

## **FACT SHEET**

### **Repeal of the Clean Power Plan**

#### **ACTION**

- On Wednesday, June 19, 2019, EPA repealed the Clean Power Plan (CPP) because the CPP exceeded EPA's statutory authority under the Clean Air Act (CAA).
- The CPP was premised on a novel and expansive view of agency authority that is inconsistent with the CAA and therefore must be repealed.
- The repeal of the CPP was finalized in conjunction with two related, but separate and distinct, rulemakings:
  1. Final Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units, also known as the Affordable Clean Energy rule (ACE).
  2. Revised implementing regulations for ACE and all future emission guidelines for existing-sources issued under the authority of CAA section 111(d).

#### **REPEAL OF THE CLEAN POWER PLAN**

- On October 10, 2017, following a review as directed by President Trump's Promoting Energy Independence and Economic Growth Executive Order (to "suspend, revise, or rescind" the CPP, "as appropriate and consistent with the law"), EPA proposed to repeal the CPP.
- This action finalizes that repeal.
- Traditionally, rules issued under CAA section 111 were based on add-on controls or lower-emitting processes/practices/designs that can be applied to individual sources. The CPP was much broader and designed to reduce emissions by shifting the balance of coal-, gas- and renewable-generated power across the nation's power grid.
- Current market trends and other factors have most states on track to meet their CPP targets – even though CPP was never implemented. EPA modeled several scenarios for CPP implementation and assessed other evidence demonstrating there is likely to be no difference between a future scenario with the CPP and one without it.
- EPA is replacing the CPP with the final ACE rule to regulate greenhouse gas (GHG) emissions – specifically carbon dioxide (CO<sub>2</sub>) – from existing coal-fired electric generating units (EGUs).
- The final ACE rule properly establishes a "best system of emission reduction" (BSER) in line with the CAA and EPA's historical practice, returning EPA to its core mission of environmental policy rather than energy policy and market-shaping.

#### **BACKGROUND**

- The previous Administration issued the CPP in August 2015.
- Soon after the final rule was published in October 2015, 150 entities including 27 states, 24 trade associations, 37 rural electric co-ops, and three labor unions challenged the CPP in court, highlighting a range of legal and technical concerns.
- By December 1, 2015, a bipartisan majority of the United States Congress formally disapproved of the CPP pursuant to the Congressional Review Act.

- On February 9, 2016, the U.S. Supreme Court stayed the CPP, immediately halting implementation, and the U.S. Court of Appeals for the D.C. Circuit has been holding the CPP litigation in abeyance since April 28, 2017. This is the first time the Supreme Court has stayed a rule that was still under review in a lower court.
- The proposed CPP repeal received 1.5 million public comments, included two public hearings and three listening sessions across the country, and was available for 192 days for public review and comment.

**FOR MORE INFORMATION**

- Additional fact sheets along with copies of the final rule and accompanying Regulatory Impact Analysis are on EPA's website at <https://www.epa.gov/stationary-sources-air-pollution/affordable-clean-energy-rule>.