category will require amendment of OAC 252:100-5 Emission Inventory and Annual Operating Fees and OAC 252:100-7 Permits for Minor Facilities. The issue is currently under study in workgroup.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**C. OAC 252:100-33. Control of Emission of Nitrogen Oxides.**

The Department proposes to replace an existing emergency rule with a permanent rule to exempt glass-melting furnaces that utilize BACT from the requirements of Subchapter 33. The Department also proposes to revise the definition of "new fuel-burning equipment" to reflect that direct-fired fuel-burning equipment did not become subject to Subchapter 33 until 1977.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**5. Division Director's Report – Eddie Terrill**

**6. New Business** – (Any matter not known about, or which could not have been reasonably foreseen prior to the time of posting the Agenda.)

**7. Adjournment** -- Next Regular Meeting is proposed for 9 a.m. October 8, 2003, at the DEQ Building, 707 N. Robinson, Oklahoma City, Oklahoma.

Lunch Break, if necessary.

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4212.

## SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

### 252:100-33-1.1. Definitions

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

**"New fuel-burning equipment"** means any fuel-burning equipment, ~~with the exception of gas turbines that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase in nitrogen oxide emissions,~~ and ~~any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions~~ with the following exceptions.

A. New fuel-burning equipment for gas turbines means any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions; and

B. New fuel-burning equipment for direct-fired processes means any direct-fired fuel-burning equipment or processes that were not in being on July 1, 1977, or any existing direct-fired fuel-burning equipment or processes that were altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions.

**"Three-hour average"** means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

### 252:100-33-1.2. Applicability

(a) This Subchapter applies to new fuel-burning equipment that meets both of the following criteria.

(1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr or greater.

(2) The equipment burns solid fossil, gas, or liquid fuel.

(b) Glass-melting furnaces that are subject to BACT requirements contained in a currently applicable Air Quality Division permit are exempt from the requirements of this Subchapter.

## SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

### 252:100-33-1.1. Definitions

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

"New fuel-burning equipment" means any fuel-burning equipment, ~~with the exception of gas turbines~~ that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase in nitrogen oxide emissions, ~~and any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions~~ with the following exceptions.

(A) New fuel-burning equipment for gas turbines means any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions;  
and

(B) New fuel-burning equipment for direct-fired processes means any direct-fired fuel-burning equipment or processes that were not in being on July 1, 1977, or any existing direct-fired fuel-burning equipment or processes that were altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions.

"Three-hour average" means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

### 252:100-33-1.2. Applicability

(a) This Subchapter applies to new fuel-burning equipment that meets both of the following criteria.

(1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr or greater.

(2) The equipment burns solid fossil, gas, or liquid fuel.

(b) Glass-melting furnaces that are subject to BACT requirements contained in a currently applicable Air Quality Division permit are exempt from the requirements of this Subchapter.



DRAFT MINUTES  
AIR QUALITY COUNCIL  
July 16, 2003  
**Department of Environmental Quality**  
**Multipurpose Room 707 N. Robinson**  
Oklahoma City, Oklahoma

For AQC approval  
October 8, 2003  
To EQBoard 9-9-03

**Notice of Public Meeting** -- The Air Quality Council convened for its regular meeting at 9:00 a.m. July 16, 2003, in the Multipurpose Room of the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State on October 8, 2002, giving the date, time, and place of the meeting. At least twenty-four hours prior to the meeting, agendas were posted on the entrance doors at the DEQ Central Office in Oklahoma City.

As protocol officer Mr. Eddie Terrill 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. Mr. Terrill introduced the newest Air Quality Council member, Sandra Rose.

Ms. Sharon Myers, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
Bill Breisch  
Gary Kilpatrick  
Bob Lynch  
Gary Martin  
Sharon Myers  
Sandra Rose  
Rick Treeman  
Joel Wilson

**MEMBERS ABSENT**

**OTHERS PRESENT**

Sign-in sheet is attached as an official part of these Minutes

**DEQ STAFF PRESENT**

Eddie Terrill  
Scott Thomas  
Pam Dizikes  
Kendall Cody  
Joyce Sheedy  
Michelle Martinez  
Lisa Donovan  
Pat Sullivan  
Cheryl Bradley  
Dawson Lasseter  
Gary Kurtz  
Doyle McWhirter  
Myrna Bruce

**Approval of Minutes** Ms. Myers called agenda item number 3, Approval of Minutes of the April 16, 2003, Regular Meeting. Hearing no discussion, she called for a motion to approve the Minutes as presented. Mr. Branecky made the motion with Mr. Treeman making the second.

**Roll call.**

Gary Kilpatrick	Yes	Sandra Rose	Yes
Rick Treeman	Yes	David	Yes
Bob Lynch	Yes	Branecky	Yes
Gary Martin	Yes	Joel Wilson	Yes
Bill Breisch	Yes	Sharon Myers	Yes

Motion carried.

**Rulemaking - OAC 252:4-9 Administrative Proceedings**

Ms. Pat Sullivan advised that the Department proposed to delete the option for the Air Quality Advisory Council to conduct individual proceedings on enforcement matters for conformity with statute, as legislated in HB1019 and approved by the Governor April 22, 2003. She added that three comments had been received and those changes had been made. Staff recommended that the rule be forwarded to the Environmental Quality Board for permanent adoption. Mr. Kilpatrick made motion for permanent adoption of the rule and Mr. Treeman made the second.

<b>Roll call.</b>			
Gary Kilpatrick	Yes	Sandra Rose	Yes
Rick Treeman	Yes	David	Yes
Bob Lynch	Yes	Branecky	Yes
Gary Martin	Yes	Joel Wilson	Yes
Bill Breisch	Yes	Sharon Myers	Yes
<b>Motion carried.</b>			

**Permits Exempt Facility**

Dr. Joyce Sheedy advised that the Department proposed creation of a new category of facility to be called "permit exempt facility" which would exempt many facilities with actual emissions of forty tons per year or less from most permitting requirements and will reduce the emission inventory reporting for those facilities to every three years. She added that these facilities would be exempt from annual operating fees.

Dr. Sheedy and Mr. Terrill fielded questions and comments from the Council and the public regarding the progress made to this point. Dr. Sheedy advised that the workgroup continues to meet and has two meetings set in August. Mr. Branecky made motion to continue the hearing to the next regularly scheduled meeting. Mr. Wilson made the second.

<b>Roll call.</b>			
Gary Kilpatrick	Yes	Sandra Rose	Yes
Rick Treeman	Yes	David	Yes
Bob Lynch	Yes	Branecky	Yes
Gary Martin	Yes	Joel Wilson	Yes
Bill Breisch	Yes	Sharon Myers	Yes
<b>Motion carried.</b>			

**OAC 252:100-33. Control of Emission of Nitrogen Oxides.**

Dr. Joyce Sheedy advised that the proposal would replace an existing emergency rule with a permanent rule to exempt glass-melting furnaces that utilize BACT from the requirements of Subchapter 33 or otherwise set a new standard for glass-melting furnaces that is attainable. She added that the Department also proposed to revise the definition of "new fuel-burning equipment" to reflect that direct-fired fuel-burning equipment did not become subject to Subchapter 33 until 1977. Dr. Sheedy related that an emergency rule containing this exemption had been before the Air Quality Council on January 15, 2003 and approved by the Environmental Quality Board on February 28, 2003.

Dr. Sheedy pointed out that the permanent rule had been delayed to allow time for staff to determine whether other direct-fired fuel-burning processes or equipment located in the State faced similar problems in complying with the NOx limits. Dr. Sheedy detailed the information the staff had determined and the proposed rule changes. Following discussion, Mr. Wilson made motion for permanent adoption of the rule. Mr. Martin made the second.

**Roll call.**

Gary Kilpatrick	Yes	Sandra Rose	Yes
Rick Treeman	Yes	David	Yes
Bob Lynch	Yes	Branecky	Yes
Gary Martin	Yes	Joel Wilson	Yes
Bill Breisch	Yes	Sharon Myers	Yes

Motion carried.

**Division Director's Report** – Mr. Eddie Terrill provided an update on current issues of Air Quality interest.

**New Business** – None.

**Adjournment** -- Meeting adjourned with announcement that the next regular meeting will be at 9 a.m. October 8, 2003, at the DEQ Building, 707 N Robinson, Oklahoma City, Oklahoma.

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY ADVISORY COUNCIL  
STATE OF OKLAHOMA

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS  
AIR QUALITY COUNCIL MEETING  
ITEM 4C

OAC 252:100-33

CONTROL OF EMISSION OF NITROGEN OXIDES

HELD ON JULY 16, 2003, AT 9:00 A.M.

707 NORTH ROBINSON

OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

REPORTED BY: Christy A. Myers, CSR

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1 COUNCIL MEMBERS

2

3 SHARON MYERS - CHAIR

4 DR. ROBERT LYNCH - VICE-CHAIR

5 GARY KILPATRICK - MEMBER

6 RICK TREEMAN - MEMBER

7 GARY MARTIN - MEMBER

8 WILLIAM BREISCH - MEMBER

9 SHARON ROSE - MEMBER

10 DAVID BRANECKY - MEMBER

11 JOEL WILSON - MEMBER

12

13 STAFF MEMBERS

14 MS. MYRNA BRUCE - SECRETARY

15 EDDIE TERRILL - DIRECTOR AND ACTING  
16 PROTOCOL OFFICER

17

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1 Governor and became effective March 17, 2003.

2

3 The permanent revision of the rule was

4 delayed to allow time to determine if other

5 direct-fired fuel-burning processes or

6 equipment located in the State faced similar

7 problems in complying with the NOx limits in

8 Subchapter 33.

9 Indirect fuel-burning equipment such

10 as boilers, process heaters, and gas turbines

11 have the ability to meet the NOx limits in

12 Subchapter 33. Our Engineering Unit

13 identified various industries located in the

14 State that utilized direct-fired fuel-burning

15 equipment and evaluated the ability of this

16 equipment to meet the NOx limits. These

17 industries included asphalt plants, lime

18 kilns, steel foundry, sewage sludge

19 incineration, brick manufacturing and cement

20 manufacturing.

21 After careful evaluation of these

22 facilities, staff can find no indication that

23 other direct-fired fuel-burning equipment or

24 processes in the State have the same problems

25 meeting these NOx limits. Although some

Page 3

1

2 PROCEEDINGS

3 MR. TERRILL: The next item on the

4 Agenda is item 4C. OAC 252:100-33 Control of

5 Emissions of Nitrogen Oxides. And again I'll

6 call upon Dr. Joyce Sheedy.

7 DR. SHEEDY: Madam Chair,

8 Members of the Council, Ladies and Gentlemen,

9 the Department proposes the following changes

10 to Subchapter 33 for the control of nitrogen

11 oxides referred to as NOx. We propose to

12 revise the definition of "new fuel-burning

13 equipment" in Section 1.1 to reflect the date

14 that direct-fired fuel-burning equipment

15 became subject to Subchapter 33. That date

16 was July 1, 1977.

17 The Department also proposes to exempt

18 glass-melting furnaces from the requirements

19 of Subchapter 33. An emergency rule

20 containing this exemption was recommended for

21 submission to the Environmental Quality Board

22 by the Air Quality Council at their January

23 15, 2003 meeting. The Board at their

24 February 28, 2003 meeting approved this

25 emergency revision. It was signed by the

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1 facilities that are grandfathered for

2 Subchapter 33 are not meeting the NOx limits,

3 technology exists that allows new facilities

4 and equipment to meet these limits.

5 Therefore, the proposed exemption is for

6 glass-melting furnaces only.

7 The NOx emission limits for fuel-

8 burning equipment contained in OAC 252:100-

9 33-2 became effective in 1972 and have not

10 been changed since. The term "fuel-burning

11 equipment" is used throughout the Air Quality

12 rules, and is defined in Subchapter 1.

13 In 1972, when NOx limits were

14 established, the definition of fuel-burning

15 equipment did not include direct-fired

16 equipment such as glass-melting furnaces.

17 However, in 1977 the definition of fuel-

18 burning equipment was changed to include

19 direct-fired processes and equipment, and

20 glass-melting furnaces became subject to all

21 of the Division's rules for fuel-burning

22 equipment including the NOx limits in

23 Subchapter 33.

24 We are unable to find any evidence

25 that consideration was given at that time to

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1 the ability of glass-melting furnaces to meet  
2 the previously set NOx emission limits.  
3       Although the change in the  
4 definition of fuel-burning equipment became  
5 effective in 1977, there have been no new  
6 glass-melting furnaces constructed in the  
7 State since that time, so the problem was  
8 not brought to light until a company  
9 recently applied to build a new glass  
10 plant. During the processing of this  
11 application it became clear that glass-  
12 melting furnaces are unable to meet the NOx  
13 limits and a review of the Division's  
14 records of stack tests performed on  
15 existing glass-melting furnaces in the  
16 State and a search of EPA's BACT, RACT,  
17 LAER Clearinghouse for recently issued  
18 permits for glass-melting furnaces  
19 throughout the United States indicate that  
20 glass-melting furnaces are not required to  
21 and are unable to meet such NOx limits.  
22       We do not feel that the Department  
23 intended to set a NOx emission limit for  
24 glass-melting furnaces that could not be  
25 met, thus precluding the installation of

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1 any new glass plants in the State.  
2 Therefore, we proposed the emergency  
3 revision exempting glass-melting furnaces  
4 from Subchapter 33 to allow the new glass  
5 plant to commence construction. And we are  
6 proposing at this time to make the glass-  
7 melting furnace exemption from Subchapter  
8 33 a permanent revision.  
9       Staff is recommending that the  
10 proposed exemption be limited to glass  
11 melting-furnaces that are subject to Best  
12 Available Control Technology referred to as  
13 B-A-C-T or sometimes BACT. To be eligible  
14 for the exemption, owners or operators of  
15 glass-melting furnaces must demonstrate  
16 that BACT will be used in the design and  
17 operation of the equipment. The use of  
18 BACT should be sufficient to protect the  
19 environment from the adverse effects of the  
20 added NOx emissions.  
21       The Department proposes the following  
22 changes to Subchapter 33.  
23       1. We propose to revise the  
24 definition of "new fuel-burning equipment" in  
25 OAC 252:100-33-1.1 making July 1, 1977, the

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1 date that direct-fired fuel-burning equipment  
2 became subject to Subchapter 33.  
3       2. We propose to revise OAC 252:100-  
4 33-1.2, making the existing requirements  
5 subsection (a), and adding a new subsection  
6 (b) stating that "Glass-melting furnaces that  
7 are subject to BACT requirements contained in  
8 a currently applicable Air Quality Division  
9 permit are exempt from the requirements of  
10 this Subchapter."  
11       A letter dated July 11, 2003 signed by  
12 Thomas H. Diggs of EPA, Region 6, was  
13 received on July 15. This letter was not  
14 received in time to be included in the  
15 Council packet but it will be made part of  
16 this hearing record. In the letter Mr. Diggs  
17 stated that EPA has no objection to amending  
18 the existing language as proposed. BACT is  
19 an acceptable standard in a permit for  
20 sources like glass-melting furnaces.  
21       Also a letter dated February 14, 2003,  
22 containing comments for the February 28, 2003  
23 Environmental Quality Board meeting was  
24 received on February 20, from V. L. Krulic of  
25 Saint-Gobain Containers. While supporting

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1 the Department's desire to remove the  
2 unintended barrier to the construction of new  
3 glass plants in the State or the modification  
4 of existing glass-melting furnaces, Saint-  
5 Gobain opposed the requirement that glass-  
6 melting furnaces must use BACT in order to be  
7 exempted from Subchapter 33. In the February  
8 14th letter, Saint-Gobain stated that the  
9 requirement for BACT subjected glass-melting  
10 furnaces to a more restrictive emission  
11 control level than other affected fuel-  
12 burning equipment sources that were subject  
13 to a RACT-based NOx emission limit and  
14 recommended emission limits for glass-melting  
15 furnaces be based on RACT (Reasonably  
16 Available Control Technology).  
17       It is unclear to us that the NOx  
18 emission limits in Subchapter 33 that were  
19 set in 1972 were RACT based. However, we are  
20 proposing the relaxation of an existing  
21 emission limit that is part of our SIP and  
22 that relaxation should be limited as much as  
23 possible. The requirement for the use of  
24 BACT will accomplish this. And in future if  
25 better control technologies for glass-melting

1 furnaces becomes available, the use of BACT  
 2 will allow the State to require that better  
 3 technology on new sources and modifications  
 4 and thus further reduce the NOx emissions.  
 5 We must also keep in mind the problems that  
 6 exist regarding the Ozone NAAQS and balance  
 7 the relaxation of an unobtainable standard  
 8 with the State's desire to remain in  
 9 attainment with the Ozone NAAQS. For these  
 10 reasons we have retained the BACT  
 11 requirements in the proposed permanent  
 12 revision to Subchapter 33.

13 Staff requests that the Council  
 14 recommend the proposed rule, as amended, to  
 15 the Board for adoption as a permanent rule.  
 16 Thank you.

17 MR. TERRILL: Any questions of Dr.  
 18 Sheedy.

19 MR. BRANECKY: So this is exactly  
 20 what we took to the Board as an emergency  
 21 rule. There's no change between what --

22 DR. SHEEDY: It has one change --

23 MR. BRANECKY: What's that change?

24 DR. SHEEDY: We have inserted the  
 25 language about in a currently -- well --

1 MS. DIZIKES: Pam Dizikes, I'm  
 2 Counsel for the rules group. Emergency rules  
 3 are not published rules so what we have to  
 4 bring is going to be changes in what you'll  
 5 read.

6 MR. BRANECKY: Okay. We have to  
 7 redo it all.

8 MS. DIZIKES: Joyce is accurate,  
 9 though, in the difference that we are making  
 10 to the permanent and emergency rule.

11 DR. SHEEDY: And we made that  
 12 difference, I believe, so that if a glass-  
 13 melting plant, if a glass plant wanted to be  
 14 exempt -- that for whatever reason, it wasn't  
 15 required by rule -- it wasn't required by  
 16 rule to do the BACT -- they could still be  
 17 exempt by having BACT as part of their  
 18 permit.

19 The way it read before, some people  
 20 felt that that excluded those that weren't  
 21 required to have a BACT by some rule. And so  
 22 we were trying to alleviate that problem by  
 23 saying if it's in the permit, then that's  
 24 good enough.

25 And the other thing we did this time

1 contained in a current applicable Air Quality  
 2 Division -- the word applicable is new, I  
 3 believe. Okay. What is new is "contained in  
 4 a current applicable Air Quality Division  
 5 permit". The old language was "glass melting  
 6 furnaces that are subject to BACT  
 7 requirements are exempt from the requirements  
 8 of this subchapter".

9 MR. BRANECKY: Why didn't we just  
 10 bring what was passed as an emergency and  
 11 then have the changes to that rule brought to  
 12 us? We're bringing back the emergency  
 13 changes? Some of these changes were made to  
 14 the emergency rule that we passed in January.  
 15

16 DR. SHEEDY: The change --

17 MR. BRANECKY: I guess, I got a  
 18 little confused, once I thought about it,  
 19 we've already passed a rule as an emergency.  
 20 Now we're coming back and re-proposing the  
 21 same changes as permanent?

22 DR. SHEEDY: They are essentially  
 23 the same changes, David.

24 MR. BRANECKY: We couldn't go back  
 25 and just take what we passed and make -- no?

1 that we didn't do last time was we added that  
 2 change to the definition of "new fuel-burning  
 3 equipment" to clarify that if you are direct-  
 4 fired fuel-burning equipment that you weren't  
 5 subject to this in 1972, you didn't become  
 6 subject to it until 1977. So new sources  
 7 after that date in 1977 would be subject to  
 8 it. Prior to that date direct-fired fuel-  
 9 burning equipment would not be subject to it.

10 MR. BRANECKY: Okay, thank you.

11 DR. SHEEDY: Uh-huh.

12 MS. MYERS: Joyce, does the rule  
 13 that we're looking at today meet all the  
 14 requirements that the Environmental Quality  
 15 Board asked for in their meeting in February.

16 DR. SHEEDY: I hope so.

17 MR. BRANECKY: We might want to  
 18 make -- I don't know if the Council is aware  
 19 of the discussion we had at the Board  
 20 meeting in February.

21 MR. TERRILL: Well, there was some  
 22 concern on the part of the Board that we were  
 23 making a special exemption, if you will, for  
 24 economic reasons, for this particular  
 25 company. And rightfully so. They had some

1 questions about whether or not we were doing  
2 that because that wouldn't be appropriate, if  
3 that's what indeed we were doing. But we  
4 don't believe we were doing that. And I  
5 think what they asked us to do was to come  
6 back -- and really this rule is not going to  
7 address what they asked about in that they  
8 wanted us to talk about LAER and BACT and  
9 what the difference between those two are and  
10 how that relates to our air quality issues  
11 here in Oklahoma. So we'll probably do some  
12 type of presentation but the -- I don't know  
13 how we could change it. I don't know what we  
14 could do differently with this rule than what  
15 we're doing here in going back to the Board.  
16 Because unless there's a desire on the part  
17 of this Council or the Board to prohibit any  
18 new construction of these types of  
19 facilities, then we have to make this change.  
20 Because we're not really -- I don't think  
21 whenever this rule was passed initially,  
22 probably the folks that had existing  
23 facilities were not much interested in  
24 competition so they didn't point it out, they  
25 were grandfathered. And there were no new

1 facilities built, so this didn't come up for  
2 thirty years. But a --  
3 MS. MYERS: Is this not a prime  
4 example of what we're supposed to be doing in  
5 our re-write/de-wrong?  
6 MR. TERRILL: In my opinion, it is.  
7 It's just something that fell through the  
8 cracks. If we would have caught it when we  
9 were doing re-write/de-wrong we would have  
10 changed it then. We just didn't catch it  
11 because we didn't have any experience with  
12 these type of facilities. And only until a  
13 new facility came in that required our folks  
14 to take a good long look at it, we realized  
15 we would written a rule that nobody in the  
16 country even using the best -- I mean, what  
17 they're using here is LAER. It's not BACT,  
18 it's LAER.  
19 There is nothing that this facility  
20 can do to reduce their emissions any further  
21 other than just not build the facility. And  
22 that's -- to me that's a public policy  
23 question that our division cannot answer. If  
24 we don't want these facilities built then  
25 that should come from someone else. But

1 we're just making our rules to be as  
2 stringent as they possibly can but still  
3 allow these facilities to be built.  
4 DR. SHEEDY: And this would impact  
5 any existing glass plant that wanted to  
6 modify their glass-melting furnace to the  
7 extent that it would become subject to  
8 permitting. Because then they would become  
9 subject to this NOx rule. And they couldn't  
10 meet it so they couldn't modify in all  
11 likelihood.  
12 And I think that as Eddie pointed out  
13 that we are going to have to do something in  
14 our presentation to the Board that explains  
15 how we came up with this, and that we didn't  
16 just do glass plants. We looked at all the  
17 other kinds of indirect-fired that we have in  
18 the State. And we didn't look at every kind  
19 of indirect-fired industry in the -- that  
20 might exist in the world, but we did look at  
21 those that are in the State at this time.  
22 And this was the only one that really seemed  
23 to have a problem.  
24 MR. TERRILL: And I think we also  
25 did a survey of other states and making sure

1 that there wasn't a control strategy out  
2 there that was different than what we  
3 required and we determined that everybody  
4 else is doing exactly what we're requiring  
5 this facility to do. So we're not doing  
6 anything that is unusual or different than is  
7 being done anywhere else. But this is the  
8 best that facility can do with existing  
9 technology. And if the technology gets  
10 better then BACT will require that and that's  
11 the process the system will work under.  
12 DR. SHEEDY: This also allows us to  
13 take into consideration the differences  
14 between the different types of glass  
15 manufacturing, such as flat glass versus  
16 container glass. Their abilities to control  
17 NOx are different. And I'm not familiar with  
18 what BACT for container glass is at this  
19 point, but I do know that, I think, in  
20 general their emissions are somewhat less  
21 than the flat glass.  
22 MS. MYERS: Doesn't the flat glass  
23 process require much higher temperatures --  
24 DR. SHEEDY: I believe that's part  
25 of it.



1 MS. MYERS: -- to keep the quality  
2 that's required?  
3 DR. SHEEDY: I think that is what  
4 I have read.  
5 MR. WILSON: Are there any  
6 representatives here from the glass industry?  
7 Maybe Dawson or someone from his group can  
8 help with this. You know, I'm ignorant of  
9 the glass melting process but let's say I was  
10 heating water. I've got a lot of ways I can  
11 do that. I can use electricity or gas, maybe  
12 coal, wood, solar. Maybe I wouldn't take a  
13 bath everyday, but there are many different  
14 ways to heat water. Now it seems to me like  
15 maybe there are competing technologies to  
16 heat or melt glass that don't burn gas.  
17 MS. MYERS: No. Joel, I took it  
18 upon myself last week -- because I knew this  
19 was going to be coming up -- I went down and  
20 visited the site and talked with the people  
21 at Cardinal Glass. And for the quality of  
22 glass that they produce, they'll be producing  
23 a float glass that's used in residential  
24 construction. The temperatures that they  
25 have to achieve, and no bubbles, natural gas

1 experience with this type of industry.  
2 DR. SHEEDY: When it was set, this  
3 --  
4 MS. MYERS: And it was set in 1970  
5 --  
6 DR. SHEEDY: '72, and this type of  
7 industry was not fuel-burning equipment in  
8 1972 so, of course, it wasn't looked at.  
9 None of the direct-fired like cement or lime  
10 kilns or glass plants were looked at, because  
11 they weren't subject to it.  
12 MS. MYERS: So you see, you have a  
13 rule that was created in 1972 without any  
14 real basis of experience.  
15 MR. WILSON: Now, help me recall.  
16 Have we ever had a rule come back to us that  
17 we passed as an emergency rule? Come back to  
18 us for re-passage as a permanent rule?  
19 MR. BRANECKY: They all have to,  
20 don't they?  
21 DR. SHEEDY: Sometimes we have done  
22 them at the same time. That's what we're  
23 calling for.  
24 MR. WILSON: Oh, so when we pass  
25 them as emergency --

1 is the only fuel they'll be using.  
2 MR. WILSON: Okay.  
3 DR. SHEEDY: Sometimes, I don't  
4 know if they can in this one, sometimes they  
5 may supplement it with electric -- electrodes  
6 but I don't know if they can do this in this  
7 float glass or not.  
8 But yes, that's all I've ever seen them  
9 using. As far as the BACT, what was BACT for  
10 Cardinal was, I think they call it "three  
11 r's", and it went through PSD/BACT  
12 determination and as Eddie said it's not only  
13 BACT but it also represents LAER for this  
14 kind of glass.  
15 MR. WILSON: So really, in short,  
16 for this industry we have a conflict between  
17 BACT and Subchapter 33 rules.  
18 DR. SHEEDY: Yes. Even if they did  
19 LAER --  
20 MR. WILSON: Yeah.  
21 DR. SHEEDY: -- they still couldn't  
22 meet that .2 pounds per million BTU.  
23 MS. MYERS: If I understood  
24 correctly, the limit that we have in Oklahoma  
25 was not necessarily set based on any

1 DR. SHEEDY: And permanent. But  
2 this time --  
3 MR. WILSON: This one we passed as  
4 an emergency but not permanent.  
5 DR. SHEEDY: That's right. Because  
6 it was a real emergency and we did it in such  
7 a hurry that we didn't have time to really  
8 check out other kinds of direct-fired  
9 processes that might or might not have a  
10 problem meeting this if a new plant wanted to  
11 come into the State.  
12 So after this emergency rule was  
13 passed, our engineering unit did look at the  
14 various direct-fired processes that we have  
15 in the State to determine if any of those  
16 would have a problem.  
17 MR. TERRILL: And I think that's a  
18 lot of the problem the Board had with it,  
19 too, because it truly was an unusual  
20 situation. And I think that had we gone  
21 through this process and done it as emergency  
22 and permanent, I think we would have had a  
23 lot better basis for carrying that forward to  
24 the Board. So, I think it will go a lot  
25 better this time. And you are exactly right,

1 I think this is the first time that we've  
 2 done this that I can remember.  
 3 DR. SHEEDY: Separated like this?  
 4 The first time that I can remember but my  
 5 memory goes -- doesn't go back a whole lot of  
 6 years.  
 7 MR. BRANECKY: Let me try to  
 8 understand Saint-Gobair's comments: They're  
 9 asking for existing glass plants if they make  
 10 a modification -- a major modification, they  
 11 would not be subject to BACT but rather would  
 12 be subject to RACT.  
 13 DR. SHEEDY: Well, if they make a  
 14 major modification that's a PSD and it's got  
 15 to be BACT.  
 16 MR. BRANECKY: It's got to be BACT.  
 17 So what are they --  
 18 DR. SHEEDY: There's no -- there's  
 19 no two ways about that, that's BACT.  
 20 MR. BRANECKY: So what do they say?  
 21 DR. SHEEDY: I guess it would be a  
 22 minor modification. Even if we -- they had  
 23 suggested that we put pounds per million BTU  
 24 number -- oh no, pounds per ton of glass  
 25 pulled (inaudible) in the rule instead of

1 grandfathered.  
 2 MR. BRANECKY: Okay. All right.  
 3 Thank you.  
 4 MR. WILSON: Now, BACT changes.  
 5 DR. SHEEDY: BACT may change, yes.  
 6 BACT is a case-by-case kind of a  
 7 determination. And over time if better  
 8 controls become available for glass-melting  
 9 furnaces, then BACT may change.  
 10 MR. WILSON: Does that mean they'd  
 11 have to put controls on?  
 12 DR. SHEEDY: Not if -- I doubt if  
 13 it would be retroactive.  
 14 MR. WILSON: Yeah.  
 15 DR. SHEEDY: Because at the time  
 16 that this particular glass plant, for  
 17 instance, at the time they got their permit  
 18 they were doing BACT. So if a better control  
 19 becomes available and a new plant comes in,  
 20 BACT may be different for them. May be more  
 21 stringent. They may have a better control of  
 22 NOx from it simply because there have been  
 23 technology changes.  
 24 MR. TERRILL: Any additional  
 25 questions of Dr. Sheedy from the Council?

1 BACT.  
 2 MR. BRANECKY: So say a glass plant  
 3 -- an existing glass plant had a permit but  
 4 they don't have any BACT reference in the  
 5 permit.  
 6 DR. SHEEDY: Okay.  
 7 MR. BRANECKY: Are they then still  
 8 subject to Subchapter 33?  
 9 DR. SHEEDY: All of our existing  
 10 glass plants, I believe, are pre-1977. So  
 11 unless they modified in such a way that they  
 12 would need to be re-permitted they would not  
 13 be subject to Subchapter 33.  
 14 MR. BRANECKY: Okay. Well, I guess  
 15 the way that reads to me that's their concern  
 16 is that they have a permit and they don't  
 17 have BACT then they are still subject to  
 18 Subchapter 33. Is that the way that reads?  
 19 DR. SHEEDY: Well, I think you need  
 20 to read the rule, carefully, that it says  
 21 this is for new glass plants, and then read  
 22 the definition of what is a new glass plant.  
 23 MR. BRANECKY: Okay.  
 24 DR. SHEEDY: And anything before  
 25 1977, that date in 1977 would be

1 Any questions from the public for Dr. Sheedy  
 2 on this rule?  
 3 MS. MYERS: Nadine.  
 4 MS. BARTON: Nadine Barton, with  
 5 CASE.  
 6 MS. MYERS: Could you stand up,  
 7 please, or come to the microphone?  
 8 MS. BARTON: Nadine Barton with  
 9 CASE. I've got a question concerning the  
 10 amount of tons of NOx from these new plants  
 11 that are exempt from this. Do you have any  
 12 estimates from that?  
 13 DR. SHEEDY: I think -- Dawson, do  
 14 you have the numbers from this one plant that  
 15 we permitted recently?  
 16 MS. BARTON: And the other part of  
 17 that question, if we should go into  
 18 nonattainment for air, will that affect this  
 19 rule?  
 20 DR. SHEEDY: Well, I'm not sure if  
 21 the nonattainment area will --  
 22 MR. TERRILL: No, it wouldn't  
 23 include--  
 24 DR. SHEEDY: Which county is that?  
 25 MR. TERRILL: I don't know, they

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1 are down on the Texas border.  
2 MR. BRANECKY: Durant.  
3 DR. SHEEDY: Durant. I know it's  
4 Durant but what county?  
5 MS. SULLIVAN: Bryan.  
6 DR. SHEEDY: Bryan county, thank  
7 you.  
8 MR. LASSETER: As it stands right  
9 now, what they are constructing is LAER which  
10 is what new facilities would have to do in  
11 nonattainment areas. That is the most  
12 restrictive. So that's what they are doing.  
13 MS. BARTON: That's good.  
14 MR. TERRILL: This is the facility  
15 that came down -- they were going to build it  
16 in Durant or just, whatever that little town  
17 --  
18 MS. MYERS: Sherman.  
19 MR. TERRILL: Sherman -- they were  
20 going to put it in Sherman or Durant so we  
21 would have got the pollution, regardless.  
22 MS. BARTON: Yeah, well, that's  
23 what I was wondering.  
24 MR. BRANECKY: Might as well get  
25 the money, too.

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1 DR. SHEEDY: That's right, Texas,  
2 (inaudible).  
3 MS. BARTON: At least we get the  
4 jobs this way. What is the effect on the  
5 existing? You know because we have Bartlett  
6 glass and then like, the opposition, from  
7 Ford in Tulsa. They're exempt anyway from  
8 this from the beginning from the NOx emission  
9 because of the '72/'77 exemption?  
10 DR. SHEEDY: Yes. They were in --  
11 they were constructed prior to that date.  
12 MS. BARTON: Now, when Ford sold  
13 out to the other guy who makes the glass  
14 windows now, did they have to modify their  
15 permit because of an increase in NOx? Do you  
16 know?  
17 DR. SHEEDY: I don't know if they  
18 modified or not. If they made a change in  
19 the operation of the plant that changed  
20 emissions then they may have had to do a  
21 modification. But they may not have made  
22 such a change. The permit that was in  
23 existence may still have --  
24 MS. BARTON: Apply to them.  
25 DR. SHEEDY: It would still apply

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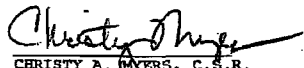
1 to them. If they didn't change their  
2 operations then they have probably had  
3 nothing but a name change. You can do that  
4 when a facility is sold. You can just change  
5 the name if you add no new equipment or  
6 operation changes and operate within the  
7 bounds covered by the permit.  
8 MR. LASSETER: With these  
9 controls, this facilities permit limit for  
10 NOx will be 1300 tons per year.  
11 MS. BARTON: Well, that's not too  
12 bad.  
13 (Laughter)  
14 MS. BARTON: I just wanted to see  
15 the response.  
16 MR. BRANECKY: Can we quote that?  
17 MR. WILSON: I have one last  
18 question. You know, you can lessen the  
19 impact on air quality by requiring a facility  
20 to release the pollutant higher and hotter.  
21 Was that consideration done in this case?  
22 DR. SHEEDY: I think all of our PSD  
23 modeling, which was done in this case, has to  
24 be based on --  
25 MR. BRANECKY: Good engineering

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1 practice?  
2 DR. SHEEDY: -- good engineering  
3 practice, GEP stack height. Which means that  
4 you can't just make the stack taller and  
5 therefore have their emissions -- your  
6 ambient air quality emissions less -- you can  
7 only make it as tall as good engineering  
8 practice allows.  
9 MR. WILSON: Okay.  
10 MR. TERRILL: Any further  
11 questions from the public for Dr. Sheedy on  
12 this rule. Any further questions from the  
13 Council.  
14 MS. MYERS: I will entertain a  
15 motion on this rule, please.  
16 MR. WILSON: I will make a motion  
17 that we pass this as a permanent rule.  
18 MR. MYERS: We have a motion. Do  
19 we have a second?  
20 MR. MARTIN: Second.  
21 COURT REPORTER: I'm sorry, who was  
22 that?  
23 MR. MARTIN: Gary Martin.  
24 COURT REPORTER: Thank you.  
25 MS. MYERS: Myrna.

1 MS. BRUCE: Mr. Kilpatrick.  
 2 MR. KILPATRICK: Aye.  
 3 MS. BRUCE: Mr. Treeman.  
 4 MR. TREEMAN: Yes.  
 5 MS. BRUCE: Dr. Lynch.  
 6 DR. LYNCH: Yes.  
 7 MS. BRUCE: Mr. Martin.  
 8 MR. MARTIN: Yes.  
 9 MS. BRUCE: Mr. Breisch.  
 10 MR. BREISCH: Yes.  
 11 MS. BRUCE: Ms. Rose.  
 12 MS. ROSE: Yes.  
 13 MS. BRUCE: Mr. Branecky.  
 14 MR. BRANECKY: Yes.  
 15 MS. BRUCE: Mr. Wilson.  
 16 MR. WILSON: Yes.  
 17 MS. BRUCE: Ms. Myers.  
 18 MS. MYERS: Yes.  
 19 MR. TERRILL: And that concludes  
 20 the public hearing portion of our Agenda.  
 21 (Hearings Concluded)

1  
 2 C E R T I F I C A T E  
 3 STATE OF OKLAHOMA )  
 4 COUNTY OF OKLAHOMA ) ss:  
 5 I, CHRISTY A. MYERS, Certified  
 6 Shorthand Reporter in and for the State of  
 7 Oklahoma, do hereby certify that the above  
 8 proceedings is the truth, the whole truth,  
 9 and nothing but the truth; that the foregoing  
 10 proceedings were taken by me in shorthand and  
 11 thereafter transcribed under my direction;  
 12 that said proceedings were taken on the 16th  
 13 day of July, 2003, at Oklahoma City,  
 14 Oklahoma; and that I am neither attorney for  
 15 nor relative of any of said parties, nor  
 16 otherwise interested in said action.  
 17 IN WITNESS WHEREOF, I have hereunto  
 18 set my hand and official seal on this, the  
 19 8th day of August, 2003.

20   
 21 CHRISTY A. MYERS, C.S.R.  
 22 Certificate No. 00310

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O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL  
Public Hearing and Meeting  
Attendance Record  
JULY 16, 2003

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NAME/AFFILIATION	ADDRESS	TELEPHONE
1. John Shriver Valero	PO Box 188 Ardmore OK	73402 580-221-3110
2. SANDRA ROSE Council	2003 Morgan Norman OK	73069 321-7639
3. Jim Haught ONEOK	P.O. Box 871 Tulsa, OK	74102 (918) 588-7658
4. Gerald Butcher WPEC	POB 429 Anadarko, OK	73005 405-247-43
5. JOHN FELT Dyn Corp	140 CHANNEL ST. Vance, AFB, OK	73705 580-213-622
6. Bonnie McGilbra Covanta	2122 S. Yukon Tulsa	918-583-3925
7. Tom TARR Cooper Cameron	PO Box 94700 OKC.	73143 405 631-1321
8. Brita Cartrell	110 W. 7 <sup>th</sup> , Site 200 Tulsa	388-5577
9. ANGLIE BURKHALTER CIPA	3555 NW 50 <sup>th</sup> ST. OKC OK	73112 942-2334 x221
10. MARK C. PSON AEP	1681 NW Expressway OKC	73118 341-1333
11. Howard Ground AEP	Dallas	214 777-1711
12. LARRY VAUGHAN HANOVER	509 W HUGHES METZIS OK	918 733 2917
13. DON WHITNEY TRINITY OKC		405 228 3292
14. Glenn Travis Sunoco	Tulsa	918 594-6572
15. Julia Bevers OGE	PO Box 321 MC506 OKC	405 553 3439
16. JAY EUBANKS	PO 1110 W STOVALL RD WARRINGTON OK	918 465 4167
17. Laura Northen Atkins	3700 W Robinson Ste 200 Norman	405 701 3995
18. MARY SUMMERS DUKE ENERGY	4120 S VALL STE 1106 TULSA OK	918-523-1188
19. Al Learned Marathon	7301 NW Expressway OKC	405/720-5690
20. Jim Barnett EFO	201 R. St. Stillwater OK	942-5721
21. David Lee OKAH		918-605-5360
22. Madeline Baston CASE		
23. Jenni Waltman APAC/OKAH	4150 S. 100th St. Tulsa	918-434-2020
24. Bob Kellogg OKC		235-2208
25. Mike Wood Weyerhaeuser		
Kathryn Renneberg Weyerhaeuser		
26. Jack Money OKA/O		475-3105

REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD

A Public Meeting: 9:30 a.m., Tuesday, September 9, 2003  
OSU @ Tulsa Auditorium  
700 N. Greenwood  
Tulsa, Oklahoma

1. Call to Order – Richard Wuerflein, Chair
2. Roll Call – Myrna Bruce
3. Approval of Minutes of the February 28, 2003 Regular Meeting
4. **Consideration of Biomedical Facility Certificate of Need**  
State law (27A O.S. § 2-10-308) requires that an applicant for new a commercial medical waste processing facility obtain a Certificate of Need from the Board. Positive Impact Waste Solutions (PIWS) seeks a Certificate of Need for mobile medical waste treatment units.
  - A. Background presentation on Certificate of Need requirement and DEQ review process  
– Jimmy Givens, DEQ General Counsel
  - B. Presentation by PIWS concerning Certificate of Need application  
– Mark Gelvin, Regional Manager, PIWS
  - C. Questions and discussion by the Board
  - D. Questions, comments and discussion by the public
  - E. Discussion by the Board
  - F. Roll call vote on approval, denial, remand or other action
5. **DEQ Operational Budget Request**  
DEQ budget requests to the Governor through the Office of State Finance require approval of the Board. The operational budget request for State Fiscal Year 2005 (beginning July 1, 2004) must be submitted to the OSF by October 1<sup>st</sup> of this year. The law requires that all state agencies submit a 5-year budget plan. The request for the coming year, in this case SFY 2005, is the most critical. Included in the request for SFY 2005 are funds for air quality programs, Total Maximum Daily Load (TMDL) assessments, public water supply programs, and local project assistance.
  - A. Presentation – David Dyke, Assistant Division Director, Administrative Services
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion by the Board
  - E. Roll call vote on approval of budget request
6. **Rulemaking – OAC 252:4 Rules of Practice and Procedure**  
Proposed amendments to Subchapter 9 will delete references to the possibility that the Air Quality Advisory Council would conduct hearings on enforcement matters. This conforms to legislation (HB 1019) that was passed in the 2003 legislative session and approved by the Governor April 22, 2003.
  - A. Presentation – Sharon Myers, Chair, Air Quality Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion by the Board
  - E. Roll call vote on permanent adoption

7. **Rulemaking – OAC 252:100 Air Pollution Control**  
Proposed amendments replace an existing emergency rule with a permanent rule to exempt glass-melting furnaces that utilize BACT from the requirements of Subchapter 33. The definition of “new fuel-burning equipment” is revised to reflect that direct-fired fuel-burning equipment did not become subject to Subchapter 33 until 1977.
  - A. Presentation – Sharon Myers, Chair, Air Quality Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion by the Board
  - E. Roll call vote on permanent adoption
  
8. **Annual Performance Review of Executive Director**  
Among the statutory duties of the Board are responsibilities to appoint and set the compensation of the Executive Director and to assist the Department in conducting periodic reviews and planning activities related to the goals, objectives, priorities, and policies of the Department. In connection with these responsibilities, the Board has determined that it should perform an annual performance review of the Executive Director.
  - A. Discussion by the Board in open session
  - B. Possible executive session pursuant to Title 25 Oklahoma Statutes § 307(A) (discussion of employment actions related to any individual salaried public officer or employee), if authorized by recorded majority vote of the Board members present
    - (1) Vote in open session on whether to enter executive session
    - (2) If executive session approved, designation in open session of person to keep minutes in executive session
    - (3) Discussion in executive session of Executive Director’s performance
  - C. Further discussion by the Board in open session
  - D. Possible roll call vote on specific actions or recommendations as a result of performance review
  
9. **CY 2004 Board meeting dates and locations:** Discussion and vote by the Board
  
10. New Business (any matter not known about, or which could not have been reasonably foreseen prior to the time of posting of agenda)
  
11. Executive Director’s Report, including disclosure of certain employee financial interests pursuant to 27A O.S. § 2-3-101
  
12. Adjournment

**Public Forum** (after adjournment): The Board meets four times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

Should you have a disability and need an accommodation,  
please notify the DEQ three days in advance at 702-7100.

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Some members of the Board, as well as senior staff members from the DEQ, will meet for dinner in Tulsa the evening of September 8. This is a social occasion. No Board or DEQ business will be conducted or discussed.

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

**SUBCHAPTER 33. CONTROL OF EMISSIONS OF NITROGEN OXIDES**

**EXECUTIVE SUMMARY:**

The DEQ proposes to exempt glass-melting furnaces from the requirements of Subchapter 33 and to revise the definition of "new fuel-burning equipment" to reflect the date (July 1, 1977) that direct-fired fuel-burning equipment became subject to Subchapter 33. An emergency rule containing this exemption was approved by the Board at their February 28, 2003 meeting and became effective March 17, 2003. The permanent revision was delayed to allow time to determine if other direct-fired fuel-burning processes located in the State faced similar problems in complying with the NOx limits in Subchapter 33. After careful evaluation, staff can find no indication that other direct-fired, fuel-burning processes in the State have the same problems meeting the NOx limits in Subchapter 33, so the staff has recommended that the rule change be made permanent for glass-melting furnaces only. As explained to the Board at the February, 2003 meeting, the basis for the requested amendment was a determination that glass-melting furnaces can not meet the requirements of Subchapter 33. A review of the Division's records of stack tests performed on existing glass-melting furnaces in the State and a search of EPA's BACT, RACT, LAER Clearinghouse for recently issued permits for glass-melting furnaces in the United States indicates that in other States glass-melting furnaces are not required to and are unable to meet such emissions limits. Staff does not feel that the Department intended to set a NOx emission limit for glass-melting furnaces that could not be met, thus precluding the installation of any new glass plants in the State or the modification of existing glass-melting furnaces. The glass-melting furnaces in question must demonstrate that BACT (Best Available Control Technology) will be used in the design and operation of the equipment. The use of BACT should be sufficient to protect the environment from the adverse effects of the added NOx emissions. The use of BACT will also allow more efficient controls to be required when they are available without the necessity of revising the rule.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

There are no analogous federal rules that set limits for NOx emissions from glass-melting furnaces.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not required because there are no analogous federal rules.

**SUMMARY OF COMMENTS AND RESPONSES:**

See attached.

. WRITTEN COMMENTS

**EPA Region 6** - Letter signed by Thomas H. Diggs, Chief Air Planning Section dated July 11, 2003 was received on July 15, 2003.

1. **COMMENT:** Mr. Diggs stated that EPA Region 6 has no objection to amending the existing language as proposed. BACT is an acceptable standard in a permit for sources like a glass-melting furnace.

**Saint-Gobain Containers** - Letter signed by V. L. Krulic dated February 14, 2003, was received on February 20, 2003.

2. **COMMENT:** While supporting the Department's desire to remove an unintended barrier to the construction of new glass plants in the State or the modification of existing glass-melting furnaces, Saint-Gobain opposes the requirement that glass-melting furnaces must use BACT in order to be exempted from Subchapter 33. In the February 14<sup>th</sup> letter, Ms. Krulic stated that the requirement for BACT subjected glass-melting furnaces to a more restrictive emissions control level than other affected fuel-burning equipment sources that were subject to a RACT-based NOx emission limit and recommended emission limits for glass melting furnaces be based on RACT (reasonably available control technology).

**RESPONSE:** It is unclear to us that the NOx emission limits in Subchapter 33 that were set in 1972 are RACT based. In any event, we are proposing the relaxation of an existing emission limit that is part of our SIP and that relaxation should be limited as much as possible. The requirement for the use of BACT will accomplish this. In the future if better control technology for glass-melting furnaces becomes available, the use of BACT will allow the State to require that this better technology be used for new facilities and modifications to existing facilities thus further reducing NOx emissions. We must also keep in mind the problems that exist regarding the OZONE NAAQS (National Ambient Air Quality Standards) and balance the relaxation of an unobtainable standard with the State's desire to remain in attainment with the OZONE NAAQS. For these reasons we have retained the BACT requirement in the permanent revision to Subchapter 33.

**VERBAL COMMENTS RECEIVED AT THE JULY 16, 2003, HEARING**

**Nadine Barton with CASE**

3. **COMMENT:** How many tons of NOx will be emitted from these new plants that will be exempted from Subchapter 33?

**RESPONSE:** Glass-melting furnaces that use BACT will be exempted from the NOx limits in Subchapter 33. The new glass melting furnace permitted earlier this year has a NOx emission

limit of 1300 tpy (tons per year).

4. **COMMENT:** How will the revised rule be affected if Tulsa goes into nonattainment for ozone?

**RESPONSE:** The new glass plant in question is being constructed in Durant in Bryan County. It is unlikely that Bryan County will be affected if Tulsa County or Oklahoma County become nonattainment for ozone. However, in this particular case, BACT for this flat glass process is also LAER.

5. **COMMENT:** How will this modification affect existing plants?

**RESPONSE:** Existing glass-melting furnaces in the state are exempt from Subchapter 33 because they were constructed prior to July 1, 1977, and the rule applies to new facilities only. However, owners or operators of existing glass plants will not be able to modify their glass-melting furnaces or add new glass-melting furnaces to their plants without the proposed exemption to the NOx limits in Subchapter 33.

6. **COMMENT:** If the ownership of an existing plant is transferred to a new owner, would the permit have to be modified?

**RESPONSE:** If the ownership of the plant changes but the processes, equipment, and operation remain the same and the emissions do not increase, a permit modification will not usually be required.

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Volume 21  
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Pages 955 - 1152

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

# Permanent Final Adoptions

## ANALYSIS:

The Department proposes to delete the option for the Air Quality Advisory Council to conduct individual proceedings on enforcement matters. This amendment is for conformity with statute, as legislated in HB 1019 and approved by the Governor April 22, 2003.

## CONTACT PERSON:

Pat Sullivan, Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is 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 3081 (A), WITH AN EFFECTIVE DATE OF JUNE 1, 2004.

## SUBCHAPTER 9. ADMINISTRATIVE PROCEEDINGS

### PART 5. AIR QUALITY ADVISORY COUNCIL HEARINGS

#### 252:4-9-51. In general

The Air Quality Advisory Council is authorized to conduct individual proceedings on enforcement matters and requests for a variance from the Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 through 2-5-108, or the Air Pollution Control Rules, AC 252:100.

#### 252:4-9-52. Individual proceedings

Individual proceedings before the Air Quality Advisory Council will be conducted in accordance with the requirements in Part 3 of this Subchapter. To be heard by the Council, the request for hearing in response to an Order must include a request that the Council conduct the hearing. The Council may designate an Administrative Law Judge for individual proceedings to be held before the Council. The Council or its designee may perform Administrative Law Judge functions described in Part 3 of this subchapter.

[OAR Docket #04-577; filed 4-7-04]

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

[OAR Docket #04-576]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 33. Control of Emission of Nitrogen Oxides

252:100-33-1.1 [AMENDED]

252:100-33-1.2 [AMENDED]

### AUTHORITY:

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and Oklahoma Clean Air Act, 27A O.S. § 2-5-101, *et seq.*

## DATES:

### Comment period:

June 16, 2003 through July 16, 2003

### Public hearing:

July 16, 2003 and September 9, 2003

### Adoption:

September 9, 2003

### Submitted to Governor:

September 17, 2003

### Submitted to House:

September 17, 2003

### Submitted to Senate:

September 17, 2003

### Gubernatorial approval:

October 27, 2003

### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004

### Final adoption:

March 24, 2004

### Effective:

June 1, 2004

### SUPERSEDED EMERGENCY ACTIONS:

#### Superseded rules:

252:100-33-1.2 [AMENDED]

#### Gubernatorial approval:

March 17, 2003

#### Register publication:

20 Ok Reg 737

#### Docket number:

03-466

### INCORPORATIONS BY REFERENCE:

None

### ANALYSIS:

The DEQ proposes to exempt glass-melting furnaces from the requirements of Subchapter 33 and to revise the definition of "new fuel-burning equipment" to reflect the date (July 1, 1977) that direct-fired fuel-burning equipment became subject to Subchapter 33. An emergency rule containing this exemption was approved by the Board at their February 28, 2003 meeting and became effective March 17, 2003. The permanent revision was delayed to allow time to determine if other direct-fired fuel-burning processes located in the State faced similar problems in complying with the NOx limits in Subchapter 33. After careful evaluation, staff can find no indication that other direct-fired, fuel-burning processes in the State have the same problems meeting the NOx limits in Subchapter 33, so the staff has recommended that the rule change be made permanent for glass-melting furnaces only. As explained to the Board at the February, 2003 meeting, the basis for the requested amendment was a determination that glass-melting furnaces cannot meet the requirements of Subchapter 33. A review of the Division's records of stack tests performed on existing glass-melting furnaces in the State and a search of EPA's BACT, RACT, LAER Clearinghouse for recently issued permits for glass-melting furnaces in the United States indicates that in other States glass-melting furnaces are not required to and are unable to meet such emissions limits. Staff does not feel that the Department intended to set a NOx emission limit for glass-melting furnaces that could not be met, thus precluding the installation of any new glass plants in the state or the modification of existing glass-melting furnaces. The glass-melting furnaces in question must demonstrate that BACT (Best Available Control Technology) will be used in the design and operation of the equipment. The use of BACT should be sufficient to protect the environment from the adverse effects of the added NOx emissions. The use of BACT will also allow more efficient controls to be required when they are available without the necessity of revising the rule.

### CONTACT PERSON:

Joyce D. Sheedy, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 794-6800

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 JUNE 1, 2004:

SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

252:100-33-1.1. Definitions

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

"New fuel-burning equipment" means any fuel-burning equipment, with the exception of gas turbines that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase in nitrogen oxide emissions, and any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions with the following exceptions.

- (A) New fuel-burning equipment for gas turbines means any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions; and
- (B) New fuel-burning equipment for direct-fired processes means any direct-fired fuel-burning equipment or processes that were not in being on July 1, 1977, or any existing direct-fired fuel-burning equipment or processes that were altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions.

"Three-hour average" means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

252:100-33-1.2. Applicability

(a) This Subchapter applies to new fuel-burning equipment that meets both of the following criteria.

- (1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr or greater.
- (2) The equipment burns solid fossil, gas, or liquid fuel.

(b) Glass-melting furnaces that are subject to BACT requirements contained in a currently applicable Air Quality Division permit are exempt from the requirements of this Subchapter.

[OAR Docket #04-576; filed 4-7-04]

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

[OAR Docket #04-578]

RULEMAKING ACTION: PERMANENT final adoption

RULES:

Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants Part 3. Hazardous Air Pollutants 252:100-41-15 [AMENDED]

AUTHORITY:

Environmental Quality Board; 27A O.S. 2001, §§ 2-2-101, and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. § 2-5-101, et seq.

DATES:

Comment period:

August 5, 2003 through October 8, 2003 and November 18, 2003

Public hearing:

October 8, 2003 and November 18, 2003

Adoption:

November 18, 2003

Submitted to Governor:

November 24, 2003

Submitted to House:

November 24, 2003

Submitted to Senate:

November 24, 2003

Gubernatorial approval:

December 17, 2003

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004

Final adoption:

March 24, 2004

Effective:

June 1, 2004

SUPERSEDED EMERGENCY ACTIONS:

None

INCORPORATIONS BY REFERENCE:

Incorporated standards:

The following Subparts of 40 CFR Part 61 are incorporated by reference in their entirety as they exist on July 1, 2003:

- (1) Subpart A
- (2) Subparts F through J
- (3) Subparts L through O
- (4) Subparts Q through U
- (5) Subparts W through Y
- (6) Subparts AA through EE
- (7) Subparts GG through MM
- (8) Subparts OO through YY
- (9) Subparts CCC through EEE
- (10) Subparts GGG through III
- (11) Subparts LLL through PPP
- (12) Subparts TTT through VVV
- (13) Subpart XXX
- (14) Subpart AAAA
- (15) Subpart CCCC
- (16) Subpart GGGG
- (17) Subpart HHHH
- (18) Subpart JJJJ
- (19) Subpart NNNN
- (20) Subpart OOOO
- (21) Subparts QQQQ through XXXX
- (22) Subpart BBBB
- (23) Subpart CCCC
- (24) Subpart FFFF
- (25) Subparts IIII through NNNN
- (26) Subpart PPPP
- (27) Subpart QQQQ
- (28) Subpart SSSS

The following Subparts of 40 CFR Part 61 are incorporated by reference in their entirety as they exist on July 1, 2003:

- (1) Subpart A
- (2) Subpart C
- (3) Subpart D
- (4) Subpart E
- (5) Subpart F
- (6) Subpart J
- (7) Subpart L
- (8) Subpart M

**January 21, 2009**  
**Air Quality Advisory Council**

**February 27, 2009**  
**Environmental Quality Board**

**Effective Date: July 1, 2009**

Volume 26  
Number 7  
December 15, 2008  
Pages 211 - 268

**RECEIVED**

DEC 16 2008

**DEQ LEGAL**

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

210:35-21-2. Alternative instructional delivery systems  
[AMENDED]

**SUMMARY:**

The purpose of the rule amendments is to provide regulations to any accredited public or private school site and/or district in the State of Oklahoma with regard to alternative instructional delivery systems.

These proposed amendments will define the full-time virtual student and outlines the plan the district must submit to the State Board of Education.

**AUTHORITY:**

70 O.S. § 3-104, State Board of Education

**COMMENT PERIOD:**

All interested persons wishing to present their views orally or in writing may do so before 4:30 p.m., January 21, 2009, at the following address: Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4599.

**PUBLIC HEARING:**

A public hearing will be held at 9:30 a.m. on Thursday, January 22, 2009, at the Hodge Education Building, State Board Room, Room 1-20, 2500 North Lincoln Boulevard, Suite 1-20, Oklahoma City, Oklahoma 73105-4599. Persons wishing to speak must sign in at the door of the State Board Room by 9:35 a.m.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

N/A

**COPIES OF PROPOSED RULES:**

Copies are on file for public viewing in the office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma.

**RULE IMPACT STATEMENT:**

A Rule Impact Statement has been prepared, according to 70 O.S. § 3-3(D), and will be available at the Office of the State Board of Education, Room 1-18, Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, on December 30, 2008.

**CONTACT PERSON:**

Connie Holland, 405-521-3308

[OAR Docket #08-1422; filed 11-25-08]

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

[OAR Docket #08-1409]

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking.

**PROPOSED RULES:**

- Subchapter 9. Excess Emission Reporting Requirements
- 252:100-9-1. Purpose [AMENDED]
- 252:100-9-1.1. Applicability [NEW]

252:100-9-2. Definitions [AMENDED]

252:100-9-3.1. Excess emission reporting requirements [AMENDED AND RENUMBERED TO 252:100-9-7]

252:100-9-3.3. Demonstration of cause [AMENDED AND RENUMBERED TO 252:100-9-8]

252:100-9-7. Excess emission reporting requirements [NEW]

252:100-9-8. Affirmative defenses [NEW]

Subchapter 33. Control of Emission of Nitrogen Oxides

252:100-33-1.1. Definitions [AMENDED]

252:100-33-1.2. Applicability [AMENDED]

252:100-33-2. Emission limits [AMENDED]

**SUMMARY:**

The Department is proposing to amend OAC 252:100-9, Excess Emission Reporting Requirements, to clarify and revise its requirements, and to make them more compatible with EPA guidelines. The revised requirements establish an Affirmative Defense for certain excess emissions occurring during periods of startup, shutdown or malfunction. The revisions also provide an exception to the immediate notice requirement set forth in this subchapter for certain excess emissions that are not likely to pose a significant threat to human health or the environment.

The Department is proposing to revise OAC 252:100-33, Control of Emission of Nitrogen Oxides, to resolve issues regarding emission standards for nitrogen oxides from fuel-burning equipment. The changes clarify what types of fuel are covered, address emission standards for fuel-burning equipment that uses more than one type of fuel and address equipment with technological limitations.

**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.*

**COMMENT PERIOD:**

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on January 21, 2009. 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 21, 2009, hearing and at the February 27, 2009, Environmental Quality Board meeting.

**PUBLIC HEARINGS:**

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, January 21, 2009, at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board at 9:30 a.m. on Friday, February 27, 2009, at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State

## Notices of Rulemaking Intent

Implementation Plan (SIP) under the requirements of 40 C.F.R. § 51.102 of the EPA 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 at the Air Quality Division of the Department at [http://www.deq.state.ok.us/AQDnew/council\\_mtgs/index.htm](http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm), or copies 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](mailto:cheryl.bradley@deq.ok.gov). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl 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 #08-1409; filed 11-24-08]

### **TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS - FEE FOR SERVICE**

[OAR Docket #08-1390]

**INTENDED RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 5. Individual Providers and Specialties  
Part 55. Respite Care  
317:30-5-518. through 30-5-519. [AMENDED]  
(Reference APA WF # 08-03A)

**SUMMARY:**

Rules for the Developmental Disabilities Services Division (DDSD) Home and Community-Based Services (HCBS),

Waivers are revised to provide current provisions for respite care for persons with mental retardation and certain persons with related conditions. Respite care options and limits are clarified; specifically, DDSD SoonerCare members will not be eligible for respite care when in OKDHS custody and out-of-home placement funded by OKDHS Children and Family Services Division. Agency companion service rules are amended to add another level of support for individuals who require additional professional level support to remain in an agency companion setting due to pervasive behavioral or emotional challenges. Other revisions delineate agency companion services salary options, which include the contractor and employer models, and use of specific OKDHS forms.

**AUTHORITY:**

The Oklahoma Health Care Authority Board; The Oklahoma Health Care Authority Act, Section 5003 through 5016 of Title 63 of Oklahoma Statutes

**COMMENT PERIOD:**

Written and oral comments will be accepted December 15, 2008, through January 14, 2009, during regular business hours by contacting Tywanda Cox, Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma, 73105, Telephone 405-522-7153.

**PUBLIC HEARING:**

A public hearing is scheduled for Thursday, January 22, 2009, at 2:00 p.m., at the Oklahoma Health Care Authority, 4545 N. Lincoln Blvd., Suite 124, Oklahoma City, Oklahoma 73105.

**REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:**

Business entities affected by these proposed rules may provide the OHCA, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by the particular business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Tywanda Cox, at the above address, before the close of the comment period on January 14, 2009.

**COPIES OF PROPOSED RULES:**

Copies of proposed rules may be obtained for review by contacting the above listed contact person.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S., Section 303(D), copies of the Rule Impact Statement may be obtained for review by contacting the above listed person.

**CONTACT PERSON:**

Tywanda Cox, Interim Director, Policy Development, 405-522-7153.

[OAR Docket #08-1390; filed 11-21-08]

January 5, 2009

**MEMORANDUM**

TO: Members of the Air Quality Advisory Council

FROM: Eddie Terrill, Director <sup>a T.</sup>  
Air Quality Division

SUBJECT: Proposed Modifications to OAC 252:100-33, Control of Emission of Nitrogen Oxides

Enclosed are copies of the proposed amendments to the NO<sub>x</sub> emission limitations in OAC 252:100-33, the Rule Impact Statement and the summary of comments and responses. A proposal to amend Subchapter 33 (SC 33) was first presented to the Council at the January 16, 2008 meeting and was continued to the July 16, 2008 and October 15, 2008 meetings. This will be the fourth time the Council has considered the proposal.

The Department proposes to amend SC 33 to resolve issues regarding emission standards for nitrogen oxides from fuel-burning equipment. The changes clarify what types of fuels are covered by the rule, address emission standards for fuel-burning equipment that uses more than one type of fuel and address equipment with technological limitations. The proposed revision to OAC 252:100-33-1.1 adds a definition for solid fossil fuel. The proposed revision renumbers OAC 252:100-33-2 to 252:100-33-2(a) and adds a new paragraph (4) which provides a formula for setting NO<sub>x</sub> emission limits for equipment that burns a combination of fuel types. The proposed revision also adds a new subsection (b) which sets requirements for fuel-burning equipment that cannot meet the standards in subsection (a) because of technological limitations during startup and/or shutdown. Other changes of a nonsubstantive nature are also proposed. The Department has decided not to expand the existing exemption for glass-melting furnace to all direct-fired fuel-burning equipment because there is insufficient technical evidence to justify the change and relaxation of the existing State Implementation Plan. This is a significant change from the October 2008 proposal.

Notice of the proposed rule changes was published in the *Oklahoma Register* on December 15, 2008 and comments were requested from members of the public.

Staff will ask that the Council recommend this proposal for passage at the January 21, 2009 meeting.

Enclosures Proposed amendments to OAC 252:100-33  
Rule Impact Statement  
Summary of Comments and Responses

**REVISED - REGULAR MEETING/HEARING AGENDA - REVISED**  
**AIR QUALITY ADVISORY COUNCIL**

January 21, 2009, 9:00 a.m.  
DEQ Multipurpose Room  
707 North Robinson Street  
Oklahoma City, OK

*Please turn off cell phones.*

1. **Call to Order** - David Branecky, Chair
2. **Roll Call** - Myrna Bruce
3. **Approval of Minutes** - October 15, 2008 Regular Meeting  
[APPROVED AS CORRECTED]
4. **Election of Officers** - Calendar Year 2009  
[LAURA LODES, CHAIR; JERRY PURKAPLE, VICE CHAIR]
5. **Public Rulemaking Hearings**

**A. OAC 252:100-9. Excess Emission Reporting Requirements [AMENDED]**

The Department is proposing to amend Subchapter 9 to clarify its requirements and make them more compatible with EPA guidelines.

1. Presentation - Robert Singletary, Environmental Attorney, DEQ Office of General Counsel
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**[SC 9 RECOMMENDED TO THE ENVIRONMENTAL QUALITY BOARD]**

**B. OAC 252:100-33. Control of Emission of Nitrogen Oxides [AMENDED]**

The Department is proposing to revise OAC 252:100-33 to resolve issues regarding emission standards for fuel-burning equipment that uses more than one type of fuel and equipment with technological limitations. In addition, the changes clarify what types of fuel are covered.

1. Presentation - Cheryl Bradley, Environmental Programs Manager, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**[SC 33 RECOMMENDED TO THE ENVIRONMENTAL QUALITY BOARD]**

6. **Finance Committee Report** - David Branecky
7. **Mercury Fish Flesh Sampling Presentation** - Jay Wright, DEQ Customer Services Division
8. **Boiler and Area Source MACTs Presentation** - Phillip Fielder, Engineering Manager, DEQ Air Quality Division

9. **Division Director's Report** - Eddie Terrill
10. **New Business** - Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.
11. **Adjournment** - The next regular meeting is proposed for Wednesday, April 15, 2009 in Tulsa.

Lunch break if necessary

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4216. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.



**TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 100. AIR POLLUTION CONTROL RULES  
SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES**

**252:100-33-1.1. Definitions**

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

**"New fuel-burning equipment"** means any fuel-burning equipment that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase ~~increased in nitrogen oxide emissions of nitrogen oxides~~ with the following exceptions.

(A) New fuel-burning equipment for gas turbines means any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase ~~increased in nitrogen oxide emissions of nitrogen oxides~~; and

(B) New fuel-burning equipment for direct-fired processes means any direct-fired fuel-burning equipment or processes that were not in being on July 1, 1977, or any existing direct-fired fuel-burning equipment or processes that were altered, replaced, or rebuilt after July 1, 1977, resulting in an increase ~~increased in nitrogen oxide emissions of nitrogen oxides~~.

**"Solid fossil fuel"** means solid fossil fuel such as coal and any solid fuel derived from naturally occurring coal or petroleum.

**"Three-hour average"** means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

**252:100-33-1.2. Applicability**

(a) This ~~Subchapter~~ ~~subchapter~~ applies to new fuel-burning equipment that meets both of the following criteria.

(1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr ~~MMBTU/hr~~ or greater.

(2) The equipment burns solid fossil fuel, gas fuel, or liquid fuel, or a combination thereof.

(b) Glass-melting furnaces that are subject to BACT requirements contained in a currently applicable Air Quality Division permit are exempt from the requirements of this Subchapter ~~OAC 252:100-33-2~~. ~~The NO<sub>x</sub> emissions from this equipment shall not cause or contribute to an exceedance of any NAAQS or PSD increment.~~

**252:100-33-2. Emission limits**

(a) ~~Fuel-burning equipment subject to this subchapter shall meet the following emission limitations except as provided in OAC 252:100-33-1.2(b) and 252:100-33-2(b).~~

~~(a)(1) Gas-fired fuel-burning equipment. Nitrogen oxide emissions~~ ~~Emissions of nitrogen oxides~~ (calculated as nitrogen dioxide) from any new gas-fired fuel-burning equipment shall not exceed ~~0.20 lb/MMBtu~~ 0.20 lb/MMBTU (86 ng/J) heat input, three-hour average.

~~(b)(2) Liquid-fired fuel-burning equipment. Nitrogen oxide emissions~~ ~~Emissions of nitrogen oxides~~ (calculated as nitrogen dioxide) from any new liquid-fired fuel-burning equipment shall not exceed ~~0.30 lb/MMBtu~~ 0.30 lb/MMBTU (129 ng/J) heat input, three-hour average.

~~(c)(3) Solid fossil fuel-burning equipment. Nitrogen oxide emissions~~ ~~Emissions of nitrogen oxides~~ (calculated as nitrogen dioxide) from any new solid fossil fuel-burning equipment shall

not exceed ~~0.70 lb/MMBtu~~ 0.70 lb/MMBTU (300 ng/J) heat input, three-hour average.

**(4) Combination of fuels burned.** When different types of fuels are burned simultaneously in any combination, the NO<sub>x</sub> standard (calculated as nitrogen dioxide in lb/MMBTU heat input, three-hour average) for the fuel-burning equipment 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 following formula where X is the percent of total heat input derived from gas 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: NO<sub>2</sub> limit = 0.2X + 0.3Y + 0.7Z/(X + Y + Z).

**(b) If fuel-burning equipment, due to technological limitations, cannot meet the requirements of OAC 252:100-33-2(a) during startup and/or shutdown, the fuel-burning equipment shall comply with BACT for startup and/or shutdown as contained in a currently applicable Air Quality Division permit. The NO<sub>x</sub> emissions during startup and/or shutdown of this equipment shall not cause or contribute to an exceedance of any NAAQS or PSD increment. Approval of technological limitations by the Executive Director does not mean automatic approval by the EPA.**

**DRAFT MINUTES  
AIR QUALITY COUNCIL  
January 21, 2009  
DEQ Multipurpose Room  
707 North Robinson  
Oklahoma City, Oklahoma**

For EQB February 27, 2009  
TO be APPROVED by AQC  
April 15, 2009

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. January 21, 2009 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 October 24, 2008 and amended on November 25, 2008 to change the date from the 14<sup>th</sup> to the 21<sup>st</sup>. 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. Mr. David Branecky, Chair, called the meeting to order and welcomed Mr. Pete White and Mr. Gary Collins to the Council. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
Montelle Clark  
Gary Collins  
Jim Haught  
Laura Lodes  
Bob Lynch  
Sharon Myers  
Jerry Purkapple  
Pete White

**MEMBERS ABSENT**

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Scott Thomas  
Cheryl Bradley  
Joyce Sheedy  
Max Price  
Rob Singletary  
Nancy Marshment

**OTHERS PRESENT**

Steve Mason, EQB  
Christy Myers, Court Reporter

**DEQ STAFF PRESENT**

Diana Hinson  
Sarah Penn  
Kendal Stegmann  
Dawson Lasseter  
Patrick Farris  
Jay Wright  
Karl Heinzig  
Myrna Bruce

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

**Approval of Minutes** Ms. Lodes made motion to approve the October 15, 2008 Minutes as presented and Ms. Myers made the second.

*transcript pages 5 - 7*

Jim Haught	Yes	Jerry Purkapple	Yes
Pete White	Abstain	Montelle Clark	Abstain
Gary Collins	Abstain	Bob Lynch	Yes
Sharon Myers	Yes	Laura Lodes	Yes
David Branecky	Yes		

**Election of Officers - Calendar Year 2009** Ms. Myers nominated Ms. Laura Lodes for Chair and Mr. Jerry Purkapple for Vice-Chair. Hearing no discussion, Mr. Branecky called for a second. Mr. Haught made the second.

*transcript pages 7-8*

Jim Haught	Yes	Jerry Purkable	Yes
Pete White	Yes	Montelle Clark	Yes
Gary Collins	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Laura Lodes	Yes
David Branecky	Yes		

**OAC 252:100-9. Excess Emission Reporting Requirements [AMENDED]** . Mr. Robert Singletary, DEQ Environmental Attorney, advised that the Agency proposal would amend Subchapter 9 to clarify its requirements and make them more compatible with EPA guidelines. Mr. Eddie Terrill and staff fielded questions and comments from the Council. Public comments were heard from Don Shandy, Attorney; and from Alan Shar, EPA. After much discussion, Ms. Lodes called for a motion. Mr. Haught made the motion to accept this rule as modified and Mr. Branecky made the second.

*Transcript pages 10 - 98*

Jim Haught	Yes	Jerry Purkable	Yes
Pete White	Abstain	Montelle Clark	Yes
Gary Collins	Abstain	Bob Lynch	Yes
Sharon Myers	No	Laura Lodes	No
David Branecky	Yes		

**OAC 252:100-33. Control of Emission of Nitrogen Oxides [AMENDED]** Ms. Cheryl Bradley advised that the proposal would define the term 'solid fossil fuel' to resolve issues regarding NOx emission limits for equipment that uses more than one type of fuel and equipment with technological limitations. In addition, the changes clarify what types of fuel are covered. She identified the changes that had been proposed incorporating two changes recently proposed by Council members. Following discussion, Ms. Lodes called for a motion. Mr. Purkable moved to adopt as presented with latest changes. The second was by Dr. Lynch.

*Transcript pages 3 - 16*

Jim Haught	Yes	Jerry Purkable	Yes
Pete White	Abstain	Montelle Clark	Yes
Gary Collins	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Laura Lodes	Yes
David Branecky	Yes		

*The summary for the following agenda items will be prepared for approval of these Minutes by the Air Quality Council on April 15, 2009 in Tulsa.*

**6. Finance Committee Report – David Branecky**

**7. Mercury Fish Flesh Sampling Presentation - Jay Wright, DEQ Customer Services Division**

**8. Boiler and Area Source MACTs Presentation - Phillip Fielder, Engineering Manager, DEQ Air Quality Division**

**9. Division Director's Report - Eddie Terrill, Director, Air Quality Division**

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

**11. Adjournment – The meeting adjourned at 1:00 p.m.**

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

THE AIR QUALITY COUNCIL  
 RULEMAKING RECOMMENDATION  
 TO THE ENVIRONMENTAL QUALITY BOARD

**Identification of Proposed Rulemaking:**

Chapter Number and Title: **OAC 252:100**

**Subchapter 33. Control of Emission of Nitrogen Oxides [AMENDED]**

On January 21, 2009, the members of this Council, by authority vested in them by the Oklahoma Environmental Quality Code (27 O.S. Sec. 2-2-201), by roll call vote, recommended to the Environmental Quality Board that the rulemaking described above be adopted as:

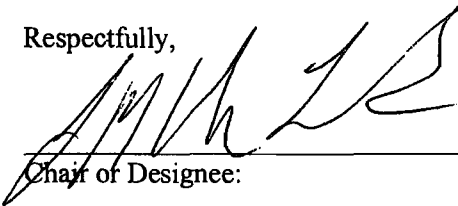
  x   permanent [take effect after legislative review]

           emergency [temporary, to take effect upon approval by the Governor because of time]

This Council has considered the proposed rulemaking and comments about it and determined, to the best of its knowledge, that all applicable requirements of the Oklahoma Administrative Procedures Act have been followed.

This Council authorizes the Department to prepare this recommended rulemaking for the Board, making any changes approved by the Council, correcting typographical, grammatical and reference errors, and formatting them as required by the Office of Administrative Rules. This is to be done with the understanding that such changes shall neither alter the sense of what this Council recommends nor invalidate this recommendation.

Respectfully,

  
 \_\_\_\_\_  
 Chair of Designee:

Date Signed: 1/21/09

	VOTING TO APPROVE	VOTING AGAINST	ABSTAIN	ABSENT
David Branecky	x			
Montelle Clark	x			
Gary Collins	x			
Jim Haught	x			
Laura Lodes	x			
Robert Lynch	x			
Sharon Myers	x			
Jerry Purkapple	x			
Pete White			x	

rDEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY MANAGEMENT ADVISORY  
COUNCIL MEETING  
ITEM NUMBER 5B  
HELD ON JANUARY 21, 2009, 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

**ORIGINAL**

Page 2

1 MEMBERS OF THE COUNCIL

2

3 LAURA LODES, CHAIR

4 JERRY PURKAPLE, VICE-CHAIR

5 DAVID BRANECKY

6 JIM HAUGHT

7 BOB LYNCH

8 SHARON MYERS

9 PETE WHITE

10 MONTELLE CLARK

11 DEQ STAFF

12 MYRNA BRUCE

13 EDDIE TERRILL

14 BEVERLY BOTCHLET-SMITH

15 CHERYL BRADLEY

16 JOYCE SHEEDY

17 MAX PRICE

18 NANCY MARSHMENT

19 DIANA HINSON

20 SARAH PENN

21 DAWSON LASSETER

22 KENDAL STEGMANN

23

24

25

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1 there were still outstanding issues, the

2 July hearing was continued until October of

3 2008, at which time it was determined that

4 the hearing would be continued to today.

5 After careful evaluation of the

6 technical issues and comments received, the

7 Department has made one major change in its

8 original proposal.

9 The Department has decided not to

10 include an exemption for all direct fired

11 fuel-burning equipment from the standards

12 contained in Subchapter 33. This is a

13 significant change. The specific changes

14 that were included in the version of the

15 rule in your packet:

16 The proposed revision to OAC

17 252:100-33-1.1 adds the definition for

18 solid fossil fuel.

19 The proposed revision to OAC

20 252:100-33-1.2(a)(2) clarifies that the

21 rule applies to solid fossil fuel, gas

22 fuel, and liquid fuel, or a combination

23 thereof.

24 The proposed revision to OAC

25 252:100-33-1.2(b) adds the requirement that

Page 3

1 MEETING

2

3 MS. BOTCHLET-SMITH: The next

4 item on the Agenda is Item Number 5B.

5 That's OAC 252:100-33, Control of Emissions

6 of Nitrogen Oxides, and Ms. Cheryl Bradley

7 will give the staff presentation.

8 MS. BRADLEY: Madam Chair,

9 Members of the Council, ladies and

10 gentlemen, we are proposing to amend

11 Subchapter 33 to define the term "solid

12 fossil fuel", to resolve issues regarding

13 NOx emission limits for equipment with

14 technological limitations, and to add a

15 formula for determining NOx emission limits

16 for fuel-burning equipment utilizing more

17 than one type of fuel. We are also

18 proposing some non-substantive changes for

19 consistency with the other rules in Chapter

20 100 and we propose to correct some

21 grammatical errors as well.

22 These changes were first presented

23 to the Council at the meeting held on

24 January 17, 2008. That hearing was

25 continued until July 16, 2008. Because

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1 NOx emissions from the fuel-burning

2 equipment in question, shall not cause or

3 contribute to an exceedance of any NAAQS or

4 PSD increment. This was added at the

5 request of EPA.

6 The proposed revision renumbers what

7 was OAC 252:100-33-2 to 252:100-33-2(a) and

8 adds a new paragraph (4) which provides a

9 formula for setting NOx emission for

10 equipment that burns a combination of fuel

11 types.

12 The proposed revision to OAC

13 252:100-33-2 also adds a new

14 Subsection (b) which sets requirements for

15 fuel-burning equipment that because of

16 technological limitations cannot meet the

17 standards in Subsection (a) during startup

18 and/or shutdown. Other changes of a non-

19 substantive nature are also proposed.

20 Notice of the proposed rule changes

21 were published in the Oklahoma Register on

22 December 15, 2008 and comments were

23 requested.

24 As a result of comments received

25 from the Mr. Branecky and Ms.

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1 Lodes, during a meeting yesterday, staff  
 2 has recommended two additional minor  
 3 changes for clarity.  
 4 You will find in your folder a  
 5 version of the rule, with yellow  
 6 highlighting at the top, that says  
 7 "Proposed Changes in Text".  
 8 One. We are proposing to change the  
 9 term "gas fuel" to "gaseous fuel". The  
 10 phrase "gas fuel" should be changed in  
 11 Section 33-1.2(a)(2) and that same term  
 12 appears again on Page 2 in 33-2(a)(4).  
 13 The one additional change was for  
 14 clarification of wording on the last  
 15 sentence in the last paragraph on Page 2.  
 16 We are proposing that the wording of that  
 17 sentence would now be "Approval of  
 18 technological limitations by the Director  
 19 in an Air Quality Division permit does not  
 20 mean automatic approval by EPA."  
 21 As these additional changes were for  
 22 clarity only and non-substantive, staff  
 23 will request that the Council consider  
 24 recommending the proposed rule with the  
 25 three additional changes to the

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1 we're looking at moving the term "direct  
 2 fired" into Subchapter 1 so that it will be  
 3 used as an adjective to explain all of  
 4 these.  
 5 DR. SHEEDY: Is it defined in  
 6 (inaudible)?  
 7 MR. PRICE: We have -- direct  
 8 fired is already in -- what subchapter is  
 9 that -- Particulate Rule under -- I take --  
 10 and it's already defined there as a direct  
 11 fired, like a kiln would be direct fired.  
 12 In-direct fired is like boilers. So we  
 13 have the term already defined in Chapter  
 14 100 Rules. But we're going to gather all  
 15 of these -- all these definitions into one.  
 16  
 17 MS. LODES: Max. Max. You say  
 18 it in the -- which Subchapter?  
 19 MR. PRICE: It would be 19, I  
 20 think.  
 21 MS. LODES: Okay.  
 22 MR. PURKAPLE: That directly  
 23 fires, is in Subchapter 19.  
 24 MR. PRICE: Yes, sir.  
 25 MS. LODES: Okay.

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1 Environmental Quality Board for adoption as  
 2 a permanent rule.  
 3 MS. BOTCHLET-SMITH: Do we have  
 4 any questions from the Council for Ms.  
 5 Bradley?  
 6 MS. MYERS: Cheryl, where is  
 7 direct fired process defined?  
 8 MS. BRADLEY: I'll defer that  
 9 question to Joyce.  
 10 MS. BOTCHLET-SMITH: Joyce, could  
 11 you please come to the microphone so we can  
 12 hear you when you comment.  
 13 DR. SHEEDY: Direct fired  
 14 process, I'm not sure that we have got it  
 15 defined now for this subchapter. That's  
 16 one of the changes that we want to add to  
 17 Chapter 1, I believe. I need to call on  
 18 Max Price, who might or might not be here.  
 19 (Inaudible conversations)  
 20 MR. PRICE: If I remember  
 21 correctly --  
 22 MS. MYERS: Step up to the  
 23 microphone, please.  
 24 MR. PRICE: I'm not really  
 25 prepared for this but I do believe that

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1 MR. PRICE: In the definition --  
 2 direct fired, here we go. Directly fired,  
 3 in this case means that the hot gases  
 4 produced by the flame or heat source --  
 5 indirectly fired, okay -- do not come in  
 6 direct contact with the material met.  
 7 Directly fired means just the opposite. It  
 8 means that the hot gases produced by the  
 9 flame or heat source come into direct  
 10 contact with the material being processed  
 11 or heated.  
 12 So I think the plans are, the next  
 13 go around on the definition (inaudible)  
 14 because these definitions are used in 33 as  
 15 well as 19, we're going to move a somewhat  
 16 modified definition into one that will  
 17 apply to both.  
 18 MR. COLLINS: I've got a  
 19 question, Joyce, that maybe you can answer.  
 20 The -- and this may have been asked and  
 21 answered in previous changes to this rule.  
 22 But what would constitute an increase or as  
 23 the definition states "resulting in  
 24 increased emissions of nitrogen oxides"  
 25 that would subject a unit that wasn't



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1 previously included? Something that was  
 2 built after that date?  
 3 DR. SHEEDY: Okay. Something  
 4 that was built after the date -- oh, sorry.  
 5 MR. COLLINS: Any increase.  
 6 DR. SHEEDY: Okay. The question  
 7 was what would be --  
 8 MR. COLLINS: Would you like for  
 9 me to state it again?  
 10 DR. SHEEDY: Yes, sir, I would.  
 11 MR. COLLINS: All right. What  
 12 would the definition of "resulting in  
 13 increased emissions", what is the  
 14 definition of that as it relates to a unit  
 15 that was previously not covered by this  
 16 rule that would be because of, say, a  
 17 change to that unit?  
 18 DR. SHEEDY: A modification.  
 19 MR. BRANECKY: Is there a certain  
 20 increase you have to have before you become  
 21 subject to it, I think is what you're  
 22 trying to say?  
 23 MR. COLLINS: Yes.  
 24 MR. BRANECKY: Or is it just a  
 25 hundredth of a pound, or does it have to be

Page 12

1 consistency change the term "the  
 2 applicability from gas to gaseous  
 3 (inaudible) fuel. And then we still use  
 4 gas fired fuel-burning equipment. So is  
 5 that consistent? I'm assuming that the  
 6 reason for the change to gaseous fuel have  
 7 you got -- to address fuels other than what  
 8 you typically call natural gas, so does  
 9 that need to be for consistency change  
 10 those other terms?  
 11 MS. BRADLEY: We had a discussion  
 12 yesterday, and the term "gas fired" is an  
 13 entrenched term and we felt there was not a  
 14 need to differentiate that term. However,  
 15 "fuel gas" was a term that's very similar  
 16 to "gas fuel" and it had a completely  
 17 different meaning.  
 18 DR. SHEEDY: We don't think we  
 19 need to change "gas fired" to "gaseous  
 20 fired". I believe that --  
 21 MR. HAUGHT: So "gas fired" is  
 22 going to apply to any of those fuel types  
 23 then? Gaseous or gas fired?  
 24 DR. SHEEDY: "Gaseous fuel" would  
 25 be, yeah, gas fired.

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1 ten pounds, or a ton, or what?  
 2 DR. SHEEDY: Well, it would have  
 3 to be greater than fifty million BTU.  
 4 MR. BRANECKY: But is there --  
 5 what increase in the emissions has to --  
 6 DR. SHEEDY: Any.  
 7 MR. BRANECKY: -- occur? Any  
 8 increase?  
 9 DR. SHEEDY: Any increase.  
 10 MR. BRANECKY: No matter how  
 11 small, any increase?  
 12 DR. SHEEDY: Yes. Yeah. Because  
 13 we haven't put any kind of a trigger on  
 14 that.  
 15 MS. BRADLEY: That was  
 16 information provided by Dawson Lasseter.  
 17 MR. BRANECKY: Okay.  
 18 MR. COLLINS: Thank you.  
 19 MS. BOTCHLET-SMITH: Any further  
 20 questions from the Council? We've not  
 21 received any notice to comment from the  
 22 public on this rule. So if -- Montelle,  
 23 did you have a question?  
 24 MR. HAUGHT: Beverly, I just one  
 25 second. I just -- real quick if I can, for

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1 MS. BOTCHLET-SMITH: Montelle.  
 2 MR. CLARK: Cheryl, just a  
 3 question again on the history here. Can  
 4 you tell me a little bit about the  
 5 exception for glass melting furnaces and  
 6 why that exception is in there?  
 7 MS. BRADLEY: The glass melting  
 8 furnaces were unable, due to their process,  
 9 and the NOx emissions created by that  
 10 process to meet the standard. As an  
 11 alternative they went through a thorough  
 12 review of process to determine what Best  
 13 Achievable Control Technology would be.  
 14 And we hold them to that control  
 15 technology. Actually the best achievable  
 16 or Best Available Control Technology is  
 17 also the Lowest Achievable Emission Rate,  
 18 LAER.  
 19 We went through a SIP revision  
 20 process and provided technological  
 21 demonstration to EPA to justify this  
 22 deviation. And it's -- they are unable to  
 23 meet the limits. And originally this rule  
 24 only applied to indirect fired fuel-burning  
 25 equipment. And there was a change made

1 more than a decade ago to expand the scope  
2 of the rule to include all fuel-burning  
3 equipment, bringing in direct fired.  
4 We did not become aware of the  
5 problem for the direct fired units -- the  
6 glass melting furnaces until after that  
7 date.

8 And the bottom line is they  
9 underwent a very stringent review and they  
10 are held to a standard the Agency has  
11 determined is appropriate for that type  
12 source.

13 MR. CLARK: Okay.  
14 MR. TERRILL: This is another  
15 example of an unintended consequence that  
16 we went back and fixed. The facilities  
17 were as clean as they could possibly be,  
18 clean as any in the country. And it  
19 allowed that facility to be built where  
20 otherwise it wouldn't. And that was never  
21 the purpose of the rule. The rule changes  
22 didn't account for that and nobody showed  
23 up representing the industry, saying this  
24 is going to affect us. And then when we  
25 had a new source come in it came to our

1 MS. BRUCE: Sharon Myers.  
2 MS. MYERS: Yes.  
3 MS. BRUCE: David Branecky.  
4 MR. BRANECKY: Yes.  
5 MS. BRUCE: Jerry Purkaple.  
6 MR. PURKAPLE: Yes.  
7 MS. BRUCE: Montelle Clark.  
8 MR. CLARK: Yes.  
9 MS. BRUCE: Bob Lynch.  
10 DR. LYNCH: Yes.  
11 MS. BRUCE: Laura Lodes.  
12 MS. LODES: Yes.  
13 MS. BRUCE: Motion passed.  
14 MS. BOTCHLET-SMITH: That  
15 concludes the hearing portion of today's  
16 meeting, Laura.

(Item 5B Concluded)

1 attention and it never was -- the Council  
2 originally never intended to say we don't  
3 want them built. They just didn't realize  
4 by making that change it pulled them in.

5 So the facility that got this  
6 exemption has got one of the cleanest  
7 facilities in the country. So it was a  
8 good result all the way around.

9 MR. CLARK: Thank you.  
10 MS. BOTCHLET-SMITH: Any other  
11 questions? I believe you're ready for a  
12 motion.  
13 MS. LODES: Can I have a motion?  
14 MR. PURKAPLE: I move we adopt  
15 with the latest changes we have here.  
16 MS. LODES: Do I have a second?  
17 DR. LYNCH: Second.  
18 MS. LODES: Myrna, call the roll,  
19 please.  
20 MS. BRUCE: Jim Haught.  
21 MR. HAUGHT: Yes.  
22 MS. BRUCE: Pete White.  
23 MR. WHITE: Abstain.  
24 MS. BRUCE: Gary Collins.  
25 MR. COLLINS: Yes.

1  
2 C E R T I F I C A T E  
3  
4 STATE OF OKLAHOMA )  
5 COUNTY OF OKLAHOMA ) ss:  
6  
7 I, CHRISTY A. MYERS, Certified  
8 Shorthand Reporter in and for the State of  
9 Oklahoma, do hereby certify that the above  
10 meeting is the truth, the whole truth, and  
11 nothing but the truth; that the foregoing  
12 meeting was taken down in shorthand by me  
13 and thereafter transcribed under my  
14 direction; that said meeting was taken on  
15 the 21st day of January, 2009, at Oklahoma  
16 City, Oklahoma; and that I am neither  
17 attorney for, nor relative of any of said  
18 parties, nor otherwise interested in said  
19 action.  
20 IN WITNESS WHEREOF, I have hereunto  
21 set my hand and official seal on this, the  
22 30th day of January, 2009.  
23  
24 CHRISTY A. MYERS, C.S.R.  
25 Certificate No. 00310

<p align="center"><b>-0-</b></p> <p>00310 [1] 17:24</p>	<p>added [1] 5:4 additional [4] 6:2,13,21 6:25 address [1] 12:7 adds [4] 4:17,25 5:8,13 adjective [1] 8:3 adopt [1] 15:14 adoption [1] 7:1 ADVISORY [1] 1:9 affect [1] 14:24 again [3] 6:12 10:9 13:3 Agency [1] 14:10 Agenda [1] 3:4 ago [1] 14:1 Air [2] 1:9 6:19 allowed [1] 14:19 alternative [1] 13:11 amend [1] 3:10 answer [1] 9:19 answered [1] 9:21 applicability [1] 12:2 applied [1] 13:24 applies [1] 4:21 apply [2] 9:17 12:22 appropriate [1] 14:11 approval [2] 6:17,20 assuming [1] 12:5 attention [1] 15:1 attorney [1] 17:16 automatic [1] 6:20 Available [1] 13:16 aware [1] 14:4</p>	<p align="center"><b>-C-</b></p> <p>C [2] 17:2,2 C.S.R [1] 17:24 cannot [1] 5:16 careful [1] 4:5 case [1] 9:3 certain [1] 10:19 Certificate [1] 17:24 Certified [1] 17:6 certify [1] 17:8 Chair [2] 2:3 3:8 change [1] 4:7,13 6:8,13 10:17 12:1,6,9,19 13:25 15:4 changed [1] 6:10 changes [13] 3:18,22 4:13 5:18,20 6:3,7,21,25 7:16 9:21 14:21 15:15 Chapter [3] 3:19 7:17 8:13 Cheryl [4] 2:15 3:6 7:6 13:2 Christy [3] 1:23 17:6,24 City [3] 1:13,24 17:15 clarification [1] 6:14 clarifies [1] 4:20 clarity [2] 6:3,22 Clark [6] 2:10 13:2 14:13 15:9 16:7,8 clean [2] 14:17,18 cleanest [1] 15:6 Collins [8] 9:18 10:5,8 10:11,23 11:18 15:24,25 combination [2] 4:22 5:10 comment [2] 7:12 11:21 comments [3] 4:6 5:22 5:24 completely [1] 12:16 Concluded [1] 16:17 concludes [1] 16:15 consequence [1] 14:15 consider [1] 6:23 consistency [3] 3:19 12:1,9 consistent [1] 12:5 constitute [1] 9:22 contact [2] 9:6,10 contained [1] 4:12 continued [3] 3:25 4:2,4 contribute [1] 5:3 control [4] 3:5 13:13,14 13:16 conversations [1] 7:19 correct [1] 3:20 correctly [1] 7:21 Council [8] 1:10 2:1 3:9 3:23 6:23 7:4 11:20 15:1 country [2] 14:18 15:7</p>	<p>COUNTY [1] 17:5 covered [1] 10:15 created [1] 13:9 CSR [1] 1:23</p> <p align="center"><b>-D-</b></p> <p>date [3] 10:2,4 14:7 David [2] 2:5 16:3 Dawson [2] 2:21 11:16 decade [1] 14:1 December [1] 5:22 decided [1] 4:9 defer [1] 7:8 define [1] 3:11 defined [5] 7:7,15 8:5,10 8:13 definition [7] 4:17 9:1 9:13,16,23 10:12,14 definitions [2] 8:15 9:14 demonstration [1] 13:21 Department [2] 4:7,9 DEQ [1] 2:11 determine [1] 13:12 determined [2] 4:3 14:11 determining [1] 3:15 deviation [1] 13:22 DIANA [1] 2:19 different [1] 12:17 differentiate [1] 12:14 direct [12] 4:10 7:7,13 8:1 8:7,10,11 9:2,6,9 14:3,5 direction [1] 17:13 directly [3] 8:22 9:2,7 Director [1] 6:18 discussion [1] 12:11 Division [1] 6:19 down [1] 17:11 DR [14] 7:13 8:5 10:3,6 10:10,18 11:2,6,9,12 12:18,24 15:17 16:10 due [1] 13:8 during [2] 5:17 6:1</p>	<p>errors [1] 3:21 evaluation [1] 4:5 example [1] 14:15 exceedance [1] 5:3 exception [2] 13:5,6 exemption [2] 4:10 15:6 expand [1] 14:1 explain [1] 8:3</p> <p align="center"><b>-F-</b></p> <p>F [1] 17:2 facilities [2] 14:16 15:7 facility [2] 14:19 15:5 felt [1] 12:13 fifty [1] 11:3 fired [22] 4:10 7:7,13 8:2 8:8,11,11,12 9:2,2,5,7 12:4,12,19,20,21,23,25 13:24 14:3,5 fires [1] 8:23 first [1] 3:22 fixed [1] 14:16 flame [2] 9:4,9 folder [1] 6:4 foregoing [1] 17:10 formula [2] 3:15 5:9 fossil [3] 3:12 4:18,21 fuel [16] 3:12,17 4:18,21 4:22,22 5:10 6:9,9,10 12:3 12:6,15,16,22,24 fuel-burning [7] 3:16 4:11 5:1,15 12:4 13:24 14:2 fuels [1] 12:7 furnaces [3] 13:5,8 14:6</p>
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O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY COUNCIL

Attendance Record

January 21, 2009

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
Meyna Bruce	DEQ X7170
Orin Brantley AQC	
Dawn Lassiter	DEQ X4185
Bud Ground	DSO
Sharon Myers AQC	
Jim Haught AQC	AQC
GARY COVINS AQC	AQC
Jerry Purkyle AQC	AQC
Sharon Furrman	Enron
Steve Willis	DT
Rosemary Crump	CEM 1015 N Waterwood Blvd Edmond
Mike White	AQC
Alan Shar	EPA 149 S Ross Ave, Dallas TX 75202
Don Shandy	KWCS OKC
BOB HURT	DAL-TILE bob.hurt@daltile.com
Melody Martin	OGE martinml@oge.com
DON WHITNEY	TRINITY 228-3292
LARRY SCRAPER	Cherokee Nation larry-scraper@cherokee-ogc
Laura London	Enron llondon@enron.com
Julia Bevers	OGE/EFO
Bob Lynd	OUHSC
Kendal Stegmann	DEQ
JALW Hill	DEQ
Zach Crowell	PER
Fred Elmore	PER
Mike Hixson	DEQ



O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

# AIR QUALITY COUNCIL

## Attendance Record

January 21, 2009

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Adrienne Burckett	Cardinal Engineering	ab@cardinalengineers.com
Steve Londers	GP	
Bob Kellogg	OKC	
ANGIE BURCKHALTER	DIPA	ABURCKHALTER@DIPA.COM
Diana Hanson	ODEQ	
Steve Macan	Deq board	
Kandi Jones	stantech Enviro	
KEN RUFFIN	AEP-PSO	kwuffin@aep.com
Earl Ryan JR	The Quapan Co	rjryan1001@yahoo.com
MP	AQD/DEQ	
Mick Hinton		mshinton@msn.com
Tom Lindley		tlindley13@yahoo.com
KATHARIN Cooney	EP	
Nancy Marziment	DEQ-AQD	
Brian Magott	DEQ-CSD	
Joyce D. Shealy	DEQ-AQD	
Bryan Sims	DEQ-AQD	
Joe Mashburn	DEQ AQD/PA	
MARK GIBBS	DEQ AQD	
Chel Graves	Valero	
Mantelle Clark	AQAC	mantelle@cox.net
Sara Penn	DEQ	
Pat Sullivan	DEQ AQ	

**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m. Friday, February 27, 2009  
DEQ Multipurpose Room  
Oklahoma City, Oklahoma

*Please turn off cell phones.*

1. **Call to Order** – Jennifer Galvin, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the November 18, 2008 Regular Meeting
4. **Election of Officers** – Election of Chair and Vice-Chair for Calendar Year 2009
5. **Rulemaking - OAC 252:4 Rules of Practice and Procedure**

The DEQ proposes to amend its Rules of Practice and Procedure to include a timeframe for filing petitions for declaratory ruling.

- Presentation – Martha Penisten, DEQ Acting General Counsel
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

**6. Rulemaking – OAC 252:100 Air Pollution Control**

- A. The DEQ proposes to amend Chapter 100, Subchapter 9 (Excess Emission Reporting Requirements) to clarify its requirements and make them more compatible with EPA guidelines.
- B. The DEQ proposes to amend Chapter 100, Subchapter 33 (Control of Emission of Nitrogen Oxides) to resolve issues regarding emission standards for fuel-burning equipment that uses more than one type of fuel and equipment with technological limitations. In addition, the changes clarify what types of fuel are covered.

- Presentation – Laura Lodes, Chair, Air Quality Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption



**7. Rulemaking – OAC 252:606 Oklahoma Pollutant Discharge Elimination System (OPDES) Standards**

- A. The DEQ proposes to combine its two subchapters concerning biosolids into one subchapter, with modifications creating rules to govern facilities that wish to create Class A Biosolids pursuant to federal requirements.
- B. The DEQ proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2007, to July 1, 2008.
  - Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
  - Questions and discussion by the Board
  - Questions, comments and discussion by the public
  - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

**8. Rulemaking – OAC 252:616 Industrial Wastewater Systems**

- A. The DEQ proposes to modify its rules to require secondary containment for above-ground tank systems that are constructed pursuant to the requirements of this chapter.
- B. The DEQ proposes to amend Chapter 616 to tighten the closure requirements for industrial wastewater systems and to revoke the Appendices A, B and C that contain the permit forms. The DEQ proposes not to replace Appendices A and B but proposes to replace Appendix C with a rainfall and evaporation data chart previously located in another section.
- C. The DEQ proposes to revoke Appendix D concerning Class III Surface Impoundments and to replace it to make clean up changes.
  - Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
  - Questions and discussion by the Board
  - Questions, comments and discussion by the public
  - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

**9. Rulemaking – OAC 252:623 Pre-Treatment for Central Treatment Trusts**

The DEQ proposes to amend its rules concerning Central Treatment Trusts [Oklahoma Ordnance Works Authority] to update the incorporation by reference of federal rules from July 1, 2007, to July 1, 2008.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

#### **10. Rulemaking – OAC 252:631 Public Water Supply Operation**

The DEQ proposes to update its incorporation by reference of certain federal regulations from July 1, 2007, to July 1, 2008.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

#### **11. Rulemaking – OAC 252:641 Individual and Small Public On-Site Sewage Treatment Systems**

The DEQ proposes to amend its rules to change the Net Evaporation Zone in Appendix H, Figure 25 from Zone 1 to Zone 2. The Department discovered a mistake in the classification of Delaware County in the Net Evaporation Zone based on feedback from certified installers in Delaware County, DEQ. This rulemaking re-categorizes Delaware County as being in Net Evaporation Zone 2. The Board considered and passed this as an emergency rule at its November 18, 2008 meeting.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

#### **12. Rulemaking – OAC 252:690 Water Quality Standards Implementation**

- A. The DEQ proposes to amend this Chapter to require a failure of toxicity testing for sublethal effects to be treated the same as a failure of toxicity testing for lethal effects, as required by EPA and pursuant to approved changes in Oklahoma's Water Quality Standards. Additionally, the amendments propose to specifically state when the Department will consider an organism change for biomonitoring from *Ceriodaphnia dubia* or *Daphnia pulex* to *Daphnia magna* and to add a new rule to require monitoring in a nutrient limited watershed and that there can be no monitoring frequency reductions for WET limits.
- B. The DEQ proposes to revoke and reissue Appendix A of this Chapter to make some clean up language changes.
- C. The DEQ proposes to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2007, to July 1, 2008.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption

### 13. Consideration of Executive Director Compensation

During the Environmental Quality Board meetings on August 19, 2008 and November 18, 2008, the Board decided to further study and consider appropriate compensation for Steve Thompson, Executive Director of the DEQ, and requested that the DEQ provide Board members with a recent salary study compiled by the Office of Personnel Management. The DEQ has provided the requested salary study and other relevant salary information. The Board is expected to discuss and may elect to go into executive session to further consider Mr. Thompson's compensation.

- A. Discussion by Board in open session
- B. Possible executive session pursuant to Title 25 § 307(B)(1) (discussion of employment actions related to any individual salaried public officer or employee), if authorized by recorded majority vote of the Board members present
  - (1) Vote in open session on whether to enter executive session
  - (2) If executive session approved, designation in open session of person to keep minutes in executive session
  - (3) Discussion of Executive Director's compensation in executive session
- C. Further discussion by the Board in open session
- D. Possible roll call vote on specific actions or recommendation as a result of executive session and/or open discussion

14. **New Business** (Any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

15. **Executive Director's Report** – Steve Thompson

16. **Adjournment**

2009 Meetings: August 25 in Tulsa; November 17 in Ada

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

**Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.**

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Some members of the Board and senior staff members from DEQ will meet for dinner in Oklahoma City the evening of February 26. This is a social occasion. It is uncertain whether a majority of the Board will be present, but no Board or DEQ business will be conducted.

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

**EXECUTIVE SUMMARY**

**Subchapter 33. Control of Emission of Nitrogen Oxides**

**252:100-33-1.1. Definitions [AMENDED]**

**252:100-33-1.2. Applicability [AMENDED]**

**252:100-33-2. Emission limits [AMENDED]**

Before the Air Quality Advisory Council on January 17, 2008, July 16, 2008, October 15, 2008 and January 21, 2009. Before the Environmental Quality Board on February 27, 2009.

**EXECUTIVE SUMMARY:**

The Department proposes to amend OAC 252:100-33 to resolve issues regarding emission standards for nitrogen oxides from fuel-burning equipment. The changes clarify what types of fuel are covered by the rule, address emission standards for fuel-burning equipment that uses more than one type of fuel and address equipment with technological limitations. The proposed revision to OAC 252:100-33-1.1 adds a definition for solid fossil fuel. The proposed revision renumbers what was OAC 252:100-33-2 to 252:100-33-2(a) and adds a new paragraph (4) which provides a formula for setting nitrogen oxides (NO<sub>x</sub>) emission limits for equipment that burns a combination of fuel types. The proposed revision also adds a new subsection (b) which sets requirements for fuel-burning equipment that because of technological limitations cannot meet the standards in subsection (a) during startup and/or shutdown. Other changes of a nonsubstantive nature are also proposed.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

None. There are no analogous federal rules.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not applicable.

**SUMMARY OF COMMENTS AND RESPONSES:**

See attachment.

**SUMMARY OF COMMENTS AND STAFF RESPONSES  
FOR PROPOSED REVISION TO SUBCHAPTER 33  
CONTROL OF EMISSION OF NITROGEN OXIDES**

**COMMENTS RECEIVED PRIOR TO AND AT THE *JANUARY 17, 2008*  
AIR QUALITY ADVISORY COUNCIL MEETING**

**Written Comments**

**Grand River Dam Authority** - Email received on January 10, 2008 from Perry S. Friedrich, Environmental Department Superintendent

1. **COMMENT:** "100-33-1.1 (Definitions) – In the definition of 'new fuel-burning equipment' the terms 'in being' and 'existing' are used. It is not clear if these are used to describe the same type of equipment. If the same equipment is being described, I suggest the same term be used consistently throughout the rule. If they are not the same, I suggest they be defined."

**RESPONSE:** The terms "existing source" and "in being" are defined in OAC 252:100-1-3.

2. **COMMENT:** "100-33-1.1 (Definitions) – This comment addresses the terms 'existing' and 'in being' as they pertain to the definition of 'new fuel burning equipment'. I believe they should be defined to specify what 'in being' and/or 'existing' are to mean (e.g. sources that are emitting on the specified date, sources that are under construction, sources that have received a permit to construct, or operate, etc.)."

**RESPONSE:** The terms "existing source" and "in being" are defined in OAC 252:100-1-3.

3. **COMMENT:** "100-33-1.2(a)(2) (Applicability) – The term 'gas' is used. If it is in keeping with the Air Quality Division's intent, I believe the term 'gaseous' should be considered to replace 'gas' where appropriate in Subchapter 33. This would provide consistency with federal rules found at 40 CFR 60."

**RESPONSE:** Further consideration will be given to this request.

**RESPONSE UPDATED JANUARY 20, 2009:** The term "gas" has been replaced by "gaseous" where appropriate. The term "gas-fired fuel-burning equipment" was retained.

4. **COMMENT:** "100-33-1.2(a)(2) (Applicability). The phrase 'solid fossil, gas, or liquid fuel' is used. I ask you to consider replacing this phrase with 'fossil fuel in solid, gaseous, or liquid form'. This would preclude any future questions regarding gaseous and liquid fuels that are not fossil fuels, and would provide consistency with federal rules found at 40 CFR 60."

**RESPONSE:** DEQ staff interprets the phrase "solid fossil, gas, or liquid fuel" to mean that the solid fuel is required to be of fossil origin, but that the gas and liquid fuel may be fossil fuel, but are not required to be fossil fuel. OAC 252:100-33-1.2(a)(2) has been revised to make this clear.

**Environmental Protection Agency (EPA), Region 6** -- Letter received via email on January 16, 2008 from Guy Donaldson, Chief, Air Planning Section

5. **COMMENT:** "It is our understanding that this rule was initially adopted as an emergency rule for glass manufacturing furnaces. To expand 252:100-33-1.2(b) to 'new fuel burning equipment' has the appearance of expanding the universe of exempted sources or extending an exemption to a larger number or group of affected units. Therefore, technical or economical justifications for this expansion would be necessary in your SIP submittal to EPA."

**RESPONSE:** OAC 252:100-33-1.2 was revised to exempt glass-melting furnaces from the emission limits in 252:100-33-2(a). This revision became effective as an emergency rule on 3-17-03 and as a permanent rule on 6-1-04. The proposed change to 252:100-33-1.2(b) provides a means for direct-fired fuel-burning equipment to qualify for exemption from the emission limits contained in Subchapter 33. When the NO<sub>x</sub> limits were established in 1972, the definition of fuel-burning equipment did not include direct-fired equipment. However, in 1977 the definition of fuel-burning equipment was changed to include direct-fired processes and equipment, which then became subject to all of the air pollution control rules for fuel-burning equipment. We are unable to find any evidence that consideration was given at that time to the technological feasibility of direct-fired fuel-burning equipment to meet the NO<sub>x</sub> emission limits. The changes to OAC 252:100-33-1.2(b) will create a conditional exemption that will apply to all direct-fired fuel-burning equipment.

**RESPONSE UPDATED JANUARY 5, 2009:** The proposed revision to 252:100-33-1.2(b) for the January 17, 2008 Council meeting did expand the universe of exempted sources to an unknown number of sources. Because the number and nature of these sources is unknown, the Department has decided not to go forward with this proposal. If in the future sources need relief from a standard that was not originally intended for them, such exemption will be requested for a better defined group.

6. **COMMENT:** "If our understanding of the expansion of exempted sources is correct, then the SIP submittal to EPA will need to include a section 110(1) analysis. The 110(1) analysis should compare the proposed changes to the approved SIP. EPA last approved these revisions on 11/03/1999."

**RESPONSE:** If required, the SIP submittal to EPA will include a section 110(1) analysis.

7. **COMMENT:** "Under 'technological limitations', we strongly recommend adding a statement that approval of technological limitations by the Executive Director does not mean automatic approval by the EPA. Otherwise, this provision will be problematic."

**RESPONSE:** Staff will give this request further consideration.

**RESPONSE UPDATED JANUARY 5, 2009:** A statement that approval of technological limitations by the Executive Director does not mean automatic approval by the EPA has been added to OAC 252:100-33-2(b).

**RESPONSE UPDATED JANUARY 21, 2009:** The statement that approval of technological limitations by the Executive Director does not mean automatic approval by the EPA was modified to more accurately reflect the approval process. It now states

“Approval of technological limitations by the Director in an Air Quality Division permit does not mean automatic approval by the EPA.”

8. **COMMENT:** "Section 252:100-33-2, emission limits as approved by EPA on 11/03/1999 (64 FR 50629) uses a 'two-hour maximum' in connection with the NO<sub>x</sub> emissions limits. We have attached this section to this letter for your reference. See 252:100-33-2(a)(1), (a)(2), and (a)(3) of the attached reference. Please elaborate why ODEQ is proposing a 'three-hour average' in section 252:100-33-2."

**RESPONSE:** This change to OAC 252:100-33-2 became effective in 2001 and was made for consistency with the stack test which has a three-hour average.

#### **Oral Comments**

There were no oral comments from the public at the January 17, 2008 Air Quality Advisory Council meeting.

#### **COMMENTS RECEIVED PRIOR TO AND AT THE *JULY 16, 2008* AIR QUALITY ADVISORY COUNCIL MEETING**

#### **Written Comments**

No new written comments were received prior to or at the Air Quality Advisory Council meeting.

#### **Oral Comments**

There were no oral comments from the public at the July 16, 2008 Air Quality Advisory Council meeting.

#### **COMMENTS RECEIVED PRIOR TO AND AT THE *OCTOBER 15, 2008* AIR QUALITY ADVISORY COUNCIL MEETING**

#### **Written Comments**

**EPA Region 6** – Letter attachment to email received October 8, 2008 signed by Guy Donaldson, Chief, Air Planning Section

9. **COMMENT:** "We have previously submitted comments on Subchapter 33 concerning Control of Emission of Nitrogen Oxide (enclosed). Please refer to page 2 of our January 16, 2008 comment letter. Those comments still remain valid and in effect."

**RESPONSE:** See Responses to Comments 5 through 8 which were addressed in the January 16, 2008 letter.

#### **Oral Comments**

There were no oral comments from the public at the October 15, 2008 Air Quality Advisory Council meeting.

COMMENTS RECEIVED PRIOR TO AND AT THE *JANUARY 21, 2009*  
AIR QUALITY ADVISORY COUNCIL MEETING

Written Comments

No new written comments were received prior to or at the Air Quality Advisory Council meeting.

Oral Comments

There were no oral comments from the public at the January 21, 2009 Air Quality Advisory Council meeting.



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Pages 1737 - 2408

# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

# Permanent Final Adoptions

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

[OAR Docket #09-1046]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 33. Control of Emission of Nitrogen Oxides

252:100-33-1.1. Definitions [AMENDED]

252:100-33-1.2. Applicability [AMENDED]

52:100-33-2. Emission limits [AMENDED]

### 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:

December 17, 2007, through January 17, 2008

June 16, 2008, through July 16, 2008

September 15, 2008, through October 15, 2008

December 21, 2008, through January 21, 2009

February 27, 2009

#### Public hearing:

January 17, 2008

July 16, 2008

October 15, 2008

January 21, 2009

February 27, 2009

#### Adoption:

February 27, 2009

#### Submitted to Governor:

March 9, 2009

#### Submitted to House:

March 9, 2009

#### Submitted to Senate:

March 9, 2009

#### Gubernatorial approval:

March 24, 2009

#### Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2009.

#### Final adoption:

May 1, 2009

#### Effective:

July 1, 2009

#### SUPERSEDED EMERGENCY ACTIONS:

N/A

#### INCORPORATIONS BY REFERENCE:

N/A

#### ANALYSIS:

The Department proposes to amend OAC 252:100-33 to resolve issues regarding emission standards for nitrogen oxides from fuel-burning equipment. The changes clarify what types of fuel are covered by the rule, address emission standards for fuel-burning equipment that uses more than one type of fuel and address equipment with technological limitations. The proposed revision to OAC 252:100-33-1.1 adds a definition for solid fossil fuel. The proposed revision renumbers what was OAC 252:100-33-2 to 252:100-33-2(a) and adds a new paragraph (4) which provides a formula for setting nitrogen oxides (NO<sub>x</sub>) emission limits for equipment that burns a combination of fuel types. The proposed revision also adds a new subsection (b) which sets requirements for fuel-burning equipment that because of technological limitations cannot meet the standards in subsection (a) during startup and/or shutdown. Other changes of a nonsubstantive nature are also proposed.

#### CONTACT PERSON:

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 702-4218.

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, 2009:

### SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

#### 252:100-33-1.1. Definitions

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

"New fuel-burning equipment" means any fuel-burning equipment that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in ~~an increase~~ increased in nitrogen oxide emissions of nitrogen oxides with the following exceptions.

(A) New fuel-burning equipment for gas turbines means any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in ~~an increase~~ increased in nitrogen oxide emissions of nitrogen oxides; and

(B) New fuel-burning equipment for direct-fired processes means any direct-fired fuel-burning equipment or processes that were not in being on July 1, 1977, or any existing direct-fired fuel-burning equipment or processes that were altered, replaced, or rebuilt after July 1, 1977, resulting in ~~an increase~~ increased in nitrogen oxide emissions of nitrogen oxides.

"Solid fossil fuel" means solid fossil fuel such as coal and any solid fuel derived from naturally occurring coal or petroleum.

"Three-hour average" means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

#### 252:100-33-1.2. Applicability

(a) This ~~Subchapter~~ subchapter applies to new fuel-burning equipment that meets both of the following criteria.

(1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr ~~MMBTU/hr~~ or greater.

(2) The equipment burns solid fossil fuel, gaseous fuel, or liquid fuel, or a combination thereof.

(b) Glass-melting furnaces that are subject to BACT requirements contained in a currently applicable Air Quality Division permit are exempt from the requirements of ~~this Subchapter~~ OAC 252:100-33-2. The NO<sub>x</sub> emissions from this equipment shall not cause or contribute to an exceedance of any NAAQS or PSD increment.

252:100-33-2. Emission limits

(a) Fuel-burning equipment subject to this subchapter shall meet the following emission limitations except as provided in OAC 252:100-33-1.2(b) and 252:100-33-2(b).

(a1) Gas-fired fuel-burning equipment. Nitrogen oxide emissions-Emissions of nitrogen oxides (calculated as nitrogen dioxide) from any new gas-fired fuel-burning equipment shall not exceed 0.20 lb/MMBTU (86 ng/J) heat input, three-hour average.

(a2) Liquid-fired fuel-burning equipment. Nitrogen oxide emissions-Emissions of nitrogen oxides (calculated as nitrogen dioxide) from any new liquid-fired fuel-burning equipment shall not exceed 0.30 lb/MMBTU (129 ng/J) heat input, three-hour average.

(a3) Solid fossil fuel-burning equipment. Nitrogen oxide emissions-Emissions of nitrogen oxides (calculated as nitrogen dioxide) from any new solid fossil fuel-burning equipment shall not exceed 0.70 lb/MMBTU (300 ng/J) heat input, three-hour average.

(4) Combination of fuels burned. When different types of fuels are burned simultaneously in any combination, the NOx standard (calculated as nitrogen dioxide in lb/MMBTU heat input, three-hour average) for the fuel-burning equipment 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 following formula where X is the percent of total heat input derived from 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: NO2 limit = 0.2X + 0.3Y + 0.7Z / (X + Y + Z).

(b) If fuel-burning equipment, due to technological limitations, cannot meet the requirements of OAC 252:100-33-2(a) during startup and/or shutdown, the fuel-burning equipment shall comply with BACT for startup and/or shutdown as contained in a currently applicable Air Quality Division permit. The NOx emissions during startup and/or shutdown of this equipment shall not cause or contribute to an exceedance of any NAAQS or PSD increment. Approval of technological limitations by the Director in an Air Quality Division permit does not mean automatic approval by the EPA.

[OAR Docket #09-1046; filed 5-22-09]

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 906. OKLAHOMA POLLUTANT DISCHARGE ELIMINATION SYSTEM (OPDES) STANDARDS

[OAR Docket #09-1047]

RULEMAKING ACTION: PERMANENT final adoption RULES:

- Subchapter 1. Introduction 252:100-1-2. Definitions [AMENDED] 252:100-1-4. Date of federal regulations incorporated [AMENDED] Subchapter 7. Biosolids Permit Requirements [REVOKED]

- 252:606-7-1. Permit required [REVOKED] 252:606-7-2. Permit applications [REVOKED] 252:606-7-3. Certification required [REVOKED] 252:606-7-4. Sludge (biosolids) management plan [REVOKED] 252:606-7-5. Permit modifications [REVOKED] 252:606-7-6. Restrictions applicable to all land application [REVOKED] 252:606-7-7. Laboratory analyses [REVOKED] 252:606-7-8. Compliance required [REVOKED] 252:606-7-9. Monitoring wells [REVOKED] Subchapter 8. Biosolids Requirements [NEW] 252:606-8-1. Permits and prohibitions [NEW] 252:606-8-2. Permit applications [NEW] 252:606-8-3. Sludge (biosolids) management plan [NEW] 252:606-8-4. Class A biosolid production [NEW] 252:606-8-5. Class B biosolid production [NEW] 252:606-8-6. Land application of biosolids [NEW] Subchapter 9. Land Application of Biosolids [REVOKED] 252:606-9-1. Prohibitions [REVOKED] 252:606-9-2. Land application exceptions and alternatives [REVOKED] 252:606-9-3. Site use for land application [REVOKED] 252:606-9-4. pH and nutrient limits [REVOKED] 252:606-9-5. Soil sampling [REVOKED]

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., §2-2-101; Water Quality Management Advisory Council powers and duties, 27A O.S., §§2-2-201; and Water Quality, 27A O.S., §§ 2-6-101 et seq.

DATES:

Comment period:

December 1, 2008, through January 13, 2009

Public hearing:

January 13, 2009, and February 27, 2009

Adoption:

February 27, 2009

Submitted to Governor:

March 9, 2009

Submitted to House:

March 9, 2009

Submitted to Senate:

March 9, 2009

Gubernatorial approval:

March 24, 2009

Legislative approval:

Failure of the Legislature to disapprove the rules resulted in approval on May 1, 2009.

Final adoption:

May 1, 2009

Effective:

July 1, 2009

SUPERSEDED EMERGENCY ACTIONS:

N/A

INCORPORATIONS BY REFERENCE:

Incorporated standards:

- 40 CFR Part 116 (Hazardous Substances List) 40 CFR Part 117 (Reportable Quantities for Hazardous Substances) The following from 40 CFR PART 122 NPDES PERMIT REGULATIONS):

- 122.1 (b)-(scope of NPDES permit requirements) 122.2 - (definitions) 122.3 - (exclusions) 122.4 - (prohibitions) 122.5 - (effect of permit) 122.6 - (continuation of expiring permits) 122.7 (b) and (c) - (confidential information) 122.21 - (application for a permit) 122.22 - (signatories) 122.24 - (concentrated aquatic animal production facilities) 122.25 - (aquaculture projects) 122.26 - (storm water discharges) 122.27 - (silviculture) 122.28 (a) and (b) - (general permits) 122.29 - (new sources and new dischargers) 122.30 - What are the objectives of the storm water regulations for small MS4s 122.31 - As a tribe, what is my role under the NPDES storm water program?

**OAC 252:100**  
**Appendices E & F**  
**Public Hearings**

**October 15, 2008**  
**Air Quality Advisory Council**

**November 18, 2008**  
**Environmental Quality Board**

**Effective Date: July 1, 2009**

# 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 #08-1235]

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 9. Excess Emission Reporting Requirements

252:100-9-1. Purpose [AMENDED]

252:100-9-1.1. Applicability [NEW]

252:100-9-2. Definitions [AMENDED]

252:100-9-3.1. Excess emission reporting requirements [AMENDED AND RENUMBERED TO 252:100-9-7]

252:100-9-3.3. Demonstration of cause [AMENDED AND RENUMBERED TO 252:100-9-8]

252:100-9-7. Excess emission reporting requirements [NEW]

252:100-9-8. Affirmative defenses [NEW]

Subchapter 25. Visible Emissions and Particulates

252:100-25-3. Opacity limit [AMENDED]

Subchapter 33. Control of Emission of Nitrogen Oxides

252:100-33-1.1. Definitions [AMENDED]

252:100-33-1.2. Applicability [AMENDED]

252:100-33-2. Emission limits [AMENDED]

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

Appendix Q. Incorporation by Reference [REVOKED]

Appendix Q. Incorporation by Reference [NEW]

### SUMMARY:

The Department is proposing to amend OAC 252:100-9, Excess Emission Reporting Requirements, to clarify its requirements and make them more compatible with EPA guidelines.

The Department is proposing to amend OAC 252:100-25-3 to correct a rule citation. The Department is proposing to revise OAC 252:100-33, Control of Emission of Nitrogen Oxides, to resolve issues regarding emission standards for nitrogen oxides from fuel-burning equipment. The changes would address emission standards for direct-fired fuel-burning equipment, fuel-burning equipment that uses more than one

type of fuel, and equipment with technological limitations. The Department is also considering changes to address emissions from low-NO<sub>x</sub> burners and ultra low-NO<sub>x</sub> burners when these are operated at low heat input values.

The Department proposes to update Appendices E and F to be consistent with federal standards for ozone.

The Department is proposing to update Appendix Q to incorporate the latest changes to federal regulations by reference. Among the changes are the addition of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

### COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 15, 2008. For comments received at least 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 October 15, 2008, hearing and at the November 18, 2008, Environmental Quality Board meeting.

### PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 15, 2008, at the DEQ headquarters, 707 N. Robinson St., Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board at 9:30 a.m. on Tuesday, November 18, 2008, at the City of Tahlequah Armory Municipal Center, 100 N. Water St., Tahlequah, Oklahoma 74464.

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 of the EPA 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.

# Notices of Rulemaking Intent

## COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing at the Air Quality Division of the Department at [http://www.deq.state.ok.us/AQDnew/council\\_mtgs/index.htm](http://www.deq.state.ok.us/AQDnew/council_mtgs/index.htm), or copies 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.state.ok.us](mailto:cheryl.bradley@deq.state.ok.us). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl 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 #08-1235; filed 8-22-08]

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

[OAR Docket #08-1236]

## RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking  
PROPOSED RULES:

Subchapter 3. Incorporation by Reference  
252:205-3-1 [AMENDED]  
252:205-3-2 [AMENDED]

## SUMMARY:

The purpose of the proposed amendments is to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2008, to clarify that delisted zinc phosphating sludge will continue to be regulated as hazardous waste if it is characteristically hazardous, and to correct a typographical error discovered in OAC 252:205-3-2.

## AUTHORITY:

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

## COMMENT PERIOD:

Written comments may be delivered or mailed to the contact person from September 4, 2008, through October 16, 2008. Oral comments may be made at the meeting of the Hazardous Waste Management Advisory Council, October 16, 2008, and

at the Environmental Quality Board meeting, November 18, 2008.

## PUBLIC HEARINGS:

Before the Hazardous Waste Management Advisory Council on October 16, 2008, at 10:00 a.m. at the Oklahoma City office of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on November 18, 2008, at 9:30 a.m. at the City of Tahlequah Armory Municipal Center, 100 N. Water Street, Tahlequah, Oklahoma 74464.

## REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these modifications provide the DEQ, 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 rule.

## COPY OF PROPOSED RULE:

The proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/LPDnew/LPProprules.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/LPDnew/LPProprules.htm>.

## CONTACT PERSON:

Mike Edwards (405) 702-5126, 707 North Robinson, Fifth Floor, Oklahoma City, Oklahoma 73102. Mailing address is P. O. Box 1677, Oklahoma City, OK 73101-1677. E-mail address is [mike.edwards@deq.state.ok.us](mailto:mike.edwards@deq.state.ok.us).

## ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing. For the hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.

[OAR Docket #08-1236; filed 8-22-08]

## TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-1237]

## RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

## PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

**REGULAR MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL**

**October 15, 2008, 9:00 a.m.**

**DEQ Multipurpose Room**

**707 North Robinson Street**

**Oklahoma City, OK**

*Please turn off cell phones.*

1. **Call to Order** - David Branecky, Chair
2. **Roll Call** - Myrna Bruce
3. **Approval of Minutes** - July 16, 2008 Regular Meeting [APPROVED]
4. **Meeting Schedule for Calendar Year 2009** - Discussion and action by Council [AMENDED] - dates and locations as follows:  
January 21, 2009 changed to January 14 - OKC  
April 21, 2009 - Tulsa  
July 15, 2008 - OKC  
October 21, 2009 - OKC changed to Broken Bow
5. **Public Rulemaking Hearings**

**A. OAC 252:100-9. Excess Emission Reporting Requirements [AMENDED]**

The Department is proposing to amend Subchapter 9 to clarify its requirements and make them more compatible with EPA guidelines.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

[SC 9 continued to January 2009 Council meeting]

**B. OAC 252:100-25. Visible Emissions and Particulates [AMENDED]**

The Department is proposing to amend Subchapter 25 to correct a rule citation.

1. Presentation - Diana Hinson, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

[SC 25 recommended to the Environmental Quality Board]

**C. OAC 252:100-33. Control of Emission of Nitrogen Oxides [AMENDED]**

The Department is proposing to revise OAC 252:100-33 to resolve issues regarding emission standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations.

1. Presentation - Cheryl Bradley, Environmental Programs Manager, DEQ Air Quality Division
2. Questions and discussion by the Council



3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

[SC 33 continued to January 2009 Council meeting]

- D. Appendix E. Primary Ambient Air Quality Standards [REVOKED]**  
**Appendix E. Primary Ambient Air Quality Standards [NEW]**  
**Appendix F. Secondary Ambient Air Quality Standards [REVOKED]**  
**Appendix F. Secondary Ambient Air Quality Standards [NEW]**

The Department proposes to update Appendices E and F to be consistent with federal standards for ozone.

1. Presentation - Leon Ashford, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

[Appendices E and F recommended to the Environmental Quality Board]

- E. Appendix Q. Incorporation By Reference [REVOKED]**  
**Appendix Q. Incorporation By Reference [NEW]**

The Department is proposing to update Appendix Q to incorporate the latest changes to federal regulations by reference. Among the changes are the addition of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources.

1. Presentation - Nancy Marshment, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

[Appendix Q recommended to the Environmental Quality Board]

6. **Division Director's Report** - Eddie Terrill
7. **New Business** - Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.
8. **Adjournment** - The next regular meeting is proposed for Wednesday, January 21, 2009 in Oklahoma City.

Lunch break if necessary

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4216. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

	Sulfur Dioxide	PM-10	PM 2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m <sup>3</sup> (2) 35 ppm			
8-hr. max				10 mg/m <sup>3</sup> (2) 9 ppm	(4) 0.08 ppm		
24-hr. max	365 ug/m <sup>3</sup> (2) 0.14 ppm	(7) 150 ug/m <sup>3</sup>	(5) 35 ug/m <sup>3</sup>				
Calendar Qtr.							(3) 1.5 ug/m <sup>3</sup>
Annual	80 ug/m <sup>3</sup> (1) 0.030 ppm		(6) 15 ug/m <sup>3</sup>			100 ug/m <sup>3</sup> (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Maximum arithmetic mean averaged over a calendar quarter

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.08 ppm.

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

(6) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

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

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

	Sulfur Dioxide	PM-10	PM 2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m <sup>3</sup> (2) 35 ppm			
8-hr. max				10 mg/m <sup>3</sup> (2) 9 ppm	(4) 0.075 ppm		
24-hr. max	365 ug/m <sup>3</sup> (2) 0.14 ppm	(7) 150 ug/m <sup>3</sup>	(5) 35 ug/m <sup>3</sup>				
Calendar Qtr.							(3) 1.5 ug/m <sup>3</sup>
Annual	80 ug/m <sup>3</sup> (1) 0.030 ppm		(6) 15 ug/m <sup>3</sup>			100 ug/m <sup>3</sup> (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Maximum arithmetic mean averaged over a calendar quarter

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as determined by 40 CFR Appendix P.

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

(6) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

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

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

	Sulfur Dioxide	<sup>(6)</sup> PM-10	PM 2.5	<sup>(6)</sup> Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max							
3-hr. max	1300 ug/m <sup>3</sup> <sup>(2)</sup> 0.5 ppm						
8-hr. max					<sup>(4)</sup> 0.08 ppm		
24-hr. max							
Calendar Qtr.							<sup>(6)</sup> 1.5 ug/m <sup>3</sup>
Annual			<sup>(6)</sup> 15 ug/m <sup>3</sup>			100 ug/m <sup>3</sup> <sup>(1)</sup> 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Maximum arithmetic mean averaged over a calendar quarter

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.08 ppm.

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

(6) PM-10 and Carbon Monoxide have no secondary standard.

APPENDIX F. SECONDARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	(6) PM-10	PM 2.5	(6) Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max							
3-hr. max	1300 ug/m <sup>3</sup> (2) 0.5 ppm						
8-hr. max					(4) 0.075 ppm		
24-hr. max							
Calendar Qtr.							(3) 1.5 ug/m <sup>3</sup>
Annual			(5) 15 ug/m <sup>3</sup>			100 ug/m <sup>3</sup> (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Maximum arithmetic mean averaged over a calendar quarter

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as determined by 40 CFR Appendix P.

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

(6) PM-10 and Carbon Monoxide have no secondary standard.

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**DRAFT MINUTES  
AIR QUALITY COUNCIL  
October 15, 2008  
DEQ Multipurpose Room  
707 North Robinson  
Oklahoma City, Oklahoma**

For EQB November 18, 2008  
TO be APPROVED by AQC  
January 14, 2009

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. October 15 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 2, 2007 and amended on September 18, 2008 to change the location from Broken Bow to Oklahoma City. 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. Mr. David Branecky, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
Jim Haught  
Laura Lodes  
Bob Lynch  
Sharon Myers  
Jerry Purkapple

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Cheryl Bradley  
Joyce Sheedy  
Max Price  
Nancy Marshment

**DEQ STAFF**

**PRESENT**  
Diana Hinson  
Sarah Penn  
Dawson Lasseter  
Kendal Stegmann  
Myrna Bruce

**MEMBERS ABSENT**

Montelle Clark  
Gary Collins  
Vacancy

**OTHERS PRESENT**

Christy Myers, Court  
Reporter

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

**Approval of Minutes** Mr. Purkapple made motion to approve the Minutes as presented and Mr. Haught made the second.

Jim Haught	Yes	Jerry Purkapple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Meeting Schedule for Calendar Year 2009** Proposed dates and locations discussed and scheduled were January 14 at the DEQ; April 15 in Tulsa; July 15 in Oklahoma City; and October 21 in Broken Bow Oklahoma. This motion was made by Ms. Myers and seconded by Dr. Lynch.

Jim Haught	Yes	Jerry Purkapple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**OAC 252:100-9. Excess Emission Reporting Requirements**

Mr. Max Price advised that the Department's proposal would amend Subchapter 9 to clarify its requirements and make them more compatible with EPA guidelines. Mr. Price conveyed that staff recommendation was that the rulemaking be continued to Council's next meeting and that workgroup sessions would be held to receive further input. Ms. Myers made motion to continue to the January meeting and Mr. Purkapple made the second.

Jim Haught	Yes	Jerry Purkapple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**OAC 252:100-25. Visible Emissions and Particulates**

Ms. Diana Hinson advised that the proposal would amend Subchapter 25 -3 (b) (3), Opacity limit, to correct an error in a rule reference for clarification and to add 'OAC' where it had been inadvertently left out. Staff recommendation was for permanent approval by the Environmental Quality Board. Hearing no comments, Mr. Branecky called for a motion as proposed. Mr. Haught made the motion and Ms. Myers made the second.

Jim Haught	Yes	Jerry Purkapple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**OAC 252:100-33. Control of Emission of Nitrogen Oxides**

Ms. Cheryl Bradley advised that this proposed revision would define "solid fossil fuel" to resolve issues regarding emission standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations. Ms. Bradley mentioned that there were still some outstanding issues and suggested that Council continue the rule to Council's next meeting. Staff fielded questions and comments from Council, then Mr. Branecky entertained a motion to continue the rulemaking to the January Council meeting. Mr. Jim Haught made the motion and Dr. Lynch made the second.

Jim Haught	Yes	Jerry Purkapple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Appendix E. Primary Ambient Air Quality Standards [REVOKED]**

**Appendix E. Primary Ambient Air Quality Standards [NEW]**

**Appendix F. Secondary Ambient Air Quality Standards [REVOKED]**

**Appendix F. Secondary Ambient Air Quality Standards [NEW]**

Mr. Leon Ashford advised that the proposal would update Appendices E and F to be consistent with federal standards for ozone changing the value of the standard from 0.08 to 0.075. He stated that the old Appendix E and F would be revoked and replaced with new Appendix E and F. Mr. Ashford mentioned a non-substantive change also proposed for footnote #4. Hearing no public comments, Mr. Branecky called for a motion to recommend the rulemaking to the Environmental Quality Board for permanent adoption. Mr. Purkapple made the motion and Ms. Lodes made the second.

Jim Haught	Yes	Jerry Purkapple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Appendix Q. Incorporation By Reference [REVOKED]**

**Appendix Q. Incorporation By Reference [NEW]**

Ms. Nancy Marshment advised that the proposal would update Appendix Q to incorporate the latest changes to federal regulations by reference. Among the changes are the additions of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources. Ms. Marshment read the new standards into the record. Staff recommendation was to forward the changes to the Environmental Quality Board for permanent adoption. Mr. Haught made the motion and Ms. Myers made the second.

Jim Haught	Yes	Jerry Purkale	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Division Director's Report -**

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

**Adjournment** -- Meeting adjourned at 10:45 a.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 REGULARLY SCHEDULED  
AIR QUALITY COUNCIL MEETING  
ITEM 5D

HELD ON OCTOBER 15, 2008, AT 9:00 AM  
IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

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

ORIGINAL

<p style="text-align: right;">Page 2</p> <p>1 COUNCIL MEMBERS</p> <p>2</p> <p>3 DAVID BRANECKY, CHAIR</p> <p>4 LAURA LODES, VICE-CHAIR</p> <p>5 JIM HAUGHT, MEMBER</p> <p>6 JERRY PURKAPLE, MEMBER</p> <p>7 SHARON MYERS, MEMBER</p> <p>8 MONTELLE CLARK, MEMBER (ABSENT)</p> <p>9 GARY COLLINS, MEMBER (ABSENT)</p> <p>10</p> <p>11 DEQ STAFF</p> <p>12</p> <p>13 MYRNA BRUCE</p> <p>14 BEVERLY BOTCHLET-SMITH</p> <p>15 EDDIE TERRILL</p> <p>16 MAX PRICE</p> <p>17 CHERYL BRADLEY</p> <p>18 NANCY MARSHMENT</p> <p>19 LEON ASHFORD</p> <p>20 DIANA HINSON</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 regular packet, but I believe it has been</p> <p>2 provided to the Members of the Council, and</p> <p>3 that change was to change the end of the</p> <p>4 footnote from "as determined by 40 CFR</p> <p>5 Appendix P" to "as provided in 40 CFR</p> <p>6 50.15".</p> <p>7 Staff would recommend passage with</p> <p>8 the change to the footnote at this time.</p> <p>9 MS. BOTCHLET-SMITH: Do we have</p> <p>10 any questions from the Council? Hearing</p> <p>11 none, I also have not received notice of</p> <p>12 comment from the public. David.</p> <p>13 MR. BRANECKY: Okay. If I have</p> <p>14 no further discussion from the Council,</p> <p>15 staff has recommended these be approved and</p> <p>16 sent to the Board for approval. So I'll</p> <p>17 need a motion.</p> <p>18 MR. PURKAPLE: So moved.</p> <p>19 MS. LODES: Second.</p> <p>20 MR. BRANECKY: All right. Myrna,</p> <p>21 call the roll, please.</p> <p>22 MS. BRUCE: Jim Haught.</p> <p>23 MR. HAUGHT: Yes.</p> <p>24 MS. BRUCE: Sharon Myers.</p> <p>25 MS. MYERS: Yes.</p>
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<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 PROCEEDINGS</p> <p>3</p> <p>4 MS. BOTCHLET-SMITH: The next</p> <p>5 item on the agenda is Number 5D. This is</p> <p>6 Appendix E, Primary Ambient Air Quality</p> <p>7 Standards; and Appendix F, Secondary</p> <p>8 Ambient Air Quality Standards.</p> <p>9 Mr. Leon Ashford will be giving the</p> <p>10 staff presentation.</p> <p>11 MR. ASHFORD: Mr. Chairman,</p> <p>12 Members of the Council, ladies and</p> <p>13 gentlemen. In March 2008, EPA set a new</p> <p>14 standard for ozone, changing the value of</p> <p>15 the standard from 0.08 to 0.075 parts per</p> <p>16 million.</p> <p>17 Appendices E and F are our state</p> <p>18 primary and secondary Ambient Air Quality</p> <p>19 Standards. At this time we would like to</p> <p>20 revoke the old Appendices E and F and</p> <p>21 replace them with new Appendices E and F,</p> <p>22 to reflect those changes.</p> <p>23 One additional non-substantive</p> <p>24 change was made to footnote Number 4. And</p> <p>25 it was made too late to provide it in the</p>	<p style="text-align: right;">Page 5</p> <p>1 MS. BRUCE: Laura Lodes.</p> <p>2 MS. LODES: Yes.</p> <p>3 MS. BRUCE: Jerry Purkapple.</p> <p>4 MR. PURKAPLE: Yes.</p> <p>5 MS. BRUCE: Bob Lynch.</p> <p>6 DR. LYNCH: Yes.</p> <p>7 MS. BRUCE: David Branecky.</p> <p>8 MR. BRANECKY: Yes.</p> <p>9 MS. BRUCE: Motion passed.</p> <p>10</p> <p>11 (Item 5D Concluded)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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-0-	Branecy [5] 2:3 4:13 4:20 5:7,8	giving [1] 3:9	nothing [1] 6:10	-S-
0.075 [1] 3:15	BRUCE [8] 2:13 4:22,24	-H-	notice [1] 4:11	SCHEDULED [1] 1:9
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00310 [1] 6:24	-C-	Haught [3] 2:5 4:22,23	-O-	Second [1] 4:19
-1-	C [2] 6:2,2	Hearing [1] 4:10	October [2] 1:12 6:21	secondary [2] 3:7,18
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15th [1] 6:14	Certificate [1] 6:24	hereby [1] 6:8	Oklahoma [11] 1:2,13	SERVICE [1] 1:23
18th [1] 6:21	Certified [1] 6:6	hereunto [1] 6:19	1:13,24,24 6:3,4,8,14,15	set [2] 3:13 6:20
-2-	certify [1] 6:8	HINSON [1] 2:20	6:15	Sharon [2] 2:7 4:24
2008 [4] 1:12 3:13 6:15	CFR [2] 4:4,5	-I-	old [1] 3:20	shorthand [2] 6:7,12
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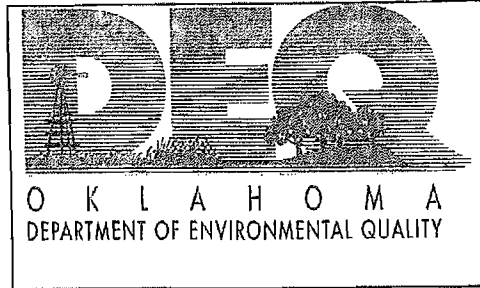
# AIR QUALITY COUNCIL

Attendance Record

October 15, 2008

Oklahoma City, Oklahoma

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
Rick Armfield Tenaska Kiamichi	918-432 5117
Beverly Batchlet Smith DEQ	
Garry Keele Hall Estill	(918) 594-0553 gkeele@halleshill.com
Dustin Given Georgia-Pacific	918 684-4851
Cheryl Bradley AQD DEQ	
Steve Moyer Sinclair	
Phillip Fielder DEQ	
Adrienne Burchett Cardinal	aj@cardinalengineers.com
Michelle Votter Cardinal	my@cardinalengineers.com
Jaron Hill DEQ	
Glean Travis Sunoco	
Mike Bednar Sunoco	mbednar@sunoco.com
Randy Ward ODEQ	
ANGIE BURCKHALTER OIPA	ABURCKHALTER@OIPA.COM
Drew Canning CIRM/TIMCO	
LANCE LOOES EWOGEX	
LEON ASHFORD ODEQ	
Sarah Penn ODEQ	
Robert Singletary ODEQ	405-702-7173
Marcel Cole RWCS	228-2143
KEN RUFFIN AEP-PSO	kwuffin@aep.com
DAVID DYKE DEQ	
William Hildeson AEP-PSO	whildeson@dep.com
Judith A Dierker ODEQ	



# AIR QUALITY COUNCIL

Attendance Record

October 15, 2008

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Joseph E. Cowen, PE	Buzzi Unicem USA	P.O. Box 68 Pryor, OK 74362
Nancy Marshment	DEQ	
Pat Sullivan	DEQ	
David Branneky	OGE	
Melody Martin	OGE	
Kendal Stegmann	DEQ	
Rick Gustafson	DEQ	
James D. Shedy	DEQ	
Julia Bowers	OGE	
M. Fox	DEQ	
Dawson Lasseter	DEQ	
Bob Lynch	OHHSC	
Mynna Bruce	DEQ	27170
Laura Herron	OGE	(405) 553-3057
Ford Benham	OGE	" " - 3221
Steve Willis		
BOB HURT	DAL-TILE	bob.hurt@daltil.com
Jerry Puckale	ConocoPhillips	
CRAIG DAVIEL	TENASKA	
DON WHITNEY	TRINITY	
Garold Brecher	WPEC	
Laura London	Enercon	llondon@enercon.com
Wilma Turner	TAFB	
Kent Stafford	DEQ/AQD	
Adam McHale	Atlas Pipeline	amchale@aplmc.com
Jim Haught	AQC	



**REGULAR MEETING AGENDA**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m., Tuesday, November 18, 2008  
Tahlequah Municipal Armory  
100 Water Street  
Tahlequah, Oklahoma

*Please turn off cell phones*

1. **Call to Order** – Jennifer Galvin, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the August 19, 2008 Regular Meeting
4. **Rulemaking – OAC 252:100 Air Pollution Control**
  - A. The DEQ proposes to amend Subchapter 25 pertaining to visible emissions and particulates to correct a rule citation.
  - B. The DEQ proposes to update Appendices E and F pertaining to primary and secondary ambient air quality standards to be consistent with federal standards for ozone.
  - C. The DEQ proposes to update Appendix Q to incorporate the latest changes to federal regulations by reference. The updates include the addition of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources.
    - Presentation – David Branecky, Chair, Air Quality Advisory Council
    - Questions and discussion by the Board
    - Questions, comments and discussion by the public
    - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption
5. **Rulemaking – OAC 252:205 Hazardous Waste Management**

The DEQ proposes to update Subchapter 3, Sections 3-1 and 3-2 to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279, revised as of July 1, 2008.

  - Presentation – Michael Graves, Chair, Hazardous Waste Management Advisory Council
  - Questions and discussion by the Board
  - Questions, comments and discussion by the public
  - Discussion and possible action by the Board, which may include a roll call vote on permanent adoption



**6. Rulemaking – OAC 252:410 Radiation Management**

The DEQ proposes to amend Subchapters 1, 10, and 20 to change the date for the incorporation of federal regulations by reference to January 1, 2008. These incorporations include a new definition of “byproduct material;” amended rules governing the distribution of byproduct material; minor corrections pertaining to medical use of byproduct material; and amended rules for implementation of a National Source Tracking System.

- Presentation – Steve Woods, Chair, Radiation Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

**7. Rulemaking – OAC 252:611 General Water Quality**

A. The DEQ proposes to amend Subchapter 1, Section 1-3 to change the date of incorporation of applicable federal regulations from July 1, 2007 to July 1, 2008.

B. The DEQ proposes to amend Subchapter 3, Sections 3-1 and 3-2 to require a mitigation plan with an application to DEQ for certification pursuant to Section 401 of the Clean Water Act when mitigation is required to obtain a permit from the federal permitting entity under Section 404 of the Clean Water Act.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call votes on permanent adoption

**8. Rulemaking (emergency) - OAC 252:641 Individual and Small Public Onsite Sewage Treatment Systems**

The DEQ proposes to amend Appendix H, Figure 25 to correct an error classifying Delaware County as Net Evaporation Zone 1 when the Appendix was last adopted.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call votes on a finding of emergency and emergency adoption

**9. Consideration of and Action on the Environmental Quality Report**

The Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1<sup>st</sup> of each year. The statutorily prescribed purpose of this report is to outline the DEQ’s annual needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.

- Presentation – Jimmy Givens, Acting Deputy Executive Director, DEQ
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion by the Board and roll call vote on approval

#### **10. Consideration of Executive Director Compensation**

During the Environmental Quality Board meeting on August 19, 2008, the Board decided to further study and consider appropriate compensation for Steve Thompson, Executive Director of the DEQ, and requested that the DEQ provide Board members with a recent salary study compiled by the Office of Personnel Management. The DEQ has provided the requested salary study and other relevant salary information. The Board is expected to discuss and may elect to go into executive session to further consider Mr. Thompson's compensation.

- A. Discussion by Board in open session
- B. Possible executive session pursuant to Title 25 § 307(B)(1) (discussion of employment actions related to any individual salaried public officer or employee), if authorized by recorded majority vote of the Board members present
  - (1) Vote in open session on whether to enter executive session
  - (2) If executive session approved, designation in open session of person to keep minutes in executive session
  - (3) Discussion of Executive Director's compensation in executive session
- C. Further discussion by the Board in open session
- D. Possible roll call vote on specific actions or recommendation as a result of executive session and/or open discussion

**11. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**12. Executive Director's Report** – Steve Thompson

**13. Adjournment**

**Upcoming Meetings in 2009:** February 27, DEQ  
 August 25, Tulsa (location to be determined)  
 November 17, Ada (location to be determined)

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. This Public Forum will include a presentation by Jon Craig, Director, Water Quality Division, DEQ.

**Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.**

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Some members of the Board and senior staff members from DEQ will meet for dinner in Tahlequah the evening of November 17. This is a social occasion. It is uncertain whether a majority of the Board will be present, but no Board or DEQ business will be conducted.

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

**EXECUTIVE SUMMARY**

**Appendix E. Primary Ambient Air Quality Standards [REVOKED]  
Appendix E. Primary Ambient Air Quality Standards [NEW]  
Appendix F. Secondary Ambient Air Quality Standards [REVOKED]  
Appendix F. Secondary Ambient Air Quality Standards [NEW]**

Before the Air Quality Advisory Council, October 15, 2008  
Before the Environmental Quality Board, November 18, 2008

**EXECUTIVE SUMMARY:**

The proposed amendments to Appendices E and F would change the primary and secondary ambient air quality standards for ozone to be consistent with the National Ambient Air Quality Standards.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

None.

**ENVIRONMENTAL BENEFIT STATEMENT:**

These rules are not more stringent than corresponding federal rules; therefore, an Environmental Benefit Statement is not required.

**SUMMARY OF COMMENTS AND RESPONSES:**

**COMMENT:** EPA Region VI supports this action.

**RESPONSE:** (None required)

No comments were received at the October 15, 2008, Air Quality Advisory Council meeting.

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

[OAR Docket #09-732]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 25. Visible Emissions and Particulates  
252:100-25-3. Opacity limit [AMENDED]

**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, 2008, through October 15, 2008  
November 18, 2008

**Public hearing:**

October 15, 2008  
November 18, 2008

**Adoption:**

November 18, 2008

**Submitted to Governor:**

November 25, 2008

**Submitted to House:**

November 25, 2008

**Submitted to Senate:**

November 25, 2008

**Gubernatorial approval:**

December 15, 2008

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.

**Final adoption:**

March 24, 2009

**Effective:**

July 1, 2009

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The Department is proposing to amend OAC 252:100-25-3(b)(3), Opacity limit, to correct an error in a rule reference. In addition, there are two non-substantive changes in order to remain consistent with Chapter 100 rule writing standards.

**CONTACT PERSON:**

Cheryl Bradley, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 707-4100.

**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, 2009:**

**SUBCHAPTER 25. VISIBLE EMISSIONS AND PARTICULATES**

**252:100-25-3. Opacity limit**

(a) Units subject to an opacity limit promulgated under section 111 of the Federal Clean Air Act are exempt from this section.

(b) No person shall allow the discharge of any fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof exhibiting greater than 20% opacity except for:

(1) Short term occurrences, which consist of not more than one six-minute period in any consecutive 60 minutes, not to exceed three such periods in any consecutive 24 hours. For units with COMs operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B), short term occurrences which consist of not more than one six-minute period in any one-hour period, not to exceed three such periods in any consecutive 24 hours. In neither case shall the average of any six-minute period exceed 60% opacity.

(2) Smoke resulting from fires covered by the exceptions outlined in OAC 252:100-13-7.

(3) An emission, where the presence of uncombined water is the only reason for failure to meet the requirements of OAC 252:100-25-3(a), (b).

(4) Smoke generated due to a malfunction in a facility, when the source of the fuel producing the smoke is not under the direct and immediate control of the facility and the immediate constriction of the fuel flow at the facility would produce a hazard to life and/or property.

(c) To determine compliance with this Section, opacity shall be read by either:

(1) A Certified Visible Emission Evaluator using Test Method 9 (40 CFR Part 60, Appendix A).

(2) A COM installed, calibrated, operated and maintained in accordance with Performance Specification 1 (40 CFR Part 60, Appendix B).

[OAR Docket #09-732; filed 4-17-09]

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

[OAR Docket #09-733]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Appendix E. Primary Ambient Air Quality Standards [REVOKED]  
Appendix E. Primary Ambient Air Quality Standards [NEW]  
Appendix F. Secondary Ambient Air Quality Standards [REVOKED]  
Appendix F. Secondary Ambient Air Quality Standards [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, 2008, through October 15, 2008  
November 18, 2008

**Public hearing:**

October 15, 2008  
November 18, 2008

**Adoption:**

November 18, 2008

**Submitted to Governor:**

November 25, 2008

## Permanent Final Adoptions

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**Submitted to House:**

November 25, 2008

**Submitted to Senate:**

November 25, 2008

**Gubernatorial approval:**

December 15, 2008

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.

**Final adoption:**

March 24, 2009

**Effective:**

July 1, 2009

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed amendments to Appendices E and F would change the primary and secondary ambient air quality standards for ozone to be consistent with the National Ambient Air Quality Standards.

**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, 2009:**

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [REVOKED]

APPENDIX E. PRIMARY AMBIENT AIR QUALITY STANDARDS [NEW]

	Sulfur Dioxide	PM-10	PM 2.5	Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max				40 mg/m <sup>3</sup> (2) 35 ppm			
8-hr. max				10 mg/m <sup>3</sup> (2) 9 ppm	(4) 0.075 ppm		
24-hr. max	365 ug/m <sup>3</sup> (2) 0.14 ppm	(7) 150 ug/m <sup>3</sup>	(5) 35 ug/m <sup>3</sup>				
Calendar Qtr.							(3) 1.5 ug/m <sup>3</sup>
Annual	80 ug/m <sup>3</sup> (1) 0.030 ppm		(6) 15 ug/m <sup>3</sup>			100 ug/m <sup>3</sup> (1) 0.053 ppm	

(1) Annual arithmetic mean

(2) Not to be exceeded more than once per year

(3) Maximum arithmetic mean averaged over a calendar quarter

(4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.

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

(6) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.

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

**Permanent Final Adoptions**

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

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

	Sulfur Dioxide	<sup>(6)</sup> PM-10	PM 2.5	<sup>(6)</sup> Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max							
3-hr. max	1300 ug/m <sup>3</sup> <sup>(2)</sup> 0.5 ppm						
8-hr. max					<sup>(4)</sup> 0.075 ppm		
24-hr. max							
Calendar Qtr.							<sup>(3)</sup> 1.5 ug/m <sup>3</sup>
Annual			<sup>(5)</sup> 15 ug/m <sup>3</sup>			100 ug/m <sup>3</sup> <sup>(1)</sup> 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) Maximum arithmetic mean averaged over a calendar quarter
- (4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.
- (5) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.
- (6) PM-10 and Carbon Monoxide have no secondary standard.

[OAR Docket #09-733; filed 4-17-09]

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

[OAR Docket #09-734]

**RULEMAKING ACTION:**  
PERMANENT final adoption

**RULES:**  
Appendix Q, Incorporation by Reference [REVOKED]  
Appendix Q, Incorporation by Reference [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, 2008, through October 15, 2008

**OAC 252:100**  
**Appendix P**  
**Public Hearings**



**July 19, 2006**  
**Air Quality Advisory Council**

**August 19, 2006**  
**Environmental Quality Board**

**Effective Date: June 15, 2007**

# 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

[OAC Docket #06-1090]

### INTENDED RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 1. General Provisions

252:100-1-3. [AMENDED]

Subchapter 2. Incorporation By Reference [NEW]

Subchapter 4. New Source Performance Standards

252:100-4-1. [REVOKED]

252:100-4-2. [REVOKED]

252:100-4-3. [REVOKED]

252:100-4-4. [REVOKED]

252:100-4-5. [REVOKED]

Subchapter 5. Registration, Emission Inventory and Annual

Operating Fees

252:100-5-1.1. [AMENDED]

252:100-5-2.1. [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

252:100-7-1.1. [AMENDED]

Subchapter 8. Permits for Part 70 Sources

Part 1. General Provisions

252:100-8-1.1. [AMENDED]

Subchapter 9. Excess Emission Reporting Requirements

252:100-9-2. [AMENDED]

Subchapter 17. Incinerators

Part 11. Other Solid Waste Incineration Units [NEW]

Subchapter 23. Control of Emissions From Cotton Gins

252:100-23-2. [AMENDED]

Subchapter 37. Control of Emission of Volatile Organic Compounds (VOCs)

Part 1. General Provisions

252:100-37-2. [AMENDED]

Subchapter 39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas

Part 1. General Provisions

252:100-39-2. [AMENDED]

Subchapter 40. Control of Emission of Friable Asbestos During Demolition and Renovation Operations [NEW]

Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants

Part 1. General Provisions

252:100-41-1. [REVOKED]

252:100-41-1.1. [REVOKED]

252:100-41-2. [REVOKED]

Part 3. Hazardous Air Pollutants

252:100-41-13. [REVOKED]

252:100-41-14. [REVOKED]

252:100-41-15. [REVOKED]

252:100-41-16. [REVOKED]

Part 5. Toxic Air Contaminants

252:100-41-35. [REVOKED]

252:100-41-36. [REVOKED]

252:100-41-37. [REVOKED]

252:100-41-38. [REVOKED]

252:100-41-39. [REVOKED]

252:100-41-40. [REVOKED]

252:100-41-41. [REVOKED]

252:100-41-42. [REVOKED]

252:100-41-43. [REVOKED]

252:100-41-44. [REVOKED]

Subchapter 44. Control of Mercury Emissions from Coal-Fired Electric Steam Generating Units [NEW]

Appendix H. De Minimis Facilities [REVOKED]

Appendix H. De Minimis Facilities [NEW]

Appendix I. Insignificant Activities (Registration) List [REVOKED]

Appendix I. Insignificant Activities List [NEW]

Appendix J. Trivial Activities (De Minimis) List [REVOKED]

Appendix J. Trivial Activities List [NEW]

Appendix P. Regulated Air Pollutants [NEW]

Appendix Q. Title 40, Code of Federal Regulations, Incorporation by Reference [NEW]

### SUMMARY:

The Department is proposing to amend Oklahoma Administrative Code (OAC) Title 252 Chapter 100-1-3, OAC 252:100-8-1.1, OAC 252:100-37-2, and OAC 252:100-39-2 to clarify definitions including particulate matter and volatile organic compounds.

The Department proposes to add to Title 252 Chapter 100, a new Subchapter 2, Incorporation by Reference, a new Subchapter 40, Control of Emission of Friable Asbestos During Demolition and Renovation Operations, and a new Appendix Q, Title 40, Code of Federal Regulations, Incorporation by Reference. Staff proposes revoking Subchapter 4, New Source Performance Standards, and Subchapter 41, Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants. This proposal would

## Notices of Rulemaking Intent

assure that all incorporations by reference to 40 CFR have effective dates.

The Department proposes to amend OAC 252:100-5-1.1, 7-1.1 and 9-2 to add a new definition for "regulated air pollutant." A new Appendix P, Regulated Air Pollutants, is being proposed as part of these amendments. Amendments to the terms "Actual emissions", "Allowable emissions" and "Regulated pollutant (for fee calculation)" are proposed in OAC 252:100-5-1.1. The addition of a new definition is proposed in Section 5-1 for "gross particulate matter" (GPM) which would replace the term "TSP" in that section. The term "TSP" is proposed to be deleted in OAC 252:100-23-2. The term "Actual emissions" is also proposed to be amended in OAC 252:100-7-1.1.

The Department is proposing changes to OAC 252:100-5, Registration, Emission Inventory and Annual Operating Fees. In OAC 252:100-5.2.1(b)(2) staff proposes to change the requirement to provide written explanation when yearly emission changes are in excess of 30 percent. The written explanation would be required only if the Department requests that documentation. The authority to request this information is in the next paragraph, 252:100-5.2.1(c) Documentation. The other proposed change would set the due date for submittal of the annual emission inventory to April 1<sup>st</sup> each year, removing the necessity of applying for a 30-day extension.

The Department proposes the addition of 100-17, Part 11, Other Solid Waste Incinerators (OSWI), to establish state emission standards and other enforceable requirements for existing OSWI. An OSWI is considered an existing OSWI if construction commenced on or before Dec. 9, 2004. These proposed rules would provide the means for implementing and enforcing the federal emission guidelines (40 CFR 60, Subpart FFFF). The new Part 11 incorporates by reference sections of the New Source Performance Standards (NSPS) for OSWI (40 CFR 60, Subpart EEEE). In addition to establishing emission standards for certain regulated pollutants, the proposed rule would establish requirements for OSWI operator training and qualifications, waste management plans, testing and monitoring of pollutants, and operating parameters.

The Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal Fired Electric Steam Generating Units. The Department is proposing to incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in March 2005 with some variation of allocations and set-asides. The Department seeks public comments concerning the most appropriate method of allocating, distributing, and setting aside the Mercury credits.

The Department proposes to amend the De Minimis Facilities List in Appendix H, the Insignificant Activities (Registration) List in Appendix I, and the Trivial Activities (de Minimis) List in Appendix J of OAC 252:100. These amendments consist of reformatting all three lists, updating the facilities included on the De Minimis Facilities List, and updating the activities on the Insignificant Activities (Registration) List and the Trivial Activities (De Minimis) List. It was anticipated when these lists were first compiled

and made part of Chapter 100 that the Department would revisit them and make appropriate changes based on the staff's experience in using them. The Department proposes to delete some activities or facilities from the lists based on more accurate emissions factors and modify some activities or facilities that are currently on the lists. The Department is also considering the possibility of combining Appendices H and J.

### **AUTHORITY:**

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101, 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

### **COMMENT PERIOD:**

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on July 19, 2006. For comments received at least 5 business days prior to the Council meeting, staff will post written responses on the Department's web page at least 1 day prior to the Council meeting and provide hard copy written responses to these comments to the Council and the public at that Council meeting. Oral comments may be made at the July 19, 2006 hearing and at the August 22, 2006 Environmental Quality Board meeting.

### **PUBLIC HEARINGS:**

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, July 19, 2006, at the DEQ, 707 N. Robinson, Oklahoma City.

Before the Environmental Quality Board on August 22, 2006 at the Kruse Auditorium, 2510 Sam Noble Parkway, Ardmore, OK.

This hearing shall also serve as the public hearing to receive comments on the proposed revisions to the SIP under the requirements of 40 CFR § 51.102 of the EPA regulations concerning the SIPs 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 at the Air Quality Division of the Department and on the Department's website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Air Quality Division, Council Meetings, or copies may be obtained from the contact person by calling (405) 702-4100.

### **RULE IMPACT STATEMENT:**

Copies of the Rule Impact Statement may be obtained from the contact person.

### **CONTACT PERSON:**

Please send written comments to Max Price at [max.price@deq.state.ok.us](mailto:max.price@deq.state.ok.us) for Subchapters 1, 8, 37 and 39; for Subchapters 5 (5-1.1), 7, 9 and 23, and Appendix P; and for Subchapters 2, 4, 40 and 41, and Appendix Q. Written

## Notices of Rulemaking Intent

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comments for the new Part 11 of Subchapter 17 should be sent to Heather Bragg at [heather.bragg@deq.state.ok.us](mailto:heather.bragg@deq.state.ok.us). For Subchapter 5 (5-2.1) and the new Subchapter 44, please send written comments to Morris Moffett at [morris.moffett@deq.state.ok.us](mailto:morris.moffett@deq.state.ok.us). For Appendices H, I and J, please send written comments to C. Joyce Sheedy at [joyce.sheedy@deq.state.ok.us](mailto:joyce.sheedy@deq.state.ok.us). The mailing address is Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, FAX (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)702-4100.

*[OAR Docket #06-1090; filed 5-25-06]*

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**REGULAR MEETING/ HEARING AGENDA**  
**AIR QUALITY ADVISORY COUNCIL**  
July 19, 2006, 9:00 a.m.  
DEQ Building, 707 N. Robinson  
Oklahoma City, OK

*Please turn off your cell phones.*

1. **Call to Order – Sharon Myers, Chair**
2. **Roll Call – Myrna Bruce**
3. **Approval of Minutes – April 19, 2006 Regular Meeting**
4. **Public Rulemaking Hearings**
  - A. **OAC 252:100-1. General Provisions [AMENDED]**  
**OAC 252:100-8. Permits for Part 70 Sources [AMENDED]**  
**OAC 252:100-37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]**  
**OAC 252:100-39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]**

The Department is proposing to amend Subchapters 1, 8, 37 and 39 to clarify certain definitions, including “particulate matter” and “volatile organic compounds.”

1. Presentation – Max Price
2. Questions and discussion by Council/public
3. Possible action by Council

- B. **OAC 252:100-2. Incorporation by Reference [NEW]**  
**OAC 252:100-4. New Source Performance Standards [REVOKED]**  
**OAC 252:100-40. Control of Emission of Friable Asbestos during Demolition and Renovation Operations [NEW]**  
**OAC 252:100-41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]**  
**Appendix Q. Title 40, Code of Federal Regulations, Incorporation by Reference [NEW]**

The Department proposes to add new Subchapters 2 and 40 and Appendix Q, and proposes to revoke Subchapters 4 and 41. This proposal would assure that all incorporations by reference to 40 CFR have effective dates in the agency rules.

1. Presentation – Max Price
2. Questions and discussion by Council/public
3. Possible action by Council

- C. **OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

The Department proposes to amend Subchapter 5 by modifying the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent by clarifying that

the written explanation would be required only on request by the Department. Another proposed amendment would change the due date for submittal of the annual emission inventory from March 1 to April 1 of each year and removing the provision for applying for a 30-day extension.

1. Presentation – Morris Moffett
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**D. OAC 252:100-5. Registration, Emission Inventory and Annual Operating Fees [AMENDED]**

**OAC 252:100-7. Permits for Minor Facilities [AMENDED]**

**OAC 252:100-9. Excess Emission Reporting Requirements [AMENDED]**

**OAC 252:100-23. Control of Emissions from Cotton Gins [AMENDED]**

**Appendix P. Regulated Air Pollutants [NEW]**

The Department proposes to add a new definition for “regulated air pollutant” to Subchapters 5, 7 and 9. A new Appendix P is being added to Chapter 100 as part of these amendments. The terms “Actual emissions,” “Allowable emissions” and “Regulated pollutant (for fee calculation)” are proposed to be amended in OAC 252:100-5-1.1. In addition, staff proposes to amend Section 5-1.1 by the addition of a new definition for “Gross particulate matter” (GPM) which replaces the term “TSP” in the section. The term “for TSP” is proposed to be deleted in OAC 252:100-23-2. The term “Actual emissions” is also proposed to be amended in OAC 252:100-7-1.1.

1. Presentation – Max Price
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**E. OAC 252:100-17. Incinerators**

**Part 11. Other Solid Waste Incineration Units [NEW]**

The Department proposes to add a new Part 11, Other Solid Waste Incinerators (OSWI), to establish state emission standards and other enforceable requirements for existing OSWI.

1. Presentation – Heather Bragg
2. Questions and discussion by Council/Public
3. Possible action by Council

**F. OAC 252:100-44. Control of Mercury Emissions from Coal Fired Electric Steam Generating Units [NEW]**

The Department is proposing a new Subchapter 44, Control of Mercury Emissions from Coal Fired Electric Steam Generating Units, which would incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in May 2005.

1. Presentation – Morris Moffett
2. Questions and discussion by Council/Public
3. Possible action by Council

- G. **Appendix H. De Minimis Facilities**
- Appendix I. Insignificant Activities (Registration) List**
- Appendix J. Trivial Activities (De Minimis) List**

The Department proposes to reformat and update the information in all three lists in Appendices H, I and J.

- 1. Presentation – Joyce Sheedy
- 2. Questions and discussion by Council/Public
- 3. Possible action by Council

**5. Division Director's Report – Eddie Terrill**

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

**7. Adjournment** – The next regular meeting is proposed for 9 a.m., Wednesday, October 18, 2006, in Broken Bow.

Lunch Break, if necessary.

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4212. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

**APPENDIX P, REGULATED AIR POLLUTANTS (RAP)**

<b>REGULATED AIR POLLUTANT</b>	<b>DESCRIPTION</b>
Acid gas expressed as SO <sub>2</sub> and HCl	As defined in OAC 252:100-17.
Acid mist expressed as H <sub>2</sub> SO <sub>4</sub>	As defined in 40 CFR 60.81 and OAC 252:100-31.
Arsenic, inorganic	NESHAP
Asbestos	NESHAP
Benzene	NESHAP
Beryllium	NESHAP
Cadmium	NSPS
Carbon Monoxide or CO	Criteria pollutant
Dioxins/furans	NSPS: Tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
Fluorides	NSPS: Elemental fluorine and all fluoride compounds.
Hazardous Air Pollutants or HAP(s)	Listed in 42 U.S.C. 7412(b)(1) and as modified in 40 CFR Part 63, Subpart C, List of Hazardous Air Pollutants, Petitions Process, Lesser Quantity Designations, Source Category List.
Hydrogen chloride or HCl	NSPS
Hydrogen sulfide or H <sub>2</sub> S	NSPS
Lead	Criteria pollutant
Mercury	NSPS and NESHAP
Nitrogen dioxide or NO <sub>2</sub>	Criteria pollutant
NonMethane Organic Compounds or NMOC expressed as hexane	As defined in 40 CFR 60.754.
Oxides of nitrogen or NO <sub>x</sub>	NSPS: Ozone precursors
Oxides of sulfur or SO <sub>x</sub>	NSPS: PM-2.5 precursors
Ozone	Criteria pollutant
Particulate Matter or PM	As defined in OAC 252:100. (criteria pollutant)
Reduced sulfur compounds	As defined in 40 CFR 60.101.
Reduced Sulfur, Total or TRS	As defined in OAC 252:100-31.
Sulfur dioxide or SO <sub>2</sub>	Criteria pollutant
Toxic Air Contaminates or	As listed in OAC 252:100,



TAC(s)	Appendix O.
Vinyl chloride	NESHAP
Volatile Organic Compounds or VOC(s)	As defined in OAC 252:100. (ozone precursors)

**NOTES:** 1. The Department does not have authority over Class I and II stratospheric ozone depleting substances or CFCs as listed under 40 CFR, Part 82. These substances are RAP, however, under the Federal Clean Air Act.

2. The Department does not have authority over Section 112(r) substances as listed in 40 CFR 68.130, Tables 1-4. These substances are, however, RAP under the Federal Clean Air Act.

3. The Department does not have the authority over radionuclides as listed in 40 CFR, Part 61. These substances are RAP, however, under the Federal Clean Air Act.

**MINUTES**  
**AIR QUALITY COUNCIL**  
**July 19, 2006**  
**707 North Robinson**  
**Oklahoma City, Oklahoma**

Approved AQC  
October 18, 2006

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. July 19, 2006 in the DEQ Multipurpose Room, 707 N. 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 5, 2005. Agendas were posted on the entrance doors of 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. Mr. David Branecky, Vice-Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
Bob Curtis  
Bob Lynch  
Jerry Purkaple  
Rick Treeman  
Laura Worthen

**MEMBERS ABSENT**

Sharon Myers  
Gary Martin  
Don Smith

**OTHERS PRESENT**

Christy Myers, Court Reporter

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Scott Thomas  
Joyce Sheedy  
Max Price  
Heather Bragg  
Morris Moffett  
Matt Paque

**DEQ STAFF PRESENT**

Rhonda Jeffries  
Dawson Lasseter  
Philip Fielder  
Kendal Stegmann  
Pat Sullivan  
Nancy Marshment  
Jarnie Fannin  
Myrna Bruce

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

**Approval of Minutes** Mr. Branecky called for approval of the April 19, 2006 Minutes. Hearing no discussion, she called for a motion to approve the Minutes as presented. Mr. Curtis made the motion with Ms. Worthen making the second. Roll call as follows with motion passing.

Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-1. General Provisions [AMENDED]**

**OAC 252:100-8. Permits for Part 70 Sources [AMENDED]**

**OAC 252:100-37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]**

**OAC 252:100-39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]**

Mr. Max Price advised that the proposed amendments would clarify and/or remove redundant definitions from Chapter 100. He added that the revisions were extensive; therefore, staff asked for continuation of the rulemaking to allow for public comment. Mr. Branecky opened the floor for comments and questions then entertained a motion. Mr. Rick Treeman moved to continue the hearing to Council's next meeting and the second was made by Mr. Curtis.

Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-2. Incorporation by Reference [NEW]**

**OAC 252:100-4. New Source Performance Standards [REVOKED]**

**OAC 252:100-40. Control of Emission of Friable Asbestos during Demolition and Renovation Operations [NEW]**

**OAC 252:100-41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]**

**Appendix Q. Title 40, Code of Federal Regulations, Incorporation by Reference [NEW]**

Mr. Max Price advised that the proposal would add new Subchapters 2 and 40 and a new Appendix Q. Existing subchapters 4 and 41 would be revoked. Mr. Price pointed out that the purpose of the changes was to assure that all incorporations by reference to 40 CFR would have effective dates in the agency rules. He added that the revisions are extensive and that staff's recommendation was to continue the rulemaking to Council's next meeting to allow for public comment. With no comments from the public, Mr. Branecky entertained a motion. Dr. Lynch made motion to continue and Ms. Worthen made the second.

Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-5 Registration, Emission Inventory and Annual Operation Fees [AMENDED]**

Mr. Morris Moffett advised that the amendment to OAC 252:100-5-2.1(b)(3) concerned the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent clarifying that requirement to be only at the request of the Department. Mr. Moffett identified another proposed amendment that would change the due date for submittal of the annual emission inventory from March 1 to April 1 of each year and removes the provision for applying for a 30-day extension. Mr. Moffett stated that comments had been received from Fort James Operating Company. Following discussion, Mr. Purkaple made motion to continue the hearing to Council's next meeting. The second was made by Mr. Curtis.

Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-5 Registration, Emission Inventory and Annual Operation Fees [AMENDED]**

**OAC 252:100-7 Permits for Minor Facilities [AMENDED]**

**OAC 252:100-9 Excess Emission Reporting Requirements [AMENDED]**

**OAC 252:100-23 Control of Emissions From Cotton Gins [AMENDED]**

**Appendix P Regulated Air Pollutants [NEW]**

Mr. Max Price advised that these proposals had first been presented at Council's April meeting. He pointed out the changes that had been made in response to public comments. Following discussion, Mr. Curtis moved to adopt the staff's recommendation with the stated changes. Mr. Treeman made the second.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-17 Incinerators Part 11 Other Solid Waste Incineration Units [NEW]**

Ms. Heather Bragg advised that the proposal would add a new Part 11 which would establish state emission standards and other enforceable requirements for existing OSWI. During discussion, it was determined that changes would need to be made before adoption by the Board. Mr. Purkapple made motion to table until later in the meeting to allow for time to consider whether those changes could be made during this meeting. Ms. Worthen made the second.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

Mr. Branecky reconvened the hearing to address the new changes. Ms. Bragg identified the new changes and stated that staff's recommendation was to forward the rule to the Environmental Quality Board for permanent adoption. Mr. Purkapple made the motion and Mr. Curtis made the second.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-44 Control of Mercury Emissions From Coal Fired Electric Steam Generating Units [NEW]** Mr. Morris Moffett related that the new Subchapter 44 would incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in May of 2005.

Following discussion, Mr. Branecky entertained a motion to continue the hearing to Council's October meeting. Mr. Purkapple made the motion and Ms. Worthen made the second. Mr. Terrill added that his hopes were to pass the rule in October in order to meet all the deadlines.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**Appendix H. De Minimis Facilities**

**Appendix I. Insignificant Activities (Registration) List**

**Appendix J. Trivial Activities (De Minimis) List**

Dr. Joyce Sheedy advised that the Department proposes to reformat and update the information in all three lists in Appendices H, I, and J. She related that EPA requires a demonstration that each activity on each appendix complies with the appropriate definition of the de minimis activity, insignificant activity, or trivial activity. Dr. Sheedy conveyed that the demonstration is taking longer than anticipated; therefore, recommended that the hearing be tabled until such a time as the demonstration can be completed. Mr. Branecky entertained a motion to table, not continue, the hearing until such time as staff is ready to bring it back. Dr. Lynch made the motion and Mr. Curtis made the second.

Jerry Purkale	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**New Business** None.

**Adjournment** The meeting adjourned 11:20 a.m.

DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY COUNCIL  
REGULAR MEETING  
ITEM NUMBER 4D  
HELD ON JULY 19, 2006, AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

ORIGINAL

1 MEMBERS OF THE COUNCIL  
 2 SHARON MYERS - CHAIR (ABSENT )  
 3 DAVID BRANECKY - VICE-CHAIR  
 4 BOB CURTIS - MEMBER  
 5 BOB LYNCH - MEMBER  
 6 GARY MARTIN - MEMBER (ABSENT)  
 7 JERRY PURKAPLE - MEMBER  
 8 DON SMITH - MEMBER (ABSENT)  
 9 RICK TREEMAN - MEMBER  
 10 LAURA WORTHEN - MEMBER

11  
 12  
 13 STAFF MEMBERS  
 14 MYRNA BRUCE - SECRETARY  
 15 EDDIE TERRILL - DIVISION DIRECTOR  
 16 DR. JOYCE SHEEDY - AQD  
 17 MATT PAQUE - LEGAL  
 18 BEVERLY BOTCHLET-SMITH - AQD  
 19 MAX PRICE - AQD  
 20 HEATHER BRAGG - AQD  
 21 MORRIS MOFFETT - AQD

1 modification to its description field. In  
 2 addition, the NOTES at the bottom of  
 3 Appendix P have been reworded to replace  
 4 the term, delegation by EPA with the  
 5 term, authority , and note (3) has been  
 6 added.

7 Two. The definition of RAP,  
 8 Regulated Air Pollutant, in Section 5-1.1,  
 9 7-1.1, and 9-2 has been slightly reworded  
 10 to replace the term, delegation by EPA  
 11 with the term, "authority".

12 Three. The definition of Actual  
 13 emissions has only been slightly amended  
 14 and now retains the term, calendar year .

15 I might note that this is the  
 16 definition prior -- that applied to the  
 17 previous presentation.

18 Four. The term, "for TSP" has been  
 19 deleted from 23-1.

20 Also, I d.like to make a small  
 21 change to the definition of gross  
 22 particulate matter -- or suggest that the  
 23 Council make this change. I would like to  
 24 replace the term "a nominal" with the term  
 25 "and". It was pointed out yesterday that

1 PROCEEDINGS  
 2 MS. BOTCHLET-SMITH: The next  
 3 item on the Agenda is 4D. This is OAC  
 4 252:100-5, Registration, Emission  
 5 Inventory, and Annual Operating Fees; OAC  
 6 252:100-7, Permits for Minor Facilities;  
 7 OAC 252:100-9, Excess Emission Reporting  
 8 Requirements; OAC 252:100-23, Control of  
 9 Emissions from Cotton Gins; and Appendix P,  
 10 Regulated Air Pollutants.

11 Mr. Max Price of the staff, will  
 12 give a presentation.  
 13 MR. PRICE: Mr. Vice-chairman, Members of  
 14 the Council, ladies and gentlemen.

15 These proposals were first presented  
 16 to the Air Quality Council at the April  
 17 19th Meeting. At that time staff  
 18 recommended that they be held over until  
 19 this meeting, to allow time for more public  
 20 comment. In response to those comments,  
 21 the following changes have been made since  
 22 the original proposals:

23 One. Appendix P has been modified  
 24 by merging the PM-10 and the PM-2.5 records  
 25 into the PM record with an appropriate

1 the term nominal should only be applied to  
 2 discreet data and not to a range of data  
 3 and if you read the definition, of course,  
 4 we re talking about a range of data here.  
 5 The term was misused there. So I want to  
 6 delete that if that s possible.

7 Staff ask that the Council vote to  
 8 send these provisions to the DEQ Board with  
 9 the recommendation that they be adopted as  
 10 permanent rules. Thank you.

11 MS. BOTCHLET-SMITH: Do we have  
 12 questions from the Council of Mr. Price?

13 MR. PURKAPLE: Max, take a look  
 14 at Appendix P and in the bottom quarter  
 15 where it says particulate matter of PM --

16 MR. PRICE: Uh-huh.

17 MR. PURKAPLE: -- it says it s  
 18 defined in OAC 252:100 and then that s it.  
 19 Is there supposed to be more added to that?

20 MR. PRICE: No, sir. The  
 21 definition for PM -- actually, I was  
 22 thinking about the context, and the way  
 23 it s used. In some Subchapters we use PM-  
 24 10, some chapters we use PM-2.5, sometimes  
 25 we use different -- in different context.

1 It s defined in Subchapter 1.  
 2 MR. PURKAPLE: Okay, so that s  
 3 intended to refer to the whole body of the  
 4 recommendation.  
 5 MR. PRICE: Right, right. And it  
 6 depends on -- in any context how you re  
 7 using PM. PM is rather a squirrely group  
 8 right now, obviously.  
 9 MR. PURKAPLE: Okay. And the  
 10 same, then, applies to the VOCs?  
 11 MR. PRICE: Yes, sir.  
 12 MR. PURKAPLE: Okay. Thank you.  
 13 MR. PRICE: You re welcome.  
 14 MS. BOTCHLET-SMITH: Do we have  
 15 any questions from the public? Hearing  
 16 none, one more chance for the Council.  
 17 MR. TREEMAN: Okay. With this  
 18 change of adding gross particulate matter  
 19 and doing away with TSP, is there going to  
 20 be any substantive change to industry?  
 21 MR. PRICE: I suppose you re  
 22 talking about Subchapter 23; is that  
 23 correct?  
 24 MR. TREEMAN: That s one, yes.  
 25 MR. PRICE: Okay. Well, TSP was

1 Max, would you like to restate the staff s  
 2 recommendation on this rule?  
 3 MR. BRANECKY: And there was one  
 4 change that the staff recommended.  
 5 MR. PRICE: Okay. Staff will  
 6 recommend that the Council send this --  
 7 with this one minor change to remove the  
 8 term "a nominal" with the term "and" under  
 9 the definition of GPM and send these  
 10 provisions to the Air Quality Board as a  
 11 recommendation as a permanent rule.  
 12 MR. BRANECKY: All right. Thank  
 13 you, Max. It looks like we do have one  
 14 public comment.  
 15 MS. BOTCHLET-SMITH: Julia  
 16 Bevers.  
 17 MS. BEVERS: Julia Bevers, OGE  
 18 Energy. I just -- I m curious --  
 19 MS. BOTCHLET-SMITH: Microphone,  
 20 please.  
 21 MS. BEVERS: Okay. I was just  
 22 curious, gross particulate matter is also  
 23 defined in Subchapter 1, and the word  
 24 "nominal" is not removed, so will that --  
 25 does it need to be in both places?

1 never an emission, the term was actually  
 2 misused in that particular Subchapter, what  
 3 it should have been is PM. You can t test  
 4 TSP at a stack, it s impossible. What it  
 5 was is people were, back in the old days,  
 6 they got confused. They got PM and TSP  
 7 confused in their minds and they ended up  
 8 in the rules a few times. And in that one  
 9 it is really kind of sad because we  
 10 actually have control efficiencies on the  
 11 control standards in 23, on a substance  
 12 that you can t test for.  
 13 So obviously it s -- it would -- it  
 14 was -- rendered a whole section  
 15 (inaudible). And that s why we just pulled  
 16 it. It s obvious it s PM, we don t need to  
 17 mention it in PM control efficiencies.  
 18 MS. BOTCHLET-SMITH: Doesn t seem  
 19 to be any other questions from the Council.  
 20 Do you want to entertain a Motion?  
 21 MR. BRANECKY: All right. I will  
 22 entertain a Motion from the Council on  
 23 action on these rules that DEQ has given us  
 24 this morning.  
 25 MS. BOTCHLET-SMITH: Staff --

1 MR. PRICE: Yes, ma am. That was  
 2 in there originally but it s going to be  
 3 removed.  
 4 MR. BRANECKY: In Subchapter 1 it  
 5 will be removed when it comes back --  
 6 MR. PRICE: When you get to the  
 7 final rulemaking.  
 8 MR. BRANECKY: Okay. Is that it?  
 9 MS. BOTCHLET-SMITH: Okay. We  
 10 have a staff recommendation. Do we have  
 11 any other comments from the public or  
 12 questions from the Council? David.  
 13 MR. BRANECKY: All right. We  
 14 have before us, the staff has recommended  
 15 that we adopt these rules as permanent as  
 16 presented to us in our Council packet with  
 17 the one change in the definition to gross  
 18 particulate matter removing the word  
 19 "nominal" and striking the -- changing the  
 20 "and" to an "a" -- or an "a" to an "and".  
 21 So with that, I ll entertain a  
 22 Motion.  
 23 MR. CURTIS: I move that we adopt  
 24 the staff s recommendation and make the  
 25 stated changes.



1 MR. TREEMAN: Second.  
 2 MR. BRANECKY: Okay. We ve got a  
 3 Motion and a second that we adopt  
 4 Subchapters 5, 7, 9, and 23, and Appendix P  
 5 with the change to Subchapter 5 of striking  
 6 the word "nominal" and changing the word  
 7 "a" before that to "and".  
 8 Myrna, call roll, please.  
 9 MS. BRUCE: Mr. Purkaple.  
 10 MR. PURKAPLE: Yes.  
 11 MS. BRUCE: Ms. Worthen.  
 12 MS. WORTHEN: Yes.  
 13 MS. BRUCE: Mr. Treeman.  
 14 MR. TREEMAN: Yes.  
 15 MS. BRUCE: Mr. Curtis.  
 16 MR. CURTIS: Yes.  
 17 MS. BRUCE: Dr. Lynch.  
 18 DR. LYNCH: Yes.  
 19 MS. BRUCE: Mr. Branecky.  
 20 MR. BRANECKY: Yes.  
 21 MS. BRUCE: Motion approved.

(End of Proceedings)

1  
 2 CERTIFICATE  
 3 STATE OF OKLAHOMA )  
 4 ) ss:  
 5 COUNTY OF OKLAHOMA )  
 6 I, CHRISTY A. MYERS, Certified  
 7 Shorthand Reporter in and for the State of  
 8 Oklahoma, do hereby certify that the above  
 9 proceedings is the truth, the whole truth,  
 10 and nothing but the truth; that the  
 11 foregoing proceedings was taken down in  
 12 shorthand and transcribed under my  
 13 direction; that said proceedings weretaken  
 14 on the 19th day of July, 2006, at Oklahoma  
 15 City, Oklahoma; and that I am neither  
 16 attorney for nor relative of any of said  
 17 parties, nor otherwise interested in said  
 18 action.  
 19 IN WITNESS WHEREOF, I have hereunto  
 20 set my hand and official seal on this, the  
 21 10th day of August, 2006.

22  
 23 CHRISTY A. MYERS, C.S.R.  
 24 Certificate No. 00310  
 25

<p><b>-0-</b></p> <p>00310 [1] 11:23</p> <p><b>-1-</b></p> <p>1 [3] 6:1 8:23 9:4 10 [1] 5:24 10th [1] 11:21 19 [1] 1:13 19th [2] 3:17 11:14</p> <p><b>-2-</b></p> <p>2006 [3] 1:13 11:14,21 23 [3] 6:22 7:11 10:4 23-1 [1] 4:19 252:100 [1] 5:18 252:100-23 [1] 3:8 252:100-5 [1] 3:4 252:100-7 [1] 3:6 252:100-9 [1] 3:7</p> <p><b>-3-</b></p> <p>3 [1] 4:5</p> <p><b>-4-</b></p> <p>4D [2] 1:12 3:3</p> <p><b>-5-</b></p> <p>5 [2] 10:4,5 5-1.1 [1] 4:8</p> <p><b>-7-</b></p> <p>7 [1] 10:4 7-1.1 [1] 4:9</p> <p><b>-9-</b></p> <p>9 [1] 10:4 9-2 [1] 4:9 9:00 [1] 1:13</p> <p><b>-A-</b></p> <p>A.M [1] 1:13 above [1] 11:8 ABSENT [3] 2:2,6,8 action [2] 7:23 11:18 Actual [1] 4:12 added [2] 4:6 5:19 adding [1] 6:18 addition [1] 4:2 adopt [3] 9:15,23 10:3 adopted [1] 5:9 Agenda [1] 3:3 Air [5] 1:10 3:10,16 4:8 8:10 allow [1] 3:19 amended [1] 4:13</p>	<p>Annual [1] 3:5 Appendix [5] 3:9,23 4:3 5:14 10:4 applied [2] 4:16 5:1 applies [1] 6:10 appropriate [1] 3:25 approved [1] 10:21 April [1] 3:16 AQD [5] 2:16,18,19,20 2:21 attorney [1] 11:16 August [1] 11:21 authority [2] 4:5,11 away [1] 6:19</p> <p><b>-B-</b></p> <p>BEVERLY [1] 2:18 Bever [4] 8:16,17,17,21 Board [2] 5:8 8:10 BOB [2] 2:4,5 body [1] 6:3 BOTCHLET-SMITH [9] 2:18 3:2 5:11 6:14 7:18,25 8:15,19 9:9 bottom [2] 4:2 5:14 BRAGG [1] 2:20 Braneky [10] 2:3 7:21 8:3,12 9:4,8,13 10:2,19 10:20 BRUCE [8] 2:14 10:9,11 10:13,15,17,19,21</p> <p><b>-C-</b></p> <p>C [2] 11:2,2 C.S.R [1] 11:23 calendar [1] 4:14 Certificate [1] 11:23 Certified [1] 11:6 certify [1] 11:8 CHAIR [1] 2:2 chair [1] 6:16 change [8] 4:21,23 6:18 6:20 8:4,7 9:17 10:5 changes [2] 3:21 9:25 changing [2] 9:19 10:6 chapters [1] 5:24 CHRISTY [2] 11:6,23 City [2] 1:14 11:15 comment [2] 3:20 8:14 comments [2] 3:20 9:11 confused [2] 7:6,7 context [3] 5:22,25 6:6 control [4] 3:8 7:10,11 7:17 correct [1] 6:23 Cotton [1] 3:9 Council [13] 1:10 2:1 3:14,16 4:23 5:7,12 6:16 7:19,22 8:6 9:12,16</p>	<p>COUNTY [1] 11:5 course [1] 5:3 curious [2] 8:18,22 Curtis [4] 2:4 9:23 10:15 10:16</p> <p><b>-D-</b></p> <p>d [1] 4:20 data [3] 5:2,2,4 David [2] 2:3 9:12 days [1] 7:5 defined [3] 5:18 6:1 8:23 4:21 5:3,21 8:9 9:17 definition [8] 4:7,12,16 4:21 5:3,21 8:9 9:17 delegation [2] 4:4,10 delete [1] 5:6 deleted [1] 4:19 DEPARTMENT [1] 1:1 DEQ [2] 5:8 7:23 description [1] 4:1 different [2] 5:25,25 direction [1] 11:13 DIRECTOR [1] 2:15 discreet [1] 5:2 DIVISION [1] 2:15 Doesn [1] 7:18 don [2] 2:8 7:16 down [1] 11:11 Dr [3] 2:16 10:17,18</p> <p><b>-E-</b></p> <p>E [2] 11:2,2 EDDIE [1] 2:15 efficiencies [2] 7:10,17 emission [3] 3:4,7 7:1 emissions [2] 3:9 4:13 End [1] 10:23 ended [1] 7:7 Energy [1] 8:18 entertain [3] 7:20,22 9:21 ENVIRONMENTAL [1] 1:1 EPA [2] 4:4,10 Excess [1] 3:7</p> <p><b>-F-</b></p> <p>F [1] 11:2 Facilities [1] 3:6 Fees [1] 3:5 few [1] 7:8 field [1] 4:1 final [1] 9:7 first [1] 3:15 following [1] 3:21 foregoing [1] 11:11 Four [1] 4:18</p>	<p><b>-G-</b></p> <p>GARY [1] 2:6 gentlemen [1] 3:14 Gins [1] 3:9 given [1] 7:23 GPM [1] 8:9 gross [4] 4:21 6:18 8:22 9:17 group [1] 6:7</p> <p><b>-H-</b></p> <p>hand [1] 11:20 Hearing [1] 6:15 HEATHER [1] 2:20 held [2] 1:13 3:18 hereby [1] 11:8 hereunto [1] 11:19</p> <p><b>-I-</b></p> <p>impossible [1] 7:4 inaudible [1] 7:15 industry [1] 6:20 intended [1] 6:3 interested [1] 11:17 Inventory [1] 3:5 item [2] 1:12 3:3</p> <p><b>-J-</b></p> <p>JERRY [1] 2:7 JOYCE [1] 2:16 Julia [2] 8:15,17 July [2] 1:13 11:14</p> <p><b>-K-</b></p> <p>kind [1] 7:9</p> <p><b>-L-</b></p> <p>ladies [1] 3:14 LAURA [1] 2:10 LEGAL [1] 2:17 ll [1] 9:21 look [1] 5:13 looks [1] 8:13 Lynch [3] 2:5 10:17,18</p> <p><b>-M-</b></p> <p>m [1] 8:18 MARTIN [1] 2:6 MATT [1] 2:17 matter [5] 4:22 5:15 6:18 8:22 9:18 Max [5] 2:19 3:11 5:13 8:1,13 meeting [3] 1:11 3:17,19 MEMBER [7] 2:4,5,6,7 2:8,9,10</p>	<p>Members [3] 2:1,13 3:13 mention [1] 7:17 merging [1] 3:24 Microphone [1] 8:19 might [1] 4:15 minds [1] 7:7 minor [2] 3:6 8:7 misused [2] 5:5 7:2 modification [1] 4:1 modified [1] 3:23 MOFFETT [1] 2:21 morning [1] 7:24 MORRIS [1] 2:21 Motion [5] 7:20,22 9:22 10:3,21 move [1] 9:23 Ms [19] 3:2 5:11 6:14 7:18 7:25 8:15,17,19,21 9:9 10:9,11,11,12,13,15,17,19 10:21 MYERS [3] 2:2 11:6,23 Myrna [2] 2:14 10:8</p> <p><b>-N-</b></p> <p>need [2] 7:16 8:25 neither [1] 11:15 never [1] 7:1 next [1] 3:2 nominal [6] 4:24 5:1 8:8 8:24 9:19 10:6 none [1] 6:16 nor [2] 11:16,17 note [2] 4:5,15 NOTES [1] 4:2 nothing [1] 11:10 now [2] 4:14 6:8 NUMBER [1] 1:12</p> <p><b>-O-</b></p> <p>OAC [5] 3:3,5,7,8 5:18 obvious [1] 7:16 obviously [2] 6:8 7:13 official [1] 11:20 OGE [1] 8:17 Oklahoma [8] 1:2,14,14 11:3,5,8,14,15 old [1] 7:5 one [8] 3:23 6:16,24 7:8 8:3,7,13 9:17 Operating [1] 3:5 original [1] 3:22 originally [1] 9:2 otherwise [1] 11:17</p> <p><b>-P-</b></p> <p>P [5] 3:9,23 4:3 5:14 10:4 packet [1] 9:16 PAQUE [1] 2:17</p>
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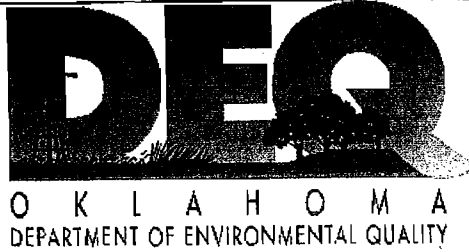
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# AIR QUALITY COUNCIL

## Attendance Record

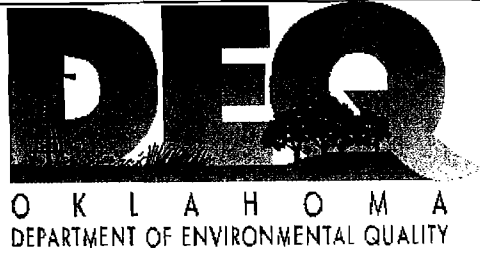
July 19, 2006

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
Myma Bruce	DEQ x1170
Heather Bragg	DEQ x4176
Nancy Mansment	DEQ x4178
Don WHITNEY	TRINITY C. 228-3292
MATT PAQUE	DEQ #7160
Rory Friedrich	GRDA (918) 824-1034
JOANNIE LITTLE	DEQ 405-702-4151
Melody MARTIN	OG&E 553-3297
Chonda Juffin	DEQ 918-293-1626
Kendal Stegmann	DEQ 702-7173
Laura Herron	OG&E 553-3057
Bob Kellogg	OKC
Mike Peters	OKC 228-2197
Bud Ground	PSO 841-1322
Deanna Estrada	PSO 214-777-1112
Rush Knoll	PSO 918-258-2357
Tracy Rudisill	DEQ 405-702-4167
TERESA Whittle	TINKER 734-7071
Ada Johnson	" 734-4548
Lyndee Lambert	DEQ 702-4159
Nolan Newkirk	DEQ 702-4171
Bryce Parker	CCC 580-763-8132
Lea McDonald	Tinker 734-9701
Wilma Turner	Tinker 736-3597
DAVE CANNING	Tinker/ON2M 734-4567
Julia Bevers	OG&E



# AIR QUALITY COUNCIL

## Attendance Record

July 19, 2006

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

LANCE LODES	ENVOGEX	557-6846
Shanna McIn	Sage Environmental	630-9042
Angie BURCKHALTER	OIDA	942-2334
Adrienne Jones	Cardinal Engineering, Inc	842-1066
WILLIAM CLARK	mCAAP	918-420-6552
BRIAN TOPPINGT	MAGELLAN PIPELINE CO.	918 574-7381
Summer Goebel	OGE	553-3523
Shawn Furrer	Bentley	701-3138
Deanne Hughes	Cardinal Engineering	842-1064
Andrew Haer	Sumco	
Sam Miller	AQH-LLC, Tulsa Glass Plant	Smill139@aqh-llc.com
JIM COLEMAN	COLTECH	817/428-8850
Shannon Smith	Lafarge	918-437-3902 ext. 246 Shannon.Smith@lafarge-na.com

**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m., Tuesday, November 14, 2006  
B. S. Roberts Conference Room – Room 151  
OSU-Tulsa Campus, 700 N. Greenwood, Tulsa, OK

1. **Call to Order** – Steve Mason, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the August 22, 2006, Regular Meeting

4. **Rulemaking – OAC 252:100 Air Pollution Control**

Several sets of amendments are proposed:

- Amendments in Subchapters 5, 7 and 9 add definitions for “regulated air pollutant” and “gross particulate matter” (replacing the term “total suspended particulates”), and revise the definitions for “actual emissions,” “allowable emissions” and “regulated pollutant (for fee calculation)”. Corresponding changes are made where needed. Appendix P, pertaining to Regulated Air Pollutants, is added.
- A new Part 11 of Subchapter 17, pertaining to Other Solid Waste Incinerators (“OSWI”), establishes state emission standards and other enforceable requirements for existing OSWI.
- The addition of Subchapters 2 and 40 and Appendix Q, and revocation of Subchapters 4 and 41, assure that all incorporations by reference of 40 CFR provisions have specified incorporation dates.
- One Subchapter 5 amendment makes the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent conditional on a request by the DEQ. A second amendment changes the due date for submittal of the annual emission inventory from March 1 to April 1, with the opportunity for a 30-day extension.
  - A. Presentation – Sharon Myers, Chair, Air Quality Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

5. **Rulemaking – OAC 252:4 Rules of Practice and Procedure  
OAC 252:205 Hazardous Waste Management**

Two sets of amendments are proposed:

- Amendments to OAC 252:4-7-51, 4-7-52, and 4-7-53 modify the DEQ rules related to hazardous waste permitting requirements to include provisions for the new RCRA Standardized Permit.
- Revisions to OAC 252:205-3-1 and 205-3-2 update the incorporation by reference of the federal hazardous waste regulations to July 1, 2006, and incorporate later federal amendments that relate to management of cathode ray tubes and to corrections of miscellaneous errors in the federal rules.
  - A. Presentation – Bob Kennedy, Vice-Chair, Hazardous Waste Management Advisory Council
  - B. Questions and discussion by the Board

- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include roll call vote(s) on emergency and permanent adoption

**6. Rulemaking – OAC 252:210 Highway Spill Remediation [New]**

New Chapter 210 is designed to implement the requirements of Senate Bill 1938, the Oklahoma Highway Remediation and Cleanup Services Act, passed by the Oklahoma Legislature during the 2006 regular session and effective November 1, 2006. The Act gives the DEQ the responsibility “to license, supervise, govern, and regulate highway remediation and cleanup services . . . and operators” in Oklahoma, and authorizes the Board to adopt implementing rules.

- A. Presentation – Bob Kennedy, Vice-Chair, Hazardous Waste Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on emergency adoption

**7. Rulemaking – OAC 252:300 Laboratory Accreditation**

Proposed changes update references to methods used in the Drinking Water Program to the current citation. In addition a method for the Daphnia Magna Life-Cycle Toxicity Test is added to the list of approved methodologies and Salmonella testing is added to the General Water Quality Laboratory Microbiology Category since these tests will be required for some OPDES permits.

- A. Presentation – Brian Duzan, Chair, Laboratory Services Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**8. Rulemaking – OAC 252:410 Radiation Management**

Several amendments comprise a single rulemaking proposal:

- Subchapter 1, Section 7 amendments update the incorporation by reference of Nuclear Regulatory Commission (NRC) regulations to January 1, 2005. They also add later-promulgated NRC regulations pertaining to the recognition of specialty boards and the training of Radiation Safety Officers as related to the medical use of byproduct material, and increased security requirements for portable gauges. A new subsection (c) clarifies that when a provision of the Code of Federal Regulations is incorporated by reference, all referenced citations are also incorporated by reference.
- Changes to Subchapter 10, Section 1 include revisions to subsection (b) to correct the list of NRC rules that are not incorporated by reference, for which enforcement remains with the NRC. Subsection (c) is revised, and subsection (d) is deleted, because language regarding the effect of becoming an “agreement state” is no longer needed.
- The amendments within Parts 30, 31, 32, 34, 35, 39, 70, and 71 of Subchapter 10 and in Subchapter 20, Section 1 make conforming changes resulting from updated incorporations by reference, correct scrivener's errors, and make minor formatting changes.
  - A. Presentation – Dr. David Gooden, Chair, Radiation Management Advisory Council
  - B. Questions and discussion by the Board
  - C. Questions, comments and discussion by the public
  - D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**9. Rulemaking – OAC 252:515 Solid Waste Management**

This rulemaking reflects the addition of a new Part 13 to Subchapter 19, relating to landfill wheel washes. The new Part 13 contains provisions concerning applicability, eligibility deadlines, definitions, approved costs, disapproved costs, the recoupment process, limitation on funds, and water management and control.

- A. Presentation – Jay Stout, Chair, Solid Waste Management Advisory Council
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on permanent adoption

**10. Consideration of and Action on the Environmental Quality Report**

The Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1<sup>st</sup> of each year. Despite the statutory title, the statutorily prescribed purpose of this report is to outline the DEQ’s annual needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.

- A. Presentation – Craig Kenamer, DEQ Deputy Executive Director
- B. Questions and discussion by the Board
- C. Questions, comments and discussion by the public
- D. Discussion and action by the Board, which may include a roll call vote on approval

**11. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**12. Executive Director’s Report** – Steve Thompson

**13. Adjournment**

2007 Meetings: February 23, DEQ; June 19, Ada (if needed); August 21, Guthrie; November 15, Weatherford

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak.

**Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.**

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Some members of the Board, as well as senior staff members from the DEQ, will attend the annual Metropolitan Environmental Trust (M.e.t.) Recycling Awards Banquet in Tulsa the evening of November 13. It is uncertain whether a majority of the Board will be present. No Board or DEQ business will be conducted.



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

**SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES**

**SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES**

**SUBCHAPTER 9. EXCESS EMISSION REPORTING REQUIREMENTS**

**SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS**

**APPENDIX P. REGULATED AIR POLLUTANTS (RAP)**

**EXECUTIVE SUMMARY:**

The proposed amendments to the definition sections OAC 252:100-5-1.1, OAC 252:100-7-1.1 and OAC 252:100-9-2 will add a new definition for "regulated air pollutant". A new Appendix P, Regulated Air Pollutants, is being added to Chapter 100 as part of these amendments. The terms "Actual emissions", "Allowable emissions" and "Regulated pollutant (for fee calculation)" are being amended in OAC 252:100-5-1.1. In addition, Section 5-1.1 is being amended by the addition of a new definition for "Gross particulate matter" or "GPM" which replaces the term "TSP" in the section. The term "Actual emissions" is also being amended in OAC 252:100-7-1.1.

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

The term, "Gross Particulate Matter" is not defined in any analogous federal rules, however it is implied in the definitions for particulate matter found in 40 CFR Part 51, Appendix A.

**ENVIRONMENTAL BENEFIT STATEMENT:**

Not required because these rules are not more stringent than corresponding federal rules.

**SUMMARY OF COMMENTS AND STAFF RESPONSES  
FOR PROPOSED REVISION TO SECTIONS 252:100-5-1.1, 252:100-7-1.1,  
252:100-9-2, 252:100-23-2 AND APPENDIX P**

**COMMENTS RECEIVED PRIOR TO JULY 19, 2006,  
AIR QUALITY ADVISORY COUNCIL MEETING**

**EPA Region 6** - Letter dated April 12, 2006, received by FAX on April 14, 2006, signed by Thomas H. Diggs, Chief, Air Planning Section and David Neleigh, Chief, Air Permits Section.

1. **COMMENT:** The proposed amendment to the definition of regulated air pollutant in Subchapters 5-1.1, 7-1.1, and 9-2 reads:

"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 delegation by EPA, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit."

To maintain consistency in addressing the "group of substances", we request that Oklahoma reword the paragraph, per the text suggested below. This will insure that any currently proposed or future State or federal rulings regarding any substance or group of substances as regulated air pollutants will be included as regulated air pollutants. Our recommended text:

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

**RESPONSE:** Staff disagrees with the addition of the phrase, "or any State or federal rule" because this phrase would broaden the scope of Departments responsibility into areas for which we have no jurisdiction. The Department can not enforce federal regulations we have not been given authority to enforce, nor can we enforce the rules of other states. However, staff will replace the phrase "delegation by EPA", with, "authority."

2. **COMMENT:** The proposed amendment to the definition of actual emissions in Subchapter 7-1.1. reads:

**"Actual emissions"** means the total amount of any regulated air pollutants actually emitted from a given facility during ~~a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d)~~ twelve (12) consecutive months.

Please explain why the definition of "actual emissions" as contained in 40 CFR 51.166(b)(21) could not be used as an acceptable protocol to determine actual emissions for the proposed deletion of OAC 252:100-5-2.1(d).

**RESPONSE:** Staff believes that this suggestion is not applicable. Subchapter 7 deals with the permitting requirements for minor sources. The definition for "actual emissions" in 40 CFR 51.166(b)(21) is tailored to NSR and major sources. Staff believes that it is inappropriate for use for minor sources.

Staff has, on further consultation with the permitting section, decided to drop the proposed 12 consecutive months phraseology and retain the calendar year and method terminology currently used in the definition of "actual emissions."

3. **COMMENT:** The proposed revisions to OAC 252:100-23-2 seek to delete the definition of Total Suspended Particulates (TSP) from the "High efficiency cyclone" efficiency standard, and replace it with Gross Particulate Matter (GPM), which itself would be newly defined in OAC 252:100-5-1.1. The current definition of TSP, which resides in OAC 252:100-1-3, states: "Total Suspended Particulates" or "TSP" means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50. This method captures particulate matter up to 45 microns in size. The proposed revisions: "Gross Particulate Matter or GPM means particulate matter with a nominal aerodynamic diameter greater than 10 micrometers." This definition of GPM in the performance standard/definition of "High efficiency cyclone" in the Cotton Gin Rule would potentially exclude particles in the size range of 0 to 10 microns. We view this as a potential relaxation of a SIP approved control measure and question whether this proposed modification is in compliance with Section 110(1) of the CAA, which states:

"Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator

shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act."

We are authorized under the CAA to approve relaxations of SIP requirements as long as the relaxations do not interfere with timely attainment or subsequent maintenance of the NAAQS or any other CAA requirement. The submittal must therefore demonstrate that the proposed SIP revisions do not interfere with the attainment or maintenance of the NAAQS, Rate of Progress, Reasonable Further Progress (RFP), violate the Prevention of Significant Deterioration increments, or any other applicable requirements under the CAA, or in any way adversely affect the existing air quality in Oklahoma. This demonstration must show that any relaxation of the existing SIP requirements will not result in interference with the requirements of the CAA. As with past proposed revisions, the State must provide an opportunity for notice and public comment. If needed, we can provide past Federal Register Actions and a copy of EPA's latest draft guidance, dated June 6, 2005, "Demonstrating Noninterference Under Section 110(l) of the CAA When Revising a State Implementation Plan."

As stated in the guidance, with respect to attainment, maintenance and RFP, EPA interprets section 110(l) such that areas generally have two options available to demonstrate noninterference for the affected pollutant(s): substitution of one measure by another with equivalent or greater emissions reductions/air quality benefit; an air quality analysis showing that removing the measure will not interfere with other applicable requirements (i.e., without a substitute measure). Please consider whether the State can successfully make this kind of a demonstration before GPM is substituted for TSP, in the Cotton Gin Rule.

**RESPONSE:** Staff disagrees that this change would weaken the SIP. First, "TSP" was originally misused in this rule. Facilities can not emit TSP because TSP as described in 40 CFR 50, Appendix B, is an ambient air quality standard. Facilities emit PM, not TSP and there is no recognized method to measure TSP at the stack as an emission, thus correcting this error will actually straighten the SIP. However, on further consideration, staff recognized that the substitution of GPM for TSP in this section would compound the original error and create the impression of a new emission standard for GPM. The applicable emission is PM, not GPM, so staff will now simply delete the term, "for TSP"

from the section. The required emission controls and the specified efficiencies for PM are unchanged after this textual change.

**EPA Region 6** - email from Richard Barrett, Air Permits Section, dated July 18, 2006.

1. **COMMENT:** We [EPA] provided comments on the proposed amendment to the definition of regulated air pollutant in Subchapters 5-1.1, 7-1.1, and 9-2 in a letter dated April 12, 2006. The current amendment addresses the concerns we raised; we support the current proposed rule and have no adverse comments.

**RESPONSE:** None.

2. **COMMENT:** We [EPA] provided comments on the proposed amendment to the definition of regulated air pollutant in Subchapters 5-1.1, 7-1.1, and 9-2 in a letter dated April 12, 2006. The current amendment addresses the concerns we raised; we support the current proposed rule and have no adverse comments; however, we wish to make reference to our letter dated April 19, 2006, regarding the proposed revisions to OAC 252:100, which includes Subchapter 5, Registration, Emissions Inventory and Annual Operating Fees; and Subchapter 7, Permits for Minor Facilities. In our letter, we stated our concerns with the proposed revisions which will create a new category of facilities to be named "Permit Exempt Facility" category, and will exempt sources with emissions of 40 tons per year (TPY) or less from obtaining an air quality permit.

We will be happy to work with you on assuring that any changes to the currently approved SIP meet all Federal requirements.

**RESPONSE:** None.

DRAFT DOCUMENT - DO NOT CITE OR QUOTE

Mr. Scott Thomas  
Environmental Program Manager  
Air Quality Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

Dear Mr. Thomas:

Thank you for the opportunity to comment on the proposed revisions to Oklahoma's Air Pollution Control Rules, OAC 252:100, as listed below:

Subchapter 1	General Provisions
Subchapter 2	Incorporations by Reference
Subchapter 4	New Source Performance Standards
Subchapter 5	Registration, Emission Inventory and Annual Operating Fees
Subchapter 7	General Provisions
Subchapter 8	Permits for Major Sources
Subchapter 9	Excess Emission Reporting Requirements
Subchapter 17	Incinerators
Subchapter 23	Control of Emissions from Cotton Gins
Subchapter 37	Control of Emission of Volatile Organic Compounds (VOCs)
Subchapter 39	Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas
Subchapter 40	Control of Emission of Friable Asbestos During Demolition and Renovation Operations
Subchapter 41	Control of Emission Hazardous Air Pollutants and Toxic Air Contaminants
Subchapter 44	Control of Mercury Emissions
Appendix H	De Minimis Facilities List
Appendix I	Insignificant Activities (Registration) List
Appendix J	Trivial Activities (de Minimis) List
Appendix P	Regulated Air Pollutants
Appendix Q	Title 40, Code of Federal Regulations, Incorporation by Reference

**Subchapters 1, 2, and 4**

We provided comments on the amended definition for VOCs (Subchapter 1) in a letter dated July 13, 2005. As we indicated in that letter, we support the ODEQ revision to exempt tert-butyl acetate (tBAC) from VOC emissions limitations, but we cannot support the exemption of tBAC from emissions reporting and recordkeeping requirements. EPA made clear in its revisions to 40 CFR Part 51- Requirements for Preparation, Adoption and Submittal of Implementation Plans that tBAC was not being exempted for the purposes of recordkeeping and

DRAFT DOCUMENT - DO NOT CITE OR QUOTE

reporting (§51.100(s)(5)) and our Federal Register of November 29, 2004 (69 FR 69298) provides details of why exemption from reporting and recordkeeping could not be allowed. We will work with you in drafting revised language to require reporting and recordkeeping for tBac; however, we will not be able to approve a revision to the plan that exempts tBac from reporting and recordkeeping requirements.

The Air Permits Section will provide additional comments, as necessary, in a separate communication.

**Subchapter 5. Registration, Emission Inventory and Annual Operating Fees**

We provided comments on the proposed amendment to the definition of regulated air pollutant in Subchapters 5-1.1, 7-1.1, and 9-2 in a letter dated April 12, 2006. The current amendment addresses the concerns we raised; we support the current proposed rule and have no adverse comments.

**Subchapters 7 and 8**

The Air Permits Section will provide comments as necessary in a separate communication.

**Subchapter 9 Excess Emission Reporting Requirements**

See the comment for Subchapter 5 above regarding the proposed amendment to the definition of regulated air pollutant in Subchapter 9-2.

**Subchapter 17 Incinerators**

Per our April 12, 2006 letter, we support the proposed rule and have no adverse comments.

**Subchapter 23 Control of Emissions from Cotton Gins**

The current amendment deletes the reference to Total Suspended Particulate (TSP) but does not substitute Gross Particulate Matter for TSP. It is not clear that the concerns expressed in our April 12, 2006 letter have been addressed.

**Subchapters 37 and 39**

The current amendment deletes the definition for VOC in Subchapters 37 and 39. Our concern is with the amended definition for VOC proposed for Subchapter 1, as indicated above.

**Subchapter 40      Control of Emission of Friable Asbestos During Demolition and  
Renovation Operations**

The Air Enforcement Section will provide comments as necessary in a separate communication.

**Subchapters 41 and 44, and all Appendices**

The Air Permits Section will provide comments as necessary in a separate communication.

We appreciate the opportunity to review and comment on the proposed rules prior to the public hearing on July 19, 2006. If you have questions regarding any of these comments, please feel free to contact me or Carrie Paige at (214) 665-6521.

Sincerely yours,

Thomas H. Diggs  
Chief  
Air Planning Section

cc: Heather Bragg, ODEQ  
Morris Moffitt, ODEQ  
Max Price, ODEQ  
Joyce Sheedy, ODEQ  
David Neleigh, 6PD-R  
Ragan Tate, 6RC-M  
Esteban Herrera, 6EN-AT



**COMMENT (1): [EPA draft 041206]** The proposed amendment to the definition of regulated air pollutant in Subchapters 5-1.1, 7-1.1, and 9-2 reads:

**“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 delegation by EPA, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit.”**

To maintain consistency in addressing the “group of substances”, we request that Oklahoma reword the paragraph, per the text suggested below. This will insure that any currently proposed or future State or federal rulings regarding any substance or group of substances as regulated air pollutants will be included as regulated air pollutants. Our recommended text:

**“Regulated air pollutant” means any substance or group of substances listed in Appendix P of this Chapter, or regulated as an air pollutant under any federal regulation for which the Department has been given delegation by EPA. *In addition, any substance or group of substances for which an air emission limitation or equipment standard is set by an enforceable permit, or any State or federal rule.*”**

**COMMENT (1): [EPA draft 071306]** We provided comments on the proposed amendment to the definition of regulated air pollutant in Subchapters 5-1.1, 7-1.1, and 9-2 in a letter dated April 12, 2006. The current amendment addresses the concerns we raised; we support the current proposed rule and have no adverse comments.

**RESPONSE (1):** Staff disagrees with the addition of the phrase, “or any State or federal rule” because this phrase would broaden the scope of Departments responsibility into areas for which we have no jurisdiction. The Department can not enforce federal regulations we have not been given authority to enforce, nor can we enforce the rules of other states . However, staff will replace the phrase “delegation by EPA”, with, “authority.”

**COMMENT (2): [EPA draft 041206]** The proposed amendment to the definition of actual emissions in Subchapter 7-1.1. reads:

**“Actual emissions” means the total amount of any regulated air pollutants actually emitted from a given facility during a particular calendar year, determined using methods contained in OAC 252:100-5-2.1(d) twelve (12) consecutive months.**

Please explain why the definition of “actual emissions” as contained in 40 CFR 51.166(b)(21) could not be used as an acceptable protocol to determine actual emissions for the proposed deletion of OAC 252:100-5-2.1(d).

**RESPONSE: (2):** Staff believes that this suggestion is not applicable. Subchapter 7 deals with the permitting requirements for minor sources. The definition for “actual

emissions” in 40 CFR 51.166(b)(21) is tailored to NSR and major sources. Staff believes that it is inappropriate for use for minor sources.

Staff has, on further consultation with the permitting section, decided to drop the proposed 12 consecutive months phraseology and retain the calendar year and method terminology currently used in the definition of “actual emissions.”

**COMMENT (3): [EPA draft 041206]** The proposed revisions to OAC 252:100-23-2 seek to delete the definition of Total Suspended Particulates (TSP) from the "High efficiency cyclone" efficiency standard, and replace it with Gross Particulate Matter (GPM), which itself would be newly defined in OAC 252:100-5-1.1. The current definition of TSP, which resides in OAC 252:100-1-3, states: "Total Suspended Particulates" or "TSP" means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50. This method captures particulate matter up to 45 microns in size. The proposed revisions: "Gross Particulate Matter or GPM means particulate matter with a nominal aerodynamic diameter greater than 10 micrometers." This definition of GPM in the performance standard/definition of "High efficiency cyclone" in the Cotton Gin Rule would potentially exclude particles in the size range of 0 to 10 microns. We view this as a potential relaxation of a SIP approved control measure and question whether this proposed modification is in compliance with Section 110(l) of the CAA, which states:

“Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.”

We are authorized under the CAA to approve relaxations of SIP requirements as long as the relaxations do not interfere with timely attainment or subsequent maintenance of the NAAQS or any other CAA requirement. The submittal must therefore demonstrate that the proposed SIP revisions do not interfere with the attainment or maintenance of the NAAQS, Rate of Progress, Reasonable Further Progress (RFP), violate the Prevention of Significant Deterioration increments, or any other applicable requirements under the CAA, or in any way adversely affect the existing air quality in Oklahoma. This demonstration must show that any relaxation of the existing SIP requirements will not result in interference with the requirements of the CAA. As with past proposed revisions, the State must provide an opportunity for notice and public comment. If needed, we can provide past Federal Register Actions and a copy of EPA’s latest draft guidance, dated June 6, 2005, “Demonstrating Noninterference Under Section 110(l) of the CAA When Revising a State Implementation Plan.”

As stated in the guidance, with respect to attainment, maintenance and RFP, EPA interprets section 110(l) such that areas generally have two options available to demonstrate noninterference for the affected pollutant(s): substitution of one measure by another with equivalent or greater emissions reductions/air quality benefit; an air quality

analysis showing that removing the measure will not interfere with other applicable requirements (i.e., without a substitute measure). Please consider whether the State can successfully make this kind of a demonstration before GPM is substituted for TSP, in the Cotton Gin Rule.

**COMMENT (3): [EPA draft 071306]** The current amendment deletes the reference to Total Suspended Particulate (TSP) but does not substitute Gross Particulate Matter for TSP. It is not clear that the concerns expressed in our April 12, 2006 letter have been addressed.

**\*RESPONSE (3):** Staff disagrees that this change would weaken the SIP. First, "TSP" was originally misused in this rule. Facilities can not emit TSP because TSP as described in 40 CFR 50, Appendix B in an ambient air quality standard. Facilities emit PM, not TSP and there is no recognized method to measure TSP at the stack as an emission, thus correcting this error will actually straighten the SIP. However, on further consideration, staff recognized that the substitution of GPM for TSP in this section would compound the original error and create the impression of a new emission standard for GPM. The applicable emission is PM, not GPM, so staff will now simply delete the term, "for TSP" from the section. The required emission controls and the specified efficiencies for PM are unchanged after this textual change.

**COMMENT (4): (?)** Why is DEQ adding Appendix P? What is the need, purpose and its use?

**RESPONSE (4):** There is really no "need" as such. DEQ, understand what is, and what is not, RAP, but staff believes our customers would find Appendix P useful. In reality the proposal is purely aesthetic and adds no new requirements.

**COMMENT (5): (?)** We request more time to review all of the changes in Appendix H, I, J, and P that is being proposed before they are approved. Do you know if the AQD wants to pass these rules next week in the AQC meeting?

**RESPONSE (5):** I believe all are being held over until the next AQCM in July.

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May 15, 2007  
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# The Oklahoma Register

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Oklahoma  
Secretary of State  
Office of Administrative Rules

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

[OAR Docket #07-819]

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1 [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

252:100-7-1.1 [AMENDED]

Subchapter 9. Excess Emission Reporting Requirements

252:100-9-2 [AMENDED]

Subchapter 23. Control of Emissions from Cotton Gins

252:100-23-2 [AMENDED]

Appendix P. Regulated Air Pollutants [NEW]

**AUTHORITY:**

Environmental Quality Board; 27A O.S. 2005, §§ 2-2-101, and 2-2-201; and Oklahoma Clean Air Act, 27A O.S. 2005 § 2-5-101, *et seq.*

**DATES:**

**Comment period:**

March 15, 2006, through July 19, 2006

**Public hearing:**

April 19, July 19, and November 14, 2006

**Adoption:**

November 14, 2006

**Submitted to Governor:**

November 21, 2006

**Submitted to House:**

November 21, 2006

**Submitted to Senate:**

November 21, 2006

**Gubernatorial approval:**

January 4, 2007

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 27, 2007

**Final adoption:**

March 27, 2007

**Effective:**

June 15, 2007

**SUPERSEDED EMERGENCY ACTIONS:**

N/A

**INCORPORATIONS BY REFERENCE:**

N/A

**ANALYSIS:**

The proposed amendments to the definition sections OAC 252:100-5-1.1, OAC 252:100-7-1.1 and OAC 252:100-9-2 will add a new definition for Aregulated air pollutant@. A new Appendix P, Regulated Air Pollutants, is being added to Chapter 100 as part of these amendments. This is being done to more strictly define what is and what is not a regulated air pollutant. The terms AAActual emissions@, AAllowable emissions@ and ARegulated pollutant (for fee calculation)@ are being amended in OAC 252:100-5-1.1 to clarify these terms. In addition, Section 5-1.1 is being amended by the addition of a new definition for AGross particulate matter@ or AGPM@ which replaces the term ATSP@ in the section. The term Afor TSP@ in OAC 252:100-23-2 is being deleted and the definition for AAActual emissions@ in OAC 252:100-7-1.1 is being amended.

**CONTACT PERSON:**

Max Price, 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 JUNE 15, 2007:**

**SUBCHAPTER 5. REGISTRATION, EMISSION INVENTORY AND ANNUAL OPERATING FEES**

**252:100-5-1.1. Definitions**

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

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

"**Allowable emissions**" means:

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

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

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

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

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

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

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

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

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

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

"**Process Fugitive Emissions**" means those emissions created by or incidental to any particular process which become airborne or have the potential to become airborne, and

## Permanent Final Adoptions

could not reasonably, taking into account economic considerations, be made to pass through a stack, chimney, vent or other functionally equivalent opening.

"Regulated air pollutant" means:

- (A) Any Volatile Organic Compound (VOC), as that term is defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.
- (B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.
- (C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.
- (D) Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.
- (E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule, 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.

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

- (A) Carbon monoxide.
- (B) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act.
- (C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.
- (DB) Total suspended particulates (TSP), gross particulate matter (GPM).

### SUBCHAPTER 7. PERMITS FOR MINOR FACILITIES

#### PART 1. GENERAL PROVISIONS

##### 252:100-7-1.1. Definitions

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

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

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

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

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

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

(i) The facility has actual emissions of 5 tpy or less of each regulated air pollutant, except that fraction of particulate matter that exhibits an aerodynamic particulate diameter of more than 10 micrometers ( $\mu\text{m}$ ).

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

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

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

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

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

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

"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).

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

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

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

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

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

"Permit exempt facility" means a facility that:

- (A) has actual emissions in every calendar year that are 40 tpy or less of each regulated air pollutant;
- (B) is not a de minimis facility as defined in OAC 252:100-7-1.1;
- (C) is not a "major source" as defined in OAC 252:100-8-2 for Part 70 sources;
- (D) is not a "major stationary source" as defined in OAC 252:100-8-31 for PSD facilities in attainment areas;
- (E) is not a "major stationary source" as defined in OAC 252:100-8-51 for facilities in nonattainment areas;
- (F) is not operated in conjunction with another facility or source that is subject to air quality permitting;
- (G) is not subject to an emission standard, equipment standard, or work practice standard in the Federal NSPS (40 CFR Part 60) or the Federal NESHAP (40 CFR Parts 61 and 63); and
- (H) is not subject to the requirements of OAC 252:100-39-47.

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

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

"Regulated air pollutant" means:

- (A) Any Volatile Organic Compound (VOC), as that term is defined in OAC 252:100-1-3, 252:100-37-2, or 252:100-39-2.
- (B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.
- (C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.
- (D) Any Toxic Air Contaminant as defined and regulated under OAC 252:100-41-2.
- (E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule, 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.

### SUBCHAPTER 9. EXCESS EMISSION REPORTING REQUIREMENTS

#### 252:100-9-2. Definitions

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

"Bypass" means intentionally avoiding the use of air pollution control equipment.

"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.

"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.

"Regulated air pollutant" means:

- (A) Any Volatile Organic Compound (VOC), as defined in 252:100-1-3, 252:100-37-2, or 252:100-39-2.
- (B) Any pollutant regulated under section 111 or 112 (except 112(r)) of the Federal Clean Air Act.
- (C) Any pollutant for which a national primary ambient air quality standard has been promulgated under the Federal Clean Air Act.
- (D) Any Toxic Air Contaminant as defined and regulated under 252:100-41-2.
- (E) Any other substance for which an air emission limitation or equipment standard is set by permit or rule, 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.

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

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

"Technological limitation" means operating constraints deliberately, and necessarily designed into a piece of pollution control equipment or process equipment to prevent damage to the equipment and/or to prevent hazards to operating or maintenance personnel.

"Working day" means 8:00 a.m. to 4:30 p.m. each day, except Saturday, Sunday, or a legal holiday for state employees as proclaimed by the Governor.

### SUBCHAPTER 23. CONTROL OF EMISSIONS FROM COTTON GINS

#### 252:100-23-2. Definitions

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

"Cotton gin" means any facility that removes seed, lint, and trash from raw cotton and bales of lint cotton for further processing. Each equipment exhaust, including the trash and burr hopper, located at a cotton gin shall be considered an individual process emission source.

"Existing gin" means a gin which was in existence and had submitted current emission inventories to the Division for

## Permanent Final Adoptions

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~~the most recent two ginning seasons and was in possession of a valid annual renewable fee receipt prior to May 1, 1993. All other gins shall be considered "new".~~

~~"Gin site" means the land upon which a cotton gin is located and all contiguous land having common ownership or use.~~

~~"High efficiency cyclone" means any cyclone type collector of the 2D-2D or 1D-3D configuration. These designations refer to the ratio of cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone would~~

~~exhibit a cylinder length of 2 x D and a cone length of 2 x D (90 percent collection efficiency for TSP). A 1D-3D cyclone would exhibit a cylinder length of 1 x D and a cone length of 3 x D (95 percent collection efficiency for TSP).~~

~~"High pressure exhausts" means the exhaust cotton handling air systems located at a cotton gin which are not defined as "low pressure exhausts".~~

~~"Low pressure exhausts" means the exhaust air systems at a cotton gin which handle air from the cotton lint handling system and battery condenser.~~



APPENDIX P. REGULATED AIR POLLUTANTS [NEW]

REGULATED AIR POLLUTANT	DESCRIPTION
Acid gas expressed as SO <sub>2</sub> and HCl	As defined in OAC 252:100-17.
Acid mist expressed as H <sub>2</sub> SO <sub>4</sub>	As defined in 40 CFR 60.81 and OAC 252:100-31.
Arsenic, inorganic	NESHAP
Asbestos	NESHAP
Benzene	NESHAP
Beryllium	NESHAP
Cadmium	NSPS
Carbon Monoxide or CO	Criteria pollutant
Dioxins/furans	NSPS: Tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
Fluorides	NSPS: Elemental fluorine and all fluoride compounds.
Hazardous Air Pollutants or HAP(s)	Listed in 42 U.S.C. 7412(b)(1) and as modified in 40 CFR Part 63, Subpart C, List of Hazardous Air Pollutants, Petitions Process, Lesser Quantity Designations, Source Category List.
Hydrogen chloride or HCl	NSPS
Hydrogen sulfide or H <sub>2</sub> S	NSPS
Lead	Criteria pollutant
Mercury	NSPS and NESHAP
Nitrogen dioxide or NO <sub>2</sub>	Criteria pollutant
NonMethane Organic Compounds or NMOC expressed as hexane	As defined in 40 CFR 60.754.
Oxides of nitrogen or NO <sub>x</sub>	NSPS: Ozone precursors
Oxides of sulfur or SO <sub>x</sub>	NSPS: PM-2.5 precursors
Ozone	Criteria pollutant
Particulate Matter or PM	As defined in OAC 252:100. (criteria pollutant)
Reduced sulfur compounds	As defined in 40 CFR 60.101.
Reduced Sulfur, Total or TRS	As defined in OAC 252:100-31.
Sulfur dioxide or SO <sub>2</sub>	Criteria pollutant
Toxic Air Contaminates or TAC(s)	As listed in OAC 252:100, Appendix O.

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Vinyl chloride	NESHAP
Volatile Organic Compounds or VOC(s)	As defined in OAC 252:100. (ozone precursors)

**NOTES:**

1. The Department does not have authority over Class I and II stratospheric ozone depleting substances or CFCs as listed under 40 CFR, Part 82. These substances are RAP, however, under the Federal Clean Air Act.

2. The Department does not have authority over Section 112(r) substances as listed in 40 CFR 68.130, Tables 1-4. These substances are, however, RAP under the Federal Clean Air Act.

3. The Department does not have the authority over radionuclides as listed in 40 CFR, Part 61. These substances are RAP, however, under the Federal Clean Air Act.

*[OAR Docket #07-819; filed 4-23-07]*

**OAC 252:100**  
**Appendix Q**  
**Public Hearings**

**October 15, 2008**  
**Air Quality Advisory Council**

**November 18, 2008**  
**Environmental Quality Board**

**Effective Date: July 1, 2009**

# 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 #08-1235]

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 9. Excess Emission Reporting Requirements

252:100-9-1. Purpose [AMENDED]

252:100-9-1.1. Applicability [NEW]

252:100-9-2. Definitions [AMENDED]

252:100-9-3.1. Excess emission reporting requirements [AMENDED AND RENUMBERED TO 252:100-9-7]

252:100-9-3.3. Demonstration of cause [AMENDED AND RENUMBERED TO 252:100-9-8]

252:100-9-7. Excess emission reporting requirements [NEW]

252:100-9-8. Affirmative defenses [NEW]

Subchapter 25. Visible Emissions and Particulates

252:100-25-3. Opacity limit [AMENDED]

Subchapter 33. Control of Emission of Nitrogen Oxides

252:100-33-1.1. Definitions [AMENDED]

252:100-33-1.2. Applicability [AMENDED]

252:100-33-2. Emission limits [AMENDED]

Appendix E. Primary Ambient Air Quality Standards [REVOKED]

Appendix E. Primary Ambient Air Quality Standards [NEW]

Appendix F. Secondary Ambient Air Quality Standards [REVOKED]

Appendix F. Secondary Ambient Air Quality Standards [NEW]

Appendix Q. Incorporation by Reference [REVOKED]

Appendix Q. Incorporation by Reference [NEW]

### SUMMARY:

The Department is proposing to amend OAC 252:100-9, Excess Emission Reporting Requirements, to clarify its requirements and make them more compatible with EPA guidelines.

The Department is proposing to amend OAC 252:100-25-3 to correct a rule citation. The Department is proposing to revise OAC 252:100-33, Control of Emission of Nitrogen Oxides, to resolve issues regarding emission standards for nitrogen oxides from fuel-burning equipment. The changes would address emission standards for direct-fired fuel-burning equipment, fuel-burning equipment that uses more than one

type of fuel, and equipment with technological limitations. The Department is also considering changes to address emissions from low-NO<sub>x</sub> burners and ultra low-NO<sub>x</sub> burners when these are operated at low heat input values.

The Department proposes to update Appendices E and F to be consistent with federal standards for ozone.

The Department is proposing to update Appendix Q to incorporate the latest changes to federal regulations by reference. Among the changes are the addition of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources.

### AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101 and 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 *et seq.*

### COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 15, 2008. For comments received at least 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 October 15, 2008, hearing and at the November 18, 2008, Environmental Quality Board meeting.

### PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 15, 2008, at the DEQ headquarters, 707 N. Robinson St., Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board at 9:30 a.m. on Tuesday, November 18, 2008, at the City of Tahlequah Armory Municipal Center, 100 N. Water St., Tahlequah, Oklahoma 74464.

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 of the EPA 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.

## Notices of Rulemaking Intent

### COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the hearing at the Air Quality Division of the Department at [http://www.deq.state.ok.us/AODnew/council\\_mtg/index.htm](http://www.deq.state.ok.us/AODnew/council_mtg/index.htm), or copies 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.state.ok.us](mailto:cheryl.bradley@deq.state.ok.us). Mail should be addressed to Department of Environmental Quality, Air Quality Division, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, ATTN: Cheryl 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 #08-1235; filed 8-22-08]

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

[OAR Docket #08-1236]

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Subchapter 3. Incorporation by Reference

252:205-3-1 [AMENDED]

252:205-3-2 [AMENDED]

### SUMMARY:

The purpose of the proposed amendments is to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279 revised as of July 1, 2008, to clarify that delisted zinc phosphating sludge will continue to be regulated as hazardous waste if it is characteristically hazardous, and to correct a typographical error discovered in OAC 252:205-3-2.

### AUTHORITY:

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

### COMMENT PERIOD:

Written comments may be delivered or mailed to the contact person from September 4, 2008, through October 16, 2008. Oral comments may be made at the meeting of the Hazardous Waste Management Advisory Council, October 16, 2008, and

at the Environmental Quality Board meeting, November 18, 2008.

### PUBLIC HEARINGS:

Before the Hazardous Waste Management Advisory Council on October 16, 2008, at 10:00 a.m. at the Oklahoma City Office of the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

Before the Environmental Quality Board on November 18, 2008, at 9:30 a.m. at the City of Tahlequah Armory Municipal Center, 100 N. Water Street, Tahlequah, Oklahoma 74464.

### REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The DEQ requests that business entities affected by these modifications provide the DEQ, within the comment period, in dollar amount, 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 lost, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule.

### COPY OF PROPOSED RULE:

The proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, Oklahoma, or reviewed online at <http://www.deq.state.ok.us/LPDnew/LPProprules.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/LPDnew/LPProprules.htm>.

### CONTACT PERSON:

Mike Edwards (405) 702-5226, 707 North Robinson, Fifth Floor, Oklahoma City, Oklahoma 73102. Mailing address is P. O. Box 1677, Oklahoma City, OK 73101-1677. E-mail address is [mike.edwards@deq.state.ok.us](mailto:mike.edwards@deq.state.ok.us).

### ADDITIONAL INFORMATION:

Persons with disabilities who desire to attend the rulemaking hearing and need an accommodation should notify the contact person three days in advance of the hearing. For the hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.

[OAR Docket #08-1236; filed 8-22-08]

### TITLE 360. OKLAHOMA STATE AND EDUCATION EMPLOYEES GROUP INSURANCE BOARD CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #08-1237]

### RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

### PROPOSED RULES:

Chapter 1. Administrative Operations [AMENDED]

**REGULAR MEETING/HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL**

**October 15, 2008, 9:00 a.m.  
DEQ Multipurpose Room  
707 North Robinson Street  
Oklahoma City, OK**

*Please turn off cell phones.*

1. **Call to Order** - David Branecky, Chair
2. **Roll Call** - Myrna Bruce
3. **Approval of Minutes** - July 16, 2008 Regular Meeting
4. **Meeting Schedule for Calendar Year 2009** - Discussion and action by Council
5. **Public Rulemaking Hearings**

**A. OAC 252:100-9. Excess Emission Reporting Requirements [AMENDED]**

The Department is proposing to amend Subchapter 9 to clarify its requirements and make them more compatible with EPA guidelines.

1. Presentation - Max Price, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**B. OAC 252:100-25. Visible Emissions and Particulates [AMENDED]**

The Department is proposing to amend Subchapter 25 to correct a rule citation.

1. Presentation - Diana Hinson, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

**C. OAC 252:100-33. Control of Emission of Nitrogen Oxides [AMENDED]**

The Department is proposing to revise OAC 252:100-33 to resolve issues regarding emission standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations.

1. Presentation - Cheryl Bradley, Environmental Programs Manager, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

- D. Appendix E. Primary Ambient Air Quality Standards [REVOKED]**
- Appendix E. Primary Ambient Air Quality Standards [NEW]**
- Appendix F. Secondary Ambient Air Quality Standards [REVOKED]**
- Appendix F. Secondary Ambient Air Quality Standards [NEW]**

The Department proposes to update Appendices E and F to be consistent with federal standards for ozone.

1. Presentation - Leon Ashford, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

- E. Appendix Q. Incorporation By Reference [REVOKED]**
- Appendix Q. Incorporation By Reference [NEW]**

The Department is proposing to update Appendix Q to incorporate the latest changes to federal regulations by reference. Among the changes are the addition of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources.

1. Presentation - Nancy Marshment, Environmental Programs Specialist, DEQ Air Quality Division
2. Questions and discussion by the Council
3. Questions, comments and discussion by the public
4. Discussion and action by the Council, which may include a roll call vote on permanent adoption

- 6. Division Director's Report - Eddie Terrill**
- 7. New Business - Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.**
- 8. Adjournment - The next regular meeting is proposed for Wednesday, January 21, 2009 in Oklahoma City.**

Lunch break if necessary

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4216. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.



**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 September 1, 2007.

<b>PART</b>	<b>SUBPART</b>	<b>DESCRIPTION</b>
50	NA	Appendix B to Part 50 - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).
50	NA	Appendix J to Part 50 - Reference Method for the Determination of Particulate Matter as PM in the Atmosphere.
51	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements.
51	NA	Appendix S to Part 51 - Emission Offset Interpretative Ruling.
51	X	Appendix P to Part 51 - Minimum Emission Monitoring Requirements.
58	NA	Appendix B to Part 58 - Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.
60	A	General Provisions. [Except 60.4, 60.9, 60.10 and 60.16]
60	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	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	BB	Standards of Performance for Kraft Pulp Mills.
60	BBB	Standards of Performance for the Rubber Tire Manufacturing Industry.
60	CC	Standards of Performance for Glass Manufacturing Plants.
60	CCCC	Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001.
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	DD	Standards of Performance for Grain Elevators.
60	DDD	Standards of Performance for Volatile Organic Compound (VOC)

		Emissions from the Polymer Manufacturing Industry.
60	E	Standards of Performance for Incinerators.
60	Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994.
60	Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.
60	Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.
60	EE	Standards of Performance for Surface Coating of Metal Furniture.
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	F	Standards of Performance for Portland Cement Plants.
60	FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
60	G	Standards of Performance for Nitric Acid Plants.
60	GG	Standards of Performance for Stationary Gas Turbines.
60	GGG	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
60	H	Standards of Performance for Sulfuric Acid Plants.
60	HH	Standards of Performance for Lime Manufacturing Plants.
60	HHH	Standards of Performance for Synthetic Fiber Production Facilities.
60	I	Standards of Performance for Hot Mix Asphalt 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	III	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines.
60	J	Standards of Performance for Petroleum Refineries.
60	JJJ	Standards of Performance for Petroleum Dry Cleaners.
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	KK	Standards of Performance for Lead-Acid Battery Manufacturing Plants.
60	KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.
60	KKKK	Standards of Performance for Stationary Combustion Turbines
60	L	Standards of Performance for Secondary Lead Smelters.
60	LL	Standards of Performance for Metallic Mineral Processing Plants.
60	LLL	Standards of Performance for Onshore Natural Gas Processing: SO <sub>2</sub> Emissions.
60	M	Standards of Performance for Secondary Brass and Bronze Production Plants.
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
60	N	Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
60	NA	Appendix A to Part 60 - Test Methods.
60	NA	Appendix B to Part 60 - Performance Specifications.
60	Na	Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
60	NN	Standards of Performance for Phosphate Rock Plants.
60	NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
60	O	Standards of Performance for Sewage Treatment Plants.
60	OOO	Standards of Performance for Nonmetallic Mineral Processing Plants.
60	P	Standards of Performance for Primary Copper Smelters.
60	PP	Standards of Performance for Ammonium Sulfate Manufacture.
60	PPP	Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.
60	Q	Standards of Performance for Primary Zinc Smelters.
60	QQ	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.
60	QQQ	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems.
60	R	Standards of Performance for Primary Lead Smelters.
60	RR	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
60	RRR	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
60	S	Standards of Performance for Primary Aluminum Reduction Plants.
60	SS	Standards of Performance for Industrial Surface Coating: Large Appliances.

60	SSS	Standards of Performance for Magnetic Tape Coating Facilities.
60	T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
60	TT	Standards of Performance for Metal Coil Surface Coating.
60	TTT	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
60	U	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
60	UU	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
60	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries.
60	V	V-Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
60	VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
60	VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
60	W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry.
60	WWW	Standards of Performance for Municipal Solid Waste Landfills.
60	X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
60	XX	Standards of Performance for Bulk Gasoline Terminals.
60	Y	Standards of Performance for Coal Preparation Plants.
60	Z	Standards of Performance for Ferroalloy Production Facilities.
61	A	General Provisions.
61	BB	National Emission Standard for Benzene Emissions From Benzene Transfer Operations.
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	FF	National Emission Standard for Benzene Waste Operations Mar. 7, 1990.
61	J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.
61	L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants.
61	M	National Emission Standard for Asbestos.
61	N	National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants.

61	O	National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters.
61	P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities.
61	V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources).
61	Y	National Emission Standard for Benzene Emissions From Benzene Storage Vessels.
63	A	General Provisions.
63	AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants.
63	AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
63	AAAAA	National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
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	BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants.
63	BBBBB	National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
63	CC	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries.
63	CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
63	CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast.
63	CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
63	DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
63	DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
63	DDDD	National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.
63	DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.
63	EE	National Emission Standards for Magnetic Tape Manufacturing Operations.
63	EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
63	EEEE	National Emission Standards for Hazardous Air Pollutants: Organic

		Liquids Distribution (Non-Gasoline).
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.
63	F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry.
63	FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.
63	FFFFF	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities.
63	FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.
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	GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities.
63	GGG	National Emission Standards for Pharmaceuticals Production.
63	GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.
63	GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation.
63	GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources - Zinc, Cadmium, and Beryllium.
63	H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
63	HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.
63	HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities.
63	HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
63	HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.
63	I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
63	II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating).
63	III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
63	IIII	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.

63	IIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants.
63	J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.
63	JJ	National Emission Standards for Wood Furniture Manufacturing Operations.
63	JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
63	JJJJ	National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
63	KK	National Emission Standards for the Printing and Publishing Industry.
63	KKKK	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.
63	L	National Emission Standards for Coke Oven Batteries.
63	LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
63	LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.
63	LLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
63	LLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.
63	M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
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	MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
63	MMMM	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
63	MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
63	N	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
63	NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
63	NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
63	NNNNN	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities.
63	OO	National Emission Standards for Tanks - Level 1.
63	OOO	National Emission Standards for Hazardous Air Pollutant Emissions:

		Manufacture of Amino/Phenolic Resins.
63	OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
63	PP	National Emission Standards for Containers.
63	PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
63	PPPP	National Emission Standards for Hazardous Air Pollutants of Plastic Parts and Products.
63	PPPPP	National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards .
63	Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
63	QQ	National Emission Standards for Surface Impoundments.
63	QQQ	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.
63	QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
63	QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
63	R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
63	RR	National Emission Standards for Individual Drain Systems.
63	RRR	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
63	RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
63	RRRRR	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.
63	S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
63	SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
63	SSSS	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
63	SSSSS	National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.
63	T	National Emission Standards for Halogenated Solvent Cleaning.
63	TT	National Emission Standards for Equipment Leaks.
63	TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
63	TTTT	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
63	TTTTT	National Emission Standards for Hazardous Air Pollutants for Primary



		Magnesium Refining.
63	U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
63	UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards.
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units .
63	UUUU	National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
63	VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators.
63	VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
63	VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
63	W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
63	WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2.
63	WWWW	National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
63	X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.
63	XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
63	XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.
63	XXXX	National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
63	Y	National Emission Standards for Marine Tank Vessel Loading Operations.
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
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.
72	ALL	Permits Regulation.

## 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 September 1, 2008.

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 <sub>10</sub> in the Atmosphere.
51	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements.
51	n/a	Appendix S to Part 51 - Emission Offset Interpretative Ruling.
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	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	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	BB	Standards of Performance for Kraft Pulp Mills.
60	BBB	Standards of Performance for the Rubber Tire Manufacturing Industry.
60	CC	Standards of Performance for Glass Manufacturing Plants.
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	DD	Standards of Performance for Grain Elevators.
60	DDD	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
60	E	Standards of Performance for Incinerators.
60	Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994.

60	Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.
60	Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.
60	EE	Standards of Performance for Surface Coating of Metal Furniture.
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	F	Standards of Performance for Portland Cement Plants.
60	FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
60	G	Standards of Performance for Nitric Acid Plants.
60	GG	Standards of Performance for Stationary Gas Turbines.
60	GGG	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
60	H	Standards of Performance for Sulfuric Acid Plants.
60	HH	Standards of Performance for Lime Manufacturing Plants.
60	HHH	Standards of Performance for Synthetic Fiber Production Facilities.
60	I	Standards of Performance for Hot Mix Asphalt 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	III	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines.
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	JJJ	Standards of Performance for Petroleum Dry Cleaners.
60	JJJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
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	KK	Standards of Performance for Lead-Acid Battery Manufacturing Plants.

60	KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.
60	KKKK	Standards of Performance for Stationary Combustion Turbines
60	L	Standards of Performance for Secondary Lead Smelters.
60	LL	Standards of Performance for Metallic Mineral Processing Plants.
60	LLL	Standards of Performance for Onshore Natural Gas Processing: SO <sub>2</sub> Emissions.
60	M	Standards of Performance for Secondary Brass and Bronze Production Plants.
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
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	NN	Standards of Performance for Phosphate Rock Plants.
60	NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
60	O	Standards of Performance for Sewage Treatment Plants.
60	OOO	Standards of Performance for Nonmetallic Mineral Processing Plants.
60	P	Standards of Performance for Primary Copper Smelters.
60	PP	Standards of Performance for Ammonium Sulfate Manufacture.
60	PPP	Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.
60	Q	Standards of Performance for Primary Zinc Smelters.
60	QQ	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.
60	QQQ	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems.
60	R	Standards of Performance for Primary Lead Smelters.
60	RR	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
60	RRR	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
60	S	Standards of Performance for Primary Aluminum Reduction Plants.
60	SS	Standards of Performance for Industrial Surface Coating: Large Appliances.
60	SSS	Standards of Performance for Magnetic Tape Coating Facilities.
60	T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
60	TT	Standards of Performance for Metal Coil Surface Coating.

60	TTT	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
60	U	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
60	UU	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
60	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries.
60	V	V-Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
60	VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
60	VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
60	W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry.
60	WWW	Standards of Performance for Municipal Solid Waste Landfills.
60	X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
60	XX	Standards of Performance for Bulk Gasoline Terminals.
60	Y	Standards of Performance for Coal Preparation Plants.
60	Z	Standards of Performance for Ferroalloy Production Facilities.
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	BB	National Emission Standard for Benzene Emissions From Benzene Transfer Operations.
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	FF	National Emission Standard for Benzene Waste Operations Mar. 7, 1990.
61	J	National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene.
61	L	National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants.
61	M	National Emission Standard for Asbestos.
61	N	National Emission Standard for Inorganic Arsenic Emissions From Glass Manufacturing Plants.
61	O	National Emission Standard for Inorganic Arsenic Emissions From Primary Copper Smelters.

61	P	National Emission Standard for Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities.
61	V	National Emission Standard for Equipment Leaks (Fugitive Emission Sources).
61	Y	National Emission Standard for Benzene Emissions From Benzene Storage Vessels.
63	A	General Provisions.
63	AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants.
63	AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
63	AAAAA	National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
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	BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants.
63	BBBBB	National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
63	BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
63	CC	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries.
63	CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
63	CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast.
63	CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
63	CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.
63	DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
63	DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
63	DDDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.
63	EE	National Emission Standards for Magnetic Tape Manufacturing Operations.
63	EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
63	EEEE	National Emission Standards for Hazardous Air Pollutants: Organic

		Liquids Distribution (Non-Gasoline).
63	EEEE	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.
63	F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry.
63	FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.
63	FFFFF	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities.
63	FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.
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	GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities.
63	GGG	National Emission Standards for Pharmaceuticals Production.
63	GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.
63	GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation.
63	GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources - Zinc, Cadmium, and Beryllium.
63	H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
63	HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.
63	HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities.
63	HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
63	HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.
63	HHHHHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations.
63	I	National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
63	II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating).
63	III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
63	III	National Emission Standards for Hazardous Air Pollutants: Surface

		Coating of Automobiles and Light-Duty Trucks.
63	IIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants.
63	J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.
63	JJ	National Emission Standards for Wood Furniture Manufacturing Operations.
63	JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
63	JJJJ	National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
63	KK	National Emission Standards for the Printing and Publishing Industry.
63	KKKK	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.
63	L	National Emission Standards for Coke Oven Batteries.
63	LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
63	LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.
63	LLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
63	LLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.
63	M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
63	MM	National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicemical Pulp Mills.
63	MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
63	MMMM	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
63	MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
63	MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources
63	N	National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
63	NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
63	NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
63	NNNNN	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.



63	NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities.
63	OO	National Emission Standards for Tanks - Level 1.
63	OOO	National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins.
63	OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
63	OOOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
63	PP	National Emission Standards for Containers.
63	PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
63	PPPP	National Emission Standards for Hazardous Air Pollutants of Plastic Parts and Products.
63	PPPPP	National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards.
63	PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.
63	Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
63	QQ	National Emission Standards for Surface Impoundments.
63	QQQ	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.
63	QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
63	QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
63	QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.
63	R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
63	RR	National Emission Standards for Individual Drain Systems.
63	RRR	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
63	RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
63	RRRRR	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.
63	RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.
63	S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
63	SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a

		Process.
63	SSSS	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
63	SSSSS	National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.
63	SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.
63	T	National Emission Standards for Halogenated Solvent Cleaning.
63	TT	National Emission Standards for Equipment Leaks.
63	TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
63	TTTT	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
63	TTTTT	National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.
63	TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.
63	U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
63	UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards.
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
63	UUUU	National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
63	VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators.
63	VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
63	VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
63	W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
63	WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2.
63	WWWW	National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
63	WWWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers.
63	WWWWWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.
63	X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.
63	XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.

63	XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.
63	XXXX	National Emissions Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
63	XXXXXX	National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.
63	Y	National Emission Standards for Marine Tank Vessel Loading Operations.
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
63	YYYY	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
63	YYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.
63	ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
63	ZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
64	ALL	Compliance Assurance Monitoring (CAM).
72	ALL	Permits Regulation.

**DRAFT MINUTES  
AIR QUALITY COUNCIL  
October 15, 2008  
DEQ Multipurpose Room  
707 North Robinson  
Oklahoma City, Oklahoma**

For EQB November 18, 2008  
TO be APPROVED by AQC  
January 14, 2009

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. October 15 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 2, 2007 and amended on September 18, 2008 to change the location from Broken Bow to Oklahoma City. 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. Mr. David Branecky, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
Jim Haught  
Laura Lodes  
Bob Lynch  
Sharon Myers  
Jerry Purkapple

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Cheryl Bradley  
Joyce Sheedy  
Max Price  
Nancy Marshment

**DEQ STAFF  
PRESENT**

Diana Hinson  
Sarah Penn  
Dawson Lasseter  
Kendal Stegmann  
Myrna Bruce

**MEMBERS ABSENT**

Montelle Clark  
Gary Collins  
Vacancy

**OTHERS PRESENT**

Christy Myers, Court  
Reporter

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

**Approval of Minutes** Mr. Purkapple made motion to approve the Minutes as presented and Mr. Haught made the second.

Jim Haught	Yes	Jerry Purkapple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Meeting Schedule for Calendar Year 2009** Proposed dates and locations discussed and scheduled were January 14 at the DEQ; April 15 in Tulsa; July 15 in Oklahoma City; and October 21 in Broken Bow Oklahoma. This motion was made by Ms. Myers and seconded by Dr. Lynch.

Jim Haught	Yes	Jerry Purkapple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**OAC 252:100-9. Excess Emission Reporting Requirements**

Mr. Max Price advised that the Department’s proposal would amend Subchapter 9 to clarify its requirements and make them more compatible with EPA guidelines. Mr. Price conveyed that staff recommendation was that the rulemaking be continued to Council’s next meeting and that workgroup sessions would be held to receive further input. Ms. Myers made motion to continue to the January meeting and Mr. Purkaple made the second.

Jim Haught	Yes	Jerry Purkaple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**OAC 252:100-25. Visible Emissions and Particulates**

Ms. Diana Hinson advised that the proposal would amend Subchapter 25 -3 (b) (3), Opacity limit, to correct an error in a rule reference for clarification and to add ‘OAC’ where it had been inadvertently left out. Staff recommendation was for permanent approval by the Environmental Quality Board. Hearing no comments, Mr. Branecky called for a motion as proposed. Mr. Haught made the motion and Ms. Myers made the second.

Jim Haught	Yes	Jerry Purkaple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**OAC 252:100-33. Control of Emission of Nitrogen Oxides**

Ms. Cheryl Bradley advised that this proposed revision would define “solid fossil fuel” to resolve issues regarding emission standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations. Ms. Bradley mentioned that there were still some outstanding issues and suggested that Council continue the rule to Council’s next meeting. Staff fielded questions and comments from Council, then Mr. Branecky entertained a motion to continue the rulemaking to the January Council meeting. Mr. Jim Haught made the motion and Dr. Lynch made the second.

Jim Haught	Yes	Jerry Purkaple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Appendix E. Primary Ambient Air Quality Standards [REVOKED]**

**Appendix E. Primary Ambient Air Quality Standards [NEW]**

**Appendix F. Secondary Ambient Air Quality Standards [REVOKED]**

**Appendix F. Secondary Ambient Air Quality Standards [NEW]**

Mr. Leon Ashford advised that the proposal would update Appendices E and F to be consistent with federal standards for ozone changing the value of the standard from 0.08 to 0.075. He stated that the old Appendix E and F would be revoked and replaced with new Appendix E and F. Mr. Ashford mentioned a non-substantive change also proposed for footnote #4. Hearing no public comments, Mr. Branecky called for a motion to recommend the rulemaking to the Environmental Quality Board for permanent adoption. Mr. Purkaple made the motion and Ms. Lodes made the second.

Jim Haught	Yes	Jerry Purkaple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Appendix Q. Incorporation By Reference [REVOKED]**

**Appendix Q. Incorporation By Reference [NEW]**

Ms. Nancy Marshment advised that the proposal would update Appendix Q to incorporate the latest changes to federal regulations by reference. Among the changes are the additions of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources. Ms. Marshment read the new standards into the record. Staff recommendation was to forward the changes to the Environmental Quality Board for permanent adoption. Mr. Haught made the motion and Ms. Myers made the second.

Jim Haught	Yes	Jerry Purkaple	Yes
Sharon Myers	Yes	Bob Lynch	Yes
Laura Lodes	Yes	David Branecky	Yes

**Division Director's Report -**

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

**Adjournment** -- Meeting adjourned at 10:45 a.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 REGULARLY SCHEDULED  
AIR QUALITY COUNCIL MEETING  
ITEM 5E

HELD ON OCTOBER 15, 2008, AT 9:00 AM  
IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

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

**ORIGINAL**

Page 2

1 COUNCIL MEMBERS

2

3 DAVID BRANECKY, CHAIR

4 LAURA LODES, VICE-CHAIR

5 JIM HAUGHT, MEMBER

6 JERRY PURKAPLE, MEMBER

7 SHARON MYERS, MEMBER

8 MONTELLE CLARK, MEMBER (ABSENT)

9 GARY COLLINS, MEMBER (ABSENT)

10

11 DEQ STAFF

12

13 MYRNA BRUCE

14 BEVERLY BOTCHLET-SMITH

15 EDDIE TERRILL

16 MAX PRICE

17 CHERYL BRADLEY

18 NANCY MARSHMENT

19 LEON ASHFORD

20 DIANA HINSON

21

22

23

24

25

Page 4

1 so that you can follow along more easily.

2 It is a long list, so I'll try to move

3 through it quickly.

4 The first edition is 40 CFR 60,

5 subpart Ja, Standards of Performance for

6 Petroleum Refineries for which

7 construction, reconstruction, or

8 modification commenced after May 14, 2007.

9 The second one, 40 CFR 60, subpart

10 JJJJ, Standards of Performance for

11 Stationary Spark Ignition Internal

12 Combustion Engines.

13 Number 3. 40 CFR 63, subpart

14 BBBB, National Emission Standards for

15 Hazardous Air Pollutants for Source

16 Category: Gasoline Distribution Bulk

17 Terminals, Bulk Plants, and Pipeline

18 Facilities.

19 Number 4. 40 CFR 63, subpart

20 CCCCC, National Emission Standards for

21 Hazardous Air Pollutants for Source

22 Category: Gasoline Dispensing Facilities.

23 Number 5. 40 CFR 63, subpart

24 MMMMM, National Emission Standards for

25 Hazardous Air Pollutants for Carbon Black

Page 3

1

2 PROCEEDINGS

3

4 MS. BOTCHLET-SMITH: The next

5 item on the agenda is Number 5E, this is

6 Appendix Q, Incorporation By Reference.

7 Ms. Nancy Marshment of staff will be giving

8 the presentation.

9 MS. MARSHMENT: Good morning.

10 Mr. Chairman, Members of the Council,

11 ladies and gentlemen. My name is Nancy

12 Marshment and I am an Environmental

13 Programs Specialist with the Air Quality

14 Division. The Department is proposing to

15 revoke the current Chapter 100, Appendix Q,

16 Incorporation by Reference, and adopt a new

17 Appendix Q.

18 These proposals are part of the

19 annual review of Title 40, Code of Federal

20 Regulations (40 CFR), Incorporation by

21 Reference.

22 The following 40 CFR rules are being

23 incorporated by reference in the proposed

24 Appendix Q. The newly added items are

25 highlighted in the Council Members packets

Page 5

1 Production Area Sources.

2 Number 6. 40 CFR 63, subpart

3 NNNNN, National Emission Standards for

4 Hazardous Air Pollutants for Chemical

5 Manufacturing Area Sources: Chromium

6 Compounds.

7 Number 7. 40 CFR 63, subpart

8 OOOOO, National Emission Standards for

9 Hazardous Air Pollutants for Flexible

10 Polyurethane Foam Production and

11 Fabrication Area Sources.

12 Number 8. 40 CFR 63, subpart

13 PPPPP, National Emission Standards for

14 Hazardous Air Pollutants for Lead Acid

15 Battery Manufacturing Area Sources.

16 Number 9. 40 CFR 63, subpart

17 QQQQQ, National Emission Standards for

18 Hazardous Air Pollutants for Wood

19 Preserving Area Sources.

20 Number 10. 40 CFR 63, subpart

21 RRRRR, National Emission Standards for

22 Hazardous Air Pollutants for Clay Ceramics

23 Manufacturing Area Sources.

24 Number 11. 40 CFR 63, subpart

25 SSSSS, National Emission Standards for



1 Hazardous Air Pollutants for Glass  
 2 Manufacturing Area Sources.  
 3 Number 12. 40 CFR 63, subpart  
 4 TTTTTT, National Emission Standards for  
 5 Hazardous Air Pollutants for Secondary  
 6 Nonferrous Metals Processing Area Sources.  
 7 Number 13. 40 CFR 63, subpart  
 8 WWWW, National Emission Standards for  
 9 Hospital Ethylene Oxide Sterilizers.  
 10 Number 14. 40 CFR 63, subpart  
 11 WWWW, National Emission Standards for  
 12 Hazardous Air Pollutants: Area Source  
 13 Standards for Plating and Polishing  
 14 Operations.  
 15 Number 15. 40 CFR 63, subpart  
 16 XXXXXX, National Emission Standards for  
 17 Hazardous Air Pollutants Area Source  
 18 Standards for Nine Metal Fabrication and  
 19 Finishing Source Categories.  
 20 Number 16. 40 CFR 63, subpart  
 21 YYYYYY, National Emission Standards for  
 22 Hazardous Air Pollutants for Area Sources:  
 23 Electric Arc Furnace Steelmaking  
 24 Facilities.  
 25 Number 17. 40 CFR 63, subpart

1 on June 8, 2007.  
 2 Notice was published in the Oklahoma  
 3 Register on September 15, 2008 for these  
 4 proposed changes. The notice requested  
 5 written comments from the public and other  
 6 interested parties. No comments have been  
 7 received as of today.  
 8 This is the first hearing for these  
 9 proposed changes. Since this proposal is a  
 10 routine housekeeping measure, staff  
 11 requests that the Council vote to send this  
 12 rule to the Environmental Quality Board  
 13 with a recommendation that the changes be  
 14 adopted as a permanent rule. Thank you.  
 15 MS. BOTCHLET-SMITH: We will now  
 16 take questions and comments from the  
 17 Council.  
 18 MR. BRANECKY: Nancy, just one  
 19 point of clarification. The last, subpart  
 20 64, the "all" that's going to be changed to  
 21 also do all subparts?  
 22 MS. MARSHMENT: Yes. I didn't  
 23 give you a corrected version but yes, the  
 24 whole thing will be changed to include "all  
 25 subparts".

1 ZZZZZ, National Emission Standards for  
 2 Hazardous Air Pollutants for Iron and Steel  
 3 Foundries Area Sources.  
 4 The last one on this list is 40 CFR  
 5 64, and that's all subparts, Compliance  
 6 Assurance Monitoring.  
 7 In addition, it was suggested  
 8 recently that we clarify the last entry in  
 9 the Appendix for Part 72, it's in the  
 10 current list, by changing the word "all" to  
 11 "all subparts" in order to avoid confusion  
 12 with the titles and the subparts. We ask  
 13 that Members consider this change as well.  
 14 Finally, the following 40 CFR rule  
 15 is being removed from the list of rules  
 16 incorporated by reference in the proposed  
 17 Appendix Q, because the federal courts have  
 18 vacated all or part of it:  
 19 40 CFR 60, subpart CCCC, Standards  
 20 of Performance for Commercial and  
 21 Industrial Solid Waste Incineration Units  
 22 for which Construction is Commenced after  
 23 November 30, 1999 or for which Modification  
 24 or Reconstruction is Commenced on or after  
 25 June 1, 2001. That was remanded or vacated

1 MS. BOTCHLET-SMITH: Any other  
 2 questions from the Council? Also, I have  
 3 not received any notice that the public  
 4 wishes to comment on this action. So,  
 5 David, I'll turn it back to you.  
 6 MR. BRANECKY: All right. Staff  
 7 has recommended that we approve this and  
 8 send it to the Board. I don't know about  
 9 you, but it feels good to pass something,  
 10 doesn't it? So with that, I'll entertain a  
 11 motion.  
 12 MR. HAUGHT: I'll make a motion  
 13 that we accept the proposed incorporation  
 14 by reference changes.  
 15 MR. BRANECKY: Okay.  
 16 MS. MYERS: I'll second it.  
 17 MR. BRANECKY: Motion and second.  
 18  
 19 Myrna, will you call the roll, please.  
 20 MS. BRUCE: Jim Haught.  
 21 MR. HAUGHT: Yes.  
 22 MS. BRUCE: Sharon Myers.  
 23 MS. MYERS: Yes.  
 24 MS. BRUCE: Laura Lodes.  
 25 MS. LODES: Yes.

1 MS. BRUCE: Jerry Purkaple.  
 2 MR. PURKAPLE: Yes.  
 3 MS. BRUCE: Bob Lynch.  
 4 DR. LYNCH: Yes.  
 5 MS. BRUCE: David Branecky.  
 6 MR. BRANECKY: Yes.  
 7 MS. BRUCE: Motion passed.

(Item 5E Concluded)

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C E R T I F I C A T E

3 STATE OF OKLAHOMA )  
 4 COUNTY OF OKLAHOMA ) ss:

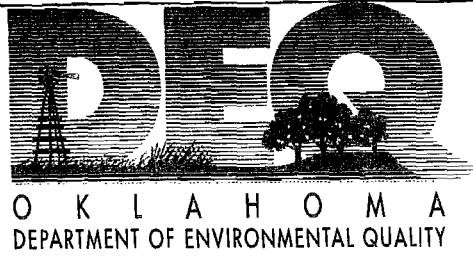
6 I, CHRISTY A. MYERS, Certified  
 7 Shorthand Reporter in and for the State of  
 8 Oklahoma, do hereby certify that the above  
 9 proceeding is the truth, the whole truth,  
 10 and nothing but the truth; that the  
 11 foregoing proceeding was taken down in  
 12 shorthand by me and thereafter transcribed  
 13 under my direction; that said proceeding  
 14 was taken on the 15th day of Oklahoma,  
 15 2008, at Oklahoma City, Oklahoma; and that  
 16 I am neither attorney for, nor relative of  
 17 any of said parties, nor otherwise  
 18 interested in said action.

19 IN WITNESS WHEREOF, I have hereunto  
 20 set my hand and official seal on this, the  
 21 18th day of October, 2008.

23 CHRISTY A. MYERS, C.S.R.  
 24 Certificate No. 00310  
 25

<p align="center"><b>-0-</b></p> <p>00310 [1] 11:24</p> <p align="center"><b>-1-</b></p> <p>1 [1] 7:25 10 [1] 5:20 100 [1] 3:15 11 [1] 5:24 12 [1] 6:3 13 [1] 6:7 14 [2] 4:8 6:10 15 [3] 1:12 6:15 8:3 15th [1] 11:14 16 [1] 6:20 17 [1] 6:25 18th [1] 11:21 1999 [1] 7:23</p> <p align="center"><b>-2-</b></p> <p>2001 [1] 7:25 2007 [2] 4:8 8:1 2008 [4] 1:12 8:3 11:15 11:21</p> <p align="center"><b>-3-</b></p> <p>3 [1] 4:13 30 [1] 7:23</p> <p align="center"><b>-4-</b></p> <p>4 [1] 4:19 40 [23] 3:19,20,22 4:4,9 4:13,19,23 5:2,7,12,16,20 5:24 6:3,7,10,15,20,25 7:4 7:14,19 405 [1] 1:25</p> <p align="center"><b>-5-</b></p> <p>5 [1] 4:23 5E [3] 1:11 3:5 10:9</p> <p align="center"><b>-6-</b></p> <p>6 [1] 5:2 60 [3] 4:4,9 7:19 63 [15] 4:13,19,23 5:2,7 5:12,16,20,24 6:3,7,10,15 6:20,25 64 [2] 7:5 8:20</p> <p align="center"><b>-7-</b></p> <p>7 [1] 5:7 72 [1] 7:9 721-2882 [1] 1:25 721532 [1] 1:24 73172-1532 [1] 1:24</p> <p align="center"><b>-8-</b></p>	<p>8 [2] 5:12 8:1</p> <p align="center"><b>-9-</b></p> <p>9 [1] 5:16 9:00 [1] 1:12</p> <p align="center"><b>-A-</b></p> <p>above [1] 11:8 ABSENT [2] 2:8,9 accept [1] 9:13 Acid [1] 5:14 action [2] 9:4 11:18 added [1] 3:24 addition [1] 7:7 adopt [1] 3:16 adopted [1] 8:14 agenda [1] 3:5 Air [16] 1:10 3:13 4:15,21 4:25 5:4,9,14,18,22 6:1,5 6:12,17,22 7:2 along [1] 4:1 annual [1] 3:19 Appendix [6] 3:6,15,17 3:24 7:9,17 approve [1] 9:7 Arc [1] 6:23 Area [12] 5:1,5,11,15,19 5:23 6:2,6,12,17,22 7:3 ASHFORD [1] 2:19 Assurance [1] 7:6 attorney [1] 11:16 avoid [1] 7:11</p> <p align="center"><b>-B-</b></p> <p>Battery [1] 5:15 BBBBBB [1] 4:14 BEVERLY [1] 2:14 Black [1] 4:25 Board [2] 8:12 9:8 Bob [1] 10:3 BOTCHLET-SMITH [4] 2:14 3:4 8:15 9:1 Box [1] 1:24 BRADLEY [1] 2:17 Braneky [7] 2:3 8:18 9:6,15,17 10:5,6 BRUCE [8] 2:13 9:20,22 9:24 10:1,3,5,7 Bulk [2] 4:16,17</p> <p align="center"><b>-C-</b></p> <p>C [2] 11:2,2 C.S.R [1] 11:23 Carbon [1] 4:25 Categories [1] 6:19 Category [2] 4:16,22 CCCC [1] 7:19 CCCCCC [1] 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# AIR QUALITY COUNCIL

## Attendance Record

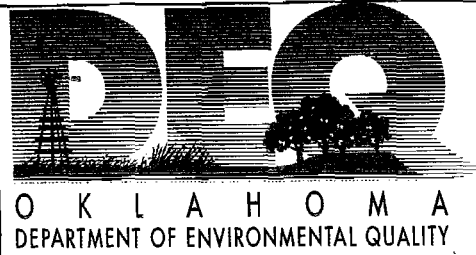
October 15, 2008

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Joseph E. Cowen, PE	Buzzi Unicem USA	P.O. Box 68 Pryor, OK 74362
Nancy Marchment	DEQ	
Pat Sullivan	DEQ	
David Branceky	OGE	
Melody Martin	OGE	
Kendal Stegmann	DEQ	
RICK Gustafson	DEQ	
James D. Shedy	DEQ	
Julia Bevers	OGE	
M. Fox	DEQ	
Dawson Lassiter	DEQ	
Bob Lynch	OAHSC	
Myrna Bruce	DEQ	27170
Laura Herron	OGE	(405) 553-3057
Ford Benham	OGE	" " - 3221
Steve Willis		
BOB HURT	DAL-TILE	bob.hurt@daltilo.com
Jerry Puvogel	ConocoPhillips	
CRAG DANIEL	TENASKA	
DON WHITNEY	TRINITY	
Garold Butcher	WPEC	
Laura London	Enercon	llondon@enercon.com
Wilma Turner	TAFB	
Kent Stafford	DEQ/AQD	
Adam McHale	Atlas Pipeline	amc@atlaspipe.com
Jim Haught	AQC	



# AIR QUALITY COUNCIL

## Attendance Record

October 15, 2008

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Rick Armfield	Tenaska Kiamichi	918-432-5117
Beverly Batchlet Smith	DEQ	
Garry Keede	Hall Estill	(918) 594-0553 gkeede@hallettill.com
Dustin Given	Georgia-Pacific	918 684-4851
Cheryl Bradley	AQD DEQ	
Steve Meyer	Sinclair	
Philip Fielder	DEQ	
Adrienne Burchett	Cardinal	aj@cardinalengineers.com
Michelle Votter	Cardinal	my@cardinalengineers.com
Jam Hill	DEQ	
Glen Travis	Sunaco	
Mike Bednar	Sunaco	mbednar@sunacoinc.com
Randy Ward	ODEQ	
ANGIE BURCKHALTER	OIPA	ABURCKHALTER@OIPA.COM
Dave Cannone	CIRM/TANKA	
LANCE LOPEZ	ENOGEX	
LEON ASHFORD	ODEQ	
Sarah Penn	ODEQ	
Robert Singletary	ODEQ	405-702-7173
Marsha Cole	RWCS	228-2143
KEN RUFFIN	AEP-PSO	kwuffin@aep.com
DAVID DYKE	DEQ	
William Hildeson	AEP-PSO	whildeson@dep.com
Judith A Duman	ODEQ	



# AIR QUALITY COUNCIL

## Attendance Record

October 15, 2008

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
Ivan London RWIS	239-6040
Diana Hanson DEQ	702-4171
Judy	702 4140
Bob Kelley	
Don Shandy	228-2138 dshandy@ryanwhatey.com
Janet Davis Startech	424-8378
Kandi Jones Startech	424-8378
Mike Smith DCP Midstream	605-3886
Kathryn Crenshaw DP	580-933-1449

**REGULAR MEETING AGENDA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OKLAHOMA ENVIRONMENTAL QUALITY BOARD**

A Public Meeting: 9:30 a.m., Tuesday, November 18, 2008  
Tahlequah Municipal Armory  
100 Water Street  
Tahlequah, Oklahoma

*Please turn off cell phones*

1. **Call to Order** – Jennifer Galvin, Chair
2. **Roll Call** – Myrna Bruce, Secretary, Board & Councils
3. **Approval of Minutes** of the August 19, 2008 Regular Meeting
4. **Rulemaking – OAC 252:100 Air Pollution Control**
  - A. The DEQ proposes to amend Subchapter 25 pertaining to visible emissions and particulates to correct a rule citation.
  - B. The DEQ proposes to update Appendices E and F pertaining to primary and secondary ambient air quality standards to be consistent with federal standards for ozone.
  - C. The DEQ proposes to update Appendix Q to incorporate the latest changes to federal regulations by reference. The updates include the addition of New Source Performance Standards (NSPS) and Part 63 National Emissions Standards for Hazardous Air Pollutants (NESHAP) for area sources.
    - Presentation – David Branecky, Chair, Air Quality Advisory Council
    - Questions and discussion by the Board
    - Questions, comments and discussion by the public
    - Discussion and possible action by the Board, which may include roll call vote(s) on permanent adoption
5. **Rulemaking – OAC 252:205 Hazardous Waste Management**

The DEQ proposes to update Subchapter 3, Sections 3-1 and 3-2 to incorporate by reference the federal hazardous waste regulations found in 40 CFR Parts 124 and 260-279, revised as of July 1, 2008.

  - Presentation – Michael Graves, Chair, Hazardous Waste Management Advisory Council
  - Questions and discussion by the Board
  - Questions, comments and discussion by the public
  - Discussion and possible action by the Board, which may include a roll call vote on permanent adoption



**6. Rulemaking – OAC 252:410 Radiation Management**

The DEQ proposes to amend Subchapters 1, 10, and 20 to change the date for the incorporation of federal regulations by reference to January 1, 2008. These incorporations include a new definition of “byproduct material;” amended rules governing the distribution of byproduct material; minor corrections pertaining to medical use of byproduct material; and amended rules for implementation of a National Source Tracking System.

- Presentation – Steve Woods, Chair, Radiation Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include a roll call vote on permanent adoption

**7. Rulemaking – OAC 252:611 General Water Quality**

A. The DEQ proposes to amend Subchapter 1, Section 1-3 to change the date of incorporation of applicable federal regulations from July 1, 2007 to July 1, 2008.

B. The DEQ proposes to amend Subchapter 3, Sections 3-1 and 3-2 to require a mitigation plan with an application to DEQ for certification pursuant to Section 401 of the Clean Water Act when mitigation is required to obtain a permit from the federal permitting entity under Section 404 of the Clean Water Act.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call votes on permanent adoption

**8. Rulemaking (emergency) - OAC 252:641 Individual and Small Public Onsite Sewage Treatment Systems**

The DEQ proposes to amend Appendix H, Figure 25 to correct an error classifying Delaware County as Net Evaporation Zone 1 when the Appendix was last adopted.

- Presentation – Lowell Hobbs, Chair, Water Quality Management Advisory Council
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion and possible action by the Board, which may include roll call votes on a finding of emergency and emergency adoption

**9. Consideration of and Action on the Environmental Quality Report**

The Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” and to submit it to the Governor, Speaker of the House and Senate President Pro Tem by January 1<sup>st</sup> of each year. The statutorily prescribed purpose of this report is to outline the DEQ’s annual needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. The Environmental Quality Board is to review, amend (as necessary) and approve the report.

- Presentation – Jimmy Givens, Acting Deputy Executive Director, DEQ
- Questions and discussion by the Board
- Questions, comments and discussion by the public
- Discussion by the Board and roll call vote on approval

**10. Consideration of Executive Director Compensation**

During the Environmental Quality Board meeting on August 19, 2008, the Board decided to further study and consider appropriate compensation for Steve Thompson, Executive Director of the DEQ, and requested that the DEQ provide Board members with a recent salary study compiled by the Office of Personnel Management. The DEQ has provided the requested salary study and other relevant salary information. The Board is expected to discuss and may elect to go into executive session to further consider Mr. Thompson's compensation.

- A. Discussion by Board in open session
- B. Possible executive session pursuant to Title 25 § 307(B)(1) (discussion of employment actions related to any individual salaried public officer or employee), if authorized by recorded majority vote of the Board members present
  - (1) Vote in open session on whether to enter executive session
  - (2) If executive session approved, designation in open session of person to keep minutes in executive session
  - (3) Discussion of Executive Director's compensation in executive session
- C. Further discussion by the Board in open session
- D. Possible roll call vote on specific actions or recommendation as a result of executive session and/or open discussion

**11. New Business** (any matter not known about and which could not have been reasonably foreseen prior to the time of posting of agenda)

**12. Executive Director's Report – Steve Thompson**

**13. Adjournment**

**Upcoming Meetings in 2009:** February 27, DEQ  
 August 25, Tulsa (location to be determined)  
 November 17, Ada (location to be determined)

**Public Forum** (after adjournment): The Board meets several times a year at different locations across the State to hear the views and concerns of all Oklahomans about environmental issues. This opportunity is informal, and we invite you to sign the register to speak. This Public Forum will include a presentation by Jon Craig, Director, Water Quality Division, DEQ.

**Should you desire to attend but have a disability and need an accommodation, please notify the DEQ three days in advance at 405-702-7100. For hearing impaired, the TDD Relay Number is 1-800-722-0353 for TDD machine use only.**

Some members of the Board and senior staff members from DEQ will meet for dinner in Tahlequah the evening of November 17. This is a social occasion. It is uncertain whether a majority of the Board will be present, but no Board or DEQ business will be conducted.

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

**EXECUTIVE SUMMARY**

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

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

Before the Air Quality Advisory Council, October 15, 2008

Before the Environmental Quality Board, November 18, 2008

**EXECUTIVE SUMMARY:**

The Department proposes to revoke the current Chapter 100, Appendix Q, Incorporation by Reference, and adopt a new Chapter 100, Appendix Q. These proposals are part of the annual review and update of Title 40, Code of Federal Regulations (40 CFR), Incorporations By Reference (IBR).

**DIFFERENCES FROM ANALOGOUS FEDERAL RULES:**

None.

**ENVIRONMENTAL BENEFIT STATEMENT:**

These rules are not more stringent than corresponding federal rules; therefore, an Environmental Benefit Statement is not required.

**SUMMARY OF COMMENTS AND RESPONSES:**

No comments were received prior to or at the October 15, 2008, Council meeting.

**Permanent Final Adoptions**

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

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

	Sulfur Dioxide	(6) PM-10	PM 2.5	(5) Carbon Monoxide	Ozone	Nitrogen Dioxide	Lead
1-hr. max							
3-hr. max	1300 ug/m <sup>3</sup> (2) 0.5 ppm						
8-hr. max					(4) 0.075 ppm		
24-hr. max							
Calendar Qtr.							(3) 1.5 ug/m <sup>3</sup>
Annual			(5) 15 ug/m <sup>3</sup>			100 ug/m <sup>3</sup> (1) 0.053 ppm	

- (1) Annual arithmetic mean
- (2) Not to be exceeded more than once per year
- (3) Maximum arithmetic mean averaged over a calendar quarter
- (4) The standard is attained when the computed 3-year average of the annual 4th-highest daily maximum 8-hour average does not exceed 0.075 ppm, as provided in 40 CFR 50.15.
- (5) The standard is attained when the annual arithmetic mean is equal to or less than the numerical standard as determined by 40 CFR 50, Appendix N.
- (6) PM-10 and Carbon Monoxide have no secondary standard.

[OAR Docket #09-733; filed 4-17-09]

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

[OAR Docket #09-734]

**RULEMAKING ACTION:**  
PERMANENT final adoption

**RULES:**  
Appendix Q. Incorporation by Reference [REVOKED]  
Appendix Q. Incorporation by Reference [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, 2008, through October 15, 2008

November 18, 2008  
**Public hearing:**  
October 15, 2008  
November 18, 2008  
**Adoption:**  
November 18, 2008  
**Submitted to Governor:**  
November 25, 2008  
**Submitted to House:**  
November 25, 2008  
**Submitted to Senate:**  
November 25, 2008  
**Gubernatorial approval:**  
December 15, 2008  
**Legislative approval:**  
Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2009.  
**Final adoption:**  
March 24, 2009  
**Effective:**  
July 1, 2009  
**SUPERSEDED EMERGENCY ACTIONS:**  
N/A  
**INCORPORATIONS BY REFERENCE:**  
**Incorporated standards:**  
40 CFR 60, subpart Ja, Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.  
40 CFR 60, subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.  
40 CFR 63, subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.  
40 CFR 63, subpart CCCCC, National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.  
40 CFR 63, subpart MMMMM, National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.  
40 CFR 63, subpart NNNNN, National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.  
40 CFR 63, subpart OOOOO, National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.  
40 CFR 63, subpart PPPPP, National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.  
40 CFR 63, subpart QQQQQ, National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.  
40 CFR 63, subpart RRRRR, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.

40 CFR 63, subpart SSSSS, National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.  
40 CFR 63, subpart TTTTT, National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.  
40 CFR 63, subpart WWWW, National Emission Standards for Hospital Ethylene Oxide Sterilizers.  
40 CFR 63, subpart WWWW, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.  
40 CFR 63, subpart XXXXX, National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.  
40 CFR 63, subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.  
40 CFR 63, subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.  
40 CFR 64, All Subparts - Compliance Assurance Monitoring.  
**Incorporating rules:**  
252:100 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.

**ANALYSIS:**  
The proposed amendments to Appendix Q are part of the annual review and update of Title 40, Code of Federal Regulations (40 CFR), Incorporations By Reference (IBR).

The following 40 CFR rule is being removed from the list of rules incorporated by reference in the proposed Appendix Q because the federal courts have vacated all or part of it:

40 CFR 60, subpart CCCC, Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced on or After June 1, 2001 (remanded/vacated 6-8-07).

**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, 2009:**

## Permanent Final Adoptions

### 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 September 1, 2008.

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 <sub>10</sub> in the Atmosphere.
51	F	Paragraph 51.100(s)(1) only of Subpart F, Procedural Requirements.
51	n/a	Appendix S to Part 51 - Emission Offset Interpretative Ruling.
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	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	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	BB	Standards of Performance for Kraft Pulp Mills.
60	BBB	Standards of Performance for the Rubber Tire Manufacturing Industry.
60	CC	Standards of Performance for Glass Manufacturing Plants.
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	DD	Standards of Performance for Grain Elevators.
60	DDD	Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
60	E	Standards of Performance for Incinerators.

60	Ea	Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994.
60	Eb	Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.
60	Ec	Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.
60	EE	Standards of Performance for Surface Coating of Metal Furniture.
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	F	Standards of Performance for Portland Cement Plants.
60	FFF	Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
60	G	Standards of Performance for Nitric Acid Plants.
60	GG	Standards of Performance for Stationary Gas Turbines.
60	GGG	Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
60	H	Standards of Performance for Sulfuric Acid Plants.
60	HH	Standards of Performance for Lime Manufacturing Plants.
60	HHH	Standards of Performance for Synthetic Fiber Production Facilities.
60	I	Standards of Performance for Hot Mix Asphalt 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	III	Standards of Performance for Stationary Compression Ignition Internal Combustion Engines.
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	JJJ	Standards of Performance for Petroleum Dry Cleaners.
60	JJJJ	Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
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.

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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	KK	Standards of Performance for Lead-Acid Battery Manufacturing Plants.
60	KKK	Standards of Performance for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants.
60	KKKK	Standards of Performance for Stationary Combustion Turbines
60	L	Standards of Performance for Secondary Lead Smelters.
60	LL	Standards of Performance for Metallic Mineral Processing Plants.
60	LLL	Standards of Performance for Onshore Natural Gas Processing: SO <sub>2</sub> Emissions.
60	M	Standards of Performance for Secondary Brass and Bronze Production Plants.
60	MM	Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
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	NN	Standards of Performance for Phosphate Rock Plants.
60	NNN	Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
60	O	Standards of Performance for Sewage Treatment Plants.
60	OOO	Standards of Performance for Nonmetallic Mineral Processing Plants.
60	P	Standards of Performance for Primary Copper Smelters.
60	PP	Standards of Performance for Ammonium Sulfate Manufacture.
60	PPP	Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants.
60	Q	Standards of Performance for Primary Zinc Smelters.
60	QQ	Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing.
60	QQQ	Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems.
60	R	Standards of Performance for Primary Lead Smelters.
60	RR	Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
60	RRR	Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
60	S	Standards of Performance for Primary Aluminum Reduction Plants.
60	SS	Standards of Performance for Industrial Surface Coating: Large



Appliances.		
60	SSS	Standards of Performance for Magnetic Tape Coating Facilities.
60	T	Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
60	TT	Standards of Performance for Metal Coil Surface Coating.
60	TTT	Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
60	U	Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
60	UU	Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
60	UUU	Standards of Performance for Calciners and Dryers in Mineral Industries.
60	V	V-Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
60	VV	Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
60	VVV	Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
60	W	Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants.
60	WW	Standards of Performance for the Beverage Can Surface Coating Industry.
60	WWW	Standards of Performance for Municipal Solid Waste Landfills.
60	X	Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
60	XX	Standards of Performance for Bulk Gasoline Terminals.
60	Y	Standards of Performance for Coal Preparation Plants.
60	Z	Standards of Performance for Ferroalloy Production Facilities.
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	BB	National Emission Standard for Benzene Emissions From Benzene Transfer Operations.
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	FF	National Emission Standard for Benzene Waste Operations Mar. 7, 1990.
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.

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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.
63	A	General Provisions.
63	AA	National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants.
63	AAAA	National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
63	AAAAA	National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
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	BB	National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants.
63	BBBBB	National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
63	BBBBBB	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
63	CC	National Emission Standards for Hazardous Air Pollutants From Petroleum Refineries.
63	CCC	National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants.
63	CCCC	National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast.
63	CCCCC	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
63	CCCCCC	National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.
63	DD	National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
63	DDD	National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
63	DDDDD	National Emission Standards for Hazardous Air Pollutants for Polyvinyl

		Chloride and Copolymers Production Area Sources.
63	EE	National Emission Standards for Magnetic Tape Manufacturing Operations.
63	EEE	National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.
63	EEEE	National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).
63	EEEEE	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.
63	EEEEEE	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.
63	F	National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry.
63	FFFF	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.
63	FFFFF	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities.
63	FFFFFF	National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.
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	GG	National Emission Standards for Aerospace Manufacturing and Rework Facilities.
63	GGG	National Emission Standards for Pharmaceuticals Production.
63	GGGG	National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.
63	GGGGG	National Emission Standards for Hazardous Air Pollutants: Site Remediation.
63	GGGGGG	National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources - Zinc, Cadmium, and Beryllium.
63	H	National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
63	HH	National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.
63	HHH	National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities.
63	HHHH	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
63	HHHHH	National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.
63	HHHHHH	National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations.
63	I	National Emission Standards for Organic Hazardous Air Pollutants for

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		Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
63	II	National Emission Standards for Shipbuilding and Ship Repair (Surface Coating).
63	III	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
63	IIII	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.
63	IIIII	National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants.
63	J	National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.
63	JJ	National Emission Standards for Wood Furniture Manufacturing Operations.
63	JJJ	National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
63	JJJJ	National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
63	KK	National Emission Standards for the Printing and Publishing Industry.
63	KKKK	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.
63	L	National Emission Standards for Coke Oven Batteries.
63	LL	National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
63	LLL	National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.
63	LLLL	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
63	LLLLL	National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.
63	M	National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
63	MM	National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicemical Pulp Mills.
63	MMM	National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
63	MMMM	National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
63	MMMMM	National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
63	MMMMMM	National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.
63	N	National Emission Standards for Chromium Emissions From Hard and

		Decorative Chromium Electroplating and Chromium Anodizing Tanks.
63	NNN	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
63	NNNN	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
63	NNNNN	National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.
63	NNNNNN	National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.
63	O	Ethylene Oxide Emissions Standards for Sterilization Facilities.
63	OO	National Emission Standards for Tanks - Level 1.
63	OOO	National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins.
63	OOOO	National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
63	OOOOO	National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
63	PP	National Emission Standards for Containers.
63	PPP	National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
63	PPPP	National Emission Standards for Hazardous Air Pollutants of Plastic Parts and Products.
63	PPPPP	National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Stand.
63	PPPPPP	National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.
63	Q	National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
63	QQ	National Emission Standards for Surface Impoundments.
63	QQQ	National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.
63	QQQQ	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
63	QQQQQ	National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
63	QQQQQQ	National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.
63	R	National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
63	RR	National Emission Standards for Individual Drain Systems.
63	RRR	National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
63	RRRR	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.

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63	RRRRR	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.
63	RRRRRR	National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.
63	S	National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
63	SS	National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
63	SSSS	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
63	SSSSS	National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.
63	SSSSSS	National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.
63	T	National Emission Standards for Halogenated Solvent Cleaning.
63	TT	National Emission Standards for Equipment Leaks.
63	TTT	National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
63	TTTT	National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
63	TTTTT	National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining.
63	TTTTTT	National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.
63	U	National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
63	UU	National Emission Standards for Equipment Leaks - Control Level 2 Standards.
63	UUU	National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
63	UUUU	National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
63	VV	National Emission Standards for Oil-Water Separators and Organic-Water Separators.
63	VVV	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
63	VVVV	National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
63	W	National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
63	WW	National Emission Standards for Storage Vessels (Tanks) - Control Level 2.

63	WWWW	National Emission Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
63	WWWWW	National Emission Standards for Hospital Ethylene Oxide Sterilizers.
63	WWWWW	National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.
63	X	National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting.
63	XX	National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
63	XXX	National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.
63	XXXX	National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
63	XXXXXX	National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.
63	Y	National Emission Standards for Marine Tank Vessel Loading Operations.
63	YY	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
63	YYYY	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
63	YYYYY	National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.
63	ZZZZ	National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
63	ZZZZZ	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
64	All Subparts	Compliance Assurance Monitoring (CAM).
72	All Subparts	Permits Regulation.

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