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EPA finalizes tough new rules on emissions by power plants

By [Juliet Eilperin](#) and [Steven Mufson](#), Published: December 16

The Obama administration finished crafting tough new rules Friday curbing mercury and other poisons emitted by coal-fired utilities, according to several people briefed on the decision, culminating more than two decades of work to clean up the nation's dirtiest power plants.

As part of last-minute negotiations between the White House and the Environmental Protection Agency, the regulations give some flexibility to power plant operators who argued they could not meet the three-year deadline for compliance outlined by the EPA. Several individuals familiar with the details declined to be identified because the agency will not announce the rules until next week.

The new rules will cost utilities \$10.6 billion by 2016 for the installation of control equipment known as scrubbers, according to EPA estimates. But the EPA said those costs would be far offset by health benefits. The agency estimates that as of 2016, lowering emissions would save \$59 billion to \$140 billion in annual health costs, preventing 17,000 premature deaths a year along with illnesses and lost workdays.

The Obama administration is attempting to deliver on some key priorities for environmentalists without alienating the business community. President Obama angered environmentalists in September by pulling back stricter smog standards the EPA had proposed, and he had to make several environmental concessions to congressional Republicans late Friday as part of a deal to extend the payroll tax cut. Senate leaders agreed Friday night on a provision that would accelerate the Keystone XL pipeline permitting decision as part of a deal to extend cuts in the Social Security tax.

The administration was also making deals Friday on another environmental front: Alaska. As part of the spending bill negotiations, the administration agreed to transfer the authority to issue air permits for offshore Arctic drilling rigs from the EPA to the Interior Department, which many industry executives think would have more lax standards. Separately, the Interior Department gave conditional approval Friday to Shell Oil's exploration plan for Alaska's Chukchi Sea, where the oil giant hopes to drill several wells in the summer.

Several experts said the new controls on mercury, acid gas and other pollutants represent one of the most significant public health and environmental measures in years. The rules will prevent 91 percent of the

mercury in coal from entering the air and much of the soot as well: According to EPA estimates, they will prevent 11,000 heart attacks and 120,000 asthma attacks annually by 2016.

“I think this will prove to be the signature environmental accomplishment of the Obama administration,” said Frank O’Donnell, who heads the advocacy group Clean Air Watch. “It will soon mean the end of the smoke-spewing coal power plant as we know it today. At the same time, the administration is trying to add a bit of flexibility to extinguish the bogus claim that these standards could mean lights out.”

The debate over the rules has also split the nation’s utility sector. Some companies, such as New Jersey-based Public Service Enterprise Group and Illinois-based Exelon, say they could meet the new standards easily and have already spent hundreds of millions of dollars to do so. PSEG has also switched from coal to natural gas.

Duke Energy chief executive Jim Rogers, while not taking a position on the new rules, said in September that the George W. Bush “administration moved in this direction. This is a more aggressive move, but we kind of knew this was coming.”

But others, most notably Southern Co. and American Electric Power, which has aging coal plants scattered throughout the Midwest, protested that they would have to shut down facilities if forced to install new pollution controls by 2014. That, in turn, they predicted, could jeopardize the reliability of the nation’s electricity supply.

To accommodate those concerns, according to sources, the administration is including a presidential memorandum clarifying that the EPA administrator can invoke existing authority under the Clean Air Act to provide a one-year extension to companies that can demonstrate they need an extra year to come into compliance.

In certain instances, the EPA can issue an administrative order that would give utilities up to five years to install pollution controls.

Among utilities in the Washington area, some are prepared for the stricter standards. Baltimore-based Constellation Energy has already spent three years upgrading its plants, said James L. Connaughton, an executive vice president.

“We may have to make some modest adjustments,” he said, adding that his firm did not object to other utilities getting an additional one-year extension “as long as it’s done fairly and consistent with the law, and without giving an unfair economic advantage.”

He said one way the administration could ensure that outcome would be by letting polluting plants provide electricity only when a region was facing a shortage.

AEP spokesman Pat Hemlepp said Friday that he had not seen the final rules but noted that his utility and others wanted “a few years” beyond 2014 to meet the standards.

“Doing so will reduce the cost of compliance, allow retirements and retrofits to take place in a more logical manner and provide time for addressing reliability issues while still achieving the EPA’s objectives,” Hemlepp wrote in an e-mail. He said that getting state utility regulators’ approval for any project would take up to $4\frac{1}{2}$ years.

Congress exempted toxic pollution from power plants — which can include arsenic, chromium, lead, formaldehyde and dioxins, among other substances — when it amended the Clean Air Act in 1990. In 2000, under the Clinton administration, the EPA determined that it should be regulated, but a lengthy legal and lobbying battle ensued.

The EPA finalized the rules Friday to meet the terms of a court-ordered settlement with several advocacy groups that had sued the agency over its 10-year delay in issuing the regulations.

As recently as Wednesday, executives from the Edison Electric Institute, a major utility trade association, met with Office of Management and Budget officials to appeal for a delay in implementation of the rules. Several environmental and public health groups, including the American Lung Association and Environment America, made the opposite pitch to OMB in the past couple of weeks.

John Walke, clean air director for the Natural Resources Defense Council, noted that the EPA had issued 110 rules in the past 20 years regulating toxins at everything from oil refineries to steel mills. He called coal- and oil-fired plants “the largest emitters of toxic pollutants and the last holdouts to be controlled.”

Meanwhile environmental groups were also anxious about the administration’s moves on Arctic drilling. The approval of Shell’s exploration plan by the Bureau of Ocean Energy Management was “an important step,” said company spokesman Kelly op de Weegh. But BOEM said it would require Shell to stop drilling by Sept. 24, 38 days before ice forms around the drill site. Sources said that 38 days was the length of time Shell said it would take to get a relief well drilled in the event of an oil spill. Sen. Lisa Murkowski (R-Alaska) said, “This arbitrarily curtails an already very short drilling season, unnecessarily putting the project at risk.”

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