

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

Before the Air Quality Advisory Council on October 17, 2024
Before the Environmental Quality Board on November 7, 2024

RULE IMPACT STATEMENT

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1. Definitions [AMENDED]

252:100-5-2.1. Emission inventory [AMENDED]

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

252:100-7-1.1. Definitions [AMENDED]

252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities

Part 3. Construction Permits

252:100-7-15. Construction permit [AMENDED]

Part 9. Permits By Rule

252:100-7-60.5. Oil and natural gas sector [AMENDED]

252:100-7-60.6. Emergency engine facilities [AMENDED]

252:100-7-60.7. Gasoline dispensing facilities and gasoline dispensing facilities with emergency engines [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. Definitions [AMENDED]

252:100-8-4. Requirements for construction and operating permits [AMENDED]

252:100-8-5. Permit applications [AMENDED]

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

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

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

DESCRIPTION: The Department of Environmental Quality (Department or DEQ) is proposing to amend the Permit By Rule (PBR) in OAC 252:100-7-60.5, Oil and natural gas sector, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated requirements in 40 C.F.R. Part 60, Subpart OOOOb Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After December 6, 2022 (NSPS Subpart OOOOb). Additionally, the proposed amendment would allow the use of legally and practicably enforceable (LPE) limits when determining a facility's eligibility for the PBR. On June 11, 2024, the Environmental Quality Board adopted emergency rules in OAC 252:100-7-60.5, which were approved by the Governor on July 25, 2024. This emergency rule allows the use of the above-mentioned LPE limits. The proposed permanent rule amendments would replace the currently-effective emergency rule.

Absent changes in other sections of Chapter 100, the proposed changes to the permanent rule language in OAC 252:100-7-60.5 would trigger additional requirements regarding the reporting of emissions of Greenhouse Gases (GHGs), submission of fees for GHGs, and other state permitting requirements for which GHGs have historically been exempt. To ensure that the proposed

permanent amendments to the PBR for the oil and natural gas sector do not create additional, unintended requirements for owners and operators of various facilities, the DEQ is proposing amendments to other sections of chapter 100. These amendments would ensure that GHG emissions remain exempt from annual emission inventory reporting and fees. Further, GHG emissions would not be factored into certain permitting determinations, such as eligibility for a “de minimis facility,” a “permit exempt facility,” or a PBR or general permit; or used as the basis for a major source/NSR determination, except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO₂e. Further, GHG limits will only be included in minor facility permits if the facility is subject to a GHG limit under a federal NSPS or National Emission Standard for Hazardous Air Pollutants (NESHAP), a requirement adopted as mandated by a federal Emissions Guideline in accordance with 40 C.F.R. Part 60, or when the facility owner or operator requests a limit.

Additional amendments to OAC 252:100-8-4 will incorporate changes to authorize electronic submission of an application for a major source construction or operating permit and to clarify that a facility that is required by federal rule to obtain a Title V operating permit absent a change in facility equipment or emissions increases will continue to be subject to any emission limits established in a previously obtained minor source permit unless the facility obtains a major source construction permit.

The gist of the proposed rule is to clarify source eligibility criteria for the PBR and ensure that the current PBR allows facilities potentially subject to NSPS Subpart OOOOb to take LPE limits to avoid applicability of the federal requirements for certain equipment. Additional changes will ensure that GHGs are exempt from various requirements except for the federal requirement for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO₂e. Lastly, proposed changes authorize electronic submission of applications and clarify requirements applicable to minor source facilities that are later required by federal rule to obtain major source (Title V) operating permits.

CLASSES OF PERSONS AFFECTED: The classes of persons affected are the owners and operators of facilities that qualify for, and elect to obtain coverage under, the oil and natural gas PBR, including those that have already registered under the PBR. Proposed changes to the rules to maintain the status quo regarding the treatment of GHGs under the Oklahoma DEQ’s air quality rules would, if not adopted, have significant impacts on all facilities subject to permitting requirements.

CLASSES OF PERSONS WHO WILL BEAR COSTS: The classes of persons who will bear costs are the owners and operators of facilities that qualify for, and elect to obtain coverage under, the oil and natural gas PBR, including those that have already registered under the PBR. There are no new costs associated with this rulemaking activity.

INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES: The Department has not received any information on cost impacts of the proposed amendments as of this date. There are no new costs associated with this rulemaking activity.

CLASSES OF PERSONS BENEFITTED: The classes of persons who would benefit from this rule are the owners and operators of facilities that qualify for, and elect to obtain coverage under, the oil and natural gas PBR, including those that have already registered under the PBR. The proposed amendments would ensure that facilities subject to NSPS Subpart OOOOb are able to be covered by the oil and natural gas PBR and clarify methods allowed when determining eligibility for the PBR, including taking a legally and practicably enforceable limit to avoid applicability of NSPS Subpart OOOOb for certain equipment. Further, all facilities subject to permitting requirements will benefit from the maintenance of the status quo with regard to the treatment of GHGs.

PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS: The Department expects no significant economic impact on the affected classes of persons from this rulemaking activity. Owners and operators of facilities that qualify for the oil and natural gas PBR, including those that have already registered under the PBR will continue to be covered by or qualify for the PBR. There could be some costs associated with demonstrating compliance with the LPE criteria in the PBR; however, those potential costs (and more) would also be present for facilities that do not elect to obtain coverage under the PBR, and instead are subject to NSPS Subpart OOOOb. In addition, maintenance of the status quo with regard to the treatment of GHGs will ensure that no new costs will be imposed on facilities subject to air quality permitting requirements.

PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: The Department anticipates no economic impact on political subdivisions due to this rule.

POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS: The Department anticipates no adverse effect on small business.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: The Department is not proposing any fee changes in this rule.

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 aid state implementation and enforcement of new and existing federal requirements. Maintenance of the status quo with regard to GHG requirements will ensure that no additional costs are incurred regarding the treatment of GHGs.

PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE: There are none. No other agencies will be implementing or enforcing these regulations.

SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE: Existing fees and federal grants will continue to be used to implement and enforce these regulations.

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.

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 regulations.

EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS: The proposed amendments minimize compliance costs by clarifying what methods may be used when determining applicability to the oil and natural gas PBR. The proposed amendments also ensure that the PBR covers standards set forth in NSPS Subpart OOOOb. In addition, by adopting language to maintain the status quo with regard to GHG requirements, the proposed amendments ensure that no additional compliance costs will be imposed.

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.

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 updating the PBR to implement new and existing standards that were established to protect public health and welfare.

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 are not designed to reduce significant risks to public health, safety, and the environment but will have an overall positive effect by updating the PBR to implement new and existing standards that were established to protect public health and welfare.

DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED: Not implementing the proposed amendments would not have any detrimental effect on public health, safety, or environment. The regulatory requirements for qualifying facilities are already in place at the federal level.

PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE): The Department anticipates a positive impact on business entities that own or operate facilities which qualify for this PBR.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: September 3, 2024
MODIFIED ON: