Topics

• CO₂ Emission Standards
  • New Sources
  • Existing & Modified Sources

• Litigation Update
  • Greenhouse Gas Tailoring Rule
  • Cross State Air Pollution Rule
  • EGU MATS Rule
New Source Proposal
The Basics

• Proposal issued on Sept. 20, 2013
• Applies to coal and natural gas EGUs
• Applies to new sources only – not to modified or reconstructed
• Comment period ended May 9, 2014
CO$_2$ New Source Standards
New Coal EGUs

- Requires CCS for all new coal EGUs
  - 1,100 lb CO$_2$/MWh over a 12-month period, or
  - 1,000-1,050 lb CO$_2$/MWh over a 7-year period

- Same limit for coal boilers and integrated gasification combined cycle units

- Will apply to any coal unit that commences construction after January 8, 2014
EPA’s Rationale

• Partial CCS is the “Best System of Emission Reduction”
  • NSPS as technology forcing standard
• Basis for CCS as BSER
  • 4 planned power plants
  • Pilot scale demonstrations
  • 2 synfuel manufacturing facilities
  • Literature
• Note: there are no commercial-scale power plants operating with CCS anywhere in the world
Implementation Issues

State regulatory framework gaps
Reporting rules uncertainty
Permitting considerations
Third-party compliance issues
Geologic research needs
Inadequate infrastructure
Next Steps

• CAA requires final rule by Jan 2015

• >2 million comments likely submitted

• Already being litigated by Nebraska under Energy Policy Act of 2005

• Additional lawsuits will be filed once final
Modified & Existing Source Standards: Schedule

- **6/2/14** Proposed standards for modified sources and guidelines for existing sources
- **6/1/15** Final standards for modified & guidelines for existing sources
- **6/30/16** States to submit plans for implementing guidelines
Existing Source Standards
EPA v. State Roles

- CAA sets narrower role for EPA for existing sources

- EPA establishes guidelines based on BSER *for categories and subcategories* nationwide

- States have broad flexibility to meet the guidelines and set emission standards for individual sources, taking into account remaining useful life and other relevant factors
Existing Source Standards
Coal Units

• No add-on technology for coal plants to reduce CO$_2$

• Inside the Fence / Outside the Fence?
  • Inside the Fence: BSER for existing coal units should be focused on cost-effective measures available at each source
  
  • Outside the Fence: Examine BSER for the utility system in the state as a whole
    ◦ Define “cost-effective” as more renewables, gas, and DSM
    ◦ Offer “flexible,” “market-based” approaches to obtain greater emission reductions
Phased Approach?

- EPA may propose two phases
  - Phase 1: Inside the fence
  - Phase 2: Outside the fence

- Regardless, reduction goals must be consistent with utility practice and experience
Proposed Rule
Key Issues

• Basis and amount of reductions
• Number of options available to states
• Setting a baseline
• Rate v. Mass
• Regional trading options
• Timing of state plan development
• Length of compliance period
Additional Concerns

- Non-emitting source issues
- Maintenance of grid reliability / CO$_2$ dispatch
- Legal challenges to New Source standards
- NSR permitting impacts
Opportunities for Involvement

• Submit comments to address key issues and concerns

• Participate in state and trade organization resolutions

• Coordinate efforts
  • State environmental agencies, PUCs, State AGs
  • Utility coalitions
  • Educate and collaborate with non-utility stakeholders

• Meet with regional & federal EPA staff
Supreme Court Update

• Greenhouse Gas Tailoring Rule
• Cross State Air Pollution Rule (CSAPR)
• Mercury and Air Toxics Standards (MATS)
GHG Tailoring Rule

• “Tailors” PSD program for GHGs

• Upheld by DC Circuit; rehearing denied (key dissenting opinion)

• Supreme Court review granted last fall
  • One narrow but important issue – does regulation of mobile sources require stationary source regulation?
  • Oral argument held February 24
  • Decision expected by June

• Unlikely to change EPA’s course for CO$_2$ NSPS
Cross-State Rule

• Addresses interstate transport of NOx & SO₂
• Vacated by D.C. Circuit in Aug. 2012
• Supreme Court granted review on two issues
  • EPA’s authority to impose a “FIP”
  • EPA’s consideration of cost in setting emission reductions
• Supreme Court upheld CSAPR, reversed and remanded back to D.C. Circuit
  • Uncertainty regarding stay and compliance date
  • EPA may seek voluntary remand or scrap CSAPR
EGU MATS

- Regulates hazardous air emissions from coal-fired EGUs
- Finalized in 2012, compliance set to begin April 16, 2015
- D.C. Circuit recently upheld MATS
- Judge Kavanaugh dissented, EPA erred by not considering cost in “appropriate and necessary” standard
- Petitioners may seek rehearing or Supreme Court review
Questions?

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