



Clean Power Plan

**WHERE WE'VE BEEN,
WHERE WE ARE,
WHERE WE ARE GOING.**



Where We've Been . . .

Massachusetts v. E.P.A.,
549 U.S. 497 (2007).



**The Supreme Court held
greenhouse gases, including
carbon dioxide, can be
regulated as “air pollutants”
under the Clean Air Act**

Endangerment Findings



- **Post-Massachusetts, the EPA began issuing greenhouse gas-related rules and regulations.**
- **This included explicit endangerment findings with EPA concluding “that six greenhouse gases taken in combination endanger both the public health and the public welfare of future generations”**
- **The specific greenhouse gases include: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. 74 Fed. Reg. 66496 (2009).**

Am. Elec. Power Co. v. Connecticut, 564 U.S. 410 (2011).



- **The Court held the Clean Air Act displaced federal common law nuisance claims .**
- **Because the Clean Air Act “provides a means to seek limits on emissions of carbon dioxide from domestic power plants,” the Supreme Court held “that the Clean Air Act and the EPA actions it authorizes displace any federal common law right to seek abatement” of such emissions.**

Obama Administration



- **In August 2015, the Obama Administration announced the final Clean Power Plan (CPP).**
- **CPP set the first-ever national limits on carbon pollution from the electric utility generating units (EGUs).**
- **CPP established state-by-state targets for carbon emission reductions. CPP set carbon emission rates that reflected the “best system of emission reduction (BSER),” but left it up to the states to develop their own plans to achieve those rates.**
- **CPP sought to reduce emissions from EGUs by 32% by 2030, relative to 2005 levels.**
- **The EPA also determined the net-benefit range for adopting CPP was between \$26 and \$45 billion.**



Paris Agreement

The United States formally joined the Paris Agreement in September 2016. The United States announced its intent to reduce greenhouse-gas emissions by 26-28% by 2025, relative to 2005 levels.



Where We Are Today . . .

Trump Administration



- **March 2017**: President Trump signed the “Executive Order on Energy Independence” calling for CPP review.
- **June 2017**: President Trump declared the U.S. was “pulling out” of the Paris Agreement.
- **October 2017**: EPA published the proposed repeal of the CPP. EPA extended the comment deadline to April 26, 2018.
- **December 2017**: EPA published an advanced notice of proposed rulemaking on emissions guidelines for the electric sector. The comment deadline concludes February 26, 2018.

Take-Away



- **Under the Clean Air Act, the EPA is required to regulate greenhouse gases.**
- **One rationale for repealing CPP is recalculation of the social cost of carbon:**
 - **Obama: global estimated how much damage is caused over time by a ton of CO₂ emissions in a given year with a 3% discount rate. Estimated cost = \$45 per ton.**
 - **Trump: domestic estimate of how much damage is caused over time by a ton of CO₂ emission in a given year with a 7% discount rate. Estimated cost = \$1 to \$6 per ton.**
- **EPA intends to continue regulating the energy sector, but to regulate in a way that impacts the fewest number of companies.**
 - **For example: Both proposed repeal and ANPRM single out CPP's BSER based "beyond the fenceline"; administration seeks to focus only "inside the fence"**
 - **Another suggested change is to change the definition EGU to include a narrower set of companies.**

Consequences for Minnesota



- **Minnesota has spent significant time and effort reducing greenhouse-gas emissions from EGUs.**
- **Minnesota has reduced greenhouse gas emissions by 17% while producing increasing amounts of electricity.**
- **Minnesota is “on track” to meet CPP targets.**
- **CPP leveled the playing field with states that have not worked to reduce greenhouse-gas emissions.**
- **The Trump Administration calling to return the U.S. to a system where some states benefit from emissions reductions in states like Minnesota without making reductions.**



Where We Are Going

What Can We Do?



- **Minnesota can implement standards.**
- **Electric sector can continue transition away from greenhouse gases.**
- **Minnesota can join the Regional Greenhouse Gas Initiative (RGGI).**



Thank you!

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