EPA releases proposed regulations for carbon emissions from existing electricity generation units

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In brief

On June 2, the Environmental Protection Agency (EPA) released long-anticipated proposed regulations under the Clean Air Act that would for the first time set carbon emissions reduction targets for existing US electric power plants.

The proposed regulations would require that the states individually or collectively create systems that would reduce carbon emissions from any electricity generation unit (EGU) located within their borders. Individual states would have to submit their proposed plans to the EPA by June 30, 2016. There are additional deadlines for states that choose to implement programs collectively.

Overall, the proposed regulations would attempt to achieve by 2030 a nationwide carbon dioxide reduction of 30% from 2005 baseline emissions. According to the EPA, under the proposed rules, the US would achieve an EGU fuel source mix of 30% coal, 30% natural gas, and 40% other source by 2030.

Companies should consider how the interaction of these proposals and the scheduled remaining life of many tax incentives could affect potential returns from renewable energy and energy efficiency projects.

In detail

States to develop approaches

Under the general regulatory regime of the Clean Air Act, the EPA looks to the states to develop approaches to implement specific reduction targets for various regulated pollutants. The proposed rules for carbon emissions set reduction targets on a state basis. The overall, nationwide reduction target must be fully met by 2030.

The proposal sets out the four main areas of focus that the EPA believes would help states reduce carbon emissions:

1. Reducing carbon emissions at an EGU by heat rate improvements
2. Reducing emissions at the most carbon emitting EGUs by replacing those with lower carbon alternative EGUs
3. Reducing carbon emissions by installing lower or no-carbon emissions EGUs
4. Implementing demand-side energy efficiency programs

Rate based vs. mass based

The proposal creates two methods for states to meet the specified carbon reduction target. The first is the rate-based approach, under which states would set a specific number of pounds of carbon dioxide emissions permitted per megawatt hour of electricity production.

Under the second, states would set total permissible tons of CO_2 emissions on the aggregate level for the EGUs within a specific state or group of states.

Individual vs. multistate

The proposal also specifically provides an option for states to join together to create a multistate or regional approach to meeting the carbon reduction targets. The multistate plan must provide the specific emissions reductions by state or by the EGU depending on whether the plan uses the rate-based or mass-based reduction approach.

States that currently have an emissions reduction regime, or are part of a multistate compact such as the Regional Greenhouse Gas Initiative, may submit those plans to meet the proposed regulations' requirements provided that those existing plans meet the specific requirements under the proposed rule.

Deadlines

The EPA expects to complete the rulemaking and issue final regulations by June 1, 2015. State plans would be due by June 30, 2016. However, there are two potential extension dates available. One, individual states can request an extension to submit final plans by June 30, 2017. And two, multiple state plan participants can request an extension to file final plans by June 30, 2018. Both extension requests would require a filing by June 30, 2016 describing the reasons for the extension request and detailing the progress made on a final plan to that date.

The takeaway

As noted above, the proposed regulations represent a milestone in the US, marking the first attempt to set forth nationwide CO_2 emissions reduction metrics.

The proposal seeks to strike a balance between aggressive CO_2 reduction goals and a longer implementation time period, which could help to lessen any specific economic impacts or at least spread-out those impacts over a period of more than a decade. In addition, existing emissions trading systems, renewable portfolio standards, and energy efficiency programs at the state level may give many states a head start on implementation of these proposed rules.

The proposal notes that the estimated economic burden on the affected industries would be up to $8.8 billion annually by 2030. However, some business groups have provided far higher economic cost estimates, and the proposed regulations are likely to spark significant public debate over associated economic and implementation issues.

The path toward final implementation of these rules is likely to be lengthy and could involve changes to the proposals. However, given the potential impact on businesses, companies should not wait to consider the potential effects of these rules on their energy costs and overall business operations. In addition, many companies may want to consider both these proposed rules and the remaining scheduled life of various federal and state incentives for renewable energy and energy efficiency as they evaluate onsite electrical generation projects or other potential capital expenditures over the next several years.

Let's talk

For a deeper discussion of how this might affect your business, please contact:

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