From Clean Power Plan to EPA’s Proposed ACE Rule:

Timeline of Events

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National Tribal Air Association
Informational Webinar on EPA’s Proposed ACE Rule
October 9, 2018 11:00 AM – 12:30 PM PDT
Clean Power Plan Timeline
(Proposal – Final Rule – Stay)

- **June 2014**
  - Proposed Rule

- **October 23, 2015**
  - Final Rules Published
    - 111(d) - existing sources
    - 111(b) - NSPS

- **February 13, 2016**
  - Death of Justice Scalia

- **March 2016**
  - Judge Garland Nominated

- **February 9, 2016**
  - SCT Grants Stay
    - 5-4 vote

- **January 2016**
  - DC Circuit Rejects Stay *

- **January 2016**
  - DC Circuit Rejects Challenge – Non-Final

- **June 2015**
  - DC Circuit Rejects Challenge – Non-Final

- **October 23, 2015**
  - First Law Suits Filed

- **2014**

- **2015**

- **2016**

* DC Cir. Panel = Judges Srinivasan, Rogers, Henderson
Clean Power Plan Timeline
(En Banc – Election)

- **September 6, 2016**
  - Original CPP Deadline for Initial State Submissions

- **September 16, 2016**
  - U.S. Accepts Paris Climate Agreement

- **September 27, 2016**
  - DC Circuit CPP Hearing (7.5 hours)

- **November 4, 2016**
  - Paris Enters Into Force

- **November 8, 2016**
  - TRUMP ELECTED

- **May 2016**
  - DC Circuit En Banc (sua sponte)
    - Eleven Active Judges (7D-4R) *

- **2016**
  - * Two Recusals (5D-4R)
  - * One Un-Recusal (6D-4R)
Clean Power Plan Timeline (Reconsideration)

January 2017
EPA Denies Petitions for Reconsideration

January 20, 2017
Inauguration

March 28, 2017
E.O. on “Energy Independence”
Exec. Order 13,783

March/April 2017
EPA Initiates Review/Reconsideration
DOJ Moves for Abeyance

April 28, 2017
D.C. Cir. Grants 1st in Series of Abeyances

July 2017
Proposal to Rescind to OMB

August 2017
D.C. Cir. Continues Abeyance (but drops hint…)

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Clean Power Plan Timeline
(Proposal to Repeal)

October 16, 2017
Proposed Rule to Repeal CPP
(Comments originally due Jan 2018 *)

December 14, 2017
White House Unified Agenda; Repeal to Be Finalized by Oct. 2018

November 9, 2017
Abeyance Continues

November 28-29, 2017
Public Hearings

December 28, 2017
EPA Issues ANPRM Seeking Input / Possible Replacement Rule

January 10, 2018
EPA Requests Continued Abeyance

January 17, 2018
States & NGOs Oppose EPA Request

January 17, 2018
NASA: 2017 = Second Warmest Year on Record

January 17, 2018

* Comment period extended to April 2018
Proposed Affordable Clean Energy Rule: The Look Ahead

- **2018**
  - October 2018: IPCC Report on Climate Change
  - October 2018: Comment Period Closes
  - August 2018: Notice of Proposed Rule

- **2019**
  - February/March 2019: Possible Timing of Final Rule
  - August/September 2019: Possible D.C. Circuit Argument

- **2020**
  - Mid-Late 2020: Possible Petitions to Supreme Court
  - Early 2020: Possible D.C. Circuit Decision
Questions Moving Forward

- Importance of Comments for the Record
- D.C. Circuit abeyance / Supreme Court stay
- Scope of EPA’s authority under §111(d)
- “Beyond the Fenceline” Argument
- Standard of review/Chevron deference
- Change in Agency Legal Positions
- NSR Proposal: annual vs. hourly test
- What happens with NSPS / § 111(b)?
- Cost-benefit analysis
  - Social cost of carbon; measuring co-benefits
GHG Emissions from Electric Power Generation 2005-2016


* Source: (October 25, 2017) Reconsidering the Clean Power Plan, *Congressional Research Service*
Questions?

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