



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

August 12, 2015

Dear Tribal Leader:

On August 3, 2015, President Obama and the Administrator of the U.S. Environmental Protection Agency, Gina McCarthy, announced the Clean Power Plan – a historic and important step in reducing carbon pollution from existing power plants that is an important step to address climate change. Shaped by years of unprecedented outreach and public engagement, the final Clean Power Plan is fair, flexible, and designed to strengthen the fast-growing trend toward cleaner and lower-polluting American energy. Additionally, on August 3, 2015, Administrator Gina McCarthy signed a proposed federal plan and model trading rules to implement the emission guidelines for power plants in areas not covered by EPA-approved state plans.

The proposed federal plan (which also provides model trading rules states or tribes with affected EGUs may adopt) provides a readily available path forward for Clean Power Plan implementation, and presents flexible, affordable implementation options. Federal plans will be finalized only for those states with affected EGUs that EPA determines have not submitted an approvable 111(d) state plan by the relevant deadlines set in the emission guidelines. These proposed federal plans will achieve the same levels of emissions performance as required of state plans under the Clean Power Plan.

Several affected power plants, containing one or more affected electric generating units (EGU), are located in three areas of Indian country, and the EPA is proposing to find that it is necessary or appropriate to regulate these units under the federal plan as finalized in each of these areas.¹ CO₂ emission performance rates and equivalent mass goals for these facilities were finalized in the Clean Power Plan.

We recognize that the governments of the tribes having jurisdiction over the three affected areas of Indian country may seek EPA approval of “treatment in the same manner as a state” (TAS) status under the Clean Air Act for the purpose of developing a tribal plan, and this proposed finding does not preclude the tribes from seeking such status. For more information on these specific areas and the EGU located within those areas, see section VI.D of the preamble to the proposed federal plan rulemaking. Please see <http://www2.epa.gov/cleanpowerplan/clean-power-plan-existing-power-plants> for information on this action and on the Clean Power Plan.

¹ These areas include reservation lands of the Navajo Nation, the Ute Tribe of the Uintah and Ouray Reservation, and the Fort Mojave Indian Tribe.

The EPA specifically proposed in its federal plan:

- Two different plan types for a federal plan to implement the Clean Power Plan emission guidelines: a rate-based emission trading plan (where units must meet a certain rate of emissions of CO₂ per unit of energy output but may trade emission rate credits (ERC) to meet the specified rate) and a mass-based emission trading plan (where units are limited to a total mass budget of emissions but may trade allowances to emit within that budget).

Both proposed plan types would require affected EGUs to meet emission standards set using the CO₂ emission performance rates in the Clean Power Plan. Depending on which approach is finalized and for which states and areas of Indian country, your tribe may be interested in opportunities to apply for emission rate credits (ERCs) or emission allowances for certain qualifying clean energy projects that are located or implemented in your areas. These opportunities will likely be available even if you there are no affected EGU in your area of Indian country. The agency looks forward to discussing these opportunities in more detail with you.

The EPA intends to finalize the model trading rules in the summer of 2016 and will finalize the federal plan as necessary for states and areas of Indian country as explained above. The purpose of this letter is to invite you to consult with EPA prior to EPA taking these final actions, should you believe that your tribe could be affected by these actions. Additionally, if your tribe has questions about the final Clean Power Plan itself we invite you to request an informal discussion. If you would like to initiate government-to-government consultation with the EPA, please contact Toni Colón at (919) 541-0069, email: colon.toni@epa.gov. Please contact us by September 25, 2015 in order to request the consultation. Additionally, throughout the comment period for the proposed federal plan the EPA will be conducting outreach webinars, face-to-face meetings and conversations with all stakeholders, including tribes. The EPA is also conducting this type of outreach throughout the implementation phase of the Clean Power Plan.

We request your input to assure that we develop the best rules possible. We endeavor to conduct our efforts with sensitivity to the needs and culture of your tribe and with attention to the potential impact of our actions. We look forward to hearing from you.

Sincerely,

/s/

Peter Tsirigotis

Director

Sector Policies and Programs Division

cc: Tribal Environmental Director
Tribal Environmental Staff