

**SUMMARY OF COMMENTS AND STAFF RESPONSES
FOR PROPOSED REVISION TO
CHAPTER 100. AIR POLLUTION CONTROL, SUBCHAPTERS 1, 7, and 8

COMMENTS RECEIVED PRIOR TO AND AT THE *JANUARY 19, 2022*
AIR QUALITY ADVISORY COUNCIL MEETING**

Oral Comments

Jeremy Jewell – Trinity Consultants and Environmental Federation of Oklahoma (EFO)

1. **COMMENT:** Mr. Jewell stated that adding language such as "following the denial of a permit application" to the sentence regarding Best Available Control Technology (BACT) in OAC 252:100-8-4(a)(1)(D) might address the concerns of the Council that legitimate expenditures made prior to permit issuance could potentially be excluded if the BACT determination is disapproved.

RESPONSE: The Department agrees that the language proposed at the October 20, 2021 meeting may not accurately reflect the Department's intent and therefore could be misinterpreted. DEQ staff have revised OAC 252:100-8-4(a)(1)(D) to address the concerns expressed by the Council and Mr. Jewell. The proposed verbiage now reads:

(D) Construction Activities Prior to Issuance of a Minor NSR (Construction) Permit.
After the submission of an administratively complete minor NSR construction permit application, but prior to the issuance of the corresponding construction permit, an 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. The applicant assumes the risk of losing any investment it makes toward implementing such construction prior to the issuance of a construction permit authorizing the construction. If a minor NSR project necessitates determination of BACT, and the BACT recommended in the permit application is not approved in whole or in part by DEQ, the subsequent resolution of the appropriate selection of BACT shall be based upon the facility's pre-application physical configuration. DEQ retains the authority to deny the permit application without consideration of and regardless of any investment the applicant has made prior to permit issuance. This subparagraph does not serve as authorization by DEQ of the requested construction. In addition, this exception does not exempt the owner or operator from any applicable requirements under federal rules (e.g., NSPS or NESHAP) or state-only regulations.

2. **COMMENT:** Mr. Jewell, on behalf of EFO, expressed support for the rule changes as proposed.

RESPONSE: The Department appreciates EFO's review of the proposed rule.