

PLEASE NOTE: The attached Notice of Rulemaking Intent was published in the *Oklahoma Register* on December 1, 2011 for the January 18, 2012 Air Quality Advisory Council meeting. The rules and Rule Impact Statements for the proposed rules included in the notice will be posted 30 days prior to the Council meeting on the DEQ Air Quality Division's website, no later than December 16, 2011.

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

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

252:100-1-3. [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 3. Construction Permits

252:100-7-15 [AMENDED]

Part 4. Operating permits

252:100-7-18 [AMENDED]

Subchapter 31. Control of Emission of Sulfur Compounds

Part 1. General Provisions

252:100-31-1. [AMENDED]

252:100-31-2. [AMENDED]

252:100-31-4. [NEW]

Part 2. Ambient Air Concentration Limits or Impacts for New and Existing Equipment, Sources, or Facilities

252:100-31-7. [AMENDED]

Part 3. Existing Equipment Standards

252:100-31-13. [AMENDED]

252:100-31-15. [AMENDED]

252:100-31-16. [AMENDED]

Part 5. New Equipment Standards

252:100-31-25. [AMENDED]

252:100-31-26. [AMENDED]

252:100-31-27. AMENDED]

SUMMARY:

The Department is proposing to modify Subchapter 1, General Provisions, to include the revision to the definition of "carbon dioxide equivalent emissions" or "CO₂e" required by the U.S. Environmental Protection Agency's (EPA's) recent changes to the Prevention of Significant Deterioration (PSD) and Part 70 programs, which allows the deferral of permitting of carbon dioxide (CO₂) emissions from certain biomass sources until July 21, 2014. This proposed modification will prevent the State rule from being perceived to be more stringent than the corresponding federal rule. The Department is also proposing to correct an error in this definition that occurred during publication in the *Oklahoma Register* (28 OK Reg 1079) published June 15, 2011. For clarity, the

Department is proposing to add other new definitions to Subchapter 1 including a definition for "commencement of operation" or "commencing operation."

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

The Department is proposing changes to Subchapter 31, Control of Emission of Sulfur Compounds, to clarify the language and to bring the allowable sulfur dioxide (SO₂) ambient air limits set forth in OAC 252:100-31-7(a) into line with the requirements of the recently-enacted change to the SO₂ National Ambient Air Quality Standards (NAAQS). In response to previous public and Council comments, the Department is considering additional changes to several longstanding control, monitoring, and emission requirements of the Subchapter. In addition, the Department is proposing to add requirements for fuel-burning equipment that uses an alternative fuel. The Department is also proposing to add a new section 252:100-31-4, which aligns Subchapter 31 excess emission reporting requirements with those of 252:100-9 for facilities that are also covered by a 40 CFR Part 60 emission limit.

AUTHORITY:

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

COMMENT PERIOD:

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

PUBLIC HEARINGS:

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

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

These hearings shall also serve as public hearings to receive comments on the proposed revisions to the State Implementation Plan (SIP) under the requirements of 40 CFR § 51.102 and 27A O.S. § 2-5-107(6)(c), and to the State Title V (Part 70) Implementation Plan under the requirements of 40 CFR Part 70 and 27A O.S. § 2-5-107(3).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

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

RULE IMPACT STATEMENTS:

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

CONTACT PERSON:

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

PERSONS WITH DISABILITIES:

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