

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1. Definitions [AMENDED]

252:100-5-2.1. Emission inventory [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 1. GENERAL PROVISIONS

252:100-7-1.1. Definitions [AMENDED]

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

Part 3. CONSTRUCTION PERMITS

252:100-7-15. Construction permit [AMENDED]

Part 9. PERMITS BY RULE

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

252:100-7-60.6. Emergency engine facilities [AMENDED]

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

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

Part 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. Definitions [AMENDED]

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

252:100-8-5. Permit applications [AMENDED]

Part 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-31. Definitions [AMENDED]

252:100-8-33. Exemptions [AMENDED]

SUMMARY:

The Department of Environmental Quality (Department or DEQ) is proposing to amend the Permit By Rule (PBR) in OAC 252:100-7-60.5, Oil and natural gas sector, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated requirements in 40 C.F.R. Part 60, Subpart OOOOb Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After December 6, 2022 (NSPS Subpart OOOOb). Additionally, the proposed amendment would allow the use of legally and practicably enforceable (LPE) limits when determining a facility's eligibility for the PBR. On June 11, 2024, the Environmental Quality Board adopted emergency rules in OAC 252:100-7-60.5, which were approved by the Governor on July 25, 2024. This emergency rule allows the use of the above-mentioned LPE limits. The proposed permanent rule amendments would replace the currently-effective emergency rule.

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

emissions remain exempt from annual emission inventory reporting and fees. Further, GHG emissions would not be factored into certain permitting determinations, such as eligibility for a “de minimis facility,” a “permit exempt facility,” or a PBR or general permit; or used as the basis for a major source/NSR determination, except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO₂e. Further, GHG limits will only be included in minor facility permits if the facility is subject to a GHG limit under a federal NSPS or National Emission Standard for Hazardous Air Pollutants (NESHAP), a requirement adopted as mandated by a federal Emissions Guideline in accordance with 40 C.F.R. Part 60, or when the facility owner or operator requests a limit.

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

The gist of the proposed rule is to clarify source eligibility criteria for the PBR and ensure that the current PBR allows facilities potentially subject to NSPS Subpart OOOOb to take LPE limits to avoid applicability of the federal requirements for certain equipment. Additional changes will ensure that GHGs are exempt from various requirements except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO₂e. Lastly, proposed changes authorize electronic submission of applications and clarify requirements applicable to minor source facilities that are later required by federal rule to obtain major source (Title V) operating permits.

AUTHORITY:

- Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-3-402, and 2-5-106.
- Air Quality Advisory Council; 27A O.S. §§ 2-2-201 and 2-5-107.
- Oklahoma Clean Air Act; 27A O.S. §§ 2-5-101 through 2-5-130.
- Oklahoma Uniform Permitting Act; 27A O.S. §§ 2-14-101 through 2-14-304.

COMMENT PERIOD:

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

PUBLIC HEARINGS:

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

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

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

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the contact person, reviewed at the Department of Environmental Quality, 707 N. Robinson, Oklahoma City, OK 73102, or reviewed online at <https://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>.

RULE IMPACT STATEMENTS:

Pursuant to 75 O.S. § 303(D), a rule impact statement was prepared and is available on the DEQ website at <https://www.deq.ok.gov/council-meetings/air-quality-advisory-council/>. Copies may also be obtained from the Department by calling the contact person listed below.

CONTACT PERSON:

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

PERSONS WITH DISABILITIES:

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