

EPA Releases New Proposed Greenhouse Gas Reduction Rule

Issue Brief

May 23, 2023

The U.S. Environmental Protection Agency (EPA) released a [proposed rule](#) on May 11, 2023 that will place limits on greenhouse gas emissions from fossil fuel power plants. The rule aims to further the Biden Administration's effort to achieve "a [carbon pollution-free power sector](#) by 2035 and net zero emissions economy by no later than 2050" by further decarbonizing the power sector, which is the country's [second largest source](#) of greenhouse gas emissions.

Proposed Rule Requirements

The [proposed rule](#) sets new limits for new gas-fired combustion turbines; existing coal, oil and gas-fired steam generating units; and certain existing gas-fired combustion turbines. Based on the size and operating capacity – with an exception made for small “peaker” plants that run at a maximum of 20% capacity – gas plants would be required to utilize carbon capture technology or co-fire with hydrogen.

Existing coal plants would be required to co-fire with gas or utilize carbon capture technology, depending on the plant's anticipated retirement date and operating capacity. The proposed rule does not cover new coal plants, which have been regulated since 2015.

See page 3 for flow charts that detail the proposed rule's requirements based on technology type.

EPA Predicted Climate Effects

The EPA estimates that the proposed rule would avoid up to 617 million metric tons of total CO₂ through 2042 – equivalent to taking [half of the United States' cars](#) off the road. The EPA also anticipates significant public health benefits, including cutting “tens of thousands of tons of particulate matter (PM_{2.5}), sulfur dioxide, and nitrogen oxide” and preventing approximately 1,300 premature deaths. Through 2042, the EPA estimates the proposed rule's climate and health benefits to reach up to \$85 billion.

Initial Reaction to Proposed Rule

Initial reaction to the proposed rule has varied. While major environmental groups have praised the rule, skepticism has been aroused by the plan's reliance on carbon capture and sequestration/storage – described by the Washington Post as a “clean-energy technology with a [limited track record](#).” Carbon capture and storage (CCS), as well as green hydrogen, are [not](#)



[yet in widespread use](#) in the power sector, and the EPA noted that installation of these new technologies will be more cost-effective for larger power plants. Of note, tax credits and government subsidies included in the Inflation Reduction Act are expected to [accelerate the deployment](#) of these technologies and could “[offset the full cost](#) of CCS retrofits at some plants.”

Some environmental justice advocates have raised concerns over the “peaker” plant exemption, as they will face [less stringent limits](#). Despite the Biden Administration’s goal to [halve U.S. emissions](#) by 2030 (compared to 2005 levels), the proposed rule would also only “achieve [relatively light emissions reductions](#) from power plants until 2030” with much of the projected reductions occurring afterward. However, [researchers argue](#) that the power sector is still “the most promising sector to reduce emissions quickly” and decarbonization efforts will ripple across other industry sectors such as transportation.

Potential Litigation and Next Steps

The proposed rule comes a year after the Supreme Court ruled in *West Virginia v. EPA* that “defunct Obama-era power plant regulations” overutilized the agency authority bestowed by Congress in the Clean Air Act. The EPA has attempted to avoid a similar judicial outcome by having the rules “tighten emissions limits at each individual unit — a [long-accepted approach](#) under the Clean Air Act.”

Nevertheless, West Virginia Attorney General Patrick Morrisey has already hinted broadly that his state would sue if the rule is finalized, arguing that the proposed rule exceeds [the EPA’s legal authority](#) by prompting new coal plant closures. Senator Shelley Moore Capito of West Virginia has also “[vowed to lead](#) efforts on Capitol Hill to scuttle the regulation,” and Senator Joe Manchin III (D-WV) has determined to oppose all of Biden’s EPA nominees until the rule is revoked.

Once the proposed rule is published in the Federal Register, the EPA will [accept comments](#) for 60 days. The EPA will also hold a virtual public hearing and will make additional information available on the website. EPA Administrator Michael Regan said the agency hopes to finalize the rule [by next spring](#).

For more information on this topic:

[EPA Proposed Rule](#)

[Fact Sheet: Greenhouse Gas Standards and Guidelines for Fossil Fuel-Fired Power Plants Proposed Rule](#)

[West Virginia v. EPA Summary](#)



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EPA Proposed Greenhouse Gas Reduction Rule Flow Charts

