

**SUMMARY OF COMMENTS AND STAFF RESPONSES
FOR PROPOSED REVISION TO
OAC 252:100-7. PERMITS FOR MINOR FACILITIES**

**COMMENTS RECEIVED PRIOR TO AND AT THE *JANUARY 16, 2013*
AIR QUALITY ADVISORY COUNCIL MEETING**

Written Comments

Written comments were received from the following entities prior to the January 16, 2013 Air Quality Advisory Council meeting:

Devon (Devon Energy Corporation) - Letter signed by Mr. Darren Smith, Corporate Policy/Regulatory Manager, received by email from Angie Burckhalter, Corporate EHS Policy Supervisor on January 11, 2013.

MOGA (Mid-Continent Oil and Gas Association of Oklahoma) - Letter received on January 15, 2013 by email from Mr. Mike Bernard, President. (Upstream Sector comments identified as MOGAu and Midstream Sector comments identified as MOGAm)

OIPA (Oklahoma Independent Petroleum Association) - Letter received on January 15, 2013 from Brian Woodard, Vice President-Regulatory Affairs.

1. **COMMENT:** Devon, MOGA, and OIPA each expressed general support of DEQ's effort and approach for issuing a Permit by Rule (PBR) for the Oil and Natural Gas (O&NG) Sector.

RESPONSE: DEQ appreciates the support of the commenters.

2. **COMMENT:** MOGAu - "Does the creation of the new PBR mean that sites cannot qualify for permit exempt status? Our understanding is that if an O&G site emits less than 40 TPY actual emissions and is not required to meet federal emission standards or work practice standards under NSPS or NESHAP, then the site still qualifies for permit exempt status."

RESPONSE: The promulgation of a PBR, such as the proposed O&NG PBR, would not affect permit exempt status. The proposed PBR is intended to streamline permitting requirements for facilities in the O&NG Sector that are subject to federal emission standards or work practice standards under NSPS or NESHAP, but would otherwise qualify under the definition of "permit exempt facility" in OAC 252:100-7-1.1.

3. **COMMENT:** MOGAu - "We recommend that ODEQ revise its application forms to ensure they are consistent with final PBR requirements....We recommend that ODEQ revise the PBR form to allow identification of sources that will have federally, or legal and practically, enforceable emissions rates."

RESPONSE: DEQ will provide specific forms, instructions, and guidance for use with the O&NG PBR.

4. **COMMENT:** MOGAm – "We generally support the creation of an Oil and Natural Gas Permit by Rule (O&NG PBR). However, the natural gas midstream sector (which generally includes natural gas gathering and processing) will have limited ability to utilize this PBR due to the

restrictive 40 tons per year (TPY) actual emission limit in OAC 252:100-7-15(b)(1)(A). Many midstream facilities include compressor engines and thus have NOx and CO actual emissions over 40 tpy."

RESPONSE: The criteria for eligibility for registration under a PBR is contained in OAC 252:100-7-15(b), which established the maximum actual emissions allowed for a facility to be eligible for registration under a PBR. Revising this maximum limit is beyond the scope of this revision, which is primarily intended to add a PBR for minor facilities and area sources in the O&NG sector.

COMMENTS ON 252:100-7-60. PERMIT BY RULE

252:100-7-60. Permit by rule, (a) Applicability.

5. **COMMENT:** Devon – "In regards to 252:100-7-60(a), it is unclear what is meant by 'group of minor facilities'. For consistency and clarity, we recommend the following changes to more closely reflect the language found in 252:100-7-15(b)...:" [changes are in italics]

"(a) Applicability. ~~A minor facility may be constructed or operated under this rule and will be exempt from any other permitting requirements in this Chapter if it meets~~ A permit by rule (PBR) may be adopted for an *industry(s) group of minor facilities* to streamline the air quality permitting procedures required by OAC 252:100-7-15 and 18, if there are a sufficient number of facilities that meet the requirements of 252:100-7-15(b)(1) and ~~this Part~~ that have the same or substantially similar operations, emissions, and activities that are subject to the same standards, limitations, and operating and monitoring requirements."

RESPONSE: Staff agrees and will make this change to 252:100-7-60(a).

252:100-7-60. Permit by rule, (b) General requirements, (1) Application for registration under a PBR.

6. **COMMENT:** Devon - "In reference to 252:100-7-60(b)(1), AQD proposes an application to construct and a separate application to operate. It would reduce the burdens on industry and AQD's staff if a single permit application was allowed or the construction and operation applications were combined on one form. The fees for construction and operations could be combined with a single permit or on a single form that has both the construction and operation applications."

COMMENT: MOGAu - "The new PBR requires a construction permit fee and an operating permit fee. The proposed construction fee is \$250 and the operating fee is \$100. We recommend that ODEQ consider combining the construction and operating forms and fees to facilitate registration. This would eliminate the 180 day period before start of operation. We propose that startup begins with the operation of stationary sources, which is post completion....Our understanding is that NSPS Subpart OOOO would only be triggered by a physical change, so the submittal of one combined PBR application with one fee for construction and operation is preferred."

COMMENT: OIPA - "252:100-7-60(b)(1) - *Application for Registration Under a PBR*...OIPA recommends combining the Construction and Operations application for registration under the

PBR, including a common submittal process and fee (equaling the sum of amounts as proposed) as there does not appear to be a significant value in the duplicative submission which creates additional processing burden on industry and the agency. OIPA understands that this recommendation may necessitate the adoption of language allowing for an extension of the 180 day time limit as noted within 252:100-7-18(a). An alternative to extending the maximum time limit under 252:100-7-18(a), may be to allow the combined PBR to be effective upon receipt by ODEQ."

RESPONSE: DEQ's Air Quality permit program is based on a two-permit system - a construction permit to assure that a planned new facility or modification of an existing facility will be able to meet State and federal requirements upon construction, and an operating permit to assure the facility, as constructed or modified can and will continue to meet these standards. Staff recognizes that the two-step process may be less critical for facilities that can qualify for a PBR. Staff will consolidate the application and permitting processes administratively through the forms, instructions, and guidance provided for the PBR.

252:100-7-60. Permit by rule, (b) General requirements, (2) Emission inventory requirements.

7. **COMMENT:** Devon – "In reference to 252:100-7-60(b)(2), AQD is proposing annual emission inventories for applicable facilities, except for facilities emitting 5 tons per year or less of each regulated pollutant. Emission inventories will be unnecessarily burdensome on operators to track and report emissions from facilities that have actual emissions of 40 tons per year or less, and it will be equally burdensome on the AQD staff to track these small sources when staff's time could be spent more efficiently elsewhere on more important air quality issues. Under 252:100-5-2.1(a)(4), the rule allows special inventories upon the request by the Director. We recommend the following text replace the existing proposed rule..." (changes are in italics).

"(2) Emission inventory requirements. Upon request by the Director, the owner or operator of a facility that emits or has the potential to emit any regulated air pollutant shall file an emission inventory with the Division. The Director is authorized to request this inventory when emission related data is necessary for program planning or compliance with State or Federal rules, regulations, standards, or requirements as specified in 252:100-5-2.1(a)(4)."

COMMENT: MOGAu – "Why is the agency requiring an AEI for sites that would otherwise be Permit Exempt and not required to submit an AEI? What is the basis for the 5 TPY threshold? If the threshold is not driven by a specific requirement, a need for nonattainment modeling data, or previous guidance, we suggest setting the trigger at 50% of the PBR/permit exempt requirements, i.e., 20 TPY for criteria pollutants and 5/13 TPY for HAPs. We do not have concerns maintaining internal emission estimates to verify compliance with the rule limits, and we can provide those upon agency inspection or request. Since the sites will have to be registered and emission estimates included in the initial authorization submittal, we wonder if the registered emission estimates would help the ODEQ obtain quality SIP data for small PBR sites. The emissions for most O&G PBR sites would not vary much from year to year, especially for sites that do not have high pressure condensate. For sites that only have engines (~8760 hrs/yr), produced water, and fugitive emissions, we don't see the value in having to hand enter AEI data into Red Bud and have the RO individually sign off on the multiple small sites. We believe further discussion with ODEQ is warranted on the value of limiting AEI requirements for these

small area sources that were previously permit exempt."

COMMENT: "OIPA - 252:100-7-60(b)(2) – Emission Inventory Requirements

I. OIPA would like to better understand the genesis and basis of ODEQ's 5 ton per year (TPY) emission inventory (EI) threshold requirement for each regulated pollutant. Submitting an annual emissions inventory for a facility that exceeds 5 TPY presents a significant burden on independent producers throughout the state, no matter their size. Operators will be required to expend a significant amount of employee or consulting resources and time on data compilation and submission. This requirement imposes a significant burden and cost on operators who haven't previously been required to compile and enter such data. This requirement will also place a significant burden on ODEQ's data entry personnel and the Redbud entry system.

ii. If the 5 TPY threshold is not driven by a specific technical requirement (e.g. a need for non-attainment modeling data), or required by previous guidance, etc. OIPA would support increasing the threshold for each regulated pollutant to half of the PBR thresholds. Therefore, we would support conducting an EI on those facilities that exceeded the 20 TPY threshold for criteria pollutants and 5 TPY for single Hazardous Air Pollutants (HAP) and 12.5 TPY for combined HAP."

RESPONSE: The emission inventory requirements are in OAC 252:100-5-2.1. To avoid redundancy and streamline rulemaking, staff recommends replacing the existing specific emissions inventory language in 252:100-7-60(b)(2) with a reference to 252:100-5-2.1. It is not appropriate to make substantive changes to the emission inventory requirements in Subchapter 7. Any revisions to the requirements for emissions inventories would have to be made to Subchapter 5 in a separate rulemaking. Staff recognizes the concern of facilities that previously would not have been required to submit an emissions inventory, and will consider options for changes to administrative procedures (and, potentially, future rulemaking) to minimize the impact of reporting requirements on PBR-eligible facilities.

252:100-7-60. Permit by rule, (b) General requirements, (3) Compliance inspections.

8. **COMMENT:** Devon - "In reference to 252:100-7-60(b)(3), we are concerned that unsubstantiated complaints could unnecessarily trigger a compliance inspection. We recommend the proposed language be changed as follows...:" [changes are in italics]:

"(3) **Compliance inspections.** Compliance inspections will be conducted by the DEQ in response to *substantiated air quality related* complaints and on a random basis as necessary to determine compliance."

RESPONSE: DEQ has an established program for responding to environmental complaints, and staff does not believe that the requested change would be necessary or appropriate.

252:100-7-60. Permit by rule, (b) General requirements, (5) Annual operating fee.

9. **COMMENT:** MOGAu – "We understand the proposed language to require an annual emissions fee (\$/ton). We recommend that ODEQ consider increasing the inspection fee to partially offset the annual emissions fee."

RESPONSE: The DEQ does not have an inspection fee. The payment of an annual operating fee is required by OAC 252:100-5-2.2, and any change in that requirement would have to be

made to Subchapter 5 in a separate rulemaking action.

252:100-7-60. Permit by rule, (c) Registration.

10. **COMMENT:** Devon – "In reference to 252:100-7-60(c):"

"c. In the last sentence of this paragraph, it appears that no construction related to the well pad or facility can commence under the PBR until the application and fee are received by DEQ. We recommend that the sentence be clarified to state that no construction can commence on the 'emitting units' on a pad or at the facility until the application and fee are received by DEQ..." (changes are in italics)

"(c) Registration. Registration under the PBR will be effective upon receipt of the requisite form(s) (including the appropriate application fee) by the DEQ. After receiving the appropriate PBR registration request and application fee and certification, the DEQ will acknowledge in writing that the facility is registered to construct or operate under the specified permit by rule PBR. Obtaining such registration shall constitute compliance with the requirements of 252:100-7-15(a) (for construction permits) or 252:100-7-18(a) (for operating permits). No facility may be constructed or operated under a permit by rule until DEQ issues written acknowledgement of the registration. No construction of the emitting units on a pad or facility under a PBR may commence until the request and application fee are received by the DEQ. Operation under the PBR is not authorized beyond the time limit contained in 252:100-7-18(a) unless a request for operation under the PBR and the application fee are received by the DEQ."

COMMENT: MOGAu – "Can we start construction before submittal of PBR? Our understanding is that authorization is granted upon receipt of the application and application fee by ODEQ and then ODEQ sends the company a letter that contains the registration information. The Rule Impact Statement also confirms this."

RESPONSE: Staff acknowledges the commenters' concerns over potential delays in start of construction. Staff intends to revise the proposal to make registration under the PBR effective upon submission. (See Comment 11 and corresponding response.) This would be consistent with the approach used in Air Quality General Permits. Note that DEQ air program policy on applying the term "commence construction" allows site work to be done prior to coverage by the PBR, as long as the work being done does not include construction or installation of the emissions units. For new construction, a permit for a facility eligible for the PBR would not be required until construction commences that would make the facility subject to NSPS or NESHAP.

11. **COMMENT:** Devon – "In reference to 252:100-7-60(c):"

a. There is conflicting information as to when entities are allowed to proceed ahead and construct once the PBR application and fee has been submitted to the AQD. On page 2 of the Rule Impact Statement, it states that the PBR is effective upon receipt of the registration request by the DEQ, instead of upon the issuance of written acknowledgment of the registration request by the DEQ. However, the text in 252:100-7-60(c) implies that DEQ will acknowledge in writing that the facility is registered to construct or operator under the specified PBR. We request AQD clarify this issue.

b. In addition, how will entities submitting applications and fees know when AQD has 'received' the application and fee? We request AQD send out an email notification to the applicant documenting the receipt."

COMMENT: OIPA – "c. 252:100-7-60(c) – Registration

I. Consistent with the authorization language found within the General Permit to Construct/Operate Oil and Gas Facilities (for Minor Facilities), OIPA supports the adoption of the following language constituting "receipt" on behalf of the ODEQ:

1. The earliest of (1) a legible dated U.S. Postal Service postmark (private metered postmarks are not acceptable); (2) a dated receipt from a commercial carrier or the U.S. Postal Service; or (3) a DEQ date stamped application, is acceptable documentation of receipt."

RESPONSE: Staff concurs that the approach currently used in Air Quality General Permits to document Registration receipt is appropriate for PBRs, and intends to revise the language of OAC 252:100-7-60(c) to reflect this. Staff believes that this would allay any confusion over issuance of a written acknowledgment of Registration. Staff will consider administrative procedures to increase efficiency, such as email notifications.

COMMENTS ON 252:100-7-60.5. OIL AND NATURAL GAS SECTOR

252:100-7-60.5. Oil and natural gas sector, (a) Purpose and applicability

12. **COMMENT:** MOGAm - "The proposed language lists 'onshore O&NG production sites', 'natural gas processing plants', 'transmission facilities', and 'distribution facilities'. This could be misleading, as 'gathering sites' and 'underground storage facilities' are not included in this list, yet fall within the scope of most of the NSPS and NESHAP rules specifically addressed in this PBR. The following language changes are suggested. An alternative change would be to include the terms as 'gathering sites' and 'underground storage facilities' in the list of applicable facility types:

OAC 252:100-7-60.5(a) Purpose and applicability. This PBR is issued for minor facilities in the ~~oil and natural gas (O&NG) production segments and the natural gas processing, transmission and distribution segments of the~~ O&NG sector. This generally includes facilities subject to federal standards, primarily Subparts IIII, JJJJ, and OOOO of the federal NSPS at 40 CFR Part 60, and Subparts HH and ZZZZ of the federal NESHAP at 40 CFR Part 63, as cited in this PBR and incorporated by reference in OAC 252:100-2 and Appendix Q to Chapter 100. Specifically, this PBR applies to the following:"

RESPONSE: Staff concurs and will make the requested change.

13. **COMMENT:** MOGAm – "It is our understanding that the O&NG PBR is meant to cover minor facilities in the O&NG sector which are required to obtain construction or operating permits, which may be subject to any NSPS or NESHAP. To fully clarify that this PBR is not limited to facilities that are subject to the NSPS or NESHAP rules specifically addressed in this PBR, the following change is suggested:

*OAC 252:100-7-60.5(a) ... This generally includes **but is not limited to** facilities subject to federal standards, primarily Subparts IIII, JJJJ, and OOOO of the federal NSPS at 40 CFR Part 60, and Subparts HH and ZZZZ of the federal NESHAP at 40 CFR Part 63, as cited in this PBR and incorporated by reference in OAC 252:100-2 and Appendix Q to Chapter 100. Specifically, this PBR applies to the following:"*

RESPONSE: Staff concurs and will make the requested change.

252:100-7-60.5. Oil and natural gas sector, (a) Purpose and applicability, (1) Eligible minor facilities and area sources, (B)

14. **COMMENT:** MOGAu – "The second sentence in 252:100-7-60.5 (a)(1)(B) states 'for purposes of determining eligibility under this PBR, emission reductions ... shall not be considered in determining a facility's potential to emit.' The PBR also states in 60.5 (a)(1)(B) that the facility must meet 252:100-7-15(b)(1)(A)-(E), which is 40 TPY actual for criteria pollutants. These requirements seem to conflict actual emissions vs. PTE (uncontrolled) in determining eligibility for the PBR. Which emission determination method and emission threshold should be used for PBR eligibility?"

COMMENT: MOGAm – "The following language change is suggested to clarify that emissions reductions resulting from any physical or operation limitations shall only **not** be considered when evaluating eligibility under OAC 252:100-7-60.5(a)(1)(B). Otherwise, one might interpret the proposed language as saying that emissions reductions resulting from any physical or operation limitations are also not allowed to be considered when evaluating eligibility under OAC 252:100-7-15(b)(1)(A).

*252:100-7-60.5(a)(1)(B) The facilities must have potential emissions of each regulated air pollutant that are less than the emission levels that require prevention of significant deterioration (PSD), nonattainment new source review (NNSR), and Part 70 permits. For the purposes of determining eligibility under **this PBR this paragraph**, emission reductions resulting from any physical or operational limitation (including capacity limitations, use of air pollution control equipment, and/or restrictions on hours of operation or on the type or amount of material combusted, stored, or processed) shall not be considered in determining a facility's potential to emit."*

RESPONSE: Staff will revise OAC 252:100-7-60.5(a)(1) to make clear that when determining eligibility under the O&NG PBR, calculation of the potential emissions does not include controls or limits, but when calculating the actual emissions, controls and limits can be considered.

252:100-7-60.5. Oil and natural gas sector, (a) Purpose and applicability, (2) Equipment and processes

15. **COMMENT:** Devon – "Reference to 252:100-7-60.5(a)(2):

a. It is not clear from the text that gathering lines and gathering and boosting stations are included in the proposed rule. The AQD's presentation associated with the rulemaking includes these types of operations. We recommend gathering lines and gathering and boosting stations be included in the text of the rule.

b. The second and third sentences of this paragraph are confusing. For example, oil in Oklahoma is typically picked up by tanker trucks. We recommend these two sentences be

deleted as the first and fourth sentences adequately address the issue...." (changes are in italics)

"(2) Equipment and processes. This PBR covers equipment and processes located at onshore O&NG production sites, and natural gas processing plants, transmission facilities, and distribution facilities. *For the oil production segment, this included all operations from the well site to the point of custody transfer to an oil pipeline. For the natural gas segments, this includes all operations from the well site to the customer.* These facilities must be located at onshore production sites, natural gas processing plants, natural gas transmission facilities, or natural gas distribution facilities that meet the criteria contained in 252:100-7-60.5(a)(1). In addition to equipment and processes referenced in 252:100-7-60.5(c)(1) through (8) covered equipment and processes include, but are not limited to:

c. The last sentence of this paragraph is also confusing in that 252:100-7-60.5(c)(1) through (8) is related to rules, standards and requirements. We recommend the sentence be changed to the following...." (changes are in italics)

"(2) Equipment and processes. This PBR covers equipment and processes located at onshore O&NG production sites, and natural gas processing plants, transmission facilities, and distribution facilities. For the oil production segment, this includes all operation from the well site to the point of custody transfer to an oil pipeline. For the natural gas segments, this includes all operations from the well site to the customer. These facilities must be located at onshore production sites, natural gas processing plants, natural gas transmission facilities, or natural gas distribution facilities that meet the criteria contained in 252:100-7-60.5(a)(1). In addition to the *rules, standards and requirements equipment and processes* referenced in 252:100-7-60.5(c)(1) through (8), *the* covered equipment and processes include, but are not limited to:"

COMMENT: MOGAm – "The proposed language lists 'onshore O&NG production sites', 'natural gas processing plants', 'transmission facilities', and 'distribution facilities'. This could be misleading, as 'gathering sites' and 'underground storage facilities' are not included in this list, yet fall within the scope of most of the NSPS and NESHAP rules specifically addressed in this PBR. The following language changes are suggested. An alternative change would be to include the terms as 'gathering sites' and 'underground storage facilities' in the list of applicable facility types:"

*"OAC 252:100-7-60.5(a)(2) Equipment and processes. This PBR covers equipment and processes **located in the O&NG sector, at onshore O&NG production sites, and natural gas processing plants, transmission facilities, and distribution facilities.** ~~For the oil production segment, this includes all operations from the well site to the point of custody transfer to an oil pipeline. For the natural gas segments, this includes all operations from the well site to the customer.~~ These facilities must **be located at onshore production sites, natural gas processing plants, natural gas transmission facilities, or natural gas distribution facilities that** meet the criteria contained in 252:100-7-60.5(a)(1). In addition to equipment and processes referenced in 252:100-7-60.5(c)(1)through (8) covered equipment and processes include, but are not limited to:"*

COMMENT: OIPA "252:100-7-60.5(a)(2) – Equipment and Processes

I. OIPA recommends deleting the second and third sentences of this paragraph beginning with, 'for the oil production segment....' And ending with '...well site to the customer' as it is our belief that this language is unnecessary and may not support ODEQ's goal of clarity.

ii. OIPA's members also believe that 'under this PBR' should be added in the fifth sentence, to better facilitate the public's understanding of the proposed language. This phrase should be added following the statement, 'covered equipment and processes under this PBR include, but are not....'"

RESPONSE: Staff will modify the proposed language to clarify equipment and processes and standards and requirements.

252:100-7-60.5. Oil and natural gas sector, (a) Purpose and applicability, (2) Equipment and processes, (D) and (E)

16. **COMMENT:** MOGAm – "The term 'minor facility' is typically not used within the context of NESHAP rules. Also, in NESHAP HH, the terms 'affected source' and 'area source' are used, but the term 'affected area source' is not used when referring to specific equipment covered by the rule. Accordingly, the following language changes are suggested:

OAC 252:100-7-60.5 (a)(2)(D) The affected ~~area~~ sources listed in 40 CFR Section 63.760(a) and (b)(2) of NESHAP HH, which are located at area sources.

OAC 252:100-7-60.5(a)(2)(E) Stationary reciprocating internal combustion engines (RICE), as specified in 40 CFR Section 63.6585 of NESHAP ZZZZ, which are located at ~~minor facilities~~ area sources in the O&NG sector. "

RESPONSE: Staff agrees that language usage should coincide with the federal rules as much as possible and will change the references.

252:100-7-60.5. Oil and natural gas sector, (b) NSPS and NESHAP requirements. (2) Minor stationary compression ignition internal combustion engines.

17. **COMMENT:** Devon – "In reference to 252:100-7-60.5(b)(2) regarding minor stationary compression ignition internal combustions engines, AQD references 40 CFR Part 60, Subpart JJJJ. The reference should be to Subpart IIII."

COMMENT: MOGAm – "The following correction needs to be made:

OAC 252:100-7-60.5(b)(2) Minor stationary compression ignition internal combustion engines. The owner or operator of a stationary compression ignition internal combustion engine shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of 40 CFR Part 60, Subpart IIII JJJJ."

RESPONSE: Staff agrees and this typo has been corrected.

252:100-7-60.5. Oil and natural gas sector, (b) NSPS and NESHAP requirements, (6)

18. **COMMENT:** MOGAm – "Under OAC 252:100-60.5(b), a 'catch-all' provision should be added to address all other NSPS and NESHAP rules not specifically addressed in OAC 252:100-60.5(b)(1)-(5). Without a 'catchall' provision, one might interpret the language to indicate that a facility subject to an NSPS or NESHAP that is not specifically listed in OAC 252:100-60.5(b)

is *not allowed* to use the PBR. The following language change is suggested:

OAC 252:100-7-60.5(b)(6) Equipment subject to any other NSPS or NESHAP. The owner or operator of the facility shall comply with the applicable emission, equipment, and work practice standards and testing, reporting, monitoring, and recordkeeping requirements of any other applicable NSPS or NESHAP.

RESPONSE: Staff agrees and will add a "catchall" provision to OAC 252:100-60.5(b).

252:100-7-60.5. Oil and natural gas sector, (c) DEQ Air Pollution Control Rules standards and requirements, (7)

19. **COMMENT:** MOGAu – "The new PBR requires compliance with VOC standards in 252:100-37. This section includes the ODEQ PBR for tanks, which requires a submerged fill pipe for tanks over 400 gallons. Does the submerged fill requirement also apply to tanks at oil and gas sites under the new Oil and Gas PBR?"

COMMENT: OIPA – "252:100-7-60.5(c)(7) – *DEQ Air Pollution Control; Rules, Standards and Requirements*

I. This proposal required compliance with VOC standards in 252:100-37. The referenced section includes ODEQ's PBR for tanks, which requires a submerged fill pipe for tanks over 400 gallons. Can you please clarify whether a submerged fill is required for O&NG minor and area source condensate storage tanks under the proposed PBR?"

"iii. 252:100-37-4(b) – *Exemptions:* Petroleum or condensate stored, processed, treated, loaded, and/or transferred at a drilling or production facility prior to lease custody transfer is exempt from this Subchapter. Methanol stored at a drilling or production facility for use on site is also exempt from this Subchapter. Is it ODEQ's intent to maintain the exemption copied above for O&NG sites under the proposed PBR for facilities that have condensate storage and are prior to lease custody?"

RESPONSE: This PBR does not change the applicability of any standard, requirement, or exemption in Subchapter 37. This includes the submerged fill requirements in 252:100-37-15 and 252:100-37-16, and the exemptions in 252:100-37-4. The owner or operator of a facility may choose to register under the PBR that best applies to the facility, e.g., the O&NG PBR or Subchapter 37, Part 9 – Permit By Rule for VOC Storage and Loading Facilities. Nothing under Part 9 (252:100-37-41 and 252:100-37-42) would apply to a facility registered under the O&NG PBR.

20. **COMMENT:** OIPA – "ii. 252:100-37-3(c) – *Permit-by-rule facilities.* This Subchapter does not apply to facilities registered under the VOC storage and loading facility PBR except as provided in Part 9. For facilities that utilize the proposed O&NG PBR, is the site still eligible for using the Part 9 authorization provided the emission thresholds are satisfied and stated conditions met?"

RESPONSE: A facility would not be registered under more than one PBR. (See response to Comment #19.)

252:100-7-60.5. Oil and natural gas sector, (d) Process-specific limitations

21. **COMMENT:** Devon – "In reference 252:100-7-60.5(d), we assume the process specific

limitations provided in (d) would allow entities to avoid the requirements of 40 CFR Section 60 of NSPS OOOO for storage vessels. This interpretation is supported by EPA's response to questions from the American Petroleum Institute (ref. EPA's letter to API, dated September 28, 2012) where EPA states that the source can take into account emission limits from a legally and practically enforceable state rule, operating permit or other mechanism."

COMMENT: MOGAu – "Can the new PBR be used to establish federally, or legal and practically, enforceable limits to stay below the storage tank VOC emission threshold in NSPS Subpart OOOO? Our understanding is that the new PBR can be used to stay below the NSPS Subpart OOOO storage tank VOC emissions applicability threshold since the new PBR requires companies to designate emission sources with federally, or legal and practically, enforceable limits (see 252:100-7-60.5(d)). "

COMMENT: MOGA_m – "OAC 252:100-7-60.5(d) should be revised as follows:

a. The following language change is suggested: *252:100-7-60.5(d) Process-specific limitations. An owner or operator shall designate on the PBR registration form(s) **if that** any of the following federally enforceable limits are applicable to a specific emission unit.*

b. OAC 252:100-7-60.5(d)(1) and (2) both indicate that storage vessel emissions should be calculated on a 12-month rolling total. The time basis for this calculation is not currently defined in NSPS OOOO, but one may be added upon EPA's reconsideration of the rule. If EPA's time basis is different than a 12-month rolling total, owners and operators of facilities using this PBR will be burdened by differing requirements. ODEQ should consider putting the time basis in guidance rather than in rule language.

c. OAC 252:100-7-60.5(d)(1) and (d)(2)(A) both require records of monthly throughputs. The term 'monthly throughputs' should be changed to just 'throughputs'. Some tanks would not otherwise be gauged each month, and this term implies that in order to use this PBR, tanks would have to be gauged on a monthly basis.

d. OAC 252:100-7-60.5(d)(1)(B) uses the term 'VRU downtime' which is historically extremely difficult to define and has resulted in many interpretation issues. For example, many VRUs only operate when they need to (such as when the pressure in the tank is sufficiently high). In this scenario, is the time when the VRU is not operating because there is not a process demand for it to operate considered downtime? In another scenario, the VRU may be down for maintenance, but instead of venting, pressure is merely building in the tank. When the VRU comes back online, all of the gases that were accumulating in the tank will be recovered. Would this maintenance period be considered downtime, even though there was no venting? Rather than try to define downtime, which can be very nuanced depending on facility configuration, the following language change is suggested: *252:100-7-60.5(d)(1)(B) The permittee shall maintain records of all periods of **uncontrolled venting VRU downtime**.*

e. The organization of the language in OAC 252:100-7-60.5(d) and its subsections is problematic:

I. OAC 252:100-7-60.5(d) itself seems to indicate that one only needs to check a box if (d)(1) or (d)(2) are applicable. OAC 252:100-7-60.5(d)(1) discusses the calculation methodology to be used when calculating 6 TPY while (d)(2) states that all storage vessels must be controlled utilizing a flare or enclosed combustion devise. Thus, it is not clear what the

owner or operator is supposed to be indicating on the form.

ii. OAC 252:100-7-60.5(d)(1)(B) should be renumbered to 60.5(d)(1)(A)(I), since it is a sub-condition of the requirements for a VRU.

iii. OAC 252:100-7-60.5(d)(2) states that all storage vessels must be controlled utilizing a flare or enclosed combustion device. This is in contradiction to NSPS OOOO, which allows a variety of option for reducing emissions by 95%. This is also in conflict with OAC 252:100-7-60.5(d)(1)(A) which indicates that a VRU may be used to reduce storage vessel emissions.

iv. In OAC 252:100-7-60.5(d)(2), it is not clear if the VOC storage vessel shall be controlled utilizing 'a flare' or 'enclosed combustion device with a minimum control efficiency of 98%', **or** if this is meant to read as 'a flare with a minimum control efficiency of 98%' or 'enclosed combustion device with a minimum control efficiency of 98%'. The language should be adjusted to clarify the intent.

v. OAC 252:100-7-60.5(d)(2)(A) specifies emission calculation methodologies, but emission calculation methodologies are already specified in OAC 252:100-7-60.5(d)(1).

vi. In general, OAC 252:100-7-60.5(d)(1) and (2) should be clarified that a control device is not a requirement to limit emissions. A revised section should result in: a) allowing emission restrictions without control devices to keep emissions less than 6 TPY VOC per vessel and the storage vessels exempt from a federal standard; and b) allowing emissions greater than 6 TPY per storage vessel (but less than 40 tpy per facility) with the use of a control device."

COMMENT: OIPA – "252:100-7-60.5(d)(2) – *Process-specific limitations*

I. In order to ensure the utmost clarity concerning the establishment of federally enforceable limits within this section, OIPA suggests the following two possible regulatory solutions:

1. At the end of the first sentence within section '(d)' and prior to '(d)(1), add the following sentence, 'If an owner or operator does not check the (federally enforceable box) thereby relinquishing federally enforceable limits, the following provisions are not applicable; or

2. Add the phrase, '*if required*' under section (d)(1) & (2) to clarify that a control device is not a requirement to limit emissions. This section should allow for emission restrictions without control devices to keep emissions less than 6 TPY VOC per vessel and the storage vessels exempt from a federal standard, in addition to allowing for emissions greater than 6 TPY per storage vessel (but less than 40 TPY per facility) with the use of a control device.

3. Additionally, OIPA recommends adding the phrase, 'no less frequent than' under the existing (d)(2)(A) at the following location 'VOC stored and *no less frequent than* monthly throughputs...'"

RESPONSE: Commenters (Devon and MOGA) are correct that the proposed process specific limitations in 252:100-7-60.5(d) are intended to provide a legally and practically enforceable requirement that would allow the permittee to avoid the standards for storage vessel affected facilities under 40 CFR Section 60.5395 (NSPS OOOO). The section is intended to provide two separate limits – 252:100-7-60.5(d)(2) for storage vessels with VOC emissions controlled using

a flare or enclosed combustion device (with or without a VRU), and 252:100-7-60.5(d)(1) for storage vessels that use a VRU or other method (except a flare or enclosed combustion device) to demonstrate compliance with the limit. The PBR Registration Form will provide the opportunity to specify storage vessel affected facilities for which the permittee accepts one of the limitations.

Staff concurs that the structure, requirements, and specific language of the proposed 252:100-7-60.5(d) needs changes, and will modify the proposed language. The specific comments listed above will be addressed during that process.

Oral Comments

Oklahoma Independent Petroleum Association (OIPA) - Mr. Brian Woodard

22. **COMMENT:** Mr. Woodard expressed OIPA's support for the development of a PBR for sources in the oil and natural gas industry affected by new federal NSPS and NESHAP requirements.

RESPONSE: DEQ appreciates the OIPA's support.

COMMENTS RECEIVED PRIOR TO AND AT THE *APRIL 17, 2013* AIR QUALITY ADVISORY COUNCIL MEETING

Written Comments

OIPA (Oklahoma Independent Petroleum Association) – Letter received on April 9, 2013 from Brian Woodard, Vice President – Regulatory Affairs.

23. **COMMENT:** OIPA proposed that OAC 252:100-7-60.5(a)(1)(F) be revised to:

- (a) exclude 252:100-7-15(b)(1)(E) from the list of conditions for eligibility under the PBR. Mr. Woodard stated that the requirement in subparagraph (E) that "the facility is not operated in conjunction with another facility or source that is subject to air quality permitting" would unnecessarily preclude an operator's ability to combine existing affected sources with new co-located sources under a single, common PBR.
- (b) include a requirement that all affected sources operated at any one facility must be covered by a single PBR.

RESPONSE: Staff does not agree that these proposed changes are necessary.

- (a) The requested change would have no effect on the applicability of 252:100-7-15(b)(1)(E). However, 252:100-7-15(b)(1)(E) would not preclude an operator's ability to combine existing affected sources with new collocated sources under a single, common PBR as long as the combined "facility" meets the criteria contained in 252:100-7-60.5(a)(1).
- (b) Proposed 252:100-7-60(a)(2) should address the concerns expressed in Comment 23(b).

Devon (Devon Energy Corporation) – Comments were received by email from Angie Burckhalter, Corporate EHS Policy Supervisor on April 10, 2013.

24. **COMMENT:** Devon proposes that 252:100-7-60.5(a)(1) and (2) and 252:100-7-60.5(b)(1)(B) be revised to be consistent and inclusive as to the types of facilities that could be covered by the PBR and suggested specific changes to accomplish this.

RESPONSE: Staff agrees that the types of facilities to be covered by the PBR should be consistent throughout the PBR and should be as inclusive as possible. Staff is proposing to replace the lists of facilities and processes covered by the PBR in 252:100-7-60.5(a)(1) and (2) with "O&NG sector" to allow the broadest possible coverage. The "tagline" for 252:100-760.5(b)(1)(B) has not been changed since it reflects the title of NSPS Subpart OOOO.