THE DAILY RECORD

Monday, December 17, 2018 / Volume 110 / Number 241 / $2.00 • Western New York's trusted source for legal and real estate news

Environmental Law

Northeast states working on cap-and-trade system for transportation sources

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The Regional Greenhouse Gas Initiative (RGGI) has been in place for many years under the federal Clean Air Act regulating stationary air emission sources. Several Northeastern states that already participate in RGGI for power plant and stationary sources are working on an agreement to implement a regional plan to curb carbon emissions in the transportation area. The RGGI program is said to be a model for the transportation cap-and-trade system that is anticipated to be announced in the next few months.

As an overview, New York and eight other Northeastern states, including Massachusetts, Connecticut, Maine, Delaware, New Hampshire, Rhode Island, Vermont and Maryland, set a cap for total emissions of carbon dioxide from electrical generation facilities in the region. The states implement the system through their own regulations and an equal share of the regional cap. The RGGI cap declines over the years, aiming to reduce air pollution in the region. In turn, large electrical power plants must hold one tradable emission allowance for each ton of carbon dioxide they emit.

The power plants can acquire emission credits through quarterly auctions or by purchasing them from the owners. New York's Department of Environmental Conservation reports that, since 2005, the amount of carbon dioxide pollution has decreased by more than 45 percent. In exchange for the purchase of emission allowances, the states spend most of the auction proceeds on consumer programs, particularly energy efficiency, renewable energy development and greenhouse gas reduction.

The transportation cap-and-trade system is likely to be led by Massachusetts and New York, two states that have been at the forefront of RGGI for many years. Governors Charlie Baker and Andrew Cuomo were both supportive of the concept in their election campaigns in the last year. It has been estimated that almost half of all carbon emissions come from the transportation sector. Under the model being considered, primary suppliers of gas and diesel fuel would be required to purchase carbon allowances at auction, similar to stationary sources under RGGI.

As with other major environmental regulatory programs, the concept of cap-and-trade for vehicles has the potential for significant financial impact. On one hand, it has been suggested that it could raise about $4.7 billion a year for the Northeast states. However, increased costs on fuel suppliers will be passed along to drivers. Although the system is still conceptual in the Northeast, in California, according to that state's Independent Oil Marketer's Association, an increase of about $0.10 per gallon for gasoline and $0.13 per gallon for diesel was predicted under that program.

The states have been working on the new transportation framework for some time, and there is no definitive timetable. Although RGGI for power plants was put in place relative quickly — in three years — the Northeast states have been discussing the transportation sector for three years and there is still no agreement. The transportation sector has a variety of issues that need to be considered in establishing a cap-and-trade system for emissions. However, there are also significant political headwinds in play for a new regulatory framework, particularly since charging petroleum suppliers will lead to increased cost on consumers and likely be viewed as a regressive tax on gas and diesel.

The states view the transportation cap-and-trade system as another option to meet their overall greenhouse gas emission objectives. In New York, the state's energy plan requires a 40 percent reduction in greenhouse gas emission from 1990 levels by 2030. New York is about halfway to that objective. However, the transportation sector accounts for approximately 44 percent of total carbon dioxide emissions in the RGGI states. These states, plus California, represent approximately 20 percent of all emissions from transportation in the country. While New York has seen emissions from the power industry drop by more than 50 percent since 1990, carbon emissions from the transportation area have increased by 17.5 percent in the same period.

Any new environmental regulatory system with attendant costs to the consumers is likely to cause concern among the driving public and transportation industry. Based on the length of discussions on this topic among the Northeast states, it will be interesting to see if the proposed cap-and-trade system is formally announced in upcoming months, and the structure that it will ultimately take.

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