

**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 2. Incorporation by Reference

252:100-2.1. [AMENDED]

252:100-2-3. [AMENDED]

Subchapter 8. Permits for Part 70 Sources

Part 5. Permits for Part 70 Sources

252:100-8-2. [AMENDED]

252:100-8-4. [AMENDED]

Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas

252:100-8-31. [AMENDED]

252:100-8-33. [AMENDED]

Part 9. Major Sources Affecting Nonattainment Areas

252:100-8-51.1. [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]

Appendix Q. Incorporation By Reference [REVOKED]

Appendix Q. Incorporation By Reference [NEW]

SUMMARY:

The Department is proposing to modify Subchapters 1 and 8 to include the Environmental Protection Agency's (EPA's) recent changes to the Prevention of Significant Deterioration (PSD) and Part 70 programs regarding permitting of carbon dioxide (CO₂) emissions from certain biomass sources. EPA has deferred for a period of three (3) years the

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application of the PSD and Part 70 permitting requirements to biogenic CO₂ emissions from bioenergy and other biogenic stationary sources. The Department proposes to modify the definition of "carbon dioxide equivalent emissions" or "CO₂e" 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 will prevent the State rule from being perceived to be more stringent than the corresponding federal rule.

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 Reg 19) 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 "CO₂e" 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 "ig/m³" was erroneously converted to "Fg/m³"; in 252:100-8-33(c)(1) where a number of occurrences of "ig/m³" were erroneously converted to "Fg/m³"; 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.

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 addition, the Department is proposing to add requirements for fuel-burning equipment that use 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.

The Department is proposing to clarify language in Subchapter 2, Incorporation By Reference, and to update OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. Included are changes or additions to 40 CFR Part 60, New Source Performance Standards (NSPS), and Part 63, National Emissions Standards for Hazardous Air Pollutants (NESHAP).

AUTHORITY:

Generally, Environmental Quality Board powers and duties, 27A O.S. § 2-2-101, and 27A O.S. § 2-5-106; Air Quality Advisory Council powers and duties, 27A O.S. § 2-2-201 and 27A O.S. § 2-5-107; and Oklahoma Clean Air Act, 27A O.S. §§ 2-5-101 through -117, and specifically 27A O.S. §§ 2-5-105 (OAC 252:100, Subchapters 1, 2, and 8, and Appendix Q), -112 (Subchapters 1, 2, 8, and 31, and Appendix Q), and -114 (Subchapter 8 and Appendix Q).

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on October 5, 2011. 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 October 5, 2011 hearing and at the November 15, 2011 Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, October 5, 2011, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma.

Before the Environmental Quality Board at 9:30 a.m. on Tuesday, November 15, 2011, at the ExxonMobil Lawrence G. Rawl Engineering Practice Facility (REPF), 850 S. Jenkins, Room 200, Norman, OK 73019.

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/AODnew/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 are available for review 30 days prior to the hearing on the DEQ Air Quality Division website at http://www.deq.state.ok.us/AODnew/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.

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 110. LEAD-BASED PAINT MANAGEMENT**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions

252:110-1-1. Purpose [AMENDED]

252:110-1-2. Basis and authority [AMENDED]

252:110-1-7. Reference to 40 CFR [REVOKED]

Subchapter 5. Incorporation by Reference

252:110-5-1. Incorporation by reference [AMENDED]

Subchapter 15. Additional Renovation, Repair, and Painting (RRP) Requirements [NEW]

252:110-15-1. Definitions [NEW]

252:110-15-2. Scope [NEW]

252:110-15-3. Accreditation of training programs [NEW]

252:110-15-4. Renovator certification requirements [NEW]

252:110-15-5. Certification of firms conducting renovation services [NEW]

252:110-15-6. Fees [NEW]

SUMMARY:

The Department is proposing to amend OAC 252:110, Lead-Based Paint Management, to add Subchapter 15, Additional Renovation, Repair, and Painting (RRP) Requirements. The proposed rule would establish state requirements that are consistent with those established by the U.S. Environmental Protection Agency (EPA) in 40 CFR Part 745 and affect contractors who perform renovation, repair, and painting projects in homes, child-care facilities, and schools built before 1978. The proposal would also affect training providers who offer renovation and dust sampling courses. The proposed state rule is no more stringent than the federal rule and would incorporate changes to be consistent with the Department's current rules. This rule revision is essential to the Department's efforts to obtain EPA delegation to administer the federal Lead-Based Paint Renovation Program in Oklahoma.

The proposal includes amending OAC 252:110-5-1, Incorporation by reference, to add the federal RRP requirements in 40 CFR Part 745. Also, the proposal would establish fees for obtaining and renewing firm certifications and other associated services, which would be assessed after EPA has delegated the Department authority for the program. This proposal provides that a fee for firm certification is to be paid to the Department upon expiration of any existing EPA renovation firm certification. The proposal would also establish an accreditation fee to be paid annually by the accredited facility for each renovation and dust sampling course, in addition to fees and requirements currently established in OAC 252:110-9, Additional accreditation requirements. Training programs previously accredited by EPA would submit fees for accreditation upon expiration of their current accreditation. Both the proposed firm certification and the accreditation fees are equal over time to the corresponding fees in the federal rule.

The Department is proposing to revoke OAC 252:110-1-7, Reference to 40 CFR, because it is a duplication of language already included in Subchapter 5, Incorporation by Reference. In addition, the Department is proposing to amend OAC 252:110-1-1, Purpose, and 252:110-1-2, Basis and authority, to update references to state statutes.

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AUTHORITY:

Environmental Quality Board and Air Quality Advisory Council powers and duties, 27A O.S. §§ 2-2-101 and 2-2-201, respectively; and Oklahoma Lead-Based Paint Management Act, 27A O.S. §§ 2-12-101 and 2-12-201.

COMMENT PERIOD:

Written comments on the proposed rulemaking will be accepted prior to and at the hearing on October 5, 2011. 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 October 5, 2011 hearing.

PUBLIC HEARING:

Before the Air Quality Advisory Council at 9:00 a.m. on October 5, 2011, at the DEQ headquarters, 707 N. Robinson, Oklahoma City, Oklahoma 73102.

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 THE PROPOSED RULE:

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

RULE IMPACT STATEMENT:

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

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