

Clean Power Plan Proposal: Potential Implications for Tribes

Public Presentation for the National Tribal Air Association (NTAA)
September 5, 2014

Overview

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- ▶ Affected EGUs in Indian Country
- ▶ Request for Comments in Proposal
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- ▶ Comments from Tribes with Affected EGUs or Ties to Affected EGUs
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Clean Power Plan Proposal

- ▶ EPA issued the Clean Power Plan proposal on June 2nd; proposal was published on June 18th
- ▶ Under CAA section 111(d), EPA is proposing emission guidelines for states to follow in developing plans to address greenhouse gas (GHG) emissions from existing fossil fuel-fired electric generating units (EGUs); specifically, we are proposing:
 - ▶ State-specific rate-based goals for carbon dioxide emissions from the power sector
 - ▶ Guidelines for states to follow in developing plans to achieve the state-specific goals
- ▶ Affected EGUs located in Indian country would not be encompassed within a state's CAA section 111(d) plan
- ▶ EPA did not propose goals for areas of Indian country with affected EGUs

BSER and State Goals

- ▶ The state goals EPA is setting do not lay out a set of required mechanisms a state must use to reduce carbon pollution; rather, they are a numeric target that a state must plan to meet through the measures they choose
- ▶ EPA is setting state goals after determining the Best System of Emission Reduction (BSER)
- ▶ Because the power sector is interconnected, EPA determined that a set of 4 types of measures, or “building blocks,” together are the best system to reduce carbon pollution from fossil fuel-fired power plants
- ▶ BSER is made up of 4 building blocks that are already being implemented in some states and can be implemented more broadly across the power system:
 - (1) Measures to make coal plants more efficient
 - (2) Increased use of high efficiency, natural gas combined cycle (NGCC) units
 - (3) Generating electricity from low- or zero-emitting facilities
 - (4) Demand-side energy efficiency

Tribes with Affected EGUs

- ▶ As noted in the proposal, EPA is aware of four potentially affected power plants located in Indian country:
 - ▶ South Point Energy Center, a natural gas combined cycle (NGCC) power plant on Fort Mojave tribal lands within Arizona
 - ▶ Navajo Generating Station, a coal-fired power plant on Navajo tribal lands within Arizona
 - ▶ Four Corners Power Plant, a coal-fired power plant on Navajo tribal lands within New Mexico
 - ▶ Bonanza Power Plant, a coal-fired power plant on Ute tribal lands within Utah
- ▶ The operators and co-owners of the four facilities include investor-owned utilities, cooperative utilities, public power agencies, and independent power producers, most of which also co-own potentially affected EGUs within state jurisdictions
- ▶ We are not aware of any potentially affected EGUs that are owned or operated by tribal entities
- ▶ We recognize that some present and planned actions being taken to reduce criteria pollutants from EGUs in Indian country will result in significant CO₂ emission reductions relative to emissions in the 2012 baseline period used in computing the state CO₂ performance goals in this proposal
 - ▶ A plan currently being implemented at the Four Corners plant to satisfy regional haze requirements calls for reduction of NO_x emissions to be achieved in part by shutting down a portion of the plant's generating capacity
 - ▶ A similar plan has been proposed for the Navajo plant

Request for Comments in Proposal

- ▶ The 120-day comment period for the proposal began on June 18th and will end on October 16th
- ▶ EPA is specifically requesting comment on:
 - ▶ Whether a tribe wishing to develop and implement a CAA section 111(d) plan should have the option of including the EGUs located in its area of Indian country in a multi-jurisdictional plan with one or more states (i.e., treating the tribal lands as an additional state)
 - ▶ Whether a multi-jurisdictional approach for a federal plan
- ▶ The EPA solicits comment on such an approach for a federal plan
- ▶ We invite comment on how the BSER should be applied to potentially affected EGUs in Indian country; we particularly invite comment on data sources for setting renewable energy and demand-side energy efficiency targets
- ▶ For example, a plan currently being implemented at the Four Corners plant to satisfy regional haze requirements calls for reduction of NO_x emissions to be achieved in part by shutting down a portion of the plant's generating capacity, and a similar plan has been proposed for the Navajo plant; see 78 FR 62509 (October 22, 2013)

Comments from Tribes with Affected EGUs or Ties to Affected EGUs

- ▶ Navajo Nation and tribes that have ties with the Navajo Generating Station have provided specific comments
- ▶ Tribes want to make sure that the rulemaking:
 - ▶ Does not interfere with the BART negotiated agreement for Navajo Generating Station (NGS)
 - ▶ Does not impact the mining operation that supplies NGS
 - ▶ Does not increase the cost of treaty water to go up (if the power cost to pump that water goes up)
- ▶ They want to encourage a regional planning approach

Input from Tribes Prior to Proposal

- ▶ EPA conducted significant outreach to tribes and also also offered consultation with tribal officials early in the process of developing the proposal
- ▶ Tribes are not required to – but may – develop or adopt Clean Air Act (CAA) programs
- ▶ Key input and questions from tribes
 - ▶ Benefits of the rule
 - Recognition of benefits to tribes of reducing greenhouse gas and criteria pollutant emissions from power plants
 - ▶ Impacts to and role of the tribes
 - How will the tribes with EGUs fit into the system?
 - How will tribes with alternative energy facilities be factored into the process particularly if the state/ regional goals are being met with shifting to alternative energy?
 - Similarly, how will tribes energy efficiency and demand-side reductions be factored into the process?
 - Where state have trading programs, tribes want to:
 - Make sure states are not getting the credit from emission reductions in Indian country to generate allowances
 - Have access to some of the allowances Where states are using trading programs, tribes, and access to the market
 - ▶ Implementation approaches
 - If the final rule allows for regional approaches, tribes suggested:
 - Using modeling (e.g., e-grid)
 - Having a structure similar to that of the RPOs that includes them in the process and funding to participate
 - Tribes like the idea of a cross-system approach that looks at alternative energy, energy efficiency and transportation sources
 - Tribes would like EPA to provide resources for them to participate in and invest in GHG inventories in Indian country

Comments from Tribes since Proposal

- ▶ Tribes with concerns about the impact of climate change on traditional resources, for instance, loss of important subsistence species either through extinction or migration from areas covered by treaty rights
- ▶ Tribes with income tied to coal mining are concerned about the impact on their communities if demand for coal declines.
- ▶ Tribes with income tied to oil and gas development may see an increase in demand

Next Steps

- ▶ If it determines that a plan is necessary or appropriate, EPA has the responsibility to establish CAA section 111(d) plans for areas of Indian country where affected sources are located unless a tribe on whose lands an affected source (or sources) is located seeks and obtains authority from the EPA to establish a plan itself, pursuant to the Tribal Authority Rule (TAR)
- ▶ EPA intends to publish a supplemental proposal to establish emission performance goals (if it determines that such action is necessary or appropriate) covering the four potentially affected power plants identified, as well as any subsequently identified similarly situated power plants
- ▶ EPA intends to take final action on that proposal by June 2015
- ▶ If a tribe does seek and obtain the necessary authority to establish a plan itself, it is EPA's intention that the tribe would have flexibility to develop a plan tailored to its circumstances, in the same manner as a state, to meet CO₂ emission performance goals that would be established by the EPA based on application of the BSER to that area of Indian country

Schedule

Action	Date
Publish Clean Power Plan proposal	June 18, 2014
End of 120-day comment period for proposal	October 16, 2014
Issue a supplemental proposal	October 2014
Issue final Clean Power Plan	June 1, 2015

On-going Outreach and Consultation

- ▶ Prior to signature on the proposal:
 - ▶ NTF brainstorming session
 - ▶ Listening sessions and webinars
- ▶ On the day of signature:
 - ▶ Calls were made to all four tribes with EGUs, tribes with interest in NGS
 - ▶ Tribes were invited to call with states to walk through the proposal
 - ▶ White House sponsored call for tribal leaders
- ▶ NTAA calls and webinars
- ▶ Letters offering consultation were sent to all tribes
- ▶ Consultation with:
 - ▶ Ute Tribe, Crow Nation, the Mandan, Hidatsa and Arikara Nation (three affiliated tribes of Ft. Berthold) occurred in July
 - ▶ Ft. Mojave occurred in August
 - ▶ Navajo Nation in September
- ▶ After the supplemental proposal there will be a public hearing and consultations will be offered to all tribes

APPENDIX

Details on Calculated State Goals

$$\frac{\text{State CO}_2 \text{ emissions from covered fossil fuel fired power plants (lbs)}}{\text{State electricity generation from covered fossil plants + RE + nuclear}_{ar\&UC} + \text{EE (MWh)}} \quad \left. \vphantom{\frac{\text{State CO}_2 \text{ emissions from covered fossil fuel fired power plants (lbs)}}{\text{State electricity generation from covered fossil plants + RE + nuclear}_{ar\&UC} + \text{EE (MWh)}}} \right\} \text{Basic formula for state goal}$$

- The numerator is the sum of CO₂ emissions at covered fossil fuel-fired power plants in that state
- The denominator is electricity generation in the state, factoring in megawatt hours from fossil fuel power plants plus other types of power generation like renewables and nuclear, as well as megawatt hour savings from energy efficiency in the state
 - More specifically -- this includes covered fossil sources, existing and new renewable energy (but excluding existing hydro), 6% of the nuclear fleet's generation, and EE accounted for as zero emitting MWh
- No single fossil fuel-fired unit has to meet any of these goals