**Discussion Document for Developing Draft NACAA Comments on EPA’s Proposed Affordable Clean Energy (ACE) Rule**

**September 19, 2018**

Proposed rule and fact sheets are available here: <https://www.epa.gov/stationary-sources-air-pollution/proposal-affordable-clean-energy-ace-rule>

**I. Process for Developing Proposal**

* Did EPA engage sufficiently with state and local agencies in developing the proposal? How could that process have been improved?
* Did EPA adequately respond to NACAA’s ANPRM comments? Are there any aspects of the comments that should be resubmitted?

**II. Proposed Approach for Reducing CO2 Emissions from Existing Power Plants**

* Best System of Emission Reduction (BSER) determined to be “inside the fenceline” heat-rate efficiency improvements. Comments?
* Scope/applicability: applies only to coal-fired EGUs, not other fossil units. Comment?
* BSER is a menu of “candidate technologies”; states evaluate which of these technologies are appropriate for each of its plants and establish a standard of performance, defined as an allowable emission rate of CO2, from each unit.
  + States may decline to require candidate technologies at affected sources based on remaining useful life and other factors. Comments?
  + Process for selecting the candidate technologies? Should others have been included?
  + Should states be allowed to include other forms of standards of performance (other than allowable CO2 emissions rate) in their plans?
* States can give sources flexibility to meet the standard of performance using either BSER or non-BSER technologies or strategies. Any strategy must be 1) implemented at the source itself, and 2) measurable at the source using data, emissions monitoring equipment, or other methods such that they can be easily monitored, reported and verified. Comments?

**III. Proposed Changes to the New Source Review (NSR) Program**

* Because heat rate improvement projects can trigger NSR, the proposal would allow states to change the applicability test for determining whether a project at an existing EGU is a “major modification” triggering NSR. Currently, a project is considered a major modification if it is projected to cause a significant net increase in annual emissions (tons per year). Under the proposed rule, the annual test could be changed to an hourly test – i.e., whether the project would result in an increase in the EGU’s hourly emissions rate. (EPA previously proposed making this change to the NSR program in 2005 and 2007, but it was never finalized.) If there is a projected increase in a unit’s hourly emission rate, the project must also be predicted to result in a significant annual emissions increase (i.e., the current NSR test) in order for NSR to apply.
  + Implications of changing from an annual to an hourly test? Effects on CO2 and criteria pollutant emissions? Effects of exempting EGU projects from conducting local air quality analyses?
  + Comments on the premise that NSR is preventing plants from pursuing heat rate efficiency projects?
  + Scope: The proposed new hourly test would apply to all EGU modifications, both in attainment and nonattainment areas, and not just those projects undertaken for purposes of complying with 111(d). EPA is seeking comment on whether to confine the applicability of the hourly test to a smaller subset of the power sector, such as only to EGUs making modifications to comply with 111(d). Comments?
* EPA proposes three alternatives for the hourly emissions rate test:

1) maximum achieved hourly emissions; statistical approach; input basis

2) maximum achieved hourly emissions; one-in-5-year baseline; input basis

3) maximum achievable hourly emissions; input basis (NSPS test)

* Preferences/concerns with or among these approaches?
* These changes to NSR are optional; states would not be required to adopt the hourly test into their NSR applicability rules.
  + Benefits/drawbacks of making this optional for states?

**IV. Proposed Changes to the Section 111(d) Implementing Regulations**

* The proposed amended language would make clear that 111(d) does not require EPA to provide a presumptive emission standard. An emission guideline must include information on the degree/ranges of emission reduction that is achievable through application of BSER, but it is the role of states to apply BSER to its sources.
* Timeline changes:
  1. State submission timing: would change from 9 months from promulgation of a final emission guideline to 3 years from promulgation of final emission guideline
  2. EPA action on state plan submission timing: would change from 4 months after submittal deadline to 12 months after determination of completeness
  3. EPA promulgation of federal plan, as appropriate: would change from 6 months after submittal deadline to 2 years after finding of failure to submit a complete plan, or disapproval of state plan
  4. Increments of progress – would change from being required if a compliance schedule for a state plan is longer than 12 months after plan is due, to longer than 24 months after plan is due
* Overall, this is a longer timeline. Comments?
* Other issues?

**V. Regulatory Impact Analysis (RIA)**

* The RIA includes foregone benefits scenarios for PM2.5 and Ozone that assume: (1) no adverse health impacts for exposures below the NAAQS; and (2) no adverse health impacts for exposures below the lowest measured level. Is this appropriate?
* The RIA assesses environmental impacts for the following scenarios: full CPP implementation, CPP repeal with no replacement, a replacement rule without NSR reform that achieves a 2 percent heat rate improvement (HRI) at $50/kW, a replacement rule with NSR reform that achieves a 4.5 percent HRI at $50/kW, and a replacement rule with NSR reform that achieves a 4.5 percent HRI at $100/kW. For all three replacement scenarios, EPA assumes that HRI will be applied uniformly to all affected coal-fired EGUs. Is this assumption reasonable?

**VI. Health and Air Quality Impacts**

* Has EPA adequately addressed the “rebound effect” in its assessment of the ACE’s impacts?
* Any comments on RIA’s conclusions regarding the potential health and air quality impacts of the ACE (e.g., how they could affect state and local air quality planning efforts)?

**VII. Other Issues**

* Any other suggested comment issues? (Example: interactions with state programs).