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Energy Current: Clear Skies outlook is cloudy

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When it comes to the Bush administration's Clear Skies Initiative, another two-term Republican president said it best: There you go again.

Created in 2002, Clear Skies is scheduled this month for another hearing by the Senate Environment and Public Works Committee, according to committee spokesman Will Hart. He added that the committee hopes to have a bill marked up by February.

In its current form, Clear Skies would cut sulfur dioxide emissions by 73%, with a cap of 4.5 million tons in 2010 and a cap of 3 million tons in 2018. It would also cut nitrogen oxides by 67%, with a cap of 2.1 million tons in 2008 and a cap of 1.7 million tons in 2018. In addition, Clear Skies would include the first-ever national cap on mercury emissions of 26 tons in 2010 — mercury emissions totaled 48 tons in 1999 — and a cap of 15 tons in 2018. Annual compliance costs are projected to be approximately $3.69 billion in 2010 and $6.49 billion in 2020, according to the EPA Web site.

"It's a step in the right direction but it's a modest step in the right direction," Peter Fusaro, chairman of international energy and environmental consulting firm Global Change Associates Inc., told SNL Energy. "We really need much more developed legislative and regulatory mandates so utilities can plan, particularly with capital expenditures. That's what we're not seeing."

No one is holding his breath that the Bush administration bill, which is being sponsored by EPW Committee Chairman James Inhofe, R-Okla., will even make it out of the committee: too many details need to be hammered out on the proposed piece of legislation; Congress' schedule is tight for the next few months; and the EPW committee does not have a solid majority to move Clear Skies to the Senate floor. Two other clean air bills are competing with the Bush administration's proposal; one is sponsored by EPW committee members Thomas Carper, D-Del., and Lincoln Chafee, R-R.I., and the other one is sponsored by committee member James Jeffords, I-Vt., and Joe Lieberman, D-Conn. Unlike President Bush's bill, the other two proposals include caps on carbon dioxide as well as shorter deadlines for emission reductions. The Bush administration has criticized the alternative bills for being too costly.

If Clear Skies fails to clear Congress, a similar proposal, the Clean Air Interstate Rule, is in the works by the EPA. Bush administration officials asked the EPA to hold off on issuing the emissions reductions standards on sulfur dioxide and nitrogen oxide in 28 states in hopes that the standards can get through Congress, according to a Dec. 14 Washington Post report. The reason: it is difficult to challenge a Congressional law, whereas CAIR is likely to encounter a slew of court challenges that will further delay the emergence of clear, standard guidelines for utilities to follow. CAIR may also be shelved for a while because EPA Administrator Mike Leavitt, who has been aggressively pushing the proposal, has been nominated by Bush to replace Energy Secretary Spencer Abraham; a replacement for Leavitt has not yet been named.

Utilities are not waiting for the U.S. bureaucrats to figure out emission reduction standards. Some companies need to act now due to international regulations. The European Union's mandatory Greenhouse Gas Emission Trading Scheme took effect on Jan. 1 and the Kyoto Protocol on climate control kicks in on Feb. 16. "For U.S. multinational companies, the handwriting is on the wall that we're going to have a carbon regime at some point and need to balance that with investment criteria," Global Change Associates' Fusaro told SNL. "We are reducing nitrogen oxide and sulfur dioxide emissions more than anybody else in the world, by the way. We have the most mature environmental financial markets in the world and people miss that." Cinergy Corp. announced last September that it plans to spend approximately $2 billion on a two-phase environmental construction program in anticipation of the EPA emission reduction rules and has spent at least $1.7 billion since 1990 reducing sulfur dioxide and nitrogen oxide emissions by 50% and 45%, respectively. American Electric Power Co. said it will invest $3.5 billion in emission controls by 2010 as part of its $5 billion environmental investment program.

"We're hopeful that [Clear Skies] will move forward. Right now, it's early in the process for this Congress," said AEP spokeswoman Melissa McHenry.

In addition to adding scrubbers to existing plants, utilities are also planning to build new facilities that use integrated gasification combined-cycle technology, which emits less carbon dioxide. IGCC plants convert coal into gas that passes through pollution-removal equipment before it is burned. The process removes more nitrogen oxide, sulfur dioxide and mercury than traditional coal-burning plants. IGCC plants are also more expensive to construct than conventional plants. Southern Co. announced in October 2004 that it was selected by the U.S. Department of Energy to build a 285-MW coal gasification plant as part of DOE's Clean Coal Power Initiative.

While utilities want to see Clear Skies pass Congress for everything it brings the industry — transparency and predictability for emission standards — utilities also like the Bush administration's plan for what it would take away. "Another important factor for many owners of older plants is that Clear Skies would remove the controversial New Source Review rules that have resulted in lengthy litigations between the EPA and generators," wrote Senior Consultant Olof Bystrom and Vice President George Given of Global Energy Advisors in a September 2004 report.

The New Source Review standards, which are part of the Clean Air Act, require older plants to install what is known as the "best available control technology" (BACT) whenever they undergo significant reinvestments. North Carolina recently threatened to sue the Tennessee Valley Authority over allegations that it violated NSR standards. Other utilities, such as Duke Energy Corp., have been wrangling with the issue in court for years.

Currently, nitrogen oxide emissions are regulated through State Implementation Plans (SIPs) that enforce National Ambient Air Quality Standards (NAAQs). "The most extensive NOx emission reduction program in effect today is the Eastern SIP call that was established to reduce seasonal NOx emissions under a common cap and trade framework administered by the EPA," wrote Brystrom and Given. Well-structured emission-trading programs may help utilities manage and reduce their CapEx when it comes to environmental regulations, but it is going to take more than that to achieve environmental goals in a feasible manner, according to Fitch Senior Director Denise Furey. "[A] trading program that does not foster the overall reduction in pollutants would ultimately fail. Historically, the use of allowances alone has not been the most cost-effective way of dealing with environmental problems, and this is likely to remain the case. The purchase of emission credits is one part of the solution that includes pollution-control [devices], fuel-switching, conservation or demand management and improved efficiency."