



A Closer Look at Gina McCarthy

Next week the Senate Environment & Public Works Committee will hold a nomination hearing for Gina McCarthy, nominee to lead the U.S. Environmental Protection Agency (EPA). She has served as the EPA Assistant Administrator for the Office of Air and Radiation for the last four years.

Unified Agenda

The Unified Agenda provides the public with a list of upcoming agency actions including: pre-rule actions, proposed rules, final rules or interim final rules, long-term actions, and completed actions. The Unified Agenda is designed to give job creators the opportunity to plan ahead for new regulations, without proper lead-time, businesses are left with uncertainty, which can halt capital investments and job growth.

During the unprecedented ten-month delay of the 2012 Unified Agenda, EPA proposed several economically significant rules that imposed **at least \$100 million** in annual compliance costs – per rule – to private entities.

Below is a list of upcoming expected regulations and corresponding costs from EPA. Following that is a list of EPA's failures, including to withstand judicial review.



REGULATORY ONSLAUGHT

Since January 2009, EPA has issued or proposed**:

- over **2,900 pages** of greenhouse gas (GHG) regulations
- over **500 pages** of GHG guidance and sector-specific white papers
- **68 rules**, 3 of which set GHG standards for cars and trucks, expected to cost **\$208.96 billion**
- GHG regulations are expected to cost **more than \$300 to \$400 billion each year**
- GHG New Source Performance Standards (NSPS) for New Plants proposed rule effectively bans the construction of new coal fired power plants and along with additional EPA policies drives the expected **shut down of 226 coal units**, representing over 38,000MW of electric generating capacity in 30 states, and the **loss of up to 250,000 related jobs**.

- EPA has since gone on to issue an ex post facto apology for [violating its own scientific standards](#) for the scientific findings that are the basis for these regulations
- Utility MACT final rule is estimated to cost **\$35 billion** in upfront spending and **\$9.6 billion** annually
- Boiler MACT Reconsidered final rule estimated to cost **\$11.7 billion** by the industry; **\$4.7 billion** by the EPA
- Cross State Air Pollution rule, estimated an increase in consumer power prices of as much as **\$514 million per year** in 2012 and 2013

Rules coming down the pipeline:

- GHG standards for existing power plants – cost unknown
- GHG standards for new and existing refineries – cost unknown
- Ozone National Ambient Air Quality Standards (NAAQS), estimated to cost **\$19 to \$90 billion annually**.
- Cooling Water Intake Structures, estimated by EPA to cost **\$3 billion to \$4.6 billion annually**
- Coal Ash rule, estimated by EPA to cost **\$587 million to \$1.4 billion annually** for the next 50 years

***Above estimates based on EPA's own data; Affected industries estimate much higher costs*



EPA'S GARBAGE CAN OF REGULATIONS & FAILURES

“I think part and parcel of restoring the agency's stature is for the agency to be able to sit up tall and say, **our rulemaking stands on its face, and it stands up in court.**” Lisa Jackson said on January 14, 2009.

However the EPA has a poor track record with the legality of their rule making. Many of the EPA's major overreaching rules under the leadership of Lisa Jackson and Gina McCarthy have been blocked or defeated by the Courts. To name a few...

- EPA was projecting far too much production of cellulosic biofuel for 2012 under the Renewable Fuels Standard (RFS) according to federal court in January 2013.
- The EPA attempted to force the Sackett family of Idaho to stop building their home they purchased on land that had proper permits for building. The EPA threatened to fine the Sacketts \$32,500 a day and refused to allow them to challenge the agency's regulatory authority. The Sacketts prevailed in the Supreme Court in March 2012.
- Nucor has been making efforts to build a steel refining facility in South Louisiana. Unfortunately, Gina McCarthy's office has put up perpetual roadblocks to the 1,000+ jobs and the permits necessary to move forward.

- Infamous former EPA Region 6 Administrator Al Armendariz became the poster child for trying to shut down a Range Resources hydraulic fracturing project in Texas in 2009, based on fabricated science. The EPA failed in this effort, but Armendariz believed that McCarthy's new regulations would be the "icing on the cake" for killing energy jobs.
- EPA Region 8 Administrator James Martin resigned after lying to a federal court, and after EPA lied that he was not using his private email account to conduct official business in violation of the Federal Records Act and the Freedom of Information Act.
- EPA also tried to shut down a hydraulic fracturing project in Dimock, PA based on a faulty study, but failed to produce any real evidence of water contamination.
- EPA has claimed "preemptive veto authority" on the Pebble Mine Project in Alaska which goes against the language and intent of the Clean Water Act (CWA). Ranking Member Vitter and others are working to get the EPA to withdraw their draft watershed assessment and allow the normal CWA processes to determine whether the project should go forward based on the application.
- National Mining Association challenged EPA and the U.S. Army Corps of Engineers in October 2011 regarding dredge and fill permits under the Clean Water Act. They were able to overturn the burdensome permitting regulations.
- The EPA tried to veto a Clean Water Act permit to dredge and fill for a mountain top coal mine (Mingo Logan Coal Company Inc.) but lost in federal district court in 2012.
- EPA usurped cooperative federalism with the Cross State Air Pollution Rule (CSAPR) to force Federal Implementation Plans on 28 States to reduce SO_x and NO_x emissions, the compliance of which would have led to the closures of facilities and mining operations and an estimated increase of \$514 million in consumer power prices (Charles River Associates study). Further, just prior to finalizing the rule, EPA added in additional States. The D.C. Circuit shot down the rule in part due to EPA's overreach in the area of State authority.