

## **Air Pollution: EPA crafting multipollutant strategy**

October 27, 2009

Greenwire (<http://www.eenews.net/Greenwire/2009/10/27/4>)

**Robin Bravender, E&E reporter**

U.S. EPA is working on a new strategy aimed at providing a clearer road map for industrial investment in air pollution controls, the agency's top air official said yesterday.

EPA's air chief, Gina McCarthy, said she wants to implement a more industry-friendly approach to rulemaking that will allow companies to invest in controls that curb multiple pollutants at once rather than using a more expensive piecemeal strategy.

The agency is poised to issue a slew of new air pollution rules -- some are Bush-era rules that were tossed out in courts; others are new climate initiatives that the Obama administration has taken on. And McCarthy wants to coordinate those rules under what she calls a "multipollutant" or "sector-based" strategy.

"We need to look at it all and strategically make sure that the driving investments -- particularly in the utility sector -- don't just look at the next challenge, but they paint the picture of all the challenges ahead and what we need to do moving forward," McCarthy said yesterday at an air quality conference hosted by the Energy & Environmental Research Center.

Some initiatives McCarthy said she hopes to coordinate are the upcoming replacements for the Bush-era programs to curb mercury and soot- and smog-forming pollutants from power plants.

EPA is under a court deadline to issue a final rule requiring strict maximum achievable control technology, or MACT, for power plants by November 2011. Environmentalists have pressed the agency to issue the new rule since a federal appeals court last year tossed out the Bush administration's Clean Air Mercury Rule, an effort to regulate mercury under a cap-and-trade program ([Greenwire](#), Oct. 23).

Also under way is an overhaul of the Clean Air Interstate Rule, another George W. Bush administration program designed to curb soot-forming sulfur dioxide and smog-forming nitrogen dioxide in 28 Eastern states and the District of Columbia. The U.S. Circuit Court of Appeals for the District of Columbia has temporarily reinstated the rule after initially tossing it out in July 2008. McCarthy said in July that the agency plans to propose a CAIR replacement in early 2010 and to issue a final rule by early 2011 ([Greenwire](#), July 9).

EPA will also review by 2011 the national air quality standards for all six of the "criteria" pollutants subject to EPA regulation, McCarthy said. Some of those reviews are aimed at revising rules set under the Bush administration, including the national limits for particulate matter and ozone.

McCarthy said she hopes to coordinate all those activities to tell each sector what it needs to do to make progress on clean air as a whole, not just on individual pollutants.

"The last thing that we want to do is figure out all the technology challenges and all of the reliability concerns associated with the utility MACT rule and fail to look at the CAIR rule moving forward, fail to look at the changes in criteria pollutant standards and regulations as we move forward," she said. "We need to look at it all, and we need to look at it comprehensively."

A sector-based approach will also be useful as the agency folds new climate change rules into its existing regulatory structure, Rob Brenner, director of policy analysis and review at EPA's air office, said at a recent forum hosted by the Environmental Law Institute.

"Long-term climate legislation is going to be very valuable in this regard," Brenner said, "because it's going to give companies a more complete view of future requirements that they're going to face."

But as EPA crafts rules under its existing Clean Air Act authority, Brenner said, "We want to make sure that any of the greenhouse gas regulations we develop ... will be compatible with what we expect the picture will be once Congress legislates."

Over the long term, he said, "it's going to be advisable to reorganize EPA, I think, to enable it to manage that kind of integrated approach and help move industry toward that long-term new technology path."

### **Difficult task**

Air officials' promises to pursue a sector-based approach have drawn praise from both industry representatives and environmentalists, although some experts say that limited resources and rigid environmental laws could pose challenges.

Valerie Hendrickson, spokeswoman for the Atlanta-based utility Southern Co., welcomed EPA's commitment to coordinate timing and compliance requirements that will affect the power sector.

"Long-term planning and compliance decisions will be difficult without a coordinated and flexible approach for multiple regulations," she said, including the CAIR replacement, MACT rules, air quality standards and climate regulations.

John Walke, a senior attorney at the Natural Resources Defense Council, said it makes sense for the Obama administration to use its authority with air toxics to drive deep emission cuts, because the same control devices used to slash mercury and other toxics can also be used to clean up other harmful pollutants.

"There are plenty of opportunities to be aggressive and protective with a multipollutant strategy," Walke said.

However, as EPA works to develop new climate change regulations and deals with a backlog of Bush-era rules, Walke said, "the biggest challenge facing EPA's air program right now is resources."

Jeff Holmstead, an industry attorney who served as air chief during the Bush administration, said he generally applauded efforts to coordinate air standards, because they can bring better environmental outcomes at lower costs.

But past efforts at EPA to take a sector-based regulatory approach have run into problems, Holmstead said.

Former officials have tried to break down some of the so-called stovepipes within the agency over the past few decades, he said, and there have been some notable successes. But "by and large, it's difficult to do, because EPA is driven by the underlying statutes, and they're not designed that way," Holmstead said.