

Client Alert

Current Issues Relevant to Our Clients

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Environmental Protection Agency Issues Proposed Rule on Carbon Emissions from New Plants

On September 20, 2013, the Environmental Protection Agency (the “EPA”) proposed regulations aimed at reducing carbon pollution from new fossil-fuel power plants (the “Proposed Rule”). The Proposed Rule, which replaces an April 2012 proposal that was never finalized by the EPA, sets separate emission standards for natural gas and coal-fired power plants. For natural gas-fired stationary combustion units, the Proposed Rule sets carbon limits at: (i) 1,000 pounds of carbon dioxide per megawatt-hour for plants that produce more than 850 million Btu per hour; and (ii) 1,100 pounds of carbon dioxide per megawatt-hour for plants that produce less than or equal to 850 million Btu per hr. For fossil fuel-fired utility boilers and integrated gasification combined cycle units, the Proposed Rule sets limits at either: (i) 1,100 pounds of carbon dioxide per megawatt-hour over a twelve (12) month operating period; or (ii) 1,100-1,050 pounds of carbon dioxide per megawatt-hour over a seven (7) year operating period. If finalized, these would be the first national carbon emission standards for such sources.

Although the emission standards set forth in the Proposed Rule for coal plants are slightly less stringent than the standards that the EPA included in its previous proposal, the Proposed Rule is likely to face similar criticism from industry. The EPA originally proposed to set a single carbon limit for both coal and natural gas plants at 1,000 pounds per megawatt hour—a limit that was largely based on the performance of new natural gas plants. That proposal, however, generated over 2.5 million comments and drew strong criticism from industry that it was both technically and economically infeasible to meet the proposed limits for new coal-fired units. The Proposed Rule increases carbon limits by only about 100 pounds per megawatt-hour for these sources and, like the EPA’s prior proposal, would require that new coal plants utilize carbon capture and storage technology.

The Proposed Rule is the first step toward regulating carbon emissions from power plants under President Obama’s June 2013 Climate Action Plan (the “Plan”). The Plan aims to reduce greenhouse gas emissions to 17% by 2020, in large part by requiring reductions from the power and transportation sectors. In a memorandum issued pursuant to the Plan, the President directed the EPA to next propose standards to regulate carbon emissions from existing fossil fuel-fired power plants. The President directed the EPA to propose such standards by June 2014 and to issue final standards by June 2015.

The EPA will accept comments on the Proposed Rule for 60 days after publication in the Federal Register.

For More Information

To discuss any issue covered in this client alert, please contact Kristin Parker at (312) 845-3481 or kparker@chapman.com, or visit us online at Chapman.com.

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