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Advance Notice of Proposed Rulemaking/State Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units: Arkansas Department of Environmental Quality Comments

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The Arkansas Department of Environmental Quality (“ADEQ”) submitted February 26th comments to the United States Environmental Protection Agency (“EPA”) in regards to an Advance Notice of Proposed Rulemaking titled:

State Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units (“ANPR”)

The Federal Register Notice is found at 82 Fed. Reg. 61507 (Dec. 28, 2017)

The ANPR states that EPA is considered proposing emission guidelines to limit greenhouse gas (“GHG”) emissions from existing electric utility generating units (“EGUs”).

EPA is soliciting information on:

- The proper respective roles of the state and federal governments in the process
- Information on systems of emission reduction that are applicable at or to an existing EGU
- Information on compliance measures
- Information on state planning requirements under the Clean Air Act

ADEQ’s February 26th comments initially state that their submission should not be construed as support by the state agency of the promulgation of emission guidelines for EGUs under Section 111(b) of the Clean Air Act. Instead, the agency states that, if EPA determines that such approach is lawful, necessary, and appropriate, certain principles should be followed in the development of such guidelines.

ADEQ’s principles include:

- Any Potential Replacement should be based on controls that can be implemented at the subject source
- Any Potential Replacement should rely on a subcategory-specific Best System of Emission Reduction (“BSER”)
- Any Potential Replacement should be accompanied by a concurrently-release, non-binding model state plan, as well as non-binding guidance

- The role of states in a Potential Replacement should be to develop and implement specific emission standards, taking into consideration each state's unique circumstances, including the composition of the state's fleet of EGUs
- Any Potential Replacement should provide flexibility in regards to compliance with the rule by deferring to states on the form of the standard to implement in their state, facilitating emissions trading, providing a multi-year averaging period for compliance, and allowing states to comply using existing programs if equivalency to the emission guidelines is demonstrated
- Any compliance schedules established pursuant to any Potential Replacement should allow enough time for installation of BSER technology across the fleet of EGUs so as not to create a liability risk
- Any Potential Replacement should allow sufficient time for the development and submission of state plans
- EPA should develop presumptive limits – both rate based and mass-based – based on subcategory specific rates

[A copy of the Federal Register Notice and ADEQ's comments can be found here.](#)