

Energy Efficiency and the Clean Power Plan

Last week, the EPA released the final version of the [Clean Power Plan](#), the regulation for carbon emissions from existing power plants. While the final version is more stringent nationally than the draft version, for the two states in which SPEER works, the final rule is less stringent, reducing the final emissions levels by 15% for Texas and by 10% for Oklahoma compared to the draft rule.

The EPA also changed the methodology for calculating emissions limits. One of the changes was to remove Building Block 4, the energy efficiency block, from the calculation. However, energy efficiency remains an available compliance strategy. A fact sheet from the White House on the final plan states: “Maintains energy efficiency as a key compliance tool.”

The final rule also delays implementation until 2022 (instead of 2020) and sets far less onerous interim emissions limits; the stringent interim goals applicable in 2020 were one of the primary objections of many states and much of the electric industry. All states must submit at least an initial plan along with a request for up to a 2-year extension by September 6, 2016. Electric generating units (EGUs) located in states that do not submit plans by that date would automatically be subject to a federal plan that EPA will finalize for each state.

Proposed Federal Implementation Plan

Along with the final rule, EPA released two proposed [approaches to federal implementation plans](#) and asked for comment on the proposal. This proposal would apply to any states that do not submit final or initial plans by September 6, 2016, and final plans by September 6, 2018. EPA quotes the Supreme Court in the proposal in asserting that if a state does not submit a plan by the due date, they can issue the federal implementation plan the same day (Sept. 6, 2016). According to the Supreme Court last year: “EPA is not obliged to wait two years or postpone its action even a single day” (EME Homer City v. EPA, 134 S. Ct. 1584, 1601 (2014)).

In addition, the proposed federal plans form the basis for proposed model rules for states to use when drafting state plans. EPA will finalize one or both model rules by summer of 2016, and will issue federal plans as needed for individual states.

The proposed federal plans would impose limits on generating units. While EPA recognizes that a mass-based plan would be simpler to administer, the agency is taking comment on both a rate-based and mass-based federal plan, with the intention to implement one or the other for all states subject to a federal plan. Under a mass-based system, a state would have a total emissions limit under which they must stay and those limits would be translated to individual electric generating units. Credits or allowances could then be sold by generators under their limit and purchased by those that are over. EPA also proposes that all states that choose not to submit a state plan would be lumped together in a multi-state trading system. Any states submitting compliant state plans that include appropriate linkages could also participate in this trading system. This could be very lucrative for Texas and Oklahoma, states with high renewable energy potential, abundant natural gas, and above-average energy efficiency

opportunities.

If generators prefer a different approach than the federal proposal, they would need their states to submit an initial plan and request an extension by September 6, 2016 in order to submit a final plan on or before Sept. 6, 2018. If a state does not submit a plan and instead accepts the federal plan, it can later submit a state plan that, if approved, would replace the federal plan.

Energy Efficiency Would Keep Costs Down

Whether or not a state submits its own plan, energy efficiency can play a part to reduce compliance costs. In fact, most models show that with energy efficiency included, consumers' bills will be lower under the Clean Power Plan than in the absence of the Plan. Note that rates would be higher but bills would be lower due to the aggregate energy savings provided by efficiency.

If states choose to submit a plan, they could include any number of different efficiency programs and initiatives including: building energy codes (Texas adopted a modified version of the 2015 code during the last legislative session), state building efficiency efforts (Oklahoma has a 20% reduction by 2020 goal in statute), CHP (Texas has the largest installed base in the country), financing programs (the Texas Legislature has passed PACE enabling legislation), and more. If a state submits a plan based on what EPA calls "state measures," it can then use the mass based limits in the model federal implementation plan as a backstop. In other words, a state could submit a plan highlighting a mix of existing and new renewable energy and energy efficiency programs and policies. If the state stayed under its emissions limit, the state would be deemed in compliance. If the state went over its emissions limit, then a backup plan would go into effect (this could be the federal plan or something else created by the state and approved by EPA). EPA made clear that under a state measures approach with a backstop plan, the state measures would be not federally enforceable. States would not be turning over regulation of their renewable energy and energy efficiency programs to EPA, even if they did not meet compliance. Instead, the federal plan with a mass based limit placed on electric generating units would go into effect.

Those in the efficiency industry should note that EPA also issued [guidance for Evaluation, Measurement, and Verification \(EM&V\)](#) to ensure that efficiency used for compliance achieves verified results. They have also asked for comment on this EM&V guidance.

What's Next?

Oklahoma, Texas, and many other states have made it clear they will sue the EPA over the legality of the Clean Power Plan. The Courts will rule in time on the merits of these suits; no one knows how long that might take. The electric industry, however, is beginning to prepare for compliance. While the comment period for the final rule is over, the EPA is still seeking comment on EM&V and the federal plan (see previous links).

SPEER will provide information for policymakers and industry throughout the next year leading up to the deadline for submittal of initial plans. Whether states submit their own plans or instead opt for a federal implementation plan, we will work to ensure that energy efficiency is a key part of compliance strategies.

For more information, see our [Energy Efficiency and Air Quality](#) page, follow us on [Twitter](#) or [Facebook](#), or become a member and join us for member-only webinars on utility programs and policy updates, including on the Clean Power Plan.

You can also join us at the SPEER Member Retreat September 23-24 in Austin. For details, please email dlewin@eepartnership.org.

And you can find SPEER at these upcoming events:

[Building PACE in the Valley](#), August 19-21, Isla Grand Hotel, South Padre Island

[ACEEE Conference on Energy Efficiency as a Resource Conference](#), Little Rock, Arkansas, September 20-22

[Clean Air Through Energy Efficiency \(CATEE\) Conference](#) in Galveston, December 1-3, 2015