

ALERTS

EPA Proposes Rule To Cap Carbon Emissions From New Power Plants

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On Friday, Sept. 20, 2013, the U.S. Environmental Protection Agency proposed rules to regulate greenhouse gas (GHG) emissions from new fossil fuel-fired electric generating units (EGUs). The proposed rule does not apply to modified or reconstructed fossil fuel-fired EGUs, only new sources.

The proposed rule effectively requires any new coal-fired EGUs to use carbon capture and storage (CCS) to reduce a portion of their GHG emissions. For natural gas-fired EGUs, the proposed GHG emission limit essentially meets the emission rate currently achieved by new combined cycle combustion turbines. EPA is accepting comments on whether simple cycle combustion turbines should be subject to the new rule, although as a practical matter the agency anticipates that few simple cycle combustion turbines would be subject to the rule because the rule only affects EGUs that sell more than one-third of their potential electric output to the grid. Many simple cycle combustion turbines would not meet that applicability requirement.

The specific standards EPA is accepting comments on are as follows:

- **Proposed limits for coal-fired EGUs and integrated gasification combined cycle (IGCC) units are:**
 - 1,100 lb CO₂/MWh gross over a 12-operating month period, or
 - 1,000-1,050 lb CO₂/MWh gross over an 84-operating month (7-year) period
- **Proposed limits for natural gas-fired EGUs are:**
 - 1,000 lb CO₂/MWh gross for larger units (> 850 mmBtu/hr)
 - 1,100 lb CO₂/MWh gross for smaller units (? 850 mmBtu/hr)

These standards are slightly different than a similar proposed rule EPA published on April 13, 2012. EPA received over 2.5 million comments on the April 2012 proposal, which would have required both coal-fired EGUs and natural gas-fired EGUs to meet a 1,000 lb CO₂/MWh emission limit. Further, EPA originally planned to exempt simple cycle gas-fired units, but that exemption is now in question. EPA re-proposed the rule to take account of these changes from its April 2012 proposed rule.

Despite EPA's attempt to bolster its reasoning in this new proposed rule,

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industry groups have sharply criticized it. The Clean Air Act requires EPA to set standards based on technology that “has been adequately demonstrated.” The Edison Electric Institute has stated, “The new proposal sets a separate standard for coal-based units and requires the use of carbon capture and storage (CCS) technology, which is neither adequately demonstrated nor economically feasible.” Several new coal-fired power plants that are coming online in the next several years are planning to store their carbon dioxide in oil and gas fields as part of enhanced oil and gas recovery efforts, but there is little data on existing commercial-scale efforts to trap carbon dioxide underground. Further, in states without a robust oil and gas industry willing to buy carbon dioxide, it is unclear whether carbon dioxide storage in other geological formations, like saline aquifers, will eventually be economically feasible.

While the proposed rule is likely to grab headlines, its near-term effect on the electricity sector may be less dramatic. EPA reports that the Energy Information Agency expects most new electricity generation in the near future to come from natural-gas combined cycle units because the cost of natural gas is expected to remain low and a number of other recent environmental rules have already increased the cost to build new coal-fired EGUs (e.g., rules regulating mercury emissions).

Comments on the proposed rule are due within 60 days after publication of the proposed rule in the Federal Register, and publication is expected soon. Comments submitted in response to the April 2012 proposed rule will not be considered in this new rulemaking, so many interested parties will need to resubmit their comments to EPA.

A copy of the proposed rule is available on EPA’s website here: <http://www2.epa.gov/sites/production/files/2013-09/documents/20130920proposal.pdf>

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