

Proposed federal plan and model trading rules—topics for comment

The U.S. Environmental Protection Agency (EPA) signed its proposed Clean Power Plan (CPP) federal plan and model trading rules on August 3, 2015, the same day it signed the final CPP rule. The proposal has not yet been published in the *Federal Register*, but upon publication, EPA will provide a 90-day comment period. The proposed federal plan is intended to address states who do not submit their own CPP plans; the federal plan also provides model rule language (for incorporation, if desired) for states. Model rule language, even if not incorporated by states, indicates presumptively approvable elements that states can use as they develop their own plans.

The proposal provides both rate- and mass-based trading program approaches. The EPA proposes to finalize only one approach (rate or mass) for the federal plan, but finalize both rate and mass rule language as available model trading rules. EPA expects to finalize model trading rule language in the summer of 2016, and federal plans at a later time for states who miss plan-submittal deadlines.

The list below is not intended to serve as an exhaustive/detailed listing of all areas on which the EPA has specifically requested comment on its proposal. The Minnesota Pollution Control Agency (MPCA) is assembling such a list and can share it with interested stakeholders upon completion. The items below are some of the larger potential topics for comment on which the MPCA is particularly interested in receiving stakeholder input.

Topics for comment

- Trading programs as the federal plan approach
 - Rate states can only trade with other rate states; mass states can only trade with mass states
 - Federal-plan states can trade with other federal-plan states as well as with “trading-ready” state-plan states
 - States must use EPA-administered tracking system
 - Banking of credits/allowances is generally unlimited (credits/allowances generally do not expire), but borrowing from future credit/allowance pools is prohibited
- Rate-based approach
 - Subcategorized rates (not blended state rates) to facilitate trading
- Mass-based approach
 - Allocations
 - Based on historic generation or other approaches; federal-plan states can assume control of allocations with a limited state-plan submittal
 - Addressing leakage
 - New source complement to state mass target—size of complement; state-enforceable versus federally enforceable plan elements; OR
 - Output-based set-aside—calculation/distribution methodology; treatment of over- or undersubscribed set-aside allowances; begins in second compliance period; and
 - Renewable energy set-aside—calculation/distribution methodology; treatment of over- or undersubscribed set-aside allowances; evaluation, monitoring and verification (EM&V)/measurement and verification (M&V) requirements; begins in first compliance period

- Emission rate credit (ERC) generation/activities eligible for renewable energy allowance set-asides
 - Disparate treatment between federal plan and model rules in terms of eligibility
 - Federal plan limited to designated categories of affected EGUs (facilities complying with subcategorized rates; generation shifting to existing natural gas combined cycle units) certain renewable energy resources (wind, solar, geothermal, hydropower), and new nuclear generation/capacity uprates. Renewable and nuclear measures must have the ability to provide data from a revenue quality meter.
 - Model rule allows the above, as well as all other ERC-eligible generation from final CPP rule (including energy efficiency, biomass, combined heat and power, waste heat power, etc...)
 - Restricting ERC issuances for emissions reductions located in a mass-based state (besides renewable energy, which must be covered by power purchase agreement or similar instrument)
 - Methodology for calculating/generating gas-shift ERCs (GS-ERCs)
 - Size limitations for projects that can generate credit/allowances
- Reliability—no reliability safety mechanism proposed for federal plans
- Clean Energy Incentive Program (CEIP)
 - Automatic participation for federal-plan states
 - No banking of matching allowances/credits
 - Size of set-aside/matching allowance pools
- Administrative elements
 - ERC issuance/allowance allocation schedules
 - Compliance schedules
 - EM&V and M&V procedures; avoiding double counting of resources
 - Error correction/administrative review
 - Procedures to replace federal plan with state plan

Tentative schedule for MPCA comment development

Noting that the proposed federal plan/model rules will have a 90-day comment period upon publication, the earliest comment due date would be early January

October 2015: Determine general topics for comment, any known preferences

November 2015: Draft initial comments, solicit stakeholder feedback, and revise comments as appropriate

December 2015: Agency review and routing

January 2015: Submittal to EPA