Insight

The Clean Power Plan Explained

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Summary

- The Clean Power Plan (CPP) is a regulation from the Environmental Protection Agency (EPA) intended to cut emissions from fossil fuel power plants and increase renewable power generation.
- The Energy Information Administration (EIA) expects the CPP to reduce GDP by 0.15-0.25 percent over a 25-year period, and have a cumulative impact of $1 trillion.
- Questions have been raised on whether the EPA has the authority to issue such a regulation. Energy stakeholders would benefit from greater transparency and participation in the rulemaking process.

Introduction

On June 2nd, the first arguments concerning the legality of the CPP will be heard by the U.S. Court of Appeals for the D.C. Circuit. The CPP is the administration's environmental regulatory capstone, and if implemented as proposed, it would effectively allow the EPA to regulate power sources. This has raised concerns over the regulation's legality, the role of the EPA, and the future of U.S. electricity generation. As the courts prepare to decide on this unprecedented regulation, here is what Americans need to know.

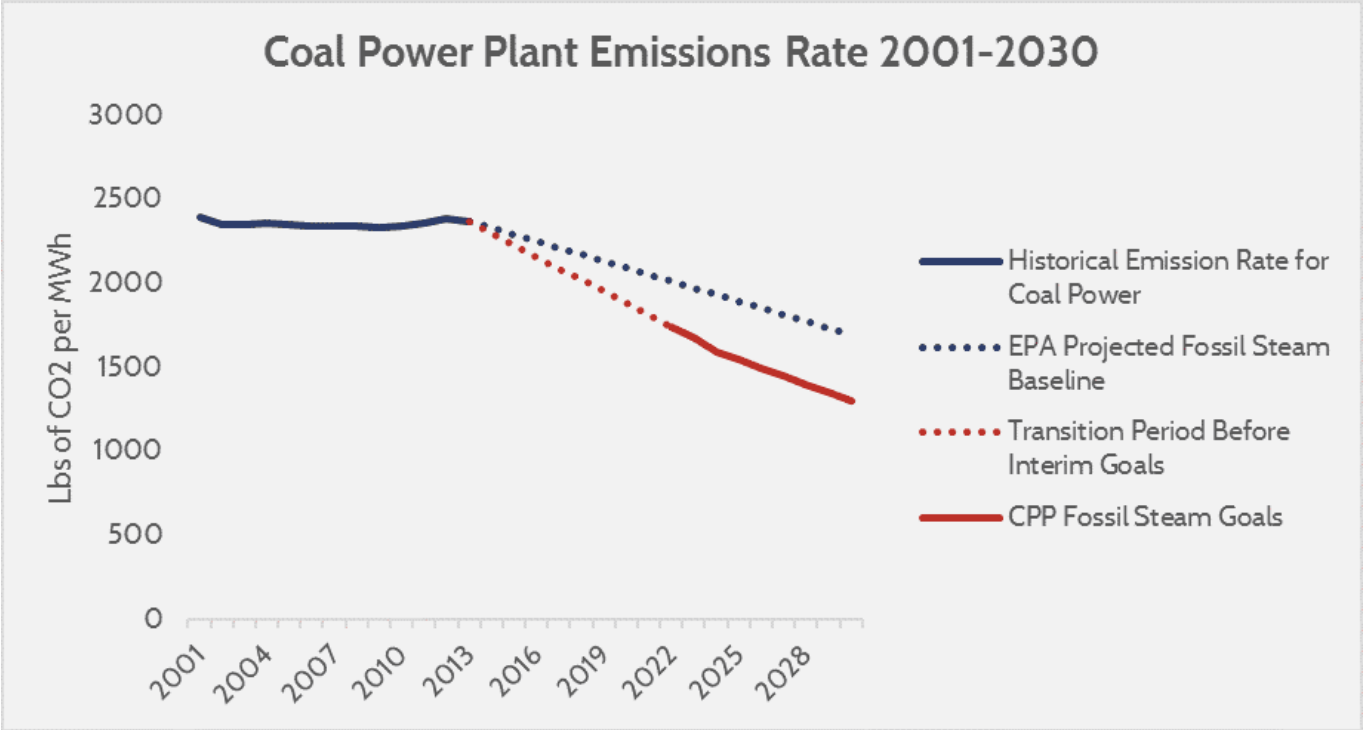
What is the CPP?

The CPP was finalized in August 2015, and will regulate carbon dioxide (CO2) emissions from power plants. The regulation aims to set emission targets for each state, in the form of either emission rate targets or total emission mass targets. If these targets are met, then CO2 emissions from the electricity sector would decline by about 32 percent (about 10

percent of total U.S. CO2 emissions).

Does CPP Set Realistic Goals?

Achieving the emission targets set forth by the CPP, with America's existing electricity sources, is technically impossible. A third of America's electricity comes from coal power, which has an emissions rate in excess of 2,000 lbs. per megawatt hour—far higher than the CPP's target of 1,305 lbs./MWh. The graph below illustrates just how far emissions from coal plants would have to fall in order to reach the emission targets of the CPP.



Source: EIA Data, and EPA's Clean Power Plan Technical Support Documentation.

To achieve these goals, the EPA expects utilities to increase renewable energy usage. The technical capability of states to implement so much renewable power is not settled. A report from the Chamber of Commerce concluded that the EPA used outlier data to gauge renewable growth, and set targets that are 28.5 percent more stringent than they should be. The same report also found that 13 states are expected to implement more renewable energy than they have the technical capacity to achieve.

The economic burdens of the regulation are also expected to be significant. The EPA defends the CPP's $8.4 billion annual cost by saying that 52,000 to 83,300 jobs will be created, and electricity bills will fall by around 8 percent. However, previous American Action Forum research shows that the rule will actually result in 125,800 fewer jobs. A separate analysis from the Energy Information Administration (EIA) found that the CPP

would increase consumer electricity costs by a peak of 4 percent, and have a macroeconomic impact of reducing GDP by 0.15-0.25 percent from 2015-2040. This would have a total cumulative impact of around $1 trillion USD.

Does EPA Have The Authority To Implement CPP?

The CPP's reliance on renewable energy growth in order to meet regulatory targets has raised a legal question: does the EPA's regulatory authority extend to the owners of regulated items? The EPA's authority for the CPP is derived from the Clean Air Act's allowance for the EPA to regulate emissions that are harmful to health. A subsequent Supreme Court case in 2007 (Massachusetts et al v. EPA) determined that the EPA is authorized to regulate CO2 under the Clean Air Act. What is not yet determined is if the EPA has the authority to dictate what power sources Americans may or may not use for electricity generation.

Ostensibly, the Supreme Court will decide this. In February, the Court in a 5-4 decision made the unprecedented move to stay the CPP before a case even reached them. The reason for this is unknown. Following Supreme Court Justice Scalia's recent death, it is expected that the Court will be split 4-4 and the decision will rest with the D.C. Circuit Court of Appeals. The D.C. Circuit has been more favorable to environmental regulation than the Supreme Court, and would likely uphold the regulation.

Conclusion

For all of the legal questions surrounding the CPP, utilities continue their preparation to comply with the regulation. Whether in the form of the CPP or some other regulation, power plant owners are making decisions that assume carbon constraints at some point during the 20-40-year lifespan of a power plant. The lack of a clearly defined policy on this matter from the government forces utilities to assume the most stringent scenarios, making for inefficient planning.

The government needs to better define the role of the EPA, what regulations will be present in the future, and provide clarity for market participants. The CPP's finalized rule was far from the initial proposal, surprised obligated parties, and denied stakeholders any voice in the rulemaking process. The administration's attempt to use the Clean Air Act as a vehicle for sweeping regulation on power sources is not an effective way of developing energy policy, particularly as America transitions from energy scarcity to energy abundance.