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EMISSION CRITICAL: EPA Ruling On CO2 Controls Could Boost Gas

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WASHINGTON (Dow Jones)--U.S. environmental regulators must soon decide whether burning natural gas to generate power counts as a means of cutting greenhouse gases, a ruling that could reshape the country's industrial operations and edge the U.S. away from coal.

If the EPA decides that companies must consider gas as a tool to limit emissions, power companies with coal-burning power plants in the works might have to go back to the drawing board. Gas producers would find fresh demand for the abundant fuel. Gas releases about half the greenhouse-gas emissions of coal.

The Environmental Protection Agency is pursuing its own greenhouse-gas regulations because Congress has failed to act. The issue has been pending at the EPA since 2007, when the Supreme Court ruled that greenhouse gases are pollutants and said that the EPA must determine whether to write regulations.

At issue is what counts as "best available control technology" to reduce emissions from power generation. Other methods under consideration are carbon capture and sequestration, or CCS, whereby carbon dioxide emissions are piped into permanent underground storage, and energy efficiency measures. The EPA is working on that guidance as it finalizes rules requiring power plants and other stationary emissions sources to hold permits to emit greenhouse gases. States would implement the rules and approve permits that have the best available technology to control greenhouse-gas emissions.

Janet McCabe, the principal deputy assistant administrator in the EPA's Office of Air and Radiation, said that the EPA hasn't decided when greenhouse-gas permits will be required, but said that the EPA plans to provide control-technology guidance to states "in a timely way." She said that while there is a consensus that energy efficiency is "a key consideration," beyond that, the EPA hasn't determined what technologies or operating procedures companies must consider when building new plants or upgrading existing facilities.

Some environmental lawyers look to a recent decision by EPA Administrator Lisa Jackson as a sign that the EPA is already favoring natural gas. In December, the EPA chief held up a proposed plant in Kentucky that would convert coal into gas and produce electricity because the state regulator "has not provided a reasoned explanation that demonstrates why the option of using exclusively natural gas is 'not available' for this facility."

The EPA says that the decision was a "procedural matter." The agency says it took no action in a similar case in August 2009 because state regulators had gone through appropriate procedures and considered whether alternate fuel should be used.

The EPA decision intensified an already heated debate within EPA's Clean Air Act Advisory Committee. After months of work on the subject, the panel's climate-change work group last week failed to reach an agreement on how far the EPA could go in setting guidelines for a best-available control technology. The debate boils down to whether considering gas as a power source winds up forcing companies to build gas plants, fundamentally changing the nature of the power project.

"In the past, the EPA and the courts have always taken the position that the Clean Air Act cannot be used to force

someone to switch from a coal plant to a natural-gas plant, but Administrator Jackson seems to want to change that rule," said Jeff Holmstead, a former EPA assistant administrator who represents companies at law firm Bracewell & Giuliani and who is a member of the EPA advisory committee. "It will certainly be litigated in court."

The EPA says that companies will still have leeway to keep existing coal-fired power plants running because they may take the economics of a project into account when determining what technologies to use to control greenhouse-gas emissions.

"We would not anticipate that states would require an existing coal-fired plant that is seeking a permit for a major modification to switch to natural gas" since any analysis about what counts as the best available control technology "requires that costs be taken into consideration as part of the decision-making process," McCabe said.

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