

TALKING POINTS

- One of President Trump’s earliest and most important executive orders directed EPA to review the Clean Power Plan (CPP) and repeal, replace, or revise it.
- This signaled to the nation that the war on coal is over and a new era of energy dominance is underway.
- CPP is an overreach of EPA’s authority under the Clean Air Act. Instead of regulating individual sources, it tried to set national energy policy, the mix of our generation base.
- 150 entities, including 27 states, 24 trade associations, 37 rural electric co-ops, and three labor unions challenged the rule. A bipartisan majority of the U.S. Congress also formally disapproved of CPP.
- Because CPP exceeded the Agency’s authority, the Supreme Court intervened and issued a historic stay. The Court had never before stayed a rule while a lower court was reviewing it.
- Independent economic analysis by NERA found that CPP’s overreach would have cost up to \$292 billion and caused double digit electricity price increases in 40 states.
- These rising energy prices would have hurt low and middle-income Americans the most.
- According to a 2015 analysis that assessed the impact of high energy prices, middle-income Americans spend nearly 20% of their after-tax income on residential and transportation energy. Low-income Americans spend more than 20%.
- CPP would have hurt minorities and senior citizens disproportionately, since most live in low or middle-income households.
- According to Harry Alford, President of the National Black Chamber of Commerce, CPP would increase Black poverty by 23 percent and Hispanic poverty by 26 percent. It would result in cumulative job losses of 7 million for Blacks and nearly 12 million for Hispanics in 2035.
- Under President Trump, the unemployment rate for Black and Hispanic Americans is at an all-time low.
- Americans deserve better than CPP. From day one, President Trump listened to those who wanted him to roll back this punitive climate plan.
- Through the courts, EPA has a responsibility to regulate carbon dioxide (CO₂) emissions from power plants.
- We will not use that authority to pick winners and losers. Instead, we will operate within the four corners of the Clean Air Act. The era of top-down, one-size-fits-all mandates is over.
- EPA’s proposed replacement rule sets greenhouse gas guidelines for power plants consistent with the law and respectful of the states’ important roles. Unlike CPP, the alternative rule ensures states will play their proper role under the Clean Air Act (section 111(d)) and our federalist system: they will be the ones to establish standards of performance for existing sources in line with EPA’s emission guidelines.
- The rule will empower states to reduce emissions and provide modern, reliable power at an affordable cost for all Americans.
- One key element of the rule would update EPA’s New Source Review permitting program to encourage our nation’s power plants invest in the latest, most efficient technologies. These

permitting updates would also protect states against increased permitting burdens and wasteful compliance costs so they can focus their state plans on improving environmental outcomes instead of bureaucratic red tape.

- The rule will not interfere with states as they construct diverse, reliable energy portfolios.
- A diverse, reliable energy portfolio is essential to the President’s goal of energy dominance.
- Energy dominance is good for America and good for the world. We can create real wealth and prosperity at home while providing true energy security to our allies across the globe.
- America is the gold standard for energy production and environmental protection.
- From 2010 to 2018, total U.S. energy-related carbon dioxide emissions will fall by nearly 7 percent, according to the Energy Information Administration. In contrast, global emissions are increasing by 10 percent. The U.S. is doing its part to address this problem *without* the Paris agreement or the failed and overreaching regulations of the prior administration; the champions of those failed policies are the ones not meeting their commitments.
- Additionally, since 1970, total emissions of the six criteria air pollutants regulated under the National Ambient Air Quality Standards established through the Clean Air Act have dropped 73 percent, while the economy grew over 250 percent.
- These achievements are attributed largely to American innovation and cooperation between the states and federal government to implement the nation’s environmental laws.
- The Clean Power Plan would have stunted this progress through regulatory overreach. This rule will ensure America is a global leader in modern, reliable, affordable energy for decades to come.
- Carbon dioxide emissions from the power sector will continue to fall under this rule, but this will happen *legally* and with proper respect for the states, unlike CPP.

COST-BENEFIT of PROPOSAL:

- EPA’s regulatory impact analysis (RIA) for this proposal includes a variety of scenarios. These scenarios are illustrative because the statute gives states in establishing standards of performance the flexibility to consider unit-specific factors including the unit’s remaining useful life.
- The RIA calculates the benefits and costs of three replacement scenarios and one repeal scenario. All four scenarios find that the proposal will reduce CO2 emissions from their current level.
- EPA projects that replacing the CPP with the proposal could provide 400 million in annual net benefits. Complying with the proposal could cost 500 million less than the CPP’s compliance costs.
- EPA estimated that the proposal could reduce 2030 CO2 emissions by 0.7% to 1.5% from projected levels without the CPP – equivalent to the annual emissions of 2.7 million to 5.3 million cars. The rule could also reduce co-pollutant emissions of SO2 and NOX by between 1% and 2% each and mercury by between 0.5% and 1%.
- These illustrative scenarios suggest that when states have fully implemented the proposal, U.S. power sector CO2 emissions could be 33% to 34% below 2005 levels. This is

comparable the reductions projected from CPP in 2015, but will be achieved in a legal and reasonable manner.

- This rule does not address the endangerment finding. EPA has six pending petitions challenging both the substance and the process of the endangerment finding. We are evaluating the best path forward. In the meantime, we have a responsibility to fill the void and provide regulatory certainty to the states and energy sector.

HOW IT WORKS

EPA’s proposal would replace the CPP. It establishes emissions guidelines for state plans to address greenhouse gas (GHG) emissions from existing coal-fired power plants. Implementing Section 111(d) under the EPA proposal would be a three-step process:

- **STEP 1:** EPA would finalize guidelines that determine the Best System of Emission Reduction (BSER).
 - EPA evaluates technologies and practices that can be applied to or at a covered source to reduce emissions of a pollutant.
 - EPA is proposing to define BSER at existing coal-fired power plants as heat-rate efficiency improvements based on a range of “candidate technologies”—an “inside the fence-line” determination that focuses on how sources can perform better and does not attempt to force an accelerated shift to renewables at the grid-wide level.
 - EPA is not setting a presumptive standard of performance. States will be given the flexibility to design a plan that works for their citizens’ environmental and energy needs.
- **STEP 2:** States would have 3 years from the date of finalization to prepare and submit a plan that establishes a standard of performance.
 - The states establish standards of performance that reflect the degree of emission limitation achievable through the application of the BSER.
 - The states will determine which of the “candidate technologies” can be applied to their sources, and determine what emission reductions will result.
 - States have a better understanding of the sources within their borders and can consider the unique factors of each unit, such as technology and practices that are already being implemented, remaining useful life, *etc.*
- **STEP 3:** Once a state plan is submitted, EPA would have 12 months to determine its approvability. In the event a state does not submit a plan or fails to submit an approvable plan, EPA would have 2 years to develop a federal plan.