

# EPA could relax climate rules for new coal plants

By JOHN SICILIANO • 8/1/15 12:01 AM

The Obama administration could relax some of its emission rules for new coal-fired power plants next week, lifting what critics call a "de facto ban" on building new coal plants in the U.S., according to sources privy to discussions between the industry and the administration.

The New Source emission rules for power plants are part of a suite of climate regulations the Environmental Protection Agency is expected to issue early next week, which will include the centerpiece of the president's climate change agenda, the Clean Power Plan.

The Clean Power Plan would cut greenhouse gas emissions from existing power plants, while the New Source rule will cover emissions from new power plants. Many scientists say the emissions that the rules limit are causing manmade global warming.

The two regulations are legally intertwined. The EPA cannot institute the more expansive Clean Power Plan, which places the onus on states to lower emissions, until it makes the New Source rule final under the Clean Air Act.

Republicans, with some Democrats, are adamantly opposed to both regulations. The New Source rule, they argue, constitutes a "de facto ban" on building new coal plants by applying a technology standard that no one can meet.

Critics say to comply with the rule, a new power plant would need to use carbon capture and storage, a technology that is not yet commercial, thereby making it virtually impossible and cost prohibitive to build a new coal plant. The technology captures carbon dioxide from a power plant and injects it deep underground where it is stored permanently or reused to service another industry.

One of the plants that EPA based the rule on, Southern Co.'s coal gasification and carbon capture facility in Kemper County, Miss., is still under construction. The project has experienced several delays and cost overruns.

The coal industry, represented by the National Mining Association, has met with the White House repeatedly to discuss changing the rule to include an available technology, as opposed to an undeveloped resource, as the basis for the rule.

A source privy to the discussions says the EPA has been open to the possibility of changing the regulation to accommodate commercial technology, but the administration is not saying what technology would be used.

The coal industry wants the standard changed to reflect advanced coal technologies that are already being used, such as

"supercritical" and "ultra-supercritical" coal-fired plants that burn coal at higher temperatures, thereby lowering carbon dioxide and other emissions. The plants also can be retrofitted more easily than a conventional coal plant to include carbon capture, once the technology is commercial, according to industry sources.

Sources appear torn on what EPA is doing. The National Mining Association hasn't received any indication, while other lobbyists say they are getting indications from the administration, that carbon capture is out.

"The issue is whether CCS is in or out," said Jim Tozzi, the head of the Center for Regulatory Effectiveness, an industry-backed regulatory watchdog group. "I think it is out but the question is what they replace it with," he said in an email, adding that the administration has "had a lot internal meetings on it so they could be ready to move."

Tozzi, who served as deputy administrator of the White House Office of Management and Budget under President Ronald Reagan, and was instrumental in establishing new regulations within the office, has been corresponding with senior EPA officials for more than a year on the New Source rule.

Tozzi argues the rule violates the Data Quality Act by proposing to use carbon capture technology as the standard for emissions reduction because it is not commercially available. The act requires regulatory agencies to follow strict guidelines in making scientific and technological assessments, especially if used as the basis of regulation.

He says the EPA is now prepared to pare back the New Source rule to include other, commercial technologies.

In correspondence he shared with the *Washington Examiner*, EPA officials argue that the rule was based on sound science, and it intends to show its legal basis once the regulation is made final.