

## Discussion Questions for Environmental Justice Leaders on the Design of a Program to Reduce Carbon Pollution from Existing Power Plants

### Background

On June 25, 2013, President Obama issued a Presidential Memorandum directing the EPA to work expeditiously to complete carbon pollution standards for the power sector. The Presidential Memorandum directed EPA to issue a new proposal for carbon pollution standards for future coal-fired plants by September 2013.<sup>1</sup> On September 20, Administrator Gina McCarthy announced those proposed standards. The Presidential Memorandum also called for EPA to propose regulatory guidelines for states to set standards to reduce emissions at modified and existing power plants by no later than June 1, 2014. The memorandum directs EPA to issue final guidelines for existing and modified plants no later than June 1, 2015. In addition, it directs EPA to include a requirement for state submittal of the implementation plans required under section 111(d) of the Clean Air Act by no later than June 1, 2016.

Section 111 of the Clean Air Act calls for different types of programs to cut pollution from new and existing emissions sources. Congress recognized that the opportunity to build emissions controls into a source's design is greater for new sources than for existing sources. Partly for that reason, section 111 allows for new source standards and existing source standards to be quite different. Under section 111(b), EPA issues national emissions standards that apply to new sources. By contrast, section 111(d) provides that EPA shall establish a procedure for states to submit plans containing performance standards for existing sources. Under section 111(d), EPA issues guidelines for states to follow in developing plans implementing the performance standards for the affected sources. These state plans are then submitted to EPA for approval. Note that the existing source provisions only apply to certain pollutants such as carbon dioxide that are not regulated under other specified Clean Air Act authorities such as the National Ambient Air Quality Standards and the air toxics program.

The Presidential Memorandum directs EPA to develop the existing source rule with direct engagement with stakeholders, experts and the public on issues informing the design of the program. We recognize that the communities that you represent have particular concerns that may be distinct from the concerns of other stakeholders. Many of you already have taken the opportunity to let us know of your concerns. We look forward to further discussion on some of the issues that you and others have brought to our attention.

Below are some key questions that we hope to discuss with you that cover a number of issues relevant to the potential design of a program under section 111(d) for existing power plants. We hope that these questions will help to foster a robust discussion with us.

### **1. What is your experience with programs that reduce CO<sub>2</sub> emissions in the electric power sector?**

Over the past decade, a variety of strategies have been employed that reduce CO<sub>2</sub> emissions from the electric power sector. Some of these have focused specifically on CO<sub>2</sub> emissions while others have had other purposes but still result in CO<sub>2</sub> emissions reductions at power plants. Some have been required by state statute, others were initiated by state utility commissions under existing statutory authorities, and others have been undertaken at the initiative of utilities or independent owners of power generation facilities.

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<sup>1</sup> EPA proposed a carbon standard for new plants in April 2012. The agency received more than 2.5 million comments. After reviewing the comments EPA is making changes that are substantial enough that it wants the public to have an opportunity to comment before finalizing the rule.

Examples include greenhouse gas (GHG) emissions performance standards, emissions budget trading programs, resource planning requirements, end-use energy efficiency resource standards, renewable energy portfolio standards, and appliance and building code energy standards.

Questions for further discussion

- From your perspective, which approaches to reducing CO<sub>2</sub> emissions work well and are there some that do not?
  - What kinds of problems have you seen encountered if any?
  - Do any of these types of programs create particular concerns for environmental justice communities that we need to be aware of?
2. **How can EPA best assure that environmental justice community groups have a meaningful role in the development of state plans?**
- What kinds of processes are most effective in giving communities an opportunity to make their voices heard? What would an effective process look like?
  - How can we better communicate with communities about this rule?
3. **How should EPA set the performance guidelines for state plans?**

CAA Section 111(d) calls for EPA to issue guidelines for state plans that must contain “standards of performance.” As with previous section 111(d) rules, EPA believes that its guidelines should identify for sources and states the required level(s) of performance prior to plan submittal. Under section 111:

*“Standard of performance” means “a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.”*

There are a number of ways to reduce CO<sub>2</sub> emissions from existing power plants that might be included in an evaluation of the “best system of emission reduction” (BSER), including:

- Onsite actions at individual affected section 111(d) sources (power generating units.)
  - Increasing the efficiency of power plants (“heat rate improvements.”)
  - Fuel switching or co-firing with lower-carbon fuel.
- Shifts in electricity generation among sources regulated under section 111(d) (e.g., shifts from higher- to lower-emitting affected fossil units) as a result of requirements that change relative prices.
- Offsite actions that reduce or avoid emissions at affected section 111(d) sources.
  - Shifts from fossil generation to non-emitting generation due to portfolio requirements or requirements that change relative prices.
  - Reduction in fossil generation due to increases in end-use energy efficiency and demand-side management.

Questions for further discussion

- In your view which approaches to reducing CO<sub>2</sub> emissions from power plants should be regarded as part of the “best system of emission reduction” that EPA uses to determine the performance level(s) that state plans must achieve?
- Should EPA look beyond onsite actions in determining the level of the standard?

#### 4. What flexibility should be provided to states in developing their plans?

Many states and stakeholders have voiced support for state flexibility to include different types of program designs in their state plans. Regardless of how we set the performance guidelines, there are numerous and varied means for reducing or avoiding carbon pollution from existing electric generating units (EGUs), including options that target electricity supply and those that target electricity demand. Furthermore many states have developed a portfolio of programs and measures that reduce electricity sector CO<sub>2</sub> emissions while providing significant economic, consumer and reliability benefits.

##### Questions for further discussion

- Can a state plan include requirements that apply to entities other than the affected EGUs? For example, must states place all of the responsibility to meet the emission performance requirements on the owners or operators of affected EGUs, or do states have flexibility to take on some (or all) of the responsibility to achieve the required level of emissions performance themselves or assign it to others (e.g., to require an increase in the use of renewable energy or require end-use energy efficiency improvements which would result in emissions reductions from affected EGUs)?
- How should the guidelines address situations where actions in one state may affect EGU emissions in another state? (Examples include where actions in State A affect emissions in State B or where a decision by a company affects sources in a number of states.)
- Should EPA consider providing for coordinated submittal of state plans that demonstrate performance on a regional basis?

There are many other questions that may be of particular concern that are not listed here. EPA welcomes your input on these and any other questions.

The website for the development of the carbon pollution standards is <http://www2.epa.gov/carbon-pollution-standards>.

