Overview of EPA Regulations

• Clean Power Plan (CPP)
• Ozone NAAQS
• Mercury & Air Toxics Standards (MATS)
• Methane / VOC NSPS
• CWA Section 316(b)
• Waters of the United States Rule (WOTUS)
• Fracking
Clean Power Plan

What does it require?

• Sets state goals
  • Establishes average CO₂ emission rates for two subcategories of existing fossil fuel-fired EGUs:
    • Fossil fuel-fired units (generally, coal-fired power plants)
    • Natural gas combined cycle units
  • Rates reflect BSER, one of which includes shifting generation from steam EGUs to lower-emitting natural gas plants
• States must develop/implement plans to ensure that the power plants in their state – either individually, together or in combination with other measures – to meet series of reduction goals
Clean Power Plan

Where does it stand?

• June 2, 2014 – Proposed rule issued
• August 3, 2015 – Final plan released
  • Not yet published in Federal Register; expected late October
• Sept. 10, 2015 – D.C. Circuit denied emergency stay
• Additional legal challenges anticipated

Clean Power Plan Timeline

15 Years
• January 1, 2030 - CO₂ Emission Goals met

Summer 2015
• August 3, 2015 - Final Clean Power Plan

1 Year
• September 6, 2016 - States submit initial state plan

3 Years
• September 6, 2018 - States submit final state plan

7 Years
• January 1, 2022 - Compliance period begins

Clean Power Plan

What does it mean for New England?

• Final rule softens impact on New England

• Encourages regional trading programs (e.g. RGGI)

• Emphasis now on energy efficiency/renewables, but potential increased market share for natural gas over long term

EPA Projected U.S. Fuel Sources, 2030

Source: EPA (2015)
**National Ambient Air Quality Standards for Ozone**

**What does it require?**

- Proposed revisions to the NAAQS for ground-level ozone and five other pollutants deemed harmful to public health.

- Proposed 8-hour standards set within a range of 65 to 70 parts per billion (ppb).

Source: EPA (Dec. 2011)
National Ambient Air Quality Standards for Ozone

Where does it stand?

- Proposed Rule – Nov. 25, 2014
- Final Rule – by Oct. 1, 2015 (court-ordered deadline)
- Attainment / Nonattainment designations for any revised standards – by Oct. 1, 2017
What does it mean for New England?

- Numerous counties would be in nonattainment under the proposed NAAQS
- Impact on New Source Review for new projects
- In-pipeline Prevention of Significant Deterioration (PSD) applications grandfathered

Source: U.S. Energy Information Administration (Dec. 2014)
Mercury & Air Toxics Standards (MATS)

What does it require?

Sets emissions standards to reduce air pollution from coal and oil-fired power plants by requiring installation and operation of equipment to remove mercury and fine particulate matter.

Source: EPA (Dec. 2011)
Mercury & Air Toxics Standards (MATS)

*Where does it stand?*

- Final Rule – February 16, 2012
  - Initial Compliance Requirement – April 2015
  - Extended Compliance Requirement – April 2017
- Upheld by D.C. Circuit – April 15, 2014
- **Supreme Court remand** – June 29, 2015
  - Status on remand pending at D.C. Circuit
Mercury & Air Toxics Standards (MATS)

What does it mean for New England?

• Based on the initial April 16, 2015 deadline, as well as existing state air toxics regulations across New England, no changes are expected in announced compliance strategies in the region.

• Coal-fired generator retirements as a result of economic and environmental drivers will continue.

• Increased compliance costs for any remaining coal- and oil-fired plants.

• New focus: natural gas, renewables, efficiency.

Source: U.S. Energy Information Administration (Dec. 2014)
Methane NSPS

What does it require?

- Reduction of methane and VOC emissions from the oil and gas sector
- Covers certain upstream & downstream equipment
- Establishes:
  - new methane and VOC standards for several emission sources not currently covered
  - new methane standards for sources currently regulated under existing NSPS rules
  - EPA is not, however, proposing to change current VOC standards for sources addressed in the 2012 NSPS
New Source Performance Standards

*What does it require (continued):*

- Emission-cutting requirements extended to natural gas transmission and processing equipment
- Limits emissions from several types of downstream equipment, including compressors and pneumatic controllers.
- Compressor stations and gathering/boosting stations must survey for fugitive emissions using OGI and promptly perform any needed repairs.
New Source Performance Standards

Where does it stand?

• Rules proposed Aug. 18, 2015
• Comment period open until mid-October 2015
  • Issues include frequency of emissions survey and integration of existing voluntary leak detection programs
• Legal challenges likely

Sources of U.S. Methane Emissions, 2012

Source: EPA (2014)
New Source Performance Standards

*What does it mean for New England?*

- New obligations include:
  - Leak detection - must discover and repair leaks
  - Capture gas from completion of fracked wells
  - Limit emissions from several types of equipment
- Cost is comparatively manageable, and many companies have mitigation tech already in place
- Potential implications for distribution systems?
316(b) Rule

What does it require?

• Compliance with best technology available (BTA) standards to reduce impingement and entrainment
  o Impingement: seven compliance options
  o Entrainment
    ▪ Existing units
      □ Site-specific standards
      □ Additional studies for facilities withdrawing 125+ MGD
    ▪ New units at existing facilities
      □ Reduce flow commensurate with closed-cycle cooling or
      □ Reduce impacts to level comparable to CCC

• Data collection, monitoring and record-keeping
316(b) Rule

Where does it stand?

• Published August 15, 2014
• Effective October 14, 2014
• Challenged by environmental groups and industry
  o *Cooling Water Intake Structure Coalition v. United States Environmental Protection Agency* (2nd Cir.)
  o Final briefs due August 2016
316(b) Rule

What does it mean for New England?

- Retrofit costs
- Operational constraints
- Conversions
- Retirements

New NG Power Plants

New England Capacity Subject to Cooling Water 316(b) Rule

Source: ISO-NE (2014)
WOTUS Rule

What does it require?

• Protection for jurisdictional waters under federal permitting, oil spill prevention, and state water quality certification programs

• Positive jurisdictional determinations by rule (e.g., traditionally navigable waters, tributaries of certain waters, wetlands and similar waters adjacent to certain waters)

• Exclusions by rule (e.g., groundwater, puddles)

• Case-specific determinations (e.g., waters within 100-year floodplain of certain waters, waters within 4,000 feet of the high tide line or ordinary high water mark)

• New definitions
  o Tributary
  o Neighboring
  o Significant nexus
WOTUS Rule

Where does it stand?

- Published June 29, 2015
- Challenged by states, industry and agricultural groups
- Effective August 28, 2015 (in 37 states)
  - Blocked in 13 states by federal judge in *N. Dakota v. EPA*, D.N.D. (8/27/15)
- U.S. Judicial Panel on Multi-District Litigation to hear EPA motion on October 1, 2015 to transfer case to D.D.C.
- Any legislation rescinding WOTUS Rule likely would be vetoed
WOTUS Rule

What does it mean for New England?

• More clarity and regulatory certainty for projects with impacts to WOTUS (e.g., transmission lines that cross waters)?
  o No new categories of waters
  o New categorical exclusions
  o 2.84% to 4.65% annual increase in positive jurisdictional determinations

• Increased permitting cost and delay?
• Nationwide permit complications?
• Potential for more onerous SPCC requirements
Fracking: Water issues

• Water use volumes varies geographically
  • Highest usage in Texas (Eagle Ford; Barnett), and lowest in Appalachia (Marcellus; Utica)
  • Why it matters: HF water use minimal compared to other uses, but growing controversy due to prolonged drought. Closely tied to public sentiment towards fracking, generally.

• Seismicity
  • Studies focused underground wastewater injection
  • Why it matters: Focused in West/Texas, but could lead to broadly-adopted regulation on state-to-state basis.
Fracking: Local control issues

- Fracking bans and limitations increasingly common; focused in West, but also NY
  - New York: State-wide ban follows seven years of study by NY DEC and 1,500 page report. Upheld by highest court.
  - Some states seeking to prohibit local bans or onerous limitations
- Raises questions regarding who has the right to regulate oil and gas activity
- **Why it matters:** Biggest impacts on E&P, but represents a fundamental threat.
  - Proponents and opponents focused on media/presentation.
Fracking: New BLM rules

- Regulates fracking on Federal/Indian lands.
  - Biggest direct impact in the West/Rocky Mountains

- Focuses on:
  - (1) chemical disclosure
  - (2) well construction and cementing requirements
  - (3) flowback management

- Opponents say rules duplicative, unnecessary

- **Why it matters:** The BLM rules may become a model for regulating operations on private land.

- **Status:** June 24, 2015: Wyoming challenge; rule stayed
Fracking: EPA rules

- April 7, 2015 Proposed Rulemaking on pretreatment standards for the Oil and Gas Extraction Category (40 CFR Part 435).

- Related study of private wastewater treatment facilities

- Safe Drinking Water Act/UIC Program
Questions

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