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

Before the Air Quality Advisory Council on December 9, 2026
Before the Environmental Quality Board on January 20, 2027

RULE IMPACT STATEMENT

Appendix H. De Minimis Activities List [AMENDED]
Appendix I. Insignificant Activities List [AMENDED]
Appendix J. Trivial Activities List [AMENDED]

A. Statement of need for the rule change and legal basis supporting it.
The Department of Environmental Quality (DEQ) is proposing to replace the current versions of Appendices H, I, and J with updated copies to ensure that they are suitably complete and up-to-date for their respective permitting programs.

The legal basis for this rulemaking is supported by:
Environmental Quality Board; 27A O.S. §§ 2-2-101, 2-2-201, 2-3-402, and 2-5-106. Establishes a 13-member, rule-promulgating body for DEQ with authority to review, adopt, amend or repeal rules required to execute environmental laws and policies.
Air Quality Advisory Council; 27A O.S. §§ 2-2-201 and 2-5-107. Establishes a governor-appointed, stakeholder-driven body that holds public hearings and formally recommends all state air quality rules before adoption by the Environmental Quality Board.
Oklahoma Clean Air Act; 27A O.S. §§ 2-5-101 through 2-5-130. Establishes legal framework for Oklahoma's air quality program, granting DEQ statutory authority to monitor air quality, issue permits, enforce compliance, and implement requirements under the federal Clean Air Act.
Oklahoma Uniform Permitting Act; 27A O.S. §§ 2-14-101 through 2-14-304. Authorizes DEQ to develop and implement a three-tier permitting system that unifies public participation, legal notice requirements, and administrative procedures for all permits issued by DEQ.

B. Classification of rule change (major/non-major), justification for that classification, and business cost estimate over the first five (5) years.
This rulemaking would result in a non-major rule change, as the business cost estimate will not exceed the threshold of $1,000,000 over the initial five-year period following the promulgation of the rule. For the changes to Appendices I and J, there will be no new requirements for permit applicants nor any changes to the permitting process, and so the business cost to comply with and implement these changes would be $0. For the changes to Appendix H, certain facilities may lose their status as "de minimis facilities." Most of these facilities are expected to qualify instead as "permit exempt" facilities and will not need to apply for a permit; however, DEQ anticipates a small number of facilities may need to undergo minor source permitting as a result of this rulemaking. Therefore, the total business costs for those few facilities that end up needing to undergo minor source

permitting are estimated to aggregate to around $45,000 over the first five years. As a result, the overall business costs associated with this rulemaking will remain below the $1,000,000 mark, qualifying the rulemaking as a non-major rule change.

C. Description of the purpose of the proposed rule change, whether the change is mandated by federal law or is required to participate in or implement a federal program, and whether the change exceeds the requirements of the federal law.

The purpose of this rulemaking is to update Appendices H, I, and J, which contain lists of "de minimis activities," "insignificant activities," and "trivial activities," respectively. These updates are intended to improve the efficacy of Appendices H, I, and J for both DEQ and permit applicants during the permitting process. These updates are not required to participate in or implement a federal program, nor do they exceed the requirements of the federal law. There is an optional provision under 40 CFR 70.5(c), by which Oklahoma may create a list of insignificant activities as part of the state's Title V permitting program. However, because this list is optional, any changes made to it are neither required changes nor do they exceed federal requirements.

D. Description of the classes of persons who most likely will be affected by the proposed rule(s), including classes that will bear the costs of the proposed rule(s), and any information on cost impacts received by the agency from any private or public entities.

The classes of persons most likely to be affected by the rulemaking are the owners and operators of Title V facilities and facilities currently classified as "de minimis facilities" within the state of Oklahoma. In the event that a facility classified as a "de minimis facility" loses that classification and fails to qualify as a "permit exempt" facility, then that facility will bear the cost of securing a minor source permit.

Additionally, because the three lists contained in Appendices H, I, and J are used to support state permit writers in the permitting process, changes to these lists may have minor benefits for the permit processing workflow.

DEQ has not received any information on cost impacts from any private or public entities.

E. Description of the classes of persons who will benefit from the proposed rule(s).

The owners and operators of facilities addressed by these three Appendices will benefit from the proposed rulemaking, as they will have access to up-to-date information to guide them in submitting permit applications. Likewise, DEQ permit writers will benefit from the updates, which will help them in reviewing permit applications.

F. Comprehensive analysis of the rule change's economic impact, including impacts to the full-time-employee count of the agency, costs or benefits, a quantification of implementation and compliance costs on the affected businesses, business sectors, public utility ratepayers, individuals, state or local governments, and on the state as a whole, with a listing of all fee changes and justification for each fee change.

This rule change will have minimal economic impact, as it will neither create any new nor modify any existing fees. There will be no impact to the full-time-employee count of DEQ, nor will DEQ face any implementation costs as a result of the rulemaking. The only costs associated with the rule change will be the minor source permitting costs for any facilities that lose "de minimis facility" status after the updates to Appendix H and that also fail to qualify as "permit exempt." These costs are estimated to aggregate to around $45,000 over the first five years after implementation of the proposed rulemaking.

G. Detailed explanation of methodology and assumptions used to determine the economic impact, including dollar amounts calculated.

For the above assessment of economic impact, DEQ is assuming that only a fraction of current de minimis facilities may lose "de minimis facility" status following this rulemaking. Because current DEQ permitting policy abides by the 5 tons per year emissions limit in the "de minimis facility" definition rather than by the specific activities at the facility, the removal of specific activities from Appendix H should not significantly shrink the pool of existing de minimis facilities. Additionally, even if that pool does shrink, most of those facilities are likely to qualify for "permit exempt" status, under which they would still be relieved of the responsibility to acquire minor source permits. Therefore, DEQ expects very few facilities to both lose "de minimis facility" status and fail to qualify for "permit exempt" status.

For those few facilities, DEQ is estimating the sum of permit application fees and consultant fees to add up to around $1500 for each facility during the first five years. This figure is based on an application fee ($350 for an authorization to construct and operate or $100 for an operating permit fee) and about 10 hours of consultation at $100 per hour. Additionally, this figure is rounded up to $1500 to account for any extra costs that may be incurred as part of the permitting process. DEQ is then estimating that there is potential for around 30 current de minimis facilities to lose de minimis facility status. The cumulative total costs passed on to industry by this rulemaking would therefore be around $45,000, based on each of the 30 facilities bearing $1500 in costs.

H. Determination of whether implementation of the proposed rule(s) will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule(s).

This rulemaking would not have any economic impact on any political subdivisions nor would it require their cooperation in implementing or enforcing it. The rule change concerns what items are included in Title V permit applications and the applicability of minor source permitting; therefore, all changes included in this rulemaking will apply on a state level.

I. Determination of whether implementation of the proposed rule(s) may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

This rulemaking would have no or minimal adverse effect on small business, as the only businesses affected by the rulemaking would be those few businesses that may lose status as "de minimis facilities," which may or may not include small businesses. The maximum impact on any small business would be the cost of a permit application and associated consultant fees described in G above, totaling up to $1500 per facility. Existing DEQ permit fees have already accounted for small business impacts.

J. Any measures taken by the agency to minimize cost and impact of the proposed rule change on business and economic development in the state, local governmental units, and for individuals.

DEQ has opted to update the items included in Appendices H, I, and J within the current frameworks of Title V permitting and minor source permitting. Therefore, DEQ has minimized costs and impacts by maintaining existing permitting structure.

K. Determination of the effect of the proposed rule(s) on the public health, safety and environment and, if the proposed rule(s) is/are designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk.

This rulemaking is not intended to reduce significant risk to public health, safety, and the environment. The proposed rules will support industry in providing accurate information on permit applications, to ensure that facilities are properly permitted and that emissions from sources are appropriately considered.

L. Determination of any detrimental effect on the public health, safety and environment if the proposed rule(s) is/are not implemented.

Any detrimental effect on public health, safety, and the environment is expected to be negligible whether the proposed rules are implemented or not. This rulemaking is designed as an update to existing regulations and will therefore only have effects on permitting processes.

M. Analysis of alternatives to adopting the rule.

DEQ has considered alternatives to adopting the rules addressed in this rulemaking, such as the creation of guidance documents or the decision to not have written lists of de minimis, insignificant, and trivial activities at all. However, DEQ has judged that this rulemaking is the most accountable and transparent method of updating Appendices H, I, and J, as it will enable public review of the items included in these appendices and maintain existing rule and permitting structures.

N. Estimates of the amount of time that would be spent by state employees to develop the rule and of the amount of other resources that would be utilized to develop the rule.

The total amount of time that would be spent by state employees to develop the rule, including background research, evaluation of activities against emission limits, drafting

of the rulemaking language, and preparation of rulemaking supporting documents, would be around 280 hours of time spent. No additional resources were utilized to develop the rule.

O. Summary and preliminary comparison of any existing or proposed federal regulations that are intended to address the activities to be regulated by the proposed rule.

Existing federal language at 40 CFR 70.5(c) provides the option for states to create lists of insignificant activities, for use in streamlining the permitting process for Title V facilities. This provision is the basis for DEQ's insignificant activities list in Appendix I. Further, there are existing federal requirements at 40 CFR Part 51 that establish the necessary elements of any State Implementation Plan (SIP), including the elements of a minor New Source Review (NSR) permitting program. The proposed changes to Appendix H are intended to more closely align Oklahoma's minor NSR permitting program with EPA requirements.

P. This rule impact statement was prepared on: November 2, 2026
Modified on: