

Regulations for a Clean Power Sector Summary of Panel Discussion - March 2022

On March 9, 2022, OurEnergyPolicy, a non-partisan organization, hosted a webinar on the EPA's "sector-wide roadmap," potential legal challenges, and the implications for the power industry. This paper briefly summarizes the key points made by the panelists. Find the recording [here](#).

PANELISTS



Dale Bryk

Former Deputy Secretary,
Energy and Environment
The State of New York

Moderator



Emily Sanford Fisher

General Counsel,
Corporate Secretary, &
Senior VP

Edison Electric Institute



Carrie Jenks

Executive Director
*Harvard Environmental &
Energy Law Program*



Ben Longstreth

Senior Attorney
NRDC

Issue Scope

- The EPA is currently preparing the next generation of Clean Air Act regulations targeting greenhouse gas emissions.
- Many experts believe these regulations will be a comprehensive "sector-wide approach" with respect to GHG emissions.

Importance to the Power Sector

- The energy sector is in transition, with industry groups desiring regulatory certainty as decarbonization occurs and the Biden administration works to develop emissions reductions targets as part of its broader climate strategy.
- Many utilities have committed to net-zero or zero emission targets.
- Current drivers of emission reductions include technical innovation, state policies supportive of clean energy, private investment in long-term carbon reduction strategies, and demand-side management.
- Panelists agreed that it is key to have standards that provide certainty to the sector. This is critical for business decision-making on decarbonization and helps inform policy approaches for state and local governments.

Regulations for a Clean Power Sector Summary of Panel Discussion - March 2022

Challenges Articulated by Panelists

- This sector has changed. Major emissions reductions in the past resulted from shifting generation fuel from coal to gas. Further decarbonization by switching from gas to cleaner fuels faces significant challenges by comparison.
 - [Princeton's Net-Zero study](#) forecasts gas to play a major role in generation until 2050.
 - Flexibility in regulations is key, and 111b rules are generous for natural gas generation units.
- Inside versus outside the power plant fence line
 - The forthcoming regulations are expected to target both inside and outside the fence for emissions reductions, often through knock on effects.
 - While focusing on "outside" emissions could allow for greater emissions reductions overall, this approach leaves the regulations significantly more open to legal challenges.
 - Panelists reiterated the importance of consistency and certainty in regulations.
- Flexibility of an eventual EPA rule
 - Power plants, and the energy sector more broadly, operate with shifting demand and are frequently subject to global supply chain disruptions.
 - Flexibility, such as averaging power plant emissions over 30 days, must be built into the regulations to account for unforeseen circumstances.
- Legal Challenges
 - EPA V. West Virginia, being considered by the Supreme Court, could "hamstring" the EPA's ability to address greenhouse gas emissions.
 - The use of the "social cost of carbon" for rule making, a key component of the Clean Power Plan, is being challenged in a federal court. This could have implications for the upcoming EPA regulations if they also utilize the social cost of carbon.
 - Though the overall efficacy of the regulations could be significantly impacted as a result of several cases currently being considered, panelists expect that the EPA will move forward regardless of the eventual rulings.

Key Insights

- The EPA should consider a suite of standards, with clarity and lead time being essential.
 - Deadlines are approaching for compliance decisions, which could help industry understand trajectories.
- The sector wants durable rules to help assist with regulatory certainty. Industry and stakeholders should talk to the EPA about technologies and where the sector is headed.
- States have started their own compliance plans, so the impact of new EPA rules poses questions around possible current plans and potential changes