

Media Coverage of Union/OMB CPP Meeting
June 26, 2017

Politico Pro
By Alex Guillén
06/28/2017 12:54 PM EDT

A coalition of unions this week asked the Trump administration to rescind EPA's Clean Power Plan and then write a more limited version of the landmark power plant rule.

The unions, including the United Mine Workers of America, Utility Workers Union of America and the AFL-CIO, said in a June 26 meeting with OMB officials that repealing the CPP "is a critical step in reducing future job losses in the coal generation, transportation, and mining sectors," according to [documents](#) posted on OMB's website.

The unions went on to note that Supreme Court precedents and EPA's 2009 endangerment finding require EPA to regulate in some manner. EPA should instead write a rule that obtains "inside the fence" reductions by achieving efficiency improvements at existing coal-fired power plants, according to the unions.

However, the unions acknowledged, heat rate improvements at coal plants "are not very effective in reducing CO2 emissions" and would only achieve a 2-3 percent emissions reduction. EPA said the CPP would have secured a 32 percent reduction in power generation emissions, although utilities have already achieved some of that.

EPA could allow trading to minimize costs and should "provide credit for past reductions," the unions suggested.

They also called for reforms to EPA's New Source Review permitting program.

In addition, OMB and EPA officials [met March 22](#) with advocates from the NRDC. Documents from that meeting showed that the environmental group advocated against rescinding the CPP.

WHAT'S NEXT: OMB will continue to review EPA's proposed rule to withdraw the CPP before its anticipated release later this summer.

CLEAN POWER PLAN

White House meets with greens, unions on rollback

Kevin Bogardus, E&E News reporter

Published: Wednesday, June 28, 2017

The White House has begun meetings to discuss pulling back on U.S. EPA's Clean Power Plan. Officials with EPA and the Office of Management and Budget have held meetings with environmental organizations as well as with several labor unions on President Trump's move to rescind the EPA rule designed to reduce power plants' carbon emissions, according to records posted online by OMB.

OMB received official notice this month from EPA for a proposed rulemaking to pull back from the Clean Power Plan ([Greenwire](#), June 9). Trump signed an executive order in March directing EPA to review the Clean Power Plan. A federal court has also paused litigation over the regulation.

As part of its reviews, OMB typically holds meetings with interested parties before issuing a draft rule. It's not clear how or whether EPA Administrator Scott Pruitt will replace the Clean Power Plan, considering he has questioned in the past whether the agency has the tools to regulate greenhouse gases.

Environmental groups have pledged to fight back against the rollback of the Clean Power Plan.

Last Thursday, Trump administration officials met with officials from the Natural Resources Defense Council and E2, a business group that pushes for clean energy. They shared several documents with OMB and EPA officials, such as an NRDC [report](#) on the Clean Power Plan as well as other studies from [E2](#) and [M.J. Bradley & Associates](#) on the regulation.

On Monday, the Trump administration met with officials from several unions, including the International Brotherhood of Electrical Workers, the International Brotherhood of Boilermakers, the United Mine Workers of America and the SMART Transportation Division as well as the AFL-CIO, the nation's largest labor federation.

Union officials shared handouts that were more critical of the Clean Power Plan, including one [document](#) that said "The CPP is a job killer" as well as a [chart](#) of jobs and household income attributable to coal power generation.

DAILY NEWS (Inside EPA On-line)

Unions Urge White House To Include NSR Reform With CPP Replacement

June 28, 2017

Correction appended

Labor groups are urging the Trump administration to make controversial reforms to the Clean Air Act new source review (NSR) program as part of any rule to replace the Obama-era Clean Power Plan (CPP), potentially providing key support for overhauling the contentious NSR permit program even though EPA has not yet decided whether to replace the CPP.

At a June 26 meeting with EPA and White House officials, representatives from several mining, industrial and other unions urged the administration to extend an NSR exemption for "routine maintenance, repair and replacement" to projects undertaken to cut greenhouse gas emissions at coal plants in order to comply with what they see as a narrow CPP replacement that would require only efficiency improvements within a coal plant's fenceline.

Representatives of the United Mine Workers of America, the International Brotherhood of Electrical Workers, the Union for Jobs & Environmental Progress, the AFL-CIO, the Boilermakers, the Utility Workers of America and the Sheet Metal Air, Rail & Transportation Union met with EPA and White House Office of Management & Budget (OMB) and Office of Information & Regulatory Affairs officials to make their pitch.

One labor source familiar with the meeting says the discussion of NSR reforms appeared to garner significant interest from federal officials. The source adds that the labor groups argued that including NSR reforms as part of any CPP replacement could help retain the existing coal fleet and help ensure that it "could hang around longer." Reforming NSR -- which requires large industrial facilities to install state-of-the-art pollution controls when making major modifications -- "is key to major efficiency improvements," according to a [handout](#) from the groups.

"The NSR program has stymied investment in the existing coal fleet due to concerns about triggering [best available control technology (BACT)] and other onerous NSR permitting requirements. To enhance the effectiveness of a replacement CPP rule, EPA must streamline NSR regulations to incentivize major investments areas such as boiler and turbine upgrades."

It adds that a narrow CPP, limited to on-site efficiency improvements, combined with eased NSR requirements would bring "substantial efficiency improvements . . . in the existing coal fleet, along with reduced [carbon dioxide (CO₂)] emission rates."

And the document says that the Trump EPA could limit these NSR reforms only to the power sector, or expand them more broadly to all industrial sources subject to the program -- the latter of which would be an even bolder move, given long-running battles

over the program and efforts to reform it last undertaken by the George W. Bush administration.

The unions' call for the administration to reform NSR as part of any power plant greenhouse gas rule could provide a significant boost to similar industry calls. In recent comments to the Commerce Department, several major industrial sectors urged officials to overhaul the NSR program, providing one of the loudest apparent areas of agreement on potential regulatory changes under Trump's deregulatory initiative.

NSR Uncertainty

However, any effort to reform NSR is likely to cause heartburn on all sides, with veterans of the Bush administration fights already openly questioning whether the Trump administration will have enough [bandwidth](#) to address the issue, given other priorities.

"To come up with [an NSR] rulemaking that is defensible, that is a multi-year effort," one industry source said. "I don't know if they have the horsepower to do that," especially with staff incomplete and a host of other priorities including addressing the CPP. Another uncertainty for the labor groups' call is that EPA has not yet decided whether to replace the CPP. EPA Administrator Scott Pruitt told a May 24 conference that such a decision is "yet to be determined." Pruitt suggested the agency was in no particular rush to decide the issue and said he is planning to review EPA's Clean Air Act authority. Regardless of the uncertainties, the labor groups want the administration to address long-standing concerns over how EPA's rules define the NSR routine maintenance exemption.

The issue plagued the Bush administration's NSR reform effort and ultimately resulted in courts overturning EPA's bid to raise the cost threshold for the routine maintenance exemption.

The unions urged the administration to "clarify that reliability, efficiency and safety improvement projects performed routinely within the electric power sector (and not only those projects performed routinely at the specific power plant) qualify for routine maintenance, repair and replacement."

They also want the current NSR trigger test -- based on annual emissions increase potential -- replaced with an eased test under the new source performance standards section of the air law that is instead based on maximum hourly emissions.

The fix "could apply to all projects undertaken by any industry or could be limited to those projects undertaken by power generation sector," the handout says.

In a bid to show coal-based jobs are worth protecting, the groups say in a separate handout that direct and indirect coal-based jobs employ more than 850,000

people in 48 states and result in more than \$211 billion in economic output, including \$52 billion in coal-generated household income that would average to \$449 per household.

The labor source says the groups went to the White House to discuss EPA's draft proposed rule that is believed to be a CPP repeal only. But "while there, we decided to give our thoughts about what a replacement rule" should include, the source says. All of the labor groups urged the Trump administration "to develop a connection" between the CPP's building block 1 provisions, which address efficiency improvements at coal-fired power plants, and NSR "because block 1 is supposed to be about power plant efficiency improvements. Well, that's what NSR reform is also all about." The source adds that when EPA first proposed an earlier version of the CPP it included higher on-site efficiency improvements than what was eventually included in the final rule, though many utilities believed they could not meet that kind of improvement because it would trigger NSR. As a result, EPA amended its final rule to weaken building block 1, so it was only responsible for one-tenth of 1 percent of the emissions reductions called for by the CPP. "It was nothing," the source says.

'Sophisticated Statistical Approach'

As a result, the labor groups are now suggesting a "sophisticated statistical approach that looks at the fact that some units are performing a lot better than others in terms of CO2 emission rates per megawatt hour." The source says the standard could be set either as an emissions rate criteria or on a per-ton metric "based upon some line that you draw" for the best performing coal units. Worse-performing units would then have to meet that average, and would be allowed to do so using "outside the fence trading," as long as they can achieve the same reductions. "And we want to include NSR reform to encourage utilities to make efficiency improvements in the existing fleet," the source says.

The labor groups believe EPA could move an NSR reform package limited to utilities as part of a single CPP replacement rule, though the source says that the White House indicated it believed it would have to be a separate rule. "And we agreed, but because of the nexus here, we believe that putting the two together in one rule just makes a lot of policy sense. Because if you are just doing NSR by itself, why are you doing it? Shouldn't you be linking it to some defined environmental objective" such as reducing CO2 from coal units? the source asks.

Additionally, the source says the administration seemed receptive to the idea. While staff rarely comment at OMB meetings, the source says, "We have never seen OMB staff take more notes than they did during the NSR portion" of the meeting.

Finally, the source says that the groups argued that NSR reforms could also address concerns about baseload power reliability and resiliency, and would help to maintain the existing coal fleet. For example, coal plants that have suffered depreciation in states with regulated electricity markets could change out a turbine or boiler without triggering

NSR under this proposal, and that investment would mean “that plant is going to be around for a long time. We don’t want to gild the lily too much here but there is clearly a linkage not only between” replacing the CPP with a rule requiring coal plant efficiency upgrades and using “NSR reform as a good way to get you that. And at the same time you are addressing reliability and resilience issues” for baseload power. -- Dawn Reeves (dreeves@iwpnews.com)

Editor's Note: This story has been updated to correct the projected economic impact of coal jobs.

Washington Examiner
July 17, 2017

EPA mulls unions' ideas for a Trump 'clean coal' power plan

by John Siciliano | Jul 17, 2017, 12:01 AM

The EPA is reviewing the Obama administration's Clean Power Plan as part of a process that ultimately will see the plan repealed or re-proposed as a replacement rule that it can justify as legally defensible under the Clean Air Act.

A presentation given by the United Mine Workers of America and boiler and utility unions to the Office of Management and Budget at a June 26 meeting at the White House examined the legal basis for a replacement rule. The meeting included EPA, OMB, AFL-CIO, the International Brotherhood of Electrical Workers, Utility Workers Union of America, and others.

The meeting was part of a series of meetings OMB is holding to review an EPA proposed rule on the Clean Power Plan that many believe will result in a replacement rule, rather than a repeal. But the proposal won't be made public until after the review period concludes.

"The details of any replacement rule will be up to EPA, we offered some suggestions, and we may have more in the future," said Phil Smith, the United Mine Workers' head of communications and government affairs. "I really have no way no gauge at this point whether or not they are serious about it."

Conservative groups and clean energy advocates say that if the EPA goes for a replacement rule, a Trump Clean Power Plan most likely would favor coal-fired power plants by rewarding them for improving boiler heat-rate efficiency. That was one of the options that the labor unions suggested to the administration last month.

Heat-rate efficiency refers to the amount of heat necessary to burn coal to generate a unit of electricity. Increasing heat-rate efficiency reduces the amount of fuel needed to generate power.

"There's a rumor that Administrator [Scott] Pruitt is going to, in order to put the best legal foot forward on climate change, push for what is 'Building Block One' of the Clean Power Plan. That's limited to heat-rate improvements at coal-fired facilities, and that will

reduce emissions 2 to 3 percent depending on the figure," said Sam Batkins, who was the conservative American Action Forum's regulatory director until last month.

Batkins discussed the issue before he left the free-market think tank to work for credit card giant Mastercard's policy team. He had been tracking the administration's deregulation agenda, which includes rolling back Obama's climate regulations. He was not part of the OMB meetings, but is privy to what is being considered.

The heat-rate improvements were part of the Obama climate plan's four "building blocks" that states would use to reduce their greenhouse gas emissions. Other blocks included natural gas switching, renewable energy, and energy-efficiency programs, which many states argued goes beyond EPA's authority to regulate.

Under the Obama administration, utilities had criticized the efficiency improvements at coal plants as "wildly over-optimistic" and said they would raise costs for power plants, Batkins recalled.

At the same time, power plants will want to run at the highest efficiency level possible, he said. So, naturally, there is an incentive to make the heat-rate improvements to maximize profits and reduce the cost of operating a plant, he says.

"To some extent, I think Administrator Pruitt is going to work as best he can to sort of minimize those costs," Batkins said.

The recent meetings at the OMB would justify those rumors to some degree, and EPA could be at least contemplating the idea of proposing a heat-rate improvement greenhouse gas emissions plan in which coal comes out a winner.

Although the unions think the idea has merit, they also see room for some sizable tweaks, according to their presentation.

"Building Block #1 – 'inside the fence' plant efficiency improvements unanimously agreed as valid by state and non-state petitioners," the presentation reads. But then, it says in the next slide that "heat-rate improvements are not very effective in reducing [carbon dioxide] emissions," stating that the original version of the power plant building block was "believed to achieve only 2-3 percent reductions reductions of CO₂."

Instead, the unions contemplate setting "a standard of performance" based on a statistical analysis of the country's best-performing power plants "to set state targets (e.g., top 20 percent, top 25 percent) in tons or emission rates."

The standard would allow trading of emission credits to minimize the cost of compliance, according to the presentation. It also would have to consider changing the EPA's current standards for New Source Review, which "can dramatically improve plant efficiency."

New Source Review refers to the existing review process used by the EPA to determine if a power plant requires pollution controls under the Clean Air Act. But the process doesn't provide an incentive for a coal power plant to increase efficiency.

"The NSR program has stymied investment in the existing coal fleet" through "onerous NSR permitting requirements," the document read.

Part of the reason the Trump administration would need to weigh its own version of the Clean Power Plan is because of a 2007 Supreme Court ruling in the case *Massachusetts v. EPA*. The high court ruled that the EPA can regulate climate change-causing carbon dioxide emissions as a pollutant, leading the agency to issue a subsequent "endangerment finding" showing that carbon dioxide poses a public health risk and needs to be regulated.

"They have to do something" because of the endangerment finding, said a source with a clean energy group that supports the Clean Power Plan, who spoke on the condition of anonymity to discuss the issue more freely. "Presumably, they are going to go inside the fence line to require minimal efficiency improvements at existing plants, or something like that.... I think they are crafty enough to do that without putting any teeth behind it."

That would keep the D.C. Circuit Court of Appeals from ruling on the lawsuit filed by two dozen states and more than 100 industry groups opposing the Clean Power Plan. The court, which heard oral arguments last fall, could rescind the regulation or back it, or some variation of the two. The court did agree to allow the EPA time to review the rule. Meanwhile, the climate plan has been stayed by the Supreme Court until the case has been fully litigated.

Pruitt had been a party to the lawsuit when he served as Oklahoma's attorney general. The Trump administration agrees with the legal claims that Pruitt and the states put forward, arguing that the EPA overstepped its authority under the Clean Air Act.

The administration sees the Clean Power Plan as going "outside the fence line" of a power plant by including residential efficiency and state renewable energy programs in regulating emissions.

The OMB and White House did not respond to requests for comment. EPA spokesman Jahan Wilcox said only that "a revision of the Clean Power Plan is going through the interagency review process."

However, the OMB and EPA personnel who participated in the June 26 meeting "seemed to be quite interested in what we had to say," Smith said. "These meetings are normally very boring affairs with us doing all the talking. That was not the case here. They were engaged and asked a lot of questions."

Environmental groups such as the Sierra Club also met with the administration last month on its plans for the Clean Power Plan. A representative for the group said they used their sitdown to urge the administration to move forward with the Obama administration's finalized rule, but "did not hear much relevant information from OMB."

Sierra Club representatives "simply went and reiterated our support for the Clean Power Plan, which took years to write and involved unprecedented stakeholder outreach with everyone from environmental groups to the fossil fuel industry," the representative said.

Under section 111(d) of the Clean Air Act, the EPA is allowed to regulate emissions only on a plant-by-plant basis and cannot include items outside of the fence line to meet the Clean Power Plan, states, unions and the administration argues.

"We could support an inside the fence replacement rule, especially one coupled to NSR reforms that would help modernize the aging coal fleet," said Smith. "It is also clear to us, as shown by the Supreme Court stay, that the Clean Power Plan was an illegal overreach by going outside the fence."

The clean energy group source said once the new plan is proposed, "We will be arguing along with a lot of other people that you need to do these other things." But he expects the administration to say no, "and we will litigate it, and that will go on forever until the next administration."