

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

RULE IMPACT STATEMENT

**Subchapter 1. General Provisions**

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

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

**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**

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

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

**Part 9. Major Sources Affecting Nonattainment Areas**

**252:100-8-51.1. Emissions reductions and offsets [AMENDED]**

Before the Air Quality Advisory Council, October 5, 2011

Before the Environmental Quality Board, November 15, 2011

1. **DESCRIPTION:** The Department is proposing to modify Subchapters 1 and 8 to include the U S. Environmental Protection Agency's (EPA's) recent changes to the Prevention of Significant Deterioration (PSD) and Part 70 (Title V) programs regarding permitting of carbon dioxide (CO<sub>2</sub>) emissions from certain biomass sources. EPA has deferred for a period of three (3) years the application of the PSD and Part 70 permitting requirements to biogenic CO<sub>2</sub> emissions from bioenergy and other biogenic stationary sources. The Department proposes to modify the definition of "carbon dioxide equivalent emissions" or "CO<sub>2</sub>e" in OAC 252:100-1-3 and the definitions of "subject to regulation" in 252:100-8-2 and 252:100-8-31 to accomplish this deferral. The proposed modification to Subchapter 1 and Parts 5 and 7 of Subchapter 8 would prevent the State rule from being perceived to be more stringent than the corresponding federal rule. The Department is also proposing to add a definition of "commencement of operation" or "commencing operation" to OAC 252:100-1-3.

The Department is proposing to make a change to OAC 252:100-8-4(a)(1) which would clarify that construction permits for new and modified Part 70 sources shall be obtained under the requirements of Part 5 of 252:100-8 and not 252:100-7, Permits for Minor Facilities. In addition, a change is proposed to 252:100-8-4(b), which would set a schedule for a timely application submittal for sources that become subject to the Part 70 operating permit program without any physical or operational change or any increase in emissions of air pollutants subject to regulation.

Due to errors in the *Oklahoma Register* (28 OK 1079) published June 15, 2011, the Department is proposing a series of corrections to Subchapters 1 and 8. The corrections are in the definition of "carbon dioxide equivalent emissions" or "CO<sub>2</sub>e" in OAC 252:100-1-3

where a dash was erroneously converted to the letter "B"; in paragraph (B) of the definition of "subject to regulation" in 252:100-8-2 and in paragraph (B)(i) of the definition of "subject to regulation" in 252:100-8-31 where dashes were erroneously converted to the letter "B"; in the definitions of "baseline area" and "significant" in 252:100-8-31 where " $\mu\text{g}/\text{m}^3$ " was erroneously converted to " $\text{Fg}/\text{m}^3$ " in 252:100-8-33(c)(1) where a number of occurrences of " $\mu\text{g}/\text{m}^3$ " were erroneously converted to " $\text{Fg}/\text{m}^3$ "; and in 252:100-8-51.1(c) where the date of incorporation by reference was July 1, 2011 when it should have been July 1, 2010.

The Department proposes to make other nonsubstantive changes in the sections of the rules that are being revised, including changing the name of Subchapter 8 to "Permits for Part 70 Sources and Major New Source Review (NSR) Sources".

2. **CLASSES OF PERSONS AFFECTED:** Classes of persons affected by the proposed modifications are the owners and operators of new and modified sources of greenhouse gas (GHG) who would experience additional regulatory relief due to the 3-year deferral of certain biogenic  $\text{CO}_2$  emissions from bioenergy and other biogenic stationary sources from the applicability of the PSD and Part 70 permitting programs. These owners and operators would potentially be spared the expense of applying for PSD and Part 70 permits or at least be exempt from the requirement to determine best available control technology (BACT) for  $\text{CO}_2$  emissions from these biogenic sources. Anyone who uses the Department's air quality control rules would benefit from the corrections of errors and the addition of clarifying language.
3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** There are no direct economic burdens or costs as a result of this proposal since it merely clarifies that the State's PSD and Part 70 programs mirror the EPA rule insofar as the 3-year deferral from the PSD and Part 70 permitting programs is concerned. The owners and operators of these sources may be spared the expense of applying for PSD and Part 70 permits or at least spared from the requirement to determine BACT for  $\text{CO}_2$  emissions from these biogenic sources. Anyone who uses the Department's air quality control rules should benefit from the corrections of errors and the addition of clarifying language.
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:** This proposal would benefit the owners and operators of a certain sources of GHG by clarifying that there is a 3-year deferral from PSD and Part 70 permitting programs for certain biogenic  $\text{CO}_2$  emissions from bioenergy and other biogenic stationary sources. These owners and operators may be spared the expense of applying for PSD and Part 70 permits or at least be exempt from the requirement to apply BACT to  $\text{CO}_2$  emissions from these biogenic sources. Anyone who uses the Department's air quality control rules would benefit from the corrections of errors and the addition of clarifying language.
6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** There are no direct economic burdens or costs as a result of this proposal since it merely

clarifies the 3-year deferral of certain biogenic CO<sub>2</sub> emissions from bioenergy and other biogenic stationary sources from the applicability of the PSD permitting program and Part 70 permitting program. The owners and operators of these sources may be spared the unnecessary expense of applying for permits or at least spared from the expense of applying BACT to these biogenic CO<sub>2</sub> emissions. The corrections of errors in the air quality control rules and the addition of clarifying language should result in a savings of time for anyone who uses the rules.

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 impose no economic costs upon smaller sources of GHG and should not have a significant economic impact on a substantial number of these small entities. The owners and operators of these sources may be spared the expense of unnecessarily applying for permits or at least be spared the requirement to apply BACT to these biogenic CO<sub>2</sub> emissions.
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:** There should be no direct economic burdens or costs to the Department as a result of this proposal. This proposal merely clarifies the 3-year deferral of certain biogenic CO<sub>2</sub> emissions from PSD and Part 70 permitting. This proposal would ensure that the Department would not incur the costs of dealing with BACT determination for these biogenic CO<sub>2</sub> emissions.
11. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** None. No other agencies would be implementing or enforcing this rule.
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 rule.
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 rule.
15. **EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** The proposal itself would minimize compliance costs by clarifying the 3-year deferral of certain biogenic CO<sub>2</sub> emissions from PSD and Part 70 permitting. The owners and operators of these sources may be spared the expense of

unnecessarily applying for permits or at least be spared the requirement to apply BACT to these biogenic CO<sub>2</sub> emissions.

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.
17. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** Since this proposal is a clarification of an existing exemption, there should be no effect on 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 proposal would clarify the 3-year deferral of certain biogenic CO<sub>2</sub> emissions from PSD and Part 70 permitting.
19. **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** The proposal would clarify the regulatory relief permitting authorities and certain bioenergy and biogenic stationary sources would receive from a 3-year deferral of biogenic CO<sub>2</sub> emissions from PSD and Part 70 permitting.
20. **PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** There are no direct economic burdens or costs as a result of this proposal because it does not require any new or modified source to obtain a permit. Enforceable requirements to obtain a Part 70 operating permit, or to adhere to PSD requirements are already established. This proposal clarifies the promulgation of a 3-year deferral of certain biogenic CO<sub>2</sub> emissions from the applicability of the PSD and Part 70 permitting programs, which may spare the owners and operators of these sources the expense of obtaining permits or at least the expense of applying BACT to these emissions.

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