

E.P.A. Drafts Rule on Coal Plants to Replace Clean Power Plan

By Lisa Friedman and Brad Plumer

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WASHINGTON — The Trump administration has drafted a new proposal to regulate carbon dioxide emissions from coal-fired power plants, one that is far less stringent than the climate plan finalized in 2015 by former President Barack Obama.

In writing the new rule to replace Mr. Obama's Clean Power Plan, the Trump administration is essentially accepting, for now, that the federal government is legally obligated to take action to address the greenhouse gases that cause global warming, even as President Trump has dismissed established climate science. But the new proposal is likely to spur only small tweaks to the nation's energy system.

Details of the plan, which is being drafted by the Environmental Protection Agency and is expected to be sent to the White House for approval in coming days, were described to The New York Times by industry officials who have worked closely with the agency to shape the rule.

On Thursday, Scott Pruitt, the administrator of the E.P.A., submitted his resignation after facing 13 federal investigations into his ethics, spending and management practices. That move is unlikely to lead to a major policy shift at the agency: The new acting E.P.A. chief will be Andrew Wheeler, a former coal lobbyist who shares Mr. Pruitt's commitment to rolling back Obama-era climate policies.

The new proposal, according to industry attorneys familiar with the plan, would recommend regulating the emissions of individual coal plants, which would call for modest upgrades, such as improving efficiency or substituting fuel. That contrasts with the more ambitious goals of the Clean Power Plan, which encouraged utilities to make broader systemic changes to cut emissions, such as switching from coal to natural gas or renewable power.

Allison D. Wood, a partner at Hunton & Williams who represents several electric utilities, described it as “very significant” that the administration was putting forward a regulation that acknowledged the obligation to regulate planet-warming emissions.

Last October, when Mr. Pruitt announced that he would formally repeal the Clean Power Plan, industry leaders applauded the move. But behind the scenes, they also urged Mr. Pruitt to put forward a replacement, preferably one far weaker than the original.

The reasoning was twofold. Many companies worried that simply repealing the climate rule without offering a substitute would not hold up in court — and could leave an opening for even tougher regulations under a future Democratic president. But some companies also wanted to signal that they took climate change seriously.

“The climate issue is, we think, here to stay, so we do think it makes sense to have some sort of regulation,” said John M. McManus, senior vice president of environmental services at American Electric Power, one of the country’s biggest electric companies.

For months, Mr. Pruitt — who had made a name for himself as attorney general of Oklahoma for opposing Mr. Obama’s climate policies — was skeptical of the benefit of crafting a replacement. Robert E. Murray, a mining executive and a longtime Trump donor, asserted that the E.P.A. should instead challenge the entire legal foundation for regulating greenhouse gases, a 2009 agency ruling known as the endangerment finding.

“Virtually everyone who cares about this issue has argued otherwise,” said Jeffrey R. Holmstead, a partner at the firm Bracewell and a former E.P.A. air chief. “Industry believes the E.P.A. has an obligation to regulate CO₂ from power plants, and they would be better off with a replacement rule.”



Scott Pruitt, the E.P.A. chief.
Tom Brenner/The New York Times

Ultimately, Mr. Pruitt chose that path, and the E.P.A. crafted a new plan that would technically regulate carbon dioxide without forcing major changes on the industry. Among other things, the new proposal would give states significant leeway in enforcing the rules. Industry attorneys said they expected it to borrow elements from a proposal Mr. Pruitt himself drafted for Oklahoma in 2014, in the course of challenging the Obama administration’s plan.

Michael Abboud, an E.P.A. spokesman, declined a request to discuss the proposal.

In a statement, Mr. Murray said that he would have preferred to see the Clean Power Plan scrapped with no replacement, but that any new plan should ensure “reliable, low-cost and fuel-secure electricity in America” and preserve coal mining jobs.

Before joining the E.P.A., Mr. Wheeler, the new acting administrator, worked as a lobbyist for Mr. Murray.

While details of the Trump administration’s proposal are not yet public, in the past environmental groups have argued that a narrower regulation would bring little to no benefit for the climate or clean air.

The original Obama-era Clean Power Plan aimed to cut emissions from the nation's power plants roughly 32 percent below 2005 levels by 2030. But as market forces have pushed hundreds of coal plants into retirement and as wind and solar power have become cheaper, many states are now on track to exceed those initial targets even in the absence of federal regulation. As a result, many environmentalists contend that the original rules were too weak, not too aggressive.

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“We should be taking advantage of the falling cost of clean energy and the fast pace of market change to require even greater reductions, not write a standard that is intended to do nothing,” said David Doniger, director of the Climate and Clean Energy Program at the Natural Resources Defense Council.

Once the E.P.A. proposal is formally published, it will need to go through a public comment period before being finalized. The agency is hoping to complete the new rule by early 2019. After that happens, the agency intends to finalize its formal repeal of the Clean Power Plan. Environmental groups and several states have already pledged to challenge those moves in federal court.

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