



December 13, 2013

The Honorable Gina McCarthy  
Administrator, United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Submitted via: [carbonpollutioninput@epa.gov](mailto:carbonpollutioninput@epa.gov)

**RE: Comments to the EPA and States on Regulation of Existing Power Plants Under Section 111(d) of the Clean Air Act**

Dear Administrator McCarthy:

The Business Council for Sustainable Energy (BCSE) has been working with its members to compile the below preliminary set of suggestions and recommendations for the Environmental Protection Agency (EPA), states, and other entities in regards to the regulation of carbon emissions from existing sources. We greatly appreciate the opportunity to provide you with these comments and hope it will be useful as the EPA and states move forward in this process. Please do not hesitate to contact our organization and member organizations on the items listed below.

#### **BCSE Statement to States and EPA on Approaches to Reducing Carbon Pollution from Existing Power Plants**

The Business Council for Sustainable Energy is a coalition of companies and trade associations from the energy efficiency, natural gas and renewable energy sectors, and also includes independent electric power producers, investor-owned utilities, public power, commercial end-users and environmental and energy market service providers. Founded in 1992, the Council advocates for policies at the state, national and international levels that increase the use of commercially-available clean energy technologies, products and services. The coalition's diverse business membership is united around the revitalization of the economy and the creation of a secure and sustainable energy future for America.

BCSE recommends that energy efficiency (including combined heat and power, waste heat to power, and utilization of waste heat recovery), the full set of renewable energy options, as well as natural gas and propane be made eligible as compliance options under the EPA guidelines for limiting of carbon dioxide (CO<sub>2</sub>) emissions from existing power plants. Not only will the use of these technologies help to reduce emissions and serve as cost-effective compliance options, they will also help grow the economy, create jobs and strengthen our energy system through its diversification.

As the EPA develops guidelines for states under Section 111(d) of the Clean Air Act, the Council appreciates the opportunity to share its views on design issues related to the rules. Please note that

these are preliminary comments and the Council will continue to consider design questions and refine our recommendations over the coming months. Also, please note that as a diverse business coalition, not all members take positions or endorse the recommendations expressed in these comments.

### **Full Portfolio of Clean Energy Technologies Should be Recognized in Compliance Planning**

There are a wide range of commercially-available clean energy technologies utilized by the three main sectors within the Business Council for Sustainable Energy's membership – renewable energy, energy efficiency and natural gas – that should be eligible as compliance options under EPA's 111(d) requirements for State Implementation Plans (SIPs). The following are recommendations for consideration by EPA and states as the 111(d) guidelines are being developed.

#### ***EPA 111(d) Guidelines Should Provide a Set of Options for States that Signal Support for Policies and Investments in Clean Energy Technologies***

EPA should adopt a *system-wide approach that includes off-site projects* versus a facility-per-facility approach for compliance. This type of approach will enable energy efficiency and renewable energy to fully participate as compliance options. In addition, a system-wide approach will allow more opportunities for market-based instruments, including emissions trading and offsets within the power sector to be included in compliance planning. This ability to use market based instruments is important to lower the cost of compliance. Further, the system-wide approach can encourage proactive customers to engage their individual facilities in this marketplace and reduce compliance costs for themselves and other ratepayers.

EPA should provide a sample menu of options to states that are by no means restrictive but offer a list of possible compliance actions. These should be in the form of policies and/or technology areas accompanied by a set of evaluation, monitoring and verification (EM&V) criteria that need to be met. A balance between standardization and flexibility is critical when it comes to the guidelines, particularly as it pertains to EM&V. This need for balance is due to varying experiences across the country, with some states and private sector entities having extensive experience with efficiency programs, renewable portfolios and EM&V, while others have had limited or no experience. It is important that the EM&V guidelines are not restrictive of new technology and energy efficiency opportunities.

#### ***Recognition of Existing Programs that Drive Clean Energy Deployment and Emission Reductions***

In the guidelines EPA should recognize programs and policies at the state and regional levels that have been drivers of clean energy technology deployment and CO<sub>2</sub> reductions including Renewable Portfolio Standards (RPS), Energy Efficiency Resource Standard policies, AB32 in California, the Regional Greenhouse Gas Initiative (RGGI), Independent System Operator (ISO) programs, and utility programs on efficiency, among others. EPA should recognize the CO<sub>2</sub> reductions achieved through these programs and allow states to make policy decisions to expand these programs if desired. In turn, it is important that states and regions be provided the opportunity to demonstrate equivalence with the federal emissions standards proposed.

When considering recognition of existing programs and market design, consideration should be given to early adopters. At the same time, the EPA guidelines should maintain forward-looking demand for clean energy investments and encourage enhancement of programs to increase deployment and expand their scope to deploy a broader range of technology options.

It is critical that investments in carbon emissions reductions be recognized through the 111(d) guidelines and that existing programs and market design features that have been proven effective be allowed to continue achieving emissions reductions at low cost while spurring clean energy deployment.

### ***Renewable Energy***

The wide range of readily available renewable energy resources can provide a key compliance tool to states under EPA's 111(d) guidelines. To facilitate the use of renewable energy in compliance planning, EPA should:

- Offer a list of renewable energy forms and technologies that can be included as part of eligible state greenhouse gas and carbon reduction programs (e.g., biomass, biogas, fuel cells, geothermal, hydro, solar, waste to energy and wind).<sup>1</sup> Recognizing the diversity of approaches in selecting and defining eligible renewable forms and technologies, this list should be illustrative rather than inclusive so as to allow and encourage innovative technologies and approaches to be used and recognized. In considering waste-to-energy technologies, EPA should follow its precedents to encourage states, regions or markets to use net emissions accounting or lifecycle based accounting to measure CO<sub>2</sub> equivalent (CO<sub>2</sub>e) emissions mitigation.<sup>2</sup>

### ***Efficiency***

States, regions and markets are increasingly looking to demand-side management (DSM) energy efficiency programs that deliver pollution avoidance benefits as well as cost-effective energy savings to meet economic and energy reliability objectives. State programs that support carbon reductions in these areas include:

- Appliance and building codes and standards, and the enforcement of these codes and standards
- Energy efficiency resource standards, demand response and other utility- and non-utility-oriented efficiency policies and programs
- Transmission and distribution efficiency measures in the areas of smart grid technology, improved materials, and conservation voltage reduction
- Energy efficiency optimization of building envelopes including weatherization and building retrofit programs

In light of these activities, the EPA guidelines should:

- Recognize and scale up existing utility and non-utility programs
- Provide guidance to states on approvable energy efficiency provisions in state compliance plans
- Make available mechanisms for crediting private-sector-delivered energy efficiency activities (in addition to state and utility activities). For example, a state may develop a system that encourages or credits emissions reductions achieved by private efficiency investment through performance contracting or efforts to enhance efficiency, or apply CHP in public buildings or publically-assisted housing.
  - Criteria for approving energy efficiency elements of state plans should prioritize environmental rigor, administrative ease, and adaptability

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<sup>1</sup> Please note Section 203 of the National Energy Policy Act of 2005.

<sup>2</sup> Air Emissions from MSW Combustion Facilities <http://www.epa.gov/epawaste/nonhaz/municipal/wte/airem.htm>

- EPA and states may wish to consider a creation of a state or national registry of energy efficiency projects to enhance transparency and consistency, and for states to be able to access project data for purposes of crediting efficiency programs and projects

Energy efficiency should not be limited to demand-side measures. CHP, WHP, and waste heat recovery should be credited under the EPA guidelines. State or utility programs that support CHP deployment include:

- Grant and loan programs to finance investments in CHP and WHP, with existing examples in Connecticut, Maryland, New York and Pennsylvania
- State, regional or market design rules that increase the “market” for CHP – e.g., by requiring consideration of CHP in critical infrastructure, as recently done in Texas and Connecticut
- Utility policies or market design features that remove barriers to CHP and other forms of distributed generation – e.g., elimination of unfavorable standby rates or the creation of uniform interconnection standards
- Funding incentives for CHP installation at natural gas facilities (examples include existing programs in Arizona and Massachusetts) as well as at propane gas facilities

EM&V is a key to properly estimating energy savings, then translating savings into avoided emissions. While this process is complex, there is a growing body of experience and credentialed EM&V practitioners and improved protocols and methods. EM&V can be performed in a credible manner, including using methods being developed in federal, regional and state programs or market design – as well as by customers with advanced software and metering.

Energy efficiency can also be reasonably translated into emissions avoidance, including using EPA-developed tools. Further, actual power sector emissions data will allow states, markets, utilities and private sector actors to improve their quantification as well as their programs.

An additional point is that air regulators have a long history not only of managing emissions from permitted stationary sources (such as power plants) but also of managing air quality impacts of mobile sources. Transportation measures may be an analogue for widely dispersed efficiency measures, where modeling and sampling are used, rather than enforceable permit conditions to ascertain air quality benefits.

Finally, energy efficiency measures must be adaptable and forward-looking. The energy efficiency sector is highly innovative and EPA guidelines and supplementary guidance and tools should be flexible and allow for approval of new energy efficiency programs, EM&V and Energy Management Systems (EnMS) protocols and crediting mechanisms in future years.

### ***Natural Gas***

Natural gas has an important role to play in lowering the carbon intensity of the power sector. Competitive natural gas markets are critical to the cost-effective and reliable delivery of natural gas to customers and EPA’s carbon rules should not alter or distort competitive market structures.

- To facilitate this, it is important to educate utilities and state utility commissions as well as ISOs, regional entities and market actors on issues related to market design that have facilitated the efficient distribution and delivery of natural gas to customers. Colorado and Oklahoma are

states that have undertaken this type of education, specifically in the areas of education on long term contracting and hedging practices.

- In addition, improvement of power market rules in regional organized markets can better compensate power generators for efforts to secure reliable fuel sources and lower costs for consumers.

Additionally, states have successfully reduced carbon emissions through programs that encourage the direct use of natural gas and propane in commercial and residential facilities in place of grid power from fossil fuel generation. Using natural gas and propane directly to heat space, water and food is more efficient and produces less carbon because it avoids the significant loss of energy that occurs when converting coal or gas to electricity. Similar programs could help states meet 111(d) requirements through:

- Adoption of full fuel-cycle analyses that acknowledge the benefits of direct use of natural gas and propane
- Rebates for switching from electric to gas or propane furnaces and water heaters, such as those undertaken in Oklahoma and Oregon and by the Florida Public Service Commission.

### ***Conclusion***

BCSE appreciates the opportunity to provide you with its preliminary comments on EPA's guidelines to the states under Section 111(d) and to share its views on design issues related to these guidelines. BCSE would like to be viewed as a resource during this process to help ensure the full portfolio of clean energy technologies is recognized in the compliance planning. In addition, the EPA guidelines should encourage a wide range of players that have the potential to be involved in reducing emissions, including utilities, regions, ISOs, and the private sector. Additionally, the collective contribution provided by renewable energy, energy efficiency and natural gas in a system-wide approach to compliance will not only reduce emissions but also grow the economy, create jobs and strengthen our energy systems.

Sincerely,



Lisa Jacobson, President  
Business Council for Sustainable Energy