August 18, 2015

The Final Clean Power Plan: Twists and Turns

On August 3, President Obama released his long-anticipated final Clean Power Plan (CPP), the first major federal effort to significantly reduce carbon pollution from power plants nationwide. The Environmental Protection Agency, which will enforce the Plan, formally describes the CPP’s carbon dioxide standards as reflecting “the best system of emission reductions.” Under the Plan, each state is obliged to develop an individual program for compliance. President Obama hopes that the CPP will inspire other countries to follow suit by announcing new initiatives to curb carbon pollution at this winter’s United Nations Climate Change conference.

Based on two years of stakeholder outreach and more than four million public comments, the CPP makes a number of changes from the proposed rule released last year. The Plan imposes a national power plant carbon reduction standard that cuts 2005 emission levels by 32% by 2030, a tougher standard than the 30% reduction figure in last year’s draft. Another tougher element is a new Clean Energy Incentive Program added to reward states for acting quickly to invest in renewable energy. But the CPP also extends compliance timelines by an additional two years and increases flexibility to meet targets. States are able...
to appeal for additional time if disruptions to power supply appear likely.

Whole sections of last year’s draft proposal were dropped out of concern that they might make the CPP vulnerable to court challenge. The most important of these cuts was elimination of demand-side energy efficiency as one of the plan’s four building blocks. Three others – improved efficiency at power plants, shifting generation from coal to natural gas plants, and shifting generation to renewables – all remain. However, states do not have to use these building blocks as a framework for their compliance plans and have been given a range of market-based, flexible mechanisms to reach their state targets.

The Administration hopes that the Plan is both technically strong and legally solid. What are North Carolina’s requirements under the final rule?

- North Carolina is directed to cut its 2012 power plant emission levels by 36.2%, a standard less stringent than the draft plan’s 39.8% figure.
- EPA made allowances to North Carolina’s 2012 baseline emissions figure (1,780 lbsCO2/MWh) to reflect earlier carbon reductions resulting from the state’s Clean Smokestacks Law and power plant modernization efforts.
- Mandatory reductions must begin by 2022, with full target compliance by 2030.

You’ll find more details about how the Plan will impact North Carolina if implemented [here](http://app.bronto.com/public/?q=preview_message&fn=Link&id=245t8adrhv7dv1v4lms9t7w7rhvek&ssid=4267&ts=3).

Why should anyone care about the CPP? The most important reason is that it serves as a national signal for the end of coal as the backbone of our nation’s energy needs. Meanwhile, the Plan also opens up enormous market opportunities for manufacturers of
energy efficient products and components of renewable energy systems. North Carolina’s manufacturers excel in both of these product sectors.

Now that the CPP has been finalized, there are state concerns about when to begin planning for carbon reduction. At the federal level, many are prepping for an onslaught of litigation designed to derail the Plan. It is widely anticipated that the legal challenges to the CPP will end up at the U.S. Supreme Court.

In North Carolina, Governor McCrory opposes the CPP and argues that it will raise electricity rates. DENR Secretary Don Van der Vaart (see his August 5 statement here) wants the courts to review the rule before the state takes any action. A bill making its way through the state Senate would prohibit DENR from developing any plan to meet the new EPA rules. The state House, meanwhile, favors moving ahead with creating a state plan while the EPA rules are tested in the courts.

While the CPP has been issued in “final” form, the Plan is very controversial and its implementation path and timetable are unclear. However, if states wait too long or fail to submit a legally adequate plan, the Plan obliges the EPA to impose a “federal implementation plan,” an outcome no stakeholders appear to like.

Diane Cherry
Environments Policy Manager
diane_cherry@ncsu.edu

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