Clean Power Plan Federal Plan and Model Trading Rules Comment Development

Key Issues and Concepts
On August 3, 2015, EPA released the final Clean Power Plan emission guidelines and the proposed federal plan and model trading rules.

Both rules were published in the Federal Register on October 23, 2015.

The proposed rule contains three key actions:
- Amends the Clean Air Act 111(d) framework regulations,
- Establishes federal plan requirements on affected EGUs in the case where a state does not submit an approvable state plan, and
- Presents presumptively approvable rate-based and mass-based model trading rules

EPA also solicited comments on the Clean Energy Incentive Program through a non-regulatory docket, as well as in the proposed rule.

Comments on the proposed rule are due on January 21, 2016.
ADEQ Comment Development

- ADEQ will consider stakeholders’ views as it develops its comments on the proposed rule.

- ADEQ participated in the development of the Midcontinent States Environmental and Energy Regulators comments on the Clean Energy Incentive Program submitted on December 15th.

- Focus of ADEQ’s comments on the federal plan and model trading rules
  - Reasonable framework for the model trading rules
  - Flexibility of the federal plan
  - Broad opportunities for trading of compliance instruments, and
  - Primacy of the State over air quality programs and the energy system.
111(d) Regulatory Framework Amendments

- EPA Actions on State Plans
  - CAA §111(d) ≠ CAA §110

- Partial delegation and partial state plans
  - Delegation to states is appropriate

- Units that Change Status
  - Units that modify or reconstruct are no longer subject to 111(d).
  - Units that retire, modify, or reconstruct should continue to receive allowances for a limited period.
  - Once allowances are discontinued, those allowances should be redistributed to affected EGUs.
Federal Plan Structure

- Finalization of Federal Plan Approach
  - Finalize prior to due date of state plan initial submittal
  - Keep both options on the table

- Market Liquidity and Trading Linkages
  - Allow trading between federal plan and state plan states with interoperable tracking systems

- Reliability
  - Should be considered in the federal plan

- Permitting
  - Disagree with presumption that all changes to permits under the trading program can be automatically eligible for minor modification procedures
Rate–based Implementation Approach

- Use of Subcategorized Rates
  - Subcategorized rates preferred to state goal or alternate rate

- Multi–year Compliance
  - Multi–year compliance periods preferable to annual compliance requirements

- Eligibility of Measures for ERC Issuance
  - Federal plan should include all low and zero–emitting generation and energy efficiency measures

- ERC Validity
  - Mechanism to safeguard validity of ERCs needed
Mass-based Implementation Approach

- Multi-year Compliance
  - Multi-year compliance periods preferable to annual compliance requirements

- Biomass
  - Allowances should not be required for co-fired qualified biomass

- Allowance Recordation
  - Should occur in a timely fashion to allow for planning by affected EGUs

- Allocation Methods to Address Leakage
  - Methods to address the incentive created for new generation versus existing should not increase the compliance obligation for existing EGUs
Clean Energy Incentive Program

- Commencement Date for Eligible Projects
  - RE and EE projects which commence construction/implementation prior to 2016 should be eligible for the CEIP

- Wind/Solar and Low Income EE Reserves
  - Recommend flexibility rather than setting defined quantities in each reserve

- Distribution of EPA Early Action Credits
  - Support for distribution according to reduction requirements

- State Matching of Early Action Credits
  - Maintaining stringency to account for state issued early action credits problematic, especially under rate-based approach
Questions?

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