

# Permitting News

## Permit Exempt Rule Guidance

On June 11, 2004, changes to the Oklahoma Air Pollution Control Rules—creating a permit exempt status for minor sources—became effective. The changes can be found in Oklahoma Administrative Code (“OAC”) Title 252, Chapter 100, Subchapter 7. Questions concerning the implementation of this change have been compiled and are presented below in order to provide general information and guidance to those potentially affected facility operators.

### Does this rule apply to my facility?

Your facility is permit exempt if:

- A. Actual emissions are 40 tons per year (“TPY”) or less for each regulated air pollutant.
- B. The facility is not an actual or potential major source.

A facility is a major source if it emits, or has the potential to emit, 100 TPY of a regulated pollutant, 10 TPY or more of a single Hazardous Air Pollutant (“HAP”) or 25 TPY or more of all HAPs.

Potential to emit is defined as the maximum capacity of a stationary source to emit any regulated pollutant and/or HAP.

- C. The facility is not operated in conjunction with another facility or source that is subject to Air Qual-

ity Division (“AQD”) permitting or that combined would not qualify as permit exempt.

A facility is defined as 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 Standard Industrial Classification (“SIC”) Code.

In other words, splitting out part of your facility and declaring it permit exempt because it emits less than 40 TPY may not be acceptable. Therefore, care should be taken when an owner/operator is determining whether a facility is “permit exempt” or not. The AQD will make this determination should an owner or operator apply for an Applicability Determination (AD).

- D. The facility is not subject to an emissions standard, equipment standard, or work practice standard under NSPS or NESHAP.

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## Air Quality Update

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## Self-Reported Violations

The Air Quality Division’s Enforcement and Compliance Sections have developed an existing rule into an exciting new opportunity for the regulated community. The Oklahoma Administrative Code contains a rule for self-reporting of non-compliance that allows a facility to receive mitigation of administrative penalties. Until recently, the Department had not developed a policy for addressing self-reported violations and each report was handled on a case-by-case basis.

The Air Quality Division recognized the need to develop a policy based on the self-reporting rule to ensure that each company is treated fairly. It started with a review of the rule. Air Quality’s Enforcement Manager, Compliance Manager, Legal Supervisor and key Enforcement Section personnel assisted in creating the new policy.

The policy is based on the requirements set out in OAC 252:4-9-5 and follows many of the same steps for the investigators as any other enforcement case. It allows a facility to submit a written notification to the Department, addressing each of the eight criteria in the rule. If the company or facility can meet the requirements, penalties are waived and the company is allowed to correct the violation at a reduced cost while the citizens of Oklahoma reap the benefits of industry maintaining environmental compliance.

Although the policy was only recently finalized, many in the regulated community became aware of the program and have already taken advantage of the existing rule. In fiscal year 2003, over 100 self-disclosures were received and processed through Air Quality’s Enforcement Section. The violations reported included everything from minor reporting violations to unreported major sources requiring permits.

The response from industry has been overwhelmingly positive and Air Quality expects the Self-Disclosure Program to grow as more and more businesses become aware of the program and decide that self-evaluation is a much better way of doing business. Companies that take advantage of the rule often save money and are allowed to install and operate more effective control equipment which gives a healthier bottom line to both industry and those who breathe the air.

Although OAC 252:4-9-5 lists the minimum information required by the Department to properly process a self-disclosed violation, more information



Contact Tower Regenerator

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is often needed. Therefore, the Department is also developing a Self-Disclosure Form to assist industry in reporting their violations. Once this form is finalized and approved, it will be available on the Agency's website. More information on this exciting new opportunity will be supplied as it becomes available.

### New Semi-Annual Monitoring and Deviation Report Forms

The Compliance and Enforcement Sections have developed a new form to assist Title V permit holders in completing the Semi-Annual Monitoring and Deviation Report (SAR) required by each Title V permit. The definition of monitoring found in OAC 252:100-43 became effective June 11, 2003. The new form is similar to the Annual Compliance Certification forms already in use. It includes instructions and provides information regarding monitoring and deviations.

The new SAR form can be found on the DEQ website on the Air Quality Forms page and is available for download in both Microsoft Word and PDF format. If you have any questions regarding the SAR program, please contact Laura Herron, Mike Smith, or Hilary Huber at (405)702-4100.

# Air Quality Council News

The Air Quality Council held its third meeting of 2004 on July 21 at the DEQ Headquarters in Oklahoma City. The meeting included rulemaking hearings on Chapter 110 Lead-Based Paint Subchapters 3, 5, 9, 11, and 13 and Chapter 100 Air Pollution Control Subchapters 3, 7, and 40, 41, and Appendix O.

Amendments to Chapter 110 included updates to definitions and incorporations by reference of federal regulations along with clarification of accreditation of lead-based paint training programs and certification requirements. The Council voted to recommend these changes to the Environmental Quality Board.

Changes to Chapter 100 Subchapter 3 were to correct a reference error in subsection (a) of Section 3-4. The citation was overlooked when the PSD requirements that were previously located in Part 5 of Subchapter 7 were moved to Part 7 of Subchapter 8.

Changes to Chapter 100 Subchapter 7 were to make clear that de minimis cotton gins and de minimis feed, seed, and grain facilities would not be held to more stringent standards than facilities with larger emissions that require permits.

The Council voted to send both of the Chapter 100 subchapters to the Environmental Quality Board.

The proposed changes to Chapter 100 Subchapter 41, 42 and Appendix O were intended to introduce a new concept of regulation to the Division's Toxic Rules. The concept would keep federal standards for the Control of Emissions of Hazardous Air Pollutants and Toxic Air Contaminants in Subchapter 41. It would create a new Subchapter 42 for the Control of Toxic Air Pollutants (TAPs) with state-only requirements. Appendix O would list specific TAPs. Division Director Eddie Terrill encouraged interested parties to study the proposed conceptual changes and submit comments as they are raised without waiting for the official call for comments in the next meeting notice since the overhaul of these subchapters is major. This hearing was continued to the October Council.

Seven of the nine Council members attended the meeting, including new member Bob Curtis who represents transportation since Gary Kilpatrick's resignation. Other Members present were Robert Lynch, David Branecky, Gary Martin, William Breisch, Rick Treeman and Joel Wilson. Chair, Sharon Myers was unable to attend, as was Donald Smith who has been chosen by the Governor to fill the position vacated by Sandra Rose.

The next Air Quality Council Meeting will be held at the Forest Heritage Center, Cedar-Cypress Room at Beaver's Bend State Park near Broken Bow, Oklahoma on Wednesday, October 20, 2004. The next Environmental Quality Board meeting is scheduled for November 16th in Miami.



## The Lead-Based Paint Corner

### Lead-Based Paint Management Rule Amendments

The Air Quality Council (AQC) approved proposed amendments to OAC 252:110, Lead-based Paint Management, at its last meeting on July 21, 2004. These amendments include clarification of requirements for LBP training providers and certification of instructors. Proposed amendments will also incorporate EPA's recent amendments to 40 CFR 745 published on April 8, 2004. EPA amendments specify notification requirements for LBP projects and training courses. The AQC presented the proposed amendments to the Environmental Quality Board (EQB) at its last scheduled meeting on August 24, 2004 in Shawnee, Oklahoma. These rules were approved by the EQB. They will become effective June 2005. For more information, please visit our website at <http://www.deq.state.ok.us>.

### AP-42 EMISSION FACTOR UPDATES

Currently, EPA lists four sections as under review. AP-42 Section 11.19.2-**Crushed Stone Processing and Pulverized Mineral Processing**, and Section 12.2-**Coke Production** are closed to comments. Section 15.4-**Projectiles, Canisters and Charges**, and Section 15.8-**Signals and Simulators** have comment periods that were scheduled to close on July 23, 2004. Find more AP-42 information on EPA's TTN-CHIEF Bulletin Board at <http://www.epa.gov/ttn/chief/ap42/index.html>.