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Power Over Pollution: State Compliance Strategies for EPA's Clean Power Plan

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How far do states have to go to comply with the EPA's proposed carbon emissions rule? The answer can vary a great deal, depending on the state and its particular combination of EPA requirements and legal framework. Ari Peskoe, Energy Law Fellow at Harvard's Environmental Policy Initiative, presented his research on possible implementation strategies for Pennsylvania and Florida, whose very different situations give an idea of how 111(d) implementation may look on a state-by-state basis.

As Peskoe explained, the EPA has set individual carbon emission rate targets for each state—targets that may be met by some combination of reducing carbon emissions from power plants, increasing renewable and nuclear energy, and increasing energy efficiency. States will be required to submit compliance plans to the EPA, which will need to include specific and enforceable measures for compliance.

Peskoe examined the situations of Pennsylvania and Florida, two states that are interesting contrasts because in one (Pennsylvania) the electricity market is competitive and open access, and in the other (Florida) electricity is provided by vertically-integrated utilities. Peskoe asked how close each state is to being able to comply using existing laws and regulations. The answers he found seem to have more to do with the stringency of proposed EPA requirements and existing environmental and energy laws than with whether the electricity markets are competitive or vertically integrated.



In the case of Pennsylvania, Peskoe argued, a compliance plan could be reached with only minor amendments to existing legislation. Pennsylvania's existing Air Pollution Control Act provides state environmental regulators with the authority to cap coal plant carbon emissions (at, say, a certain number of tons per year), and may also allow regulators to oversee an emission allowance trading program in the Commonwealth. In addition, Pennsylvania's existing renewable energy and energy efficiency laws could be amended to make them compatible with 111(d) requirements. While not necessarily the most cost-effective approach to compliance, Peskoe said, this is an approach that would require little in the way of new legislation.

In Florida, in contrast, compliance seems likely to require greater legislative action. In part, Peskoe explained, this is due to a relatively aggressive EPA goal for Florida—one that cannot be met by simply closing older coal-fired plants. Florida regulators have approved the construction of two new nuclear reactors, but this also will not be sufficient to meet EPA's goal. Existing legislation related to renewable energy and energy efficiency are likely not specific enough to meet the EPA's criteria of "enforceable" requirements and have led regulators to set weak targets that fall short of EPA's goal. Thus, for Florida, compliance with EPA's 111(d) rule may require significant new legislation or major new commitments from Florida utilities to boost renewable energy and energy efficiency, Peskoe concluded.

Peskoe spoke as part of the Kennedy School's Energy Policy Seminar Series, which is jointly sponsored by the Energy Technology Innovation Policy research group of the Belfer Center and by the Consortium for Energy Policy Research of the Mossavar-Rahmani Center on Business and Government.