

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

RULE IMPACT STATEMENT

Subchapter 1. GENERAL PROVISIONS

252:100-1-3. [AMENDED]

Subchapter 8. PERMITS FOR PART 70 SOURCES AND MAJOR NEW SOURCE REVIEW (NSR) SOURCES

Part 5. PERMITS FOR PART 70 SOURCES

252:100-8-2. [AMENDED]

Part 7. PREVENTION OF SIGNIFICANT DETERIORATION (PSD) REQUIREMENTS FOR ATTAINMENT AREAS

252:100-8-31. [AMENDED]

252:100-8-33. [AMENDED]

252:100-8-35. [AMENDED]

Part 9. MAJOR SOURCES AFFECTING NONATTAINMENT AREAS

252:100-8-51.1. [AMENDED]

Before the Air Quality Advisory Council on October 12, 2016

Before the Environmental Quality Board on November 9, 2016

1. **DESCRIPTION:** The Department is proposing to amend several definitions in OAC 252:100, Subchapter 1, General Provisions, and Subchapter 8, Permits for Part 70 Sources and Major New Source Review (NSR) Sources, to align the Department's definitions with those promulgated by the U.S. Environmental Protection Agency (EPA). The gist of this rule change and the underlying reason for the rulemaking is to make certain that the State's rules are not less stringent than the federal rules, thereby ensuring that the Department retains the PSD and Title V programs. The changes are discussed below, grouped according to the underlying reason for the change.
 - a. Amend the definitions of "subject to regulation" in Sections 100-8-2 and 100-8-31, and the definition of "carbon dioxide equivalent emissions" or "CO₂e" in Section 100-1-3 to remove language related to the court-vacated federal "Biomass Deferral Rule."
 - b. Further revise the definition of "subject to regulation" in 100-8-31 to remove language related to court-vacated requirements in 40 CFR § 51.166(b)(48)(v) regarding Step 2 of the Greenhouse Gas Tailoring Rule ([80 FR 50199](#), August 19, 2015).
 - c. Revise the structure and wording of the definition of "regulated NSR pollutant" in Section 100-8-31 to clarify its applicability to condensable particulate matter (PM) emissions, and to emission of pollutants identified as constituents or precursors to a criteria pollutant. Note that the revision would remove "PM emissions" in reference to condensable particulate matter, since PM is not a separate criteria pollutant (i.e., as opposed to criteria pollutants PM_{2.5} and PM₁₀). The definition will retain the requirement to account for condensable particulate matter for PM_{2.5} emissions and PM₁₀ emissions ([77 FR 65107](#), October 25, 2012).

- d. Amend the definition of "significant" in Section 100-8-31 to align the Department's definition with EPA's long-standing definition found in 40 CFR § 51.166(b)(23).
 - e. Modify the definitions of "building, structure, facility, or installation" in Section 100-1-3 and "major source" in Section 100-8-2. These changes would align the Department's definitions with those promulgated by EPA in conjunction with its Source Determination for Certain Emission Units in the Oil and Natural Gas Sector ([81 FR 35622](#), June 3, 2016).
 - f. Further revise the definition of "major source" in Section 100-8-2, to align the language related to ozone nonattainment areas with changes promulgated by EPA as part of the 2008 Ozone National Ambient Air Quality Standards (NAAQS) State Implementation Plan (SIP) Requirements ([81 FR 12264](#), March 6, 2015). In addition, amend Subsection 100-8-33(a) to incorporate clarifications related to revoked NAAQS, that EPA included in the SIP implementation rule.
 - g. Amend Subsection 100-8-33(c) to update language and revise to zero (0 $\mu\text{g}/\text{m}^3$) the $\text{PM}_{2.5}$ impact amount for exemption from pre-construction ambient monitoring requirements in Subsection 100-8-35(c), and to revise Subsection 100-8-35(a) to remove and reserve the $\text{PM}_{2.5}$ significant impact levels (SILs), in accordance with EPA's revisions in 40 CFR § 51.166 (78 FR 73698, December 9, 2013).
 - h. Amend Subsection 100-8-51.1(c) to update the incorporation by reference date to coincide with the effective date for recent changes to 40 CFR § 51.165(a)(11).
2. **CLASSES OF PERSONS AFFECTED:** The classes of persons affected are the owners and operators of facilities that are subject to the permitting requirements in OAC 252:100, and primarily those subject to Subchapter 8.
 3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** The classes of persons who will bear costs are the owners and operators of facilities that are subject to the permitting requirements in OAC 252:100, and primarily those subject to Subchapter 8. However, the proposed revision is not expected to significantly change the costs to be incurred by these persons.
 4. **INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** The Department has received no information on cost impacts from private or public entities pertaining to the proposed rule.
 5. **CLASSES OF PERSONS BENEFITTED:** The citizens of Oklahoma and owners and operators of the facilities subject to these regulations will benefit by the assurance that the most current regulations available are in place to protect public health and welfare. The owners and operators will benefit from consistency in state and federal rules.
 6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** There should be no new economic impacts on affected classes of persons subject to this rule.

7. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** The Department anticipates no economic impact on political subdivisions.
8. **POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:** The Department anticipates no adverse effect on small business as a result of this proposal.
9. **LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** The Department is not proposing any fee changes in this rule.
10. **PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** The Department anticipates there will be no significant increased costs associated with the implementation and enforcement of these proposed amendments. The Department will benefit from the proposal because it will allow state implementation and enforcement of these requirements.
11. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** There are none. No other agencies will be implementing or enforcing these rules.
12. **SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** Fees and federal grants will continue to be used to implement and enforce these rules.
13. **PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** The Department expects no net loss or gain in revenues from these amendments.
14. **COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE:** None is required. The Department will be responsible for all aspects of implementation and enforcement of these rules.
15. **EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** The proposed changes will allow DEQ to implement and enforce state requirements, rather than EPA enforcing equivalent federal regulations. State implementation generally results in lower compliance costs for those affected.
16. **DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** The Department has determined that there are no less costly or nonregulatory or less intrusive methods of achieving the purpose of the proposed rule.
17. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The proposed changes will have a positive effect on public health, safety, and the environment by clarifying and updating requirements that were established to protect public health and welfare.

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 proposed changes will have a positive effect on public health, safety, and the environment by clarifying and updating requirements that were established to protect public health and welfare.
19. **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** If the proposed changes are not implemented, the Department's program may not be fully approvable by EPA, which could ultimately result in its being implemented and enforced by the federal government rather than the State.
20. **PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** There will be no new quantitative impact on business entities since the proposed changes will better align state requirements with the current federal requirements. The owners or operators of businesses subject to federal requirements will benefit from consistent state and federal standards.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: August 18, 2016