

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

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 33. Control of Emission of Nitrogen Oxides  
252:100-33-1.1 [AMENDED]  
252:100-33-1.2 [AMENDED]

**AUTHORITY:**

Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201 and Oklahoma Clean Air Act, 27A O.S. § 2-5-101, *et seq.*

**DATES:**

**Comment period:**

June 16, 2003 through July 16, 2003

**Public hearing:**

July 16, 2003 and September 9, 2003

**Adoption:**

September 9, 2003

**Submitted to Governor:**

September 17, 2003

**Submitted to House:**

September 17, 2003

**Submitted to Senate:**

September 17, 2003

**Gubernatorial approval:**

October 27, 2003

**Legislative approval:**

Failure of the Legislature to disapprove the rules resulted in approval on March 24, 2004

**Final adoption:**

March 24, 2004

**Effective:**

June 1, 2004

**SUPERSEDED EMERGENCY ACTIONS:**

**Superseded rules:**

252:100-33-1.2 [AMENDED]

**Gubernatorial approval:**

March 17, 2003

**Register publication:**

20 Ok Reg 737

**Docket number:**

03-466

**INCORPORATIONS BY REFERENCE:**

None

**ANALYSIS:**

The DEQ proposes to exempt glass-melting furnaces from the requirements of Subchapter 33 and to revise the definition of "new fuel-burning equipment" to reflect the date (July 1, 1977) that

direct-fired fuel-burning equipment became subject to Subchapter 33. An emergency rule containing this exemption was approved by the Board at their February 28, 2003 meeting and became effective March 17, 2003. The permanent revision was delayed to allow time to determine if other direct-fired fuel-burning processes located in the State faced similar problems in complying with the NOx limits in Subchapter 33. After careful evaluation, staff can find no indication that other direct-fired, fuel-burning processes in the State have the same problems meeting the NOx limits in Subchapter 33, so the staff has recommended that the rule change be made permanent for glass-melting furnaces only. As explained to the Board at the February, 2003 meeting, the basis for the requested amendment was a determination that glass-melting furnaces cannot meet the requirements of Subchapter 33. A review of the Division's records of stack tests performed on existing glass-melting furnaces in the State and a search of EPA's BACT, RACT, LAER Clearinghouse for recently issued permits for glass-melting furnaces in the United States indicates that in other States glass-melting furnaces are not required to and are unable to meet such emissions limits. Staff does not feel that the Department intended to set a NOx emission limit for glass-melting furnaces that could not be met, thus precluding the installation of any new glass plants in the state or the modification of existing glass-melting furnaces. The glass-melting furnaces in question must demonstrate that BACT (Best Available Control Technology) will be used in the design and operation of the equipment. The use of BACT should be sufficient to protect the environment from the adverse effects of the added NOx emissions. The use of BACT will also allow more efficient controls to be required when they are available without the necessity of revising the rule.

**CONTACT PERSON:**

Joyce D. Sheedy, Department of Environmental Quality, Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, (405) 794-6800

**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 1, 2004.**

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CHAPTER 100. AIR POLLUTION CONTROL

SUBCHAPTER 33. CONTROL OF EMISSION OF NITROGEN OXIDES

**252:100-33-1.1. Definitions**

The following terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"New fuel-burning equipment"** means any fuel-burning equipment, ~~with the exception of gas turbines that was not in being on February 14, 1972, or any existing fuel-burning equipment that was altered, replaced, or rebuilt after February 14, 1972, resulting in an increase in nitrogen oxide emissions, and any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions~~ with the following exceptions.

(A) New fuel-burning equipment for gas turbines means any gas turbine that was not in being on July 1, 1977, or any existing gas turbine that was altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions; and

(B) New fuel-burning equipment for direct-fired processes means any direct-fired fuel-burning equipment or processes that were not in being on July 1, 1977, or any existing direct-fired fuel-burning equipment or processes that were altered, replaced, or rebuilt after July 1, 1977, resulting in an increase in nitrogen oxide emissions.

**"Three-hour average"** means the arithmetic average of sampling results or continuous emission monitoring data from three contiguous one-hour periods.

**252:100-33-1.2. Applicability**

(a) This Subchapter applies to new fuel-burning equipment that meets both of the following criteria.

(1) The fuel-burning equipment has a rated heat input of 50 million (MM) Btu/hr or greater.

(2) The equipment burns solid fossil, gas, or liquid fuel.

(b) Glass-melting furnaces that are subject to BACT requirements contained in a currently applicable Air Quality Division permit are exempt from the requirements of this Subchapter.