TITLE 252. OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 100. AIR POLLUTION CONTROL RULES
SUBCHAPTER 7

RULE IMPACT STATEMENT

PERMANENT RULE
Subchapter 7. Permits for Minor Facilities
Part 1. General Provisions
252:100-7-2.1. Minor permits for greenhouse gas-emitting facilities [NEW]

Before the Air Quality Advisory Council, October 27, 2010
Before the Environmental Quality Board, November 16, 2010

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 emissions are not more stringent than the corresponding federal requirements. Greenhouse gases (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 would be subject to permitting requirements, which could be interpreted to subject industrial and commercial/residential sources that emit or have the potential to emit more than 40 tons of GHG per year to State permitting requirements. In addition, 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 exclude GHG 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.

2. **CLASSES OF PERSONS AFFECTED:** Classes of persons affected by the proposed modification 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 obtaining permits 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 proposed modification, because the requirements for a new facility or modification that emits GHG to obtain a permit are not imposed by this modification, but rather by existing Department and EPA rules. This modification exempts a large number of smaller sources of GHG from the necessity of obtaining a minor facility permit. This will spare the owners and/or operators of those facilities from the expense of obtaining 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 modification 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 obtaining permits.

6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** There are no direct economic burdens or costs as a result of this proposed modification, because the requirements for a new source or modification to obtain a minor facility permit are not imposed as a result of this modification. Minor facility permits are already required by existing Department rules, not by this modification. This modification exempts 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 obtaining 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 proposed modification exempts smaller sources of GHG from the minor facility permitting program and should, therefore, impose no economic costs or have a significant economic impact on these small businesses. The owners and operators of these small facilities will be spared the expense of obtaining minor facility permits.

9. **LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** No fee changes are included in the proposed amendment.

10. **PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** This proposed modification 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 would be required to obtain minor facility permits. However, the proposed revision would more closely maintain current revenues from permit fees for the Department. The proposed modification 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 modification itself could be said to minimize compliance costs by excluding a large number of smaller GHG sources from the requirement to obtain a minor facility permit.

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 revision.

17. **DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The proposed modification does not have any environmental consequences and should have no effect on public health and safety because the minor facility permits for GHG (other than "synthetic minor" permits) would contain no limits for GHG since there are no standards for GHG emissions from stationary sources.

18. **IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK:** The proposed modification is not designed to reduce significant risks to the public health, safety, and environment, but to relieve an overwhelming regulatory burden of the minor facility permitting program brought about by GHG becoming an air pollutant subject to regulation.

19. **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** The proposed modification provides regulatory relief from permitting requirements for a large number of smaller GHG emission sources that will become subject to minor facility permitting on January 2, 2011, and for permitting authorities who must issue these permits. Minor facility permits for these GHG sources would be "empty permits" since 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 proposed modification because it provides regulatory relief from permitting requirements for a large number of smaller GHG emission sources that would otherwise become subject to minor facility permitting on January 2, 2011. This change would save these smaller facilities the cost of obtaining minor facility permits.

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