



C-AGG Comments on EPA's Proposed Clean Power Rule: *Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units* **Dated 12/1/2014**

Background:

The Coalition on Agricultural Greenhouse Gases (C-AGG) is a multi-stakeholder coalition of agricultural producers, scientists, methodology experts and developers, carbon investors, environmental ngo's, and project developers that promotes the science-based development and adoption of policies, programs, methodologies, protocols and tools for greenhouse gas (GHG) emissions reductions and carbon sequestration from the agricultural sector. C-AGG's primary objective is to incentivize voluntary GHG emissions reductions opportunities for agricultural producers that enhance productivity and income generation opportunities while benefiting society.

C-AGG commends the Environmental Protection Agency (EPA) for taking necessary steps to cut GHG emissions from the power sector. A key component of any successful strategy to reduce GHG emissions is the incorporation of offsets that allow for regulated entities to cost effectively meet their targets in the near term. C-AGG strongly encourages EPA to include a stronger and clearer position on the use of out-of-sector offsets by states to meet their emission performance targets and to ensure the use of biogenic sources of carbon, such as biomass, are properly incentivized over anthropogenic sources of energy.

Comments:

C-AGG submits these comments for consideration during the public comment period on the proposed draft of EPA's *Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units*, (aka the Clean Power Plan), as published on June 18, 2014, in The Federal Register. The Clean Power Plan is put forth as a strategy to cut carbon dioxide (CO₂) emissions by up to 30% from 2005 levels by 2030 from the power sector. This proposed rule exercises EPA's authority under Section 111d of the Clean Air Act, which requires EPA to set emission performance levels based on the "best system of emission reduction" (BSER) for certain source categories.

Traditionally, Section 111d of the Clean Air Act has only imposed obligations on sources within the regulated source category, in this case fossil-fuel energy generating units (EGUs) emitting CO₂ emissions. EPA's new proposed Clean Power Rule takes an innovative approach to regulating GHG emissions resulting from EGUs by broadening the scope of what EPA regulates to include actions beyond the fence line of EGUs. EPA accomplishes this through the process of setting either state-specific rate-based goals in pounds of CO₂ per MWh or mass-based (tons CO₂) and adopting a "systems" framework for BSER, giving EGUs the ability to deliver required GHG emissions reductions using actions beyond the fence line. Setting a state reduction target in place of an EGU reduction target allows the states more flexibility in



how they choose to achieve these reductions using the defined BSER. Additionally, the rule allows states to work individually or in regional groups to meet required emissions reductions.

While states are given some flexibility in meeting their state level goals, EPA has established BSER for this rule in the form of four “building blocks” that suggest acceptable actions by the states:

- Improve the efficiency of existing coal plants in the state by 6%;
- Increase generation at existing natural gas combined cycle plants in the state up to 70% of their capacity;
- Increase the percentage of new renewable energy based on regional goals, as well as new nuclear energy in the state (this can include nuclear, methane digesters, wind, or solar, for example); and
- Increase demand-side energy efficiency to 1.5% annually.

As the rule and the building blocks are currently written, carbon offsets from sectors outside of electricity production are not explicitly proposed as BSER to be used by states to achieve the targeted level of reductions required by the EPA. The current language in the proposed rule states that “[a]ll of the emission reduction measures included in the agency’s determination of the BSER reduce CO₂ emissions from affected EGUs. As a result, the EPA is not proposing that out-of-sector GHG offsets could be applied to demonstrate CO₂ emission performance by affected EGUs in a state plan.” 79 Fed. Reg. 34910

However, the draft proposed rule does include some ambiguous language allowing for the argument that out-of-sector offsets could be used in the future to achieve state level compliance. The rule recognizes that existing emission budget trading programs “include out-of-sector, project based emissions offsets, which may be used to cover a portion of the compliance obligation of affected sources.” 79 Fed. Reg. 34910. The rule further notes that “other states may want to take this approach” such as incentivizing carbon reductions from “land use and agricultural waste management.” The rule seems to be somewhat unclear on exactly how these statements relate to the more limiting language about the use of out-of-sector offsets within a state plan. As the current rule reads, it is difficult to distinguish between the use of offsets to formulate the targeted reductions in a state plan versus the ability to use offsets in the future to demonstrate compliance with the emissions targets set in that plan.

However, in the ***Technical Support Document for Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units***, dated June 2014 [Technical Support Document (TSD) for Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, Docket ID No. EPA-HQ-OAR-2013-0602], EPA guidance specifies on page 40 that “...state plans would ignore the CO₂-equivalent emissions reductions projected to be achieved through offsets, when projecting the CO₂ emissions performance that will be achieved by the affected EGU source category through implementation of the state plan. This does not mean that an emission budget trading program included in a state plan could not include an offset component. Rather, when demonstrating emission performance by affected EGUs, the projected CO₂ emission or weighted average CO₂ emission rate for affected EGUs under the state plan would not incorporate a credit for the CO₂-equivalent emissions reductions represented by offset allowances or credits used by affected EGUs



for compliance with the emission budget trading program.” This effectively changes the established targets for EGUs in both the CA compliance cap-and-trade program and the RGGI program, which perversely penalizes the progressive actions of the state of California and the states participating in RGGI. Instead, C-AGG recommends that EPA allow both CA and RGGI to retain their ability to allow EGUs to utilize offsets, and that this same ability be afforded to all states.

In this vein, C-AGG recommends including a clear and explicit recommendation that gives states the power to use both in and out-of-sector offsets in establishing state targets for the Clean Power Plan and in meeting emission performance compliance goals. Given that out-of-sector offsets, and in particular, offsets from the land use and agricultural sectors, are essential elements of any climate change mitigation program, and that changes in practices in the land use sector can be included in virtually any state plan, and are already included in the California cap-and-trade program, the Western Climate Initiative, and the RGGI program, C-AGG recommends that EPA unequivocally allow for the use of these offsets in the proposal.

C-AGG’s recommendation to allow the use of out-of-sector offsets will assist states in economically meeting GHG emission reduction goals and is consistent with EPA’s approach that already broadens the scope of BSER to include renewable electricity generation and demand side management. Out-of-sector carbon offsets from the land use sectors should thus specifically be identified as a cost containment option states can pursue to meet their goals, and can be phased out over the following decades. Agriculture and forestry offsets can be an economically preferable way of reducing GHG emissions within states and regions, and can aid in softening the economic impact of costly technology solutions and capital investments, which may only achieve marginal improvements. Additionally, agriculture and forestry offsets can have multiple co-benefits including improved water quality and soil health. Offsets are a cost effective way for states to meet their goals, while working towards more long term solutions focused solely on EGU reductions.

To further support the development of offset projects and markets, C-AGG strongly encourages EPA to complete the Biogenic Emissions Accounting Framework in a way that accounts for the lifecycle GHG reduction potential of biomass. Strict accounting for land use change emissions, including biomass feedstocks that generate enhanced soil carbon sequestration, will increase the carbon benefits associated with the use of biogenic sources of fuel allowing the power sector to achieve more cost-effective compliance from biomass, especially in the form of a co-firing fuel source.

C-AGG would like to emphasize the fact that the electricity sector already supports and recognizes the use of out-of-sector offsets as a cost containment mechanism that achieves GHG emissions reductions. The Electric Power Research Institute (EPRI) has published articles on the benefits of aggregating offsets and has worked with C-AGG, the agricultural sector and others to develop a fertilizer carbon offset protocol. It should also be noted that there have been over 10 agricultural protocols developed and approved for use in voluntary carbon markets, with more under development.

C-AGG supports other potential forms of state-run agriculture, land use, and forest carbon mechanisms that function differently from offset markets but achieve comparable performance in terms of



quantifiable and demonstrable emissions benefits. These additional mechanisms could provide states with enhanced flexibility in working with landowners and other mitigation project developers. We believe some of these potential incentives mechanisms, such as a state-run carbon bank or state-run incentive program, could be partially or entirely funded through revenues generated by state compliance mechanisms within a SIP.

Beyond the potential to help states achieve EPA's targets in a cost-effective manner, state-led forest carbon incentive programs also offer an effective mechanism to leverage revenues associated with 111(d) compliance actions toward further carbon benefits beyond EPA targets. This will support progress toward the United States' international leadership in the climate change arena, including the newly announced national-level carbon goals for 2025 incorporated in the US-China climate agreement and other future international obligations.

The final point C-AGG would like EPA to reconsider is the use of a 2012 baseline when using 2005 as the target emissions reduction year. Many states have made significant strides in reducing GHG emissions during this 7 year period, and these reductions will not be counted if this system is used to establish targets. This rule will effectively penalize states who have been working on reductions since 2005 and reward those states who have not acted. C-AGG suggests that if EPA insists on utilizing a 2012 baseline that those states that have reduced emissions during the 2005 to 2012 period be allowed to claim credit for their early actions, whether they be absolute emissions reductions from EGUs or emissions reductions from out-of-sector offsets.

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