Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552, as amended. Subpart C also issued under 5 U.S.C. 552a.

■ 2. In § 1.36;

■ a. In the table in paragraph (c)(1)(vii):

■ i. Revise the entries for IRS 46.002, 46.003, and 46.005;

■ ii. Remove the entry for IRS 46.009;

■ iii. Revise the entry for IRS 46.015;

■ iv. Remove the entry for IRS 46.022; and

■ v. Revise the entry for IRS 46.050.

■ b. In the table in paragraph (g)(1)(vii), revise the entry for IRS 46.050.

The revisions read as follows:

§ 1.36 Systems exempt in whole or in part from provisions of 5 U.S.C. 552a and this part.

* * * * *

(c) * * *

(1) * * *

(vii) * * *

No.	System name
Treasury/IRS 46.002	Management Information System and Case Files, Criminal Investigation.
Treasury/IRS 46.003	Confidential Informant Records, Criminal Investigation.
Treasury/IRS 46.005	Electronic Surveillance and Monitoring Records, Criminal Investigation.
Treasury/IRS 46.015	Relocated Witness Records, Criminal Investigation.
Treasury/IRS 46.050	Automated Information Analysis and Recordkeeping, Criminal Investigation.

* * * * *

(g) * * *

(1) * * *

(vii) * * *

No.	System name
Treasury/IRS 46.050	Automated Information Analysis and Recordkeeping, Criminal Investigation.

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Dated: February 20, 2014.

Helen Goff Foster,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2014–04946 Filed 3–6–14; 8:45 am]

BILLING CODE 4830–01–P

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

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.

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.

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 stated intent in the BART Guidelines.

Response: We disagree with the commenters that a BART analysis is limited to the consideration of options that require the installation of controls. We note that both AEP/PSO and Oklahoma Gas and Electric (OG&E) have voluntarily adopted fuel switching in the past as a strategy to address BART when they switched to low sulfur coal. Although EPA disagreed that low sulfur coal constituted BART, it was not because the option represented a fuel switch, but rather because we found that the installation of more stringent controls constituted BART. Although EPA's regulations do not require states to consider a fuel switch or a shutdown of an existing unit as part of their BART analyses, a state can certainly include such options in its analysis where a company voluntarily offers such measures as a strategy for reducing emissions.

Comment: We received comments that our proposed action abandoned the unit-by-unit approach to analyzing BART. These commenters reference our Technical Support Document for the proposed approval of the Oklahoma RH SIP revision, which states that BART should be a unit-by-unit analysis, and assert that in proposing to approve ODEQ's BART determination, EPA has abandoned the unit-by-unit analysis and instead compared the ODEQ's BART determination involving the shutdown of a generating unit against our FIP's proposed emissions control technologies and related emissions limits. The commenters claim that in so doing, EPA has inappropriately evaluated the closure of a unit as a "technology" and analyzed two units together. Another commenter takes the opposite view, observing that "EPA has not taken the approach of comparing the SIP Revision to the FIP. Appropriately, EPA has simply reviewed ODEQ's BART analysis for consistency with the Clean Air Act and the BART Guidelines."

Response: As we noted in our proposal, 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 also analyzed BART on a unit by unit basis.[3] We then conducted our own unit-by-unit analysis to confirm the State's conclusions, including the consideration of a scenario not considered by ODEQ, in which the unit that remains in operation after April 16, 2016 would install dry flue gas desulfurization/spray dryer absorber (DFGD/SDA) rather than DSI. We also made adjustments to ODEQ's cost and visibility calculations to take into account more recent information regarding the facility's baseline "uncontrolled" emissions and the remaining useful life of the facility. The adjustments were necessary to properly

[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.

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

[3] 78 FR 51692

assess the cost and visibility factors on a unit-by-unit basis.

Comment: We received several comments concerning our costs of compliance analysis. The commenters believe that we underestimated the costs of compliance associated with ODEQ's revised BART determination for AEP/PSO's units. One of the several commenters that believed we underestimated the costs of compliance conducted an independent analysis and believes that estimates prepared by AEP/PSO benefit from "accounting gimmicks." This commenter states that its analysis demonstrates that the Oklahoma RH SIP revision will cost $529 million more in net present value and $3 billion more in nominal dollars than the FIP currently in place. We also received a comment in support of our costs of compliance analysis, which states that it would not be legally sound for ODEQ to have considered the costs of replacement power or any other costs beyond those of emission controls in its revised BART analysis.

Response: Unfortunately, we cannot respond to the commenters' assertions, because the commenter failed to provide any details concerning its cost analysis. We note, however, that regardless of the cost of the State's BART determination, EPA cannot disapprove a SIP measure simply because the measure will be more costly than controls required in a FIP. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Comment: We received one comment in support of the proposed action, which indicated that the Oklahoma RH SIP revision submittal satisfies EPA's and ODEQ's obligations under the Clean Air Act. The commenter notes that the CAA instructs states to contemplate the remaining useful life of the source and the BART Guidelines acknowledge that a company may agree to shut down a unit prior to the statutory deadline for BART controls. The commenter asserts that ODEQ acted properly in taking into account AEP/PSO's enforceable commitment to retire one unit by 2016 when comparing costs. Likewise, the Commenter believes that EPA's conclusion that DSI is more cost-effective than DFGD/SDA is correct, as demonstrated by the agency's unit-by-unit analysis and taking into account the remaining useful life of the plant.

Response: We thank the commenter for the support and agree with the commenter's conclusions.

Comment: We received two comments asserting that EPA and ODEQ have usurped the authority of the Oklahoma Corporation Commission (OCC) and ordered the closure of a facility without consideration of system reliability impacts, rate impacts, or any other impacts on AEP/PSO customers. These commenters assert that regulatory issues associated with the retirements have never been considered by the OCC, which has the specialized expertise and appropriate jurisdiction to consider such issues.

Response: We are not usurping the OCC's authority by approving a SIP revision submitted from the State of Oklahoma that requires the closure of any of AEP/PSO's facilities. On the contrary, we are carrying out our statutory obligations to review the Oklahoma RH SIP revision. We are required to approve a SIP revision that complies with the applicable requirements of the CAA and our implementing regulations. 42 U.S.C. 7410(k). Here, ODEQ made a revised BART determination for Units 3 and 4 at the Northeastern Power Station that relied on retirement dates proposed and agreed to by the facility's owner, AEP/PSO. We have reviewed ODEQ's revised BART determination and concluded that it satisfies all applicable requirements of the CAA, the Regional Haze Rule, and the BART Guidelines. Therefore, we are required to approve the Oklahoma SIP revision.

Comment: We received one comment that our proposed action triggers requirements of the Regulatory Flexibility Act (RFA). This commenter claims that the proposed action will have significant adverse economic impact on small entities, including small commercial and industrial customers of PSO, contrary to EPA's certification otherwise, and that requirements of the Regulatory Flexibility Act are thus triggered.

Response: Courts have interpreted the RFA to require a regulatory flexibility analysis only when small entities will be subject to the requirements of the agency's action. *See, e.g., Michigan* v. *EPA,* 213 F.3d 663 (D.C. Cir. 2000); *Mid-Tex Elec. Co-op, Inc.* v. *FERC,* 773 F.2d 327 (D.C. Cir. 1985). The EPA's action here would not establish requirements applicable to small entities. In our proposal, we certified that our rule will not have a significant economic impact on a substantial number of small entities in compliance with the RFA. We reached this decision because our SIP approval under section 110 of the Clean Air Act does not itself create any new requirements but simply approves Oklahoma's existing State rule. Our action does not place additional regulatory burdens on any entity including AEP ratepayers. Therefore, we properly certified that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of a State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Comment: We received one comment concerning compliance with Executive Order (EO) 12866 and OMB review of the proposed action. The commenter states that the costs reviewed by ODEQ and EPA related only to plant modifications and equipment to achieve the suggested regional haze and interstate transport reductions. The commenter notes that Executive Order 12866, section 1(11) states that "each agency shall tailor its regulations to impose the least burden on society, including individuals, business of differing sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations." The commenter asserts that the societal impacts of EPA's proposed approval of the Oklahoma RH SIP revision should have been considered and that the proposed action should have undergone OMB review.

Response: Under EO 12866, an action is economically significant if it is likely that it may "[h]ave an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities." EO 12866 allows OMB to review actions that fall within this category. This action was not reviewed by OMB because our rule is not economically significant. It is merely an approval under section 110 of the Clean Air Act. It does not create any additional requirements but merely approves an existing state rule. Thus, our rule would not result in costs over $100 million or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Comment: We received several comments concerning tribal consultation issues and compliance with Executive Order 13175. These commenters believe that the energy

impacts of the revised BART determination, in particular significant rate increases, will have tribal implications and impose substantial direct compliance costs on tribal governments. One commenter notes that AEP/PSO's service territory covers portions of at least 13 federally recognized Indian tribes and that the Choctaw Nation recently participated in AEP/PSO's energy efficiency program. These commenters question whether our proposed action complies with EO 13175 and request that we prepare a tribal impact summary statement.

Response: Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), directs agencies to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." EO 13175 section (5)(a). Consistent with EO 13175, the 1984 EPA Policy for the Administration of Environmental Programs on Indian Reservations, and the May 4, 2011 EPA Policy on Consultation and Coordination with Indian Tribes, Region 6 provided information concerning this action at a regular meeting of the Tribal Environmental Coalition in Oklahoma that was held at the Sac and Fox Learning Center on July 16, 2013 and also offered an opportunity to engage in government-to-government consultation with Regional Tribal management. Additionally, Region 6 provides information and updates at quarterly Regional Tribal Operations Committee (RTOC) meetings. To date, no Tribes have provided comments to EPA or requested government-to-government consultation with the Region on this action.

EO 13175 section (5)(b) states that no agency may promulgate any regulation that has tribal implications, imposes substantial direct compliance costs on Indian tribal governments, and is not required by statute unless the direct costs of compliance with the proposed rule are paid by the Federal government or the agency consults with tribes, provides the Director of OMB a tribal summary impact statement, and makes available to the Director of OMB any written communication tribal officials submitted to the agency. Our approval of the Oklahoma RH SIP revision does not directly apply since the facility is not located in Indian country. Moreover, the facilities that will incur the direct costs of compliance are not tribally owned or operated. The possibility that a tribe, as a consumer, may be affected by a rate change, does not implicate EO 13175. Therefore, EPA was not required to prepare a tribal impact summary statement.

Comment: We received one comment that our proposed action does not comply with our own policy on tribal consultation. The commenter suggests that we should suspend this rulemaking until we have engaged in consultation with affected tribes in Oklahoma. The commenter notes that AEP/PSO serves a portion of the Osage Indian Reservation in northeast Oklahoma, and that the following tribal nations have casinos within AEP/PSO's service territory: the Choctaw Nation in Broken Arrow and McAlester; the Osage Nation in Tulsa, Bartlesville, and Sand Springs; and the Muscogee (Creek) Nation in Okmulgee.

Response: Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, Region 6 provided information concerning this action at a regular meeting of the Tribal Environmental Coalition in Oklahoma that was held at the Sac and Fox Learning Center on July 16, 2013 and offered an opportunity to engage in government-to-government consultation with Regional Tribal management. Additionally, Region 6 provided information and updates at quarterly Regional Tribal Operations Committee (RTOC) meetings. No Tribes provided comments to EPA or requested government-to-government consultation on this action.

Comment: We received several comments regarding opportunities for public participation associated with this proposed action, in particular concerning the number and location of public hearings. These commenters point out that the only public hearing on the Oklahoma RH SIP revision was conducted by ODEQ in Oklahoma City in May 2013, and that no public hearings have been conducted by EPA or conducted within the affected AEP/PSO service territories, which cover the northeastern and southwestern corners of the state. The commenters request that additional public hearings be conducted by EPA within the AEP/PSO service territories to allow potentially affected citizens a better opportunity to provide meaningful comments on EPA's proposed approval of the Oklahoma RH SIP revision. One commenter references EPA's proposed FIP for BART at the Navajo Generating Station (NGS) in Arizona for which EPA has committed to conduct several public hearings throughout Arizona. Two of the commenters additionally note that no hearing was conducted for the Settlement Agreement associated with ODEQ's revised BART determination for Units 3 and 4 at Northeastern Power Station.

Response: The CAA requires a state to provide an opportunity to request a public hearing on any proposed SIP revision before it is adopted. 42 U.S.C. 7410(a)(2) and 7410(l). Additionally, 40 CFR 51.102(a) spells out these public hearing requirements; however, the regulation is silent concerning the location of any public hearing that is held, and multiple public hearings are not required. For SIP revisions, the hearing requirement is appropriately assigned to the states because the state agencies, rather than the EPA, are adopting the substantive requirements of the SIP and have the ability to amend the proposed SIP revision in response to comments received. The ODEQ fulfilled this requirement with the public hearing it conducted in Oklahoma City on May 20, 2013.

When promulgating a FIP, such as EPA's proposed FIP for BART at NGS in Arizona referenced by the commenter, EPA is required to provide an opportunity for public hearing. 42 U.S.C. 7607(d)(1)(B) and (5). Likewise, in the process of promulgating our FIP for BART in Oklahoma, we conducted two hearings in 2011 in Oklahoma City and Tulsa. However, today's action does not promulgate a FIP, but rather approves the State's submittal to revise its RH SIP. Neither the CAA nor the Administrative Procedures Act (APA) requires EPA to provide a public hearing for actions on SIPs.

In taking action on this SIP submittal, EPA has complied with the applicable statutory requirements for public participation under the Administrative Procedure Act, which does not require an opportunity for public hearing. 5 U.S.C. 553(c). While a public hearing is not statutorily required for SIP actions, EPA recognizes that the EPA retains discretion to offer public hearings. EPA elected not to conduct a public hearing for this SIP action for several reasons. EPA may conduct a discretionary public hearing when it is necessary to glean additional information from the public; however, we did not feel that it was necessary here. We believe the opportunities for public participation during ODEQ's rulemaking process, including the State's public hearing, along with the opportunity to provide written comments to EPA on our proposed approval of the Oklahoma RH SIP revision provided significant opportunity for affected citizens in Oklahoma to participate in this rulemaking. In response to the **Federal Register** notice, we received 273 comments on our proposed approval of the Oklahoma RH SIP revision, all of

which are given full consideration in this final action. In our view, this demonstrates that the public had sufficient opportunity to participate in this rulemaking.

Finally, the CAA requires EPA to provide a 30-day public comment period before EPA enters any proposed settlement agreement; however, this requirement is limited to written comments. 42 U.S.C. 7413(g). EPA met this requirement when it published a 30-day notice in the **Federal Register** (77 FR 67814, November 14, 2012) and considered comments received on the proposed Settlement Agreement. EPA was not required to offer a public hearing for the Settlement Agreement associated with ODEQ's BART determination.

Comment: We received numerous comments that the Oklahoma RH SIP revision will result in significant visibility improvements. These commenters conclude that overall, the Oklahoma RH SIP revision is the less polluting option compared to the FIP currently in place and will result in significant visibility improvements and tangible economic benefits. One commenter believes that these visibility improvements are likely understated in analyses conducted by EPA and ODEQ, even for the first five years. For example, the commenter notes that the Oklahoma RH SIP revision will result in earlier NO_X reductions than would have occurred under ODEQ's original SIP or EPA's FIP, and that neither agency evaluated the likely reductions in visibility impairment as the second unit ramps down capacity between 2016 and 2026.

Response: We acknowledge these commenters' support and agree that there are additional visibility benefits associated with the Oklahoma RH SIP that were not fully analyzed.

Comment: We received numerous comments that the Oklahoma RH SIP revision will result in significant reductions in harmful air pollutants. One commenter states that the Northeastern Power Station's NO_X emissions, and their contribution to ozone, are particularly problematic for the region's efforts to maintain healthy air quality levels. This commenter also explains that the plant's SO_2 emissions threaten to cause exceedances of federal air quality standards. This commenter notes that both it and EPA Region 6 have conducted air dispersion modeling indicating that the plant's emissions contribute to ambient SO_2 levels that exceed the 1-hour SO_2 National Ambient Air Quality Standards (NAAQS). The commenter further notes that in addition to reduced NO_X, SO_2 and PM, the Oklahoma RH SIP revision will result in reductions of approximately 210 pounds of mercury emissions per year. The commenter observes that the environmental benefits of the Oklahoma RH SIP revision are not limited to air quality but also include reductions in toxic coal ash that threaten to contaminate local ground water resources and reduced waste water discharges containing pollutants.

Response: We agree with the commenter's conclusions that the Oklahoma RH SIP revision will have additional environmental benefits beyond reducing regional haze.

Comment: We received one comment in support of the proposed action that, in addition to promoting clean air and reducing regional haze, the Oklahoma RH SIP revision will conserve Oklahoma's water resources. The commenter notes that EPA has correctly recognized that the Oklahoma RH SIP revision submittal will reduce water usage at the Northeastern Power Station and that this incidental benefit is important in light of the extreme drought conditions facing Oklahoma. The commenter states that in response to its data requests in proceedings before the OCC, AEP/PSO has estimated that the increase in water consumption at the Northeastern Power Station, if it were to add dry scrubbers to both units, would be 65 times greater than with a retrofit of activated carbon injection (ACI) and DSI at just one unit, pursuant to the Oklahoma RH SIP revision. Furthermore, the commenter notes, water currently consumed by the units will be released for other uses upon the retirement of the units in 2016 and 2026.

Response: We agree with the commenter that there are non-air quality co-benefits associated with the Oklahoma RH SIP revision.

Comment: We received one comment in support of the proposed action concerning the cost-effectiveness of the Oklahoma RH SIP revision. The commenter concludes that the Oklahoma RH SIP revision is more cost-effective than the FIP currently in place and less costly overall. The commenter cites AEP/PSO's $942/ton SO_2 removed cost-effectiveness estimate and notes that the Oklahoma RH SIP revision will allow AEP/PSO to avoid potentially significant compliance costs associated with other upcoming regulations, including: the Mercury Air Toxics Standards (MATS), disposal of coal combustion residuals, effluent limitations guidelines, a revised (lowered) ozone NAAQS, the 1-hour primary SO_2 NAAQS, Cross-State Air Pollution Rule and Clean Air Interstate Rule (CSAPR/CAIR), and carbon controls for existing power plants under the President's climate change initiative.

Response: We agree with the commenter's conclusions and note that an AEP/PSO representative made similar comments in recent testimony before the OCC.

Comment: We received one comment in support of the proposed action concerning the Oklahoma RH SIP revision's consistency with the State Energy Plan. The commenter notes that, although not directly relevant to ODEQ's statutory obligations or EPA's review, the Oklahoma RH SIP revision is consistent with the State of Oklahoma's energy plan, which prioritizes the increased use of Oklahoma's energy resources such as wind and natural gas, and protection of public health and the environment. The commenter notes that Oklahoma is currently an exporter of both natural gas and wind power, but a major importer of coal.

Response: We thank the commenter for the support.

Comment: We received several comments concerning the potential of the Oklahoma RH SIP revision submittal to hurt or help overall reliability of the power grid. Several commenters claim that the Oklahoma RH SIP revision submittal will result in lower reliability of the grid by reducing the percentage of power generated by coal combustion and increasing reliance on electricity generated by natural gas combustion, which is subject to more price and availability fluctuations. Another commenter suggests that the Oklahoma RH SIP revision submittal will result in improved reliability of the grid. This commenter notes that as the amount of wind power in Oklahoma and the Southeast Power Pool rises, fossil generation will be required to ramp production up and down more frequently, and to shut down for various periods of time during high wind production. The commenter asserts that switching to natural gas and implementing energy efficiency and demand response programs will result in resources better suited than coal-fired units to integrate with variable wind generation.

Response: We cannot comment on speculative impacts on the reliability of electrical grid in Oklahoma that may or may not result from this revised BART determination for Units 3 and 4 at Northeastern Power Station. Issues regarding grid reliability are more properly addressed by the Oklahoma Corporation Commission and the electricity providers such as AEP/PSO.

In addition to the comments submitted directly to EPA, some commenters also incorporated by reference the following comments from Oklahoma Industrial Energy Consumers and Quality of Service Coalition that were submitted to ODEQ during its public comment period on the state-proposed SIP revision, which ended in May 2013. These comments and our responses follow below:

Comment: The commenters state that ODEQ did not rely on an updated emissions inventory in its revised BART determination and assert that an updated emissions inventory is essential to the overall determination of BART-eligible sources in Oklahoma and to the determination of sources required to install BART, and that ODEQ is required to consider and address the anticipated net effect on visibility resulting from changes projected in point, area, and mobile source emissions by 2018. The commenters also reference an Arizona Department of Environmental Quality (ADEQ) regional haze submission, in which EPA required ADEQ to provide the most recent emissions inventory data available.

Response: The determination of subject-to-BART sources was based on modeling of maximum actual emissions during the baseline period of 2001–2003, and EPA has already approved ODEQ's determinations of BART-eligible and subject-to-BART sources. An updated emission inventory would have no impact on these determinations that have already been acted upon. Furthermore, the visibility modeling performed to determine sources subject-to-BART and to inform BART determinations consists of single-source modeling utilizing CALPUFF and requires only the pre-control and post-control emission rates of the source being evaluated. This action and the Oklahoma RH SIP revision only address the requirements for a BART determination for a subject-to-BART source. We have already approved the modeling and emission inventories for the first regional haze planning period, and these requirements do not have to be revisited until the next planning period.

With respect to the Arizona regional haze SIP revision referenced by the commenters, 40 CFR 51.308(d)(4)(v) requires a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area. This inventory must include emissions for a baseline year, emissions for the most recent year for which data are available, and estimates of future projected emissions. States must also include in their regional haze SIPs a commitment to update this inventory periodically. Arizona did not satisfy this requirement because it failed to include the 2008 emission inventory when it submitted its regional haze SIP in 2011. Oklahoma, however, did satisfy this requirement because ODEQ included its most recent emission inventory as Appendix 4–1 of its original regional haze SIP submittal. This requirement is unrelated to the requirements for a BART determination and is not relevant to this action.

Comment: The commenters state that AEP/PSO Northeastern Power Station Units 3 and 4 currently provide a significant percentage of all energy supplied to AEP/PSO customers and cite low fuel cost associated with operation of those facilities as the reason for the high energy contribution from Units 3 and 4. The commenters express concern that replacement energy may be supplied by more expensive natural gas-fueled facilities. The commenters assert that the need for replacement energy is quantifiable, the estimated cost of that replacement energy is quantifiable, and that ODEQ should have factored these costs into its determination of a reasonable progress goal.

Response: As ODEQ noted in its response to comments, the Oklahoma RH SIP revision does not include any changes to the Chapter IX of the SIP, which concerns reasonable progress goals. The SIP revision submittal does, however, identify further reasonable progress actions that are expected to further these goals. This action does not address the approvability of Oklahoma's reasonable progress plan which will be addressed in a separate action. In addition, as we explained in an earlier response, ODEQ appropriately considered the direct energy impacts of the various control options. Consideration of the speculative costs of replacement energy that may or may not be required once Units 3 and 4 retire is not required by the BART Guidelines and would not be required by the four-factor analysis required for reasonable progress.

Comment: The commenters imply that ODEQ mandated the early retirements of Units 3 and 4 and further state that ODEQ did not consider costs of replacement energy and capacity as existing units are retired, including the cost of replacement capacity and energy arising from the mandated retirement of one of the units in 2016, the cost of replacement energy arising from the capacity restrictions which are imposed on the second unit during the period 2021–2026, and the cost of replacement capacity and energy arising from the mandated retirement of the second unit no later than 2026.

Response: We concur with ODEQ's response to this comment. ODEQ did not, in fact, mandate the early retirement or capacity restrictions on either unit. Rather, AEP/PSO proposed these planned activities in its air quality operating permit application submitted as a revision to their previous submittal under ODEQ's BART requirements rule. See OAC 252:100–8–76 . Subsequently, ODEQ entered into an administrative order with AEP/PSO to make these planned activities enforceable and therefore eligible to be relied upon in the BART review. Regarding the consideration of replacement energy costs, see our prior response.

Comment: Citing the Regional Haze Rule and the BART Guidelines, the commenters assert that the State cannot mandate the early retirement of an electric generating unit as part of a BART determination.

Response: We disagree with this comment. While it is true that the Regional Haze Rule and BART Guidelines do not contemplate unit retirements as a potential BART option, neither rule prohibits states or EPA from considering a shutdown as part of a BART determination if the strategy is proposed by the owner of a BART-eligible source. Moreover, the CAA and EPA's implementing regulations require states to consider the remaining useful life of a source when determining BART. Here, ODEQ did not unilaterally mandate the retirement of Units 3 and 4. Rather, AEP/PSO made a business decision regarding the remaining useful life of these units and proposed that ODEQ include the corresponding shutdown dates as a feature of its revised BART determination. To allow AEP/PSO to take credit for the emission reductions associated with its chosen retirement dates, ODEQ appropriately issued an administrative order that made the shutdown dates enforceable and included these dates in the Oklahoma RH SIP revision.

Comment: The commenters argue that ODEQ did not demonstrate that the Oklahoma RH SIP revision meets the requirement that alternatives to BART must achieve greater reasonable progress than would be achieved through the installation and operation of BART (i.e., DFGD/SDA). The commenters note that on page 11 of the Revised BART Report (attachment to the Oklahoma RH SIP revision), it is acknowledged that DFGD/SDA "would provide improvements in visibility above that achieved with the DSI system" but that such improvements

would not be perceptible. The commenters assert that this conclusion clearly indicates that the revised BART determination does not meet the greater reasonable progress standard with regard to visibility improvement.

Response: We concur with ODEQ's response to this comment. The regulation cited by the commenters, 40 CFR 51.308(e)(2)(i), addresses alternative measures states may adopt in lieu of requiring sources subject to BART to install, operate, and maintain BART. The Oklahoma RH SIP revision currently under review is not an alternative to BART. Rather, it is a revision of the State's BART determination for the AEP/PSO Northeastern Power Station. Therefore, the cited section of the Regional Haze Rule is not applicable. As ODEQ indicated, it is not necessary that the BART determination in the Oklahoma RH SIP revision achieve greater visibility improvement than the EPA's BART determination in the FIP. Rather, the CAA and Regional Haze Rule require only that a source-specific BART determination be based on a reasoned analysis of the five statutory BART factors analysis in accordance with the procedures in the BART Guidelines.

Comment: Citing further concerns over compliance with greater reasonable progress requirements, the commenters state that a significant portion of the emissions reductions attributed to the Oklahoma RH SIP revision could also be achieved by switching to ultra-low sulfur coal, as required by the original Oklahoma RH SIP, and by installing DSI control technology to meet requirements of the MATS rule. They conclude that by including emissions reductions arising from DSI and by ignoring reductions which could be achieved through switching to ultra-low sulfur coal, the Oklahoma RH SIP revision overstates the emissions reductions that are attributable to the revised BART determination, which are surplus to reductions that would be achievable through other control measures or by implementing measures to meet CAA requirements that existed as of the baseline date of the state-proposed SIP revision.

Response: We concur with ODEQ's response to this comment. As ODEQ noted in responses to similar comments, the Oklahoma RH SIP revision is a revision of the State's BART determination for the AEP/PSO Northeastern Power Station and is not a proposal for an alternative to BART. Therefore, the greater reasonable progress requirements do not apply. We also agree with ODEQ's conclusion that installation of the DSI control technology to satisfy the BART requirements will provide additional confidence that the facility will be able to comply with the MATS rule.

Comment: The commenters claim that the Oklahoma RH SIP revision fails to meet the requirement at 40 CFR 51.308(e)(2)(iii) that all necessary emission reductions take place during the period of the first long-term strategy for regional haze, which ends in 2018, because the level of SO_2 emissions under the state-proposed SIP revision is expected to be significantly higher than emissions under the EPA's FIP until well after 2018.

Response: We concur with ODEQ's response to this comment. The Oklahoma RH SIP revision is a revision of the State's BART determination for the AEP/PSO Northeastern Power Station and is not a proposal for an alternative to BART. Therefore, the timing requirements of 40 CFR 51.308(e)(2)(iii) do not apply.

Comment: The commenters question the statement on page 12 of the Revised BART Report that cumulative SO_2 and NO_X emissions from Units 3 and 4 are expected to be approximately 36% of the emissions level that would result from EPA's FIP. The commenters state that the underlying details of the analysis supporting the expected SO_2 and NO_X reductions were not provided with the Revised BART Report and that, absent back-up documentation, these projected emissions reductions are unreliable and cannot be used to justify the Oklahoma RH SIP revision.

Response: We concur with ODEQ's response to this comment. ODEQ's calculation of projected emissions reductions was not a significant factor in its revised BART determination for Units 3 and 4. However, the projected reductions did provide ODEQ with a reasonable comparison of the results of the FIP with those of the Oklahoma RH SIP revision. As ODEQ explained in its response, the capital recovery factor used to establish the annualized costs of the DFGD/SDA option assumed a lifespan of 30 years. Because the FIP does not restrict capacity utilization, no such restrictions were assumed in this calculation. Consequently, the total emissions attributable to the FIP were calculated by multiplying the SO_2 and NO_X emission rates by full load heat input, assuming continuous operation for 30 years. In contrast, the total emissions associated with the Oklahoma RH SIP revision factored in the shorter lifespan of the units and reduced capacity utilization.

Comment: The commenters contend that the Oklahoma RH SIP revision ignores the additional NO_X emissions that would be produced by gas-fired generation or purchased power sources that AEP/PSO would have to acquire to replace Units 3 and 4 after they are retired in 2016 and 2026. Additionally, the commenters state that it was assumed that, if retrofitted with DFGD/SFA, Units 3 and 4 would operate for another 30 years (i.e., until 2046), which is inconsistent with AEP/PSO testimony to the OCC indicating that the units would likely be retired by 2030, only13 years after the retrofits are implemented. The commenters conclude that if the emissions reductions associated with the Oklahoma RH SIP revision were recalculated to reflect a shorter remaining useful life of Units 3 and 4, and to account for NO_X emissions produced from sources that replace Units 3 and 4, they would be significantly reduced.

Response: We concur with ODEQ's response to this comment. As explained in previous responses, consideration of speculative replacement energy sources is not required by the BART Guidelines. We further agree with ODEQ's assessment that any replacement energy is unlikely to be procured from a source with environmental impacts comparable to or greater than those of Units 3 and 4, which are coal-fired. This is due to the fact that BART addresses a very specific group of large existing sources that were placed in operation before many of the current national air quality programs were in place. Replacement energy would in all likelihood come from a newer source subject to the Best Available Control Technology (BACT) requirements of the Prevention of Significant Deterioration (PSD) permitting program.

Furthermore, regarding the life-span of Units 3 and 4 under the FIP scenario, EPA recognizes that the cost of scrubbers is significant and that if a source makes such an investment, it will likely make other necessary investments to extend operation to recoup the costs. Thus, consistent with our standard practices for conducting BART determinations and cost-effectiveness analyses we assumed a 30-year useful life for the wet scrubber systems and responded to comments on this issue when we took final action in promulgating our FIP. The BART guidelines do allow for consideration of the remaining useful life of facilities when considering the costs of potential BART controls. Any claims regarding the remaining useful life of a facility or a source have to be secured by an enforceable requirement. AEP/PSO did not claim any such restrictions on the operation of Units 3 and 4 of Northeastern Power Station when we

promulgated our FIP. Consequently, we assumed a remaining useful life of 30 years in our BART analysis. We indicated in our responses to comments that if AEP/PSO were to decide the units in question have a shorter useful life such that installing scrubbers is no longer cost effective, and would be willing to accept an enforceable requirement to that effect, a revised BART analysis could be submitted by the plant(s) in question and our FIP could be re-analyzed accordingly. Similarly, we indicated that we could also review a revised SIP submitted by ODEQ. Ultimately, AEP/PSO did seek an enforceable commitment to limit the remaining useful life of Units 3 and 4 of Northeastern Power Station, and ODEQ subsequently submitted its RH SIP revision that is the subject of this action.

Comment: The commenters assert that the BART analysis supporting the state-proposed SIP revision is based on AEP/PSO long-term planning studies that are no longer valid. The commenters note that AEP/PSO informed the OCC that it will need to revise its Integrated Resource Plan (IRP) to reflect previously unanticipated increases in near-term peak demand due to recent significant growth in oil and gas production activities on its system. The commenters assert that these changes will increase replacement energy costs for Units 3 and 4 and also increase future SO_2 and NO_X emissions, thus significantly altering the results of the state's BART analysis. The commenters conclude that the state-proposed SIP revision rulemaking activities should be postponed until the revised AEP/PSO IRP is approved by the OCC and then the ODEQ can revise its BART determination to take these changes into account and go back to proposal.

Response: We concur with ODEQ's response to this comment. As discussed in responses to previous comments, consideration of replacement energy and associated emissions is not required by the BART Guidelines.

Comment: The commenters state that the ODEQ's proposed revised BART determination for Units 3 and 4 and its proposed SIP revision do not take into account potential impacts on AEP/PSO customers. Citing EPA's **Federal Register** notice taking final action promulgating the FIP (76 FR 81749) and Oklahoma statute 27A O.S. 2–5–107(4), the commenters assert that consideration of such economic impacts is required.

Response: We concur with ODEQ's response to this comment. As ODEQ correctly points out, the **Federal Register** reference citation provided by the commenters addresses AEP/PSO's freedom to reduce emissions by alternative methods so long as the BART emission limit is met: "[E]mission limits may also be met with reconfiguration of the units to burn natural gas, the companies themselves are free to determine whether this option best responds to future customer needs and preferences, including any potential impact on rates." This statement remains true within the restrictions imposed by the Oklahoma RH SIP revision. ODEQ also correctly notes that the Oklahoma statute referenced in the comment, 27A O.S. § 2–5–107(4), only applies to the considerations required by the Air Quality Advisory Council in deciding whether to recommend a rule or rule amendment to the Environmental Quality Board. The revised BART determination for Northeastern Power Station Units 3 and 4, and the associated Oklahoma RH SIP revision, are not rules. Therefore 27A O.S. § 2–5–107(4) does not apply.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air 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 Clean Air Act. Accordingly, this 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 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 6, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations,

Nitrogen dioxide, Particulate matter, Regional haze, Reporting and recordkeeping requirements, Sulfur dioxide, and Visibility.

Dated: February 7, 2014.

Ron Curry,

Regional Administrator, Region 6.

40 CFR Part 52 is 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.*

Subpart LL—Oklahoma

■ 2. Amend § 52.1920 by:

■ a. Amending in paragraph (d) the table titled "EPA Approved Oklahoma Source-Specific Requirements" by adding a new entry at the end of the table for "Units 3 and 4 of the American Electric Power/Public Service Company of Oklahoma (AEP/PSO) Northeastern plant".

■ b. Amending in paragraph (e) the first table titled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Oklahoma SIP" by revising the entry for Regional haze SIP and adding new entries at the end of the table for "Revision to the Regional haze SIP concerning Units 3 and 4 of the American Electric Power/Public Service Company of Oklahoma (AEP/PSO) Northeastern plant" and "Enforceable commitment for visibility concerning Units 3 and 4 of the AEP/PSO Northeastern plant."

The revisions and additions read as follows:

§ 52.1920 Identification of plan.

* * * * *

(d) * * *

EPA APPROVED OKLAHOMA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State submittal date	EPA approval date	Explanation
* *	* *	*	*	*
Units 3 and 4 of the American Electric Power/Public Service Company of Oklahoma (AEP/PSO) Northeastern plant.	PSO Regional Haze Agreement, Case No. 10–025 (February 2010) and Amended Regional Haze Agreement, DEQ Case No. 10–025 (March 2013).	6/20/2013	3/7/2014 [Insert citation of publication].	

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE OKLAHOMA SIP

Name of SIP provision	Applicable geographic or non-attainment area	State submittal	EPA approval date	Explanation
* *	* *	*	*	*
Regional haze SIP: ..... (a) Determination of baseline and natural visibility conditions. (b) Coordinating regional haze and reasonably attributable visibility impairment. (c) Monitoring strategy and other implementation requirements. (d) Coordination with States and Federal Land Managers. (e) BART determinations except for the following SO_2 BART determinations: Units 4 and 5 of the Oklahoma Gas and Electric (OG&E) Muskogee plant; and Units 1 and 2 of the OG&E Sooner plant.	Statewide	2/17/2010	3/7/2014 [Insert citation of publication].	Core requirements of 40 CFR 51.308. Initial approval 12/28/2011, 76 FR 81728.
* *	* *	*	*	*
Revision to the Regional haze SIP concerning Units 3 and 4 of the American Electric Power/Public Service Company of Oklahoma (AEP/PSO) Northeastern plant.	Rogers County	6/20/2013	3/7/2014 [Insert citation of publication].	Revised BART determination.

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE OKLAHOMA SIP—Continued

Name of SIP provision	Applicable geographic or non-attainment area	State submittal	EPA approval date	Explanation
Enforceable commitment for visibility concerning Units 3 and 4 of the AEP/PSO Northeastern plant.	Rogers County	6/20/2013	3/7/2014 [Insert citation of publication].	If a SO_2 emission limit of 0.3 lb/MMBtu is not met the State will obtain and/or identify additional SO_2 reductions within Oklahoma to the extent necessary to achieve the anticipated visibility benefits estimated by the Central Regional Air Planning Association (CENRAP).

* * * * *

■ 3. Amend § 52.1928 by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 52.1928 Visibility protection.

* * * * *

(c) The SO_2 BART requirements for Units 4 and 5 of the Oklahoma Gas and Electric (OG&E) Muskogee plant, and Units 1 and 2 of the OG&E Sooner plant; the deficiencies in the long-term strategy for regional haze; and the requirement for a plan to contain adequate provisions to prohibit emissions from interfering with measures required in another state to protect visibility are satisfied by § 52.1923.

(d) The revision to the Regional Haze plan submitted on June 20, 2013 concerning Units 3 and 4 of the American Electric Power/Public Service Company of Oklahoma (AEP/PSO) Northeastern plant is approved. For this source the plan addresses requirements for BART and adequate provisions to prohibit emissions from interfering with measures required in another state to protect visibility. As called for in the plan if a SO_2 emission limit of 0.3 lb/MMBtu is not met the State will obtain and/or identify additional SO_2 reductions within Oklahoma to the extent necessary to achieve the anticipated visibility benefits estimated by the Central Regional Air Planning Association (CENRAP).

[FR Doc. 2014–03854 Filed 3–6–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2013–0227; FRL–9906–81–OAR]

Approval and Promulgation of Air Quality 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: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to amend a Federal Implementation Plan (FIP) for Oklahoma that became effective on January 27, 2012, as it applies to Units 3 and 4 of the Northeastern Power Station in Rogers County, Oklahoma, which is operated by the American Electric Power/Public Service Company of Oklahoma (AEP/PSO). We are removing the FIP requirements for AEP/PSO because, in a separate action being published in today's **Federal Register**, we are 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 AEP/PSO's Northeastern Power Station in Rogers County, Oklahoma. The revisions (collectively, the "Oklahoma SIP 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 (6PD–L), Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–L), Suite 1200, Dallas, TX 75202–2733. The telephone number is (214) 665–2154. Mr. Johnson can also be reached via electronic mail at *johnson.terry@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever