

Notes: CPP Stakeholder Conference Call #1 November 18, 2015

General topic: Clean Air Act Section 111 Regulatory Framework and Proposed Rule Impacts.

Stuart Spencer, Associate Director, Office of Air Quality, stated that the purpose of these calls is to provide issues up for comment by EPA to all Stakeholders. He welcomed any feedback to improve these calls and invited Stakeholders to submit their comments to the 111d email if the call time is over before they have a chance to comment. He also stated the public comment period ends on January 21, 2015.

Tricia Jackson provided a summary of comment items to be discussed on the call. The items for comment are summarized below.

- 1) EPA proposes a 111(d) regulatory framework which includes items for comment pertaining to procedures for EPA actions on state plans. These procedures include the ability to issue partial or conditional approvals, error corrections, a SIP-Call like mechanism, and timelines for EPA action on state plans.
- 2) EPA also discusses that the compliance obligation under a Federal Plan falls to owners/operators of affected units, rather than states or state officials, but requests comment from all state officials and other interested parties on the federal plan.
- 3) EPA differentiates finalization of the model trading rules from the finalization of the federal plan and outlines a process for promulgating a federal plan.
- 4) EPA solicits comments on their conclusions as to the impacts of the federal plan proposal, including their conclusion that an Endangered Species Act consultation is not required and the impact on small entities, such as municipal and rural electric cooperatives.
- 5) EPA requested comments on partial state plans and partial delegation of a federal plan to states.
- 6) EPA discusses how to define low-income communities and overburdened communities for the purposes of set-asides under a federal plan.
- 7) EPA invites comment on its interpretation of an existing source that modifies or reconstructs as a new source no longer subject to 111(d).
- 8) Lastly, EPA requests comments on transitioning from a federal plan to a state plan under mass-based and rate-based approaches.

After summarizing the topics for comment, Tricia performed a roll call offering each stakeholder organization the opportunity to provide information or opinions on the items for comment.

Ken Smith, Arkansas Advanced Energy Association, had no comment.

Arkansas Attorney General's Office stated that they were participating in the call in a listening capacity only.

Arkansas Energy Office had no comment.

Arkansas Independent Producers and Royalty Owners had no comment.

Electric Cooperatives of Arkansas had no comment.

Entergy stated that they are still working internally and with trade groups to figure out their position and industry as a whole. They stated that this is an unusual rulemaking in that EPA is requesting comment on so many items this far into the rulemaking process. Entergy questioned whether EPA has the authority to issue a SIP call once the standards under 111(d) have been set and questioned how closely EPA can mimic section 110 with 111(d). Entergy stated that EPA could lower a standard with a SIP call and that it needs to be clear what could be required in a SIP call (if included in the CPP under 111(d)) – will it be different operations or emissions? They also state that choosing a rate-based only or mass-based only federal plan would be a mistake. Entergy stated that EPA should have a better idea of what states are doing and should keep both rate-based and mass-based options on the table. They expressed the importance of a liquid market.

MISO stated that they are still working on CPP requirements internally and they want the CPP implemented in the best way possible, looking at dispatch with an eye toward grid reliability and least cost impact on rates. They want to remain neutral on this rule.

Nucor had no comments, but stated that they would submit written comments.

Plum Point stated that they were still evaluating the plan and will submit comments later.

Sierra Club had no comment.

Janet Henry, SWEPCO, stated that they are still evaluating the aspects of the federal plan and model rules. They are concerned about framework requirements. Ms. Henry stated that the partial approval/partial disapproval scheme is fraught with danger compared to a SIP process, and that SWEPCO would prefer a conditional approval process. SWEPCO is also concerned about a possible SIP call – as it is not contemplated by 111(d) section by Congress.

Southwest Energy had no comment.

Tricia Jackson invited other stakeholders to offer their comments and requested their name and organization they represent.

Simon Mahan, Southern Wind Energy Association, urged serious evaluation of the CEIP, and stated that the state should seriously consider participating.

Stuart Spencer stated that ADEQ understands that entities are still evaluating the CPP and asked whether the conference calls were happening too early in the process. He also stated that entities need time to work out issues prior to preparing comments.

Gary Newell, Attorney for Plum Point, stated that public entities such as state and municipal utilities finance projects through debt acquisition, and that purchase of power from Plum Point is financed in this way. He stated that the term of the debt is based on the expected life of the generating unit, and that anything that impairs the ability to recover long-term debt, such a plant shutdown would cause difficulty for the bond-holders. He also stated that more comments would be presented at a later date.

Stuart Spencer stated that remaining useful life of generating units is a primary concern.

SWEPCO stated that rate-payers are on the hook for stranded investments.

A brief discussion of a possible meeting on January 5th was conducted. It was stated that the meeting would be in Central Arkansas, but not at ADEQ Headquarters.

A total of 54 phone lines participated in the call.