

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

RULE IMPACT STATEMENT

**Subchapter 1. General Provisions**

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

**Subchapter 7. Permits for Minor Facilities**

**Part 3. Construction Permits**

**252:100-7-15. [AMENDED]**

**Part 4. Operating Permits**

**252:100-7-18. [AMENDED]**

Before the Air Quality Advisory Council, October 5, 2011 and January 18, 2012

Before the Environmental Quality Board, February 24, 2012

1. **DESCRIPTION:** The Department is proposing to:
  - (A) modify Subchapter 1 to complete the incorporation of the U. S. Environmental Protection Agency's (EPA's) recent changes to the Prevention of Significant Deterioration (PSD) and Part 70 permitting programs exempting biogenic carbon dioxide (CO<sub>2</sub>) emissions from certain biomass sources;
  - (B) modify Subchapters 1 and 7 to resolve issues surrounding the date an application for an air quality operating permit must be submitted to the Department;
  - (C) modify Subchapter 7 to achieve consistency between new sources and modifications regarding the requirement for air quality permits for facilities subject to federal New Source Performance Standards (NSPS, 40 CFR Part 60) and/or federal National Emission Standards for Hazardous Air Pollutants (NESHAPs, 40 CFR Parts 61 and 63); and
  - (D) make other nonsubstantive changes in the sections of the rules that are being revised.

EPA has deferred for a period of three (3) years the application of the PSD and Part 70 permitting requirements to biogenic CO<sub>2</sub> emissions from bioenergy and other biogenic stationary sources. The proposed modification of the definition of "carbon dioxide equivalent emissions" or "CO<sub>2</sub>e" in OAC 252:100-1-3, along with previous revisions of the definitions of "subject to regulation" in 252:100-8-2 and 252:100-8-31, will accomplish this deferral. Due to an error in the *Oklahoma Register* (28 OK Reg 1079) published June 15, 2011, the Department is proposing to correct the definition of CO<sub>2</sub>e by replacing a dash that was erroneously converted to the letter "B". The Department proposes to add a definition of "fossil fuel" for further clarity in the CO<sub>2</sub> deferral. These proposed modifications to Subchapter 1 will ensure that the State rules regarding greenhouse gas permitting will not be perceived to be more stringent than the corresponding federal rules. The Department also proposes to change "PM-10" to "PM<sub>10</sub>" and "PM-2.5" to "PM<sub>2.5</sub>" in some definitions in 252:100-1-3 for consistency in formatting.

The Department is proposing changes to clarify the date an application for an air quality operating permit must be submitted. The Department proposes to define the term

"commencement of operation" or "commencing operation" in OAC 252:100-1-3 and use that term in 252:100-7-18(a)(1) and (2). The Department also proposes to increase from 60 days to 180 days the time allowed for submission of a minor facility air quality operating permit application following commencement of operation. This will allow additional time for owners and operators of minor facilities to complete construction and prepare their minor facility operating permit applications. This change will result in the use of the same terminology and time limits for submitting air quality operating permit applications in the minor facility permit program and in the Part 70 permit program.

The Department is proposing to revise OAC 252:100-7-15(a)(2)(B)(i) to narrow the requirement for an existing minor facility to obtain an individual air quality construction permit. The proposed revision would require an existing minor facility to obtain a construction permit to add a piece of equipment or a process that is subject to an emission standard, equipment standard, or work practice standard in an NSPS or NESHAP. A construction permit would not be required to add a process or equipment that is subject only to reporting and/or recordkeeping requirements in an applicable NSPS and/or NESHAP.

2. **CLASSES OF PERSONS AFFECTED:** The revision of the definition of "CO<sub>2</sub>e" in OAC 252:100-1-3 to address the deferral and to correct errors made in the publication process should have little effect on any class of persons, since the definitions of "subject to regulation" in 252:100-8-2 and 252:100-8-31 have been previously modified to include the CO<sub>2</sub> deferral. The proposal to add definitions in 252:100-1-3 for the terms "commencement of operation" and "fossil fuel" will affect owners and operators of facilities and sources that are subject to the air quality permitting programs, the DEQ Staff, and anyone else who uses Chapter 100. The owners and operators of certain existing minor facilities will benefit from the proposed revision of 252:100-7-15(a)(2)(B)(i), which would make the requirement for existing minor facilities to obtain construction permits more consistent with the requirement for new minor facilities to obtain construction permits when NSPS and NESHAP are involved.
3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** There are no direct economic burdens or costs as a result of the proposed modifications. The proposal to modify the definition of "CO<sub>2</sub>e" and to add definitions of "commencement of operation" and "fossil fuel" to OAC 252:100-1-3 merely define or modify terms that are already used in Chapter 100. Defining the term "commencement of operation" does not create a requirement to obtain an operating permit for any facility or source, but merely helps clarify when the application for an operating permit must be submitted to the Department. The proposed revisions to 252:100-7-15(a)(2)(B)(i) and 252:100-7-18(a)(1) and (2) would not impose additional costs to permittees or the Department.
4. **INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** The Department has received no information on cost impacts from private or public entities.
5. **CLASSES OF PERSONS BENEFITTED:** The owners and operators of minor facilities and of sources subject to the Part 70 operating permit program and the Department would benefit from having a definition of the term "commencement of operation." The proposed

definition would help clarify when an operating permit application must be submitted to the Department. The owners and operators of existing minor facilities would benefit by the proposed revision to OAC 252:100-7-15(a)(2)(B)(i) that could relieve some of these facilities from the requirement to obtain an air quality construction permit to add a process or piece of equipment that is subject only to reporting and/or recordkeeping requirements in an NSPS and/or NESHAP. This revision would also spare the Department the expense of issuing these permits which do little to improve air quality. The owners and operators of minor facilities that require air quality permits would benefit by the revision of the language in 252:100-7-18(a)(1) and (2) to include the term "commencement of operation" and to increase the time allowed to submit a minor facility air quality operating permit application. Anyone who uses the Department's air quality control rules would benefit from the corrections of errors and the addition of clarifying language and definitions.

6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** There are no direct economic burdens or costs as a result of this proposal.
7. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** The Department anticipates no economic impact on political subdivisions.
8. **POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:** This proposal should not have a significant adverse economic impact on small businesses. The owners and operators of some of these facilities may be spared the expense of obtaining an air quality construction permit.
9. **LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** No fee changes are included in the proposed amendment.
10. **PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** The loss of any permit application fees to the Department due to the applicability changes in OAC 252:100-7-15(a)(2)(B)(i) would be more than offset by the resources saved by not having to issue these permits. The Department would benefit from improved efficiency as a result of the proposed revisions.
11. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** None. No other agencies would be implementing or enforcing the rules.
12. **SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** Federal grants, fees, and state appropriations would continue to be used to implement and enforce the rules.
13. **PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** The proposal should have little effect on net revenues for the DEQ or other agencies.
14. **COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE:** Cooperation of political subdivisions would not be required to

implement or enforce the rules.

15. **EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** No measures are necessary. The Department anticipates no significant compliance costs and may even experience a savings by ending the uncertainty surrounding the date an operating permit application must be submitted to the Department and by exempting modifications at certain existing minor facilities from the necessity of obtaining a construction permit. The proposal to define terms already used in the air quality rules would improve the clarity of the rules.
16. **DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** There are no less costly or nonregulatory methods of achieving the purpose of the proposed rule revisions.
17. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The proposed revisions are not expected to have an appreciable impact on the public health, safety, and environment. Except for the modification of the definition of "CO<sub>2</sub>e" in Subchapter 1, the proposed revisions merely clarify and modify the permitting process. The owners and operators of facilities affected by these revisions must continue to comply (and demonstrate compliance) with other existing requirements and standards that apply to the facilities. The proposed revisions add no new standards or emission limits. The proposed modification to the definition of "CO<sub>2</sub>e", while deferring the applicability of the PSD and Title V programs to certain biogenic CO<sub>2</sub> emissions, only reflects changes already made to the PSD and Part 70 programs and would have no additional effect on the public health, safety and environment.
18. **IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK:** The proposed revisions to the rules are not expected to have an appreciable impact on the public health, safety, and environment. The proposed rule changes primarily modify, clarify, and streamline permitting processes and do not affect the emission standards or limits to which a facility or source is subject.
19. **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** The proposal is expected to improve the efficiencies of the permitting processes. If the proposed modifications are not implemented these improvements will not be experienced by the permittees or by the Department.
20. **PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** There are no significant direct economic burdens or costs as a result of this proposal because it neither requires any new or modified source to obtain a permit, nor does it set any new emission standards or limits. The proposal should have a beneficial impact to business entities by

increasing the time allowed to submit an application for a minor facility operating permit and by exempting modifications to certain existing minor facilities from the requirement to obtain air quality construction permits.

**THIS RULE IMPACT STATEMENT WAS PREPARED ON:** August 30, 2011

**MODIFIED ON:** October 5, 2011 and December 12, 2011