

BPC Suggests Multi-Pollutant Legislation to Encourage a Smooth Transition for Utility Compliance with Forthcoming EPA Regulations

JUNE 21, 2011

On June 13, 2011, the Bipartisan Policy Center (BPC) issued a [report](#) examining reliability and cost issues associated with the following forthcoming EPA regulations: The Transport Rule, The Utility Toxics Rule, Coal Combustion Waste Disposal, Clean Water Act Section 316(b)-Cooling Water Intake Structures, and the Greenhouse Gas Performance Standards. The report concludes that multi-pollutant legislation could encourage a smooth and cost-effective transition for utility compliance with these new EPA regulations.

The BPC's report was generated from a series of collaborative workshops recently hosted by the BPC, the National Association of Regulatory Utility Commissioners, and Northeast States for Coordinated Air Use Management. The workshops were designed to discuss the question of how power sources will be able to comply with upcoming EPA regulations while maintaining the nation's electric generating reliability. In the near future, when plant retirements and outages for retrofitting pollution technology become a reality across the industry, the reliability of the U.S. electric infrastructure could be jeopardized.

Generally, the report finds that the risks associated with reliability are manageable because there are various tools at EPA's disposal to help encourage cost-effective strategies for future compliance while promoting reliability across the industry. For example, EPA can endorse and grant utilities time extensions to install pollution control technology and new capacity. EPA can also allow emissions averaging at certain units or agree to a 30-day averaging period for measuring compliance with toxic standards. These steps have already been proposed, and the BPC report strongly supports the finalization of these approaches.

However, as it stands today, the electric generating sector and its regulators face significant challenges to plan for compliance with future regulations because they remain uncertain about required conditions and timing deadlines. To address this issue, the BPC suggests that multi-pollutant legislation could guarantee that the country reaps the intended benefits of EPA's new rules while enabling an easier transition to compliance for utilities. If EPA is unable to finalize rules within the current timeframe, providing regulatory clarity or an ultimate backstop requirement in the form of legislation could incentivize early compliance planning and installation of pollution control equipment. While the report does not outline any specifics for the potential legislation, this model was extremely successful with the Acid Rain Program. The BPC recognizes that it may be difficult to advance this type of legislation, but believes it is worthy of exploration in coming months, and encourages the utility industry to reach a unified position in favor of moving this type of legislation forward.

Finally, the BPC report also points out that both the Department of Energy (DOE) and the President have the authority to delay EPA's new regulatory requirements. The DOE has the authority to keep essential generation online if necessary, whereas the President has the authority to grant up to a two year extension in the interest of national security. This exemption may be renewed an unlimited number of times provided that the requisite findings are made. Although the presidential authority has never been invoked, it could be a viable option allowing more time for compliance with the new regulations.

2 Min Read

Related Topics

Water

Related Capabilities

Environmental

This entry has been created for information and planning purposes. It is not intended to be, nor should it be substituted for, legal advice, which turns on specific facts.