

**SUMMARY OF COMMENTS AND STAFF RESPONSES FOR PROPOSED
REVISIONS TO SUBCHAPTER 44. CONTROL OF MERCURY EMISSIONS
FROM COAL-FIRED ELECTRIC STEAM GENERATING UNITS**

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

Written Comments

EPA Region 6 – Letter dated April 10, 2006, signed by David Neleigh, Chief, Air Permits Section, received by FAX on April 10, 2006

1. COMMENT: Option 1 – Adopting the federal CAMR rules – "It does not appear to be necessary to adopt 60.4130 and 60.4150 since these sections are reserved and they contain no actual regulatory language."

RESPONSE: Staff concurs.

2. COMMENT: Option 1 – Adopting the federal CAMR rules – "We consulted with EPA's Clean Air Markets Division (CAMD) regarding whether 60.4141 and 60.4142 should be adopted by states who incorporate by reference the Federal CAMR rules. CAMD was of the opinion that both provisions need to be adopted by States to have an approvable state plan. Section 60.4141 outlines the State's obligations for determining allowance allocations and the consequences of failure to satisfy these obligations. Section 60.4141 outlines the impacts on allocations arising from a state failing to submit mercury allocation by specified dates. This provision should, therefore, be included in the state plan to ensure that both the state and the owners/operators of units subject to the plan are aware of the deadlines and the consequences of failing to meet them. Section 60.4142 outlines the process by which states may calculate unit-by-unit allocations. Section 60.4142, therefore needs to be included in the state rules if this option is selected to define the State's allocation method. If the state exercises its option to develop and adopt an alternative allocation methodology and still participate in the EPA administered trading program, that alternative methodology should be set forth in the state rules in lieu of the one specified in 60.4142. This provision allows the regulated community the opportunity to see how their allocations are calculated and, therefore, is necessary for the open and transparent process required in this type of trading program. The inclusion of the provision may thus minimize potential challenges from the regulated industry based on inaccurate assumptions concerning how the state determined the allocations."

RESPONSE: Staff concurs.

3. COMMENT: Option 2 – STAPPA/ALAPCO model rule – "If Oklahoma adopts this approach, Oklahoma should outline in its State plan how it intends to enforce against a source that does not achieve the appropriate mercury reduction as required by the rule. Are there penalties or sanctions?"

RESPONSE: Staff will consider this comment if staff goes forward with this rule.

4. COMMENT: Option 2 – STAPPA/ALAPCO model rule - "How will the percentage capture of inlet mercury be determined if a source selects this emission standard option? The definition of inlet mercury refers to 'as determined by methods prescribed by the State.' Has the state defined the method(s) that it will recognize for determining inlet mercury concentration? Will the state utilize Continuous Emission Monitoring System, EPA Method 29, or EPA Method 101A of Appendix B, Part 61? The method(s) should be stated or referenced in the proposed rule and the State plan."

RESPONSE: Staff will consider this comment if staff goes forward with this rule.

5. COMMENT: Option 2 – STAPPA/ALAPCO model rule - "Has Oklahoma calculated or determined the expected mercury reductions under the various options being considered for existing units in this approach? If so, was a comparison made to Oklahoma's mercury emission budget of 0.721 tons per year for 2010-2017, and the 0.285 tons per year beginning in 2018?"

RESPONSE: Not officially.

6. COMMENT: Option 2 – STAPPA/ALAPCO model rule - "Under this approach, is a source required to designate a mercury designated representative responsible for all recordkeeping and reporting per 60.4140 to comply with the requirement in 252:100-44-7a? This is not clear in this option. How does the Oklahoma Department of Environmental Quality (ODEQ) envision the interface between ODEQ, the U.S. Environmental Protection Agency, and the companies working to demonstrate that the state's CAMR plan is meeting its mercury emission budget? We believe each company should designate a designated representative to be responsible for all certifications, recordkeeping, and reporting under this approach."

RESPONSE: Staff will consider this comment if staff goes forward with this rule.

7. COMMENT: Option 3 – State rewrites federal CAMR with state timelines/requirements – "EPA Region 6 believes that this approach will take significant time and coordination between Oklahoma and EPA Region 6. We also believe this approach will impact Oklahoma's ability to submit a State plan to EPA for approval by November 17, 2006, as required by the CAMR requirements. Oklahoma does, however, have the option of pursuing this approach as long as it can demonstrate that its plan is at least as stringent as CAMR."

RESPONSE: Staff will consider this comment.

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

Written Comments

EPA Region 6 – Email received July 12, 2006 from Jeffrey Robinson of the EPA, forwarded from the Clean Air Markets Division.

8. COMMENT: "Oklahoma's draft regulations incorporate by reference §§ 60.4101 through 60.4108; §§ 60.4110 through 60.4114; §§ 60.4120 through 60.4124; § 60.4130; § 60.4140; §§ 60.4150 through 60.4157; §§ 60.4160 through 60.4162; and §§ 60.4170 through 60.4176 of EPA's model Hg trading rule (40 CFR part 60, subpart HHHH (as revised on May 18, 2005)). Oklahoma's regulations make minor alterations to sections of the model rule not listed above (§§ 60.4141 and 60.4142). The EPA has evaluated Oklahoma's draft regulations and comments as follows.

Oklahoma's approach of incorporating by reference most of the provisions of the model rule not only facilitates EPA's review but also will facilitate adoption by Oklahoma of changes in the model rule. Oklahoma will need to adopt some changes in order to participate in the EPA-administered trading program. In the June 9, 2006 Notice of Final Action on Reconsideration of CAMR (FR 33388), EPA finalized changes to the applicability provisions of the Hg model trading rule and to the deadline for submission of initial allocations to the Administrator. In addition, EPA intends to issue a proposed CAMR federal plan rule, which will likely include proposed changes to the model rule necessary to take account of the CAMR federal plan rule. Oklahoma's incorporation by reference simplifies the adoption of final changes to incorporated provisions of the model rule since the publication date indicated for the incorporated rule provisions can be revised to reference an updated version of the model rule. EPA recommends that the date in 252.100-44-3 be changed to June 9, 2006 and that the State plan to update this date if changes are made to the rule in the future."

RESPONSE: Staff concurs.

9. COMMENT: "The State of Oklahoma incorporates § 60.4140 of the model rule by reference which includes all the state budgets. EPA suggests that Oklahoma only include the Oklahoma Hg budget. EPA also suggests that Oklahoma specify the State Hg budget in terms of ounces, not tons, because each allowance that will be allocated authorizes one ounce of Hg emissions and emissions will be reported in ounces."

RESPONSE: Staff concurs.

10. COMMENT: "252:100-44-5 (a) states November 30, 2006 as the deadline for submitting Hg allowance allocations for control periods in 2010 – 2014. In the June 9, 2006 Final Rule mentioned above, this deadline was changed to November 17, 2006. Oklahoma needs to use the November 17 date."

RESPONSE: Staff concurs.

11. COMMENT: "252:100-44-5 (b)(2) and (c)(2) provide for allocations in the absence of state submission of allocations to EPA; similar provisions are in the model rule. EPA notes that EPA's Clean Air Interstate Rule (CAIR) originally included in the NO_x model trading rule provisions similar to those in the Hg model rule. EPA subsequently removed those provisions from the CAIR NO_x model trading rule and may propose to take the same action with regard to the Hg model rule. In light of this potential change, EPA suggests that Oklahoma reconsider 252:100-44-5 (b)(2) and (c)(2)."

RESPONSE: Staff will take that into consideration.

12. COMMENT: "252:100-44-9 creates an auction with one percent of the Oklahoma Hg budget. EPA suggests that Oklahoma include in the State rule some details of how the auction will be conducted and, particularly, when the auction for allowances allocated for specific years will be conducted, including a provision indicating when Oklahoma will notify EPA of the parties to whom specified amounts of auctioned allowances should be transferred."

RESPONSE: Staff is currently investigating state procedures and feasibility of selling emission credits.

EPA Region 6 – Email received July 12, 2006 from Jeffrey Robinson of EPA Region 6

13. COMMENT: 252:100-44-5(a) – "November 30, 2006 should be changed to November 17, 2006. The due date for allowance allocations for 2010, 2011, 2012, 2013, 2014 is November 17, 2006 per 40 CFR § 63.4141(a). Currently, the CAMR rule requires the EPA Administrator to record the allowances by December 1, 2006 in the budget sources compliance account for 2010 – 2014 [40 CFR § 60.4153(a)]."

RESPONSE: Staff concurs.

14. COMMENT: 252:100-44-5(b)(1) - "The October 31, 2009 date should be changed to October 31, 2008. The due date for the control period in the sixth year after the year of the applicable deadline established in this paragraph is October 31, 2008 per 40 CFR § 60.4141(b)(1). Currently, the CAMR rule requires the allowances for the control period 2015 to be recorded by EPA on December 1, 2008 [40 CFR § 60.4153(b)]."

RESPONSE: Staff concurs.

15. COMMENT: 252:100-44-9 – "The proposed regulatory text does not provide any specific provisions detailing how and when the auction of 1% of the allowances held by ODEQ will occur. Will the initial allowances be auctioned prior to the November 17, 2006 due date for allowance allocations in 2010-2014, or does ODEQ envision a system to auction the allowances during the control period and then submit Hg allowance transfer requests to EPA for the purchaser's budget source account? EPA requests that ODEQ include its auction process or incorporate by reference an

existing State regulation that ODEQ may utilize to describe how the auction will be managed. EPA would also like an opportunity to review the auction process to determine how the process and timing will interact with the Federal cap and trade program."

RESPONSE: Staff is currently investigating state procedures and feasibility of selling emission credits.

Verbal Comments

Mr. Bud Ground, Public Service Company of Oklahoma.

16. COMMENT: OAC 252:100-44-3 – This paragraph places a limit of the May 18, 2006 version of the regulations to be used in the rulemaking. The most recent version should be used in rulemaking. Also, the word “existed” was misspelled.

RESPONSE: Staff concurs. The current rule incorporates the version from the June 9, 2006 Federal Register. The spelling error has been corrected.

17. COMMENT: OAC 252:100-44-7 – Staff should change the phrase Part 75 of this Chapter to 40 CFR Part 75 throughout this paragraph.

RESPONSE: Staff concurs. That section is now incorporated by reference from the federal model rule and that reference is correct.

18. COMMENT: OAC 252:100-44-9 – The Department should not use an auction to offset costs of the mercury program.

RESPONSE: Staff concurs. DEQ no longer plans to pursue an auction.

COMMENTS RECEIVED PRIOR TO THE OCTOBER 18, 2006 AIR QUALITY ADVISORY COUNCIL MEETING

Written Comments

EPA Region 6 – Email received October 10, 2006 from Jeffrey Robinson of the EPA

19. COMMENT: "40 CFR Part 60.4141(b)(1), which corresponds to OAC 252:100-44-5 (b)(1) in the proposed rule, will most likely be changed in a future EPA rulemaking to change the “October 31, 2008 “ date to “October 31, 2009”. In short, this will make the 2015 allocation due October 31, 2009. This has not been included in an EPA rulemaking yet."

RESPONSE: Staff will take this under consideration.

Verbal Comments

Ms. Julia Bevers, OGE Energy Corporation - telephone call (exact date is unknown)

20. COMMENT: OAC 252:100-44-5 (c)(2) - Please clarify this paragraph.

RESPONSE: This section is to be incorporated by reference from the federal CAMR. The first part of this section outlines how the credits are apportioned if a state fails to submit the mercury allocations to the EPA before the October 31 deadline for a given year. The remainder says that a source which qualifies for mercury emission credits as both an existing source with a newly established heat baseline and as new source which received credits from the set-aside the year before would not receive the credits as a new source. Staff believes this would only occur if a state failed to submit those allocations between May 1 and October 31 and a facility in its sixth year of operation requested credits from both scenarios.

COMMENTS RECEIVED PRIOR TO THE JULY 18, 2007 AIR QUALITY ADVISORY COUNCIL MEETING

Written Comments

Julia Bevers, OGE Energy Corporation - Email dated January 12, 2007

21. COMMENT: Adoption of the June 9, 2006 version of the CAMR would make 252:100-44-5 unnecessary.

RESPONSE: Staff concurs. The change was made.

Earl Hatley, Local Environmental Action Demanded (LEAD) Agency - Email dated January 16, 2007.

22. COMMENT: Mr. Hatley expressed concern for the levels of mercury emissions originating in Oklahoma, especially as it relates to fish consumption, and called fish consumption advisories a taking of private property. Mr. Hatley pointed out that there are statewide mercury warnings for fish in Oklahoma and that mercury warnings for fish consumption also exist in the surrounding states of Missouri and Kansas. Mr. Hatley informed staff that the LEAD Agency opposes rules that allow for further mercury emissions and additional coal fired power plants, further suggesting that a greater focus be placed on renewable energy sources.

RESPONSE: On March 15, 2005 EPA issued the Clean Air Mercury Rule (CAMR) to permanently cap and reduce mercury emissions from coal-fired power plants. The approach EPA has taken is supposed to establish "standards of performance" limiting mercury emissions from new and existing coal-fired power plants and creates a market based cap-and-trade program which should

reduce emissions nationwide. According to EPA, the rule would result in a 50 percent reduction in mercury emissions from power plants by 2020. EPA said that when fully implemented after 2020, the rule would reduce mercury emissions by 69 percent.

The State and Territorial Air Pollution Program Administrators and Association of Local Air Pollution Control Officials (STAPPA/ALAPCO)¹ released a proposal for states to consider November 14, 2005 that would reduce mercury emissions from power plants by 90 percent to 95 percent by 2012. Under the STAPPA/ALAPCO proposal, utilities would be able to average their emissions among all their plants within a state until 2012, a provision designed to give utilities flexibility in implementing the program. After 2012, utilities would be able to average their emissions among different generating units within a single plant. This would allow utilities to install pollution controls on the generating units where emissions reductions could be achieved most cost-effectively.

In response to the federal rule and the STAPPA proposal, the Department proposed adoption of one of three options presented to the Air Quality Advisory Council. The first option was to incorporate by reference the federal CAMR. A second option was to adopt the model rule developed by (STAPPA/ALAPCO). The third option for the rule is a rewrite of the federal CAMR with state developed timelines and requirements if requested and developed by stakeholders. As of the January council meeting, having received comments only in support of CAMR, the Department proposed to adopt CAMR by reference.

Mercury information is available at the EPA website. The CAMR Regulatory text is available at <http://www.epa.gov/mercury/faq.htm>. The frequently asked questions section is at http://www.epa.gov/air/mercuryrule/pdfs/camr_final_regtext.pdf

Melinda Droege - Email dated January 16, 2007

23. COMMENT: She opposes lenient mercury emissions in Oklahoma.

RESPONSE: Staff will take this into consideration.

Janet Curth - Email dated January 16, 2007

24. COMMENT: Wants stricter controls no matter the cost.

RESPONSE: Staff will take this into consideration.

B. Geary - Email dated January 16, 2007

25. COMMENT: Table the incorporation by reference of the CAMR and gather more information on mercury before making a decision.

¹ STAPPA/ALAPCO changed its name to National Association of Clean Air Agencies (NACAA).

RESPONSE: Staff will take this into consideration.

Montelle Clark - Email dated February 4, 2007

26. COMMENT: The Council and Department should reconsider its plans to adopt the federal CAMR and adopt the STAPPA/ALAPCO model rule instead.

RESPONSE: Staff will take this into consideration.

Patricia Jaynes - Email dated January 16, 2007

27. COMMENT: Oklahoma should not allow lenient emissions of mercury. She also opposes cap and trade provisions.

RESPONSE: Staff will take this into consideration.

Robert A. Leinau - Email dated January 16, 2007

28. COMMENT: Oklahoma should promulgate the strictest plausible mercury standards and avoid cap and trade of mercury emissions.

RESPONSE: Staff will take this into consideration.

Patricia Lemon - Email dated January 17, 2007 that

29. COMMENT: No cost to limit mercury emission is too high when health effects are taken into account.

RESPONSE: Staff will take this into consideration.

Joni LeViness - Email dated January 16, 2007

30. COMMENT: CAMR is in violation of the Clean Air Act. She asked that the promulgation of the CAMR be tabled to allow time for further study and possibly a stricter rule for mercury.

RESPONSE: Staff will take this into consideration.

Donna Mackiewicz, Oklahoma Master Naturalists - Email dated January 16, 2007

31. COMMENT: Oklahoma should table the CAMR to allow time for further study and possibly a stricter rule for mercury.

RESPONSE: Staff will take this into consideration.

Danielle Matheny - Email dated February 10, 2007

32. COMMENT: State should reconsider adoption of the federal CAMR.

RESPONSE: Staff will take this into consideration.

Jean McMahan - Email dated January 16, 2007

33. COMMENT: Citizen is concerned that we keep Oklahoma as clean and pollution free as possible and that we need more time for study.

RESPONSE: Staff will take this into consideration.

Nancy Moran - Email dated January 16, 2007

34. COMMENT: Oklahoma should not lower our mercury emission standards.

RESPONSE: Staff will take this into consideration.

Laurel Upshaw - Email dated January 17, 2007

35. COMMENT: Oklahoma should not to relax mercury standards nor allow cap and trade of mercury emissions.

RESPONSE: Staff will take this into consideration.

Lydia Patitsas - Email dated February 5, 2007

36. COMMENT: Reconsider of the incorporation by reference of the CAMR and adopt the model rule from STAPPA/ALAPCO.

RESPONSE: Staff will take this into consideration.

Darryl Phillips - Email dated January 14, 2007

37. COMMENT: Oklahoma should table the CAMR to allow time for further study and possibly a stricter rule for mercury.

RESPONSE: Staff will take this into consideration.

Sandra Rose - Email dated January 26, 2007

38. COMMENT: Opposes incorporation by reference of the federal CAMR. She supports some version of the STAPPA/ALAPCO model rule.

RESPONSE: Staff will take this into consideration.

Rita Scott, Sustainable Green Country - Email (date uncertain)

39. COMMENT: Opposes incorporation by reference of the federal CAMR and supports some version of the STAPPA/ALAPCO model rule.

RESPONSE: Staff will take this into consideration.

Darla Reynolds-Sparks - Email dated January 16, 2007

40. COMMENT: Oklahoma should table the CAMR to allow time for further study and possibly a stricter rule for mercury.

RESPONSE: Staff will take this into consideration.

Steve Dobbs, Sequoyah County Clean Air Coalition - Letter dated February 13, 2007

41. COMMENT: His letter included a petition in support of the adoption of the STAPPA/ALAPCO model rule.

RESPONSE: Staff will take this into consideration.

Mandy Steele, Families for Effective Autism Treatment (FEAT) - FAX dated January 15, 2007

42. COMMENT: Oklahoma should table the current CAMR and allow time for further study and possibly a stricter rule for mercury.

RESPONSE: Staff will take this into consideration.

David Benham, Email dated March 29, 2007

43. COMMENT: Oklahoma should adopt stricter 90% (reduction) emission limits on mercury from coal fired plants.

RESPONSE: Staff will take this into consideration.

Tiffany Eichner - Email dated March 29, 2007

44. COMMENT: Oklahoma should adopt stricter mercury emission limits.

RESPONSE: Staff will take this into consideration.

Juanema Benham - Email dated March 29, 2007

45. COMMENT: Oklahoma should adopt stricter mercury emission limits.

RESPONSE: Staff will take this into consideration.

Members of the Sierra Club - 500+ postcards as of January 10, 2008

46. COMMENT: Oklahoma should adopt the strictest possible mercury emission standards and allow no emission credit trading.

RESPONSE: Staff will take this into consideration.

Charles and Lela Barnes - Letters received February 28, 2007

47. COMMENT: Support controls consistent with the proposed STAPPA/ALAPCO rule.

RESPONSE: Staff will take this into consideration.

Darley Edwards - Letter received March 1, 2007

48. COMMENT: Oklahoma should adopt stricter mercury emission limits, consistent with the STAPPA/ALAPCO rule.

RESPONSE: Staff will take this into consideration.

John and Sherry Restine, Letters received March 26, 2007

49. COMMENT: We support the STAPPA/ALAPCO rule and no trading of emission credits.

RESPONSE: Staff will take this into consideration.

Earl Strebeck - Letter (date uncertain)

50. COMMENT: Mr. Strebeck stated he had gathered a petition with over 500 signatures in opposition of construction of a power plant in Sallisaw because of pollution and mercury in particular.

RESPONSE: Staff will take this into consideration.

Brian Figgins, Email dated April 12, 2007

51. COMMENT: Supports 90% reduction of mercury emissions and no emission credit trading.

RESPONSE: Staff will take this into consideration.

Lou Ann Batey - Email dated April 10, 2007

52. COMMENT: Supports at least 90% emission reduction and no trading of mercury credits.

RESPONSE: Staff will take this into consideration.

Julia Bevers, OGE Energy Corp - Letter dated July 3, 2007

53. COMMENT (paraphrased):

A. Cap-and-Trade is the preferred policy option because C&T provides the greatest reduction in emissions at the lowest possible cost.

B. A mercury Cap-and-Trade program will not cause "Hot Spots".

C. CAMR is the best policy for Oklahoma because it embodies realistic reduction requirements and reasonable deadlines which will allow flexibility for technology investments.

RESPONSE: Staff will take this into consideration.

Philip Lorenz - Email dated July 7, 2007

54. COMMENT: Mr. Lorenz pointed out that mercury controls are technologically feasible but expensive. He urged maximum control of mercury emissions be established as soon as possible. He expressed concern over the mercury levels in locally caught fish that can pose a hazard if consumed and referred to current mercury emission controls in the Chicago area as an example of an effective program. Mr. Lorenz also mentioned an incinerator that Phillips developed in Bartlesville but shut down due to mercury emissions and mentioned that McGee Creek Reservoir had a historical ban on fish consumption due to mercury deposition.

RESPONSE: Staff will take this into consideration.

Earl E. Hatley - Letter received July 12, 2007

55. COMMENT: Mr. Hatley on behalf of LEAD Agency, Inc. wrote to oppose the adoption by reference of CAMR.

RESPONSE: Staff will take these comments into consideration.

Verbal Comments

Ms. Karen Hadden, Director, Sustainable Energy and Economic Development (SEED) Coalition (Texas based)

56. COMMENT: Ms. Hadden provided information on the effect of mercury emissions in Texas. She mentioned an EPA ruling defining a hot spot as anywhere fish contain over .3 parts per million mercury. The difficulty of proving utilities are the source of mercury emissions was acknowledged.

Ms. Hadden discussed a study by UT Health Science Center which compared rates of child autism with locally emitted mercury. She reported the study found a correlation that for every 1,000 pounds of locally emitted mercury they found a 17 percent increase in autism. She encouraged that a similar study be repeated for Oklahoma and other states, concluding that mercury causes serious health impacts including neurological damage.

Ms. Hadden, on behalf of SEED, recommended 90% mercury reduction at all sources. She acknowledged and apologized for the effect of Texas' mercury-emitting power plants on Oklahoma.

Ms. Hadden stated that under cap and trading utilities can buy credits and continue polluting and expressed concern on how the cap and trade program was progressing in Texas.

RESPONSE: Staff will take this into consideration.

Ms. Pat Phillips

57. COMMENT: Ms. Phillips expressed concern that if Oklahoma adopts CAMR while other states adopt stricter rules, Oklahoma would become a dumping ground.

RESPONSE: Staff will take this into consideration.

Ms. Sylvia Pratt

58. COMMENT: Ms. Pratt expressed concern over the plant near her home increasing production. She stated that mercury is a neurotoxin and pointed towards a rise in the percentage of children diagnosed with autism. She mentioned how a plant seeking permits during a delay in rule implementation would be affected. She asked how the state plans, under the proposed rule, to reduce mercury emissions from 23,000 ounces a year cap to 9,000 ounces a year cap in 2018 and beyond and encouraged these reductions be met now instead of later. The cap and trade program was discouraged. Ms. Pratt stated support for emission control and reduction.

RESPONSE: Staff will take this into consideration.

Mr. Lawrence Edmison, Oklahoma Chapter of the Sierra Club

59. COMMENT: Mr. Edmison stated that the only way to effectively address fish problems is to tighten air controls because most of the mercury is from air deposition.

He stated that the EPA plan is too lax and suggested a 90 percent reduction in a much shorter time. He referred to postcards mailed to DEQ by the Sierra Club and stated that the Sierra Club was willing to give specific proposals to the EPA rule.

Mr. Edmison left two documents for review: the Dirty Truth about Coal and a briefing document from the National Sierra Club regarding mercury and the Club's problems with the current proposed rules.

RESPONSE: Staff will take this into consideration.

Mr. Montelle Clark

60. COMMENT: Mr. Clark acknowledged a lack of data on mercury levels in the environment and in smoke stack emissions.

Mr. Clark suggested Maximum Available Control Technology (MACT) standards, currently applicable to incinerators, be applied towards mercury.

Mr. Clark referred to a report from EPA Office of Inspector General finding EPA's mercury rule development process did not fully assess the rules impact on children's health. He also quoted a study released by Mt. Sinai Center for Children's Health which stated that methyl mercury emitted by electric generation facilities causes loss of intelligence to babies born and that the economic cost of placing stack filters on power plants was significantly lower than the economic cost to the country caused by loss of intelligence. A comparison between mercury and history of regulations to control lead in the United States was drawn.

Mr. Clark spoke about an EPA cost-benefit analysis wherein the cost of complying with CAA requirements over a 20-year period was estimated at 523 billion dollars and that the benefit from compliance was estimated at 523 trillion dollars.

Mr. Clark states that mercury emissions are both a global and a regional issue. Concern was expressed over emissions originating in Texas being blown into Oklahoma. Mr. Clark addressed the argument that Oklahoma shouldn't adopt stricter standards than the other states in Region 6 and expressed an opinion that EPA is not creating strong enough rules. Therefore, Oklahoma should take the initiative to write stricter rules and deny the cap and trade program.

RESPONSE: Staff will take this into consideration.

Mr. Earl E. Hatley

61. COMMENT: Mr. Hatley said that he had done research and found nothing substantiating information in the power point presented at the previous council meeting. He said that if it is true that mercury is a global pollutant, it should still be of concern because Oklahoma mercury emissions will pollute someone else. He identified two problems: the problem of regulatory uncertainty and the problem of mercury levels in fish.

Mr. Hatley said that tabling the rule until April and perhaps adopting CAMR was going to make the issue worse. He stated that with cap and trade, existing plants would simply buy credits from new plants which would prevent any change from occurring for at least 10 to 15 years. Mr. Hatley said that was not good enough and asked the Council to adopt the STAPPA rule which would decrease mercury emissions by 90 to 95 percent by 2012.

He referred to studies which indicated that once a mercury source has been eliminated it takes five years for a water body to recover to the point that fish consumption is safe. Because of this recovery timeframe he encourages that the rulemaking process not be delayed. He also requested a moratorium on the building of any new power plants until mercury levels in fish tissue have returned to safe levels for consumption. During the moratorium he suggested that any more energy that is needed be produced by renewable energy sources.

RESPONSE: Staff will take this into consideration.

Mr. Paul Muegge, former Oklahoma State Senator

62. COMMENT: Mr. Muegge said that coal is going to continue to be used as a power source so it is important for the emissions to be properly managed. He said that while emission controls cost a lot of money he recommends the money be spent now rather than later to prevent damage to the environment and costly environmental cleanups.

RESPONSE: Staff will take this into consideration.

Mr. Chuck Gross, President of Sustainability NOW

63. COMMENT: Mr. Gross stated that mercury is a dangerous neurotoxin that too often ends up in our food chain by being deposited either in Oklahoma or the Atlantic Ocean where some of our fish are harvested. He said that one in six women of child bearing age has blood mercury levels exceeding what the EPA considers a safe level for developing babies. On behalf of Sustainability NOW he expressed concern about the possibility of mercury contamination in their three county area from upwind plants. His organization believes that a good approach to controlling mercury emissions in Oklahoma is containment. He urged the adoption of the STAPPA rule.

RESPONSE: Staff will take this into consideration.

Mr. Darryl Phillips

64. COMMENT: Mr. Phillips supported the postponement of decision making until legal matters were cleared up. He said that a yes or no decision on CAMR did not allow for enough options to be considered and suggested that several options be given equal consideration.

RESPONSE: Staff will take this into consideration.

Mr. Seneca Scott, Oklahoma Sustainability Network (OSN)

65. COMMENT: Mr. Scott, on behalf of the OSN, opposes the adoption of CAMR and cap and trade, instead supporting the STAPPA/ALAPCO model.

Mr. Scott further states that the rulemaking record contains no justification for the proposed rule and that it is not disputed that reduced mercury emissions would be beneficial to the health of Oklahomans and to the environment in which they live and work. He expressed a concern that because other states have adopted more stringent standards and have decided not to participate in the federal cap and trade mechanisms, Oklahoma, under the proposed rule, would be a desirable location for the power plants which pollute the most.

Mr. Scott stated that data regarding the current mercury emissions in Oklahoma was flawed because it is based on estimates and not measurements and that, because of this, there is no basis for the adoption of a lenient standard.

Mr. Scott pointed out that although many states have adopted more stringent regulations than the federal CAMR, the industry has not come forward with any information that the regulations are too costly despite this information being available. Because of this, OSN urges DEQ to adopt a more stringent standard.

RESPONSE: Staff will take this into consideration.

Mr. Jeff Edwards, Clean Air Coalition

66. COMMENT: Mr. Edwards believes that there was not enough notice statewide for the consideration of the rule and suggested a little more publicity be put towards something so important for the state because the people were put at a disadvantage at not having the ability to “capture the draft.”

Mr. Edwards supports the withdrawal of the CAMR rule so that different options, particularly the STAPPA option, can be considered.

He believes that the cap and trade provisions could draw in plants wanting to locate in Oklahoma to emit mercury. This would allow them to pollute for longer periods of time and dilute the cap and trade system.

Mr. Edwards expressed concern about mercury deposition and its effects in Oklahoma, and supports a delay in rulemaking.

RESPONSE: Staff will take these comments into consideration.

Mr. Dwayne Camp

67. COMMENT: Mr. Camp says that the state is considering lowering mercury standards which he does not support. He said that DEQ is not doing a good job of informing the public. He stated that the Indian people oppose this lowering of mercury standards.

RESPONSE: Staff will take this into consideration.

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

Written Comments

Mr. Brian Figgins - Email dated January 14, 2008

68. COMMENT: Supports adoption of Option III (NACAA).

RESPONSE: Staff will take this into consideration.

Elaine Palmquist - Email dated January 14, 2008

69. COMMENT: Supports adoption of Option III (NACAA).

RESPONSE: Staff will take this into consideration.

Mary Francis - Email dated January 14, 2008

70. COMMENT: Supports adoption of Option III (NACAA).

RESPONSE: Staff will take this into consideration.

Martha Holland - Email dated January 14, 2008

71. COMMENT: Supports adoption of Option III (NACAA).

RESPONSE: Staff will take this into consideration.