



EISPC

EASTERN INTERCONNECTION STATES' PLANNING COUNCIL

Multistate Coordination Resources for Clean Power Plan Compliance

Sample Documents for Consideration

The National Association of
Regulatory Utility Commissioners
(NARUC)

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SUMMARY:

The Eastern Interconnection States Planning Council (EISPC) has begun a project to facilitate interstate communication on energy-environmental issues affecting the Eastern Interconnection and the country. The workgroup engaged in this effort is creating resources that State agencies can choose to consider as a starting point for coordinating States' implementation plans for the EPA's Clean Power Plan. This document compiles resources and ideas from this working group's efforts.

Three documents are included: a multistate planning checklist, a legislative language examples checklist (under development), and a sample memorandum of understanding for multistate coordination.

BACKGROUND:

The proposed Clean Power Plan regulates the emissions of greenhouse gases on a State-by-State basis. However, unlike criteria pollutants regulated by the EPA, the location where the greenhouse gas emissions happen is somewhat irrelevant: emission reductions anywhere lead to benefits everywhere. This couples with the interstate nature of the power grid to strengthen the case for economic benefits from interstate coordination, and to weaken the case for a "go it alone" approach. Although regional effects are almost certain, multistate governance of an emissions regime is difficult. Agencies may benefit from institutional structures that enable them to coordinate on the writing of this plan. Outside of the Regional Greenhouse Gas Initiative (RGGI), to date these kinds of institutional arrangements remain elusive, and States may wish to coordinate even if they do not wish to enter into as sophisticated and interdependent an agreement structure as that used in RGGI. In fact, simply providing an instrument that bridges the States as they are writing their plans may create visibility that enables States to avoid plans that are counterproductive to each other.

This project aims to lower barriers to coordination between states, particularly between public utility commissions, governors energy advisors, and the lead agencies (generally, the state air pollution control agencies) responsible for the creation and filing of state implementation plans for the EPA's Clean Power Plan regulations of greenhouse gases from existing stationary sources under Section 111d of the Clean Air Act.

States do not need to enter into a multi-state compliance plan with a joint target to benefit from talking and coordinating. A range of interactions is possible, from simple awareness of each others' plans to the transfer of emissions reductions between states that have individual-state plans and targets (not a multi-state plan to meet a joint target) when states have "common elements" in their compliance plans.

A number of tools are being developed to help States construct their compliance plans. For example, organizations like the Midcontinent States Environmental and Energy Regulators (MSEER) and the Nicholas Institute at Duke University are developing modeling and conceptual multistate compliance pathways for adoption by the states, and the National Association of Clean Air Agencies (NACAA) is developing a model compliance plan that States can customize to their own needs. Unlike those resources, this document does not seek to develop resources that would go into the plans themselves, but rather to create institutional

bridges that help States in “getting out from behind your desks” and engage with other States with a minimum of effort and political risk exposure.

A workgroup has been formed to create sample working documents that States can use as a conversation-starter and first point of reference if States decide to engage with one another. These sample documents would serve as a beginning-point that helps States build structures and ask questions that are useful to them, not prescribe or guide coordination. The consideration, modification, and /or use of these documents shall be entirely voluntary and their development in no way endorses the Clean Power Plan.

This project has developed two of three “conversation-starter” documents that are intended to provide States with a starting point for convening and coordination, lowering the barriers to states working together. The documents are as follows:

1. **A sample memorandum of cooperation** between States describing the purpose, outlining the parties involved, the method and schedule of interaction driving coordination, the process by which input will be offered and disputes resolved, and stating the responsibilities of the participating agencies.
2. **A checklist of examples of legislative language (under development)** that impedes or encourages interstate cooperation. State agencies can use this checklist to peruse their own state statutes and discover whether language exists in state law that makes multistate cooperation possible or more difficult. (Target completion June 2015)
3. **A planning checklist** that States can use to organize their decisions to assess the benefits of a multi-state approach versus a “go-it-alone” approach, and to organize the multi-state interaction with another state or states. It includes a working list of questions for coordinating States to consider together as these states create their plans that will help assure that their own plans are designed with interstate implications in mind at the beginning, instead of at the end of the compilation of this plan.

More information about this set of discussion documents is available from Miles Keogh, Director of Grants & Research at NARUC, mkeogh@naruc.org, 202-898-2217. It is important to note that the documents are the product of a conversation among a number of stakeholders in a workgroup that helped develop these resources.

Although these documents are not reflective of any State agency’s position, nor represent a statement of position or opinion by the participants, the ideas arose from a dialogue among the following participants: David Littell (Maine PUC), David Thornton (Minnesota DEP), Kim Jones (North Carolina Utilities Commission), Vince Hellwig (Michigan DEP), Justin Green (Florida DEP), Al Freeman (Michigan PSC), Hisham Choueiki (Ohio PUC), Mike Dowd (Virginia DEQ), Ann McCabe and Nicole Luckey (Illinois Commerce Commission), Talina Matthews (Kentucky Office of the Governor), Marcus Hawkins and Elise Nelson (Wisconsin PSC), Eddie Terrill (Oklahoma DEQ); Scott Morris and Luke Bentley (Alabama PSC), Phil Assmus (NACAA), Tom Tyler (ECOS), Robert Kenney (Missouri PSC) and Kerry Worthington (EISPC / NARUC staff).

Convening States for Multistate Coordination on the Clean Power Plan: A Checklist

*Each step is described in more detail in the
accompanying memo.*

Have you...

- Found a small group of champions who will form the backbone of this initiative?
- Involved the air regulator?
- Made initial contact within your state?
- Set a broad objective (such as a multi-state commitment plan or one that is stand-alone but leverages “common elements”? Or simply awareness of other states’ plans for potential ideas for your own?)
- Explored legal authorities that affect what kinds of actions you take (see Appendix A)?
- Reached out to lead participants in other states?
- Engaged for a first meeting exploring potential paths for working together?
- Explored online and disparate tools that may help working together in different places?
- Begun to articulate an agreement using existing templates or the sample MOU included in Appendix B?
- Exchanged the basics of your plans?
- Asked key questions for interstate communication and coordination? (Appendix C may help here.)
- Taken on ongoing institutional coordination?
- Reviewed your coordination to decide if you will renew it or sunset it?



Getting Together with Other States: A “Wedding Planner’s Guide” for catalyzing multistate Section 111d plan development.

Interstate cooperation on implementation of the Clean Power Plan may take a number of forms, ranging from simple awareness of the structure and measures incorporated into one another’s plans, to mutually dependent state 111d compliance plans. Intuitively, interstate communication will be important so as not to ignore the interstate nature of most of the power grid, and early modeling seems to indicate that profound economic and program benefits result from states working together.

If you are in a State agency, this brief is intended to give you a starting point for coordinating.

Who goes first?

If you’re reading this and you’re the Governor of a state, you don’t need ideas for who should take the first step: it’s you. If you’re not the State’s top executive, you can still get the coordination ball rolling. Organizational theory describes three types of leadership design approaches to linking decision-making communities: top-down, bottom-up, and partnership-based models. Each has their advantages. Top-down approaches leverage a small group of people make decisions and share those with a larger group for implementation. This approach tends to leave responsibility for the plan design with leadership, even if input is solicited from a wider group. Its advantage is the speed of development and ability to direct participation by affected groups.

Bottom up approaches convene those at the practice level and with expertise in the problem being addressed. A slower approach, this nonetheless can yield natural support for the solutions created, and solutions that have been developed by those closest to the problem at the practice level.

Partnership-based approaches attempt to take advantage of the benefits of both approaches by combining those with authority and those with expertise to identify and implement the path forward. They require trust from the top and a high level of proactivity from the bottom, but robust and sustainable processes often result from this type of approach.

Any of these approaches can be successful and the model you use can change over time. You don’t need to wait to get started. Get going: coalesce around the issue, and recruit relevant participation.

STEP 1: Start with your process leaders and establish a planning team

Identify and connect with the agency filing the plan. Someone will need to organize the first participants and start work on the plan. You may want to explore who else in your agency or state is interested in exploring a multi-state approach. One essential agency in this case is your air pollution control agency. The state officials who develop and file these plans for other air pollution control programs may find the Clean Power Plan unique in two respects. First, although other air emission programs have interstate aspects as pollution in “upwind” states affects those in “downwind” states, in the case of greenhouse gases, everyone is equally

upwind and downwind, making emissions five hundred miles away and next door equally impactful on the overall environment. State boundaries become unusually irrelevant. Second, the degree to which State compliance plans involve planning of the overall electric system goes well beyond the usual realm of expertise of these agencies. Public Utility Commissions and State Energy Offices are likely to have indispensable expertise and linked authority, and as soon as multiple state agencies are involved and a multistate conversation is engaged, at a minimum the Governor's advisors will need to have awareness of the effort.

As for how to connect? The usual ways will work. Pick up the phone or send an email.

Some potential steps to consider at the start:

- Reach out to these key partners with the idea of multi-state awareness / coordination (see .
- Get leadership buy-in at your state agency
- Leverage other multi-state connections at your state

Other processes that may be useful are interstate conversations on transmission planning (such as the Regional State Committees in Eastern RTO areas and CREPC in the West), interagency siting boards and councils in states like Massachusetts, Oregon, and others, national organizations like NARUC, AAPCA, NACAA, and the National Council on Electricity Policy, and others.

**STEP 2:
Set a broad objective**

Do you want to explore a multi-state commitment plan? A plan that is stand-alone but leverages “common elements”? Or simply awareness of other states’ plans for potential ideas for your own? A “go it alone” approach has the benefits of simplicity in determining the ingredients for compliance but may be much more expensive than taking advantage of cheaper reductions available in other states, or making income from selling reductions to states with higher per-ton compliance costs. A multistate plan with a joint target may be time consuming to negotiate and difficult to find consensus over. Finally, “common elements” approaches that allow for interstate transactions will need strong ownership assurance and tracking mechanisms to be possible and effective. However, they blend the economic benefits of multistate reductions with the simplicity, revisability, flexibility and political durability of in-state systems.

Other forms of interstate coordination are possible: a 2013 MJ Bradley paper on multi-state compliance focuses on robust programs that use linked targets for multistate compliance. Great River Energy and the Brattle Group have proposed a fee system that would be implemented by ISOs/RTOs. In this proposal, the ISO would impose a carbon price which would increase the cost of higher emitting resources relative to lower emitting alternatives. Existing multi-state trading models, such as RGGI, might slot neatly into a 111(d) program and RGGI expansion may be one path forward. A State “SIP-Swap” would enable elements of one State’s SIP to occur in another State through individual bilateral agreements, assuming mutual agreement. An October 2013 NARUC memorandum explores these and other multistate program designs is available online:

[http://www.naruc.org/Grants/Documents/KEOGH%20NARUC%20Section%20111d%20brief%](http://www.naruc.org/Grants/Documents/KEOGH%20NARUC%20Section%20111d%20brief%20.pdf)

STEP 3: **Explore legal authorities that may help or impede working together**

Some states may have enabled or bound your ability to work together. Run the checklist in Appendix A, against your state statutes and see if something analogous exists that helps or hinders your ability to think outside your borders. Before starting, you may want to review your own state laws to see if multistate coordination is impeded or encouraged by the existing body of your state's statutes.

STEP 4: **Reach out to lead participants**

There's no substitute for reaching out by phone, email, at a conference, etc. If you wrote down a purpose and objective as Step 1, this is when that will come in handy as it may serve as a basis for connecting with the right agencies.

If you're at a PUC or energy office, the analogous agency in another State may be a starting point. The air agencies that file the plan are natural first points of coordination as well, since eventually they will be responsible for filing the plan.

It is worthwhile to ask the following questions to help identify participants. What agencies and stakeholders are:

- Relevant?
- Representative?
- Purposeful?
- Knowledgeable?
- Influential?

STEP 5: **Get to work on how you might work together**

At some point, you'll need a way to work together. In-person meetings with a regular schedule have a lot of advantages but may be politically, monetarily, or pragmatically impossible. Groups convene regularly and inserting this conversation into the agendas of these convenings may be effective to leverage their convening power. The kinds of meetings you may want to explore adding on to include the meetings of the national associations: NARUC, NACAA, AAPCA, ECOS, NASEO, and NGA.

Meetings convened between the states on a regional basis may also be a place to get together. It doesn't take getting on the main agenda – arranging for side meetings may be useful. Informal outreach may work

equally well. Identifying opportunities such as the meetings of regional state committees (such as the SPP RSC), multi-state transmission groups (such as CREPC), meetings of regional group like the Western Interstate Energy Board, EISPC, or the National Council on Electricity Policy, and meetings between organizations such as the “3N” meetings that convene NASEO, NACAA, and NARUC are prime opportunities to meet your colleagues and connect with them to establish coordination.

Online tools to facilitate workgroup activities that are disparate, like document sharing and teleconferencing, may be able to carry much of the load. Many of these tools are free, offered by national associations, or already available to the State.

STEP 6: Articulate an understanding

To assure top-level buy-in by both parties, and to build institutional bridges that survive changes in individuals, an MOU may be helpful to hold parties together and to smooth out the practical elements of interacting and agreeing and coordinating. See Appendix B, the Draft MOU.

The Southern States Energy Board released a memo to its members articulating three timeframes where multistate action is possible:

- Before rule finalization
- From rule finalization to Day 1 of implementation
- From Day 1 of implementation on.

Exchanging information and exploring multistate aspects of state plans may be very important. An MOU that accommodates these timeframes may best enable interaction that brings together states during the time-frame that best meets the goals of the participating States.

STEP 7: Exchange the basics of your plan

In Step 2 you set a goal for the objective of the process; what you decided there affects the direction you'll take in this step. For example:

- Is coordination and information exchange the objective? If so, the exchange of information about baselines and measures makes sense.
- Is your path going to be linked into a proposed multistate goal and compliance path? Shared baseline information, articulation of the allocation of resources, and agreement on program design will be essential here.
- Are you using a common elements approach? Convening and agreeing to common definitions of compliance, potentially tradable currencies, ownership assurance and tracking will be on your shared agenda.

Many elements of the baseline and measures may need explanation, so gather supporting documentation ahead of time. Also, some information may be for official use only or otherwise unavailable for distribution. Confidentiality agreements may help in this area. A section on language protecting sensitive information from distribution and other confidentiality resources is included in the Sample MOU document that follows this guide.

STEP 8:

Ask key questions for interstate communication and coordination

Building on the structure of the proposed rule, this guide includes a checklist of questions to ask yourself and your neighbors to identify points of in-state and multi-state coordination as **Appendix C**. As with previous areas explored in this document, the degree to which your states have articulated an objective and strategy that defines the level of integration between state plans will help determine the kinds of questions states might want to ask each other and ask together. Following rule finalization, States may wish to collaborate to understand the final rule and jointly ask questions in common.

If States convene to understand each others' plans or coordinate on implementation, key areas that may be worth exploring together include:

- What key stakeholders need to be included?
- What outreach strategy should be used to engage these stakeholders?
- Where are existing evaluation and analytic capabilities available?
- What analytical methodology and assumptions should be used for reference planning?
- What does the reference case look like?
- What are potential scenarios or key uncertainties that create changes to the reference case?
- Do participating states intend to focus on measures that include market-based and trading-oriented approaches or unit-specific approaches, in different combinations? How will those interact?.
- What broad compliance strategy underpins each state's specific measures? Rate-based, or mass-based?
- What non-traditional (typically explored in Building Blocks 3 and 4 of the proposed Rule) are under consideration?
- What joint activities or transfer options exist as solutions?
- What collaboration strategy makes sense for participating states?
- Are other market-based systems in place or coming into place for any participating state?
- Identification of Least-Cost, Most Effective, Most Robust Strategy
- How does the state guarantee enforceability?

STEP 9:
Ongoing institutional coordination as described in the MOU

The MOU described in **Appendix B** of this document should describe the ways that States will continue to work together. This function is important as circumstances will change, plans will need updates and revisions, and even perfect plans for compliance will need to be returned to in order to accomplish reporting and updates.

STEP 10:
Review and coordination on plan implementation/sunset

An interstate agreement should have a date embedded in it to assure that the need for coordination is examined periodically and the this coordination is made more robust in the future, expanded to include new parties or contracted to revise participation if needed, and ultimately discontinued when superseded by new rules, changes in the real world, or other events that make communication and coordination unnecessary.

Appendix A: Legislative Checklist (Under Development, targeted for completion late June 2015)

This section to be developed in partnership with the National Conference of State Legislatures. It will provide examples of existing legislative language that helps or impedes interstate coordination, not as a proposal for new legislation but as a checklist for State officials to consult to help determine the scope of their authority to coordinate with other states.

Appendix B: Sample MOU template for States considering interaction on Clean Power Plan State Compliance Plans

Memorandum of Understanding

DRAFT: THIS WORKING DOCUMENT IS INTENDED TO CATALYZE DISCUSSION, AND IS NOT AN ENDORSED PRODUCT.

This Memorandum of Understanding (MOU) has been executed by and between
(Participant Agencies)

WHEREAS, *explanation of the driver: the Clean Power Plan and the final rule once issued by EPA*

WHEREAS, *explanation of the emissions role played by the power sector*

WHEREAS, *explanation of the role of States in the prevention and control of air pollution at its source;*

WHEREAS, *explanation of how states file plans governing CPP compliance and the boundaries of power flow and market economic boundaries driving the electric grid do not conform to those state boundaries*

WHEREAS, *underpinning legal authority of the states to take action*

WHEREAS, *ref with language authorizing interstate consultation by participating agencies using power to “advise, consult, contract, and cooperate with ...other states;” and*

WHEREAS, *explanation of the purpose and objective of this MOU – perhaps an intent to gain visibility into or to coordinate on the development of each others’ CPP compliance plans*

WHEREAS, *other terms that may be needed explaining the background and setting the stage,*
NOW, THEREFORE, THE PARTIES AGREE TO THE FOLLOWING:

Scope of the MOU

- What emissions are covered?
- What types of activities are covered?
- What tracking mechanisms, ownership agreements, or other issues should be considered for discussion?
- What definitions exist for tons?

- Does it only apply to Clean Power Plan compliance?
- Any exclusions?
- Timeframe covered by the MOU.

Parties to the MOU

- States affected
- Lead state agencies affected
- Additional state agencies affected
- Additional state and non-state organizations party to the MOU
- Other entities and 3rd-party providers essential to compliance, such as registries or entities providing ownership assurance, verification, or tracking

Responsibilities of the Parties

- a. State 1's development plan
 1. Points of coordination
- b. State 2's development plan
 2. Points of coordination
- c. Timing of coordination / harmonization

Methods of coordination

- a. Convening organizations
- b. Dates for conferring and finalization
- c. Methods for providing input
- d. Methods for dispute resolution

Amendments to this Agreement

- a. Ways that the parties can take action to change this agreement – who must agree, and how.
- b. Dissolution of the agreement

Term of this Agreement

- a. This MOU shall remain in effect until such date as / conditions occur:

Enforcement

- a. Notwithstanding any term in this MOU, parties may enforce their respective state environmental laws, regulations and orders separate and apart from the other states.
- b. Nothing in this MOU shall affect the rights, duties and authority of any of the parties under the law. The agencies reserve their authority and rights to take any enforcement action that they deem necessary to fulfill their duties and responsibilities under the law.
- c. The terms of this MOU shall be enforced pursuant to authority under *explanation of relevant authorities*

Confidential Information

- a. The parties acknowledge and understand that the right of access by the public to information under applicable state law is not affected by this MOU.
- b. Other questions governing the exchange of sensitive or confidential information.

Signatories

The undersigned hereby acknowledge the foregoing as the terms and conditions of their understanding and execute this MOU on behalf of their parties. The MOU takes effect when signed by all parties.

FOR STATE 1

Name / Title / Agency

DATE: _____

FOR STATE 2

Name / Title / Agency

DATE: _____

Attachment to MOU

Definitions

1. "BTU" means British Thermal Units.
 2. "Emission averaging" means an activity in which 2 or more existing sources, Units, or processes in the same source category that may be subject to reasonably available control technology or other emission reduction requirements compensate for overages in emissions by contemporaneous reductions in emissions, which results in equivalent or reduced emissions as compared to the individually allowable emission rate applied separately to each source, unit, process, or process equipment.
 3. "Emission Reduction Credits" means the unit of reduction in actual emissions of a pollutant which is expressed in tons of pollutant reduced during a specified calendar year or ozone season.
 4. "Enforceable" means any standard, requirement, limitation, or condition which is established by an applicable federal or state regulation, which is specified in a permit issued or an order entered under state or federal regulation, or which is contained in a state implementation plan approved by the Administrator of the U.S. EPA and which can be enforced by STATE 1, STATE 2, or U.S. EPA.
 5. "Fossil fuel" means natural gas, petroleum, coal and any form of solid, liquid, or gaseous fuel derived from such material.
 6. "Fossil fuel-fired unit" includes any new or existing unit that either currently burns or burned as of the date of this MOU, fossil fuel, alone or in combination with any other fuel, where the fossil fuel actually combusted comprises more than 50% of the annual heat input on a BTU basis. This term includes (1) any new fossil fuel-fired units constructed after the date of this MOU; (2) any unit that has been converted from a fossil fuel-fired unit to a unit that burns a non-fossil fuel; and (2) any unit that has been converted from a coal-burning unit to a unit that burns fuel oil and/or natural gas.
 7. "CO₂" means Carbon Dioxide
 8. "NO_x" means nitrogen oxides.
 9. "Permanent" means the relevant change in operating procedures, control equipment, or other source of emission reduction shall be continuous for the period during which emission reductions are made for the purpose of generating emission reduction credits.
- "Real" means a change in the operation or control of a source, process, or process equipment that results in a reduction in actual emissions.
- "Surplus" means the emission reductions made below an established source baseline that are not required in any of the following and that are not mandated by any applicable requirement:
- i. The state implementation plan
 - ii. An applicable federal implementation plan
 - iii. An applicable attainment demonstration
 - iv. A reasonable further progress plan
 - v. A maintenance plan.

Appendix C: Questions to ask yourself and your neighbors to identify points of in-state and multi-state coordination

States may be considering whether it makes sense early in the process of developing an interstate plan to ask who needs to be involved. Is there a multi-agency aspect to each element? Is there a multi-state element? Beginning with the question of whether a multi-state implication exists may be helpful. The proposed Clean Power Plan rule outlines a structure for plan development, using a twelve step program. Inserted for each step are questions that States might want to ask themselves to identify multi-agency and multistate aspects.

12 Steps for CPP Plan Development

1. Identify the affected generating units. Provide the most recent available inventory of CO₂ emissions from those affected generators. Identify any other affected entities responsible for implementation of enforceable obligations.

*Does in-state expertise beyond the air division need to be involved in developing this step?
Is there a multi-state component to this?*

2. Describe the plan's approach and geographic scope.

*Does in-state expertise beyond the air division need to be involved in developing this step?
Is there a multi-state component to this?*

3. Explain the State's emission performance level – either the rate established by the EPA or its translation into a mass-based goal (cap).

*Does in-state expertise beyond the air division need to be involved in developing this step?
Is there a multi-state component to this?*

4. Demonstrate that the plan is projected to achieve the State's required emission performance level.

*Does in-state expertise beyond the air division need to be involved in developing this step?
Is there a multi-state component to this?*

5. Provide a plan for periodic program milestones (with dates) to show the trajectory of emissions improvement. Beginning in 2022, the State must compare emissions from the previous two years with the plan's projections. Performance must be within 10% of projections. By July 1 each year, the State must file an explanation of deviations and planned corrective actions.

*Does in-state expertise beyond the air division need to be involved in developing this step?
Is there a multi-state component to this?*

6. Plans for corrective measures, should they be necessary.

Does in-state expertise beyond the air division need to be involved in developing this step?

Is there a multi-state component to this?

7. Identify the affected entities (individual affected generators, groups of affected generators, and other affected entities) to which each emission standard applies, and implementing and enforcing measures for each. “Describe each emission standard and the process for demonstrating compliance with it pursuant to State regulations or another legal instrument, including the schedule for compliance for each affected entity.”

Does in-state expertise beyond the air division need to be involved in developing this step?

Is there a multi-state component to this?

8. Demonstrate that each emission standard is quantifiable, non-duplicative, verifiable and enforceable with respect to an affected entity. In multi-State plans, a specific mitigating resource can only count once. However, a specific mitigating resource could count toward both 111(d) compliance and a State’s portfolio standard.

Does in-state expertise beyond the air division need to be involved in developing this step?

Is there a multi-state component to this?

9. Describe the CO₂ emissions monitoring, reporting and recordkeeping for all affected generators, including their hourly energy output. If the State plan includes other standards such as energy efficiency or REC purchases, include reporting and recordkeeping requirements for those measures. Retain records for 10 years.

Does in-state expertise beyond the air division need to be involved in developing this step?

Is there a multi-state component to this?

10. Describe the process, timing (probably every two years), and content of State reporting.

Does in-state expertise beyond the air division need to be involved in developing this step?

Is there a multi-state component to this?

11. Certify that a hearing on the State plan was held. List the witnesses who appeared and summarize the presentations and submissions.

(N/A)

12. Provide supporting documentation. Demonstrate the State has legal authority for each implementation and enforcement component of the plan “as part of a federally enforceable emission standard.” Provide “statutes, regulations, public utility commission orders, and any other applicable legal documents.”

Does in-state expertise beyond the air division need to be involved in developing this step?

Is there a multi-state component to this?

2. Beyond-The-Fenceline Approaches

Because the 12-step approach above feels like it lends itself to unit-based improvement approaches to compliance, States may also want to ask the same questions using Kentucky's proposed bullets from their 2014 white paper on CPP compliance options, with the same effect to explore system-wide approaches:

Kentucky's hypothetical proposed structure for establishing an implementation plan responsive to the Clean Power Plan describes this as a potential process:

1. Establish a statewide baseline CO₂ level using the CO₂ emission from fossil fueled electric generating units from 2005.

Does in-state expertise beyond the air division need to be involved in developing this step?

Is there a multi-state component to this?

2. Establish the following baseline CO₂ reduction targets for 2020 (17 percent reduction), 2025 (28 percent reduction), and 2030 (38 percent reduction). Beyond 2020, state-specific data as well as energy portfolio trends would be used to set additional reductions beyond 2020 achievable through:
 - a. demand-side and supply-side efficiencies,
 - b. renewable and other low-carbon energy potential,
 - c. offsets, and
 - d. any control technology gains.

Does in-state expertise beyond the air division need to be involved in developing this step?

Is there a multi-state component to this?

3. Obtain credit for CO₂ reductions that have occurred from the baseline established in item 1, thereby allowing states to comply with baseline reduction targets established in item 2.

Does in-state expertise beyond the air division need to be involved in developing this step?

Is there a multi-state component to this?

4. Allow a suite of compliance options that would enable Kentucky to implement the least-cost method of meeting reduction targets. These compliance options would include, but not be limited to:
 - Demand-side energy efficiency
 - Supply-side conservation or efficiency programs
 - Transmission upgrades
 - Renewable and other low-carbon energy projects at the affected source or at the consumer level
 - Carbon Capture and Sequestration (CCS) technology
 - Fuel switching to lower emitting fuels
 - Quantifiable and verifiable offsets
 - Participation in regional or national market-based CO₂ credit-trading programs

Does in-state expertise beyond the air division need to be involved in developing each of these steps?

Is there a multi-state component to this?

5. Establish an enforcement and monitoring mechanism whereby the state would be responsible for review, verification of emission estimates and reductions, and approval of the compliance options above. In addition, the state would be responsible for tracking statewide trends and projects.

Does in-state expertise beyond the air division need to be involved in developing this step?

Is there a multi-state component to this?

Kentucky's white paper: <http://eec.ky.gov/Documents/GHG%20Policy%20Report%20with%20Gina%20McCarthy%20letter.pdf>

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