THE ROLE OF STATE LEGISLATURES IN CLEAN POWER PLAN COMPLIANCE

111(d) Federal Clean Power Plan Subcommittee
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Overview

- The State Legislative Role
- Legislative Responses
- NCSL Resources
The State Legislative Role

State legislative involvement may be desired or required to:

- Ensure the planning process includes all stakeholders and that they work together to protect the interests of ratepayers.
- Pass policies that may be integral to executing a least cost compliance plan, such as energy efficiency requirements, streamlined transmission planning, and distributed generation policy.
- Craft plan components that create enforceable policies that cover IOUs as well as municipally and cooperatively owned utilities.
- Allow multi-state collaboration and trading as well as participation in emissions credits auctions.
- These decisions effect reliability, cost and economic development.

Timeline

Clean Power Plan Timeline

- **Summer 2015**
  - August 3, 2015 - Final Clean Power Plan

- **1 Year**
  - September 6, 2016 – States make initial submittal with extension request or submit Final Plan

- **3 Years**
  - September 6, 2018 - States with extensions submit Final Plan

- **7 Years**
  - January 1, 2022 - Compliance period begins

- **15 Years**
  - January 1, 2030 - CO₂ Emission Goals met
Critical Decisions for State Policymakers and Regulators

*Multi-State Emissions Credit Trading* A market mechanism that allows flexibility in both *where* and *when* CO₂ reductions occur and allows utilities/generators to develop system-wide compliance strategies rather than meeting limits at every facility.

- **Multistate Market Participation or “Go it Alone?”**
  - Analysis has shown that costs are far higher and that reliability may be a larger issue if states go it alone
  - Utilizing larger multi-state markets will likely reduce the burden on states with high reduction targets, lowering pressures for coal retirement in those states
  - Low cost states also “win” by selling emissions credits
  - State specific approaches may lead to more dramatic shifts in the local energy mix, requiring more infrastructure and reliability upgrades
  - The grid is regional and actions in one state can effect reliability and compliance options in another
  - Wider market will lower total cost since it allows more buyers and sellers, more resource diversity
Critical Decisions for State Policymakers and Regulators

Mass or Rate Based Compliance?

- Critical for unlocking the savings of multi-state collaboration
- Likely to effect the cost of administration and compliance.
- Rate-based tracking and trading is far more complex
Critical Decisions for State Policymakers and Regulators

- Which combination of solutions and policies are best?
  - Efficiency, renewables, nuclear energy, fuel shifting, buying credits

- Who will be involved in crafting the plan?
  - Plans to cost-effectively reduce carbon emissions will require measures outside traditional pollution control approaches
  - A plan that minimizes cost to the rate payers and maintains reliability of the grid will require close coordination with many stakeholders: utility commissions, energy offices, utilities, state legislators, ISO/RTOs, Industry
Allowance Distribution

The method of allowance distribution is an important decision that will influence compliance costs, ratepayers and generators.

- Allocation
  - What entities should receive allowances -- many stakeholders will be lobby for approaches that benefit them
  - Can create windfall profit which raises cost of compliance

- Auction
  - Generates revenue that can be used to compensate ratepayers and/or fund efforts that will cost effectively reduce CO2, such as energy efficiency
  - Utilizes free market principles to determine prices and allocate resources, which may reduce compliance costs
Support and Opposition

In 2014, at least 23 states introduced 53 bills and resolutions.
- At least 10 bills and 20 resolutions were passed.

In 2015, at least 32 states introduced 94 bills.
- At least 9 bills and 12 resolutions were passed.

2015 Bills

2015 Resolutions

Legislative Activity: Themes

- State authority and flexibility
- Legislative approval or review of state plans
  - Introduced in 25 states; enacted in 9 states
- “Impact” reports
  - Introduced in 18 states; enacted in 6 states
- Prohibiting state plan development until legal resolution
  - Introduced in 5 states; enacted in 0 states.

State Examples: Arkansas (2015)

- States submitting a state plan is the preferred method of compliance.
- Requires the Arkansas Department of Environmental Quality to develop reports.
  - A report with the Public Service Commission on the regulation’s impacts to affordability, financial impacts, reliability and other factors.
  - A report with the Economic Development Commission on consumer impacts.
- Requires approval by the legislative council or the governor of a state plan.
- Establishes a rate and reliability safety valve by prohibiting “significant” rate increase or “unreasonable” reliability risks.
- Establishes an annual evaluation on the impact to energy-intensive-trade-exposed industries and leakage that allows for revision of a state plan (triggering the approval process again).

State Examples: North Dakota (2015)

- Requires legislative management to conduct a study during the 2015-2016 interim on the impacts and costs of the CPP.
  - Establishes required components in the study, including reliability, ratepayer impact, feasibility and other factors.
- Results from the study will be presented when the legislature convenes in 2017.

State Examples: Pennsylvania (2014)

- Requires the Department of Environmental Protection to receive approval from the General Assembly for a state plan.
  - The state plan will be proposed as a resolution in each chamber. If either chamber disapproves of the resolution, DEP must revise the plan and resubmit it to the General Assembly.
  - Allows for default approval if no action is taken in a specific timeframe.
- Determines actions the DEP must take for developing a plan including public hearings, considerations to include, least-cost approaches

NCSL Resources

- NCSL Energy Homepage
  - Climate and Energy Homepage: free publications, webinars and presentations on the CPP
  - States’ Reactions to EPA Greenhouse Gas Emissions Standards: legislative tracking and overview document
- NCSL’s Environment and Energy Legislative Tracking Database
- Plugged In: NCSL’s Energy Newsletter
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