Average). Finally, the annual limitation for the current fiscal year is calculated by multiplying $10,000,000 by the Recent Average divided by 214.5. The result is expressed as a number, rounded to the nearest dollar.

(e) The formula for calculating the $10 Million Adjusted Limitation is as follows: $10 Million Adjusted Limitation = $10,000,000 * (Recent Average/214.5).

§ 3035.16 Exemption from dollar amount limitation.

(a) The Postal Service may request an exemption from the $10 Million Adjusted Limitation by filing a written request with the Commission. In no instance shall the request for exemption exceed the market test dollar amount limitation of $50,000,000 in any fiscal year, as adjusted for the change in the Consumer Price Index, as specified in paragraph (c) of this section ($50 Million Adjusted Limitation).

(b) For each fiscal year, the $50 Million Adjusted Limitation shall reflect the average CPI result during the previous fiscal year calculated as described in 39 CFR 3035.16(c). The Commission shall publish this figure on its Web site at *http://www.prc.gov.*

(c) The calculation of the $50 Million Adjusted Limitation involves the following steps. First, a simple average CPI–U index was calculated for fiscal year 2008 by summing the monthly CPI–U values from October 2007 through September 2008 and dividing the sum by 12 (Base Average). The Resulting Base Average is 214.5. Then, a second simple average CPI–U index is similarly calculated for each subsequent fiscal year by summing the 12 monthly CPI–U values for the previous fiscal year and dividing the sum by 12 (Recent Average). Finally, the annual limitation for the current fiscal year is calculated by multiplying $50,000,000 by the Recent Average divided by 214.5. The result is expressed as a number, rounded to the nearest dollar.

(d) The formula for calculating the $50 Million Adjusted Limitation is as follows: $50 Million Adjusted Limitation = $50,000,000 * (Recent Average/214.5).

(e) The Postal Service shall file its request for exemption at least 45 days before it expects to exceed the $10 Million Adjusted Limitation.

(f) The request for exemption shall:

(1) Explain how the experimental product will:

(i) Benefit the public and meet an expected demand;

(ii) Contribute to the financial stability of the Postal Service; and

(iii) Not result in unfair or otherwise inappropriate competition.

(2) Calculate the total revenue received by the Postal Service from the market test for each fiscal year the market test has been in operation; and

(3) Estimate the additional revenue that is anticipated by the Postal Service for each fiscal year prior to the conclusion of the extension period of the market test, including available supporting documentation;

(g) The Commission shall review the request for exemption for consistency with the statutory requirements of 39 U.S.C. 3641 and:

(1) Find that the exemption is consistent with the requirements of 39 U.S.C. 3641;

(2) Find that the exemption is inconsistent with the requirements of 39 U.S.C. 3641 and provide an opportunity to correct the identified deficiencies;

(3) Find that the exemption is inconsistent with the requirements of 39 U.S.C. 3641 and deny the exemption; or

(4) Direct other action as the Commission may consider appropriate.

§ 3035.17 Prevention of market disruption.

Notwithstanding the $10 Million Adjusted Limitation or any adjustment granted pursuant to § 3035.16, the Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption as defined in 39 U.S.C. 3641 (b)(2).

§ 3035.18 Filing for permanent product status.

If the Postal Service determines to make an experimental product permanent, it shall file a notice, pursuant to § 3020.30 of this chapter, sufficiently in advance so that the market test does not exceed the $10 Million Adjusted Limitation or any authorized adjusted limitation in any fiscal year.

§§ 3035.19 [Reserved]

§ 3035.20 Data collection and reporting requirements.

(a) A notice of a market test shall describe plans for monitoring the performance of the market test, including plans to collect volume, revenue, and other data. Data collection reports shall include, at a minimum:

(1) The revenue by fiscal quarter received to date by the Postal Service from the market test;

(2) Attributable costs incurred in conducting the market test, including administrative and ancillary costs;

(3) A quantification of start-up costs incurred to date associated with the market test.

(b) The Commission may request additional information or data as it deems appropriate.

(c) To assess the potential impact of a market test in a particular geographic market, the Commission may require the Postal Service to report the revenues from the market test for specified geographic markets.

(d) The Postal Service shall file the results of the market test data collection within 40 days after the close of each fiscal quarter during which the market test is offered, or such other period as the Commission may prescribe.

(e) The Postal Service shall file in its Annual Compliance Report information on each market test conducted during the fiscal year pursuant to § 3050.21(h) of this chapter.

[FR Doc. 2013–20178 Filed 8–20–13; 8:45 am]

BILLING CODE 7710–FW–P

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

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, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available (e.g., CBI or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at *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. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection during official business hours, by appointment, at the Oklahoma Department of Environmental Quality (ODEQ), Air Quality Division, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101–1677.

FOR FURTHER INFORMATION CONTACT: Terry Johnson at telephone number (214) 665–2154, email: *johnson.terry@epa.gov,* or the above address for EPA's Region 6 office.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. Information is organized as follows:

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I. Background on the Oklahoma Regional Haze SIP and FIP

The ODEQ submitted a Regional Haze SIP (Oklahoma RH SIP) on February 19, 2010 to address the requirements of the regional haze program at 40 CFR 51.308 for the first implementation period. In December 2011, we partially approved, partially disapproved, and took no action on various portions of this SIP submittal (76 FR 81727, December 28, 2011). Even as significant portions of the Oklahoma RH SIP submittal were approved, we disapproved ODEQ's BART determinations for SO_2 emissions from six coal-fired electric generating units (EGUs): Units 4 and 5 of the OG&E Muskogee plant, Units 1 and 2 of the OG&E Sooner plant, and Units 3 and 4 of the AEP/PSO Northeastern Power Station. Related to these disapprovals, we also disapproved a portion of a revision to the Oklahoma RH SIP that was submitted to address the requirements of CAA Section 110(a)(2)(D)(i)(II) as it applies to visibility for the 1997 8-hour ozone and 1997 fine particulate matter National Ambient Air Quality Standards (NAAQS). Specifically, this disapproval found that the SIP submittal had not prevented SO_2 emissions from above-named units from interfering with visibility programs in other states. Concurrent with these final disapprovals, we promulgated a FIP that requires SO_2 emission limits on the six above-named units to address deficiencies identified with the BART determinations of the SIP submittal.

Subsequent to this action, stakeholders, including AEP/PSO, ODEQ, and EPA, entered into discussions on the development and submittal of a revised SIP (Oklahoma RH SIP revision) designed to address BART requirements for Units 3 and 4 of the AEP/PSO Northeastern Power Station for SO_2 and NO_X and allow for withdrawal of FIP requirements for controls of SO_2 that are applicable to those units.[1] On June 20, 2013, ODEQ

[1] The state of Oklahoma and AEP/PSO filed petitions for review of the FIP, and the parties have separately entered into a settlement agreement which includes a timeline for preparing and processing the SIP revision submitted and reviewed in today's proposal. A copy of the settlement agreement may be found in Appendix I of the submitted SIP revision. The settlement agreement

Continued

submitted a revised BART determination for Units 3 and 4 of the Northeastern Power Station for SO_2 and NO_X and a related revision to the SIP addressing requirements to prevent interstate transport of emissions from interfering with other States' plans to address visibility impairment. The state's revised enforceable SO_2 and NO_X 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 [2])'' We find that the submitted SIP revision meets the completeness criteria in 40 CFR, Part 51, Appendix V, which must be met before formal EPA review.

This **Federal Register** notice concerns EPA's review and proposed approval of the Oklahoma RH SIP Revision affecting the SO_2 and NO_X BART emission limits applying to AEP/PSO's Northeastern Units 3 and 4 and the Interstate Transport SIP requirements, and our proposed withdrawal of source-specific regulatory requirements for Northeastern Units 3 and 4 that currently apply under the FIP.

II. Background for EPA's Proposed Action

In the CAA Amendments of 1977, Congress established a program to protect and improve visibility in the national parks and wilderness areas. See CAA section 169A. Congress amended the visibility provisions in the CAA in 1990 to focus attention on the problem of regional haze. See CAA section 169B. We promulgated regulations in 1999 to implement sections 169A and 169B of the Act. These regulations require states to develop and implement plans to ensure reasonable progress toward improving visibility in mandatory Class I Federal areas [3] (Class I areas) by reducing emissions that cause or contribute to regional haze.[4]

A. Definition of Regional Haze

Regional haze is impairment of visual range or colorization caused by emissions of air pollution produced by numerous sources and activities, located across a broad regional area. The sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources, including non-anthropogenic sources. Visibility impairment is primarily caused by fine particulate matter ($PM_{2.5}$) or secondary aerosols formed in the atmosphere from precursor gases (e.g., SO_2, NO_X, and in some cases, ammonia and volatile organic compounds). Atmospheric fine particulate matter reduces clarity, color, and visual range of scenic areas. Visibility-reducing fine particulate matter is primarily composed of sulfates, nitrates, organic carbon compounds, elemental carbon, and soil dust, and impairs visibility by scattering and absorbing light. Fine particulate matter can also cause serious health effects and mortality in humans, and contributes to environmental effects such as acid rain deposition and eutrophication.[5]

Data from the existing visibility monitoring network, the ''Interagency Monitoring of Protected Visual Environments'' (IMPROVE) monitoring network, show that visibility impairment caused by air pollution occurs virtually all the time at most national parks and wilderness areas. Average visual range in many Class I areas in the Western United States is 100–150 kilometers, or about one-half to two-thirds the visual range that would exist without man-made air pollution.[6] Visibility impairment also varies day-to-day and season-to-season depending on variations in meteorology and emission rates.

B. Regional Haze Rules and Regulations

In section 169A of the 1977 CAA Amendments, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in Class I areas, which impairment results from man-made air pollution.'' [7] On December 2, 1980, we promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, i.e., ''reasonably attributable visibility impairment.'' [8] These regulations represented the first phase in addressing visibility impairment. We deferred action on regional haze that results from emissions from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to further address regional haze issues. We promulgated a rule to address regional haze on July 1, 1999 (64 FR 35713) (the Regional Haze Rule or RHR). The RHR revised the existing visibility regulations by adding provisions that address regional haze impairment and that establish a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in our visibility protection regulations at 40 CFR 51.300–309. Some of the main elements of the regional haze requirements are summarized in section III of this rulemaking. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia, and the Virgin Islands.[9] Pursuant to 40 CFR 51.308(b), states were required to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

does not dictate what EPA will propose or finally determine with respect to the submitted SIP revision; today's proposal is based on our statutorily prescribed role of reviewing the submitted SIP revision for consistency with the requirements of the Clean Air Act.

[2] In our final action on the Oklahoma RH SIP on December 28, 2011, (76 FR 81727), we approved BART determinations and, where relevant, emission limitations (except those limitations proposed as SO_2 BART for Northeastern Units 3 and 4) for several AEP/PSO units: Comanche Power Station; Southwestern Power Station; and Northeastern Power Station. The pertinent emission limitations for these AEP/PSO units, including the revised BART limits for Northeastern Power Station Units 3 and 4 that we today propose to approve, are found in 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). Consistent with today's proposal and to better clarify our past approvals and the federal enforceability of the limits for these AEP/PSO units and facilities, we today propose to codify our approval of the agreed upon order, as amended.

[3] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager (FLM).'' 42 U.S.C. 7602(i). When we use the term ''Class I area'' in this action, we mean a ''mandatory Class I Federal area.''

[4] See 64 FR 35714 (July 1, 1999); see also 70 FR 39104 (July 6, 2005) and 71 FR 60612 (October 13, 2006).

[5] See 64 FR 35715.

[6] *Id.*

[7] See CAA section 169A(a)(1).

[8] See 45 FR 80084.

[9] Albuquerque/Bernalillo County in New Mexico must also submit a regional haze SIP to completely satisfy the requirements of section 110(a)(2)(D) of the CAA for the entire State of New Mexico under the New Mexico Air Quality Control Act (section 74–2–4).

C. 1997 NAAQS for Ozone and $PM_{2.5}$ and CAA Section 110(a)(2)(D)(i)

On July 18, 1997, we promulgated new NAAQS for 8-hour ozone and $PM_{2.5}$.[10] Section 110(a)(1) of the CAA requires states to submit SIPs to address a new or revised NAAQS within three years after promulgation of such standards, or within such shorter period as we may prescribe. Section 110(a)(2) of the CAA lists the elements that such new SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to the interstate transport of certain emissions.

On April 25, 2005, we published a ''Finding of Failure to Submit SIPs for Interstate Transport for the 8-hour Ozone and $PM_{2.5}$ NAAQS.'' [11] This action included a finding that Oklahoma and other states had failed to submit SIPs for interstate transport of air pollution affecting visibility and started a two-year clock for the promulgation of a FIP, unless a state made a submission to meet the requirements of section 110(a)(2)(D)(i) and we approved the submission before promulgating a FIP.

On August 15, 2006, we issued our ''Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' (2006 Guidance). We developed the 2006 Guidance to make recommendations to states for making submissions to meet the requirements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone standards and the 1997 $PM_{2.5}$ standards.

As identified in the 2006 Guidance, the ''good neighbor'' provisions in section 110(a)(2)(D)(i) of the CAA require each state to submit a SIP that prohibits emissions that adversely affect another state in the ways contemplated in the statute. Section 110(a)(2)(D)(i) contains four distinct requirements related to the impacts of interstate transport. The SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in other states; (2) interfere with maintenance of the NAAQS in other states; (3) interfere with provisions to prevent significant deterioration of air quality in other states; or (4) interfere with efforts to protect visibility in other states.

The 2006 Guidance stated that states may make a simple SIP submission confirming that it is not possible at that time to assess whether there is any interference with measures in the applicable SIP for another state designed to ''protect visibility'' for the 8-hour ozone and $PM_{2.5}$ NAAQS until Regional Haze SIPs are submitted and approved. These SIPs were required to be submitted by December 17, 2007.[12]

On May 10, 2007, we received a SIP revision submitted to address the interstate transport provisions of CAA 110(a)(2)(D)(i) for the 1997 ozone and 1997 $PM_{2.5}$ NAAQS (Oklahoma Interstate Transport SIP). We received a supplement to this SIP revision on December 10, 2007. In a prior action, we partially approved the submitted Oklahoma Interstate Transport SIP for the ''interfere with measures to prevent significant deterioration'' prong of section 110(a)(2)(D)(i) of the CAA.[13] On February 19, 2010, Oklahoma submitted the Oklahoma RH SIP to address interstate transport of emissions that could interfere with efforts to protect visibility in other states. Because we could only partially approve the Oklahoma RH SIP submittal, we issued a partial approval and partial disapproval of the Oklahoma Interstate Transport SIP that addressed the requirement that emissions from Oklahoma sources do not interfere with measures required in the SIP of any other state to protect visibility and concurrently issued a FIP to address defects in the Oklahoma Interstate Transport SIP submission.

III. Requirements for Regional Haze SIPs

A. The CAA and the Regional Haze Rule

Regional haze SIPs must assure reasonable progress towards the national goal of achieving natural visibility conditions in Class I areas. Section 169A of the CAA and EPA's implementing regulations require states to establish long-term strategies for making reasonable progress toward meeting this goal. Implementation plans must also give specific attention to certain stationary sources that were in existence on August 7, 1977, but were not in operation before August 7, 1962, and require these sources, where appropriate, to install BART controls for the purpose of eliminating or reducing visibility impairment.

B. Best Available Retrofit Technology

Section 169A of the CAA directs states to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires States to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources [14] built between 1962 and 1977 procure, install, and operate the ''Best Available Retrofit Technology'' as determined by the state. States are directed to conduct BART determinations for such sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. Rather than requiring source-specific BART controls, states also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative program provides greater reasonable progress towards improving visibility than BART.

On July 6, 2005, we published the *Guidelines for BART Determinations Under the Regional Haze Rule* at appendix Y to 40 CFR Part 51 (henceforth referred to as the ''BART Guidelines'') to assist states in determining which of their sources should be subject to the BART requirements and in determining appropriate emission limits for each applicable source.[15] In making a BART applicability determination for a fossil fuel-fired electric generating plant with a total generating capacity in excess of 750 megawatts, a state must use the approach set forth in the BART Guidelines. A State is encouraged, but not required, to follow the BART Guidelines in making BART determinations for other types of sources. Regardless of source size or type, however, a state must meet the CAA and regulatory requirements for selection of BART, and the state's BART analysis and determination must be reasonable in light of the overarching purpose of the regional haze program.

States must address all visibility-impairing pollutants emitted by a source in the BART determination process. The most significant visibility-impairing pollutants are SO_2, NO_X, and $PM_{2.5}$. The EPA has indicated that states should use their best judgment in determining whether emissions of volatile organic compounds or compounds of ammonia contribute to impairment of visibility in Class I areas.

Under the BART Guidelines, States may select and document an exemption threshold value to determine those BART-eligible sources not subject to

[10] See 62 FR 38652.

[11] See 70 FR 21147.

[12] See 74 FR 2392 (January 15, 2009).

[13] See 75 FR 72695 (November 26, 2010).

[14] The set of ''major stationary sources'' potentially subject to BART is listed in CAA section 169A(g)(7).

[15] 70 FR 39104.

BART. A BART-eligible source with an impact below the threshold value would not be expected to cause or contribute to visibility impairment in any Class I area. Any source with emissions great enough to result in a visibility impact above the threshold value would be subject to a BART determination review. The BART Guidelines acknowledge varying circumstances affecting different Class I areas. States should consider the number of emission sources affecting the Class I areas at issue and the magnitude of the individual sources' impacts. Generally, an exemption threshold set by the State should not be higher than 0.5 deciviews (dv).

In their SIPs, States must identify BART-eligible sources that have a visibility impact in any Class I area above the ''BART-subject'' exemption threshold established by the State and thus, are subject to BART. States must document their BART control analysis and determination for all sources subject to BART.

The term ''BART-eligible source'' used in the BART Guidelines means the collection of individual emission units at a facility that together comprises the BART-eligible source. In making a BART determination, section 169A(g)(2) of the CAA requires that States consider the following factors: (1) The costs of compliance, (2) the energy and non-air quality environmental impacts of compliance, (3) any existing pollution control technology in use at the source, (4) the remaining useful life of the source, and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.[16]

Each state's regional haze SIP must include source-specific BART emission limits and compliance schedules for each source subject to BART. Once a state has made its BART determination, the BART controls must be installed and in operation as expeditiously as practicable, but no later than five years after the date the EPA approves the regional haze SIP.[17] In addition to what is required by the RHR, general SIP requirements mandate that the SIP must also include all regulatory requirements related to monitoring, recordkeeping, and reporting for the BART controls that pertain to a source. States have the flexibility to choose the type of control measures they will ultimately use to meet the BART emission limits.

[16] See 40 CFR 51.308(e)(1)(ii)(A).

[17] See CAA section 169(g)(4) and 40 CFR 51.308(e)(1)(iv).

IV. BART Determination for AEP/PSO Northeastern Power Station

A. Oklahoma's Revised BART Determination for the AEP/PSO Northeastern Power Station

In our prior review and action on the Oklahoma RH SIP, we agreed with Oklahoma's identification of sources that are BART-eligible and subject to BART, including Units 3 and 4 of the AEP/PSO Northeastern Power Station. 76 FR 81727 (December 28, 2011). We approved the State's PM and NO_X BART determinations and emission limits for these two units, with the pertinent emissions limitations contained in the PSO Regional Haze Agreement, DEQ Case No. 10–025 (February 10, 2010), while disapproving the State's SO_2 BART determinations and emission limits.[18] Specifically, we approved the NO_X BART emission limits of 0.15 lb/MMBtu (based on 30-day rolling averages) for Units 3 and 4 and disapproved the SO_2 BART determinations of no additional controls for Units 3 and 4. We promulgated an SO_2 BART emission limit of 0.06 lb/MMBtu for each unit (based on rolling 30 boiler operating day averages).

NO_X BART

The Oklahoma RH SIP Revision explains that it ''does not reopen [the prior and EPA-approved] NO_X technology determination, but does require earlier installation and compliance with reduced emission limits prior to the original SIP-imposed deadline.'' Oklahoma RH SIP Revision, Appendix 2 at 12. Our prior approval of NO_X BART for Unit 3 and 4 required that these units meet a NO_X emission limit of 0.15 lb/MMBtu (based on a 30-day rolling average) within five years from the effective date of EPA's approval, or by January 27, 2017. However, under the Oklahoma RH SIP Revision, both units are now required to meet an initial NO_X emission limit of 0.23 lb/MMBtu (based on a 30-day rolling average) by December 31, 2013, with additional limits of 1,098 lb/hr per unit on a 30-day rolling average basis and a 9,620 tpy combined cap for both units. By April 16, 2016, one unit is required to be permanently shut down, while the remaining unit is required to meet a NO_X emission limit of 0.15 lb/MMBtu (based on a 30-day rolling average), 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. Finally, this second unit is required to shut down by December 31, 2026. These emission limits and shutdowns are made enforceable by 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). This revised NO_X BART determination is more stringent than the determination that we previously approved because it requires compliance with the 0.15 lb/MMBtu limit on a more expeditious schedule.

SO_2 BART

The Oklahoma RH SIP Revision also includes a new SO_2 BART determination for Units 3 and 4, which differs from both Oklahoma's original SO_2 BART determination of no new controls and our SO_2 BART emission limit of 0.06 lb/MMBtu, which can be met by the installation of Dry Flue Gas Desulfurization/Spray Dryer Absorber technology (DFGD/SDA). Oklahoma's new SO_2 BART determination contains several elements, including interim emission limits, the installation of Dry Sorbent Injection (DSI) technology and a fabric filter baghouse, phased reductions in capacity utilization, and enforceable deadlines by which Units 3 and 4 must be shut down entirely. As a consequence, the ''remaining useful life'' of Units 3 and 4 was an important consideration in Oklahoma's new SO_2 BART determination. Specifically, the Oklahoma RH SIP revision requires the following:

- By January 31, 2014, Units 3 and 4 must comply with an emission limit of 0.65 lb/MMBtu on a 30-day rolling average basis, to be met through the use of low-sulfur coal. An additional limit of 3,104 lb/hr on a 30-day rolling average basis will also apply to each unit;
- By December 31, 2014, Units 3 and 4 must comply with a reduced emission limit of 0.60 lb/MMBtu on a 12-month rolling average basis and a combined emissions cap of 25,097 tons/year on a 12-month rolling basis;
- By April 16, 2016, one of the two units must be permanently shut down, while the remaining unit must comply with a reduced emission limit of 0.4 lb/MMBtu [19] (based on DSI) [20] on a 30-day

[18] We note again that with today's proposal that we propose to codify our approval of this agreed-upon order, as amended, because it will confirm and clarify our past approvals as well as the emission limitations and related schedules for the BART determinations we propose to approve today.

[19] The company is also required to optimize the performance of the DSI through implementation of a testing protocol at varying operational parameters. If a lower limit is achievable, the company will have to revise its permit limits.

[20] ODEQ notes that the installation of DSI will necessitate the addition of a fabric filter baghouse to further control PM emissions. ODEQ explains

rolling average basis. Additional limits of 1,910 lb/hr on a 30-day rolling average basis and 8,366 tons per year on a 12-month rolling basis will also apply;

- The capacity utilization of the remaining unit will be capped at 70 percent by January 1, 2021; 60 percent by January 1, 2023; and 50 percent by January 1, 2025; and
- The remaining unit must be permanently shut down by December 31, 2026.

In its BART analysis, ODEQ identified its DSI/shutdown proposal as one control option and the FIP scenario of two DFGD/SDA systems as the second control option.[21] In accordance with section 169A of the CAA, the RHR, and the BART Guidelines, ODEQ weighed the five statutory factors in comparing its new proposal against our FIP. After factoring in a ten-year amortization period for DSI (due to the shutdown of the second unit in 2026), ODEQ determined that DSI would have an average cost-effectiveness of $1,005/ton, while the installation of two DFGD/SDA systems, as contemplated by EPA's FIP, had an average cost-effectiveness of $1,544/ton. ODEQ further noted that the incremental cost-effectiveness of the DSI/shutdown scenario versus the FIP scenario was $4,718/ton in the first year, with worsening incremental cost-effectiveness as the capacity utilization of the remaining unit decreased starting in 2021.

ODEQ also conducted a revised visibility modeling analysis using CALPUFF. ODEQ found that, while two DFGD/SDA systems provided the greatest visibility improvement across all Class I areas, the incremental visibility improvement between the DSI/shutdown scenario and the FIP scenario was small. ODEQ concluded that the FIP scenario would result in approximately 0.1 dv of additional visibility improvement compared with the DSI/shutdown scenario at each impacted Class I area, with a total additional improvement of approximately 0.27 dv across all four of the nearest Class I areas.

ODEQ noted that the DSI/shutdown scenario would result in additional reductions of NO_X beyond the NO_X FIP level and additional reductions of other air pollutants, such as PM, and CO_{2e}, thereby helping to address local formation and interstate transport of ozone and reducing Oklahoma's contribution to greenhouse gases. Finally, ODEQ considered the non-air quality impacts of DSI/shutdown scenario and found that it would require less water usage, reduce mercury deposition, and reduce approximately half of the energy consumption as the FIP scenario. Given the comparable visibility improvement, lower costs, and overall reduced environmental impact, ODEQ concluded that the DSI/shutdown scenario was SO_2 BART.

B. EPA's Assessment of the State's Revised BART Determinations for Units 3 and 4

NO_X BART

Oklahoma's revised NO_X BART determination for Units 3 and 4 does not require us to revisit our earlier approval of the State's NO_X BART determination for these units, but only to review a faster compliance schedule. Sources that are subject to BART must install and operate those controls ''as expeditiously as practicable but in no event later than five years after the date of approval of a plan revision . . .'' CAA section 169A(g)(4). Here, Oklahoma has determined that the NO_X BART limits for Units 3 and 4 that we previously approved can be complied with more expeditiously than previously required. Early implementation of the NO_X BART limits will provide improvements in visibility sooner, thus making the Oklahoma RH SIP more stringent. We therefore propose to approve this part of the Oklahoma RH SIP Revision and find that it meets the requirements of the CAA. We also propose to codify, in the approved SIP, 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 they contain NOx BART emission limitations and schedules for the AEP/PSO two units found therein.

SO_2 BART

The CAA defines a FIP as ''a plan (or portion thereof) promulgated by the Administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a [SIP].'' CAA section 302(y). Because a FIP is intended as a gap-filling measure, EPA encourages states to submit approvable SIP revisions that correct the deficiencies that a given FIP remedied. Such a SIP revision need not adopt the same suite of control options and techniques as EPA's FIP, nor does it necessarily have to be as stringent as EPA's FIP in all instances. Rather, when a State submits a SIP revision to EPA with the intention of replacing a FIP, EPA must approve the SIP revision so long as the SIP revision does not ''interfere with any applicable requirement concerning attainment and reasonable further progress . . . or any other applicable requirement of [the Act].'' CAA section 110(l). In regards to regional haze SIPs and the statutory requirement to make BART determinations for certain older major stationary sources, EPA must approve a State's SIP revision so long as the State complies with the CAA's visibility protection provisions, the RHR, and the BART Guidelines, and makes a reasonable control determination based on the weighing of the five factors. We have analyzed Oklahoma's new SO_2 BART determination with these requirements in mind.

We propose to conclude that ODEQ has appropriately met the requirements of 40 CFR 308(e) and the BART Guidelines of Appendix Y in determining BART for emissions of SO_2 from AEP/PSO Northeastern Power Station Units 3 and 4. This conclusion is based on our review of ODEQ's SIP submittal, including the original February 19, 2010 Regional Haze Submittal and the June 2013 SIP revision.

ODEQ's revised BART determination includes the shutdown of one of the two units in April 2016 and the second unit in December 2026, so the controlling facts for the BART analysis are different than the facts that were presented with Oklahoma's 2010 SIP submission. As discussed previously, in the 2013 SIP revision ODEQ determined that the DSI/shutdown scenario was SO_2 BART for AEP/PSO Northeastern Power Station Units 3 and 4. ODEQ made this determination based on an analysis of the five BART factors and other information. Their analysis of the five BART factors included consideration of the high incremental cost-effectiveness and low incremental visibility improvement between the FIP and DSI/shutdown scenarios, as well as the additional non-air quality environmental and energy benefits of the latter. The energy and non-air quality environmental impacts, e.g., reductions in mercury deposition, water and energy usage, associated with the DSI/shutdown scenario support the conclusion that the shutdown/DSI

that, despite the installation of this baghouse for the purposes of accommodating DSI, ODEQ is not re-opening its determination in the original Oklahoma RH SIP that no further controls are required to satisfy PM BART. See Oklahoma RH SIP Revision, Appendix 2 at 3.

[21] ODEQ declined to re-evaluate wet scrubbers because EPA had previously determined that the emission limit achievable by this control option was not BART in our FIP. While the BART Guidelines require states to evaluate all technically feasible control options when making a BART determination, we believe that ODEQ was justified in eliminating wet scrubbers based on our prior analysis in this instance.

option is BART.[22] ODEQ also considered the additional air quality benefits associated with shutting down Units 3 and 4 which, while important, these other air quality benefits such as reduced ozone and PM formation and CO_{2e} are not among the BART factors.

Regarding the other BART factors, while BART determinations are typically made on a unit-by-unit basis, we believe that ODEQ's decision to evaluate BART on a facility-wide basis is a reasonable way to take into account the visibility and energy and non-air quality environmental benefits associated with unit shutdowns. While we believe ODEQ's facility wide approach to BART is reasonable, we have also analyzed BART on a unit by unit analysis. A unit by unit analysis includes the consideration of a scenario, not considered by ODEQ, in which the unit that remains in operation after April 16, 2016 installs DFGD/SDA. We also made adjustments to ODEQ's cost and visibility calculations to take into account more recent information regarding the facilities baseline ''uncontrolled'' emissions and the useful life of the facility. The adjustments were necessary to properly assess the cost and visibility factors on a unit by unit basis but were less important when the analysis was conducted, as ODEQ did, on a facility wide basis. First, we re-calculated cost-effectiveness assuming a baseline emission rate of 0.6 lb/MMBtu instead of the 0.9 lb/MMBtu rate used by ODEQ. The 0.6 lb/MMBtu emission rate takes into account more recent information regarding the actual emissions of Units 3 and 4 and it is more representative of the emission limits Oklahoma requires the two units to meet beginning January 31, 2014. In addition, based on the enforceable shutdown deadline, we assumed an amortization period of ten years for both DSI and DFGD/SDA. We used the same heat input of 4,775 MMBtu/hr and 85% capacity factor as ODEQ.

We calculated that the average cost-effectiveness of the DSI/shutdown scenario would be $1,758/ton, while the average cost-effectiveness of the DFGD/SDA/shutdown scenario would be $3,211/ton. The incremental cost-effectiveness of installing DFGD/SDA as the BART control on the remaining unit rather than DSI would be $7362/ton. See our TSD for more details of our cost analysis. A spreadsheet containing this EPA calculated cost effectiveness of DFGD/SDA is contained in the docket, and a summary of this information is presented in Table 1of the Technical Support Document accompanying this proposed action.

We reviewed the CALPUFF visibility modeling in the proposed SIP revision submittal and also performed additional analyses (including additional CALPUFF model runs). Please see the SIP's Appendix II and EPA's Technical Support Document for more details of AEP/PSO's modeling, ODEQ's evaluation, and EPA's modeling and evaluation. While, as described in the TSD, the Oklahoma's modeling has some differences from ours, the relative results are similar and the differences are not such that it changes our overall conclusions. In addition to the scenarios considered by Oklahoma, we also considered the scenario of one unit shutting down and one unit with DFGD/SDA. While we did not model this scenario, it is reasonable to approximate this scenario would result in one half the visibility impairment of the FIP scenario of two units operating with DFGD/SDA. Based on this assumption, this scenario results in an improvement of 0.19 deciviews at the most impacted Class I area and 0.64 deciviews cumulatively, when compared to DSI on the remaining operating unit. As discussed above, this visibility benefit is achieved at relatively high incremental cost effectiveness.

Oklahoma found, and we agree, that the DFGD/SDA scenario in the FIP would only result in slightly more visibility benefit than Oklahoma's chosen BART determination in which one unit operates until 2026 using DSI. A unit by unit analysis reveals that additional visibility benefit can be achieved if the unit that remains in operation were to implement DFGD/SDA, but this visibility benefit is achieved at a relatively high incremental cost.

In summary, we believe that when incremental costs, energy and non-air quality impacts, and the remaining useful life of the source are taken into consideration, ODEQ's determination that DSI is the proper BART control for the remaining unit is ultimately reasonable. We therefore propose to approve ODEQ's new SO_2 BART determination in full and propose to rescind the emission limits and compliance schedule contained in our FIP.

Previously, we disapproved the ''PSO Regional Haze Agreement, DEQ Case No. 10–025 (February 10, 2010),'' and its emission limitations for SO_2. With today's proposed approval of the state's BART determinations, as revised, we now propose to approve 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),'' and the SO_2 BART emission limitations for the two AEP/PSO units found therein.

V. Oklahoma's Interstate Transport Visibility SIP Provisions

Oklahoma submitted its *Interstate Transport SIP for an Assessment of Oklahoma's Impact on Downwind Nonattainment for the National Ambient 8-hour Ozone and $PM_{2.5}$ Air Quality Standards* (''Transport SIP'') to EPA in May 2007 and submitted supplemental information in December 2007. Our December 28, 2011 action on the Oklahoma RH SIP also addressed the provisions of the Oklahoma Interstate Transport SIP relating to visibility protection. In that action, we partially approved and partially disapproved the Oklahoma Interstate Transport SIP, which relied in part upon the Oklahoma RH SIP to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II), because we could only partially approve the Oklahoma RH SIP. We also promulgated an Interstate Transport FIP for visibility requiring source-specific SO_2 emission limitations.

As an initial matter, we note that CAA section 110(a)(2)(D)(i)(II) does not explicitly specify how we should ascertain whether a state's SIP contains adequate provisions to prevent emissions from sources in that state from interfering with measures required in another state to protect visibility. Thus, the statute is ambiguous on its face, and we must interpret that provision in a reasonable fashion. Our 2006 Guidance recommended that a state could meet the visibility prong of CAA section 110(a)(2)(D)(i)(II) by submitting a fully approvable regional haze SIP. We reasoned that the development of the regional haze SIPs involved collaboration among the states. In fact, in developing their respective reasonable progress goals, CENRAP states consulted with each other through CENRAP's work groups. As a result of this process, the common understanding was that each state would take action to achieve the emissions reductions relied upon by other states in their reasonable progress demonstrations. CENRAP states consulted in the development of reasonable progress goals, using the products of the technical consultation

[22] [T]he State must take into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. 40 CFR 51.308(e)(1)(ii)(A).

process to co-develop their reasonable progress goals. In developing their visibility projections using photochemical grid modeling, CENRAP states assumed a certain level of emissions from sources within Oklahoma. This modeling assumed SO_2 reductions from AEP/PSO Northeastern Power Station Units 3 and 4. We understand that the CENRAP states used the visibility projection modeling to establish their own respective reasonable progress goals. Thus, we believe that an implementation plan that provides for emissions reductions consistent with the assumptions used in those states' modeling will ensure that emissions from Oklahoma sources do not interfere with the measures designed to protect visibility in other states.

In the case of Northeastern Units 3 and 4, the CENRAP modeling assumed that each of these units would achieve the presumptive limit of 0.15 lb/MMBtu by 2018. Under the Oklahoma RH SIP Revision, one of the two units is required to shut down before that date, while the remaining unit is required to install DSI. To achieve emission levels equivalent to the levels assumed in other States' Regional Haze plans, the remaining unit must would have to meet an emission limit of 0.3 lb/MMBtu (0.15 + 0.15) by 2018. Currently, the First Amended Regional Haze Agreement in the submitted SIP revision only requires the remaining unit to meet an emission limit of 0.4 lb/MMBtu. However, the First Amended Regional Haze Agreement also requires the source operators to optimize the performance of DSI on the remaining unit to ensure that the best possible performance is achieved and adjust the limit accordingly. Further, if the remaining operating unit still cannot meet the emission limit of 0.3 lb/MMBtu, then the Oklahoma RH SIP Revision contains an enforceable commitment on behalf of 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 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. 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 2013 SIP Submission. 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.

Therefore, if the SO_2 emission rate for the remaining coal-fired unit is not reduced to 0.30 lb/MMBtu after the implementation of the control requirements required by the First Amended Regional Haze Agreement, then there will not be the emissions reductions relied upon in the CENRAP modeling. These emission reductions must be obtained from elsewhere to meet the requirements of the Visibility Interstate Transport SIP/FIP. We are proposing to find that the state already has provided the majority of required emissions reductions for the Visibility interstate transport statutory requirement. The balance of the needed reductions is in the form of enforceable commitments from the ODEQ. We believe, consistent with past practice, that the CAA allows for the approval of enforceable commitments that are limited in scope where circumstances exist that warrant the use of such commitments in place of adopted measures.[23] Once we determine that circumstances warrant consideration of an enforceable commitment, we consider three factors in determining whether to approve the enforceable commitment: (a) Does the commitment address a limited portion of the statutorily-required program; (b) is the state capable of fulfilling its commitment; and (c) is the commitment for a reasonable and appropriate period of time.[24] Oklahoma has met these criteria because the enforceable commitment addresses only a small potential shortfall in the emission reductions necessary to ensure that the State's SIP will not interfere with other states' plans to protect visibility. Under the DSI/shutdown scenario, the Northeastern Power Station will achieve at least 70% of the approximately 75% reduction in SO_2 emissions necessary to meet the level projected in the CENRAP modeling (based on a baseline of 0.6 lb/MMBtu). Further, this is only a possible shortfall, as the facility is required to optimize the performance of the DSI and may well be able to achieve further reductions. Oklahoma is capable of fulfilling its commitment because it has the authority to adopt measures if necessary and likely will be able to identify federally enforceable reductions through other measures not anticipated in CENRAP modeling, such as EPA's Modeled Attainment Test Software (MATS). Finally, we believe that Oklahoma has committed to address any shortfall as expeditiously as practical given the time needed for the source to conduct the optimization study and for ODEQ to complete the State's SIP adoption process.

In conclusion, we propose to approve the enforceable commitments made in the Oklahoma RH SIP Revision as satisfying Oklahoma's interstate transport obligations for visibility. We also propose to find that the SO_2 emissions reductions associated with Northeastern Units 3 and 4, when combined with the enforceable commitments, will be consistent with the levels of control assumed in the

[23] Commitments approved by EPA under section 110(k)(3) of the CAA are enforceable by EPA and citizens under, respectively, sections 113 and 304 of the CAA. In the past, EPA has approved enforceable commitments and courts have enforced these actions against states that failed to comply with those commitments: *See, e.g., American Lung Ass'n of N.J.* v. *Kean,* 670 F. Supp. 1285 (D.N.J. 1987), *aff'd,* 871 F.2d 319 (3rd Cir. 1989); *NRDC, Inc.* v. *N.Y. State Dept. of Env. Conservation,* 668 F. Supp. 848 (S.D.N.Y. 1987); *Citizens for a Better Env't* v. *Deukmejian,* 731 F. Supp. 1448, recon. granted in par, 746 F. Supp. 976 (N.D. Cal. 1990); *Coalition for Clean Air* v. *South Coast Air Quality Mgmt. Dist.,* No. CV 97–6916–HLH (C.D. Cal. Aug. 27, 1999). Further, if a state fails to meet its commitments, EPA could make a finding of failure to implement the SIP under CAA Section 179(a), which starts an 18-month period for the State to correct the non-implementation before mandatory sanctions are imposed. CAA section 110(a)(2)(A) provides that each SIP ''shall include enforceable emission limitations and other control measures, means or techniques . . . as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirement of the Act.'' Section 172(c)(6) of the Act, which applies to nonattainment SIPs, is virtually identical to section 110(a)(2)(A). The language in these sections of the CAA is quite broad, allowing a SIP to contain any ''means or techniques'' that EPA determines are ''necessary or appropriate'' to meet CAA requirements, such that the area will attain as expeditiously as practicable, but no later than the designated date. Furthermore, the express allowance for ''schedules and timetables'' demonstrates that Congress understood that all required controls might not have to be in place before a SIP could be fully approved.

[24] The U.S. Court of Appeals for the Fifth Circuit upheld EPA's interpretation of CAA sections 110(a)(2)(A) and 172(c)(6) and the Agency's use and application of the three-factor test in approving enforceable commitments in the Houston-Galveston ozone SIP. *BCCA Appeal Group* v. *EPA,* 355 F.3d 817 (5th Cir. 2003).

CENRAP modeling and relied on by other states as part of their reasonable progress demonstrations.

VI. What action is EPA proposing?

A. Regional Haze

For the reasons explained above, we are proposing to approve ODEQ's revised SO_2 BART determination for Units 3 and 4 of the AEP/PSO Northeastern Power Station. This revised SO_2 BART determination (and related control measures) includes the following emission control requirements: (1) By January 31, 2014, the facility will comply with an interim SO_2 emission limit of 0.65 lb/MMBtu per unit on a 30-day rolling average basis, with an additional 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. Consequently, we are proposing to approve for SO_2, 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).''

The newly submitted regional haze SIP revision also includes, and we are proposing to approve, an accelerated NO_X BART compliance schedule: (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. For NOx, we are proposing to codify our approval of 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 contains the NOx BART emission limitations and schedules for AEP/PSO's BART subject units in Oklahoma.

B. Interstate Transport and Visibility

Because we are proposing to approve the State's new SO_2 BART determination for AEP/PSO Northeastern Power Station Units 3 and 4, we accordingly propose to approve that portion of the Oklahoma RH SIP Revision concerning Oklahoma's interstate transport obligations, which we found were not appropriately addressed by the prior, disapproved submittal. We propose to find that the Oklahoma RH SIP Revision 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. Relatedly, we propose to approve the ODEQ's enforceable commitment in the SIP Narrative at page 10.

C. FIP Amendments

We are proposing to withdraw those portions of the FIP at 40 CFR § 52.1923 that impose SO_2 requirements on AEP/PSO Northeastern Units 3 and 4.[25] We note that finalization of this portion of today's proposal may follow our finalized approval of the SIP revisions via a separate Administrator-signed action.

D. Clean Air Act Section 110(l)

Section 110(l) of the CAA states that ''[t]he Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of this chapter.'' 42 U.S.C. 7410(l). EPA does not interpret section 110(l) to require a full attainment or maintenance demonstration before any changes to a SIP may be approved. Generally, a SIP revision may be approved under section 110(l) if EPA finds that it will at least preserve status quo air quality, particularly where the pollutants at issue are those for which an area has not been designated nonattainment.

We do not believe an approval, as proposed, will interfere with CAA requirements for BART or for preventing interference with other states' programs to protect visibility because our proposal is supported by an evaluation that those CAA requirements are met. An approval will not result in any substantive changes to the BART requirements or other CAA requirements, and the AEP/PSO units will continue to be subject to the CAA requirements for BART. The SIP replaces a federal determination that was based on different underlying facts. Because of this, the submitted SIP cannot be said to be less stringent than the determination in the FIP. We also believe that approval of the submitted SIP revision will not interfere with attainment and maintenance of the NAAQS within the state of Oklahoma. The submitted SIP revision, if approved, will reduce emissions from the current levels allowed to impact local air quality. The area where the Northeastern facility is located has not been designated nonattainment for any NAAQS pollutants nor have any nearby areas. The revision being approved here will result in reductions in NOx and SO_2 over existing levels, and therefore, we do not deem this to be an instance where a full attainment or maintenance demonstration is needed to bolster our determination that approval of the submitted SIP revision would not interfere with attainment and maintenance of the NAAQS. The FIP, were it to remain in place, would assuredly also preserve, if not improve upon, status quo air quality. However, the requirement for BART takes its form in future implemented emission reductions. We are not aware of any basis for concluding or demonstrating that the regional haze SIP revisions, when implemented, would interfere with the maintenance of the NAAQS in Oklahoma.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed

[25] The proposed amendatory language for this proposed revision of the earlier promulgated FIP is set forth at the end of this proposal. If the action is finalized as proposed, the final action will also present additional amendatory language reflecting our approval of the submitted SIP revision.

action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Regional haze, Reporting and recordkeeping requirements, Sulfur dioxide, Visibility, and Volatile organic compounds.

Dated: August 12, 2013.

Samuel Coleman,

P.E., Acting Regional Administrator, Region 6.

Title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 52.1923 is amended by:
■ a. Revising the section heading; and
■ b. Revising paragraphs (a), (c), and (e)(1).

The revised text read as follows:

§ 52.1923 Best Available Retrofit Requirements (BART) for SO_2 and Interstate pollutant transport provisions; What are the FIP requirements for Units 4 and 5 of the Oklahoma Gas and Electric Muskogee plant; and Units 1 and 2 of the Oklahoma Gas and Electric Sooner plant affecting visibility?

(a) *Applicability.* The provisions of this section shall apply to each owner or operator, or successive owners or operators, of the coal burning equipment designated as: Units 4 or 5 of the Oklahoma Gas and Electric Muskogee plant; and Units 1 or 2 of the Oklahoma Gas and Electric Sooner plant.

* * * * *

(c) *Definitions.* All terms used in this part but not defined herein shall have the meaning given them in the CAA and in parts 51 and 60 of this chapter. For the purposes of this section:

24-hour period means the period of time between 12:01 a.m. and 12 midnight.

Air pollution control equipment includes selective catalytic control units, baghouses, particulate or gaseous scrubbers, and any other apparatus utilized to control emissions of regulated air contaminants that would be emitted to the atmosphere.

Boiler-operating-day means any 24-hour period between 12:00 midnight and the following midnight during which any fuel is combusted at any time at the steam generating unit.

Daily average means the arithmetic average of the hourly values measured in a 24-hour period.

Heat input means heat derived from combustion of fuel in a unit and does not include the heat input from preheated combustion air, recirculated flue gases, or exhaust gases from other sources. Heat input shall be calculated in accordance with 40 CFR part 75.

Owner or Operator means any person who owns, leases, operates, controls, or supervises any of the coal burning equipment designated as:

Unit 4 of the Oklahoma Gas and Electric Muskogee plant; or
Unit 5 of the Oklahoma Gas and Electric Muskogee plant; or
Unit 1 of the Oklahoma Gas and Electric Sooner plant; or
Unit 2 of the Oklahoma Gas and Electric Sooner plant.

Regional Administrator means the Regional Administrator of EPA Region 6 or his/her authorized representative.

Unit means one of the coal fired boilers covered under Paragraph (a), above.

* * * * *

(e) * * *

(1) No later than the compliance date of this regulation, the owner or operator shall install, calibrate, maintain and operate Continuous Emissions Monitoring Systems (CEMS) for SO_2 on Units 4 and 5 of the Oklahoma Gas and Electric Muskogee plant; and Units 1 and 2 of the Oklahoma Gas and Electric Sooner plant in accordance with 40 CFR 60.8 and 60.13(e), (f), and (h), and Appendix B of Part 60. The owner or operator shall comply with the quality assurance procedures for CEMS found in 40 CFR part 75. Compliance with the emission limits for SO_2 shall be determined by using data from a CEMS.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 770

[EPA–HQ–OPPT–2012–0018; FRL–9397–2]

RIN 2070–AJ92

Formaldehyde Emissions Standards for Composite Wood Products; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA issued a proposed rule in the **Federal Register** of June 10, 2013, concerning formaldehyde emissions standards for composite wood products. After receiving requests for an extension, EPA extended the comment period from August 9, 2013, to September 9, 2013. EPA received additional comments and believes it is appropriate to further extend the comment period in order to give