



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R06-OAR-2024-0031; FRL-12970-01-R6]**

### **Air Plan Approval; Oklahoma; Updates to the State Implementation Plan for New Source Review Permitting and General SIP Provisions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve identified portions of revisions to the Oklahoma State Implementation Plan (SIP) submitted by the State of Oklahoma designee between 2002 and 2025 to update the Oklahoma New Source Review (NSR) permit program and make general updates to the Oklahoma SIP.

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA-R06-OAR-2024-0031, at <https://www.regulations.gov> or via email to [wiley.adina@epa.gov](mailto:wiley.adina@epa.gov). Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods,

please contact Adina Wiley, telephone number (214) 665-2115, email address: [wiley.adina@epa.gov](mailto:wiley.adina@epa.gov). For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

*Docket:* The index to the docket for this action is available electronically at <https://www.regulations.gov>. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (e.g., CBI).

**FOR FURTHER INFORMATION CONTACT:** Adina Wiley, EPA Region 6 Office, Air Permits Section (ARPE), telephone number: (214) 665-2115, email address: [wiley.adina@epa.gov](mailto:wiley.adina@epa.gov). We encourage the public to submit comments via <https://www.regulations.gov>. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

## **I. Background**

Section 110 of the Act requires states to develop air pollution regulations and control strategies to ensure that air quality meets the EPA’s National Ambient Air Quality Standards (NAAQS). These ambient standards are established under section 109 of the Act and they currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. The state’s air regulations are contained in its SIP, which is basically a clean air plan. Each state is responsible for developing SIPs to demonstrate how the NAAQS will be achieved, maintained, and enforced. The SIP must be submitted to the EPA for approval and any changes a state makes to the approved SIP also must be submitted to the EPA for approval. When reviewing SIP submissions, the EPA’s role is to approve state choices provided they meet

the criteria of the CAA, and the applicable federal regulations pertaining to the specific submitted revision(s) being acted on.

Section 110(a)(2)(C) of the CAA requires states to develop and submit to the EPA for approval into the SIP, preconstruction review and permitting programs applicable to certain new and modified stationary sources of air pollutants for attainment/unclassifiable and nonattainment areas that cover both major and minor new sources and modifications, collectively referred to as the NSR SIP. The CAA NSR SIP program is composed of three separate programs: Prevention of Significant Deterioration (PSD), Nonattainment New Source Review (NNSR), and minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS – “attainment areas” – as well as areas where there is insufficient information to determine if the area meets the NAAQS – “unclassifiable areas.” The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS – “nonattainment areas.” The minor NSR program addresses construction or modification activities that do not emit, or have the potential to emit, beyond certain major source/major modification thresholds and thus do not qualify as “major” and applies regardless of the designation of the area in which a source is located. The EPA regulations governing criteria that states must satisfy for EPA approval of their NSR programs as part of the SIP are contained in 40 CFR 51.160-51.166. The requirements at 40 CFR 51.160-51.164 apply generally to all preconstruction permitting programs and establish the minimum requirements for minor NSR programs that cover the construction and modification of minor sources and minor modifications to existing major stationary sources. Requirements specific to construction of new stationary sources and major modifications in nonattainment areas are codified in 40 CFR 51.165 for the NNSR program. Requirements for permitting of new stationary sources and major modifications in attainment areas subject to PSD, including additional public participation requirements, are found at 40 CFR 51.166.

Title V of the CAA requires states to develop and submit to the EPA for approval, operating permit programs for major sources of air pollution and certain other sources. The EPA regulations governing criteria that states must satisfy for EPA approval of the title V permitting programs are contained in 40 CFR part 70.

The Oklahoma air quality permit program addresses the CAA title I and title V permitting requirements through the Oklahoma implementing regulations in Oklahoma Administrative Code (OAC), Title 252 – Department of Environmental Quality, Chapter 4 – Rules of Practice and Procedure, and Chapter 100 – Air Pollution Control. This proposed rulemaking will address the following revisions to the Oklahoma SIP to update the Oklahoma NSR program and make general updates to the Oklahoma SIP. Portions of the submitted Oklahoma regulations that are severable and specific to the Oklahoma title V permitting program will be addressed by the EPA in a separate, title V specific action.

- By letter dated February 14, 2002, Mr. Brian C. Griffin, Oklahoma Secretary of Environment, submitted revisions to the Oklahoma SIP. This submittal was received by the EPA on March 5, 2002. The submittal includes updates and amendments to Oklahoma Administrative Code (OAC) 252, Chapter 100. The EPA has acted on all aspects of this submittal except for the portions pertaining to minor NSR changes at major NSR sources.
- By letter dated June 24, 2010, Mr. J.D. Strong, Oklahoma Secretary of Environment, submitted revisions to the Oklahoma SIP. This submittal was received by the EPA on June 30, 2010. This proposed rulemaking addresses the updates and amendments to the Oklahoma major source permit program at OAC 252:100, Subchapter 8.
- By letter dated July 16, 2010, Mr. J.D. Strong, Oklahoma Secretary of Environment, submitted revisions to the Oklahoma SIP. This submittal was received by the EPA on July 27, 2010. This proposed rulemaking evaluates the

revisions to OAC 252:100-5-1.1 adopted on May 1, 2009, effective July 1, 2009.

The EPA has taken separate actions on all other submitted revisions.

- By letter dated July 16, 2010, Mr. J.D. Strong, Oklahoma Secretary of Environment, submitted revisions to the Oklahoma SIP specific for air permitting. This submittal was received by the EPA on July 27, 2010. This proposed rulemaking evaluates the revisions to OAC 252:100-8-2 adopted on April 28, 2006, effective on June 15, 2006. The EPA has taken separate actions on all other submitted revisions.
- By letter dated February 6, 2012, Mr. Gary Sherrer, Oklahoma Secretary of Environment, submitted revisions to the Oklahoma SIP. This submittal was received by the EPA on March 23, 2012. This proposed rulemaking evaluates the revisions to the Oklahoma major source permit program at OAC 252:100-8-2 adopted on May 3, 2011, effective July 1, 2011. The EPA has taken separate actions on all other submitted revisions.
- By letter dated January 18, 2013, Mr. Gary Sherrer, Oklahoma Secretary of Environment, submitted revisions to the Oklahoma SIP. This submittal was received by the EPA on February 6, 2013. This proposed rulemaking evaluates the revisions to the Oklahoma major source permit program at OAC 252:100-8-2 and OAC 252:100-8-4 adopted on March 29, 2012, effective July 1, 2012. The EPA has taken separate actions on all other submitted revisions.
- By letter dated January 8, 2018, Mr. Michael Teague, Oklahoma Secretary of Energy Environment, submitted revisions to the Oklahoma SIP. This submittal was received by the EPA on January 12, 2018. This proposed rulemaking evaluates the revisions to the Oklahoma major source permit program at OAC 252:100-8-2 adopted on June 13, 2017, effective September 15, 2017. The EPA has taken separate actions on all other submitted revisions.

- By letter dated May 16, 2018, Mr. Michael Teague, Oklahoma Secretary of Energy and Environment, submitted revisions to the Oklahoma SIP. This submittal was received by the EPA on May 24, 2018. This proposed rulemaking evaluates the revisions to OAC 252:4-7-32 adopted March 25, 2003, effective June 1, 2003, and SIP-relevant portions of Oklahoma statutes. The EPA has taken separate actions on all other submitted revisions.
- By letter dated February 2, 2021, Mr. Kenneth Wagner, Oklahoma Secretary of Energy and Environment, submitted revisions to the Oklahoma SIP. This submittal was received by the EPA on February 9, 2021. This proposed rulemaking evaluates the revisions to OAC 252:100-1-2 adopted June 25, 2020, effective September 15, 2020. The EPA has taken separate action on all other submitted revisions.
- By letter dated August 22, 2022, Mr. Kenneth Wagner, Oklahoma Secretary of Energy and Environment, submitted revisions to the Oklahoma SIP. This submittal was received by the EPA on September 9, 2022. This proposed rulemaking evaluates the revisions to the Oklahoma minor source permit program at OAC 252:100, Subchapter 7, effective between 2002 and 2018.
- By letter dated August 22, 2022, Mr. Kenneth Wagner, Oklahoma Secretary of Energy and Environment, submitted revisions to the Oklahoma SIP. This submittal was received by the EPA on September 13, 2022. This proposed rulemaking evaluates the revisions to the Oklahoma air permit program at OAC 252:4, Subchapter 7 and Appendix C, and OAC 252:100, Subchapters 1, 7, and 8.
- By letter dated January 24, 2023, Mr. Kenneth Wagner, Oklahoma Secretary of Energy and Environment, submitted the 2022 annual SIP update. This submittal was received by the EPA on January 30, 2023. This proposed rulemaking evaluates revisions to OAC 252:100, Subchapters 2, 8, and Appendix Q.

- By letter dated January 9, 2024, Mr. Ken McQueen, Oklahoma Secretary of Energy and Environment, submitted the 2023 annual SIP update. This submittal was received by the EPA on January 16, 2024. This proposed rulemaking evaluates revisions to OAC 252:100, Subchapters 2, 5, and Appendix Q.
- By letter dated May 23, 2025, Mr. Jeff Starling, the Oklahoma Secretary of Energy and Environment submitted the 2024 annual update to the Oklahoma SIP to update provisions in OAC 252:100, Subchapters 2, 17, 23, 35 and Appendix Q. This submittal was received by the EPA on May 30, 2025. The EPA is addressing the entirety of this submittal.
- By letter dated May 23, 2025, Mr. Jeff Starling, the Oklahoma Secretary of Energy and Environment submitted revisions to OAC 252:100-1-3, OAC 252:100-7-1.1, OAC 252:100-7-2, OAC 252:100-7-15, and OAC 252:100-8-4 adopted on June 21, 2022, effective on September 15, 2022. These submitted revisions update the Oklahoma permitting program to provide for construction prior to minor NSR permit issuance. This submittal was received by the EPA on May 30, 2025.

## **II. The EPA's Evaluation**

The accompanying Technical Support Document for this action includes a detailed analysis of the submitted revisions to the Oklahoma SIP which are the subject of this proposed rulemaking. Our analysis indicates that each SIP revision was developed in accordance with the CAA and the State provided reasonable notice and public hearing. Therefore, the EPA proposes to find that each SIP revision evaluated in this action addresses the first requirement of CAA section 110(l) to be developed and adopted by a State after reasonable notice and public hearing. Following is a summary of the EPA's technical evaluation.

### *A. Overview of the Oklahoma Air Quality Permit Program*

The Oklahoma air quality permit source universe is defined first by a source's applicability under the title V operating permit program. A source that is a major title V source is permitted under OAC 252:100-8, Permits for part 70 sources and major NSR sources. The provisions at OAC 252:100-8 establish construction and operating permit requirements for sources required to have a title V operating permit. These provisions include major NSR requirements for new major stationary sources and major modifications to existing stationary sources in attainment and nonattainment areas and minor NSR requirements for minor modifications to existing major stationary sources in attainment and nonattainment areas. A source that is not subject to title V requirements is a minor source and is permitted under OAC 252:100-7, Permits for Minor Facilities. The provisions at OAC 252:100-7 establish the construction and operating permit requirements for minor sources, including minor NSR requirements for new minor sources and modifications to existing minor sources.

The Oklahoma permit program further classifies permit actions into a Tier category established through the Oklahoma Uniform Environmental Permitting Act and implemented in OAC 252:4. The three Tier categories define the degree of public participation and the level of decision making within the state agency, with Tier I the lowest level and Tier III the highest degree of public participation and decision making. Tier I applications are noticed by the Oklahoma DEQ on the agency website. Tier II and III applications are noticed by the applicant in a newspaper of general circulation and provided for notice on the Oklahoma DEQ website.

The Oklahoma major source program at OAC 252:100-8 has two types of construction and operating permits for major facilities: general permits and individual permits. The Subchapter 8 general permit program applies to facilities with actual emissions of 100 tons per year (TPY) or more of any one regulated air pollutant in an industry group for which a general permit has been issued. Major facilities that do not

qualify for a general permit shall obtain an individual permit. Permits for new major stationary sources, including new PSD sources, are classified as Tier III under OAC 252:4-7-34. Significant modifications to existing major source permits are classified as Tier II under OAC 252:4-7-33. Minor modifications to existing major source permits are classified as Tier I under OAC 252:4-7-32.

The Oklahoma minor source program at OAC 252:100-7 has three types of construction and operating permits for minor facilities: a permit by rule (PBR), a general permit, and an individual permit. The PBR program applies to facilities emitting less than 40 tons per year (TPY) of any regulated pollutant, in an industry group for which a rule has been promulgated. The general permitting program applies to facilities emitting between 40 TPY and 100 TPY, in an industry group for which a general permit has been issued. Minor facilities which do not qualify for either a PBR or general permit shall obtain an individual permit. Sources may be exempt from permitting requirements if they qualify as a de minimis facility, a permit exempt facility, or meet the exemptions for emergency generators and gasoline dispensing facilities. Generally, permit actions taken under OAC 252:100, Subchapter 7 are classified as Tier I under OAC 252:4-7-32; including, new construction, operating, and relocation permits for minor sources and modifications to existing permits where the facility remains minor after the change. Modifications where a minor facility will become subject to the requirements of OAC 252:100, Subchapter 8 are classified as Tier II under OAC 252:4-7-33. Additionally, a part 70 source subject to OAC 252:100, Subchapter 8 that takes a synthetic minor limit to limit its potential to emit such that it is a minor source permitted under OAC 252:100, Subchapter 7 will also be permitted as a Tier II action under OAC 252:4-7-33.

*B. Evaluation revisions OAC 252:100, Subchapter 8 for major NSR requirements*

The Oklahoma regulations at OAC 252:100, Subchapter 8 establish the requirements for Permits for part 70 sources and major new source review (NSR)

sources. The current SIP-approved provisions are available at 40 CFR 52.1920(c). This proposed rulemaking evaluates the revisions to the Oklahoma major source permit program at OAC 252:100, Subchapter 8 and the corresponding revisions at OAC 252:4 that have been submitted since the last EPA actions.

#### 1. Enhanced NSR

Enhanced NSR is a permit streamlining mechanism created by the EPA in the July 21, 1992, final rule promulgating the title V program at 40 CFR 70.7(d)(1)(v). This mechanism provides that requirements from an NSR permit may be incorporated into a title V permit via an administrative amendment without public notice if the NSR permit was issued under an EPA-approved construction program that has been enhanced such that the procedural requirements are substantially equivalent to the requirements of 40 CFR 70.7 and 70.8 that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those in 40 CFR 70.6.

On September 13, 2022, Oklahoma submitted revisions to OAC 252:4 and OAC 252:100, Subchapter 8 adopted on June 11, 2021, effective September 15, 2021. These revisions update the existing program requirements to create two clearly defined pathways for issuance of the NSR and part 70 operating permits – traditional NSR and enhanced NSR. The traditional NSR process, defined in OAC 252:100-8-2, is required for any facility without a part 70 operating permit but can also be used by other applicants that do not want to use the enhanced NSR process. The traditional NSR process provides the EPA and the public a 30-day review and comment period for the draft NSR permit, after which, the Oklahoma DEQ responds to the comments and issues the final NSR permit. This is followed by the separate issuance process for the part 70 operating permit that starts with submittal of the operating permit application and proceeds through a 30-day public review of the draft operating permit. The Oklahoma

DEQ will review and respond to comments and revise the draft permit if necessary. The proposed operating permit is then provided to the EPA for a 45-day review period. The Oklahoma DEQ will issue the final operating permit upon expiration of the EPA's 45-day review period or notice that the EPA will not object to the proposed part 70 operating permit. The Oklahoma part 70 program allows for concurrent review of the part 70 permit where the public's 30-day review and the EPA's 45-day review periods run concurrently on the draft operating permit. If the Oklahoma DEQ receives significant comments, the time clock for EPA's 45-day review period will stop until the Oklahoma DEQ responds to comments and provides the EPA with a proposed permit for an additional 45-day review. The enhanced NSR process, also defined in OAC 252:100-8-2, is a streamlined process only available to sources with existing part 70 operating permits. In the Oklahoma enhanced NSR process, the terms and conditions of the NSR permit may be incorporated into an existing title V permit via an administrative amendment if the NSR permit satisfies the necessary title V procedural requirements.

The EPA's full approval of the Oklahoma Operating Permits Program on December 5, 2001, reviewed and found the permitting requirements in OAC 252:100, Subchapter 8 consistent with the requirement of 40 CFR part 70, including the requirements in 40 CFR 70.6, 70.7, and 70.8, in our December 5, 2001. See 66 FR 63171. New requirements at OAC 252:4-7-13(g)(4) submitted September 13, 2022, specify that modifications to an existing part 70 source operating permit may be issued without further public review if the modification accommodates a change for which no construction permit is required or is based on a construction permit that is issued on the enhanced NSR pathway. The public notice for the construction permits on the enhanced NSR pathway must contain language that states the permit is subject to EPA review, EPA objection, and petition to EPA as provided in OAC 252:100-8-8 and 40 CFR 70.8; the operating permit modification will be issued without further public notice and comment if

the operating permit as modified has conditions which do not differ significantly from the construction permit's operating conditions in any way that would be considered significant, and the public will not receive another opportunity to provide comments when the modified operating permit is issued. Under the Oklahoma enhanced NSR process, the EPA has 45 days to review and, if necessary, object to the terms and conditions of the construction permit that are based on the requirements of 40 CFR part 70 (e.g., the enhancements made to satisfy 40 CFR 70.6). If the EPA objects, the Oklahoma DEQ has the discretion to complete the review and issuance of the NSR construction permit under the traditional NSR pathway. The Oklahoma DEQ would then work with the EPA to resolve any objection on the operating permit requirements prior to the issuance of the operating permit.

The EPA's evaluation of the Oklahoma enhanced NSR process has shown that NSR permits issued through this process meet the requirements substantially equivalent to the requirements of 40 CFR 70.6, 70.7 and 70.8. Therefore, the EPA proposes that the Oklahoma enhanced NSR process is consistent with the flexibility provided in 40 CFR 70.7(d)(1)(v) and is approvable.

## 2. Reasonable Possibility in Recordkeeping

On January 24, 2023, Oklahoma submitted revisions to OAC 252:100-8-36.2 adopted on June 21, 2002, effective September 15, 2022. The new provisions at OAC 252:100-8-36.2(c)(2)(A)(i) and (ii) establish the criteria for determining when a "reasonable possibility" exists for projects at existing emissions units that rely on projected actual emissions for major NSR applicability determinations under the Oklahoma PSD program.

The EPA promulgated the actual-to-projected-actual methodology for major NSR applicability determinations in the 2002 NSR Reform Rule (67 FR 80186, December 31, 2002). In this final rule, we required that if a source calculates its projected actual

emissions below major NSR significance levels, the source was required to comply with recordkeeping and reporting requirements if there was a “reasonable possibility” that the project would result in a significant emissions increase. However, the EPA did not define or establish the criteria for determining when a “reasonable possibility” would exist.

The EPA’s December 21, 2007, final rule clarifies that a “reasonable possibility” exists when the projected increase in emissions equals or exceeds 50 percent of the significance levels for any pollutant (72 FR 72607, December 21, 2007). Using this clarification, pre-change recordkeeping and post-change recordkeeping and reporting requirements apply to any project that uses the actual-to-projected-actual applicability test to demonstrate the modification is not subject to PSD or NNSR, but the projected emissions are at least 50 percent of the significance levels.

Oklahoma revised the Oklahoma PSD program in response to the EPA’s December 31, 2002, and December 21, 2007, final rules. The new provisions at OAC 252:100-8-36.2(c) in the Oklahoma PSD program differs from the federal PSD provisions at 40 CFR 51.166(r)(vi)(A) and (B) in the scope of the “reasonable possibility” provisions. The federal requirements require pre-change recordkeeping and pre- and post-change recordkeeping and reporting only when a “reasonable possibility” exists. The Oklahoma PSD program at OAC 252:100-8-36.2(c)(1) requires pre-change recordkeeping for all projects using the actual-to-projected-actual applicability methodology, regardless of whether the “reasonable possibility” criteria are satisfied. Post-change recordkeeping and reporting requirements apply to projects using the actual-to-projected-actual applicability test and where the “reasonable possibility” criteria are satisfied. The EPA proposes to find that the revisions to the Oklahoma PSD program at OAC 252:100-8-36.2(c) to adopt and implement the “reasonable possibility” criteria are approvable as satisfying the federal requirements at 40 CFR 51.166(r)(vi)(A) and (B).

### 3. Expansions to Public Notice

On September 13, 2022, Oklahoma submitted revisions to OAC 252:4 that expand and enhance the public notice requirements for sources subject to OAC 252:100, Subchapter 8. New provisions at OAC 252:4-7-13(g)(6) require the Oklahoma DEQ to publish notice on the agency website and provide a 30-day opportunity for comment on draft individual construction permits and modifications to construction permits that are classified as Tier II or III. This requirement for electronic posting by the Oklahoma DEQ is in addition to the existing SIP-approved requirement at OAC 252:100(g)(1) that requires the applicant to provide notice in a newspaper of general circulation. The new requirement at OAC 252:4-7-13(g)(6) expands on the existing public notice provisions and establishes the electronic notice posting from the Oklahoma DEQ as the “consistent noticing method” in 40 CFR 51.166(q)(2)(iii). Revisions to OAC 252:4-7-33(b) clarify that new operating permits for part 70 sources are processed as a Tier II application and subject to public notice. The EPA proposes to find that the revisions to public notice and procedural processes for major source permits are approvable as satisfying the federal requirements for public notice.

#### 4. General updates to major source permit requirements

Oklahoma has submitted several revisions to the definitions for the OAC 252:100, Subchapter 8 permit program. Many of the submitted revisions are non-substantive to address formatting or grammar updates or provide clarifications to existing SIP-approved definitions. The EPA’s evaluation of these non-substantive definition changes is presented in the TSD. We provide our evaluation of the substantive definition changes below.

- On July 16, 2010, Oklahoma submitted the new definition of “begin actual construction” at OAC 252:100-8-2 as adopted on April 28, 2006, effective June 15, 2006. This definition applies broadly to the major source permit program and is relied on for the issuance process under Subchapter 8; OAC

252:100-8-4(a) requires that no major source may begin actual construction without obtaining a construction permit. This definition is approvable for proper implementation of the Oklahoma air permitting program. The Oklahoma PSD program contains a separate, SIP-approved definition for begin actual construction that is not revised by the general definition in OAC 252:100-8-2.

- Oklahoma submitted revisions to the definition of “Major source” at OAC 252:100-8-2 adopted on March 25, 2003, March 24, 2009, and June 13, 2017. The definition of “Major source” as revised through the January 8, 2018, submission is approvable. This definition is used for determining applicability of the Subchapter 8 permitting rules and is consistent with the major source definition at 40 CFR 70.2. This definition is necessary for proper implementation of the Oklahoma air permitting program. The Oklahoma PSD program contains a separate, SIP-approved definition for major stationary source that is not revised by this definition in OAC 252:100-8-2.
- Oklahoma submitted revisions to the definition of “Subject to regulation” at OAC 252:100-8-2 on February 6, 2012, January 18, 2023, and January 8, 2018. The definition of “Subject to regulation” as revised through the January 8, 2018, submittal is approvable as consistent with the requirements of 40 CFR 70.2. The Oklahoma PSD program has a separate, SIP-approved definition of “Subject to regulation” that is not revised by the definition in OAC 252:100-8-2.

On June 24, 2010, and September 13, 2022, Oklahoma submitted revisions to OAC 252:100-8-5, Permit applications. The revisions adopted March 25, 2003, effective June 1, 2003, update internal cross-references and make non-substantive corrections to grammar and formatting. The EPA proposes to find these updates are necessary for

proper implementation of the Oklahoma SIP and permitting program. The revisions adopted June 11, 2021, effective September 15, 2021, establish new requirements at OAC 252:100-8-5(d)(3) that promote clarity in the permitting process. This new provision requires that construction applications for modifications at existing sources must specify whether the application is using the enhanced NSR or traditional NSR process. This provision will allow the public, state, and EPA to more effectively review and participate in the permit process. The EPA proposes to approve this update as necessary for the proper implementation of the Oklahoma SIP and permitting program.

On June 24, 2010, Oklahoma submitted revisions to OAC 252:100-8-6, Permit content, adopted on March 30, 2005, effective June 15, 2005. These revisions update internal cross-references and make non-substantive corrections to grammar and formatting. The EPA proposes to find these updates are necessary for proper implementation of the Oklahoma SIP and permitting program.

On June 24, 2010, Oklahoma submitted revisions to the general permits regulations at OAC 252:100-8-6.1. The revisions adopted on March 30, 2005, effective June 15, 2005, update citations for internal cross-references. The EPA proposes to find these updates are necessary for proper implementation of the Oklahoma SIP and permitting program.

On June 24, 2010, Oklahoma submitted revisions to OAC 252:100-8-7.1 to update the provisions for permit issuance for Subchapter 8 permits. The revisions adopted on March 30, 2005, effective June 15, 2005, update the citations for internal cross-references. The EPA proposes to find these updates are necessary for proper implementation of the Oklahoma SIP and permitting program.

On June 24, 2010, and September 13, 2022, Oklahoma submitted revisions to OAC 252:100-8-7.2, Administrative permit amendments and permit modifications. The revisions adopted on March 25, 2003, effective June 1, 2003, update citations for internal

cross references throughout OAC 252:100-8-7.2. The revisions adopted on June 15, 2021, effective September 15, 2021, establish at OAC 252:100-8-7.2(a)(1)(E) that an administrative amendment can be used to include the preconstruction requirements from an enhanced NSR permit into an existing part 70 operating permit. This revision ensures that the enhanced NSR process is only used for existing operating permits and cannot be used to issue an initial part 70 operating permit. The EPA proposes to find these updates are necessary for proper implementation of the Oklahoma SIP and permitting program.

On June 24, 2010, and September 13, 2022, Oklahoma submitted revisions to OAC 252:100-8-8 to update the provisions for permit review by EPA and affected states. In the June 24, 2010, submittal, Oklahoma provided rules adopted on March 28, 2002, effective June 1, 2002, that expand the applicability of the section to all Subchapter 8 permit actions, except for administrative permit amendments, and expand the requirements for transmission of part 70 applications and draft permits. In the September 13, 2022, submittal, Oklahoma revised the existing requirements at OAC 252:100-8-8(f), (h) and (i) to clarify how the enhanced NSR permit pathway interacts with the title V authorities for EPA objection and petition. The EPA proposes to find these updates are necessary for proper implementation of the Oklahoma SIP and permitting program.

On January 24, 2023, Oklahoma submitted revisions to OAC 252:100-8-36.1 adopted on June 21, 2022, effective September 15, 2022. These revisions update citations to Oklahoma statutes providing for public notice. The EPA proposes to find these non-substantive edits are necessary for proper functionality of the Oklahoma SIP.

##### 5. Removal of title V elements from the SIP

The Oklahoma major source permit program at OAC 252:100, Subchapter 8 is structured such that elements of the Oklahoma NSR and title V permitting programs overlap, including essential elements related to applicability, public notice and procedural permit issuance processes. The EPA's November 26, 2010, final action on OAC 252:100,

Subchapter 8 approved the program elements of the Oklahoma title V program into the Oklahoma SIP to prevent inadvertent omission of essential requirements. The EPA continues to believe this is appropriate because of the shared structure of the permit process. However, after reviewing the current SIP-approved regulations, the EPA has determined the Oklahoma SIP does not need to include provisions related to the Acid Rain Program. The Acid Rain Program is implemented solely in title V and through title V permits. Therefore, the state's removal of these provisions is appropriate and the EPA proposes to remove the following provisions from the Oklahoma SIP:

- Definitions of “affected source,” “affected unit,” paragraph (E) of “applicable requirement,” “designated representative,” “responsible official,” “small unit,” and “unit” from OAC 252:100-8-2,
- OAC 252:100-8-4(b)(9), Requirements for construction and operating permits – Phase II acid rain permits,
- OAC 252:100-8-6(a)(5), Permit applications – Standard permit requirements – Title IV allowances, and
- OAC 252:100-8-2 OAC 252:100-8-6.3, Special provisions for affected (acid rain) sources.

*C. Evaluation of OAC 252:100, Subchapter 8 for minor NSR requirements*

The permitting program at OAC 252:100, Subchapter 8 is not currently approved for minor NSR. In this section, the EPA first presents our evaluation of how the provisions in OAC 252:100, Subchapter 8 (existing SIP requirements currently applicable to major NSR and newly submitted provisions) and the necessary procedural requirements at OAC 252:4 satisfy the requirements for SIP-approval as a minor NSR program. The EPA regulations governing the criteria that states must satisfy for EPA SIP approval of regulations specific to minor NSR programs are contained in 40 CFR 51.160-51.164. We also provide our evaluation of specific features of the Oklahoma minor NSR

program that have been recently adopted for sources subject to OAC 252:100, Subchapter 8.

#### 1. Evaluation of OAC 252:100-8 as a minor NSR program

An approvable minor NSR program must include legally enforceable procedures that enable the permitting authority to determine whether the construction or modification of a source will result in a violation of applicable portions of the control strategy or interfere with attainment or maintenance of a NAAQS, 40 CFR 51.160(a). The Oklahoma permitting program at OAC 252:100, Subchapter 8 is required by the Oklahoma Uniform Environmental Permitting Act. The Oklahoma DEQ is required by Oklahoma statute to develop and implement a construction permitting program to protect air quality.

The minor NSR program must include the means the permitting authority will use to prevent such construction or modification if it would result in a violation of applicable portions of a control strategy or interfere with the attainment or maintenance of a NAAQS, 40 CFR 51.160(b). The Oklahoma regulations at OAC 252:100, Subchapter 8 and OAC 252:4 establish the procedural requirements for the construction permit process and the associated public notice process.

Applications for construction permits are required to submit the information required under 40 CFR 51.160(c) through OAC 252:100-8-5, which requires applications to include the site information, process description, and emission data. Applicants are also required to correct or supplement applications as requested by the Oklahoma DEQ.

The Oklahoma regulations at OAC 252:100-8-4(a) require that sources with existing part 70 operating permits obtain construction permits for the commencement of any physical change or change in the method of operation that, for any one regulated pollutant, would increase potential to emit by more than 10 TPY. These provisions address the requirements of 40 CFR 51.160(e) to identify the types and sizes of facilities, buildings, structures, or installations subject to the minor NSR program.

The Oklahoma regulations address the requirements for air quality data and modeling at 40 CFR 51.160(f). Construction permit applications at OAC 252:100-8-5(d) must include modeling data when required by the Oklahoma DEQ. The Oklahoma SIP at OAC 252:100, appendix Q incorporates by reference the EPA's appendix W to 40 CFR part 51, the Guideline on Air Quality Models.

A minor NSR program must include public notice as prescribed in 40 CFR 51.161. Construction permits for minor NSR changes at sources subject to OAC 252:100, Subchapter 8 are classified as Tier I at OAC 252:4-7-32. The Oklahoma DEQ is required at OAC 252:4-7-13(g)(7) to prepare and post on the agency website notices of the opportunity for 30-day public comment period for Tier I individual construction permits and construction permit modifications. In the Spring 2025 Unified Agenda of Regulatory and Deregulatory Action, the EPA has included "New Source Review (NSR) Program Public Participation Requirements for State Implementation Plans" RIN: 2060-AV67.<sup>1</sup> This action pertains to the EPA's federal rules for SIPs at 40 CFR 51.160 – 51.164, which apply to the preconstruction permitting programs of state and local air pollution agencies. The purpose of this rulemaking would be to address minimum requirements for public participation in the administration of minor source NSR programs.

As required by 40 CFR 51.162, the Oklahoma SIP at OAC 252:4-7-1 identifies the Oklahoma DEQ as the State agency with the responsibility for implementing the Oklahoma Uniform Environmental Permitting Act. The regulations at OAC 252:4, Subchapter 7 and OAC 252:100, Subchapter 8 are the implementing regulations used by the Oklahoma DEQ to implement the Oklahoma Uniform Environmental Permitting Act and the requirements of NSR permitting, including minor NSR permitting.

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<sup>1</sup> The Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions is available at <https://www.reginfo.gov/public/do/eAgendaMain>.

A minor NSR program is required under 40 CFR 51.163 to include administrative procedures that will be followed in making the determination under 40 CFR 51.160(a). OAC 252:4, Rules of Practice and Procedure, provides the administrative procedures for permit issuance, public notice, and administrative proceedings used by the Oklahoma DEQ for permit issuance, including the issuance of minor NSR construction permits at major sources subject to OAC 252:100, Subchapter 8.

A minor NSR program must address the stack height procedures of 40 CFR 51.164. The SIP-approved requirements at OAC 252:100-8-1.5 satisfy the requirements at 40 CFR 51.164 and apply generally to all Subchapter 8 permit actions, including the minor NSR actions taken at major sources.

The EPA proposes to find that the Oklahoma SIP at OAC 252:4, Subchapter 7 and OAC 252, 100, Subchapter 8 satisfy the minor NSR requirements of CAA section 110(a)(2)(C) and 40 CFR 51.160-51.164.

On May 16, 1994, the Governor of Oklahoma submitted a recodification of the existing Oklahoma regulations as a revision to the Oklahoma SIP. In this recodification, the air permit program requirements at Regulation 1.4.1 and 1.4.2 were replaced with the new air permitting requirements at OAC 252:4, OAC 252:100, Subchapters 7 and 8. The EPA has taken actions to review and approve most of the recodification of the air program. However, as noted in 40 CFR 52.1920(c), the current SIP still retains the provisions at Regulations 1.4.1(a) – (c) and 1.4.2(a) – (d), (f), and (g) for minor NSR permitting under OAC 252:100, Subchapter 8. Our evaluation presented in this proposed rulemaking has shown that the submitted revisions to OAC 252:4 and OAC 252:100, Subchapter 8 satisfy the requirements for minor NSR permitting. Therefore, the EPA proposes to remove Regulations 1.4.1(a) – (c) and 1.4.2(a) – (d), (f), and (g) from the Oklahoma SIP.

The current Oklahoma SIP includes provisions from OAC 252:4 establishing the procedural rules for the Oklahoma air permit programs for minor NSR permitting under OAC 252:100, Subchapter 7 and for major NSR permitting under OAC 252:100, Subchapter 8. Our evaluation presented in this proposed rulemaking has shown that the submitted revisions to OAC 252:4 and OAC 252:100, Subchapter 8 satisfy the requirements for minor NSR permitting. Therefore, the EPA proposes to find that the procedural requirements at OAC 252:4-7-1 – OAC 252:4-7-19 are applicable to the entirety of the Oklahoma air permit program. The EPA proposes to update the amendatory language table at 40 CFR 52.1920(c) to reflect this finding and remove the comments from the Explanation column.

## 2. Minor NSR threshold for major source permits

On September 13, 2022, Oklahoma submitted new provisions at OAC 252:100-8-4(a)(1)(B)(iv) that require sources with existing part 70 operating permits to obtain a minor NSR construction permit for any physical change or change in the method of operations that would increase the potential to emit in excess of 10 TPY of any one regulated pollutant. Projects below this threshold are exempt from the requirement to obtain a minor NSR construction permit but must still comply with the requirements to obtain a modification to the part 70 operating permit.

The new provisions at OAC 252:100-8-4(a)(1)(B)(iv) require that physical changes or changes in the method of operation will be evaluated and permitted as minor NSR construction changes. These minor NSR changes will continue to be subject to the SIP-approved permit application requirements at OAC 252:100-8-5 and permit content requirements at OAC 252:100-8-6, and the Oklahoma DEQ will continue to issue the minor NSR construction permit using the SIP-approved procedural requirements in OAC 252:4. The new requirements at OAC 252:4-7-13(g)(7) ensure that the minor NSR

construction modifications will be available for review on the agency website for 30 days.

State agencies have broad discretion to determine the scope of the state's minor NSR program. Each state program at 40 CFR 51.160(e) will identify the types and sizes of facilities, buildings, structures or installations that will be subject to review. Prior to the September 13, 2022, SIP submittal, the Oklahoma permit program allowed sources with existing part 70 operating permits to make construction changes directly through a minor modification to the title V permit; meaning, major sources were making minor NSR changes without the appropriate NSR permitting mechanism or public notice. The addition of the 10 TPY permit threshold defines the scope of the Oklahoma minor NSR program, thus requiring activities above the permit threshold that were previously not evaluated as minor NSR modifications to be subject to the minor NSR requirements for application, public notice, permit content, and permit processing.

The September 13, 2022, SIP submittal included the Oklahoma DEQ technical justification for the 10 TPY threshold. The Oklahoma DEQ conducted a review of the prior five years of title V minor modifications from 2016 – 2020. This review found that of the 199 title V minor modifications issued during the 5-year window, 136 (68%) would have been below the permitting threshold and been exempted from the requirement to obtain a construction permit. However, 94% of the emission increases from the 199 title V minor modifications were associated with minor modifications that would not have been exempted from the preconstruction permit requirements. If the 10 TPY permit threshold had been in place during this 5-year period, the Oklahoma DEQ construction permit review and public notice process would have applied to minor NSR changes that represented most of the emission increases from minor modifications. The Oklahoma DEQ also presented air quality data from 2000 - 2020. During this time, the state of Oklahoma was, and continues to be, in attainment for all criteria pollutants. The

EPA preliminarily concludes that the previous exemption from construction permitting did not worsen air quality in the State or result in an area going into nonattainment. The EPA proposes to find that the addition of the 10 TPY permit threshold for minor NSR will strengthen the Oklahoma SIP and further the goals of protecting air quality by clearly defining the projects that qualify as modifications that will be subject to preconstruction review and public notice in Oklahoma.

### 3. Construction activities prior to issuance of a minor NSR permit at a major source

On May 30, 2025, Oklahoma submitted new provisions at OAC 252:100-8-4(a)(1)(A), (a)(1)(B) and (a)(1)(D) that allow for construction prior to permit issuance of a minor NSR construction permit at a Subchapter 8 major source. Under these new provisions, after an applicant submits an administratively complete minor NSR permit application, the applicant may “begin construction up to, but not including, making any new, modified, or reconstructed unit operational such that it has the ability to emit any regulated air pollutant.” (OAC 252:100-8-4(a)(1)(D)). The new provisions further establish that the construction is at the applicant’s risk and expense, the Oklahoma DEQ retains the authority to deny any permit application, and the provision does not exempt the source from any applicable federal requirements such as NSPS or NESHAP.

Section 110(a)(2)(C) of the CAA requires that SIPs include a program for regulating the construction and modification of stationary sources as necessary to ensure that the NAAQS are maintained. Federal regulations at 40 CFR 51.160(b) require states to have legally enforceable procedures to prevent construction or modification of a source if it would violate any SIP control strategies or interfere with attainment or maintenance of the NAAQS. Federal regulations limit the types of allowed preconstruction activities for new and modified major sources at 40 CFR 51.165(a)(1)(xv), 51.166(b)(11), and 52.21(b)(11), but there is no corresponding limitation on preconstruction activities for minor sources. The EPA proposes to find that these provisions are acceptable under the

minor NSR requirements of CAA section 110(a)(2)(C) and 40 CFR 51.160-51.164. The new provisions are explicitly limited to the minor NSR program, and the Oklahoma DEQ retains the authority to deny permit applications and will use the existing SIP-approved permit review process to ensure the continued protection and maintenance of the NAAQS and any other SIP control strategies.

#### 4. Section 110(l) evaluation of revisions to OAC 252:100, Subchapter 8

CAA section 110(l) states that the “Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.” For purposes of the analysis under CAA section 110(l), we have considered the overall impact of the revisions to the major source permitting program at OAC 252:100, Subchapter 8. Many of the submitted changes enhance the major source program within the Oklahoma SIP but do not have direct impacts on emissions or air quality; for example, expansions of public notice requirements for minor NSR permitting, additional recordkeeping and reporting when there is a “reasonable possibility” a project results in a significant emissions increase, and clarifications on how permit materials are transmitted to the EPA. Other submitted revisions to update definitions to maintain consistency with federal requirements or make other non-substantive edits to update the program regulations are necessary to ensure functionality of the Oklahoma program but will have no impact on air quality. For the minor NSR permit threshold, the EPA reviewed emissions data and air quality trends submitted by the State for 2016 – 2020. This analysis demonstrated that the minor NSR permit threshold would not adversely impact air quality. The EPA is proposing to find that the submitted revisions to OAC 252:100, Subchapter 8 will not interfere with attainment, reasonable further progress or any other applicable requirement of the Act.

*D. Evaluation of revisions to OAC 252:100, Subchapter 7 for minor NSR requirements*

The Oklahoma Minor Source program at OAC 252:100, Subchapter 7 was SIP-approved by the EPA on May 15, 2017, at 82 FR 22281. This proposed rulemaking evaluates the revisions to the Oklahoma minor source permit program at OAC 252:100, Subchapter 7, effective between 2002 and 2022, submitted September 9, 2022, September 13, 2022, and May 30, 2025. We also include in this evaluation the procedural and public notice revisions at OAC 252:4, that have been submitted in support of the minor NSR requirements.

#### 1. Exemptions from minor NSR permitting for minor sources

The EPA's minor NSR regulations at 40 CFR 51.160-51.164 provide permitting authorities the latitude to design and implement a minor NSR program specific to the needs of the state. As provided in the Oklahoma SIP at OAC 252:100-7-2(a), a permit is required before a person may commence construction or modification of any minor facility, operate any new minor facility, or relocate any minor portable source.

Exemptions from the requirement to obtain a minor source permit are provided at OAC 252:100-7-2(b). The Oklahoma SIP only includes exemptions for de minimis facilities. Oklahoma has submitted additional exemptions from minor source permitting that EPA will evaluate in this proposed rulemaking for permit exempt facilities, emergency engines at residential and school facilities, and gasoline dispensing facilities with throughput of less than 100,000 gallons per month.

The criteria for de minimis facilities at OAC 252:100-7-2(b)(1) were updated in 2004, 2005, 2008 and 2016. The revisions adopted in 2004, 2005, and 2008 make non-substantive revisions to correct formatting and update the internal cross-references to the Oklahoma air quality control rules that continue to apply to de minimis facilities. The revision adopted on June 9, 2016, effective September 15, 2016, adds new OAC 252:100-7-2(b)(1)(E) to require de minimis facilities comply with the SIP-approved provisions at OAC 252:100-5, Registration, Emission Inventory, and Annual Operating Fees. The SIP-

approved provision at OAC 252:100-5-2.1(a)(3) specifies de minimis facilities are exempt from annual emission inventory requirements unless the annual emissions exceed the emission thresholds listed in table 1 in appendix A to subpart A of 40 CFR part 51. If these thresholds are exceeded, the de minimis facility is subject to emission inventory reporting requirements. These submitted revisions to the de minimis facilities criteria at OAC 252:100-7-2(b)(1) are approvable. These revisions are necessary to ensure the proper implementation of the SIP and the new emission inventory requirements will allow the Oklahoma DEQ to monitor the de minimis facilities and ensure the exemption continues to be protective of air quality.

The permit exempt category was initially adopted April 28, 2004, effective June 11, 2004. Revisions to the permit exempt category were adopted on June 9, 2016, and June 11, 2021. The permit exempt facility category was established by the Oklahoma DEQ to streamline the minor source permit program and establish a threshold below which facilities would be exempt from minor source permitting requirements. A permit exempt facility is defined at OAC 252:100-7-1.1 as a facility that has actual emissions in every calendar year that are 40 TPY or less of each regulated pollutant. A permit exempt facility cannot be subject to any major source permitting requirement under OAC 252:100-8, New Source Performance Standards in 40 CFR part 60, or National Emissions Standards for Hazardous Air Pollutants at 40 CFR part 63. New provisions at OAC 252:100-7-2(b)(2) exempt permit exempt facilities from the permitting requirements of OAC 252:100-7; permit exempt facilities remain subject to all other applicable State and Federal air quality rules and standards such as toxics and fugitive dust controls and applicable provisions that implement 40 CFR part 60 emission guidelines for existing sources. Permit exempt facilities are exempted from the requirement to submit an annual emission inventory. However, the SIP-approved provision at OAC 252:100-5-2.1(a)(3) specifies that a permit exempt facility will be subject to emission inventory reporting

requirements if the annual emissions for the permit exempt facility exceed the emission thresholds listed in table 1 in appendix A to subpart A of 40 CFR part 51. The Oklahoma SIP at OAC 252:100-5-2.1(4) also provides the Oklahoma DEQ Director the authority to request that any facility, including a permit exempt facility, file an emission inventory when the data is necessary for planning or determining compliance with State or Federal requirements.

Emergency engines are defined in OAC 252:100-7-1.1 as a stationary engine used to resume essential operations or ensure safety during sudden and unexpected occurrences including but not limited to a loss of electrical power, fire, and/or flood. New OAC 252:100-7-2(b)(3) adopted on June 9, 2016, effective September 15, 2016, provides that emergency engines at residential and school facilities are exempted from the requirements to have a minor source permit under OAC 252:100-7.

Oklahoma submitted new OAC 252:100-7-2(b)(4) adopted on June 18, 2018, effective September 15, 2018, to exempt gasoline dispensing facilities with throughput of less than 100,000 gallons per month on a rolling annual average from minor source permitting obligations under OAC 252:100-7. The exempted gasoline dispensing facilities must be complying with 40 CFR part 63, subpart CCCCCC and the only permit obligation would be due to the construction or operation of the facility.

State agencies have discretion to determine the scope of the state's minor NSR program, provided that the program continues to satisfy the requirements of 40 CFR 51.160-51.164. The Oklahoma DEQ has submitted revisions to the Oklahoma SIP to narrow the scope of the minor NSR program to exclude facilities that qualify as permit exempt, emergency engines at residential and school facilities, and specified gasoline dispensing facilities and from all permitting requirements under OAC 252:100-7. The September 9, 2022, Oklahoma SIP submittal included the Oklahoma DEQ's technical justification for these exemptions from minor NSR permitting. The permit exempt

category was created in 2004 after the Oklahoma DEQ conducted a review of the Oklahoma Air Quality Program. After reviewing emissions data, air monitoring data, and air quality trends data available in the early 2000s, the Oklahoma DEQ determined that the establishment of the permit exempt category would not interfere with attainment or maintenance or violate applicable portions of the SIP control strategy. Further, the creation of the permit exempt category would reduce the workload burden on Oklahoma DEQ staff by allowing staff to focus on minor sources with higher emissions and more potential to impact air quality. The Oklahoma DEQ also submitted air quality trends data through 2020 for all criteria pollutants. This data shows the entire State of Oklahoma continues to be in attainment for all criteria pollutants, even after the effective dates for the exemptions from minor NSR for permit exempt sources and specific emergency engines and gasoline dispensing facilities.

## 2. Construction activities prior to permit issuance of a minor NSR permit at a minor source

New provisions at OAC 252:100-7-2(b)(5) adopted June 21, 2022, and submitted to the EPA on May 30, 2025, allow for construction activities prior to permit issuance for administratively complete minor NSR permit applications. Administratively complete for minor NSR permit applications subject to OAC 252:100, Subchapter 7 is defined at OAC 252:100-7-1.1; generally, a permit application is deemed administratively complete when the applicant submits all the required information for a construction and operating permit application, obtains a landowner affidavit, pays the appropriate application fees and includes a certification of the application by the applicant. An applicant may begin construction up to, but not including, making any new, modified, or reconstructed unit operational and capable of emitting any regulated air pollutant. Construction activities prior to permit issuance are taken at the applicant's risk. Regardless of any investment

made by the applicant, the Oklahoma DEQ must still review the application and retains the authority to deny the permit application.

Section 110(a)(2)(C) of the CAA requires that state SIPs include a program for regulating the construction and modification of stationary sources as necessary to ensure that the NAAQS are maintained. Federal regulations at 40 CFR 51.160(b) require states to have legally enforceable procedures to prevent construction or modification of a source if it would violate any SIP control strategies or interfere with attainment or maintenance of the NAAQS. Federal regulations limit the types of allowed preconstruction activities for new and modified major sources at 40 CFR 51.165(a)(1)(xv), 51.166(b)(11), and 52.21(b)(11). But federal regulations do not impose a corresponding limitation on preconstruction activities for minor NSR sources or modifications.

The EPA has preliminarily determined that the Oklahoma provision at OAC 252:100-7-2(b)(5) for construction activities prior to minor NSR permit issuance is approvable as consistent with federal requirements. Regardless of any investment made by the applicant during the construction process, the Oklahoma DEQ retains the authority and obligation to review the permit application using the existing, SIP-approved minor NSR program. Because the Oklahoma DEQ must still review each application using the SIP-approved minor NSR procedures, the provision allowing for construction activities prior to minor NSR permit issuance will therefore not violate any SIP control strategy or interfere with attainment or maintenance of the NAAQS.

### 3. Public notice for minor sources

On September 13, 2022, Oklahoma submitted revisions to OAC 252:4 that expand the public notice requirements for sources subject to OAC 252:100, Subchapter 7. New minor NSR construction permits and modifications to existing minor NSR construction permits where the source remains minor are classified as Tier I at OAC 252:4-7-32. The Oklahoma DEQ is required under new OAC 252:4-7-13(g)(7) to prepare

and post on the agency website notices of 30-day public comment periods for Tier I applications for draft individual construction permits and draft individual construction permit modifications. A major source that applies for a permit to limit its potential to emit such that the source would be subject to OAC 252:100, Subchapter 7 is classified as a Tier II action at OAC 252:4-7-33(a). Applicants for Tier II applications are required to provide notice in a newspaper of general circulation and to individuals on a mailing list at OAC 252:4-7-13(g)(1). Additionally, new provisions at OAC 252:4-7-13(g)(6) require the Oklahoma DEQ to publish notice on the agency website and provide a 30-day opportunity for comment on draft individual construction permits and modifications to construction permits that are classified as Tier II. The EPA proposes to find that the revisions to the public notice and procedural processes for minor NSR permits under OAC 252:100, Subchapter 7 are approvable as satisfying the federal requirements for 30-day public notice at 40 CFR 51.161. In the Spring 2025 Unified Agenda of Regulatory and Deregulatory Action, the EPA has included “New Source Review (NSR) Program Public Participation Requirements for State Implementation Plans” RIN: 2060-AV67.<sup>2</sup> This action pertains to the EPA’s federal rules for SIPs at 40 CFR 51.160-51.164, which apply to the preconstruction permitting programs of state and local air pollution agencies. The purpose of this rulemaking would be to address minimum requirements for public participation in the administration of minor source NSR programs.

#### 4. Federally enforceable state operating permit (FESOP) and FESOP enhanced NSR

The EPA published a final rule on June 28, 1989, allowing for state operating permits, and the limitations and controls in said permits, to be treated as federally enforceable if the State’s operating permit program had been reviewed and approved into the SIP by the EPA. *See* 54 FR 27274. The September 13, 2022, Oklahoma SIP submittal

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<sup>2</sup> The Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions is available at <https://www.reginfo.gov/public/do/eAgendaMain>.

included the request for the EPA to approve the minor source operating permit program into the Oklahoma SIP.

The new definition for “Federally Enforceable State Operating Permit (FESOP)” at OAC 252:100-7-1.1 provides that any operating permit issued under OAC 252:100-7 will be considered a FESOP. This will include operating permits issued under OAC 252:4-7-33(a)(2) for a part 70 source subject to major source permit requirements that applies to limit its potential to emit below major source threshold and become a minor source regulated under OAC 252:100-7. The September 13, 2022, submittal also created two pathways for permit issuance of minor source construction and operating permits – traditional NSR and FESOP enhanced NSR.

The traditional NSR process, defined at OAC 252:100-7-1.1, is the process where the minor NSR construction permit review and issuance occur separate of the review and issuance of the FESOP. Applications for minor source construction permits are Tier I applications; therefore, the Oklahoma DEQ is responsible for posting the public notice on the agency website under OAC 252:4-7-13(g)(7). The traditional NSR process must be used for any source without an existing FESOP. Following the issuance of the minor source construction permit, the Oklahoma DEQ would separately review and seek comment on the minor source operating permit. Applications for minor source operating permits and modifications to the operating permits are Tier I applications; the Oklahoma DEQ is required by new OAC 252:4-7-13(g)(9) to post the public notice on the agency website.

The Oklahoma DEQ created the FESOP enhanced NSR process to provide a streamlined permit issuance pathway for sources with existing FESOPs. Using the FESOP enhanced NSR process, also defined at OAC 252:100-7-1.1, the EPA and the public will have a 30-day review period that will cover the minor NSR construction permit terms and conditions. The public notice for the minor NSR construction permit

must satisfy the requirements of new OAC 252:4-7(13)(g)(8) and include a statement that notifies the public and the EPA that the modifications to the operating permit will be issued without further public notice and comment unless the operating permit conditions are modified significantly from the construction permit's conditions.

The EPA presents our evaluation of the September 13, 2022, submitted revisions to OAC 252:4 and OAC 252:100-7 as a FESOP program in this proposed action. The 1989 final rule established five criteria that EPA will use when reviewing and approving a state operating permit program into a SIP.

- First, the state operating permit program must be submitted to and approved by EPA into the SIP. The Oklahoma submitted revisions to the Oklahoma SIP on September 13, 2022, for EPA review and approval of the minor source program at OAC 252:100-7 and the associated public notice and procedural requirements of OAC 252:4. The EPA's action on this SIP submittal will satisfy the first criterion.
- Second, the SIP imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits (or subsequent revision of the permit made in accordance with the approved operating permit program) and provides that permits which do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not "federally enforceable" by EPA. Through the new provisions at OAC 252:100-7-18(g), Duty to comply with the operating permit, the permittee is required to comply with all limitations and conditions of the operating permit. A violation of the limitations or conditions shall subject the permittee to enforcement by EPA and all enforcement penalties available under the Oklahoma Clean Air Act and Air Pollution Control Rules.
- Third, the state operating permit program requires that all emissions limitations, controls, and other requirements imposed by such permits will be at least as

stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise “federally enforceable” (e.g. standards established under sections 111 and 112 of The Act). The Oklahoma minor source program at OAC 252:100-7-18(f) and (g) require the operating permit terms and conditions to be federally enforceable, and any violation of these terms and conditions shall subject the permittee to enforcement actions. The operating permit must include the construction permit contents as specified at OAC 252:100-7-15(d). Construction permit shall require the permittee to comply with all applicable air pollution rules, prohibit the exceedance of air quality standards in OAC 252:100-3, and may establish additional terms or conditions necessary to assure compliance with all rules.

- Fourth, the limitations, controls, and requirements in the operating permits are permanent, quantifiable, and otherwise enforceable as a practical matter. The minor source operating permit conditions at OAC 252:100-7-18(f) require that emission limitations and other permit conditions in the minor source construction permit are federally enforceable requirements of the FESOP.
- Fifth, the permits are issued subject to public participation. New provisions at OAC 252:4-7-13(g)(7) require the Oklahoma DEQ to prepare and post on the agency website notices of 30-day public comment period for Tier I applications for draft individual construction permits and draft individual construction permit modifications. New provisions at OAC 252:4-7-13(g)(8) allow Tier I applications for draft construction permit modifications to use the FESOP Enhanced NSR process.

The EPA proposes to find that the Oklahoma minor source program at OAC 252:100-7 and the associated procedural and public notice rules at OAC 252:4 are consistent with federal requirements for approving a state operating permit program into the SIP such that permits issued under this program become FESOP. The EPA proposes this approval under CAA sections 110(a)(2)(B) and (D).

#### 5. Revisions to the minor NSR Permit by Rule program

The Oklahoma permit by rule program was approved into the Oklahoma SIP as an element of the Oklahoma minor NSR program on May 15, 2017, see 82 FR 22281. The SIP includes general procedural provisions for the permit by rule program at OAC 252:100-7-15(b)(1), OAC 252:100-7-60, and specific PBRs for cotton gins at OAC 252:100-7-60.1 and grain elevators at OAC 252:100-7-60.2. The Oklahoma DEQ has submitted revisions to the general PBR provisions at OAC 252:100-7-60 adopted on June 19, 2014, effective September 12, 2014. Oklahoma has also developed and submitted as revisions to the SIP, new PBRs for emergency engine facilities at OAC 252:100-70.6 and gasoline dispensing facilities and gasoline dispensing facilities with emergency engines at OAC 252:100-7-60.7.

The Oklahoma PBR program is a minor NSR streamlining mechanism to reduce the workload of reviewing and issuing individual permits for many, similar sources. The Oklahoma DEQ has the authority under OAC 252:100-7-15(b)(1) to develop and adopt a PBR for an industry if there are many facilities that have the same or substantially similar operations, emissions, and activities that are subject to the same standards, limitations, and operating and monitoring requirements. The Oklahoma DEQ submitted revisions to the PBR procedural requirements at OAC 252:100-7-60 that clarify the existing SIP-approved provisions to improve implementation of the PBR program. Revisions to OAC 252:100-7-60(a) clarify that any facility constructed or operated under a PBR will be exempt for any other Subchapter 7 permitting requirements. New provisions at OAC

252:100-7-60(a)(2) state that a facility may only be registered under one PBR. Facilities can apply to change registration to another PBR provided the facility satisfies the applicability criteria under the new PBR. The revisions to OAC 252:100-7-60(b) provide additional clarity to the existing provisions, especially regarding changes made at a facility covered by a PBR. Any physical change or change in the method of operation that would cause the facility to no longer qualify for the PBR is a modification and will result in a change to the permit status of the facility. The owner or operator of the facility will either need to apply for an individual permit or seek coverage under another applicable PBR. Revisions submitted to OAC 252:100-7-60(c) update the existing SIP-approved provisions for registration under the PBR to provide clarity on the types of acceptable documentation identifying PBR registration. The new PBRs at OAC 252:100-7-60.6 for emergency engine facilities and at OAC 252:100-7-60.7 for gasoline dispensing facilities and gasoline dispensing facilities with emergency engines were developed consistent with the SIP-approved permit content provisions for minor NSR at OAC 252:100-7-15(d). The new PBRs identify the sources eligible for coverage, covered equipment, and applicable federal and state standards.

The EPA proposes to find that the submitted revisions to the procedural provisions for PBRs and the new specific PBRs at OAC 252:100-7-60.6 and OAC 252:100-7-60.7 are approvable as satisfying the requirements for minor NSR at 51.160. These revisions continue to ensure the use of PBRs is restricted to minor sources subject to OAC 252:100, Subchapter 7 and that the PBRs available to Oklahoma minor sources require compliance with all applicable federal and state standards to ensure continued protection of air quality.

#### 6. General updates for minor source requirements under OAC 252:100, Subchapter 7

Oklahoma submitted several revisions to the definitions for the OAC 252:100, Subchapter 7 permit program. Many of the submitted revisions are non-substantive to

address formatting or grammar updates or provide clarifications to existing SIP-approved definitions. The EPA's evaluation of these non-substantive definition changes is presented in the TSD. We provide our evaluation of the substantive definition changes below. The EPA proposes that each of these revisions is approvable and necessary for the proper implementation of the Oklahoma minor source permit program at OAC 252:100-7.

- On September 9, 2022, Oklahoma submitted the new definition of “administratively complete” at OAC 252:100-7-1.1 as adopted on June 21, 2022, effective September 15, 2022. This definition applies to any permit application under OAC 252:100-7 and is necessary for the implementation of the minor source program and the ability of a source to begin construction prior to construction permit issuance at OAC 252:100-7-2(b)(5).
- On September 9, 2022, Oklahoma submitted the new definition of “emergency engine” at OAC 252:100-7-1.1 as adopted on June 9, 2016, effective September 15, 2016. This new definition supports the new emergency engine PBR at OAC 252:100-7-60.6.
- On September 9, 2022, Oklahoma submitted the new definition of “Gasoline dispensing facility” as adopted on June 18, 2018, effective September 15, 2018. This new definition supports the new gasoline dispensing facility PBR at OAC 252:100-7-60.7.
- On September 9, 2022, Oklahoma submitted the new definition of “New portable source” as adopted on May 1, 2003, effective June 12, 2003. This definition is used by the existing SIP-provisions at OAC 252:100-7-17 for relocation permits for portable sources.
- On September 9, 2022, Oklahoma submitted the new definition of “Portable source” as adopted on May 1, 2003, effective June 12, 2003. This definition is

used by the existing SIP-provisions at OAC 252:100-7-17 for relocation permits for portable sources.

- On September 9, 2022, Oklahoma submitted revisions to the definition of “Regulated air pollutant” adopted April 28, 2004, effective June 11, 2004, and adopted March 27, 2007, effective June 15, 2007. The definition has been updated to reference OAC 252:100, appendix P. The EPA SIP-approved OAC 252:100, appendix P on September 28, 2016 (81 FR 66535).
- On September 13, 2022, Oklahoma submitted the new definition of “Replacement unit” as adopted on June 11, 2021, effective September 15, 2021. This new definition is consistent with the federal definition of replacement unit in the PSD program at 40 CFR 51.166(b)(32). The definition is necessary for the implementation of the requirements at OAC 252:100-7-15 for modification of an existing facility.

On September 9, 2022, Oklahoma submitted revisions to OAC 252:100-7-2(e), Requirement for permits for minor facilities, Change in permit status. The revisions adopted April 28, 2004, effective June 11, 2004, allow the owner or operator of a permitted facility to notify the Oklahoma DEQ that the facility is permit exempt and request termination of the permit. This provision works with the permit exempt category at OAC 252:100-7-1.1 to establish the exemption from construction permitting for the permit exempt category.

On September 9, 2022, Oklahoma submitted clarifying revisions to the transfer of permit revisions at OAC 252:100-7-2(f) adopted on March 30, 2005, effective June 15, 2005. The revisions specify that the transfer of ownership of a facility is an administrative amendment that will be processed using a form provided by the Oklahoma DEQ.

On September 9, 2022, Oklahoma submitted provisions for emission calculation methods adopted April 28, 2004, effective June 11, 2004. These provisions were further revised with revisions adopted on March 30, 2005, effective June 15, 2005. The requirements at OAC 252:100-7-2(g) specify that emission rates will be calculated using the SIP-approved methodology at OAC 252:100-5-2.1.

Oklahoma submitted updates to the provisions for minor source construction permits at OAC 252:100-7-15 adopted on April 28, 2004, March 27, 2008, May 1, 2012, June 21, 2021, and June 21, 2022. Many of these updates are non-substantive revisions to update formatting and separate the existing SIP-approved construction permit requirements into those specific to new facilities at OAC 252:100-7-15(a)(1), and those requirements specific to modifications of an existing facility at OAC 252:100-7-15(a)(2). The revisions to modifications to existing facilities adopted on June 11, 2021, effective September 15, 2021, add new provision OAC 252:100-7-15(a)(2)(C) to specify that the requirement to obtain a construction permit modification does not apply to the replacement of a piece of equipment if the replacement unit (defined at OAC 252:100-7-1.1) does not require a change in any emission limit in the existing permit. The EPA proposes to find that this exception for replacement units is approvable as consistent with 40 CFR 51.160. The Oklahoma DEQ has determined that replacing an existing unit with a replacement unit that does not alter the design parameters of the process unit, is identical to or functionally equivalent to the replaced unit and does not require an emission limit change in the minor NSR construction permit will not result in a violation of applicable control strategies or interfere with attainment or maintenance.

The provisions for content of construction permit applications at OAC 252:100-7-15(c) were updated with revisions adopted March 28, 2002, April 28, 2004, and March 27, 2008. These revisions modify the existing SIP-approved requirements at OAC 252:100-7-15(c) to provide separate content requirements for individual permits at OAC

252:100-7-15(c)(1) and general permits at OAC 252:100-7-15(c)(2). The requirements specific to individual permits are reformatted into the new section structure. The new requirements for general permits specify that applicants will provide data on forms provided by the Oklahoma DEQ. The EPA proposes to find these revisions to the permit application content are approvable. The Oklahoma DEQ has developed the necessary procedures and forms that will be used to implement the SIP-approved minor source permit program.

Oklahoma submitted new provisions at OAC 252:100-7-15(h) adopted on June 11, 2021, clarifying the authorization to construct under a minor source construction permit expires upon the completion of the construction. The requirements established under the construction permit continue through the FESOP at OAC 252:100-7-18(f).

Oklahoma submitted updates to the provisions for minor source operating permits at OAC 252:100-7-18 adopted on April 28, 2004, March 27, 2008, May 1, 2012, and June 11, 2021. Many of these updates are non-substantive revisions to update formatting and separate the existing SIP-approved operating permit requirements into those specific to new facilities at OAC 252:100-7-18(a)(1), and those requirements specific to modifications of an existing facility at OAC 252:100-7-18(a)(2). The revisions to OAC 252:7-18(a) adopted on May 1, 2012, effective July 1, 2012, increase the period after commencement of operation where a source must submit an operating permit application. The Oklahoma DEQ determined that an increase from 60-days to 180-days after the commencement of operation for a new facility or a modification of an existing facility was appropriate because some industry sectors covered in the minor source operating program needed the longer timeframe to perform the required emissions tests. New requirements at OAC 252:100-7-18(b) adopted on March 27, 2008, effective July 1, 2008, establish the administrative amendment process for minor source operating permits. An administrative amendment can be used to amend an operating permit to

correct typographical errors, update administrative changes at a facility such as name, address, or phone number of a person identified in the permit, require more frequent monitoring or reporting by the permittee, and allow physical or operational changes that do not result in an emissions increase. These new provisions are structured like the administrative amendment criteria for title V operating permits at 40 CFR 70.7(d)(3). New requirements to the permit application requirements for administrative amendments were also adopted at OAC 252:7-18(e)(2). New provisions at OAC 252:100-7-18(c) adopted on March 27, 2008, effective July 1, 2008, state if the Oklahoma DEQ denies or revokes an operating permit that the owner/operator cannot cause or authorize the operation of the facility. The EPA proposes to find these revisions to the minor source operating permit requirements are approvable. The Oklahoma DEQ has developed the necessary procedures for the implementation of the Oklahoma minor source FESOP program.

#### 7. Section 110(l) evaluation of revisions to OAC 252:100, Subchapter 7

CAA section 110(l) states that the “Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.” For purposes of the analysis under CAA section 110(l), we have considered the overall impact of the revisions to the minor source permitting program at OAC 252:100, Subchapter 7. The EPA regulations governing the criteria that states must satisfy for EPA approval of regulations specific to minor NSR programs are contained in 40 CFR 51.160-51.164. Our evaluation has demonstrated that the submitted revisions to the Oklahoma minor NSR program are consistent with the federal requirements establishing the legally enforceable procedures for the minor NSR program at 40 CFR 51.160 and for minor NSR public participation at 40 CFR 51.161. The submitted changes to expand public notice requirements for minor NSR permitting

enhance the minor source program within the Oklahoma SIP but do not have direct impacts on emissions or air quality. Other submitted revisions to update definitions to maintain consistency with federal requirements or make other non-substantive edits to update the program regulations are necessary to ensure functionality of the Oklahoma program but will have no impact on air quality. The Oklahoma DEQ provided adequate justification for the new exemptions from minor source permitting. The EPA reviewed air quality trend data for the state of Oklahoma from the time 2004 through present day, which is the period where the exemptions from minor NSR have been in effect. The State of Oklahoma has been and continues to be in attainment for all criteria pollutants. The EPA is proposing to find that the submitted revisions to OAC 252:100, Subchapter 7 the revisions to the Oklahoma minor NSR program are approvable as meeting CAA requirements for a minor NSR program and will not interfere with attainment, reasonable further progress or any other applicable requirement of the Act.

*E. Evaluation of general revisions to the Oklahoma SIP*

On February 9, 2021, the ODEQ submitted revisions to OAC 252:100-1-2 adopted on June 25, 2020, effective September 15, 2020. The revisions to OAC 252:100-1-2, update the statutory citations to reference the current definitions in 27A O.S. 2-1-102 and 2-5-104. The EPA has determined that several of these statutory definitions are unique and not provided elsewhere through the Oklahoma regulations or the Oklahoma SIP; therefore, these definitions must be proposed for approval in the SIP to provide for proper implementation of the Oklahoma SIP. Specifically, we propose to include the definitions of “Department,” “Executive Director,” and “Person” at 27A O.S. 2-1-102 and the definitions of “Air contaminants,” “Air Pollution,” “Council,” “Director,” and “Person” at 27A O.S. 2-5-104.

The ODEQ submitted revisions on September 13, 2022, and May 30, 2025, to update the general definitions for the Oklahoma SIP at OAC 252:100-1-3. In the

September 13, 2022, submittal the ODEQ provided amendments to OAC 252:100-1-3 that were adopted on June 11, 2021, and effective September 15, 2021, to add new definitions for “new source review” and “NSR permit”. In the May 30, 2025, submittal the ODEQ provided amendments to OAC 252:100-1-3 that were adopted on June 21, 2022, effective September 15, 2022, to add a new definition for “minor NSR”. The new definitions are necessary to promote clarity in the Oklahoma air permitting program.

The ODEQ submitted revisions on September 13, 2022, to section OAC 252:100-1-4 that were adopted on June 11, 2021, and effective September 15, 2021. In the September 13, 2022, submittal the ODEQ provided a new acronym at OAC 252:100-1-4(b) for ‘NSR’. This new acronym is necessary to promote clarity in the Oklahoma air permitting program.

The ODEQ submitted revisions on January 16, 2024, and May 30, 2025, to update the incorporation by reference provisions found in the Oklahoma SIP. In the January 16, 2024, submittal the ODEQ provided amendments to OAC 252:100-2-3 and appendix Q that were adopted on May 31, 2023, and effective September 15, 2023. The May 30, 2025, submittal included amendments to OAC 252:100-2-3 and appendix Q that were adopted on June 21, 2024, and effective September 16, 2024. These revisions ensure the Oklahoma SIP maintains consistency with current Federal requirements by updating the opening paragraph of OAC 252:100-2-3 to include the current incorporation by reference date and revoking and replacing the prior version of appendix Q. Specifically, the ODEQ updated the incorporation by reference requirements of:

- 40 CFR part 50, appendices B and J, to ensure the Oklahoma SIP uses the current Federal reference methods for determining compliance with the NAAQS,
- 40 CFR part 51, subpart A, table 1 to appendix A to use current requirements in the Oklahoma emission inventory reporting requirements,

- 40 CFR part 51, § 51.100(s)(1) of subpart F, to use the Federal definition of volatile organic compound,
- 40 CFR part 51, appendix P, to use Federal emission monitoring requirements,
- 40 CFR part 51, appendix W, to use current Federal guidance on air quality models, and
- 40 CFR part 98, table A-1 of subpart A, to use current global warming potentials in the Oklahoma air permitting programs.

The ODEQ submitted revisions on July 27, 2010, to update the definitions at OAC 252:100-5-1.1, with amendments adopted on May 1, 2009, effective July 1, 2009. These amendments remove the definitions of “gross particulate matter,” “part 70 source,” and “regulated air pollutant”. The definitions at OAC 252:100-5-1.1 are used solely for the implementation of OAC 252:100, Subchapter 5.

The ODEQ submitted revisions on May 30, 2025, to make a non-substantive update to the internal citation reference in OAC 252:100-23-3(a). This non-substantive amendment was adopted on June 21, 2024, effective September 15, 2025.

The ODEQ submitted revisions on May 30, 2025, to make a non-substantive update to the terminology in OAC 252:100-35-1 to align with the existing terminology used elsewhere in OAC 252:100, appendices E and F. This non-substantive amendment was adopted on June 21, 2024, effective September 16, 2025.

#### *F. Evaluation of SIP clean-up actions identified by the EPA*

The current Oklahoma SIP includes provisions for Annual operating fees at OAC 252:100-5-2.2. CAA section 110(a)(2)(L) requires that each plan shall “require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover – (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of

implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), *until* [emphasis added] such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under subchapter V of this chapter". The Oklahoma part 70 Operating Permits program was approved on December 5, 2001. *See* 66 FR 63170. The Oklahoma Operating permits program includes the provisions at OAC 252:100-8-1.7, Permit application fees, and OAC 252:100-5-2.2, Annual operating fees. The EPA proposes to find that the fee program provisions approved in the Oklahoma title V program supersede the CAA section 110(a)(2)(L) fee requirement and OAC 252:100-5-2.2 will be removed from the Oklahoma SIP.

As part of our review of the submitted Oklahoma SIP revisions, the EPA found several errors in the table titled "EPA Approved Oklahoma Regulations" at 40 CFR 52.1920(c). We propose to correct these errors as follows:

- Entry for OAC 252:100-7-60.1 "Cotton gins" incorrectly lists the State citation as "252:100n-7-60.1". This entry should be corrected to show the citation of "252:100-7-60.1".
- Entry for OAC 252:100-5-1 is currently approved with a state effective date of June 11, 2001. The state effective date should be corrected to June 12, 2000.
- Entries for OAC 252:100-8-1, OAC 252:100-8-1.2, OAC 252:100-8-1.3, OAC 252:100-8-6.2, OAC 252:100-8-7.3, OAC 252:100-8-7.4, and OAC 252:100-8-7.5 are currently approved with a state effective date of June 11, 2001. The state effective date for each entry should be corrected to June 25, 1998.
- Entries for OAC 252:100-8-1.4, OAC 252:100-8-1.5, and OAC 252:100-8-3 are currently approved with a state effective date of June 11, 2001. The state effective date for each entry should be corrected to June 1, 2001.

- Entries for OAC 252:100-8-30, OAC 252:100-8-37, OAC 252:100-8-38, OAC 252:100-8-50, OAC 252:100-8-53, OAC 252:100-8-54.1, OAC 252:100-8-55, and OAC 252:100-8-56 are currently approved with a state effective date of June 1, 2009. The state effective date for each entry should be corrected to July 1, 2009.

#### *G. Updates to Rules of Practice and Procedure*

Administrative procedures for permit issuance, public notice and administrative proceedings applicable to the entirety of the Oklahoma permitting program are at OAC 252:4. The current Oklahoma SIP includes the provisions in OAC 252:4, Subchapter 1 – General Provisions, Subchapter 3 – Meetings and Public Forums, Subchapter 5 – Rulemaking, Subchapter 7 – Environmental Permit Process, Subchapter 9 – Administrative Proceedings, Subchapter 17 – Electronic Reporting, and appendices A, B, C, and D.<sup>3</sup> On September 13, 2022, the ODEQ submitted revisions to update the NSR permit program public notice provisions at OAC 252:4, Subchapter 7 and appendix C adopted on June 11, 2021, effective September 15, 2021. The revisions to OAC 252:4-7-13(g)(4) and (g)(6) – (9) and OAC 252:4-7-33 have already been evaluated as part of our evaluation of the revisions to the major and minor source permit programs in prior sections of this preamble. The remaining revisions to OAC 252:4 are more general and apply broadly to the entire air quality program. The EPA proposes to find that these submitted revisions expand and enhance the existing SIP public notice requirements for NSR permits.

- Revisions to the existing SIP-approved provisions at OAC 252:4-7-13(g) introductory paragraph and (g)(1), make non-substantive edits to correct internal references and improve clarity of the provisions.

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<sup>3</sup> The Oklahoma SIP is available at 40 CFR 52.1920. Current provisions at OAC 252:4 were SIP-approved on December 29, 2008 (73 FR 79400), May 15, 2017 (82 FR 22281), and April 10, 2020 (85 FR 20178).

- New requirements at OAC 252:4-7-13(g)(10) are approvable. These requirements specify that the Oklahoma DEQ Executive Director has the discretion to require public notice of other authorizations for Tier I applications such as burn approvals, administrative amendments for air quality applications, and individual authorizations under a general operating permit.
- Revisions to OAC 252:4, appendix C, are approvable. Appendix C does not establish new requirements; rather, this appendix summarizes and provides an easy reference to the public and regulated community of the permit processing requirements for each of the three tiers of permitting.
- Based on the evaluations presented in this preamble, the EPA proposes to revise the 40 CFR 52.1920(c) to show that the provisions in OAC 252:4, Subchapter 7 are applicable to the entirety of the Oklahoma air permitting program.

### **III. Impact on Areas of Indian Country**

Following the U.S. Supreme Court decision in *McGirt v Oklahoma*, 140 S. Ct. 2452 (2020), the Governor of the State of Oklahoma requested approval under section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005: A Legacy for Users, Pub. L. 109-59, 119 Stat. 1144, 1937 (August 10, 2005) ("SAFETEA"), to administer in certain areas of Indian country (as defined at 18 U.S.C. 1151) the State's environmental regulatory programs that were previously approved by the EPA outside of Indian country. The State's request excluded certain areas of Indian country further described below. In addition, the State only sought approval to the extent that such approval was necessary for the State to administer a program in light of *Oklahoma Dept. of Environmental Quality v. EPA*, 740 F.3d 185 (D.C. Cir. 2014).<sup>4</sup>

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<sup>4</sup> In *ODEQ v. EPA*, the D.C. Circuit held that under the CAA, states have the authority to implement a SIP in non-reservation areas of Indian country in the state, unless there has been a demonstration of Tribal jurisdiction. Under the D.C. Circuit's decision, the CAA does not provide authority to states to implement SIPs in Indian reservations.

The EPA has approved Oklahoma’s SAFETEA request to administer all of the State’s EPA-approved environmental regulatory programs in the requested areas of Indian country. As requested by Oklahoma, the EPA’s approval under SAFETEA does not include Indian country lands, including rights-of-way running through the same, that: (1) qualify as Indian allotments, the Indian titles to which have not been extinguished, under 18 U.S.C. 1151(c); (2) are held in trust by the United States on behalf of an individual Indian or Tribe; or (3) are owned in fee by a Tribe, if the Tribe (a) acquired that fee title to such land, or an area that included such land, in accordance with a treaty with the United States to which such Tribe was a party, and (b) never allotted the land to a member or citizen of the Tribe (collectively “excluded Indian country lands”).

The EPA’s approval under SAFETEA expressly provided that to the extent the EPA’s prior approvals of Oklahoma’s environmental programs excluded Indian country, any such exclusions are superseded for the geographic areas of Indian country covered by the EPA’s approval of Oklahoma’s SAFETEA request.<sup>5</sup> The approval also provided that future revisions or amendments to Oklahoma’s approved environmental regulatory programs would extend to the covered areas of Indian country (without any further need for additional requests under SAFETEA).

As explained above, the EPA is proposing approval of revisions to the Oklahoma air permitting program which will apply statewide in Oklahoma. Consistent with the D.C. Circuit’s decision in *ODEQ v. EPA* and with the EPA’s SAFETEA approval, these SIP revisions will apply to areas of Indian country as follows: 1) pursuant to the SAFETEA approval, the SIP revisions will apply to all Indian country in the State of Oklahoma other than the excluded Indian country lands as described above; and 2) pursuant to the D.C.

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<sup>5</sup> The EPA’s prior approvals relating to Oklahoma’s SIP frequently noted that the SIP was not approved to apply in areas of Indian country (except as explained in the D.C. Circuit’s decision in *ODEQ v. EPA*) located in the State. *See, e.g.*, 85 FR 20178, 20180 (April 10, 2020). Such prior expressed limitations are superseded by the EPA’s approval of Oklahoma’s SAFETEA request.

Circuit's decision in *ODEQ v. EPA*, the SIP revisions will also apply to any Indian allotments or dependent Indian communities that are located outside of any Indian reservation over which there has been no demonstration of Tribal authority.

#### **IV. Proposed Action**

We are proposing to approve under section 110 of the CAA, revisions to the Oklahoma SIP that update the Oklahoma NSR programs to maintain consistency with Federal requirements and revise the incorporation by reference dates for Federal requirements. We have determined that the following revisions were developed in accordance with the CAA and the EPA's regulations, policy, and guidance for SIP development and NSR permitting. The EPA proposes approval of the following as revisions to the Oklahoma SIP:

- Removal of Regulations 1.4.1(a)-(c) and 1.4.2(a)-(d), (f), and (g) adopted on March 30, 1994, submitted May 16, 1994.
- Revisions to OAC 252:4-7-13, Notices, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-4-7-32, Air quality applications – Tier I, adopted on March 25, 2003, effective June 1, 2003, and submitted to the EPA on May 24, 2018.
- Revisions to OAC 252:100-4-7-32, Air quality applications – Tier I, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-4-7-33, Air quality applications – Tier II, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Repeal of OAC 252:4, Appendix C – Permitting Process Summary, adopted on June 11, 2001.

- New OAC 252:4, Appendix C – Permitting Process Summary, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-1-2, Statutory definitions, adopted on June 25, 2020, effective September 15, 2020, and submitted to the EPA on February 9, 2021.
- Revisions to OAC 252:100-1-3, Definitions, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-1-3, Definitions, adopted on June 21, 2022, effective September 15, 2022, and submitted to the EPA on May 30, 2025.
- Revisions to OAC 252:100-1-4, Units, abbreviations and acronyms, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-2-3, Incorporation by reference, adopted on May 31, 2023, effective September 15, 2023, and submitted to the EPA on January 16, 2024.
- Revisions to OAC 252:100-2-3, Incorporation by reference, adopted on June 21, 2024, effective September 16, 2024, and submitted to the EPA on May 30, 2025.
- Repeal of OAC 252:100, Appendix Q – Incorporation by reference, adopted on September 15, 2022.
- New OAC 252:100, Appendix Q – Incorporation by reference, adopted on June 21, 2024, effective September 16, 2024, and submitted to the EPA on May 30, 2025.
- Revisions to OAC 252:100-5-1.1, Definitions, adopted on May 1, 2009, effective July 1, 2009, and submitted to the EPA on July 27, 2010.
- Revisions to OAC 252:100-7-1.1, Definitions, adopted on May 1, 2003, effective June 12, 2003, and submitted to the EPA on September 9, 2022.

- Revisions to OAC 252:100-7-1.1, Definitions, adopted on April 28, 2004, effective June 11, 2004, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-1.1, Definitions, adopted on March 27, 2007, effective June 15, 2007, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-1.1, Definitions, adopted on June 9, 2016, effective September 15, 2016, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-1.1, Definitions, adopted on June 18, 2018, effective September 15, 2018, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-1.1, Definitions, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-7-1.1, Definitions, adopted on June 21, 2022, effective September 15, 2022, and submitted to the EPA on May 30, 2025.
- Revisions to OAC 252:100-7-2, Requirement for permits for minor facilities, adopted on April 28, 2004, effective June 11, 2004, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-2, Requirement for permits for minor facilities, adopted on March 30, 2005, effective June 15, 2005, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-2, Requirement for permits for minor facilities, adopted on March 27, 2008, effective July 1, 2008, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-2, Requirement for permits for minor facilities, adopted on June 9, 2016, effective September 15, 2016, and submitted to the EPA on September 9, 2022.

- Revisions to OAC 252:100-7-2, Requirement for permits for minor facilities, adopted on June 18, 2018, effective September 15, 2018, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-2, Requirement for permits for minor facilities, adopted on June 21, 2022, effective September 15, 2022, and submitted to the EPA on May 30, 2025.
- Revisions to OAC 252:100-7-15, Construction permit, adopted on March 28, 2002, effective June 1, 2002, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-15, Construction permit, adopted on April 28, 2004, effective June 11, 2004, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-15, Construction permit, adopted on March 27, 2008, effective July 1, 2008, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-15, Construction permit, adopted on May 1, 2012, effective July 1, 2012, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-15, Construction permit, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-7-15, Construction permit, adopted on June 21, 2022, effective September 15, 2022, and submitted to the EPA on May 30, 2025.
- Revisions to OAC 252:100-7-18, Operating permit, adopted on April 28, 2004, effective June 11, 2004, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-18, Operating permit, adopted on March 27, 2008, effective July 1, 2008, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-18, Operating permit, adopted on May 1, 2012, effective July 1, 2012, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-18, Operating permit, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.

- Revisions to OAC 252:100-7-60, Permit by rule, adopted on June 19, 2024, effective September 12, 2014, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-60.6, Emergency engine facilities, adopted on June 9, 2016, effective September 15, 2016, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-7-60.7, Gasoline dispensing facilities and gasoline dispensing facilities with emergency engines, adopted on June 18, 2018, effective September 15, 2018, and submitted to the EPA on September 9, 2022.
- Revisions to OAC 252:100-8-1.1, Definitions, adopted on March 27, 2008, effective July 1, 2008, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-2, Definitions, adopted on March 25, 2003, effective June 1, 2003, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-2, Definitions, adopted on March 30, 2005, effective on June 15, 2005, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-2, Definitions, adopted on April 28, 2006, effective June 15, 2006, and submitted to the EPA on July 16, 2010.
- Revisions to OAC 252:100-8-2, Definitions, adopted on March 24, 2009, effective on July 1, 2009, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-2, Definitions, adopted on May 3, 2011, effective on July 1, 2011, and submitted to the EPA on February 6, 2012.
- Revisions to OAC 252:100-8-2, Definitions, adopted on March 29, 2012, effective on July 1, 2012, and submitted to the EPA on January 18, 2013.
- Revisions to OAC 252:100-8-2, Definitions, adopted on June 13, 2017, effective September 15, 2017, and submitted to the EPA on January 8, 2018.
- Revisions to OAC 252:100-8-2, Definitions, adopted on March 1, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.

- Revisions to OAC 252:100-8-4, Requirements for construction and operating permits, adopted on March 30, 2005, effective June 15, 2005, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-4, Requirements for construction and operating permits, adopted on March 24, 2009, effective July 1, 2009, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-4, Requirements for construction and operating permits, adopted on March 29, 2012, effective July 1, 2012, and submitted to the EPA on January 18, 2013.
- Revisions to OAC 252:100-8-4, Requirements for construction and operating permits, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-8-4, Requirements for construction and operating permits, adopted on June 21, 2022, effective September 15, 2022, and submitted to the EPA on May 30, 2025.
- Revisions to OAC 252:100-8-5, Permit applications, adopted on March 25, 2003, effective June 1, 2003, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-5, Permit applications, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-8-6, Permit content, adopted on March 30, 2005, effective June 15, 2005, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-6.1, General permits, adopted on March 30, 2005, effective June 15, 2005, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-7, Permit issuance, adopted on March 30, 2005, effective June 15, 2005, and submitted to the EPA on June 24, 2010.

- Revisions to OAC 252:100-8-7.2, Administrative permit amendments and permit modifications, adopted on March 25, 2003, effective June 1, 2003, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-7.2, Administrative permit amendments and permit modifications, adopted on June 15, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-8-8, Permit review by EPA and affected states, adopted on March 28, 2002, effective June 1, 2002, and submitted to the EPA on June 24, 2010.
- Revisions to OAC 252:100-8-8, Permit review by EPA and affected states, adopted on June 11, 2021, effective September 15, 2021, and submitted to the EPA on September 13, 2022.
- Revisions to OAC 252:100-8-36.1, Public participation, adopted on June 21, 2022, effective September 15, 2022, and submitted to the EPA on January 24, 2023.
- Revisions to OAC 252:100-8-36.2, Source obligation, adopted on June 21, 2022, effective September 15, 2022, and submitted to the EPA on January 24, 2023.
- Revisions to OAC 252:100-23-3(a), Applicability, general requirements, adopted on June 21, 2024, effective September 16, 2024, and submitted to the EPA on May 30, 2025.
- Revisions to OAC 252:100-35-1, Purpose, adopted on June 21, 2024, effective September 16, 2024, submitted to the EPA on May 30, 2025.
- Definitions of “Air contaminants,” “Air pollution,” “Council,” “Director,” and “Person” at 27A Oklahoma Statutes (O.S.) 2-5-104.
- Definitions of “Department,” “Executive Director,” and “Person” at 27A 2-1-102.

The EPA is proposing that the provisions in OAC 252:4-7-1, 4-7-2, 4-7-3, 4-7-4, 4-7-5, 4-7-6, 4-7-7, 4-7-8, 4-7-9, 4-7-10, 4-7-11, 4-7-12, 4-7-13, 4-7-14, 4-7-15, 4-7-16, 4-7-17, 4-7-18, 4-7-19, and 4-7-31 are applicable to the entirety of the Oklahoma air permit program and the amendatory language table at 40 CFR 52.1920(c) should be modified to reflect this finding and remove the comments from the Explanation column.

The EPA is proposing to remove OAC 252:100-5-2.2 from the Oklahoma SIP at 40 CFR 52.1920(c) because the CAA section 110(a)(2)(L) fee requirement has been superseded by the approved Oklahoma part 70 program.

The EPA is proposing to remove definitions of “affected source,” “affected unit,” paragraph (E) of “applicable requirement,” “designated representative,” “responsible official,” “small unit,” and “unit” from OAC 252:100-8-2, OAC 252:100-8-4(b)(9), OAC 252:100-8-6(a)(5), and OAC 252:100-8-6.3 from the Oklahoma SIP at 40 CFR 52.1920(c) because these provisions pertain solely to Acid Rain program requirements that are implemented through the approved Oklahoma part 70 program.

The EPA is proposing to update the amendatory language table at 40 CFR 52.1920(c) to correct the citation for OAC 252:100-7-60.1, Cotton gins, and correct the state effective dates for OAC 252:100-5-1, OAC 252:100-8-1, OAC 252:100-8-1.2, OAC 252:100-8-1.3, OAC 252:100-8-1.4, OAC 252:100-8-1.5, OAC 252:100-8-3, OAC 252:100-8-6.2, OAC 252:100-8-7.3, OAC 252:100-8-7.4, OAC 252:100-8-7.5, OAC 252:100-8-30, OAC 252:100-8-37, OAC 252:100-8-38, OAC 252:100-8-50, OAC 252:100-8-53, OAC 252:100-8-54.1, OAC 252:100-8-55, OAC 252:100-8-56.

## **V. Incorporation by Reference**

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Oklahoma regulations for air permitting as described in section III. of this preamble, Proposed Action. We have

made, and will continue to make, these documents generally available electronically through <https://www.regulations.gov> (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## **VI. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

This proposed approval of revisions to the Oklahoma SIP that update the Oklahoma regulations for air permitting will apply, if finalized as proposed, to certain areas of Indian country throughout Oklahoma as discussed in the preamble, and therefore has Tribal implications as specified in EO 13175 (65 FR 67249, November 9, 2000). However, this action will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt tribal law. This action will not impose substantial direct compliance costs on federally recognized Tribal governments because no actions will be required of Tribal governments. This action will also not preempt Tribal law as no Oklahoma Tribe implements a regulatory program under the CAA, and thus does not have applicable or related Tribal laws. Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes (December 7, 2023), the EPA has offered consultation to Tribal governments that may be affected by this action and provided information about this action.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: September 29, 2025.

**Walter Mason,**  
*Regional Administrator, Region 6.*

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