

# EPA's Proposed Affordable Clean Energy Rule

## *Basics and Implications*

September 6, 2018  
United States Energy Association  
Washington, D.C.

# Chronology

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- Clean Power Plan (CPP)
  - Litigation in DC Circuit
  - Supreme Court stayed enforcement of CPP pending litigation
- Trump EPA asked DC Circuit to hold litigation in abeyance
- Trump EPA proposed rule to *repeal* the CPP
- Trump EPA proposed rule to *replace* the CPP: Affordable Clean Energy Rule

# Background: Sec. 111 of the Clean Air Act

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- “Standards of performance” for major sources of emissions
- 111(b): New, modified, and reconstructed sources
  - EPA sets standards based on “best system of emission reduction” (BSER)
- 111(d): Existing sources
  - EPA establishes “guideline” identifying BSER
  - States set standards consistent with EPA’s determination of BSER
  - States submit plans of compliance for EPA approval
  - If state plan is un

# Obama EPA Rulemakings

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## 111(b) rule: Carbon Pollution Standards Rule

- Separate CO<sub>2</sub> emission standards for new/modified coal and gas plants

## 111(d) rule: Clean Power Plan

- Based BSER mostly on reductions achievable by *generation shifting*
  - Heat rate improvements at coal plants
  - Shifting of generation from coal to gas plants
  - Shifting of generation from fossil to renewable plants
- Yielded numerical emission limits for each state
- State compliance plan can allow averaging/trading approaches

# Trump EPA's Proposed Repeal of CPP

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- Interpretation of BSER exceeds authority under Section 111
- BSER limited to measures implemented *at, or to* individual plants – not power system as a whole

# Proposed Replacement: Affordable Clean Energy Rule

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## Basics:

- Published in Federal Register Aug. 31
- Comments due Oct. 31

## Three components

- Emission guideline with BSER based on new interpretation
- Changes to general guidelines for 111(d) rules
- Reform of New Source Review program

# EPA Proposed Guideline

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- Only applies to coal-fired plants
- BSER = heat rate improvements (HRI)
- Guideline = list of “candidate [HRI] technologies”
  - Neural Network/Intelligent Sootblowers
  - Boiler Feed Pumps
  - Air Heater and Duct Leakage Control
  - Variable Frequency Drives
  - Blade Path Upgrade (Steam Turbine)
  - Redesign/Replace Economizer
  - Improved Operating and Maintenance Practices

# State Plans

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- State plans establish standards
  - Analyze candidate technologies for each plant
  - Adopt emission rate standard for each plant based on an HRI technology or other inside-the-fence measure
  - Plans due 3 years after final rule
  - Standard presumptively applies 2 years after plan is due
  - May *not* rely on multi-plant trading or averaging
- State flexibility to adjust standard/deadline
  - May adjust in light of “remaining useful life”
  - May consider other compliance obstacles



# New Source Review (NSR) Reform

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## ■ NSR basics

- Preconstruction permitting requirement for new construction or *modifications* at major sources
- Forces stringent emission control requirements
- Modification triggers NSR if:
  - Non-routine physical or operational change; and
  - Significant emission increase – measured in terms of annual emissions

## ■ Concern with NSR

- State plans could require HRI improvements that trigger NSR
- Higher costs, discouraging emission rate improvements

# Reform Idea

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- Change test for “significant emissions increase”
  - Current test: Will change result in increase in *annual* emissions?
- Proposed new test
  1. Will change result in increase in maximum achieved/achievable *hourly* emissions?
  2. If so, will change *also* result in increase in *annual* emissions?
- EPA asserts: Change will not result in increase in overall power sector emissions

# The Impacts Debate

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- Impacts on CO<sub>2</sub> emissions
- Impacts on emissions of other pollutants
- Impacts on coal
- Broader impacts on climate policy

# Legal Flashpoints

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- Interpretation of BSER
- EPA-state roles
- Changes to NSR

# Timeline

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