UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

APR 10 2006

Mr. Scott Thomas
Environmental Programs Manager
Air Quality Division
Oklahoma Department of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

RE: Comments on Subchapter 44, Control of Mercury Emissions

Dear Mr. Thomas:

Thank you for the opportunity to review and provide comments on Oklahoma's proposed options for implementing the Clean Air Mercury Rule (CAMR). We have reviewed your proposed regulations and enclosed are our comments which we believe will improve your program and ensure that your final regulations will meet the requirements of the Federal program requirements.

If you decide to adopt regulations that differ from the Federal regulations, you must satisfy both the criteria established at 40 Code of Federal Regulations § 60.24(h)(2) - (5) and any other applicable requirements for section 111(d) State plans. Accordingly, we encourage you to discuss your proposed program with us prior to final adoption. We believe that such discussions will be beneficial in facilitating communications and help to ensure that you adopt regulations that we can approve.

We appreciate the opportunity to provide these comments. If you have any questions, please call Jeff Robinson of my staff at (214) 665-6435.

Sincerely yours,

David Neleigh
Chief
Air Permits Section

Enclosure

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**Comments on Oklahoma Subchapter 44 – Control of Mercury Emissions from Coal-Fired Electric Generating Units**

1. 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.

2. 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 allocations 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 section 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 regulated industry based on inaccurate assumptions concerning how the State determined the allocations.

3. 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?

4. Option 2 – STAPPA/ALAPCO Model Rule - How will 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.

5. 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 then 0.285 tons per year beginning in 2018?

6. 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 60.4110 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.

7. 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.