

**SUMMARY OF COMMENTS AND STAFF RESPONSES FOR PROPOSED
REVISION TO OAC 252:100, SUBCHAPTERS 5, 7, 9, 23 AND NEW
APPENDIX P – REGULATED AIR POLLUTANTS**

**COMMENTS RECEIVED PRIOR TO THE
APRIL 19, 2006 AIR QUALITY ADVISORY COUNCIL MEETING**

Written Comments

EPA region 6 – Letter dated April 12, 2006 from Thomas Diggs and David Neleigh

1. **COMMENT:** The proposed amendment to the definition of regulated air pollutant in Subchapters 5-1.1, 7-1.1, and 9-2 reads:

“Regulated air pollutant” means any substance or group of substances listed in Appendix P of this Chapter, or any substance regulated as an air pollutant under any federal regulation for which the Department has been given delegation by EPA, or any other substance for which an air emission limitation or equipment standard is set by an enforceable permit.”

To maintain consistency in addressing the “group of substances,” we request that Oklahoma reword the paragraph, per the text suggested below. This will insure that any currently proposed or future state or federal rulings regarding any substance or group of substances as regulated air pollutants will be included as regulated air pollutants. Our recommended text:

“Regulated air pollutant” means any substance or group of substances listed in Appendix P of this Chapter, or regulated as an air pollutant under any federal regulation for which the Department has been given delegation by EPA. In addition, any substance or group of substances for which an air emission limitation or equipment standard is set by an enforceable permit, or any State or federal rule.”

RESPONSE: Staff will recommend that the hearings be continued to the July Council meeting, and will take this comment under advisement for response at a future date.

2. **COMMENT:** The proposed amendment to the definition of actual emissions in Subchapter 7-1.1 reads:

“Actual emissions” means the total amount of any regulated air pollutants actually emitted from a given facility during ~~a particular calendar year,~~ ~~determined using methods contained in OAC 252:100-5-2.1(d)~~ twelve (12) consecutive months. Please explain why the definition of “actual emissions” as contained in 40 CFR 51.166(b)(21) could not be used as an acceptable protocol to determine actual emissions for the proposed deletion of OAC 252:100-5-2.1(d).

RESPONSE: Staff will recommend that the hearings be continued to the July Council meeting, and will take this comment under advisement for response at a future date.

3. **COMMENT:** The proposed revisions to OAC 252:100-23-2 seek to delete the definition of Total Suspended Particulates (TSP) from the "High efficiency cyclone" efficiency standard, and replace it with Gross Particulate Matter (GPM), which itself would be newly defined in OAC 252:100-5-1.1. The current definition of TSP, which resides in OAC 252:100-1-3, states: "Total Suspended Particulates" or "TSP" means particulate matter as measured by the high-volume method described in Appendix B of 40 CFR Part 50. This method captures particulate matter up to 45 microns in size. The proposed revisions: "Gross Particulate Matter or GPM means particulate matter with a nominal aerodynamic diameter greater than 10 micrometers." This definition of GPM in the performance standard/definition of "High efficiency cyclone" in the Cotton Gin Rule would potentially exclude particles in the size range of 0 to 10 microns. We view this as a potential relaxation of a SIP approved control measure and question whether this proposed modification is in compliance with Section 110(l) of the CAA, which states:

“Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.”

We are authorized under the CAA to approve relaxations of SIP requirements as long as the relaxations do not interfere with timely attainment or subsequent maintenance of the NAAQS or any other CAA requirement. The submittal must therefore demonstrate that the proposed SIP revisions do not interfere with the attainment or maintenance of the NAAQS, Rate of Progress, Reasonable Further Progress (RFP), violate the Prevention of Significant Deterioration increments, or any other applicable requirements under the CAA, or in any way adversely affect the existing air quality in Oklahoma. This demonstration must show that any relaxation of the existing SIP requirements will not result in interference with the requirements of the CAA. As with past proposed revisions, the State must provide an opportunity for notice and public comment. If needed, we can provide past Federal Register Actions and a copy of EPA’s latest draft guidance, dated June 6, 2005, “Demonstrating Noninterference Under Section 110(l) of the CAA When Revising a State Implementation Plan.”

As stated in the guidance, with respect to attainment, maintenance and RFP, EPA interprets section 110(l) such that areas generally have two options available to demonstrate noninterference for the affected pollutant(s): substitution of one

measure by another with equivalent or greater emissions reductions/air quality benefit; an air quality analysis showing that removing the measure will not interfere with other applicable requirements (i.e., without a substitute measure). Please consider whether the State can successfully make this kind of a demonstration before GPM is substituted for TSP, in the Cotton Gin Rule.

RESPONSE: Staff will recommend that the hearings be continued to the July Council meeting, and will take this comment under advisement for response at a future date.

OIPA – email dated April 14, 2006 from Angie Burckhalter

4. **COMMENT:** Why is DEQ adding Appendix P? What is the need, purpose and its use?

RESPONSE: The purpose of this appendix is to clarify for our customers what the Department considers to be “regulated air pollutants.”

5. **COMMENT:** We request more time to review all of the changes in Appendix H, I, J, and P that is being proposed before they are approved. Do you know if the AQD wants to pass these rules next week in the AQC meeting?

RESPONSE: Staff will recommend that all of the appendices be continued to the July Council meeting.