



REGULATION:

EPA air and CO2 rules for utilities likely to cluster in 2 years

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The year 2015 is likely to be a pivotal time for utilities as they prepare to comply with existing rules and prepare for expected standards from greenhouse gases to ozone, industry officials have said.

Environmentalists are eager to see Gina McCarthy finally lead U.S. EPA as administrator for a good reason: She has a lot of work ahead. Many utilities are expected to enter compliance with the Mercury and Air Toxics Standards (MATS) rule in 2015, which will cut the amount of mercury emitted by power plants by about 90 percent, according to EPA.

Gina McCarthy, President Obama's pick for EPA administrator, awaits a Senate confirmation vote next week. Photo courtesy of Wikimedia Commons

The Clean Air Interstate Rule, a regulation passed under the George W. Bush administration, will enter the second phase in 2015, requiring new caps for nitrogen oxides and sulfur dioxide pollution.

To top it off, if all goes according to President Obama's recently announced climate plan, the agency will complete a rule capping CO2 emissions for existing power plants -- the source of one-third of the country's greenhouse gas emissions -- by June 2015.

"A confluence of major EPA rulemaking is coming through the pipeline," said Quin Shea, vice president of environment for the Edison Electric Institute (EEI). "2015 is very important, but you can't look at that year in isolation."

The agency is also expected to promulgate a rule for coal ash, review George W. Bush-era air quality standards for ozone, address a new rule for pollution that crosses state lines and implement standards for particulate matter passed last December. Under the Clean Water Act, the agency is expected to require cooling towers for water on all power plants and limits on the discharge of effluent in surface waters.

Designated EPA chief enjoys industry support Following last week's court decision to vacate a 2011 EPA decision to defer biomass power plants from greenhouse gas permitting, the agency must now act quickly to formulate a way to deal with the complicated accounting of burning wood for energy.

Although acting Administrator Bob Perciasepe has been at the helm since former Administrator Lisa Jackson departed in February, EPA has been reluctant to move on any significant measures until a permanent administrator is confirmed, say sources at utilities.

Despite opposition from Republican members of Congress, who claim McCarthy has main-

tained a secretive agency in her role as assistant administrator of air and radiation, she has garnered respect and support from many members of industry.

“We’ve found her to be willing to listen on key issues,” said Melissa McHenry, a spokeswoman for American Electric Power Co. Inc., one of the largest privately held utilities in the country.

Still, said McHenry, EPA’s oncoming rules, which include the carbon standards for new and existing power plants, must account for the number of coal retirements that will occur in the next few years. AEP will have retired 27 units in seven states between 2011 and 2015. EEI expects that 18 percent of the country’s power generation in 2010 will be retired by 2022 for a variety of reasons, including plant age, inability to compete with low natural gas prices, settlements with environmental groups and EPA compliance costs.

“It doesn’t make sense to retrofit those plants for MATS compliance,” McHenry said. EPA estimates that MATS will cost \$9.6 billion a year, making it one of the most expensive regulations in the agency’s history.

Lawsuits could delay timetable

Utility CEOs currently have three big rules on their radar, said Shea: the coal ash rule, the carbon dioxide standards for new and existing power plants, and MATS. Their concern is to make sure the timelines and targets make sense, that the economic impacts are understood and that departments within EPA work together, rather than in isolation.

The Natural Resources Defense Council released an analysis of regulating existing power plants under the Clean Air Act last December, placing the costs at \$4 billion. This compares with \$25 billion to \$60 billion in health and welfare benefits (ClimateWire, Dec. 6, 2012).

Passing a set of rules together is less expensive than the sum of each, said Dan Lashof, director of NRDC’s climate and clean air program, because it avoids stranded investment in some aging coal plants.

Despite timelines, all of these rules are subject to falling in a legal quagmire. EPA’s Cross-State Air Pollution Rule, finalized in 2011 to strengthen the pollution controls in CAIR, was struck down in federal court last year. The Supreme Court agreed to hear the case last month, to the delight of environmentalists.

There are currently three industry and state-led lawsuits challenging MATS. And one Texas power plant unsuccessfully challenged the New Source Performance Standards for new power plants before the rule was finalized, which isn’t allowed (Greenwire, Dec. 13, 2012).

Environmentalists fear that lawsuits will bog down the standards for new and existing coal plants and push the rulemaking out of Obama’s term and into a new administration that is potentially more hostile to environmental regulation.

“There will be delays,” said Bill Snape, senior counsel with the Center for Biological Diversity. “We need to move with a lot more alacrity.”