

From: Joseph Bast [JBast@heartland.org]
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Subject: Big Mistake: Trump officials eyeing replacement for key Obama climate rule

The Clean Power Plan has entered the “repeal and replace, or just repeal?” zone. We know what happened when the Affordable Care Act entered that zone... now we’re fighting the Democrats’ counter-proposal, “Medicare for All.” The GOP had the votes for a straight up repeal of the ACA, they have them to repeal the Clean Power Plan. Just do it. Edison Electric Institute has long been a traitor to the rest of the energy industry and to electricity consumers. They should not be allowed in the WH.

Joe

<http://thehill.com/policy/energy-environment/350759-trump-officials-eyeing-replacement-for-key-obama-climate-rule>

Trump officials eyeing replacement for key Obama climate rule

By Timothy Cama - 09/15/17 06:00 AM EDT

The Trump administration is planning to pursue a less ambitious, more industry friendly climate change rule for coal-fired power plants as it works to scrap the one written under former President Barack Obama.

Multiple sources familiar with the Environmental Protection Agency’s (EPA) plans say that as soon as next month, the EPA could put out a preliminary proposal for a rule to replace the Clean Power Plan.

President Trump, EPA head Scott Pruitt and others in the administration have long been critics of the Obama climate rule, and are skeptical that human-produced emissions are changing the climate.

But the administration is starting to accept arguments from industry and business groups that for reasons like regulatory certainty and legal prudence, some limits on carbon emissions from power plants are a good idea.

“This is just sort of the least worst option,” one person familiar with the plans said.

The regulation is likely to focus solely on the carbon reductions that can be achieved at the coal-fired power plants themselves — mainly improving the efficiency of coal-fired generators, an approach known as “inside the fenceline.”

That’s in contrast to Obama’s rule, which was “outside the fenceline.” It ordered a 32 percent cut to the power sector’s carbon emissions, and based each state’s reductions on a formula that judged how much each state could achieve not just in efficiency, but also through utilities using more low-carbon power sources like natural gas and renewables.

The shift in approach means that the carbon reductions achievable through the Trump rule would be much lower than Obama’s, angering environmentalists, who support the Clean Power Plan.

David Doniger, director for the Natural Resources Defense Council’s clean air and climate program, said the efficiency focus wouldn’t fulfill the EPA’s duty under the Clean Air Act to order the maximum reductions that can be affordably achieved.

“This does not meet the legal obligation, and in fact, it could produce more emissions, not less,” he said. “The obligation under the law is to reduce carbon emissions the most you can at a reasonable cost. This would not meet that test.”

Doniger argued that if coal plants are made more efficient, they would become cheaper to operate and utilities would operate them more, which would actually increase emissions.

"You'd be moving in the wrong direction in terms of net carbon emissions," he said. "It'll be a problem for Pruitt and company to overcome."

The EPA declined to comment on the replacement plans, which were first reported by Politico.

Pruitt hasn't yet spoken publicly about whether he wants to replace the climate rule.

At a May event hosted by law firm Faegre Baker Daniels, he said the EPA might not have the responsibility or the authority to regulate carbon from power plants.

"I think it's yet to be determined," Pruitt said. "I think there's a fair question to be asked and answered on that issue with stationary sources [of emissions]. What are the tools in the toolbox?"

Sources familiar with the administration's discussions said Pruitt has been resistant to the idea of a new climate rule, despite widespread business and industry support for the idea.

"He just wanted to kill it, not replace," a source said. "The White House really had to lean on him."

Business groups have been consistently pushing the administration for the new rule, including at a series of official meetings in July with the White House Office of Management and Budget as part of its formal review of the EPA's repeal plans.

Mike Catanzaro, Trump's top energy adviser, attended one of those meetings with the Edison Electric Institute (EEI), the lobby for investor-owned utility companies, according to White House records.

The groups have a few arguments for a new rule: it could protect from lawsuits against the EPA to mandate a carbon rule, it could protect individual companies from lawsuits for their own emissions and it could set a favorable precedent for how the EPA regulates emissions.

"As EPA moves to repeal the current Clean Power Plan we have been supportive of the need to also move forward with a replacement rule," said Jeff Ostermayer, spokesman for EEI.

The National Association of Manufacturers has a similar argument.

"We've been very concerned about the breadth of this regulation, looking at it from a legal, precedential standpoint," Ross Eisenberg, the group's vice president for energy, said of the Clean Power Plan. "Something more narrowly tailored, that's in line with where we believe the statute was originally intended to go, is something that would be a better-looking rule."

A replacement rule could even win over conservative and free-market groups that have pushed the Trump administration to take bold action against Obama's climate agenda.

Those groups still want the administration to try at some point to rescind the 2009 endangerment finding, which is the lynchpin of climate regulation that officially found that greenhouse gases are harmful to human health and the environment.

But before that happens, conservatives would accept a narrower rule.

"An inside-the-fence rule would comply with law and with the endangerment finding while still keeping President Trump's promise to rescind the 'Clean Power' Plan. An inside-the-fence rule is not the 'Clean Power' Plan and will not cause utilities to close coal-fired power plants," said Myron Ebell, director of the Competitive Enterprise Institute's energy and environment center, and leader of Trump's transition team for the EPA.

"I think it is the appropriate action to take until such time as the endangerment finding is withdrawn," he said.

Tom Pyle, president of the American Energy Alliance, also said he is confident that the administration is fulfilling its promise to repeal the Clean Power Plan.

"Until the administration takes on the endangerment finding or Congress amends the Clean Air Act, the EPA is obligated to do something," Pyle argued.