SUMMARY OF COMMENTS AND STAFF RESPONSES FOR PROPOSED REVISIONS TO SUBCHAPTER 9. EXCESS EMISSION REPORTING REQUIREMENTS

COMMENTS RECEIVED PRIOR TO AND AT THE OCTOBER 17, 2007 AIR QUALITY ADVISORY COUNCIL MEETING

Cardinal Engineering - letter from Adrienne Jones, received October 15, 2007

1. **COMMENT:** "This proposed rule removes the option for submitting quarterly reports for excess emissions during startup or shutdown events due to technological limitations (OAC 252:100-9-3(b)(2)). The removal of this option will significantly increase the reporting burden for facilities with excess emissions attributable to technological limitations as PowerSmith has an average of 109 start up and shut downs each quarter (since 2006). PowerSmith requests the DEQ maintain the quarterly reporting option for facilities with technological limitations."

RESPONSE: Unfortunately the above referenced subsection is not consistent with current EPA guidelines for excess emissions due to technological limitations. However, on a case specific basis we believe the problem with PowerSmith can be alleviated by a permit modification.

U.S. EPA, REGION 6, Air and Planning Section - letter from Guy Donaldson, received October 16, 2007

2. **COMMENT:** "We noticed that the definition for the term 'Malfunction' also appears in the current Definitions portion of Subchapter 1 - General Provisions rule. Please make sure that the proposed change to the definition of 'Malfunction' in Subchapter 9 is properly cross-linked or reflected in Subchapter 1, as well."

RESPONSE: Staff concurs.

3. **COMMENT:** "Please elaborate on the rationale for the required time frame for notification in Paragraph 9-9(a) - Immediate Notice being 'the following working day' instead of the 'following calendar day.' Our concern is that if an excess release or discharge occurs on a Friday, and the following Monday is a legal holiday, it could be as many as four calendar days after the release before Oklahoma Department of Environmental Quality is notified."

RESPONSE: The immediate notification of an excess emission event is not considered an emergency by DEQ. If the agency were to insist that such notifications be made by the following calendar day, we would have to have personnel manning the phones 24/7.

4. **COMMENT:** "The third sentence in Paragraph 9-9(b) - Written Excess Emission Event Report reads: 'Owners or operators of facilities experiencing an ongoing excess emissions

event may file an initial excess emission event report within thirty (30) days of the immediate notice followed by a final report within 30 days of when the excess emissions event concludes.' This sentence could leave the reader with the impression those ongoing excess emissions events are normal and considered excusable for facilities in Oklahoma. Therefore, we are recommending that the third sentence in Paragraph 9-9(b) be revised to read:

If a facility experiences an ongoing excess emissions event, then the owner or operator may file an initial excess emission event report within thirty (30) days of the immediate notice followed by a final report within 30 days of when the excess emissions event concludes."

RESPONSE: Staff concurs.

5. **COMMENT:** "We recommend adding a new sentence at the end of the Affirmative Defense Determination, Paragraph 9-11(d) of the proposed rule reading to the effect that '*This section should not be construed as limiting EPA or citizens authority under Federal Clean Air Act.'*"

RESPONSE: Staff concurs.

6. **COMMENT:** "Please consider replacing the terms 'NSPS' and 'NESHAP' in Paragraph 9-11(c) - Affirmative Defense Prohibited with 40 Code of Federal Regulations 60, 61, and 63 instead."

RESPONSE: Staff concurs.

7. **COMMENT:** "Section 252:100-9-11 addressed Affirmative Defenses; subsection (a) applies to malfunctions, and (b) applies to start up/shut down. In comparing the two subsections, we noticed that different language was used for seemingly similar provisions: Section 252:100-9-11(b) start up/shut down: required to meet the requirements 'in a timely manner.' 252:100-9-11(a) malfunctions: required to meet the requirements, but no reference to 'in a timely manner' - please explain. In the same section, we compare (a)(5) and (b)(5); (a) malfunctions: 'All <u>reasonable</u> steps were taken to minimize the impact of the excess emissions on ambient air quality.' and (b) start up/shut down: 'All <u>possible</u> steps were taken to minimize the impact of the excess emissions on ambient air quality.' Please explain why different words were chosen."

RESPONSE: Staff will make the language consistent.

COMMENTS RECEIVED PRIOR TO THE JANUARY 17, 2008 AIR QUALITY ADVISORY COUNCIL MEETING

Email received on December 11, 2007 from Steve Willis P.E., Sr. Engineer, Environmental Health and Safety

8. **COMMENT:** Section 252:100-9-11(a)(1) should be changed to read:

"The excess emissions were caused by a sudden breakdown of equipment, or a sudden failure of a process to operate in the normal or expected manner and could not have been avoided by following the manufacture's recommended maintenance and operation procedures.
Or

The excess emissions were caused by a sudden, reasonably unavoidable breakdown of equipment, or a sudden, reasonably unavoidable failure of a process to operate in the normal or expected manner."

RESPONSE: Staff will consider the suggested wording.

9. **COMMENT:** The affirmative defense for maintenance was removed. This provides an incentive to reduce maintenance which will increase the probability of a malfunction and even greater emissions. In our case, to avoid any excess emissions, a 5 minute preventative maintenance operation on our wet scrubber would require we shut down our process equipment, let all the product run through, perform the PM work on the scrubber, restart the process equipment and wait for the product to feed back in. This would result in the loss of a considerable amount of production for less than 10 pounds of excess emissions. An affirmative defense for emissions during periods of maintenance should be reinstated back into 252:100-9-11 (b).

RESPONSE: Staff disagrees. The scenario described can and should be handled through the permitting process.

10. **COMMENT:** "The vast majority of excess emissions events from the Dal Italia operations are for 30 pounds or less, with several being 10 pounds or less. We recommend permitting by rule or some similar mechanism for routine maintenance that results in 24 hour emissions below a reportable quantity threshold, or establishing a de minimus 24 hour emission level. This would greatly reduce the reporting requirements for permit holders and lessen review work by the ODEQ without causing any material effect on the environment."

RESPONSE: Staff will consider this comment.

11. **COMMENT:** Section 252:100-9-1 reads in part "…. *Accordingly, it is reasonable to expect that careful and prudent planning and design will eliminate the chances for violations of emission limitations during such periods.*

It is unreasonable to believe that 100% of excess emissions can be eliminated. If so, there would be no need for any affirmative defenses. It should be changed to:

Accordingly, it is reasonable to expect that careful and prudent planning and design will **reduce** the chances for violations of emission limitations during such periods."

RESPONSE: Staff will consider this comment.