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5 on 45: How the Trump administration justifies repealing the Clean Power Plan

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(MUSIC)

PITA: You're listening to 5 on 45 from the Brookings Podcast Network, analysis and commentary from Brookings experts on today's news regarding the Trump administration.

HULTMAN: My name is Nathan Hultman. I'm the director of the Center for Global Sustainability at the University of Maryland and a nonresident senior fellow at the Brookings Institution in the program on Global Economy and Development.

This week the Trump administration announced that they would initiate a procedure to repeal the Clean Power Plan which governs emissions in the power sector. It was a regulation that was promulgated under the Obama administration a couple of years ago as part of the Obama administration's overall strategy to reduce the emissions that lead to climate change, and it was a key part of that plan.

Now Trump's announcement is not a surprise to anybody, he campaigned on this issue and has made previous announcements about the Clean Power Plan, but the action of this past week will see the EPA initiate the procedure now to repeal the CPP, or, the Clean Power Plan. So just in a couple of minutes let's review where we are, what the logic was that the Trump administration is pushing forward about this plan and about their strategy, and then talk about what the next steps might be for them and also for the country as a whole.

So where are we today? Well the justification that the Trump administration used to initiate the repeal rests on two different pillars. One is essentially a legal argument that the Clean Power Plan as it was construed goes beyond what was authorized under the Clean Air Act, and in particular, they focused on this idea that under the Clean Power Plan the EPA previously had said that it would like to reduce emissions in a systematic way looking at the entire electricity generation sector in which, for example, advances or increased implementation of renewables could make up for some of the deficit that they needed to do to reduce their overall greenhouse gas emissions. Now EPA currently says that it's not fair to allow renewables to take up the slack for

something like a coal fired power plant, that the regulation should just target the specific plant.

So that's an argument that they're making. It was never resolved in the Supreme Court whether that was a legitimate argument or not. Although it does have a strong basis in the reality of the electricity system which is that, in fact, we do integrate a number of different sources to get our electricity.

The second justification that the Trump administration used was that the EPA was using a two-high measure of the damages that come from climate change. This is something, it sounds very technical, but it's part of our regulatory system that we have to do a cost benefit analysis of big regulations like this under the Clean Air Act. It doesn't happen in all environmental regulations but it happens in this one. And so the idea is that the benefits ought to outweigh the costs and that's something that I think we all can agree on as part of a regulatory process.

The social cost of carbon is there to try to give us a sense of what the actual damages are from emitting pollution that causes global warming. And the Obama administration went through a pretty rigorous and many multi-year process to solicit input from the scientific community and economics community about where is the appropriate level to set this important number of this cost of carbon, or cost of pollution. Obviously then we'd balance that against the costs of implementing the regulation, and if we avoided damages are more valuable than the cost of the regulation then we'd go ahead and do it.

So the Trump administration has essentially said no we don't like the Obama cost of carbon. They gave a very thin and essentially nonexistent, well-supported new number. And one would hope that they would come forth with some scientific basis for the new numbers that they've used because that's, again, where our regulatory process is based.

So what happens now? Well there will be some court challenges. It turns out that the EPA is actually required by the Supreme Court to regulate carbon, and so the EPA can't just remove this regulation willy-nilly and not put in something new to replace it.

They of course can put something weaker in to replace it, and that's likely what they'll do, but they can't completely withdraw entirely. So there will be court challenges across a number of dimensions of whether this is a legal and appropriate move by the EPA. Obviously those will take some time to work through and in the meantime our power sector will continue to evolve.

The other two pieces to mention here is that in absence of this federal regulation we're likely to see continued discussion at the state level of what to do at the state level. Some states are interested in actually going faster and further than what the Clean Power Plan would have required of them, other states are not. And so where this lands, we will have to see over coming years, but it's also been notable that market developments in the power sector have actually gone faster in the past couple of years than we thought regarding clean technologies like solar and wind and batteries for electric vehicles. So we're likely to see some actual acceleration of the deployment rate of clean technologies just due to market developments, although it's still a question as to whether those market developments will be enough to push the entire American power sector to the place where it would have been under the Clean Power Plan.

So in the future just to look ahead what are we going to see over coming months and years? Well I think the main question is how these legal processes play out, certainly that will take some time, but will still remain uncertain as to how that advances. And then similarly, the real question in some ways is how actors such as not only states, but also corporations acting at least rationally or quasi-rationally are looking down the road at long term investments they're making. The fact that Trump is not leaning heavily on the power sector right now to decarbonize doesn't mean that that might not happen in the very near term, and if companies are making long term investments on the order of you know 40 or 60 years, they are well aware that they may well have a regulatory pressure on them within four or eight years and have to adjust their investment strategies according.

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