

E.P.A. Finalizes Its Plan to Replace Obama-Era Climate Rules



By **Lisa Friedman**

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WASHINGTON — The Trump administration on Wednesday replaced former President Barack Obama’s effort to reduce planet-warming pollution from coal plants with a new rule that would keep plants open longer and undercut progress on reducing carbon emissions.

The rule represents the Trump administration’s most direct effort to protect the coal industry. It is also another significant step in dismantling measures aimed at combating global warming, including the rollback of tailpipe emissions standards and the planned withdrawal from the Paris climate agreement.

The move largely gives states the authority to decide how far to scale back emissions, or not to do it all, and significantly reduces the federal government’s role in setting standards. The Obama plan would have set national emissions limits and required the reconstruction of power grids to move utilities away from coal.

The new regulation, known as the Affordable Clean Energy rule, immediately drew a flurry of challenges, with attorneys general in California, Oregon, Washington State, Iowa, Colorado and New York saying they intended to sue to block the measure.

Those cases could have far-reaching implications for global warming. If the Supreme Court ultimately upholds the administration's approach to pollution regulation, it would shut down a key avenue that future presidents could use to address climate change.

At issue is whether the Environmental Protection Agency has authority to set national restrictions on carbon emissions and force states to move away from coal, as assumed under Mr. Obama's rule. Under the Trump administration's interpretation, the agency only has authority over environmental infractions at individual plants, like chemical spills and improper handling of hazardous materials.

Andrew Wheeler, the Environmental Protection Agency administrator, argued that the Obama administration had overreached its authority with its rule. That regulation, known as the Clean Power Plan, was suspended by the Supreme Court after challenges from 28 states and hundreds of companies.

Jody Freeman, a professor of environmental law at Harvard University and a former legal counsel in the Obama administration, said it would be "a blockbuster" if the Trump rule reached the Supreme Court and justices endorsed the administration approach. "It could foreclose a new administration from doing something more ambitious," she said.

The new rule, which is expected to come into effect within 30 days, assumes that the forces of the market will guide the country to a future of cleaner energy by naturally phasing out coal over time. It imposes only modest requirements on coal plants.

While it instructs states to reduce emissions, the new measure sets no targets. Instead, it lets states decide how much carbon reduction they consider reasonable and suggests ways to improve efficiency at individual power plants.

Jeffrey R. Holmstead, who served in the E.P.A. during both Bush administrations and now represents utility companies as a lawyer for the firm Bracewell, said he thought the current Supreme Court would be skeptical of any presidential effort to regulate carbon emissions under existing law.

“It will establish what the E.P.A. can and can’t do,” Mr. Holmstead said of the new Trump rule. “I think it really will tie the hands of future administrations.”

Environmental groups say the Trump rule will slow the reduction of greenhouse gas emissions at a time when scientists warn that countries must rapidly decarbonize to avoid the most severe effects of climate change, including heat waves, extreme storms, droughts and floods.

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Mr. Wheeler has said the Trump administration’s plan is legally sound, will not damage the economy and will still go a long way toward reducing carbon.

He maintained that, when the new measure is fully implemented, it will reduce carbon emissions in the power sector by 34 percent below 2005 levels, roughly equal to the goals of the Clean Power Plan.

Mr. Wheeler also said the rule could lead to new coal plants in the United States. “I don’t know who is going to invest in a new coal fired power plant, but we’re leveling the playing field to allow that investment to occur,” he said.

Mr. Wheeler noted, as he has in the past that, from 2005 to 2017, the United States reduced its energy-related carbon emissions by 14 percent. He did not mention that they rose in 2018 and are on track to continue growing this year. Asked about the upward trend of emissions, Mr. Wheeler said he remained confident that the Trump administration was taking the right approach and should not overstep its authority to address climate change.

“We’re on the right side of history,” he said. “Its Congress’ role to draft statutes, not the regulatory agencies.”



Andrew Wheeler, the Environmental Protection Agency chief, on Capitol Hill in April.
Patrick Semansky/Associated Press

Industry leaders welcomed the new rule, saying it grants states and utilities the flexibility to reduce emissions in ways best suited to their individual circumstances. Phil Smith, a spokesman for the United Mine Workers of America, said the Trump administration plan would save jobs in coal country.

The Obama plan, he said, prevented the construction of new plants and led to the closing of existing plants. The Trump rule, by contrast, “is going to reduce emissions while not immediately putting an end to our industry,” he said.

Scientific and environmental organizations, though, maintain that the Trump rule could cause emissions to rise compared with what the Clean Power Plan would have done and that the Trump rule would be only slightly better than doing nothing at all.

That's in large part because of a phenomenon known as the emissions rebound effect. While plants that make efficiency improvements like those suggested under the Trump plan will become slightly cleaner, those improvements will generally allow them to operate longer, too. The overall effect is to increase the amount of emissions generated over the lifetime of a particular plant.

According to a joint study produced last year by Harvard University, Syracuse University and Resources for the Future, a research organization, 18 states and the District of Columbia would see higher greenhouse emissions from the Trump rule. In 19 states, pollutants like sulfur dioxide and nitrogen oxide emissions would rise.

An early Trump administration analysis of its own plan also found that it would lead to hundreds more premature deaths and hospitalizations because of that increased air pollution.

On Wednesday, the Natural Resources Defense Council, an environmental group, issued a new analysis that estimated, based on established E.P.A. methods of calculating the harm from pollution and industry trends, that the new plan could lead to as many as 5,200 premature deaths annually by 2030.

"No matter how you slice it, this is a dramatic retrenchment" Ms. Freeman said. "It's not just that they're doing very small, modest steps to reduce emissions. It's that they're not creating momentum to substitute renewables and substitute natural gas for coal. That's what the Obama rule was doing, and it had a long-term view to bigger emission cuts over time."

Mr. Wheeler, though, continued to push back against the perception that the Trump administration was disregarding the threat posed by rising emissions.

“We are addressing climate change,” Mr. Wheeler said. “We have limited authority but we’re doing a lot.”

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Correction: June 19, 2019

An earlier version of this article misquoted a professor of environmental law at Harvard University. The professor, Jody Freeman, called the Trump rule “a dramatic retrenchment,” not a dramatic entrenchment.

Lisa Friedman reports on climate and environmental policy in Washington. A former editor at Climatewire, she has covered nine international climate talks. @LFFriedman

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