
March 25, 2022

U.S. Environmental Protection Agency
Office of Land and Emergency Management,
Docket ID No. EPA-HQ-OLEM-2021-0588
1200 Pennsylvania Avenue NW
Washington, DC 20460

“Interim Decision: Proposed Date to Cease Receipt of Waste for Dallman Power Station based on Interim Determination of Incompleteness of Demonstration”

To Whom It May Concern:

America’s Power and the National Mining Association submit the following comments regarding the Dallman Power Station docket cited above. We are national trade associations whose members are involved in the coal supply chain which encompasses coal-fired power plants, coal production, coal transportation, and equipment manufacturing. Coal-fired electricity generation is essential because it is reliable, resilient, affordable, fuel secure, promotes energy security, and provides optionality. We support environmental progress and a gradual grid transition that maintains electric reliability, resilience, fuel assurance, and affordable electricity prices.

Although our comments are directed to the Dallman docket, they provide a broader perspective on EPA’s decisions over the coming months to either grant or deny requests to extend deadlines to close surface impoundments at Dallman and other affected coal-fired power plants. These decisions by the agency will affect the operation and life span of 54 coal-fired power plants for whom EPA is considering deadline extensions. We commend EPA for providing an opportunity to request deadline extensions but urge the agency to grant these requests to avoid jeopardizing the reliability and resilience of the grid caused by forced idling or premature retirements of coal plants. Because EPA will be adopting other regulations that affect the coal fleet, we also urge EPA to carefully consider the collective impacts of these regulations on grid reliability and resilience.

BACKGROUND

EPA issued proposed decisions in early January related to its deadline for closing unlined surface impoundments that contain coal combustion residuals (CCR) and non-CCR materials at eight coal-fired power plants. The agency had established April 11, 2021, as the deadline for affected plants to stop placing CCR and non-CCR wastes in unlined surface impoundments and begin closure of those impoundments.

However, EPA allowed power plant owners to request an extension of this closure deadline under either of two circumstances.

In the first circumstance, EPA will grant a deadline extension if it was “technically infeasible” to develop alternative disposal capacity in time to meet the April 11, 2021, deadline. EPA is considering extension requests from thirty-one coal-fired power plants (totaling approximately 36,000 MW) because of technical infeasibility.ⁱ

In the second circumstance, EPA will grant an extension if the plant stops burning coal by either shutting down or switching to natural gas. A plant could continue using the surface impoundment and burning coal until it shuts down or switches fuels, provided certain other requirements are met.ⁱⁱ In this circumstance, a closure deadline can be extended to no later than October 17, 2023, for plants with smaller surface impoundments and no later than October 17, 2028, for plants with larger surface impoundments. EPA is considering extension requests for 23 coal-fired power plants (totaling approximately 19,000 MW) that have proposed to stop burning coal by no later than the 2023/2028 deadlines.

Therefore, EPA must decide whether to grant deadline extensions for a total of 54 coal-fired power plantsⁱⁱⁱ representing approximately 55,000 megawatts (MW) of electric generating capacity in 19 states: AR, AZ, FL, IA, IL, IN, KY, LA, MI, MN, MO, NE, OH, PA, TX, UT, WI, WV and WY. This amounts to roughly one-fourth of the nation’s coal fleet.

If extensions are not granted by EPA, affected plants have 135 days to stop placing wastes in their surface impoundments. This means the plants must stop burning coal by the end of 135 days and suspend plant operations, unless they can provide “formal reliability assessments” within 135 days from their RTO or ISO indicating that the outages necessary to comply with the CCR rule would cause “demonstrated grid reliability issues.” MISO has already submitted comments^{iv} explaining to the agency, among other things, that 135 days do not provide enough time to conduct the assessment in accordance with MISO’s tariff that has been approved by the Federal Energy Regulatory Commission. The agency should pay very close attention to the comments of grid operators because they will be blamed if the lights go out.

PROPOSED DETERMINATIONS FOR EIGHT PLANTS

Thus far, EPA has proposed decisions in response to eight requests (eight plants out of a total of 54) for deadline extensions. All eight plants are located within the footprint of either MISO or PJM.

- EPA proposed conditional approval of the application for one plant (H. L. Spurlock) located in PJM.
- EPA proposed to deny requests for three plants: Clifty Creek (PJM), Gavin (PJM), and Ottumwa (MISO). This means that surface impoundments at these plants would have to stop receiving wastes within 135 days after EPA’s final decision if the agency does not change its proposed determinations for these plants.

- Four plants were determined to have submitted incomplete applications: Dallman (MISO), Erickson (MISO), Meramec (MISO), and Sioux (MISO). They face the same 135-day closure deadline as the three plants whose requests were denied.

One proposed approval out of eight applications does not bode well for the remaining 46 plants that total almost 50,000 MW of coal-fired generating capacity. Mathematically, the odds of receiving an extension are one in four if only the plants with complete demonstrations are considered. Fortunately, EPA has at least determined that demonstrations for these 46 remaining plants are complete.

Timewise, EPA's proposed determinations for this first group of eight plants mean that as much as 6,500 MW of coal-fired generating capacity — 3,800 MW in PJM and 2,700 MW in MISO — could be forced to idle starting possibly in September.^v As MISO stated in comments already submitted to EPA, “[A]dditional closures of generators will worsen what is projected to be an already difficult situation [referring to resource adequacy] ... The loss of any significant portion of [the capacity represented by the five MISO coal plants] ... would push resource adequacy coverage of regional demands into *dangerous territory* [emphasis added].”^{vi}

It is our understanding that EPA plans to address the remaining plants in two groups, one late this year and another early next year. While no one knows how many extension requests EPA will grant or reject, the agency has applied very strict criteria, so far, to extension requests. Therefore, it is plausible to assume that the second and third groups might be roughly equal in total generating capacity and that plants in both groups face a one-in-four chance of receiving a deadline extension.

It also is plausible to assume that determinations for the second group of plants might be proposed on December 1, 2022, which would mean that almost 19,000 MW of coal-fired capacity could be idled starting mid-April 2023. Similarly, assuming plausibly that decisions for the third group are proposed on March 1, 2023, would mean that almost 19,000 MW could be idled starting mid-July 2023.

Even though this schedule is hypothetical, it is still deeply concerning. We urge the agency to work very closely with grid operators and electricity generators to avoid electric reliability problems caused by idling or premature retirement of coal-fired generating capacity.

MORE COAL RETIREMENTS ARE VERY RISKY

Late last year, Special Envoy John Kerry expressed the administration's intention to eliminate coal: “[B]y 2030 in the United States, we won't have coal.”^{vii} We are very concerned that EPA, in carrying out the intention of the administration, is adopting policies to reduce (through forced idling) and ultimately stop (through plant retirements) the use of coal to generate electricity.

However, the administration's intention fails to take into account the challenges that grid operators face. ISO/RTOs are already uneasy about the loss of balancing resources (such as coal) due to retirements, even though their analyses do not yet take into account future coal retirements that the administration seeks to cause.^{viii} Recently, MISO reported to its Markets Committee that “Increasing Federal, State

and Local decarbonization goals and regulations are accelerating retirement of resources at a much faster pace than that of the capacity or availability of new resources coming online ... Accelerating portfolio transition emphasizes the need for *emergency actions to maintain reliability on high outage spring days* [emphasis added].”^{ix} (Note the plausible timeline above showing the possibility of substantial coal capacity being idled in the spring of 2023.)

In addition, the North American Electric Reliability Corporation (NERC) has begun developing a fuel assurance standard because “unassured deliverability of fuel supplies, coincident with the timing and inconsistent output from variable renewable energy resources ... can result in insufficient amounts of capacity and/or energy.”^x One of the fuel assurance risks NERC highlighted is “the increased use of just-in-time delivery of fuel.” NERC also said that “more scenarios for planning and extreme events are needed ...” We believe a new NERC fuel assurance standard could result in an even greater need for coal-fired generation.

Thus far, coal retirements — both announced and those that have already occurred — represent more than 60 percent of the coal fleet that was operating a decade ago. Some 86,000 MW are expected to retire during the period 2022-2030. Most of these retirements are located in MISO (27,000 MW) and PJM (24,000 MW). Both ISO/RTOs can be expected to lose roughly half of their remaining coal fleets within less than a decade. These retirements do not take into account the intention of the administration to cause even more retirements. For example, the agency projected that its recently proposed Cross-State Air Pollution Rule would cause the retirement of 18,000 MW of coal-fired generating capacity by 2030.^{xi} This would bring coal retirements to at least 104,000 MW over the next nine years.

CONCLUSION

It is clear the administration is attempting to eliminate the nation’s coal fleet, even though dispatchable resources are needed to maintain reliability as renewables increase. If coal retirements continue, the threat to the reliability and resilience of the electricity grid will only get worse. At a minimum, we urge EPA to pay careful attention to apolitical experts, especially the grid operators, and to carefully consider not only the incremental impacts of each policy, but their collective impacts as well. We hope such consideration will cause the agency to adopt policies that minimize future coal retirements.

We appreciate the opportunity to submit these comments and hope EPA finds them helpful.

Sincerely,



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America’s Power



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ⁱ To qualify for a closure extension in the first circumstance, the operator of the impoundment must demonstrate compliance with the following requirements: (1) no alternative disposal capacity is available on- or off-site of the facility; (2) the CCR and/or non-CCR waste stream must continue to be managed in that CCR surface impoundment because it was technically infeasible to complete the measures necessary to obtain alternative disposal capacity either on- or off-site at the facility by April 11, 2021; and (3) the facility is in compliance with all requirements of the federal CCR program codified at 40 C.F.R. part 257.

ⁱⁱ To be eligible for an extension in the second circumstance, the owner or operator of the surface impoundment must demonstrate that (1) no alternative disposal capacity is available on- or off-site of the facility; (2) the risks from continued use of the impoundment have been mitigated; (3) the facility is in compliance with all requirements of the federal CCR program codified at 40 C.F.R. part 257; and (4) closure of both the impoundment and the coal-fired boiler(s) will be completed by the applicable deadline.

ⁱⁱⁱ Initially, 59 coal-fired power plants requested deadline extensions. Later, four requests were withdrawn, and one plant was deemed ineligible for an extension, leaving EPA to decide on requests from the remaining 54 plants.

^{iv} “Comments of the Midcontinent Independent System Operator,” February 23, 2022, regarding EPA’s proposed decisions for the Dallman, Erickson, Meramec, Ottumwa, and Sioux power stations.

^v For purposes of a plausible timeframe, we assume that EPA publishes final determinations in mid-May. One hundred thirty-five days from mid-May would be early September.

^{vi} “Comments of the Midcontinent Independent System Operator,” February 23, 2022, regarding EPA’s proposed decisions for the Dallman, Erickson, Meramec, Ottumwa, and Sioux power stations.

^{vii} “U.S. ‘Won’t Have Coal by 2030,’ John Kerry Predicts in Glasgow,” Will Wade, Bloomberg, November 9, 2021. “How Biden could close coal plants without CO₂ regulations,” Jean Chemnick, Hannah Northey, and Sean Reilly, E&E News, January 24, 2022.

^{viii} See, for example, “Energy Transition in PJM: Frameworks for Analysis,” December 15, 2021. “Thermal generators [for example, coal] provide essential reliability services and an adequate supply will be needed until a substitute is deployed at scale.”

^{ix} “MISO Operations Report, Markets Committee of the Board of Directors,” March 22, 2022.

^x North American Electric Reliability Corporation (NERC) Standard Authorization Request, “Fuel Assurance with Energy-Constrained Resources (Draft),” January 2022.

^{xi} U.S. EPA, “Regulatory Impact Analysis for Proposed Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard,” EPA-452/D-22-001, February 2022. The proposed rule is projected to also cause 4,000 MW of gas/oil retirements. Overall, the proposed CSAPR would cause the retirement of 22,000 MW of fossil-fired generation.