Insight

Regulatory Provisions of the CLEAN Future Act

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EXECUTIVE SUMMARY

- The Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act includes many provisions that would require federal agencies to issue implementing regulations.
- The most notable of these provisions are requirements that states develop plans to assess and reduce greenhouse gas (GHG) emissions, that the Environmental Protection Agency set limits on GHGs in the transportation sector, and that the Securities and Exchange Commission require climate-related disclosures from publicly traded companies.
- The costs of the bill's regulatory approach are unknown and will depend on the discretion of agencies' implementation of Congress's mandates.

INTRODUCTION

Democratic members of the House of Representatives Committee on Energy and Commerce recently introduced a wide-ranging bill, the Climate Leadership and Environmental Action for our Nation's (CLEAN) Future Act, that aims to address climate change.

The lengthy legislation would put government mandates at the forefront of climate change policies, including setting standards, establishing grant programs to transition to cleaner technologies, and requiring federal agencies to issue a litany of reports and recommendations. The bill also directs agencies to issue regulations as part of this effort.

This analysis explains the most significant regulatory provisions of the CLEAN Future Act, including the mandate that states develop plans to assess and reduce greenhouse gas (GHG) emissions, set limits on GHGs in the transportation sector, require climate-related disclosures from publicly traded companies, and implement a clean electricity standard.

STATE CLIMATE PLANS

The CLEAN Future Act would mandate that states develop plans for how to deal with climate change. It would require states to submit inventories of emissions and sinks to the Environmental Protection Agency (EPA). States also must develop plans to hit certain emissions targets over three evaluation periods that conclude in 2030, 2040, and 2050. These plans would have to specify how a state will reduce emissions, including choosing from regulatory-model options that the EPA will develop. The model options include a climate pollution phaseout program, a performance-based fuels standard, carbon removal strategies, and energy efficiency strategies. The EPA is to issue regulations implementing the inventory requirements within one year of enactment, with other regulations rolling out closer to the evaluation periods.

GREENHOUSE GAS EMISSIONS LIMITS ON TRANSPORTATION

The CLEAN Future Act would require the EPA to set GHG emissions limits on the engines of non-road vehicles, specifically aircraft and locomotives. Regulations on aircraft emissions would separately cover new and in-service aircraft and would be updated on an ongoing basis – and the bill specifically requires each new set of limits to be more stringent than the previous set.

A rule on in-service aircraft is due within one year of the bill's enactment. It would set tiered emissions thresholds based on the capabilities of the engine in question. The lowest of the tiers must meet current internationally accepted emissions levels. Regulations on new aircraft are to be issued within three years of enactment and would cover those units delivered on or after January 1, 2030.

The regulations would supersede an EPA final rule issued in January that set emissions limits on aircraft at internationally accepted levels, but only for newly manufactured aircraft.

The CLEAN Future Act would also require the EPA to set emissions levels from newly built locomotives within one year, and similar to the new aircraft requirements, the emissions levels would be updated on an ongoing basis and must be more stringent than the previous levels.

SEC CLIMATE DISCLOSURES

The legislation mandates the Securities and Exchange Commission (SEC) issue rules requiring publicly traded companies to annually disclose climate risks they have identified, evaluated for financial impacts, and managed or plan to manage. It also requires companies to describe specific actions they have taken to mitigate identified risks. The motivation behind climate disclosures, according to the bill's proponents, is that companies are failing their investors by not disclosing how companies are thinking and dealing with climate change.

The SEC would have two years from the date of enactment to issue regulations mandating disclosures, and the bill directs it to work with agencies such as the EPA and the Department of Energy to help develop these regulations. The SEC recently signaled it would update existing guidance on how publicly traded companies identify and disclose climate risks, which should give further clues on how it would implement the mandate in the CLEAN Future Act.

CLEAN ELECTRICITY STANDARD REGULATIONS

The CLEAN Future Act sets a clean electricity standard that requires retail electricity suppliers to provide an increasing percentage of clean electricity each year beginning in 2023, growing to 100 percent in 2035. An analysis of the legislation's clean electricity standard and its components is available here. The CLEAN Future Act requires the EPA to issue implementing regulations on the clean electricity standard within two years from enactment and to establish a zero-emission electricity credit trading program within one year.

OTHER REGULATORY PROVISIONS

The legislation contains numerous other regulatory provisions. It would codify elements of an Obama-era executive order on environmental justice, specifically an interagency working group and requirements on agencies to integrate environmental justice, or ensuring that certain communities are not disproportionately affected by negative environmental consequences, into their missions. In addition, the CLEAN Future Act would also put a pause on new permits for plastics manufacturing until the EPA develops Clean Air Act regulations for the sector. It would also set standards for the labeling of recyclable plastic products. Last, the bill would require new regulatory schemes aimed at methane and black carbon.

CONCLUSION

The CLEAN Future Act contains numerous provisions that would require federal agencies to issue new regulations to combat climate change. These regulations would directly impact power generation, air and rail transportation, publicly traded companies, and states. While it is too early to assess the possible costs of these new regulatory programs, the mandates are certain to impose costs on the economy.