LEGAL UPDATES

PUBLISHED: OCTOBER 29, 2015

EPA's Clean Power Plan Rules Published in Federal Register

Services

Environmental

Public Policy, Regulatory, & Government Affairs

On October 23, 2015, the U.S. Environmental Protection Agency (EPA) published in the Federal Register its final rules implementing the Clean Power Plan's goal of significantly limiting carbon dioxide emissions from existing, new, modified and reconstructed fossil fuel-fired electric generating units (EGUs). EPA also published its proposed model state trading rules and federal plans for implementation of the required emission reductions from existing EGUs.

The rules were finalized on August 3, 2015, and published on EPA's website at that time. A summary of the rules is discussed in our previous client alert.

What This Means to You

Implementation of the final rules could significantly impact fossil fuel-fired EGUs, low- or zero-carbon generation EGUs and businesses with high energy demands. With respect to the emission standards relating to existing EGUs, EPA acknowledges that the delivered natural gas price is projected to increase by an average of 7 percent from 2022 to 2030 and that projected wholesale electricity prices are projected to increase by less than 4 percent over the same period. With respect to the emission standards for new, modified and reconstructed EGUs, EPA states that it does not anticipate that the rules will affect the price of electricity, but it bases this conclusion on the assumptions that the owners of newly constructed facilities "will likely choose technologies that meet the standards even in the absence of this rule, due to existing economic conditions as normal business practices," and that few units will trigger the modification and reconstruction provisions.

The final rule for new, modified and reconstructed EGUs took effect on October 23, 2015, and the final rule for existing EGUs will take effect December 22, 2015. However, any person or business that is "adversely

© 2026 HUSCH BLACKWELL LLP. ALL RIGHTS RESERVED

affected or aggrieved" by EPA's adoption of the rules can file a petition for judicial review and request that the court postpone the effective date pending review. At this time, 26 states and 15 industry groups have filed challenges to the rule, and additional challenges will almost certainly be filed.

Submission of comments about the proposed rate- and mass-based model trading rules could impact the development of your state's plan, as EPA has indicated that state programs adhering to the model trading rules would be presumptively approvable. In addition, submission of comments to EPA regarding the proposed rate- and mass-based federal plans for adoption on a state-by-state basis could significantly impact regulation of EGUs in your state, as the federal plan will control if the state decides not to develop an implementation plan or if its proposed plan is not approved by EPA. Comments must be submitted by January 21, 2016.

Contact Us

For additional information on how the proposed rules might impact your business or your clients, or if you'd like assistance filing litigation on the final rules or comments on the proposed model trading rules and federal plan, please contact Alison Nelson at 303.749.7263 or Sarah Mathews at 816.983.8398, both members of Husch Blackwell's Energy & Natural Resources team.

© 2026 HUSCH BLACKWELL LLP. ALL RIGHTS RESERVED