

**SUMMARY OF COMMENTS AND STAFF RESPONSES  
FOR PROPOSED REVISION TO SUBCHAPTER 33  
CONTROL OF EMISSION OF NITROGEN OXIDES**

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

**Written Comments**

**Grand River Dam Authority** - Email received on January 10, 2008 from Perry S. Friedrich, Environmental Department Superintendent

1. **COMMENT:** "100-33-1.1 (Definitions) – In the definition of 'new fuel-burning equipment' the terms 'in being' and 'existing' are used. It is not clear if these are used to describe the same type of equipment. If the same equipment is being described, I suggest the same term be used consistently throughout the rule. If they are not the same, I suggest they be defined."

**RESPONSE:** The terms "existing source" and "in being" are defined in OAC 252:100-1-3.

2. **COMMENT:** "100-33-1.1 (Definitions) – This comment addresses the terms 'existing' and 'in being' as they pertain to the definition of 'new fuel burning equipment'. I believe they should be defined to specify what 'in being' and/or 'existing' are to mean (e.g. sources that are emitting on the specified date, sources that are under construction, sources that have received a permit to construct, or operate, etc.)."

**RESPONSE:** The terms "existing source" and "in being" are defined in OAC 252:100-1-3.

3. **COMMENT:** "100-33-1.2(a)(2) (Applicability) – The term 'gas' is used. If it is in keeping with the Air Quality Division's intent, I believe the term 'gaseous' should be considered to replace 'gas' where appropriate in Subchapter 33. This would provide consistency with federal rules found at 40 CFR 60."

**RESPONSE:** Further consideration will be given to this request.

4. **COMMENT:** "100-33-1.2(a)(2) (Applicability). The phrase 'solid fossil, gas, or liquid fuel' is used. I ask you to consider replacing this phrase with 'fossil fuel in solid, gaseous, or liquid form'. This would preclude any future questions regarding gaseous and liquid fuels that are not fossil fuels, and would provide consistency with federal rules found at 40 CFR 60."

**RESPONSE:** DEQ staff interprets the phrase "solid fossil, gas, or liquid fuel" to mean that the solid fuel is required to be of fossil origin, but that the gas and liquid fuel may be fossil fuel, but are not required to be fossil fuel. OAC 252:100-33-1.2(a)(2) has been revised to make this clear.

**Environmental Protection Agency (EPA), Region 6** – Letter received via email on January 16, 2008 from Guy Donaldson, Chief, Air Planning Section

5. **COMMENT:** "It is our understanding that this rule was initially adopted as an emergency rule for glass manufacturing furnaces. To expand 252:100-33-1.2(b) to 'new fuel burning equipment' has the appearance of expanding the universe of exempted sources or extending an exemption to a larger number or group of affected units. Therefore, technical or economical justifications for this expansion would be necessary in your SIP submittal to EPA."

**RESPONSE:** OAC 252:100-33-1.2 was revised to exempt glass-melting furnaces from the emission limits in 252:100-33-2(a). This revision became effective as an emergency rule on 3-17-03 and as a permanent rule on 6-1-04. The proposed change to 252:100-33-1.2(b) provides a means for direct-fired fuel-burning equipment to qualify for exemption from the emission limits contained in Subchapter 33. When the NO<sub>x</sub> limits were established in 1972, the definition of fuel-burning equipment did not include direct-fired equipment. However, in 1977 the definition of fuel-burning equipment was changed to include direct-fired processes and equipment, which then became subject to all of the air pollution control rules for fuel-burning equipment. We are unable to find any evidence that consideration was given at that time to the technological feasibility of direct-fired fuel-burning equipment to meet the NO<sub>x</sub> emission limits. The changes to OAC 252:100-33-1.2(b) will create a conditional exemption that will apply to all direct-fired fuel-burning equipment.

**RESPONSE UPDATED JANUARY 5, 2009:** The proposed revision to 252:100-33-1.2(b) for the January 17, 2008 Council meeting did expand the universe of exempted sources to an unknown number of sources. Because the number and nature of these sources is unknown, the Department has decided not to go forward with this proposal. If in the future sources need relief from a standard that was not originally intended for them, such exemption will be requested for a better defined group.

6. **COMMENT:** "If our understanding of the expansion of exempted sources is correct, then the SIP submittal to EPA will need to include a section 110(1) analysis. The 110(1) analysis should compare the proposed changes to the approved SIP. EPA last approved these revisions on 11/03/1999."

**RESPONSE:** If required, the SIP submittal to EPA will include a section 110(1) analysis.

7. **COMMENT:** "Under 'technological limitations', we strongly recommend adding a statement that approval of technological limitations by the Executive Director does not mean automatic approval by the EPA. Otherwise, this provision will be problematic."

**RESPONSE:** Staff will give this request further consideration.

**RESPONSE UPDATED JANUARY 5, 2009:** A statement that approval of technological limitations by the Executive Director does not mean automatic approval by the EPA has been added to OAC 252:100-33-2(b).

8. **COMMENT:** "Section 252:100-33-2, emission limits as approved by EPA on 11/03/1999 (64 FR 50629) uses a 'two-hour maximum' in connection with the NO<sub>x</sub> emissions limits. We have attached this section to this letter for your reference. See 252:100-33-2(a)(1), (a)(2), and (a)(3) of the attached reference. Please elaborate why ODEQ is proposing a 'three-hour average' in section 252:100-33-2."

**RESPONSE:** This change to OAC 252:100-33-2 became effective in 2001 and was made for consistency with the stack test which has a three-hour average.

#### **Oral Comments**

There were no oral comments from the public at the January 17, 2008 Air Quality Advisory Council meeting.

#### **COMMENTS RECEIVED PRIOR TO AND AT THE *JULY 16, 2008* AIR QUALITY ADVISORY COUNCIL MEETING**

#### **Written Comments**

No new written comments were received prior to or at the Air Quality Advisory Council meeting.

#### **Oral Comments**

There were no oral comments from the public at the July 16, 2008 Air Quality Advisory Council meeting.

#### **COMMENTS RECEIVED PRIOR TO AND AT THE *OCTOBER 15, 2008* AIR QUALITY ADVISORY COUNCIL MEETING**

#### **Written Comments**

**EPA Region 6** – Letter attachment to email received October 8, 2008, signed by Guy Donaldson, Chief, Air Planning Section

9. **COMMENT:** "We have previously submitted comments on Subchapter 33 concerning Control of Emission of Nitrogen Oxide (enclosed). Please refer to page 2 of our January 16, 2008 comment letter. Those comments still remain valid and in effect."

**RESPONSE:** See Responses to Comments 5 through 8 which were addressed in the January 16, 2008 letter.

#### **Oral Comments**

There were no oral comments from the public at the October 15, 2008 Air Quality Advisory Council meeting.