**NACAA Conference Call to Develop Comments on**

**EPA’s Advance Notice of Proposed Rulemaking to Consider**

**Replacement Options for the Clean Power Plan**

**Wednesday, February 7, 2018**

**Noon – 1:30pm Eastern**

**Call-In Number: 866-365-4406, Access Code: 7578536#**

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Background

On December 28, 2017, EPA published in the *Federal Register* an [advance notice of proposed rulemaking](https://www.gpo.gov/fdsys/pkg/FR-2017-12-28/pdf/2017-27793.pdf) (ANPRM) to consider replacement options for the Agency’s Clean Power Plan rule. *See* 82. Fed. Reg. 61,507. Comments on the ANPRM are due on or before February 26, 2018.

This document has been prepared to help develop NACAA comments to the ANPRM and includes both potential issues for comment as well as proposed comments for some issues. NACAA members should feel encouraged to raise additional topics for comment in addition to providing responses to any of the proposed topics and comment areas. A complete list of the issues highlighted for comment in the ANPRM was circulated to NACAA members on January 12, 2018 and is available [here](http://www.4cleanair.org/sites/default/files/Documents/CPP_ANPRM-Issues_for_Comment.pdf).

Each potential issue has been numbered according to the classification system EPA defined within the ANPRM. Unless denoted with brackets, the issue language below is quoted directly from the ANPRM’s *Federal Register* entry at the page specified.

Potential Issues for Comment

(1) [The EPA is interested in comment on] the roles and responsibilities of the States and the EPA in regulating existing EGUs for GHGs. [p. 61,510]

*Proposed NACAA Comment*: State and local air agencies play a special role under the Section 111(d) of the Clean Air Act, which is reflected in EPA’s regulations implementing Section 111(d).

*Proposed NACAA Comment*: Though the Clean Power Plan’s scope implicates a wide range of stakeholders, state and local air agencies have a unique expertise and would be the agencies charged with implementing the rule. We request the opportunity to work closely with EPA if it decides to move forward on a Clean Power Plan replacement rule. We also urge the agency to include other critical stakeholder groups in any such effort.

(1b) The EPA is soliciting comment on whether it would be beneficial to States for the EPA to provide sample state plan text as part of the development of emission guidelines. [p. 61,511]

*Proposed Comment*: NACAA supports the development of an example state plan. Final emission guidelines that include a pre-approved compliance pathway, in addition to the option to develop a unique state plan, will expand and streamline state compliance options.

(1b) The EPA requests comment on how … [existing or developing State] programs [that limit GHG emissions from EGUs] could interact with, or perhaps, satisfy, a potential rule under CAA section 111(d) to regulate GHG emissions from existing EGUs. [p. 61,512]

*Proposed Comment*: NACAA supports an approach that credits state programs to reduce greenhouse gas emissions from the power sector toward compliance with a potential CPP replacement rule.

(3) In particular, the EPA is interested in comment on how the EPA should consider the impact on the benefits and costs of any potential new rule from state programs to reduce GHG emissions from existing EGUs that are not federally mandated. [p. 61,513]

*Proposed Comment*: States with existing climate programs have accumulated significant data on the costs and benefits of polices that mitigate greenhouse gas emissions from the power sector. We encourage EPA to collect and review this data as it develops a record for a CPP replacement rule.

(3a) The EPA is seeking comment on all technologies and practices that may be implemented to improve heat rate – including, but not limited to, those listed in Tables 1 and 2. [p. 61,514]

*Proposed Comment*: Chapter 1 of NACAA’s *Implementing EPA’s Clean Power Plan: A Menu of Options* discusses opportunities to improve coal-fired power plant heat rates, finding that thermal efficiencies can be increased by up to four to seven percent.

(3a) The EPA solicits comments on this potential “rebound effect,” on whether the EPA should consider it in a potential future rulemaking, and on any available measures that the Agency can take to minimize any potential effect. [p. 61,516]

(3b) The EPA is taking comment on an approach where the Agency defines BSER or otherwise provides emission guidelines without providing a presumptively approvable emission limitation. [p. 64,513]

*Proposed NACAA Comment*: EPA should develop presumptively approvable emission limits for each state. This approach, coupled with the flexibility for states to develop emission limits consistent with the emission guidelines, will expand state compliance options.

(4) [The EPA requests comment on] potential interactions of a possible rule limiting GHG emissions from existing EGUs with existing statutory and regulatory programs, such as New Source Review (NSR) applicability and permitting criteria and processes and impacts on state plans of New Source Performance Standards (NSPS) coverage of existing sources that undergo reconstruction or modification sufficient to trigger regulation as a new source in that federal program. [p. 61,510]

(5) [The EPA requests] any other comment that may assist the Agency in considering setting emission guidelines to limit GHG emissions from existing EGUs. [p. 61,510]

*Proposed NACAA Comment*: Any additional state and local administrative or regulatory requirements imposed by a Clean Power Plan replacement rule should not come at the expense of resources allocated to implement other federal air programs.

*Proposed NACAA Comment*: In addition to a chapter addressing opportunities for coal-fired power plant heat rate improvements, NACAA’s *Menu of Options* includes an additional 24 chapters identifying technologies, polices and existing state programs that are already reducing greenhouse gas emissions from the power sector. While some are outside the scope of the BSER defined in EPA’s proposed repeal rule, others describe reduction approaches that may be applied “to or at” affected sources. NACAA encourages EPA to review the additional strategies within the *Menu* to determine which, if any, are consistent with the Agency’s proposed reinterpretation of BSER.