



Affordable Clean Energy Rule: Industry Urges EPA to Provide More Guidance to States

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Comments filed by the October 31 deadline show that industry overwhelmingly supports EPA's proposed Affordable Clean Energy (ACE) rule. The ACE rule will regulate carbon dioxide (CO₂) emissions from power plants and replace the Clean Power Plan (CPP) promulgated by EPA under the Obama Administration. The proposed rule will reduce CO₂ emissions by improving the efficiency of utility boilers. When efficiency is improved, units emit less CO₂ per ton of coal, thereby reducing overall CO₂ emissions from the utility sector.

ACE follows the plain meaning of Section 111(d) of the Clean Air Act and its implementing regulations. Section 111(d) dictates that EPA must determine the best system of emissions reduction (BSER) for the pollutant being regulated (in this case CO₂) and provide guidance to states on how to set standards of performance for emissions units considering BSER. Standards of performance are emissions limits set on a unit-by-unit basis. In this case, the emissions limits are based on the pounds of CO₂ emissions per megawatt hour of electricity that the unit generates. Section 111(d) can apply to any new pollutant regulated under Section 111, not just CO₂.

ACE proposes that BSER should consist of seven candidate technologies proven to increase boiler efficiency. States must consider the seven candidate technologies as they determine the measures that boilers can implement to improve efficiency. Each regulated boiler in the state must be examined using both the candidate technologies and a number of general factors. These analyses then yield the appropriate pounds of CO₂ per megawatt hour emissions limit for that unit. Beyond outlining this process, EPA provides little other guidance to states in the proposed rule.

While strongly supporting the proposed rule, industry asks EPA to reconsider portions of the proposal and provide additional guidance to states on how to set performance standards. While there is no question that Section 111(d) requires states to have the primary role in setting standards of performance, more EPA guidance is necessary. There simply needs to be more details on how states are to determine appropriate boiler CO₂ emissions limits.

Perhaps the most significant issue for which additional guidance is necessary is the substantial technical challenge in measuring CO₂ emissions. Emissions from power plants are primarily measured by continuous emissions monitoring systems (CEMS). CEMS have inherent measurement errors that are addressed by longer term emissions limits than the pounds of CO₂ per megawatt hour emissions limits to be established under the rule. These errors are compounded by the fact that CEMS have much greater error when measuring CO₂ emissions. The concern is that states will not be able to accurately

set or measure compliance with the CO₂ emissions limits that EPA requires.

To address this very significant problem, EPA must provide guidance to the states on considering and applying alternatives to the pounds of CO₂ per megawatt hour emissions limit. An excellent alternative is to work with companies to implement improved operation and maintenance practices (which is one of the candidate technologies). Improved operation and maintenance practices will have a continuing positive impact on the efficiency of the unit. Operation and maintenance based efficiency improvements have a substantial advantage over physical improvements to the boiler described in the other six candidate technologies.

Other issues that need more attention from EPA are how to treat boilers that have already implemented efficiency measures and units that have short remaining lives or that operate very little. Highly efficient units have little or no room to improve efficiency. It is unclear how these units can be given credit for highly efficient operation and compliance going forward. Additional guidance for the treatment of these units is necessary.

Capital investment for boilers that have short remaining lives cannot be justified, because imminent shutdown permanently eliminates further CO₂ emissions. While Section 111(d) and EPA note this concern, no real guidance is provided to states about how to address these issues. For units that operate on a limited basis, investment in new technologies also is problematic and unlikely to yield significant CO₂ emissions reductions. Further EPA guidance on the treatment of both categories of units is warranted.

In sum, comments by industry encourage EPA to work at an accelerated pace to finalize ACE but, in doing so, to re-evaluate these implementation issues.

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