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

October 8, 2015

Ms. Cheryl E. Bradley
Environmental Programs Manager
Air Quality Division
Oklahoma Department of Environmental Quality
P.O. Box 1677
Oklahoma City, OK 73101-1677

Dear Ms. Bradley:

Thank you for the opportunity to comment on the proposed revisions to Oklahoma's Air Pollution Control Rules, Oklahoma Administrative Code (OAC) 252:100, as listed below:

Subchapter 2	Incorporation by Reference
Appendix Q	Incorporation by Reference
Subchapter 5	Registration, Emission Inventory and Annual Operating Fees [Amended]
Subchapter 7	Permits for Minor Facilities [New]
Subchapter 9	Excess Emission Reporting Requirements

Our comments here are limited to the proposed revisions to Subchapters 5 and 9. The Air Permits Section will provide comments regarding the proposed revisions in a separate communication.

Subchapter 5 Registration, Emission Inventory and Annual Operating Fees

We support the proposed revisions to Subchapter 5 at OAC 252:100-5-2.1(a)(3). The revisions proposed to OAC 252:100-5-2.1(a)(3) revise the exemptions so a facility is not exempt if it has emissions above our thresholds listed at 40 CFR 51 subpart A (Air Emissions Reporting Requirements). We note that OAC 252:100-5-2.1(a)(3) references permit exempt facilities and de minimis facilities as defined in OAC 252:100-7-1.1. The definitions and provisions for "permit exempt facility" and "de minimis facility" at OAC 252:100 – 7-1.1 are not approved as part of the Oklahoma SIP.

Subchapter 9 Excess Emission Reporting Requirements

1. The EPA appreciates the continued leadership demonstrated by the Air Quality Division of ODEQ to address issues related to Excess Emissions.

2. Although not part of this proposed revision, the EPA supports maintaining the existing notification and reporting provisions of OAC 252:100-9-7 found in the current State-adopted rule.

3. The EPA also supports OAC 252:100-9-8(d) as proposed, because it specifically identifies the circumstances where affording potential mitigation is prohibited.

4. The EPA also supports OAC 252:100-9-8(e) as proposed, because it clearly states that OAC 252:100-9-8 does not affect or alter the jurisdiction provided to the EPA and the courts under Section 113 of the Clean Air Act or the citizen suit provisions of Section 304 of the Clean Air Act.

5. With respect to the alternative emission limits for periods of startup and shutdown referenced in OAC 252:100-9-8(c), the EPA would like to ensure that such limitations are properly developed, narrowly tailored, federally enforceable, and consistent with federal Clean Air Act requirements. As stated in the proposed revisions, the EPA understands that such alternative emission limits will be more stringent than the applicable emission limitations in the federally-approved Oklahoma SIP and will only serve to strengthen those SIP limits. The EPA's recommendations for developing alternative emission limitations applicable during startup and shutdown are found in Section XI.D of our June 12, 2015 publication at 80 FR 33980.

6. To ensure consistency with Clean Air Act's Title V enforcement authority requirements found at 40 CFR § 70.11(a), ODEQ will need to clarify in the rulemaking record that: (a) OAC 252:100-9-8(b) and OAC 252:100-9-8(c) do not affect the State's ability to seek penalties in court for excess emission violations; and (b) if a facility establishes it meets all the mitigating factors in OAC 252:100-9-8, the Department could nonetheless decide to assess an administrative penalty. Such clarification language in the State rulemaking record would address this comment.

We appreciate the opportunity to review and comment on the proposed rules prior to the public hearing on October 14, 2015. If you have questions regarding our comments, please feel free to contact me.

Sincerely yours,

Carrie Paige for

Guy Donaldson
Chief
Air Planning Section