SCOTT A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

KEVIN STITT
Governor

April 11, 2019

Ms. Jill Parker-Witt, P.E.
American Electric Power – Northeastern Power Station
P.O. Box 220
Oologah, OK 74053-0220

Re: Alternative Closure Requirements
Public Service Company of Oklahoma, Northeastern Power Station
Rogers County

Dear Ms. Parker-Witt:

The Oklahoma Department of Environmental Quality (DEQ) received the Alternative Closure Requirements (ACR) – Bottom Ash Pond (BAP) for the existing coal combustion residuals (CCR) surface impoundment on December 10, 2018 from Public Service Company of Oklahoma's Northeastern Power Station (NPS). In response to the DEQ letter dated November 5, 2018, it is NPS's intent to pursue closure according to the alternate closure requirements in Oklahoma Administrative Code (OAC) 252:517-15-8(b) since the BAP did not meet the five (5) feet separation from groundwater requirement of OAC 252:517-5-1(a).

OAC 252:517-15-8 (b) allows the BAP to continue to receive CCR provided NPS certifies it will cease operation of Unit 3 and complete closure by October 17, 2028; and documents no alternative CCR disposal capacity is available on-site or off-site. The ACR states that NPS must continue to wet-sluice the bottom ash to the BAP due to the absence of alternative disposal capacity. NPS evaluated the other existing surface impoundments and determined they do not have the capacity to receive the 1.7 million gallons per day of ash management water and do not meet the construction requirements of OAC 252:517, so they cannot accept the CCR and process waters currently managed in the BAP. Further, no piping exists in which this wastewater stream could be transported to an offsite treatment facility and transporting this volume of CCR wastewater via trucking is not physically possible. Also, the on-site CCR ash landfill is not permitted to accept the process waters.

NPS is requesting approval under OAC 252:517-15-8(b) "Permanent cessation of a coal fired boiler(s) by a date certain" to continue management of CCR and non-CCR materials in the BAP until the required closure date of Unit 3, its only remaining coal fired boiler. On February 8, 2013, a settlement agreement was signed between NPS and the Department of Justice which set a closure date of December 31, 2026 for the coal-fired boiler Unit 3. Consequently, NPS certifies in the ACR that it will cease operation of Unit 3 by December 31, 2026, per the settlement agreement, and close the BAP according to OAC 252:517-15-8(b)(1) and (3).

DEQ accepts that NPS has met the requirements of OAC 252:517-15-8 and approves the ACR. With this approval, the Closure Plan of the Tier II Permit Application for the BAP, submitted to

DEQ on July 26, 2018, must be revised to reflect the alternative closure timeline and details of how closure will be completed by October 17, 2028.

If you have any questions, please contact Ms. Cindy Hailes of my staff at (405) 702-5114.

Sincerely,

Hillary Young, P. E.
Chief Engineer
Land Protection Division

HY/ckh

cc: Christi Williams, Environmental Complaints & Local Services – Tulsa DEQ Office
Mark Barton, Plant Manager, American Electric Power-Northeastern Power Station
Sam Miller, American Electric Power-Northeastern Power Station

American Electric Power (AEP)
502 North Allen Avenue
Shreveport, LA 71101
AEP.com

December 5, 2018

Hillary Young, P.E.
Oklahoma Department of Environmental Quality
707 N Robinson
Oklahoma City, OK 73102

Subject: Alternative Closure Requirements – Bottom Ash Pond
OAC 252:517- Coal Combustion Residual
Public Service Company of Oklahoma (PSO)
Northeastern Power Station, Rogers County
Solid Waste Permit No: Permit is Pending

Dear Ms. Young:

On behalf of Public Service Company of Oklahoma, I am informing you, as requested in the Oklahoma Department of Environmental Quality's (ODEQ) letter dated November 5, 2018, approving "Report 2- Evaluation of Location Restrictions" for the bottom ash pond (BAP) at PSO's Northeastern Power Station (NPS), of PSO's intent to pursue closure according to the alternate closure requirements in OAC 252:517-15-8. As you are aware, the existing 72-acre BAP at NPS does not meet the location standard specified in OAC 252:517-5-1 and is therefore subject to the closure requirements of OAC 252:517-15-6(b)(1). The ODEQ's CCR rule provides for alternate closure deadlines provided certain requirements are met. This letter serves as PSO's demonstration that it meets the requirements of OAC 252:517-15-8(b)(1). PSO seeks ODEQ's approval to continue managing CCR and non-CCR materials through the existing BAP under OAC 252:517-15-8(b) until permanent cessation of Unit 3 by a date certain.

NPS is subject to a Regional Haze Agreement (Agreement), reached between PSO, EPA, ODEQ, and Sierra Club, which provides for an alternative to the requirements finalized by EPA in a Federal Implementation Plan ("FIP") for Oklahoma (see attached 78 FR 51686, Aug 21, 2013). Notice of the proposed Agreement between PSO, ODEQ, EPA, and Sierra Club (DEQ Case No. 10-025, March 2013) was published in the Federal Register on November 14, 2012 and

finalized on February 8, 2013.[1] Pursuant to the Agreement's requirements and the subsequent revisions to the Oklahoma State Implementation Plan (SIP), PSO retired one of its coal-fired units (Unit 4) on April 15, 2016 and is obligated to retire its other coal-fired unit at NPS (Unit 3) by the end of 2026. In addition to agreeing to the retirement of both units by a date certain, PSO is also required to reduce Unit 3's utilization beginning in year 2021 (see attached 79 FR 12944, 3/07/2014).[2]

Prior to the retirement of Unit 4, the BAP processed approximately 3.4 MGD of water related to bottom ash management. With the retirement of Unit 4, there has been an approximate reduction of 49% of the bottom ash loading into the BAP. With the limitations placed on Unit 3's generation capacity over the next 7 years, there will be further reduction in the bottom ash loading. PSO certifies that NPS will cease operation of Unit 3, the remaining coal-fired boiler, by December 31, 2026 and that the BAP will be closed no later than October 27, 2028 in accordance with OAC 252:517-15-8(b)(1) and (3).

In the interim period, NPS must continue to wet-sluice the bottom ash to the BAP due to the absence of alternative disposal capacity both on-site and off-site of the facility. In the preamble to 40 CFR 257, EPA states that the owner or operator does not need to demonstrate any efforts to develop alternative capacity because of the impending closure of the coal-fire unit when the owner or operator is relying on 40 CFR 257.103(b) – the analogous provision to OAC 252:517-15-8(b) for permanent cessation of a coal fired boiler by a date certain.[3,4]

Ponds already on-site include a total retention pond of three (3) acres and a storm water retention pond, associated with the landfill, of seven (7) acres. However, these additional impoundments do not meet the requirements of OAC 252:517 regulations and cannot be used as a CCR impoundment. Also, these on-site impoundments do not have the disposal capacity to receive the estimated 1.7 MGD of ash management waters. No piping exists in which this waste

[1] 77 Fed. Reg. 67814 (November 14, 2012). Settlement finalized when Department of Justice signed the Agreement on February 8, 2013.
[2] 79 Fed. Reg. 12944 (March 7, 2014). EPA Approval and Promulgation of Air Quality Implementation Plans, see attached
[3] 80 Fed. Reg. 21302, 21424 (April 17, 2015)
[4] 80 Fed. Reg. 21423 (April 17, 2015)

water stream could be transported to an off-site treatment facility and transporting this volume of CCR waste water to an off-site facility via overland transportation (i.e. trucking) is not physically possible.

In conclusion, on behalf of PSO, AEP provides this notification of NPS's intent to comply with the alternative closure requirements in OAC 252: 517-15-8 and specifically the requirements that apply to the permanent cessation of a coal fired boiler by a date certain. PSO has agreed to and certifies that it will cease operation of Unit 3 by December 31, 2026 as required by a Regional Haze Agreement and the Oklahoma SIP. No on-site or off-site alternative disposal capacity exists and NPS has no other options for handling CCR wastewater. During this alternative closure period, PSO will continue to ensure that the BAP remains in compliance with all other relevant requirements of OAC 252:517, including the requirements to conduct any necessary corrective action and PSO will prepare annual progress reports documenting the continued lack of alternative capacity and the progress towards the closure of the remaining coal-fired boiler, Unit 3 as required by OAC 252:517(b)(1)(B-C).

If you have any questions regarding these submittals, you can contact me at 318-673-3816, or by email at jcparker-witt@aep.com.

Sincerely,

Jill Parker-Witt. P.E.
AEP Environmental Services

SCOTT A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN
Governor

November 5, 2018

Ms. Jill Parker-Witt, P.E.
American Electric Power
502 North Allen Avenue
Shreveport, LA 71101

Re: Location Restrictions – Coal Combustion Residuals (CCR) Surface Impoundment – Bottom Ash Pond
Public Service Company of Oklahoma-Northeastern Power Station Ash Landfill
Rogers County

Dear Ms. Parker-Witt:

On September 24, 2018, the Department of Environmental Quality (DEQ) received the "Report 2 – Evaluation of Location Restrictions" for the Bottom Ash Pond (BAP) from Northeastern Power Station (NPS). The report was submitted for compliance with Oklahoma Administrative Code (OAC) 252:517-5-5 which requires a facility with existing CCR surface impoundments to submit, by October 17, 2018, a demonstration that the CCR surface impoundments meet the location restrictions of OAC 252:517-5-(1-5). NPS met this deadline.

The BAP is an existing CCR surface impoundment of approximately 72 acres located west of the Verdigris River. NPS is required to demonstrate the BAP meets the location restrictions specified in the regulations cited above. NPS provided demonstrations that the BAP met the location restrictions of OAC 252:517-5-(2-5). However, the BAP failed to meet the requirement that the base of the surface impoundment is located no less than five (5) feet above the upper limit of the uppermost aquifer.

The lowest point of the BAP is approximately 599 feet above mean sea level (amsl). The highest groundwater elevations in the surrounding groundwater monitoring wells were tabulated and used to evaluate the BAP with respect to the upper aquifer. Monitoring well SP-2, on September 24, 2013, had a recorded groundwater elevation of 597.00 amsl, indicating less than 5 feet of separation. Monitoring wells SP-10 and SP-11 were recently installed and only had one recorded groundwater elevation each but neither met the 5 foot location restriction.

OAC 252:517-5-1(c)(4) requires NPS to comply with the closure requirements of OAC 252:517-15-6(b)(1). OAC 252:517-15-6(b)(1) requires NPS, within six (6) months, to cease placing CCR and non-CCR wastestreams into the BAP and close the BAP. However, if NPS is able to demonstrate compliance with the alternative closure requirements in OAC 252:517-15-8 within the 6 month timeframe, the CCR surface impoundment may continue to receive CCR for a specified time period.

This report notified DEQ that the BAP met all location restrictions except for the 5 feet separation from the uppermost aquifer location restriction. If NPS elects to submit, to DEQ for approval, a proposal to meet the alternative closure requirements, the proposal must be received by DEQ within 60 days of receipt of this letter so it may be considered as part of the Permit Application.

DEQ accepts the report as submitted. Please follow the requirements of OAC 252:517-19-3(e) and place all demonstrations on NPS's CCR Website. If you have any questions, please contact Ms. Cynthia Hailes, P.E. at (405) 702-5114.

Sincerely,

Hillary Young, P.E.
Chief Engineer
Land Protection Division

HY/ckh

obtains certification from a qualified professional engineer verifying that closure has indeed been completed, consistent with all of the performance standards in the rule. While EPA recognizes that under some state programs closure is not considered complete until the owner or operator receives certification from the state, this is not a prerequisite to completion of closure under these federal rules.

iii. Closure Timeframes for CCR Landfills

Similar to the approach for CCR surface impoundments, EPA recognizes that there can be unforeseen and extraordinary circumstances that warrant additional time to close a CCR landfill. Accordingly, the rule adopts procedures analogous to those for CCR surface impoundments that allow the owner or operator to obtain additional time to complete the closure of a CCR landfill, provided the owner or operator can make the prescribed demonstrations. However, the amount of additional time the facility can obtain beyond the presumptive six month timeframe does not depend on the size of the landfill; rather the maximum time extension is two one-year extensions (two years) for any CCR landfill. As with the procedures for CCR surface impoundments, the owner or operator must substantiate the factual circumstances demonstrating the need for each one-year extension.

EPA developed this timeframe based on its review of the available information in the record regarding the timeframes for completing the closure of CCR landfills, some of which is summarized below. Additional information may also be found in the comment response document.

In response to the August 2013 NODA, Nebraska Public Power District (NPPD) provided information documenting that it completed closure of a 10 acre CCR landfill within 180 days after the final volume of fly ash and bottom ash was placed in the CCR landfill. Closure was accomplished by leaving CCR in place and installing a final cover system. NPPD's comments do not indicate what year closure of this CCR landfill was completed. See EPA–HQ–RCRA–2012–0028–0076.

The Florida Electric Power Coordinating Group (FCG) stated in its comments that FCG member experience with CCR landfill closure has "demonstrated the need for a period of time greater than 180 days to complete closure activities." However, the commenter did not provide any information indicating how long such closures actually took, nor any information to substantiate their claim. See EPA–HQ–RCRA–2012–0028–0064.

Overall, the closure of CCR landfills is less complex than the closure of CCR surface impoundments. Portions of the CCR landfills that reach final grade can be closed as other areas of the CCR landfill continue to receive CCR, which is typically not possible at CCR surface impoundments. Nor does the owner or operator need to dewater the unit, which appears to be the aspect of closure most likely to be a source of unanticipated circumstances. Finally, there is substantially less uncertainty with respect to the timeframes to complete the closure of CCR landfills, which are not all that different (in this respect) than landfills containing other forms of solid or hazardous waste. EPA therefore has greater confidence that a fixed period of two years will be adequate to account for the vast majority of circumstances.

c. Alternative Closure Requirements

The Agency is finalizing alternative closure requirements in two narrow circumstances for a CCR landfill or CCR surface impoundment that would otherwise have to cease receiving CCR and close, consistent with the requirements of § 257.101(a), (b)(1), or (d). The first is where the owner or operator can certify that CCR must continue to be managed in that CCR unit due to the absence of both on-site and off-site alternative disposal capacity. § 257.103(a). The second is where the owner or operator of a facility certifies that the facility will cease operation of the coal-fired boilers no later than the dates specified in the rule, but lacks alternative disposal capacity in the interim. § 257.103(b). Under either of these alternatives, CCR units may continue to receive CCR under the specified conditions explained below. In addition, under either alternative, the owner or operator must continue to comply with all other requirements of the rule, including the requirement to conduct any necessary corrective action.

1. No alternative CCR disposal capacity (§ 257.103(a)).

The Agency recognizes that the circumstance may arise where a facility's only disposal capacity, both on-site and off-site, is in a CCR unit that has triggered the closure requirements in § 257.101(a), (b)(1), or (d). As a result, the facility may be faced with either violating the closure requirements in § 257.101 by continuing to place CCR in a unit that is required to close, or having to cease generating power at that facility because there is no place in which to dispose of the resulting waste. For example, while it is possible to transport dry ash off-site to alternate disposal facility that simply is not feasible for wet-generated CCR. Nor can facilities immediately convert to dry handling systems. As noted previously, the law cannot compel actions that are physically impossible, and it is incumbent on EPA to develop a regulation that does not in essence establish such a standard.

Should a facility choose to comply with the regulation and stop generating power, there would be significant risks to human health that would arise if a community would be left without power for an extended period of time. As information in the record demonstrates, obtaining alternative capacity can sometimes require a substantial amount of time (*e.g.*, if the facility needs to construct alternative capacity, including potentially the need to locate an alternative site or purchase additional property). EPA recognizes that there are also significant risks to human health and the environment, as demonstrated throughout this preamble, from a leaking or improperly sited CCR unit, and that these risks justify requiring those units to either retrofit to meet the federal criteria established in the final rule or close. EPA also acknowledges that in the interim period while the owner or operator seeks to obtain additional capacity, the risks associated with the continued use of these units will be significant. However, the Agency believes that the risks to the wider community from the disruption of power over the short-term outweigh the risks associated with the increased groundwater contamination from continued use of these units. This conclusion is further buttressed by the fact that during this interim period the risks associated with allowing these units to continue to receive CCR are mitigated by all of the other requirements of the rule with which the facility must continue to comply, including the requirements to continue groundwater monitoring and corrective action.

Under § 257.103(a)(1), a CCR unit that would otherwise be required to cease receiving CCR under § 257.101(a), (b)(1), or (d), may continue to receive CCR provided the owner or operator certifies that the CCR generated at that facility must continue to be managed in that unit due to the absence of alternative disposal capacity both on-site and off-site. The rule also requires the owner or operator to document this claim, and the claim must be based on the real absence of an alternative and not justified based on the costs or inconvenience of alternative disposal capacity. § 257.103(a)(1)(i). The owner

or operator must also remain in compliance with all other requirements of this rule, including the requirement to take any necessary corrective action. § 257.103(a)(1)(ii). Because this alternative is only available as long as the absence of disposal capacity exists, the owner or operator must document its efforts to obtain additional capacity. If any additional capacity is identified, the owner or operator must arrange to use it as soon as is feasible. § 257.103(a)(1)(iii). The owner or operator is also required to prepare an annual progress report documenting the continued absence of disposal capacity and must also document the progress made toward developing alternative capacity. § 257.103(a)(1)(iv).

Once alternative disposal capacity is available, the CCR unit must cease receiving CCR and must initiate closure following the timeframes in § 257.102(e) and (f). Finally, if the owner or operator has not identified alternative capacity within five years after the initial certification the CCR unit subject to this section must cease receiving CCR and must initiate closure following the timeframes in § 257.102(e) and (f). As discussed elsewhere in this preamble, several commenters provided information to document the length of time needed to obtain additional capacity. Based on this information, the five year timeframe provided for under this alternative is expected to provide sufficient time to obtain alternative disposal capacity and to avoid the consequences of a forced immediate closure of a power plant.

2. Permanent cessation of a coal-fired boiler by a date certain. (§ 257.103(b)).

Under this provision, the Agency addresses the circumstance where a facility's only disposal capacity, both on-site and off-site, is in a CCR unit that has triggered the closure requirements in § 257.101(a), (b)(1), or (d), but the owner or operator of coal-fired power plant has decided to permanently cease operation of that plant within one of two timeframes specified in the regulation. For the same reasons discussed immediately above, EPA has concluded that the provisions of § 257.103(b) represent the most reasonable balance between the competing risks.

Additionally, EPA anticipates that some owners or operators will decide to permanently cease operation of a coal-fired power plant in response to the combined effects of new and/or existing statutory or regulatory requirements promulgated under the Clean Air Act and under the Clean Water Act (*e.g.* the proposed Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category. See 78 FR 34442, in combination with market dynamics. As discussed earlier in this preamble, RCRA section 1006(b) directs EPA to integrate the provisions of RCRA for purposes of administration and enforcement and to avoid duplication, to the maximum extent practicable, with the appropriate provisions of other EPA statutes, including the CAA and the CWA. As noted earlier, section 1006(b) conditions EPA's authority to reduce or eliminate RCRA requirements on the Agency's ability to demonstrate that the integration meets RCRA's protectiveness mandate (42 U.S.C. 6005(b)(1)). *See Chemical Waste Management* v. *EPA*, 976 F.2d 2, 23, 25 (D.C. Cir. 1992). The provisions of § 257.103(b) are fully consistent with the direction in section 1006(b) to account for the provisions of other EPA statutes which may lead an owner or operator to close a coal-fired power plant.

EPA has also concluded that the provisions of § 257.103(b) meet RCRA's protectiveness mandate. As stated above, EPA recognizes that there are long-term risks to human health and the environment, as demonstrated throughout this preamble, from a leaking CCR unit and those risks justify requiring those units to either meet the federal criteria established in this rule or close. However, the risks associated with allowing these units to continue to receive CCR are mitigated by the requirement that the facility must comply with all other requirements of the rule, including initiating groundwater monitoring and corrective action where necessary. And a critical factor is that facilities that choose to rely on this alternative will be required to *complete* closure of their disposal unit in an expedited timeframe. Thus, the risks from these units will be fully addressed sooner. Consequently, while over the short term the risks will be higher, overall, the risks will be at least equivalent to, or potentially lower than if the CCR unit had closed in accordance with the normal closure timeframes.

Under § 257.103(b)(1), a CCR unit that would otherwise be required to cease receiving CCR under § 257.101(a), (b)(1), or (d), may continue to receive CCR provided the owner or operator of the facility certifies that the facility will cease operation of the coal-fired boilers within the timeframes specified in paragraphs (b)(2) through (b)(4) and that the CCR generated at that facility (before the plant ceases to operate) must continue to be managed in that unit due to the absence of alternative disposal capacity both on-site and off-site. The rule also requires the owner or operator to document the facts that support this claim. The regulation specifies that the claim must be based on the real absence of alternative disposal capacity, and not justified based on the costs or inconvenience of alternative disposal capacity. § 257.103(b)(1)(i). The owner or operator must also remain in compliance with all other requirements of this rule, including the requirement to take any necessary corrective action. § 257.103(b)(1)(ii). The owner or operator is also required to prepare an annual progress report documenting the continued absence of disposal capacity and must also document the progress made toward the closing of the coal-fired boiler. § 257.103(b)(1)(iii).

Under § 257.103(b)(1), the owner or operator does not need to demonstrate any efforts to develop alternative capacity because of the impending closure of the power plant itself.

Consistent with the general timeframes provided for the closure of CCR surface impoundments, EPA has established different timeframes based on the size of the CCR unit. Under § 257.103(b)(2), where the disposal unit is a CCR surface impoundment 40 acres or smaller in size, the coal-fired boiler must cease operation and the disposal unit must have completed closure within 8.5 years of the publication date of the rule. Where the disposal unit is a CCR surface impoundment larger than 40 acres in size, the coal-fired boiler must cease operation and the disposal unit must have completed closure within 13.5 years of the publication date of the rule. § 257.103(b)(3). Finally, under § 257.103(b)(4), where the disposal unit is a CCR landfill, the coal-fired boiler must cease operation and the disposal unit must have completed closure within 6 years of the publication date of the rule. These timeframes were selected to ensure that closure of these units will be completed in a measurably shorter timeframe, and that overall the risks will be lower, or at least equivalent to, the level of risk that would be achieved under the rule's "standard" closure provisions.

5. Notation on the Deed to Property

The proposed rule would have required, following closure of the CCR unit, the owner or operator to record a notation on the deed or some other instrument normally examined during a title search. This notation would notify any potential purchaser in perpetuity that the property has been used as a CCR landfill or CCR surface impoundment and that use of the land is restricted under the rule's post-closure care provisions. After the

Walter Wright

From: U.S. EPA <usaepa@service.govdelivery.com>
Sent: Monday, February 10, 2014 10:04 AM
To: Walter Wright
Subject: News Release: EPA Withdraws Federal Plan and Approves Oklahoma's Air Plan for Public Service of Oklahoma

EPA Withdraws Federal Plan and Approves Oklahoma's Air Plan for Public Service of Oklahoma

DALLAS – (Feb. 10, 2014) Today, the U.S. Environmental Protection Agency (EPA) is announcing the approval of Oklahoma's state clean-air plan to control regional haze from the Public Service Company of Oklahoma (PSO) two coal-fired power plants at its Northeastern Station in Oologah, OK. The state's plan is a result of the April 2012 agreement between EPA, Oklahoma and PSO to both reduce pollution and protect Oklahoma consumers and ratepayers.

The Oklahoma regional haze plan includes using technological controls to limit emissions of sulfur dioxide (SO_2) well as nitrogen oxide (NOx). The control technology is also intended to achieve compliance with the Mercury and Air Toxics Standard (MATS). By April 16, 2016, PSO will retire one of two units currently under a federal clean-air plan and install additional controls and require NOx and SO_2 limits for the remaining unit. The remaining unit will be retired by December 31, 2026.

EPA also announced the withdrawal of a federal clean-air plan that applies to the PSO coal-fired power plants. EPA has worked with Oklahoma and other stakeholders to expedite the process of approving the state clean-air plan to replace the federal plan. Both the Oklahoma clean air plan approval and withdrawal of the EPA federal clean-air plan will be published in the Federal Register in 7 to 10 days. Both final rules will be effective 30 days after the publication in the Federal Register.

The regional haze rule requires air quality protection plans to reduce the pollution that causes visibility impairment in 156 national parks and wilderness areas. Some of the same pollutants that form haze have also been linked to serious health problems and environmental damage. Exposure to very small particles in the air has been linked to increased respiratory illness, decreased lung function, and even premature death.

This action will provide for better visibility in Oklahoma and areas in the downwind neighboring states of Arkansas and Missouri.

More about activities in EPA Region 6: http://www.epa.gov/aboutepa/region6.html

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For more information contact Joe Hubbard or Jennah Durant at 214-665-2200 or r6press@epa.gov

Source: Federal Register > August 2013 > 08/21/2013 > Proposed Rules > 78 FR 51686, 08/21/2013—EPA—Approval and Promulgation of Implementation Plans; Oklahoma; Regional Haze and Interstate Transport Affecting Visibility State Implementation Plan Revisions; Withdrawal of Federal Implementation Plan for American Electric Power/Public Service Company of Oklahoma

78 FR 51686, 08/21/2013—EPA—Approval and Promulgation of Implementation Plans; Oklahoma; Regional Haze and Interstate Transport Affecting Visibility State Implementation Plan Revisions; Withdrawal of Federal Implementation Plan for American Electric Power/Public Service Company of Oklahoma

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2013–0227, FRL–9900–27–Region 6]

Approval and Promulgation of Implementation Plans; Oklahoma; Regional Haze and Interstate Transport Affecting Visibility State Implementation Plan Revisions; Withdrawal of Federal Implementation Plan for American Electric Power/Public Service Company of Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a revision to the Oklahoma Regional Haze State Implementation Plan (SIP) submitted on June 20, 2013 by the Oklahoma Secretary of Environment addressing the Best Available Retrofit Technology (BART) requirements for sulfur dioxide (SO_2) and oxides of nitrogen (NO_X) for Units 3 and 4 of the American Electric Power/Public Service Company (AEP/PSO) Northeastern Power Station in Rogers County, Oklahoma. The EPA is proposing to find that this revised BART determination meets the requirements of the Clean Air Act (CAA) and the Regional Haze Rule. We are also proposing to approve a related SIP revision submitted to address the impact of emissions of Northeastern Units 3 and 4 as required by CAA provisions concerning non-interference with programs to protect visibility in other states. In conjunction with these proposed approvals, we propose to

78 FR 51687

withdraw federal implementation plan (FIP) emission limits for SO_2 that would otherwise apply to Northeastern Units 3 and 4. The EPA is taking this action under section 110 of the CAA.

DATES: Written comments must be received on or before September 20, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2013–0227 by one of the following methods:

• *www.regulations.gov.* Follow the online instructions for submitting comments.

• *Email:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

• *Mail or delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2013–0227. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters,

Source: Federal Register > March 2014 > 03/07/2014 > Final Rules > 79 FR 12944, 03/07/2014—EPA—Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Regional Haze and Interstate Transport Affecting Visibility; State Implementation Plan Revisions; Revised BART Determination for American Electric Power/Public Service Company of Oklahoma Northeastern Power Station Units 3 and 4

79 FR 12944, 03/07/2014—EPA—Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Regional Haze and Interstate Transport Affecting Visibility; State Implementation Plan Revisions; Revised BART Determination for American Electric Power/Public Service Company of Oklahoma Northeastern Power Station Units 3 and 4

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2013–0227; FRL–9906–93–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Regional Haze and Interstate Transport Affecting Visibility; State Implementation Plan Revisions; Revised BART Determination for American Electric Power/Public Service Company of Oklahoma Northeastern Power Station Units 3 and 4

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Oklahoma State Implementation Plan (SIP), submitted by the Oklahoma Department of Environmental Quality (ODEQ) to EPA on June 20, 2013, which address revised Best Available Retrofit Technology (BART) requirements for sulfur dioxide (SO_2) and oxides of nitrogen (NO_X) for Units 3 and 4 of the American Electric Power/Public Service Company of Oklahoma (AEP/PSO) Northeastern Power Station in Rogers County, Oklahoma. The revisions also address the requirements of the Clean Air Act (CAA) concerning non-interference with programs to protect visibility in other states.

DATES: This final rule will be effective April 7, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2013–0227. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. A 15 cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Johnson (214) 665–2154, email *johnson.terry@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

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I. What is the background for this action?

The background for today's final rule is discussed in detail in our August 21, 2013 proposal (see 78 FR 51686). The comment period was open for 30 days, and 273 comments were received, including five comment letters opposed to the proposed action.

II. What final action is EPA taking?

We are approving Oklahoma's June 20, 2013 SIP revision submittal ("Oklahoma RH SIP revision"), which provides a revised BART determination for Units 3 and 4 of AEP/PSO's Northeastern Power Station with accompanying enforceable documentation. This revised SO_2 BART determination includes the following emission control requirements and

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compliance schedules: (1) By January 31, 2014, the facility will comply with an interim SO_2 emission limit of 0.65 lb/MMBtu at each unit individually on a 30-day rolling average basis, with an additional SO_2 limit of 3,104 lb/hr per unit on a 30-day rolling average basis; (2) by December 31, 2014, the facility will comply with a reduced interim SO_2 emission limit of 0.60 lb/MMBtu per unit on a 12-month rolling average basis, with an additional 25,097 tpy combined cap for Units 3 and 4 on a 12-month rolling basis; (3) the facility will shut down one of the subject units (either Unit 3 or Unit 4) no later than April 16, 2016; (4) the facility will install and operate a dry sorbent injection (DSI) system on the unit that remains in operation past April 16, 2016; (5) the unit remaining in operation will comply with an SO_2 emission limit of 0.40 lb/MMBtu on a 30-day rolling average basis from April 16, 2016 through December 31, 2026, with additional limits of 1,910 lb/hr on a 30-day rolling average basis and 8,366 tpy on a 12-month rolling basis (this limit may be lowered pursuant to the results of an optimization study to be conducted by AEP/PSO); and (6) the facility will incrementally decrease capacity utilization for the remaining unit between 2021 and 2026, culminating with the complete shutdown of the remaining unit no later than December 31, 2026. The state's revised enforceable SO_2 BART requirements for Units 3 and 4 of the Northeastern Power Station are contained in the submitted "First Amended Regional Haze Agreement, DEQ Case No. 10-025 (March 2013)" that revises the previously submitted "PSO Regional Haze Agreement, DEQ Case No. 10-025 (February 10, 2010). Consequently, we are approving the "PSO Regional Haze Agreement, DEQ Case No. 10-025 (February 10, 2010)," as amended by the "First Amended Regional Haze Agreement, DEQ Case No. 10-025 (March 2013)."

We are also taking final action to approve the following accelerated NO_X BART compliance schedule included in the submitted revised BART determination for Northeastern Power Station Units 3 and 4: (1) By December 31, 2013, the facility will comply with an emission limit of 0.23 lb/MMBtu on a 30-day rolling average basis with an additional limit of 1,098 lb/hr per unit on a 30-day rolling average basis and a 9,620 tpy combined cap for both units; and (2) the unit that remains in operation shall undergo further control system tuning and by April 16, 2016, comply with an emission limit of 0.15 lb/MMBtu on a 30-day rolling average basis with an additional limit of 716 lb/hr on a 30-day rolling average basis and a cap of 3,137 tpy on a 12-month rolling basis. ODEQ also submitted an enforceable agreement containing the accelerated compliance schedule. For the revised NO_X BART determination, therefore, we also are approving the "PSO Regional Haze Agreement, DEQ Case No. 10-025 (February 10, 2010)," as amended by the "First Amended Regional Haze Agreement, DEQ Case No. 10-025 (March 2013)," because it makes enforceable the NO_X BART emission limitations and schedules for AEP/PSO's BART-subject units in Oklahoma.

In addition to approving Oklahoma's revised enforceable SO_2 BART determination for AEP/PSO Northeastern Power Station Units 3 and 4, we are also taking final action to approve that portion of the Oklahoma RH SIP revision concerning Oklahoma's interstate transport obligations. With the approval of this revised BART determination for AEP/PSO Northeastern Power Station Units 3 and 4, the enforceable RH Agreement, and an enforceable commitment, we find that the Oklahoma RH SIP as a whole addresses the requirements of the interstate transport provisions of CAA section 110(a)(2)(D)(i)(II) as applied to this source and its associated impacts on other states' programs to protect visibility in Class I Areas. The ODEQ's enforceable commitment is found in the SIP Narrative at page 10.

Implementation of the enforceable commitment is only necessary if the Northeastern Power Station is not able to achieve the equivalent of 0.3 lbs SO_2 /million Btu through a combination of unit shutdowns and implementation of DSI, as this level of reduction was assumed in the multistate modeling performed by the Central Regional Air Planning Association (CENRAP) that provided the basis for Oklahoma's and other Midwestern States' SIPs. The enforceable commitment obligates ODEQ to "obtain and/or identify additional SO_2 reductions within the State of Oklahoma to the extent necessary to achieve the anticipated visibility benefits estimated" by the CENRAP. For example, any additional SO_2 emissions reductions that can be obtained or identified from the northeast quadrant of the State will be presumed to count toward the emission reductions necessary to achieve the anticipated visibility benefits associated with a 0.30 lb/MMBtu emission limit at Northeastern Power Station. Emissions reductions obtained outside the northeast quadrant that are technically justified will also be counted. Finally, if necessary, additional emissions reductions shall be obtained via enforceable emission limits or control equipment requirements where necessary and submitted to EPA as a SIP revision as expeditiously as practicable, but in no event later than the end of the first full Oklahoma legislative session occurring subsequent to AEP/PSO's submission of the evaluation and report required by Paragraph 1(f) of Attachment A of the AEP/PSO Settlement Agreement presented in Appendix I of the Oklahoma RH SIP revision. Moreover, any additional reductions that are obtained prior to the 2018 Regional Haze SIP revision required by 40 CFR 51.308(f) but not accounted for in the above-referenced modeling will be identified in the 2018 revision.

We have made the determination that the Oklahoma RH SIP revision is approvable because the revision was adopted and submitted as a SIP revision in accordance with the CAA and EPA regulations regarding the regional haze program and

meets the CAA provisions concerning non-interference with programs to protect visibility in other states. We are taking this final action today under section 110 and part C of the CAA.

As explained in our August 21, 2013 proposal (see 78 FR 51686), as a result of today's approval action we are taking action to amend the regional haze Federal Implementation Plan (FIP) for Oklahoma at 40 CFR 52.1923. The action to amend the FIP is in a separate action contained in today's **Federal Register**. Upon the effective date of the **Federal Register** notice amending the FIP, Units 3 and 4 of AEP/PSO's Northeastern Power Station will no longer be covered by the FIP.

III. Response to Comments

We received a total of 273 comments, including five comments in opposition to our proposed approval of the Oklahoma RH SIP revision that were submitted by U.S. Representative Jim Bridenstine, the Oklahoma Attorney General, the Consumer Coalition of Oklahoma, the Oklahoma Industrial Energy Consumers, and the Quality of Service Coalition, and 268 comments in support from the Sierra Club and its members in Oklahoma. Copies of the comments are available in the docket for this rulemaking. A summary of the issues raised in the comment letters, and our responses, follows:

Comment: We received several comment letters containing claims that ODEQ's revised BART determination for the AEP/PSO Northeastern Power

Station did not consider true energy impacts. These comment letters generally assert that ODEQ did not make a reasonable BART determination because it relied upon AEP/PSO's BART analysis, which they claim failed to consider the true energy impacts of compliance and the costs of compliance under the Settlement Agreement. [1] The commenters claim that overlooking these costs of compliance led to an incorrect determination of cost-effectiveness of the SO_2 emissions controls attributable to the early retirements under the Settlement Agreement. The commenters submit that early retirement of the two coal-fired units at issue constitutes at least an indirect energy impact that is "unusual or significant" and quantifiable and therefore should have been considered in ODEQ's BART analysis. The commenters further assert that ODEQ has concluded that the revised BART determination is cost-effective based on an analysis that does not include replacement capacity and energy costs that AEP/PSO would be required to incur due to the mandated early retirement of the two units. Finally, these commenters also submit that ODEQ and EPA should have considered in their energy impacts analyses the "significant economic disruption or unemployment" that will result from the Oklahoma RH SIP revision and cite the risk of rate shock resulting from natural gas price fluctuations, risk of reduction of electric grid reliability, and potential for increased unemployment.

[1] The state of Oklahoma and AEP/PSO filed petitions for review of EPA's FIP, and the parties have separately entered into a settlement agreement that includes a timeline for preparing and processing the Oklahoma RH SIP revision that is the subject of today's action. A copy of the Settlement Agreement may be found in Appendix I of the Oklahoma RH SIP revision.

Response: We disagree with these commenters. The BART Guidelines only require states to consider the direct energy consumption of the various control options under consideration, not indirect energy impacts. [2] While the BART guidelines do allow states to consider indirect impacts if they would be "unusual or significant," there is no indication that Oklahoma ignored any such impacts here. The commenters allege that retirement of the AEP/PSO units will lead to "significant economic disruption or unemployment" or rate shock, but provide no evidence to support such assertions. Consequently, we believe the State acted reasonably by focusing its BART analysis on the direct energy impacts of the various control options.

[2] 40 CFR Part 51, app. Y, at IV.D.4.h.2.

We also note that AEP/PSO offered the BART determination in question to ODEQ as an alternative to our FIP, which indicates that the company found the alternative more economical, flexible, or consistent with its business strategy. AEP/PSO's decision to retire these aging units by dates certain is one that involves a variety of considerations that lie outside the BART analysis, including increasing costs of maintenance, economics of fuels, and costs of compliance with non-air quality requirements. Given the broad range of factors that affect a utility's decisions regarding the make-up of its power plant fleet, it would not be reasonable for EPA to second-guess decisions regarding the remaining useful life of facilities. Consequently, we believe that, in addition to its evaluation of energy impacts, the State also appropriately considered the remaining useful life of the AEP/PSO units in determining BART.

Regarding potential unemployment of AEP/PSO Northeastern Power Station workers, however, we received one comment that notes that AEP/PSO has extraordinary resources to redeploy its Northeastern Power Station employees affected by the Settlement Agreement and proposed SIP revision, and has committed to doing so.

Comment: We received several comment letters suggesting that the proposed SIP revision is a fuel switch masquerading as BART. These commenters point out that BART, by its very nature, must be a "retrofit technology." They note that the BART Guidelines set forth the five basic steps of a case-by-case BART analysis, which are centered on the evaluation and identification of "available emission retrofit control technologies." These commenters assert that inclusion of a facility closure as part of a BART determination necessarily results in a fuel switch, as the subject utility must acquire replacement capacity. In their view, EPA will have directed a switch in fuel forms—the direct opposite of the agency's