

What the Clean Power Plan Means for the States

Preserving Compliance Flexibility and Minimizing Cost through Time-Tested Regulatory Approaches

The Clean Power Plan will finally put an end to the era of unlimited carbon dioxide emissions from the nation's fossil fuel-fired power plants, by creating consistent national emissions standards for sources that are responsible for nearly forty percent of the nation's carbon pollution. These standards will lead to a safer climate, save lives, reduce customer bills, and create economic opportunities. With the release of the final Clean Power Plan on August 3, it is now up to the states to implement these standards in a streamlined, cost-effective way that maximizes their benefits. As outlined below, traditional regulatory approaches – coupled with guidance and tools provided in the Clean Power Plan itself – can help the states reach this goal.

Partnering with States

The Clean Power Plan's health and environmental protections are groundbreaking, but its structure follows the traditional Clean Air Act framework of “cooperative federalism”—or partnership between EPA and the states—that has been reducing emissions of dangerous pollutants for decades. Under the Clean Power Plan, EPA has established separate national emission standards for coal-fired steam power plants and natural gas combustion turbines. These standards are based on proven and cost-effective measures that states and power companies are already using to reduce carbon pollution – including improved plant efficiency and greater use of cleaner electricity sources such as wind, solar, and natural gas. States, in turn, have tremendous flexibility to design individualized state compliance frameworks to ensure that the power plants within their jurisdictions achieve these emissions limits – by applying those standards directly to power plants within the state, applying a single “average” standard, or establishing a state-wide emission limit that is based on the national standards. In the final Clean Power Plan, EPA provides extensive guidance and tools to help states make the most of that flexibility.

Flexible Compliance, Lower Electric Bills

Flexibility is woven throughout the design of the Clean Power Plan. Under the Clean Power Plan, each state can craft an approach to limiting carbon emissions that addresses its own needs and priorities, such as minimizing costs to consumers, diversifying the energy portfolio, and protecting public health in vulnerable communities—as long as they provide a clear, enforceable emissions limit for each regulated power plant in the state. Moreover, states can complement their plans with innovative policies – such as energy efficiency incentives – that reduce the cost of compliance, create jobs, and reduce electricity bills for consumers. Many states have already demonstrated that such policies can reduce carbon pollution while yielding dramatic benefits. For example, twenty-four states have energy efficiency resource standards¹, often leading to savings of \$2 to \$5 for each dollar invested².

¹ See American Council for an Energy-Efficient Economy, 2014 State Energy Efficiency Scorecard (Executive Summary) 1, available at <http://aceee.org/files/pdf/summary/u1408-summary.pdf>.

² See Nicholas Bianco et al., World Resources Institute, Seeing is Believing: Creating a New Climate Economy in the United States (Working Paper) 56–57 (2014).

Leveraging Traditional Regulatory Approaches

An effective state plan can draw from traditional regulatory frameworks that are consistent with existing law, while providing power companies with significant compliance flexibility to minimize costs. EPA has enumerated a set of state compliance approaches, all of which require federally enforceable emission limitations to be applied directly to fossil-fuel fired power plants. Such standards can give power companies significant flexibility, allowing averaging and trading of compliance credits among facilities as well as recognizing pollution reductions secured by energy efficiency, renewable energy, and other measures. This streamlined and cost-effective approach has already been demonstrated under the Clean Air Act: under EPA's Cross State Air Pollution Rule (CSAPR), which was upheld by the Supreme Court last year, power plants in over two dozen states are currently subject to emission credit trading programs that could be readily adapted for compliance with the Clean Power Plan.

Moreover, in the final Clean Power Plan EPA has provided resources to help states develop straightforward and effective state plans. These include providing state-specific mass-based emission limits based on the national emission standards; "model rules" for simple compliance plans involving standards that apply directly to power plants but allow sources to access compliance credit trading to provide flexibility and cost-effectiveness; and guidance for states to develop mutually compatible plans that will enable power companies to trade compliance credits with each other across state lines and further reduce the costs of compliance.

Working with Energy Regulators

The state plan approach described above fits comfortably with the traditional relationship between power companies and state energy and environmental regulators. As with other Clean Air Act emissions standards, the emission standards required by the Clean Power Plan will generally be implemented by state environmental regulators, following regulatory approaches that already apply to power plants in a number of states.

When power companies begin to make the investment and resource decisions necessary to comply with those emission standards, they will engage directly with their economic regulators (public utility commissions (PUCs), co-op boards, municipal governments) as they have historically to ensure that environmental standards are achieved smoothly and cost-effectively. Following the enactment of the Acid Rain Program in the early 1990's, for example, many state PUCs took action to ensure power companies could participate effectively in compliance credit trading systems for sulfur dioxide³. More recently, PUCs have worked with power companies to facilitate compliance with CSAPR, the Clean Air Interstate Rule, National Ambient Air Quality Standards, and other environmental requirements.

Building on State Progress

Compliance with state plans can leverage the array of state initiatives and economic trends that have already set many states and power companies on a course toward meeting their carbon pollution limits under the Clean Power Plan. Nationwide, the power sector has already reduced its emissions to approximately 15% below 2005 levels. Sixteen states reduced carbon pollution from their existing power plants by at least 25 percent between 2005 and 2012 – with nine states reducing their emissions by more than 40 percent.

The Clean Power Plan provides a flexible and familiar framework for accelerating this progress, and for catalyzing investments that will drive innovation, job creation, and economic growth across the country. States that act fastest to reduce carbon pollution – leveraging the effective regulatory approaches that have already been successfully applied to other pollutants from the power sector – will be the first to realize these important opportunities.

³ See Ron Lile & Dallas Burtraw, *State-Level Policies and Regulatory Guidance for Compliance in the Early Years of the SO₂ Emission Allowance Trading Program* 13–52 (May 1998).