

THE NEW ERA OF EXECUTIVE ACTION

GREENING AMERICA'S ELECTRICITY MIX THROUGH THE CLEAN POWER PLAN

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Background

As the world's largest economy, the United States has an important role to play in ensuring the world meets its goals for reducing greenhouse gas emissions. While progress toward setting targets and lowering the nation's emissions have been made in the transportation sector, prior to 2014, there was no concerted effort by the federal government to limit carbon emissions from power plants.

As a result, the electric power sector currently is responsible for about 40 percent of the carbon dioxide emissions in the United States. And as the U.S. economy continues to recover from recession, it is expected that emissions from the electric power sector will rise.

A congressional effort to create a national cap-and-trade regime—the American Clean Energy and Security Act of 2009, or the Waxman-Markey bill—passed in the House of Representatives but failed in the Senate.

Action

On June 2, 2014, the Environmental Protection Agency (EPA) issued its proposed rule, Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (also known as the Clean Power Plan).

What It Does

The Clean Power Plan provides emissions reductions guidelines for the fifty U.S. states (a supplemental proposal was issued on October 28, 2014 to cover U.S. territories and “Indian country”). The Clean Power Plan is based on authority granted to the EPA by the Clean Air Act to regulate pollutants, reinforced in the Supreme Court case *Massachusetts v. EPA*, which ruled that the EPA was required by the provisions of the Clean Air Act to regulate greenhouse gas

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emissions in the same fashion in which they regulate other types of air pollution, including smog and particulate matter.

The Clean Power Plan targets nationwide CO₂ reductions of 30 percent below the 2005 baseline by 2030. The goals and mechanisms of the plan are divided into two broad parts: (1) setting state-specific emission rate-based goals and (2) providing EPA guidance to states on the creation and execution of state plans to meet those goals.

To establish state-specific goals, the EPA looked at the current electricity mix of each state, including efforts each is currently making to reduce emissions by adding for renewable energy or encouraging efficiency. The EPA then calculated how much each state could reduce its emissions in a cost-effective way by 2030. Thus, each state has different goals, with the aggregate nationwide goal being the 30 percent below the 2005 baseline by 2030.

The second part of the Clean Power Plan lets each state decide the best way to conceive of their emissions reductions. The EPA stresses flexibility in allowing each state to adopt and execute, in coordination with the EPA, its own compliance plan to reduce emissions. In an effort to assuage the utility sector, the EPA stipulated that it would not put the onus on individual companies operating in a state to meet that state's emissions goals, but rather would take into account the actions of authorities statewide in mandating action. Not only can a state adopt a plan suited to its own circumstances, but also each is encouraged to combine efforts with other states to maximize efficiency and pool resources.

Status

The Clean Power Plan is not yet in its final stage. While the EPA has issued its proposed rule, the final rule is not due until July 2015. After the issuance of the final rule, states will have one year to submit compliance plans (or request a one- to two-year extension). The EPA will then work with individual states on their compliance plans. The compliance period for those state plans, or the federal plan in case states do not submit their own, will formally begin in summer 2020.

Impact

Impact will be difficult to judge with certainty until after the compliance period formally commences in 2020. However, most analysis of the Clean Power Plan suggest that it will lead to the decline of coal in the U.S. energy mix and an increase in natural gas, renewables, and plans to increase economic efficiency.

The EPA estimates that the Clean Power Plan will lead to numerous health and economic benefits that more than make up for the projected costs associated with the requirements of individual plans. By its own calculations, the health benefits alone will be \$55 billion to \$93 billion in 2030, preventing 2,700 to 6,600 premature deaths and 140,000 to 150,000 asthma attacks in children.

Response

Environmental research and advocacy groups, such as the Natural Resources Defense Council (NRDC), Sierra Club, and World Resources Institute (WRI), applauded the Clean Power Plan.

- Many have said, as the NRDC said in their formal comments on the plan, that the EPA actually did not go far enough in requiring more stringent reductions, which they said could be accomplished while incurring the same costs as the current EPA proposal.
- The Sierra Club says the Clean Power Plan “gives us a framework to make significant progress in the states” when it comes to emissions reductions and sends a signal to the world that the United States is serious about tackling climate change.
- WRI analysts Michael Obeiter and Kevin Kennedy lauded the plan’s flexibility and potential economic benefits, saying it will spur the adoption of energy efficiency and renewable energy countrywide.

Conservative and business groups were more pessimistic.

- Three lawsuits have already been filed against the plan.
- The North American Electric Reliability Corporation released a report saying the changes wrought by the Clean Power Plan might disrupt the U.S. electrical supply, as transitioning from the steady generation of fossil fuel sources to more intermittent renewables may strain the traditional grid infrastructure.
- Several carbon-intensive manufacturing groups expressed their worry that if the electricity sector could not deliver on planned emissions cuts, the EPA would come after them next.

Many states have also filed lawsuits challenging the scope of the Clean Power Plan as beyond its legal foundations within the Clean Air Act. It remains to be seen whether the disposition of those court cases delays in any way the rulemaking process or the submission of state compliance plans.