

**SUMMARY OF COMMENTS AND STAFF RESPONSES
FOR PROPOSED REVISION TO APPENDIX I INSIGNIFICANT ACTIVITIES
(REGISTRATION) LIST**

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

Written Comments

EPA Region 6 – Letter dated April 12, 2006, received by FAX on April 14, 2006, signed by Thomas H. Diggs, Chief, Air Planning Section and David Neleigh, Chief, Air Permits Section.

1. **COMMENT:** The first paragraph of the proposed amendment to Appendix I should include the following sentence: “In addition, any activity must insure that it does not exceed any standard or limitation contained in 252:100-41, 252:100-42, “Maximum acceptable ambient concentration” or “MAAC” contained in Appendix O of this Chapter for TAC, or any hazardous air pollutant de minimis rate established pursuant to section 112(g) of the Clean Air Act.” This will further insure that those activities described on the list comply with any State or federal standards or limitations.

RESPONSE: Staff will give further consideration to EPA's suggestion change to the first paragraph. However, there is before the State Legislature at this time a revision to the definition of "insignificant activities" in OAC 252:100-8-2 that reflects the changes previously made to Subchapter 41 and the new Subchapter 42 regarding toxic air contaminants. The State air toxics program was moved from Subchapter 41 to Subchapter 42 and the program was changed significantly. As currently contained in Subchapter 42, it would not be appropriate to include Subchapter 42 in the language EPA has suggested be added to Appendix I. Facilities are not subject to the limits set in Appendix O unless they are located in or impact an Area of Concern. We anticipate the revisions to the definition of "insignificant activities" will be effective on June 15, 2006.

2. **COMMENT:** The rule at 40 CFR 70.5(c) requires EPA approval of the State’s insignificant activities and emission levels. In EPA’s initial action giving interim approval to the Oklahoma operating permits program, one of the conditions given to obtain full approval required revision of the insignificant activities provisions to reflect an insignificant emissions level of one pound per hour of operation, based on potential to emit, or some other level as the State may demonstrate is insignificant with respect to applicable requirements (61 FR 4223). In response, the State promulgated a revised insignificant activities definition in OAC 252:100-8-3(e). The revision defined insignificant activities as those on a list approved by the Administrator and contained in Appendix I of Subchapter 8, or whose actual calendar year emissions do not exceed certain limits. The definition also excluded any activity to which a Federal or State applicable requirement applies. In its action giving final full approval of the Oklahoma operating permits program, EPA found that the emission levels in the revised definition are consistent with the levels in other approved State operating permit programs, however, EPA specifically stated that it was not approving the list of insignificant activities contained in Appendix I. Thus, it appears that under the Oklahoma title V program currently approved by EPA, insignificant activities are limited to

the emission levels in OAC 252:100-8-2 and do not include the activities listed in the current version of Appendix I. If EPA is to comment or act on the proposed revisions to Appendix I, our comment and action should include all provisions of Appendix I, and not just proposed revisions.

RESPONSE: Comments are requested on all the provisions of Appendix I, not just the proposed revisions. Since the DEQ rulemaking rules do not allow Appendices to be revised, DEQ will revoke Appendix I and replace it with a new Appendix I which will be completely underlined as new language. At this time, however, to make it easier to determine what changes DEQ is proposing, Staff has underlined new language in the Appendix I in the Council Packet and struck out deleted language.

OIPA – E-mail dated April 14, 2006, from Angie Burckhalter, Vice President of Regulatory Affairs.

3. **COMMENT:** We request more time to review all of the changes that are being proposed.

RESPONSE: Since the April 19, 2006, Air Quality Advisory Council meeting will be the first time the proposed revision to Appendix H has been presented at public hearing, Staff plans to ask that the hearing be continued to allow for further public comment.

OIPA – E-mail dated Letter dated April 17, 2006, from Angie Burckhalter, Vice President of Regulatory Affairs received by E-mail on April 17, 2006.

4. **COMMENT:** We request DEQ establish an exemption allowing oil and gas operators to conduct certain temporary activities without obtaining a permit until they have good data in hand to determine whether a permit is truly needed. This would save both DEQ and operators time and money and prevent permits from being issued when they may not be needed.

RESPONSE: This suggestion is being given further consideration.

Verbal Comments Received at the AQC Meeting

5. **COMMENT:** Sharon Shelby, Environmental Manager, AES Shady Point, LLC, stated that the intent of insignificant activities is to lessen recordkeeping and reporting requirements for Title V. Appendix I requires that certain insignificant activities in the Appendix are required to keep records of hours, quantity, or capacity for these activities to verify insignificance. Ms. Shelby suggested that this requirement be changed to a one-time demonstration of insignificance.

RESPONSE: Staff does not agree. The insignificant activities in Appendix I for which records are required have the possibility of emitting one or more regulated air pollutant at a rate that exceeds that allowed by the definition of "insignificant activities" in OAC 252:100-8-2. Recordkeeping is necessary to demonstrate that such insignificant activities remain insignificant. However, the owner or operator of a source may demonstrate in the Part 70 permit application that the activity is insignificant without the recordkeeping requirements included in Appendix I.

COMMENTS RECEIVED PRIOR TO THE JULY 19, 2006 AQC MEETING

AES Shady Point, LLC – Letter from Sharon Shelby, Environmental Manager, dated April 25, 2006

6. **COMMENT:** Ms. Shelby repeated the comment that she made at the April 19, 2006 Air Quality Council meeting regarding the use of a one time demonstration of insignificance in Appendix I and suggested a rule change to accomplish this. (See Comment 4 above)

RESPONSE: See the response to Comment 4 above.