



Energy sector backs off position on climate rules

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November 30, 2017

The energy companies and industry groups that successfully pushed the Trump administration to scrap action under President Barack Obama on climate change have a new message for the fossil-fuel enthusiasts now calling the shots: Don't go too far.

It is not clear the administration is listening.

An intensifying debate between climate change skeptics looking to strike a death blow to federal greenhouse gas restrictions and a growing number of electricity and manufacturing companies warning that doing so would backfire could ultimately test who has the most White House clout in setting energy policy — industry or the ideologues.

The firms involved fought Obama's rules. But no rules at all, they worry, would open them to all manner of legal and financial risk.

The tension was on display this week in Charleston, W.Va., where the Environmental Protection Agency boasted that it was traveling to "the heart of coal country" to hear from the public on the agency's proposal to erase the greenhouse gas restrictions and replace them with new ones or with none at all. It was contentious. And even among administration allies, the message was far from uniform.

Power companies and manufacturers want the previous administration's Clean Power Plan replaced with a watered-down climate policy that gives them a regulatory plan, keeps the U.S. at least slightly in step with the rest of the world on energy policy and helps protect them from lawsuits threatening to revive the Obama rules.

Influential allies of Trump are pressuring the administration against leaving any rules in place that restrict greenhouse gas emissions at power plants. One of the star speakers in Charleston was coal magnate Robert Murray, a major supporter of the president who demanded a repeal of the Clean Power Plan "in its entirety," and laid out how the government should go about ending all greenhouse gas emission regulation.

"We respectfully remind the U.S. EPA that much more needs to be done to follow through on promises relative to coal-fired generation, coal production and coal mining jobs," he said.

The comments were delivered as a longtime lobbyist for Murray's company, Andrew Wheeler, is on a path to confirmation as the EPA's deputy administrator, the second-most-powerful post at the agency. Wheeler's history of working for climate-change deniers was a point of contention at his hearings, as was Murray's role in guiding Trump's thinking on climate policy.

Murray is joined by several other activists close to the administration — some have worked inside it — in urging repeal of the EPA’s “endangerment finding,” which obligates the agency to regulate carbon emissions under the Clean Air Act. The finding has already been upheld several times in court, including against a challenge by Scott Pruitt when he was attorney general of Oklahoma. Pruitt is now Trump’s EPA administrator.

Yet the endangerment finding remains the target of climate change skeptics who have the ear of the White House, such as those at the Cato Institute, the Heartland Institute and the Koch brothers-backed American Energy Alliance and Competitive Enterprise Institute.

At this week’s hearing, industry groups cautioned against following those skeptics’ advice. Michael Burger, executive director of the Sabin Center for Climate Change Law at Columbia University, said the companies that fought the Clean Power Plan have reason to be anxious about the prospect of nothing taking its place.

“They are seeing a perceived opportunity to weaken regulations slip away,” Burger said in an email. “Repeal without replacement will almost certainly fail in court.” He said the Supreme Court has already affirmed that the EPA is required to regulate greenhouse gases from power plants.

Richard Revesz, director of the Institute for Policy Integrity at the New York University School of Law, warned that repeal without replacement “could open the floodgates for litigation” and expose power companies that were to be regulated under the Clean Power Plan to “significant and highly uncertain liabilities.”

The Electric Reliability Coordinating Council, a coalition that includes some of the country’s biggest utilities and fossil fuel companies, encouraged the EPA at this week’s hearing to replace the Clean Power Plan with new rules. Scott Segal, the group’s director, said new, less stringent rules “can provide regulatory certainty, diminish frivolous litigation, and can aid in planning.”

After pillorying the Clean Power Plan in its testimony, the U.S. Chamber of Commerce also signaled it wants new emissions rules in place, calling for “a more reasonable path forward that protects American jobs and the economy while fostering continued environmental progress.” The National Association of Manufacturers, which fought the Obama plan, wants it replaced with something new.

The positioning reflects legal challenges confronting corporate America on global warming, and also the political realities. Climate action remains popular among customers and many corporate executives. The rest of the world is moving ahead with it, and a future administration is very likely to put back in place aggressive emissions rules. Companies are trying to plan for all of that.

“A repeal without replacement creates uncertainty even if it’s a short-term help,” said Eli Lehrer, president of R Street, a conservative think tank and opponent of the Clean Power Plan. “Nobody — not stockholders, not managers, not major customers — likes uncertainty when it comes to something as vital as electrical power.”