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EPA Takes Another Step To Advance President Trump's America First Strategy, Proposes Repeal Of "Clean Power Plan"

WASHINGTON (October 10, 2017) – Today, U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt issued a Notice of Proposed Rulemaking (NPRM), proposing to repeal the so-called "Clean Power Plan (CPP)." After reviewing the CPP, EPA has proposed to determine that the Obama-era regulation exceeds the Agency's statutory authority. Repealing the CPP will also facilitate the development of U.S. energy resources and reduce unnecessary regulatory burdens associated with the development of those resources, in keeping with the principles established in President Trump's Executive Order on Energy Independence.

"The Obama administration pushed the bounds of their authority so far with the CPP that the Supreme Court issued a historic stay of the rule, preventing its devastating effects to be imposed on the American people while the rule is being challenged in court," **said EPA Administrator Scott Pruitt.** "We are committed to righting the wrongs of the Obama administration by cleaning the regulatory slate. Any replacement rule will be done carefully, properly, and with humility, by listening to all those affected by the rule."

CPP Appears to be Inconsistent with the Clean Air Act

The CPP, issued by the Obama administration, was premised on a novel and expansive view of Agency authority that the Trump administration now proposes to determine is inconsistent with the Clean Air Act. In fact, the CPP was put on hold in February 2016, when the U.S. Supreme Court issued an unprecedented, historic stay of the rule.

"EPA will respect the limits of statutory authority. The CPP ignored states' concerns and eroded longstanding and important partnerships that are a necessary part of achieving positive environmental outcomes. We can now assess whether further regulatory action is warranted; and, if so, what is the most appropriate path forward, consistent with the Clean Air Act and principles of cooperative federalism," **said Administrator Pruitt.**

The CPP was issued pursuant to a novel and expansive view of authority under Section 111 of the Clean Air Act (CAA). The CPP required regulated entities to take actions "outside the fence line." Traditionally, EPA Section 111 rules were based on measures that could be applied to, for, and at a particular facility, also referred to as "inside the fence line" measures. Prior to the CPP being issued, every single Section 111 rule on the books, including a handful of existing source rules and around 100 new-source rules, obeyed this limit. As the CPP departed from this traditional limit on EPA's authority under an "inside the fence line" interpretation, EPA is proposing to repeal it.

EPA has now sent the NPRM to the Federal Register for publication. Upon publication, the public will have 60 days to submit comments.

The repeal package includes:

1. The “preamble,” which lays out the proposed legal interpretation, policy implications, and a summary of the cost-benefits analysis of the proposed repeal; and
2. The “Regulatory Impact Analysis (RIA),” an in-depth cost-benefit technical analysis.

CPP Repeal Saves up to \$33 Billion in Avoided Costs in 2030

The proposed repeal both examines the Obama administration’s cost-benefit analysis, as well as provides insights to support an updated analysis of the environmental, health, and economic effects of the proposed repeal. The Trump administration estimates the proposed repeal could provide up to \$33 billion in avoided compliance costs in 2030.

The previous administration’s estimates and analysis of these costs and benefits was, in multiple areas, highly uncertain and/or controversial. Specific areas of controversy and/or uncertainty in the Obama administration’s analysis of CPP include:

- **Domestic versus global climate benefits:** The previous administration compared U.S. costs to an estimate of supposed global benefits, and failed to follow well-established economic procedures in estimating those benefits.
- **“Co-benefits” from non-greenhouse-gas pollutants:** The Obama administration relied heavily on reductions in other pollutants emitted by power plants, essentially hiding the true net cost of the CPP by claiming benefits from reducing pollutants that had nothing to do with the rule’s stated purpose.
- **Energy cost and savings accounting:** The Obama administration counted “energy efficiency” results of their rule as an avoided cost, resulting in a cost estimate being considerably lower than it would have been if they used the appropriate practice of considering these effects as benefits, rather than subtracting them from costs. Had the Obama administration used the Office of Management and Budget’s longstanding requirements and accounted cost and savings accordingly, it would have presented a more accurate accounting of the total cost of the CPP.

In this proposed repeal and its accompanying technical documents, this administration is, in a robust, open, and transparent way, presenting a wide range of analysis scenarios to the public.

As part of the notice-and-comment process for this proposed repeal, EPA will continue this analysis and inform the public, as necessary, to get feedback on new modeling and other information. The final action on this proposed repeal will address the results of this ongoing work.

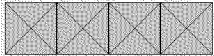
Forthcoming is an Advanced Notice of Proposed Rulemaking (ANPRM) that will be reflective of a thoughtful and responsible approach to regulatory action grounded within the authority provided by the statute.

“With this action, the Trump administration is respecting states’ role and reinstating transparency into how we protect our environment,” **said Administrator Pruitt.**

Background:

On March 28, President Trump signed an Executive Order on Energy Independence, establishing a national policy in favor of energy independence, economic growth, and the rule of law. The purpose of the Executive Order (EO) is to facilitate the development of U.S. energy resources and to reduce unnecessary regulatory burdens associated with the development of those resources. That same day, EPA Administrator Scott Pruitt signed four Federal Register notices in response to the EO, including a formal announcement of review of the Clean Power Plan. After substantial review, the Agency has proposed to determine that the Clean Power Plan (CPP) must be repealed.

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