

**SUMMARY OF COMMENTS AND STAFF RESPONSES
FOR PROPOSED REVISION TO
OAC 252:100-5. REGISTRATION, EMISSION INVENTORY AND ANNUAL
OPERATING FEES**

**COMMENTS RECEIVED PRIOR TO THE *JULY 17, 2013*
AIR QUALITY ADVISORY COUNCIL MEETING**

Written Comments

Written comments were received from the following entities prior to the July 17, 2013 Air Quality Advisory Council meeting:

Apache (Apache Corporation) - Maria Para, Production Engineer, provided written comments on July 8, 2013 by email expressing concern about the proposed reporting schedules for Permit by Rule facilities.

1. **COMMENT:** Apache requested clarification of the reporting expectation for PBR facilities, specifically the three and six year reporting intervals.

RESPONSE: DEQ agrees that the original proposal was not as definitive as it needed to be and has revised the proposal to address this issue.

Devon (Devon Energy Corporation) - Angie Burckhalter, Corporate EHS Policy Supervisor, provided written comments on July 10, 2013 by email expressing concern over the proposed reporting thresholds for facilities registered under a Permit by Rule, the frequency of emission inventory submissions and the burden imposed on industry and ODEQ staff. Specific changes to the rule language were also provided.

2. **COMMENT:** Devon recommends an Emission Inventory reporting threshold of 10 tons per year to manage the burden of reporting. This recommendation is based on the fact that oil and gas facilities registered under a PBR are minor facilities and area sources with actual emissions of 40 tons per year or less, that do not have the potential to emit (PTE) to trigger PSD, nonattainment NSR, Part 70 permits, or have PTE of 10 TPY or more of any single HAP or 25 TPY or more of any combination of HAPs. Devon expresses concern that the reporting threshold of 5 TPY is very low when compared to other states that demonstrate impaired air quality, such as Texas and New Mexico.

Additionally, Devon recommends that subsequent emission inventories be submitted upon request by DEQ when data is necessary for program planning or compliance with state and federal rules, regulations or standards. This will reduce the burdens on DEQ staff and industry.

The following language changes (bold and italics) were proposed by Devon:

"OAC 252:100-5-2.1(a)(2) Permit by rule. The owner or operator of a facility registered under a permit by rule ~~as outlined~~ in Subchapter 7, Part 9, ~~and emitting 5 tons per year or less~~

of each regulated air pollutant is required to submit an emission inventory for that facility once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year. ~~shall, **at a minimum**, submit an **annual** emission inventory for the first calendar year in which the facility is registered under a Permit By Rule., and thereafter according to the following schedule:~~ *Thereafter, upon request by the Director, an emissions inventory may be requested for registered facilities with actual emission greater than 10 tons per year of any regulated air pollutant when emission related data is necessary for program planning or compliance with State or Federal rules, regulations, or standards.*

~~(A) A registered facility with actual emissions greater than 5 tons per year of any regulated air pollutant shall submit an annual emission inventory for that facility every 3 years, coinciding with the National Emissions Inventory (NEI) Three-Year Cycle Inventory as defined in 40 CFR Section 51.30(b).~~

~~(B) A registered facility with actual emissions of 5 tons per year or less of any regulated air pollutant shall submit an annual emission inventory for that facility every 6 years, coinciding with every second National Emissions Inventory (NEI) Three-Year Cycle Inventory as defined in 40 CFR Section 51.30(b)."~~

RESPONSE: DEQ's Air Quality Division (AQD) is required by 40 CFR part 51, Subpart A, to report a total state-wide emission inventory every three years to the U.S. Environmental Protection Agency. This must include both large point sources and area sources. While many individual oil and natural gas production facilities have relatively small emissions, the aggregate emissions from this sector represent a very large portion of Oklahoma's state-wide emissions. It is essential that AQD have the best data available to accurately characterize this sector and constrain area source estimates. Furthermore, data collected from these inventories will be necessary for the development of air quality strategies, specifically pertaining to attainment with the 8-hour ozone NAAQS and the Cross-State Air Pollution Rule (CSAPR) or its replacement. Previous inventories, such as the 2011 CenSARA Oil and Gas Area Emission Inventory, relied on the limited number of industry surveys that were returned to characterize sector specific emissions. This low level of participation by the oil and natural gas industry raised concerns about the representativeness of that data.

Although Texas and New Mexico have less stringent point source reporting thresholds than those proposed here, it should be noted that this is not the case for all states with significant oil and gas activity. For example, Colorado requires facilities in attainment areas to submit an emission inventory if actual emissions are over 2 tons per year and Wyoming requires all oil and natural gas facilities to file a triennial emission inventory, regardless of actual emissions amounts.

In response to the request for removal of the requirement to report future inventories, staff feel that the three and six year schedules outlined in the proposed rule are significantly different from the current rule where these facilities would be required to submit an emission inventory every year for facilities with emissions greater than 5 tons and every five years for facilities with emissions of 5 tons or less. This will help to alleviate the reporting burden for

all PBR facilities.

U.S. Environmental Protection Agency, Region 6 (EPA) - Guy Donaldson, Chief, Air Planning Section, provided a letter of written comments via email on 7/11/13.

3. **COMMENT:** “Concerning the revisions proposed to 5-2.1, we suggest that the state consider lowering the threshold for reporting lead emissions to 0.5 tons per year (tpy) to support the lead ambient monitoring regulation (40 CFR 58.1(a)(4)). The EPA has proposed a revision to the Air Emissions Reporting Rules (AERR) to lower the threshold for reporting lead emissions to be consistent with the monitoring regulation (see the proposed rule at 78 FR 37164, published June 20, 2013).

The revisions proposed to 5-3 update a reference to the Oklahoma Statutes at 27A (Environmental and Natural Resources). We concur with these revisions”

RESPONSE: DEQ currently inventories all known point sources with lead emissions of 0.5 tpy or greater and believes that any new lead emitting facilities will not be likely to register under a Permit by Rule, but rather under an individual permit or General Permit. This issue will likely be revisited when EPA issues the final AERR revision.

OIPA (Oklahoma Independent Petroleum Association) -Mr. Brian Woodard, Vice President-Regulatory Affairs, provided written comment on July 11, 2013 by letter received via email expressing concern over the proposed reporting thresholds for facilities registered under a Permit by Rule, the frequency of emission inventory submissions and the burden imposed on industry. Additionally, OIPA proposed new reporting emission inventory thresholds for all facilities. Specific changes to the rule language were also provided.

4. **COMMENT:**

"I. Subchapter 5 - Registration, Emission Inventory and Annual Operating Fees

a. 252:100-5-2.1(a)(2) - *Requirements to File an Emission Inventory: Permit by Rule*

- i. OIPA recommends that ODEQ revisit their proposed reporting requirements to delete initial and subsequent reporting standards for minor facilities emitting less than twenty five (<25) tons per year (tpy) annually and, upon request by the Director, implement special inventory requests for those facilities emitting greater than twenty five (>25) tpy of a regulated air pollutant when data is necessary for program planning or compliance with State or Federal rules, regulations, standards, or requirements.
- ii. Under ODEQ’s current standards, and prior to the implementation of federal standards such as 40 CFR Part 60, NSPS OOOO and accompanying area NESHAPs, operators of facilities emitting less than forty (<40) tpy of a regulated pollutant largely fell under the umbrella of “permit exempt” status and therefore were not subject to emission inventory requirements. In contrast, due to the new federal air standards applicable to these minor facilities, a significant number of sources will

now be required to obtain a permit and provide an initial simulated emission estimate with should be a conservatively "high" representation of the facilities' actual emissions to ensure annual compliance. The facilities registered under a PBR do not have a potential to emit (PTE) that would trigger PSD, nonattainment NSR, Part 70 permits, or have a PTE of 10 TPY or more of any single HAP or 25 TPY or more of and combination of HAPs.'

- iii. ODEQ's proposed reporting threshold of 5 tpy is excessively low and goes far beyond the reporting threshold required by neighboring states whose air quality is inferior to that of Oklahoma's. For instance, Texas' air rules for ozone non-attainment areas only require emission inventories from facilities emitting a minimum of 10 tpy of VOC and 25 tpy nitrogen oxides (NOx). New Mexico's air rules simply require emission inventories for sources in ozone non-attainment areas that have a PTE of 25 tpy or more of NOx or VOCs.
- iv. This significant increase in simulated emission data initially reported to the ODEQ, coupled with the fact that the Director would retain the ability to initiate a blanket inventory request, should adequately suit the agencies needs to monitor and evaluate emission from minor facilities throughout Oklahoma in order to make sound and informed decisions as it pertains to the state's air quality."

The following language changes (bold and italics) were proposed by OIPA:

"252:100-5-2.1(a)

(2) Permit by rule. The owner or operator of a facility registered under a permit by rule-as outlined in Subchapter 7, Part 9, and emitting 5 tons per year or less of each regulated air pollutant is required to submit an emission inventory for that facility once every 5 years. The inventory shall cover operations during the last year of each 5-year period and be submitted by March 1 of the following year. ~~shall, *at a minimum*, submit an *annual* emission inventory for *facilities emitting greater than twenty five (>25) tpy of a regulated pollutant* the first calendar year in which the facility is registered under a Permit By Rule., and thereafter according to the following schedule:~~

Thereafter, upon request by the Director, an emissions inventory may be requested for facilities when emission related data is necessary for program planning or compliance with State or Federal rules, regulations, standards, or requirements according to the following specifications:

~~*a). A registered facility with actual emissions greater than 5 25 tons per year of any regulated air pollutant. shall submit an annual emission inventory for that facility every 3 years, coinciding with the National Emissions Inventory (NEI) Three-Year Cycle Inventory as defined in 40 CFR Section 51.30(b).*~~

~~*b). A registered facility with actual emissions of 5 tons per year or less of any regulated air pollutant shall submit an annual emission inventory for that facility every 6 years,*~~

~~coinciding with every second National Emissions Inventory (NEI) Three-Year Cycle Inventory as defined in 40 CFR Section 51.30(b).~~"

RESPONSE: See response to comment #2.

5. COMMENT:

"II. Subchapter 5 - Registration, Emission Inventory and Annual Operating Fees

252:100-5-2.1(b)(2) - Requirement to File and Emission Inventory: Content

i. OIPA recommends that ODEQ adopt a minimum threshold for reporting emissions of: 0.1 tpy for HAPs and 0.5 tpy for all other regulated air pollutants.

ii. Presently, the ODEQ requires owners or operators to submit emissions data for trace amounts of regulated air pollutants (0.001 tpy). This requirement places an unjustified burden on reporters to track and report very small amounts of pollutants. ODEQ requires emissions inventory data from major and minor sources, unless the facility is considered de minimis or is permit exempt. However, with NSPS Subpart OOOO in place, thousands of very small oil and gas facilities will require some form of permit such as a General Permit (GP) or PBR and will be subject to emissions reporting. This also applies to small facilities in other industry sectors that must now have and air permit due to an area NESHAP or an NSPS requirement. While some states do require reporting of trace amounts of air pollutants (Texas for example), they typically only require reporting from point sources of other large permitted sources or smaller sources in a nonattainment area. For the national emissions inventory, the U.S. Environmental Protection Agency (EPA) only requires lead emissions to be reported if above 0.5 tpy.

The following text changes (bold and italics) were proposed by OIPA:

“ b) **Content.** All inventories submitted to the Division shall include, but shall not be limited to the following:

1. For those emissions subject to a permit, ~~the permit number~~, the permitted allowable emissions as set forth therein.

2. The amount of actual emissions *of each non-HAP regulated air pollutant above 0.5 tpy and of each individual HAP above 0.1 tpy*, including quantifiable excess emissions, and the basis for such determination. If the total actual emissions of any regulated air pollutant from a facility vary from the allowable or ~~from the previous year's~~ actual by more than 30%, the department may require the owner or operator to provide an explanation for the difference in order to determine compliance with the Oklahoma Clean Air Act or any rule promulgated thereunder, or any permit condition prescribed or order issued pursuant thereto.”

RESPONSE: Emissions thresholds for emission inventories have long been excluded from state rules to allow the Department to meet the highly variable data requirements passed down from the EPA or to respond to emergent issues. However, AQD does provide guidance as to what is prudent, practical and necessary to report. For 2010 reporting ODEQ began requiring emissions to be reported at a 0.001 ton threshold in order to gather better data on Hazardous Air Pollutant (HAP) emissions, particularly from combustion processes. The Department now has three years of data that will be analyzed by our Emission Inventory and Toxics groups in the coming months. Currently, staff feels that it is possible that this guidance threshold will be revised upwards by some degree after review of the published 2011 National Emissions Inventory is complete, and staff has assessed the emission data needed to support the AQD Toxics program and the National Air Toxics Assessment.