

March 19, 2018

Via www.regulations.gov

Mary Jackson
U.S. Environmental Protection Agency
Office of Resource Conservation and Recovery
1200 Pennsylvania Ave NW,
MC: 5304P
Washington, DC 20460

RE: Comments on the Proposed *Oklahoma: Approval of State Coal Combustion Residuals State Permit Program* (83 Fed Reg 2100, January 16, 2018)
Docket: EPA-HQ-OLEM-2017-0613

Dear Ms. Jackson:

The National Rural Electric Cooperative Association (NRECA) submits these comments in support of the Environmental Protection Agency's (EPA) proposal to approve the application submitted by the Oklahoma Department of Environmental Quality (ODEQ) to allow the Oklahoma Coal Combustion Residuals (CCR) state permit program to operate in lieu of the federal CCR program.

NRECA is the national service organization for America's Electric Cooperatives, including those serving communities in Oklahoma. NRECA members in Oklahoma and other states own and/or operate coal-fired power plants subject to the Coal Combustion Residuals rule (80 Fed Reg 21302, April 17, 2015). These plants operate under permits issued by the states to implement and enforce other federal environmental statutes and regulations including those regulating releases under the Clean Air Act; discharges under the Clean Water Act; and the disposal of municipal solid waste and the protective transportation, management, and disposal of hazardous waste under the Resource Conservation and Recovery Act (RCRA). By virtue of their demonstrated ability and willingness to implement and enforce these delegated federal programs, it follows that states certainly have the capability and resources to implement and enforce the protective management of *non-hazardous* CCR.

NRECA believes Oklahoma's application demonstrates the state's ability and willingness to implement and enforce an authorized state CCR permit program. NRECA is also a member of the Utility Solid Waste Activities Group (USWAG) and endorses the comments submitted by that organization.

- (1) EPA has used an appropriate process – 40 CFR 239 (Requirements for State Permit Program Determinations for Adequacy) – to evaluate the Oklahoma application. EPA and the states have decades of experience using this process to review the adequacy of state programs. The WIIN (Water Infrastructure Improvements for the Nation) Act did not prescribe any specific new or different process to review the adequacy of state programs. The current regulatory process is both adequate and appropriate in this context.

- (2) EPA has appropriately determined that the Oklahoma Department of Environmental Quality (ODEQ) has full authority to implement, oversee and enforce the State's CCR rules. Based on the ODEQ description of its program jurisdiction and responsibilities, permitting requirements, compliance authorities, public participation procedures, compliance and monitoring procedures and enforcement authorities, EPA has properly concluded that the state will provide a robust permitting regime for implementation and enforcement of the state's CCR requirements and allow for sufficient public participation in the permitting process and citizen intervention in enforcement proceedings.
- (3) EPA has appropriately determined that Oklahoma's technical criteria are at least as protective as the federal criteria – the standard for approval under the WIIN Act. Oklahoma proposes to adopt the federal CCR rule into the Oklahoma Administrative Code with only minor, technical changes which EPA has determined to be merely ministerial. The state is also proposing to rely on its more stringent State Water Board well construction standards – which are more stringent than the federal criteria.

Taken together, Oklahoma has clearly demonstrated the willingness and ability to implement a state CCR permitting program that is at least as protective as the federal self-implementing program. We urge EPA to promptly approve the Oklahoma program.

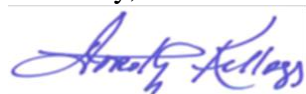
This endorsement of the Oklahoma program does not mean that NRECA believes all states must adopt the federal criteria with only ministerial changes or mirror the Oklahoma program. The WIIN Act is clear that a state program may be different from the federal self-implementing program so long as it is “as protective as” the federal program. Each state CCR permit program must be evaluated on a case-by-case basis against the statutory criteria.

NRECA strongly supports protective management of CCR through state permits. We believe states have demonstrated through the years the ability to implement delegated federal environmental programs. We also believe that a state permit program is a more cost-effective way to manage CCR as it removes most of the uncertainty and litigation cost of the current self-implementing federal program.

Electric cooperatives were established over 75 years ago to provide affordable, reliable, and universally accessible electric power to rural America. NRECA's member co-ops have never lost sight of that commitment to their member owners – including over half a million in Oklahoma. More than ninety percent (90%) of America's electric cooperatives serve in territories where the average household income is twelve percent (12%) below the national average and nearly one in six live at or below the poverty line. Americans living in “co-op country” want and deserve a healthy environment, but one that is provided and protected as cost-effectively as possible.

Please contact me if you have any questions about these comments.

Sincerely,



Dorothy Kellogg
Sr. Principal – Water and Waste Policy