

Comments received on the proposed changes to Subchapter 41, 42 & Appendix O include:

June 17, 2004	E-mail from Julia Bevers of OGE
July 7, 2005	Letter from Donald C. Whitney of Trinity Consultants
July 14, 2004	Letter from Randall R. Kooiman of Koch Hydrocarbon LP
October 13, 2004	Letter from Julia Bevers of OGE
October 15, 2004	Letter from Angie Burckhalter of OIPA
November 2, 2004	Letter from Johnny Dreyer of Gas Processors Association
December 2, 2004	Letter from Thelma Norman of American Airlines
December 2, 2004	Letter from Jim Schellhorn of Terra Industries
December 3, 2005	Letter from Angie Burckhalter of OIPA
December 9, 2004	Letter from Thomas Diggs of EPA
January 7, 2005	Letter from Carl E. Edlund of EPA
Updated on January 7, 2005	
January 12, 2005	Letter from Julia Bevers of OGE
January 12, 2005	Letter from Thomas Diggs of EPA
January 14, 2005	Letter from Angie Burckhalter of OIPA
January 17, 2005	Letter from Howard Ground of EFO

Updated on January 18, 2005

OGE Energy Corp

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January 12, 2005

Brad Cook  
Air Quality Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, Oklahoma 73101-1677

**Re:** OGE Energy Corp. Comments on Proposed Rule OAC 252:100-42 and Proposed Appendix O

Dear Mr. Cook:

OGE Energy Corp along with its subsidiaries OG&E Electric Services and Enogex Inc. offers the following comments with respect to the December 15, 2004 revision of the proposed rules cited above.

**1. Appendix O.** Maximum acceptable ambient concentrations (MAAC's).

We agree the public health should be protected by implementation of control or other strategies to reduce any toxic air contaminant (TAC) to levels that are protective of the public health. However, we are concerned about the level of the proposed MAAC's for known and/or probable carcinogens. Our related comments address two general concerns about the currently proposed MAAC's:

A. The rationale for the proposed maximum acceptable ambient concentrations (MAAC's) does not appear to be consistent for all the listed substances. We request the Department develop a guidance document that includes a written explanation of a rationale that is consistent for the proposed MAAC's, for carcinogens and non-carcinogens.

i. The table titled "Toxic Air Contaminant (TAC) Maximum Acceptable Ambient Concentrations (MAAC) Under Consideration For Appendix O" attached to the October 2004 rule proposal indicates whether substances are known or probable carcinogens for all except nickel, which is listed as a group of compounds. For the currently proposed MAAC's in Appendix O., it appears that use of the excess lifetime risk levels of  $10^{-4}$  and  $10^{-6}$  were selected for known and probable carcinogens, respectively. However, the proposed MAAC for nickel is based on neither of those risk levels. This was not surprising, since not all nickel compounds are classified as carcinogens by research agencies outside the EPA. However, assuming nickel compounds are classified as probable

carcinogens, to be consistent with the rationale for the other listed carcinogens, the proposed MAAC should be 0.4 ug/m<sup>3</sup> instead of 0.15 ug/m<sup>3</sup>. Similarly, the beryllium compounds MAAC is set at the current level of 0.02 ug/m<sup>3</sup> when the 10<sup>-4</sup> risk level is 0.04 ug/m<sup>3</sup>.

- ii. Likewise, there appears to be inconsistent rationale for non-carcinogens on the proposed Appendix O. Ammonia, ethylbenzene and toluene were left at the current MAAC levels, which are lower than either the respective reference concentration (RfC) or the human equivalent concentration (HEC), while manganese and mercury compounds MAAC's were proposed at the HEC and RfC levels, respectively.

B. To equate MAAC's based upon air concentrations of carcinogens that are measured over 24-hour time periods with the assumptions made by EPA risk assessors in determining risk levels of carcinogens, is unrealistic and over-estimates risk of exposure to the public. EPA cancer risk assessments are based upon lifetime cumulative exposure (i.e. 70-years, 365 days a year average exposure period) and assuming no threshold effect. To apply the same risk assumptions to a single 24-hour averaging period introduces an over-estimation of risk of 10<sup>4</sup> [(70)(365) = 25,550]. Such an over-estimation could have a serious negative impact on the public including: unnecessary fear and anxiety; lowered property and investment values; and increased costs for products that may result from subsequent requirements that may be imposed on industry. We are also concerned about harm to the public image of a source which may be assumed out of compliance when, in fact, that is not the case. To minimize the over-estimation of risk reflected in the currently proposed MAAC's, we offer two suggestions that are not mutually exclusive:

- i. The text of the proposed rule should include language to assure an area of concern (AOC) is not designated unless there is evidence that the TAC will be present at levels that exceed the MAAC on a continuous basis throughout the year. For air emissions that are not continuous, the 24-hour average concentration should be annualized. Only when the annualized level is exceeded should an area of concern be considered for designation.
- ii. Alternatively, we propose the use of an "action limit". The action limit would be the 24-hour concentration at which investigations of a proposed AOC may commence, but public notification and the remainder of the requirements of OAC 252:100-42 would not go into effect unless the annualized level was exceeded.

2. *252:100-42-30(a)(1) and 252:100-42-30(b)*. The current language provides for final designation of an AOC 30 days following a public meeting. It is very difficult to ascertain by reading the proposed rule which activities occur before and after the public meeting. Our concern is that an industry may suffer harm if it is identified as a contributing source to an

AOC for which, following more complete analysis, it is determined that the source is not a significant contributor. We suggest the use of the term "proposed area of concern" until final designation:

**(a) Designation.**

*(1) The Director may designate a proposed Area of Concern (AOC) for a TAC when it is demonstrated by monitoring that the MAAC for that TAC is exceeded in such a way as to endanger the public health. ...*

*... (b) **Public notification.** The Department shall publish prominent legal notice of the boundaries and the availability of information associated with the proposed AOC...*

3. **252:100-42-30(a)(2)(D).** The bullet should end with a period instead of a semi-colon:  
*(D) EPA reports;*
  
4. **252:100-42-30(b).** While public notification is addressed in the rule, we are still unclear about how affected sources will be notified that they contribute to a proposed AOC. It is assumed by the time any public meeting would be held, that all pertinent information would have been collected by the Department, i.e. determination of boundaries and identification of contributing sources along with the relative contribution of each affected source, control strategies, etc. It is our concern that a source may be identified merely on the basis that they emit a particular TAC when in fact, that source may not be a significant contributor to the AOC. Sources that are suspected to be contributing sources should be notified in writing by the Department, and there must be sufficient time between the proposed designation of an AOC and the public meeting for affected sources to respond to the allegation that they are contributing to an AOC, negotiate control strategies with the Department, etc. It is suggested that the following changes be considered:  

**(b) Notification.**

***(1) The public.** The Department shall publish prominent legal notice of the boundaries and the availability of information associated with the AOC. The notice shall be published on the Department website, in two newspapers circulated statewide, and in one newspaper local to the AOC. The publication shall identify locations where information may be reviewed. The publication shall include the date, time, and place for the public meeting on the designation.*

***(2) Affected sources.** A public meeting related to the AOC will be scheduled no earlier than 30 days after sources have been notified in writing by the Department that they have been identified as sources contributing to the AOC.*
  
5. **252:100-42-31(c).** This section is unnecessary; the strategies will be presented in the public notification and meeting referenced in 252:100-42-30(b) and (c).

Brad Cook, ODEQ  
OGE Energy Corp Comments on Proposed Rules OAC 252:100-42 and Appendix O  
January 12, 2005

~~252:100-42-31(e). Public notification. The Department shall notify the public of strategies developed to bring the AOC into compliance with the TAC MAAC.~~

OGE appreciates this opportunity to comment on the proposed rule. If you have any questions you may contact me at 553-3439 or by email at [beversjo@oge.com](mailto:beversjo@oge.com).

Sincerely,



Julia Bevers, CIH  
Sr. Industrial Hygienist



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

January 12, 2005

Mr. Scott Thomas  
Environmental Program Manager  
Air Quality Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

Dear Mr. Thomas:

Thank you for the opportunity to comment on the proposed changes for Oklahoma Air Pollution Control Rules OAC 252:100, as listed below:

Subchapter 5	Registration, Emission Inventory and Annual Operating Fees
Subchapter 41	Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants
Subchapter 42	Control of Toxic Air Contaminants [New]
Appendix O	Toxic Air Contaminants Ambient Air Concentration Standards [New]

**Subchapter 5. Registration, Emission Inventory and Annual Operating Fees**

The Air Permits Section will provide comments as necessary in a separate communication.

**Subchapter 41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants**

We previously commented on 252:100-41 in a letter dated December 9, 2004. We have no additional comments.

**Subchapter 42. Control of Toxic Air Contaminants**

We previously commented on proposed 252:100-42 in a letter from Carl Edlund, dated January 7, 2005. We have no additional comments.



**Appendix O**

We previously commented on Appendix O in a letter dated December 9, 2004. We have no additional comments.

We appreciate the opportunity to comment on the proposed rules prior to the public hearing on January 19, 2005. If you have questions regarding any of these comments, please feel free to contact me or Carrie Paige at (214) 665-6521.

Sincerely yours,

A handwritten signature in black ink that reads "Thomas H. Diggs". The signature is written in a cursive style with a large, prominent "D" and "G".

Thomas H. Diggs  
Chief  
Air Planning Section



January 14, 2005

Mr. Eddie Terrill, Director  
Air Quality Division  
Oklahoma Department of Environmental Quality  
707 N. Robinson  
Oklahoma City, OK 73101

Re: Proposed Toxic Air Emission Rulemaking

Dear Mr. Terrill:

The Oklahoma Independent Petroleum Association (OIPA) is providing this letter to you concerning the Oklahoma Department of Environmental Quality's (DEQ's) revised proposed rulemaking regarding toxic air emissions.

As you know we have submitted comments on this proposed rulemaking multiple times over the past few months. We appreciate the efforts you have made to resolve our issues; however, the proposed rule still provides us significant concerns, and we cannot support the rules as currently written. Our concerns are as follows.

1. 252:100-42-3 and 252:100-42-31(a)(1). Applicability. We would like to reiterate our previous comments regarding the proposed language that states that the compliance strategies will apply to "...stationary sources that emit a toxic air contaminant (TAC)," and "any" stationary source or emission unit. This would be very onerous and costly on crude oil or natural gas well owners, especially owners of marginal wells with very low emissions for a particular TAC for which the area of concern (AOC) was designated. It would be equally onerous on the DEQ to address such small emission sources. We recommend that language be added to include the development of de minimis limits for a TAC in an AOC at which additional requirements would not be applicable to such small sources.
2. 252:100-42-30. Areas of Concern. It appears from the proposed language that the DEQ will designate an AOC prior to the public notice and meeting. We request that a proposed AOC be presented to the public and that DEQ utilize the public's comments in the decision making process prior to designating an AOC. In addition, it is not clear how or when DEQ will notify emission source owners in the proposed AOC. We request this be clarified.
3. 252:100-42-31(a)(2): We recommend that DEQ include general language to describe that a TAC maximum acceptable ambient concentrations (MAACs) exceedance will be evaluated where citizens are located and where public health is a concern.

4. 252:100-42-31(b)(2) & (3). Permits, monitoring, and modeling requirements. We assume from the proposed language that permits, and monitoring and modeling requirements would be part of the compliance strategies which would go through the rulemaking process before these requirements would be placed on an operator. If this is incorrect, we recommend that the language be changed to reflect this assumption.

5. Reference Appendix O: We agree that public health should be protected; however, we have significant concerns regarding the proposed MAACs for each substance.

First, we would like to reiterate our previous comments regarding why more stringent MAACs are being proposed than is currently in place. Does the DEQ have specific instances where the current standards have failed or caused problems?

Secondly, we think that the comparison of a single day of monitoring results as compared to lifetime exposure risk levels is not appropriate and is vastly disproportionate to the actual risk. For example, in regards to the Ponca City study, DEQ collected air samples for numerous substances, one is benzene. The Ponca City benzene sample results exceeded the proposed benzene MAAC results by 2 to 10 times, yet DEQ concluded that *"...there is no significant increased lifetime cancer risk from VOC air toxics in the Ponca City area."* If the proposed toxic rules were in place today, Ponca City would be designated as an AOC. This raises major concerns as to DEQ's proposed MAAC levels.

Finally, it would be very helpful if DEQ could include general language at the bottom of Appendix O to clarify the number of samples collected over the 24 hour time frame as well as stating that an appropriate number of samples will be collected from a location in order to conduct a statistical analysis of the data set.

We appreciate the opportunity to provide input on the proposed rulemaking. If you have any questions, please contact me at 405-942-2334, x 221. Thank you in advance for your consideration.

Sincerely,

Angie Burckhalter  
V.P., Regulatory & Environmental Affairs

cc: Cheryl Bradley, DEQ



**The Environmental Federation of Oklahoma**  
**"Working for Oklahoma's Economic and Environmental Future"**

January 17, 2005

via email

Mr. Brad Cook  
Department of Environmental Quality  
Air Quality Division  
707 N. Robinson  
Oklahoma City, Oklahoma 73102

Re: Proposed Air Toxics Rulemaking

Dear Mr. Cook:

The Environmental Federation of Oklahoma appreciates the opportunity to submit these comments on the Proposed Air Toxics Rulemaking. The Environmental Federation of Oklahoma (EFO) is a non-profit, pro-business organization that provides an industry voice to the formulation and implementation of State and Federal laws, regulations and policies. The EFO consists of more than eighty companies of various sizes and in various industries all across Oklahoma. We look forward to having an Air Toxics rule that is reasonable, understandable, and protective of public health.

We offer the following comments and questions regarding the overall intent and philosophy behind Subchapter 42 and Appendix O:

It is not clear in 252:100-42-30 (a)(1) what the words "demonstrated" and "monitoring" mean in the first sentence. The current wording seems to imply that a meter ( monitor) could show an exceedance of a MAAC standard for any chemical in Appendix O over a 24 hour period and that could demonstrate the need to designate the area as an Area of Concern (AOC). The definition of MAAC helps to lead a person to this understanding.

It is our understanding that monitoring will be conducted in areas of the state that could potentially contain chemicals in the ambient air listed in Appendix O and that the MAAC standards will be used as a trigger point for the AQD to conduct further studies/risk assessments. The studies would then be used to determine if there is potential for public harm and if an AOC should be designated.

We have a concern with the current wording that the AQD Director will be required to designate an area as an AOC even if further studies and risk assessments show that the concentrations do not endanger public health. The studies in Ponca City are a case in point.

We also have a concern that the standards in Appendix O are too stringent. The MAAC standards are inconsistent with earlier studies conducted by the AQD and in some cases may be too low to monitor accurately. We feel that the standards should be set at a  $10^{-4}$  level on all substances in Appendix O to give the AQD some latitude in designating areas of concern.

We also feel that redefining MAAC to be "Maximum Ambient Action Concentration" would help in the overall understanding of this regulation. We feel that this is a better description and better fits the use of the term in this regulation.

EFO asks the Air Quality Council to consider these comments and to make the recommended changes so that there will not be any question as to the intent and philosophy behind Subchapter 42 and Appendix O.

Sincerely;



Howard Ground  
Chairman, EFO Air Committee

xc: EFO Board  
EFO Air Committee