

States weigh options for implementing the Clean Power Plan

Romany Webb May 22, 2015

On June 2, 2014, the U.S. Environmental Protection Agency (EPA) released a [proposed rule](#) limiting carbon dioxide emissions from existing fossil fuel power plants. The proposal, known as the Clean Power Plan, is expected to be finalized within weeks. Even before this occurs, however, many states have already vowed to oppose it. The opposition movement is particularly strong here in Texas. Earlier this month, Texas Governor Greg Abbott expressed “[grave concerns](#)” about the potential economic impacts of the Clean Power Plan, stating that it will destroy jobs and slow growth. Responding to these concerns, state legislators are considering new measures to block implementation of the Clean Power Plan. Ironically, however, these measures could end up increasing the economic burden on Texas.

[As previously reported](#), the Clean Power Plan aims to reduce nationwide carbon dioxide emissions from fossil fuel power plants by 30 percent below 2005 levels by 2030. Opponents of the Plan argue that this will require a fundamental shift in power generation, with coal-fired generating units being replaced by renewable power systems. This will, according to opponents, lead to increased power prices. The extent of any such increase will depend on how emissions reductions are achieved.

The Clean Power Plan sets emissions reductions goals for each state. The Plan does not, however, prescribe how the states are to achieve their respective goals. Rather, the Plan envisages that each state will develop an implementation plan, outlining its preferred method(s) for reducing emissions. The state plans will be subject to EPA approval and, once approved, become federally enforceable. If a state fails to develop a plan, or is unable to secure approval of its plan, the EPA may develop a federal implementation plan.

Despite the risk of federal action, up to twenty states are expected to forgo developing their own implementation plans. The push for states to “just say no” is being led by Senate Majority Leader Mitch McConnell. In an [op-ed](#) published on March 3, the Senator encouraged states to “[t]hink twice before submitting a state plan,” arguing that refusing to do so would undermine the Clean Power Plan and allow more time for it to be challenged in the courts and/or through other means.

Following Senator McConnell’s advice, in April, Oklahoma Governor Mary Fallin signed [Executive Order 2015-22](#) declaring that the state will not develop a plan to implement the Clean Power Plan. The order prohibits Oklahoma’s environmental agencies from developing an implementation plan unless it is determined to be legally required by the Attorney General of Oklahoma or a court of competent jurisdiction.

Similar measures are also being considered in neighboring Texas. [Senate Bill 1761](#), currently before the Texas legislature, would prevent state agencies implementing the Clean Power Plan unless it is upheld by the U.S. Supreme Court. Another legislative [resolution](#) would, if passed, direct state agencies to take appropriate steps to resist implementation of the Clean Power Plan. Under the resolution, agencies would be prevented from adopting a state implementation plan or taking any action that assists in the implementation of a state or federal plan until legally required by the courts.

Unsurprisingly, legislative efforts to prevent development of a state implementation plan have been strongly opposed by [environmental groups](#). These and other groups argue that, if the state does not develop its own plan, it will have to comply with a federally-imposed plan. The federal plan is likely to be less flexible and more costly than any state plan.

The Clean Power Plan outlines four building blocks that the states may use to achieve their emissions reductions targets, namely: (1) heat rate improvements at coal-fired power plants, (2) increased utilization of natural gas combined cycle units, (3) increased use of renewable and nuclear energy, and (4) increased energy efficiency. Additionally, under the Clean Power Plan, the states also have the option of reducing emissions in others ways such as by retiring existing fossil fueled power plants.

Notably however, compared to the states, the EPA can only employ a limited range of emissions reductions strategies. The EPA could not, for example, force a state’s utilities to use more renewable power or invest in energy efficiency. Consequently, any EPA developed plan would likely focus solely on reducing emissions from fossil fueled power plants. Such an approach would be extremely costly. According to one recent [study](#), in Texas, adoption of a federal plan (without renewable energy or energy efficiency measures) would increase electricity prices by 54 percent. In contrast, adoption of a state plan (incorporating all four measures described above) would result in a price increase of just 10 percent.

Recognizing this, many states that oppose the Clean Power Plan are, nevertheless, preparing for its implementation. Such preparations should be allowed to continue in Texas and elsewhere. Indeed, with the cost of federal implementation so high, the states cannot afford to just say no.

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