



National Tribal Air Association's Fact Sheet on EPA's Proposed Amendments to the NSPS for GHGs from New, Modified, or Reconstructed EGUs

What are the proposed amendments to the New Source Performance Standards for New, Modified, or Reconstructed EGUs?

EPA is proposing a revision to the Best System of Emissions Reduction (BSER) for new, modified, and reconstructed coal-fired electric utility generating units (EGUs), that removes partial Carbon Capture and Sequestration (CCS) technology and replaces it with rate limits on emissions of carbon dioxide (CO₂) using the “most efficient demonstrated steam cycle in combination with the best operating practices.”¹ These emissions limits apply in three subcategories of EGUs as follows: Large: 1,900 lbs CO₂/MWh-gross; Small: 2,000 lbs CO₂/MWh-gross; Coal-Refuse Fired: 2,200 lbs CO₂/MWh-gross. This can be compared to the limits set in 2015 by using partial CCS as the BSER: capturing 20% of an EGU's emissions would have achieved 1,400 lbs CO₂/MWh-gross.² EPA is proposing this change based on a new analysis of what represents “reasonable costs” and the geographic availability of CCS.

What is the endangerment finding and how are these issues related?

The endangerment finding is a ruling from the U.S. Supreme Court in 2009 that states that greenhouse gas (GHG) emissions endanger public health and welfare, and therefore the EPA must regulate them. There is overwhelming and mounting evidence of the scientific basis for the endangerment finding, and EPA is not attempting to overturn it. However, in footnote 25 of the Federal Register in which this proposal was published, EPA states they are taking comments on the interpretation of the endangerment finding, and whether GHG emissions are to be considered differently than traditional emissions.³

If it was determined that EPA had to establish a new endangerment finding every time an additional pollutant from an established source was to be regulated, an additional step in the regulatory process would be added, slowing the process significantly while emissions continued. By extension, this could undercut the rules for regulating existing sources, as well as impact future regulations in other sectors, such as oil and gas. Lastly, if it is determined that EPA has a “rational basis” for declining to regulate CO₂ emissions from new coal-fired EGUs, this could not only lead to increased emissions if any new plants are built, but could set a precedent in abdicating responsibility for regulating other emissions in other sectors.

What Does this Mean for Tribes and Air Quality/Air Management?

¹ https://www.epa.gov/sites/production/files/2018-12/documents/fs-111b_proposal_12-6-2018f.pdf

² <https://archive.epa.gov/epa/sites/production/files/2015-11/documents/fs-cps-overview.pdf>, page 3

³ <https://www.govinfo.gov/content/pkg/FR-2018-12-20/pdf/2018-27052.pdf>

While the proposals would only directly impact Tribes with EGUs on Tribal lands, everyone will be impacted indirectly since an increase in GHG emissions will have deleterious effects on climate and air quality. Furthermore, any softening in the interpretation of the endangerment finding has potential repercussions in the future regulation of emissions from all sectors.

Where Can I Find More Information and Submit Comments?

You can read the [complete Federal Register notice here](#), and access [EPA's various links on the Proposal here](#). E&E News also [had coverage of footnote 25](#) and the endangerment finding.

EPA has rescheduled its public hearing on this proposal. The hearing will be held on Thursday, February 14, 2019, from 8:00 a.m. – 6:00 p.m. (local time) in EPA WJC East Building, 1201 Constitution Avenue, Washington, District of Columbia. Pre-registration to speak at the public hearing is open through noon (EST) February 12, 2019. If you previously registered to speak at the hearing, you do not need to re-register. The public comment period on the proposal will be open through March 18, 2019. For more information or to register for the hearing, please [visit this link](#).

EPA has also extended the comment period on this [proposed rule](#) to March 18, 2019. Comments should be identified by Docket ID No. EPA-HQ-OAR-2013-0495 and may be submitted by one of the following methods.

- **Online:** Go to <https://www.regulations.gov/> and follow the instructions for submitting comments to EPA-HQ-OAR-2013-0495.
- **Email:** Comments may be sent to a-and-r-Docket@epa.gov. Include the Docket ID in the subject line of the message.
- **Mail:** Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, Attention Docket ID No. EPA-HQ-OAR-2013-0495, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- **Fax:** Fax your comments to: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2013-0495.
- **Hand/Courier Delivery:** EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue, NW, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OAR-2013-0495. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

NTAA will be preparing a Policy Response Kit for Tribes to use in submitting comments that will be posted on [NTAA's website](#). Any questions, please contact NTAA at 928-523-0526.