

## Responsiveness Summary

The comment period of at least 30 days for the proposed *State of Kansas Coal Combustion Residuals Part 256 Plan* began with the publication of the Notice of Hearing on the proposed plan in the *Kansas Register* on August 27, 2015, and ended at 5:00 p.m. on September 28, 2015. The notice of hearing informed the public that interested parties may submit written comments to the Kansas Department of Health and Environment (KDHE), Bureau of Waste Management, by postal mail, by fax or by email during the comment period to the addresses provided.

During the portion of the public comment period preceding the hearing, KDHE received a comment via email from Terry Medley of the Kansas Department of Agriculture-Division of Water Resources.

On September 28, 2015, KDHE held a public hearing in Room 530 of the Curtis State Office Building, Topeka, to gather additional oral and written comments from the public regarding the proposed plan. Seven members of the public attended the hearing. One oral comment was presented and a written summary of the comment was submitted by Emily Vsetecka of Sunflower Electric Power Corporation. No comments were received after the hearing and before 5:00 p.m. when the public comment period ended.

KDHE fully reviewed and considered all comments received during the comment period and prepared this responsiveness summary that lists the comments and explains the agency's response and action to address the comments. Copies of all comments received are included in the official administrative record of the proceedings for these regulations as Attachment 3 to the Report of the Hearing Officer. This responsiveness summary is also included in the official administrative record as Attachment 4 to the Report of the Hearing Officer.

### **The Comments Received and KDHE's Responses:**

#### ▪ **Kansas Department of Agriculture-Division of Water Resources**

##### **Comment 1:**

Do you need some standard wording inserted when listing the statutes and regulations about "as attached in Appendix or in effect at the time of review". The reason I bring that up is because our regulations have not been updated to reflect the 2013 statute changes, but is a priority to get done.

**Response and Action:** KDHE agrees that this change should be made. The phrase "as in effect on the date this plan was prepared" was added on pages 4, 13, 14, and 17 of the plan.

##### **Comment 2:**

Page 16 paragraph 4 states

*DWR regulates the construction, operation, and maintenance of dams that: 1) have a height of 25 feet or more; or 2) have a height of six feet or more and a storage volume of 50 acre-feet or more. Dams in the higher DWR hazard classes are inspected by the State every three years or*

*every five years. Some CCR facilities have dams that are on the DWR inspection schedule. These DWR inspections will not replace the annual inspections required under 40 CFR 257.83(b), however information from the annual inspections will be shared with the DWR. Siting of new facilities will be approved in coordination with other agencies, as described in Chapter 2.*

**We would suggest the following wording:**

DWR regulates the construction, operation, and maintenance of dams that: 1) have a height of 25 feet or more; or 2) have a height of six feet or more and a storage volume of 50 acre-feet or more **at the emergency spillway elevation. Class A, low hazard dams that have a height of less than 30 feet and a storage volume of less than 125 acre-feet at the emergency spillway elevation are exempt from permitting. Class, C, high hazard dams are required to have a safety inspection conducted by a licensed professional engineer once every three years and class B, significant hazard dams are required to have a safety inspection conducted by a licensed professional engineer once every five years.** Some CCR facilities have dams that are on the DWR inspection schedule. These DWR inspections will not replace the annual inspections required under 40 CFR 257.83(b), however information from the annual inspections will be shared with the DWR. Siting of new facilities will be approved in coordination with other agencies, as described in Chapter 2.

**Response and Action:** KDHE agrees that this change should be made. The suggested wording has been added to the plan.

▪ **Sunflower Electric Power Corporation**

**Comment:** Sunflower is a regional wholesale power supplier that operates a system of wind, gas, and coal-based generation.

The coal fired generating unit that Sunflower owns and operates is a single 349 MW unit, located near Holcomb, Kansas. Sunflower also maintains one CCR industrial dry landfill at that facility in southwest Kansas, which is permitted by the Kansas Department of Health and Environment (KDHE) and includes a groundwater monitoring system that has confirmed there is no leaching or environmental incidents. The unit currently generates approximately 75,000 tons of CCRs annually and was put into operation in 1983. A portion of the CCRs is used for beneficial use each year and the remaining is disposed of in the landfill.

Sunflower participates in several stakeholder groups including Electric Power Research Institute (EPRI) and Utility Solid Waste Activities Group (USWAG). These groups offer additional information in complying with the CCR plan and Sunflower is in the process of modifying plans and operations to comply with the plan. Sunflower is in support of KDHE's CCR plan and believes it will benefit the state of Kansas.

**Response and Action:** No change to the plan is required in response to this comment.