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Affordable Clean Energy Rule Proposed to Replace Clean Power Plan

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Today, the EPA proposed the Affordable Clean Energy (ACE) rule, meant to replace the Clean Power Plan (CPP). As expected and foreshadowed by its proposed changes to the legal rationale underpinning the CPP, the EPA will regulate only source emissions, not sector-wide emission reduction activities. The EPA claims this “best system of emissions reduction” is consistent with the Clean Air Act Section 111(d) authority and is both technically feasible and appropriate for coal-fired power plants.

The rule now recognizes more directly that market forces play a large role in the fuel choice of power generators. Market forces have already resulted in a 7 percent decrease in power sector greenhouse gas (GHG) emissions across the U.S. To ensure the trend continues, the ACE rule determines that the best system of emission reduction for coal-fired electric generating units is heat rate improvements. The ACE rule then requires states to develop plans addressing the electric generating units (EGUs) in their states, recognizing the factors of remaining useful life, location, physical limitations, and costs. The states must submit plans within three years.

The EPA addresses the elephant in the room that the CPP failed to address - New Source Review or NSR. Efficiency improvements lower GHG emissions, but may have an impact on the emission of other pollutants. When an emission unit undertakes a major modification that increases emissions of a regulated pollutant, NSR requires the unit to apply for a construction permit. Because the NSR process can take 18 months to two years to complete the permitting process, efficiency projects have been thwarted. Indeed, many owners would prefer to let efficiency degrade rather than risk triggering NSR through these modifications.

The ACE rule seeks to remove the NSR barrier to efficiency improvements. The NSR changes are welcomed by the industry. Energy efficiency improvements are built into the planning fabric of every owner of EGUs since the fuel can be the main cost driver of operations. Being allowed to make those efficiency improvements without being caught in the “gotcha” of NSR is extremely important to driving GHG emissions down.

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