

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

RULE IMPACT STATEMENT

Subchapter 7. Permits for Minor Facilities

Part 1. General Provisions

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

Before the Air Quality Advisory Council, October 27, 2010 and January 19, 2011

Before the Environmental Quality Board, February 25, 2011

1. **DESCRIPTION:** The Department is proposing to modify permitting applicability requirements to assure that State rules affected by recent changes to the U.S. Environmental Protection Agency's (EPA's) policies and programs for greenhouse gas (GHG) emissions are not interpreted to be more stringent than the corresponding federal requirements. GHG, an aggregate group of six gases (carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride), will become subject to regulation as an air pollutant on January 2, 2011, when the EPA and the federal Department of Transportation joint light-duty vehicle GHG emission standards become effective. As a regulated pollutant, GHG will be subject to permitting requirements, which could be interpreted to subject industrial, commercial, and residential sources that emit or have the potential to emit more than 40 tons of GHG per year to state air permitting requirements. The federal Clean Air Act (CAA) does not require that minor source programs apply to GHG. The Department is proposing to add a new section to Subchapter 7 to clarify that GHG is excluded from the minor facility permitting program except if necessary to set enforceable limits to keep GHG emission levels at a facility below the applicability threshold levels for the PSD construction permit program and/or the Part 70 operating permit program. Without this clarifying revision the State's permitting program could be interpreted as covering these smaller GHG sources and thus being more stringent than the federal programs. Therefore, the Department is proposing that this modification be approved as a permanent rule change. A similar modification was approved by the Environmental Quality Board as an emergency rule change at their meeting on November 16, 2010.
2. **CLASSES OF PERSONS AFFECTED:** Classes of persons affected by the proposal are the owners and operators of new and modified sources of GHG who would experience regulatory relief due to the exemption of GHG from the minor facility permit program. These owners and operators will be spared the expense of preparing and submitting permit applications that include GHG emissions for new and modified facilities.
3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** There are no direct economic burdens or costs as a result of this proposal, because the requirements for a new or modified facility that emits GHG to obtain a permit are not imposed by this proposal, but rather by existing Department and EPA rules. This proposal clarifies that a large number of smaller sources of GHG are exempt from the necessity of obtaining minor facility permits. This will spare the owners and operators of those facilities from the expense of applying for permits.

4. **INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** The Department has received no information on cost impacts from private or public entities.
5. **CLASSES OF PERSONS BENEFITTED:** This proposal will benefit the owners and operators of a large number of smaller sources of GHG that are excluded from the minor facility permitting program. They will be spared the expense of applying for permits.
6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** There are no direct economic burdens or costs as a result of this proposal, because the requirements for a new source or modification to obtain a minor facility permit are not imposed as a result of this proposal. Minor facility permits are already required by existing Department rules, not by this proposal. This proposal clarifies an exemption of a large number of smaller sources of GHG from the minor facility permitting program. The owners and operators of these facilities will be spared the expense of applying for permits.
7. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** The Department anticipates no economic impact on political subdivisions.
8. **POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:** The proposal clarifies the exemption of smaller sources of GHG from the minor facility permitting program and should, therefore, impose no economic costs or have a significant economic impact on small business. The owners and operators of these small facilities will be spared the expense of applying for minor facility permits.
9. **LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** No fee changes are included in the proposal.
10. **PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** This proposal does not place any economic burdens or costs on the Department, but should result in lower costs to the agency.
11. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** None. No other agencies will be implementing or enforcing this rule.
12. **SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** Federal grants, fees, and state appropriations will continue to be used to implement and enforce the rule.
13. **PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** Absent this change, net revenues from permit fees would substantially increase due to the large number of smaller sources that potentially may unnecessarily submit minor facility permit applications. However, the proposal would more closely maintain current revenues from permit fees for the Department. The proposal should have no effect on net revenues for other agencies.
14. **COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT**

OR ENFORCE RULE: Cooperation of political subdivisions will not be required to implement or enforce the rule.

15. **EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** The proposal itself minimizes compliance costs by making clear that a large number of smaller GHG sources are exempted from the requirement to obtain a minor facility permit. This should prevent these sources from preparing and submitting unnecessary minor source air permit applications to the Department.
16. **DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** There are no less costly or nonregulatory methods of achieving the purpose of the proposed rule.
17. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The proposal does not have any environmental consequences and should have no effect on public health and safety since it only clarifies the meaning of the rule.
18. **IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK:** The proposal is not designed to reduce significant risks to the public health, safety, and environment, but to clarify that the minor facility permitting program does not apply to a large number of smaller GHG sources that are exempted from the requirement to permit GHG emissions under the PSD or Part 70 programs.
19. **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** There should be none. The proposal merely clarifies that a large number of smaller GHG emission sources that have been exempted from the requirement to obtain PSD or Part 70 permits for GHG by EPA's GHG tailoring rule will not become subject to the State's minor facility permitting program on January 2, 2011. Minor facility permits for these GHG sources would be "empty permits" since currently there are no GHG standards for stationary sources.
20. **PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** There are no direct economic burdens or costs as a result of this proposal because it clarifies regulatory relief from permitting requirements for a large number of smaller GHG emission sources that could otherwise interpret Department rules to subject them to minor facility permitting requirements on January 2, 2011. This change could save these smaller facilities the unnecessary cost of applying for minor facility permits.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: September 13, 2010

MODIFIED ON: November 3, 2010 and December 15, 2010