

AIR POLLUTION: Draft rules for boilers were too strict -- EPA air chief (Thursday, December 2, 2010)

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Having taken comment on controversial new regulations for industrial boilers, U.S. EPA now believes that some pollution limits in the draft rules "were simply too tight to be able to be achievable," the agency's air chief said today, signaling that the agency is readying final regulations that won't be as tough on businesses.

When EPA issued the proposal in April, the agency was scrambling to meet a court deadline, said Gina McCarthy, the agency's assistant administrator for air and radiation, on the sidelines of an event in Washington, D.C. There are many industries that use boilers to power their operations, and the agency had very little information on some of them. As a result, she said, the proposed standards were "very difficult to achieve in certain sectors -- which we did not know," she said.

"Now that we have the information at hand, it changes the calculation entirely," McCarthy added. "I think the anxiety really isn't so much about the rule itself -- it's about making sure that we're paying attention to the data that comes in, and that the data informs a more robust decision. And it will."

A federal court had rejected the way the George W. Bush administration handled boilers, leaving the job to the Obama administration. With a legal deadline of Jan. 15 in place, final rules are expected soon, but McCarthy wouldn't say when EPA intends to release them.

The draft version of the regulations, which are intended to address mercury and other types of toxic air pollution, prompted a vocal outcry from paper mills, chemical plants and other businesses that use the boilers to power their operations.

According to an analysis by the Council of Industrial Boiler Owners, businesses would need to spend about \$20 billion up front to comply with the proposal, though EPA projected about \$9.5 billion in capital costs and \$3 billion in annual costs.

More than 40 senators and 115 congressmen have signed letters asking the agency to be less aggressive when it issues final regulations. Among them are dozens of Democrats, some of whom are considered close allies of environmentalists.

"While we support efforts to address serious health threats from air emissions, we also believe that regulations can be crafted in a balanced way that sustains both the environment and jobs," the lawmakers wrote in letters to EPA Administrator Lisa Jackson.

Public health groups and environmental advocates have praised the rule, which would have an estimated \$17 billion to \$41 billion in health benefits by reducing pollution that leads to respiratory problems, heart attacks and premature death.

McCarthy's statement doesn't address all of the concerns that have been raised by businesses, but it signals that the agency is addressing the "central theme" of those comments, said Mike Walls, vice president of regulatory and technical affairs at the American Chemistry Council.

Under the Clean Air Act, the agency needs to set maximum achievable control technology (MACT) standards that are based on the average of the nation's best-performing facilities. The rules are supposed to be based on the top 12 percent of sources, but according to the American Forest and Paper Association, less than 1 percent of all boilers in the forest products industry would be ready to comply.

"The rule was based on a hypothetical boiler and emissions mix that didn't conform to reality," Walls said. "The agency had noted early on that it didn't have a lot of data, and I think it's encouraging to hear the assistant administrator acknowledge some of those problems."