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From: POLITICO Pro Energy Whiteboard
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Subject: States, greens ask court to issue Clean Power Plan ruling

By Alex Guillén

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A coalition of states that support the Clean Power Plan and several environmental and public health groups today called on the D.C. Circuit Court of Appeals to issue its opinion on the Obama administration regulation, despite the Trump EPA's ongoing efforts to repeal it.

EPA previously said it was considering revising the rule, but its proposed repeal means that EPA would be "in violation of its statutory duty to regulate carbon dioxide from existing power plants under the Clean Air Act, a duty the agency is not contesting it must fulfill," the states said in a court filing.

"The Court is not required to — and should not — sign off on a further abeyance with the knowledge that the agency's proposed path would end in a statutory violation," the states added.

EPA last week asked for an indefinite hold on the case.

Environmental groups noted that Pruitt had justified the repeal by arguing EPA had gone beyond its statutory authority, an issue that had been argued before the D.C. Circuit and could be resolved with a ruling.

The states and groups urged the court to issue a ruling now, or otherwise to keep the case on hold for only 120 days.

This is not the first time the carbon rule's supporters have coaxed the court to issue its ruling. Environmentalists over the summer made the same request, prompting two of the judges to warn EPA that their patience was running thin.

WHAT'S NEXT: The 60-day stay issued by the court in August has expired. It is unclear when or how the court will act next.

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