Q&A | John Lyons

the Assistant Secretary for Climate Policy

By Roberta Burnes
Division for Air Quality

Photo by Cindy Schafer

Last June, President Obama unveiled his climate action plan to reduce greenhouse gas (GHG) emissions. This was followed a few months later by the Environmental Protection Agency's (EPA) revised proposal to regulate GHGs from new power plants. Regulations for existing power plants are still in the works.

As EPA moves forward to reduce GHG emissions from the electric generating sector, coal-reliant states like Kentucky have a lot at stake. That's why in September, Energy and Environment Cabinet (EEC) Secretary Len Peters announced a new position that would be devoted to climate policy issues. The man for the job? Division for Air Quality (DAQ) Director John Lyons.

I sat down with the new assistant secretary for climate policy to learn more about his work in coordinating Kentucky's climate policy decisions and response to pending GHG regulation.

Can you give us a better understanding of your new role and its importance to the EEC?

Given President Obama's announcement of his climate change plan on June 25 and his direction to EPA to develop new greenhouse gas regulations for new and existing fossil fuel-fired electric generation plants, Gov. Beshear and Secretary Peters felt it was important to have someone coordinating policy decisions on climate-related issues. In my former position as Kentucky's air quality director, I have had the opportunity to help bridge the gap between air quality regulations and energy issues over the last few years.

This has largely been facilitated due to the cabinet's unique organizational structure that includes environmental, energy and utility regulator staffs. Kentucky is one of only four states in the nation with this same organizational structure.

How does your background as director of DAQ fit into this new position?

I started my career in the Division for Air Quality in 1995, with the last 12 serving as director. In that time I watched climate issues evolve from the years immediately following the Kyoto Protocol and casual interest in climate change, to the point we are at today with mainstream acknowledgement of the science that points to changes in the earth's climate. Considering we are talking about carbon dioxide emissions from combustion sources that burn fossil fuels, regulation of air quality is inextricably connected to this issue and will be one of the vehicles for reducing CO_2 emissions.

With the focus on the EPA's pending new rules and for GHG emissions standards at existing power plants, how difficult will it be for Kentucky utility plants to meet these standards?

Until we know what the standards are for existing plants, it is difficult to say. However, we are trying to help guide EPA in the development of this rule by assisting them in recognizing the diversity in states' energy profiles. A rate-based approach, like that proposed on Sept. 20 for new fossil fuel-fired electricity generation, would be devastating to our existing fleet and our economy. In essence, the standards proposed in that rule practically eliminate any new coal-fired generation plants from being built. If a standard remotely similar to that is proposed for the existing fleet, coal units would have no choice but to shut down. That simply is not reasonable or realistic.

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Continued to Page 4

Q&A | John Lyons

Continued from Page 1

Is the EPA listening to what you have to say?

I believe they are. They have been very active in seeking stakeholder input on the development of this rulemaking. I have had numerous opportunities to engage with several EPA personnel at various stakeholder meetings in Washington, D.C. In fact, EPA staff recently came to Kentucky to discuss issues specific to the Commonwealth.

What do you propose be done to minimize the economic impact to the utilities and rate payers, while achieving environmental benefits?

First, we need to acknowledge the significant reductions that have already taken place and those that will take place in the near future. Using 2005 levels of CO_2 emissions from fossil fuel generation as a baseline, Kentucky's emissions have fallen by 7 percent. As a nation, the average reduction has been about 15 percent. Those reductions have been due to other air quality rules that have initiated fuel switching (coal to natural gas) and shut down of older plants where it is not economical to retrofit them. We expect these trends to continue and could see a reduction approaching 25 percent by 2020 without ever promulgating any GHG regulations.

We have also seen significant implementation of industrial, commercial and residential energy efficiency. This will hopefully lead to a decline in demand over the next few years and subsequently a reduction in emissions. That is why we are advocating a mass emissions reduction approach using multiple options.

If the standards are too stringent for Kentucky, what will the overall economic impact likely be?

I'm not an economist but there are ongoing studies that are trying to predict these types of outcomes. Undoubtedly, there would be higher electricity prices in Kentucky, which will lead to a loss of the competitive advantage that the Commonwealth still retains at this point.

How will this play a role in the state's ability to continue as a leading manufacturing state?

Economically, Kentucky has a tremendous amount at stake here. Kentucky is a manufacturing state. Our low-cost, affordable electricity is largely responsible for the support of more than 200,000 manufacturing jobs. The reason for that low-cost energy is due to our abundant coal reserves. In 2012, greater than 92 percent of our electricity generation was from coal-fired boilers. The majority of the remaining 8 percent was from natural gas, so any rules that move us away from our most abundant fuel supply will have an impact.

When will these new rules and standards take effect?

EPA has a year to finalize each rule once it's proposed. For new power plants, the rule will likely be finalized by late 2014. The president directed EPA to propose the rule for existing power plants by June 2014 and to finalize it the following year in June 2015. EPA has a way of letting deadlines slip, but in this case I feel confident that they will hit their marks. Once EPA has finalized the rule, the states have until June 2016 to submit a plan of how they will comply with the standards.

Supreme Court agrees to review GHG regulation

Last October, the U.S. Supreme Court agreed to hear arguments challenging the scope of EPA's authority to regulate greenhouse gases (GHG) under the Clean Air Act. Industry groups and states had petitioned the Supreme Court to review a decision by the U.S. Court of Appeals for the D.C. Circuit, which upheld several of EPA's greenhouse gas rules. Six of these petitions were lumped together to be heard by the Supreme Court in 2014.

In granting the review, the Supreme Court will consider the following question: "Whether EPA permissibly determined that its regulation of GHG emissions from new motor vehicles triggered permitting requirements under Title I of the Clean Air Act for stationary sources that emit greenhouse gases."

The question refers to EPA's 2010 Light Duty Rule (also known as the Tailpipe Rule), which was the first rule ever to regulate GHG emissions in the U.S. The Light Duty Rule restricted GHG emissions from automobiles, but it also triggered GHG limits from stationary sources like power plants as well. At issue is whether EPA had the authority to use the rule to trigger permitting requirements for stationary sources of GHGs.

The last time the Supreme Court heard a case on GHGs was 2007, when it decided that EPA must regulate GHG emissions from new motor vehicles if those emissions were determined to endanger public health and welfare. The agency made that determination two years later in the "Endangerment Finding," concluding that the rising level of GHGs in the atmosphere "threatens both the public health and the public welfare of current and future generations."