

Draft 111d ETIC-EQC Subcommittee

September 10

2015

To plan its work and establish goals, the 111d Subcommittee will need to map out its priorities. The subcommittee's work will likely be driven by federal deadlines and the Montana Department of Environmental Quality's work to develop a compliance plan for meeting the federal requirements and deadlines.

2015-16
Interim



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Introduction

This is an overview of the tasks the 111d Energy and Telecommunications Interim Committee (ETIC) and Environmental Quality Council (EQC) subcommittee may wish to work on for the 2015-2016 interim.

Committee Procedures and Public Participation

The ETIC-EQC 111d Subcommittee will operate under the Rules, Procedures, and Guidelines for Interim Committees adopted by the Legislative Council. As required by law, 10 day advance public notice will be given for all meetings and the public will be given an opportunity to comment on any matter that is within the jurisdiction of the committee. The Presiding Officer may establish time limits for public comments, if necessary. Interested persons may be added to the mailing list by visiting the ETIC or EQC websites. By visiting the websites, interested persons may sign up for electronic meeting notifications. Agendas, memos, links and other information can be found on the subcommittee website: <http://leg.mt.gov/css/Committees/Interim/2015-2016/EQC/111d-Subcom/default.asp>.

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How the 111d Subcommittee Will Plan its Work

During the legislative interim, the ETIC and EQC focus on the study topics assigned by Legislative Council while maintaining oversight of programs and rulemaking activities of various state agencies. They also may address issues and improve law as deemed to be in the best interest of the state.

For the last year, both the ETIC and EQC have been tracking the Environmental Protection Agency's (EPA) draft rules requiring states to reduce carbon dioxide emissions in the power sector by about 32 percent below 2005 levels by 2030. The federal rules are also known as the EPA's Proposed Clean Power Plan or 111d regulations. The work of the ETIC-EQC subcommittee will be narrow in scope and focus on the rule and how Montana can best position itself to implement the final rule.

At the close of last interim, the ETIC members requested the EQC form a subcommittee with the ETIC for the 2015-2016 interim in an effort to oversee the state's development of rules to comply with the federal requirement. The EQC agreed, the Legislative Council included that in its budget package, and the 2015 Legislature passed a budget with about \$9,770 for a subcommittee. However, that appropriation was line-item vetoed out of HB 2 by the governor. The ETIC and the EQC, however, determined it would proceed with a subcommittee.

In response to the federal Clean Power Plan, Governor Steve Bullock in July began working with the Center for New Energy Economy (CNEE) to determine a path forward for Montana in responding to the final 111d rule. CNEE is a privately-funded initiative to support the expansion of clean energy. It is part of Colorado State University and directed by former Colorado Governor Bill Ritter. In late July CNEE reached out to potential stakeholders in Montana, including Representative Ellis and Senator Ankney, to discuss the process Montana should follow in responding to a final 111d rule. CNEE is privately funded, initially from the San Francisco-based Energy Foundation and the Fort Collins-based Bohemian Foundation. Rockefeller Brothers Fund, Argosy Foundation, and Advanced Energy Economy also have invested in CNEE. Funding is tax-exempt and directed through the Colorado State University Foundation, a 501(c)(3) organization. CNEE has concluded their interviews on the process with the various stakeholders in Montana and is in the process of summarizing the information they gathered to present to the Governor and the Department of Environmental Quality (DEQ).

The final Clean Power Plan rule was issued on August 3. The final emission guidelines for Montana to follow in developing its plan to reduce emissions from fossil fuel-fired electric generating units changed significantly from the draft rule. The DEQ is in the process of reviewing the final, 1,560-page rule, what it means for Montana, and how the state should respond to the rule.

With a final rule now issued, it is the responsibility of the DEQ to develop Montana's plan for implementing the rule. The state has until September 6, 2016 to submit a final plan or submit an initial state plan with a request for an extension. Final complete state plans must be submitted to the EPA no later than September 2018. The final rule, however, provides 15

years for full implementation of all emission reduction measures and establishes incremental steps for demonstrating progress.

The ETIC-EQC subcommittee will need to address its role in working with the DEQ and with the Governor's potential advisory group in development of a Montana plan. The subcommittee also will need to determine how to spend its limited time and resources. Because the subcommittee will operate using funding from existing EQC and ETIC budgets, the subcommittee may tailor its meeting schedule. The subcommittee also, if necessary, may approach the Legislative Council for additional funding to complete its work.

Background Information for 111d

The Environmental Protection Agency in 2014 issued a draft rule to regulate carbon pollution from existing power plants. The draft rule established a target of carbon reduction for each state to reach by 2030. Montana's proposed target was a reduction of 21%. When the final rule was issued in 2015, however, that reduction changed to as much as a 47%. Comparing the two numbers is challenging, as the baseline for how they were established in the draft and final rule also changed dramatically.

In the Clean Power Plan, EPA calculates the emissions reduction targets for individual states using the Best System of Emissions Reduction (BSER). Under Section 111(d) of the federal Clean Air Act, the EPA can designate a BSER for facilities that emit certain pollutants. The rule establishes interim and final carbon dioxide emission performance-rates for fossil fuel-fired electric generating units and natural gas-fired combined cycle generating units.

Montana must develop and implement a plan so that fossil-fuel fired electric facilities (there are nine generating units affected by the rule in Montana) either individually, together, or in combination with other efforts, achieve, in terms of either rate or mass, interim carbon dioxide performance rates between 2022 and 2029 and final rates by 2030. In Montana those rates overall are 1,534 lbs/MWh in the interim and 1,305 lbs/MWh by 2030. Those numbers are compared to Montana's 2012 rate of 2,481 lbs/MWh.

In terms of mass, the final rule limits emissions in Montana to a total of about 11 million short tons by 2030. To put that in perspective, Colstrip Units 3 and 4 alone annually emit about 12 million short tons.

The BSER in the Clean Power Plan includes three building blocks representing methods for reducing CO₂ emissions at existing fossil fuel-fired generators. The building blocks include:

- Building block 1: Improving the thermal efficiency of coal-fired facilities;
- Building Block 2: Substituting increased generation from lower-emitting existing natural gas combined cycle units for reduced generation from higher-emitting affected steam-generating units (It should be noted that Montana does not have any natural gas combined cycle plants, so this building block can't be used.); and
- Building Block 3: Expanding the use of new zero-carbon generation like solar and wind to displace fossil fuel-fired generation.

The federal rule provides the state with some flexibility in determining how to meet the standards. The renewable building block, under certain circumstances, for example, can include some energy efficiency efforts. The state will have to choose between two types of plans to meet the new standards. The state can use an "emission standard plan", with source-specific requirements to ensure power plants meet required performance rates or a "state measures plan" that can include a mixture of actions, including renewable energy standards and other programs. The state also has the ability to work with other states, and the plan also includes emissions trading to allow facilities to meet emission standards using emission rate credits or allowances. In Montana-specific information about the rule, it appears Montana is expected to partner with other states. The Montana fact sheet states, "While EPA's projections show Montana and its power plants will need to continue to work to reduce CO2 emissions and take additional action to reach its goal in 2030, these rates – and that state goal – are reasonable and achievable because no plant and no state has to meet them alone or all at once. They are designed to be met as part of the grid and over time."

The plan also provides for a "Clean Energy Incentives Program", which allows states to invest in renewable energy and demand-side energy efficiency programs that reduce emissions by 2020 and 2021. Under the program, the EPA will make additional allowances or emissions credits available to states that encourage renewable energy. The EPA provides examples that wind and solar projects would receive 1 credit for 1 MWh of generation. Demand-side projects in low-income communities would receive 2 credits for 1 MWh of avoided generation. The details of the incentive program are still being analyzed.

A Partnerships for Opportunity and Workforce and Economic Revitalization (POWER+) plan also is noted in the rule. The federal, interagency initiative, which started earlier in 2015, is targeted at providing "economic and workforce development assistance to communities affected by ongoing changes in the coal industry and the utility power sector." The program is based on offering grants, with certain criteria, to "negatively impacted coal mine counties and power plants." It's unclear at this time what Montana counties could be eligible and how the program could be used in response to meeting the requirements of the 111d final rule.

State plans must provide documentation demonstrating that electric system reliability has been considered in development of the state's implementation plan. The interim benchmarks and allowing states to meet interim goals on average over an 8-year period are aimed at addressing reliability concerns. The EPA in the final rules states that the rule allows "for planning, implementation and the integration of actions needed to address reliability while achieving the required emissions reductions."

A state also must demonstrate that it engaged stakeholders in the development of its plan. The final rule states, "States must describe their engagement with their stakeholders, including their most vulnerable communities. The participation of these communities, along with that of ratepayers and the public, can be expected to help states ensure that state plans maintain the affordability of electricity for all and preserve and expand jobs and job opportunities as they move forward to develop and implement their plans."

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Proposed Work Timeline

The following timeline provides an outline of how the ETIC-EQC subcommittee will accomplish its work. The timeline may be updated or revised to address scheduling, emerging issues, or to reallocate staff time to other topics.

Date	Activities	Tasks/Policy Decisions
September 10, 2015	<ul style="list-style-type: none"> ➤ Organizational ➤ Agency Monitoring ➤ Compliance Planning 	<ul style="list-style-type: none"> ◇ Elect officers ◇ Review, adopt work plan ◇ Review, adopt calendar ◇ Discuss budget needs ◇ Report from DEQ ◇ Report from PSC ◇ Report from Consumer Counsel ◇ Report from Attorney General's Office ◇ Introduction to 111d ◇ Compare/contrast final rule and draft rule ◇ Identify and engage key agencies and stakeholders; regulators, energy offices, utility commissions, grid planners, consumer advocates, and others ◇ Identify next steps and subcommittee role in formulating potential compliance plans
Date	Activities	Tasks/Policy Decisions
January 14, 2015	<ul style="list-style-type: none"> ➤ Organizational ➤ Agency Monitoring ➤ Compliance Planning 	<ul style="list-style-type: none"> ◇ Review budget ◇ Report from DEQ ◇ Report PSC ◇ Report from Attorney General's Office ◇ Overview of formulation of range of potential compliance plans ◇ Identify key uncertainties with compliance outcomes ◇ Discuss vetting of compliance options

Date	Activity	Tasks/Policy Decisions
March 10, 2016	<ul style="list-style-type: none"> ➤ Agency Monitoring ➤ Compliance Planning 	<ul style="list-style-type: none"> ◇ ◇ ◇ ◇ ◇ ◇ ◇
May 10 or 11, 2016	<ul style="list-style-type: none"> ➤ Agency Monitoring ➤ Compliance Planning 	<ul style="list-style-type: none"> ◇ ◇ ◇ ◇ ◇ ◇ ◇
July 21, 2016	<ul style="list-style-type: none"> ➤ Agency Monitoring ➤ Compliance Planning 	<ul style="list-style-type: none"> ◇ ◇ ◇ ◇ ◇
September 8, 2016 (tentative)	<ul style="list-style-type: none"> ➤ Agency Monitoring ➤ Compliance Planning 	<ul style="list-style-type: none"> ◇ ◇ ◇ ◇ ◇ ◇