

EPA move creates hurdles for future air, climate rules

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The Environmental Protection Agency announced final rule changes Wednesday that would make it harder for the incoming Biden administration to make new rules to protect the environment and public health by limiting the consideration of their costs and benefits.

If it is finalized, the rule—the final version of which has not yet been published in the Federal Register—will steer the agency away from considering the broader public benefits of new regulations, such as the

value of fewer asthma attacks and respiratory ailments.

"Our goal with the rule is to better help the public understand the 'why' of a rulemaking," EPA Administrator Andrew Wheeler told an audience at the conservative advocacy group the Heritage Foundation on Wednesday, criticizing previous EPA actions as opaque. "A future administration won't be able to ignore this."

Wheeler said rules promulgated by previous administrations were "the work of the administrative state."

The incoming Biden administration could reverse the rule once in office, but that process would take months or more and require a public comment period.

Proposed in June, the rule, which met swift condemnation from environmental organizations, is the latest in a string of environmental regulations that favor industry the Trump administration is rushing to finalize.

The EPA moved to maintain federal soot pollution standards Monday, despite a growing pile of evidence of soot's health risks and a recommendation by nonpartisan staff scientists that tightening the limits could save more than 12,000 lives a year.

Last week, the Bureau of Land Management unveiled plans to allow oil and gas drilling in the Arctic National Wildlife Refuge in Alaska, a pristine and ecologically sensitive stretch in the state's northeast. That decision came after separate moves to lift logging restrictions on the 17-million-acre Tongass National Forest, which also is in Alaska, and approve seismic testing in the region to search for petroleum deposits.

Asked Monday about a potential backlog at the Government Printing

Office, Wheeler said he was confident the soot rule and a separate rule on ozone would be published before the Trump administration is out of office.

"I expect both of them will be finished and wrapped up and go to the Federal Register for printing," he told reporters. Federal law typically requires rules to be published in the Federal Register before they are considered official.

The current draft of the rule directs the agency to include in the introductions of yet-to-be-written rules a [cost-benefit analysis](#), with a specific focus on what EPA is allowed to consider under the Clean Air Act.

EPA staff members writing future rules will also have to explain how the rule affects the American public—a not-so-subtle critique of climate rules that benefit people outside U.S. borders.

Rachel Cleetus, policy director for the Climate and Energy Program at the Union of Concerned Scientists, said the rule rebukes science and upends a suite of air pollution regulations.

"The EPA's mission is to protect human health and the environment. The new rule is a deliberate, targeted strike at that mission," Cleetus said in a statement. "This change doesn't just affect a single rule—it's a sweeping attempt to undermine air pollution protections across the board."

Cleetus, who signed a letter in August with other environmental and advocacy groups in opposition to the rule, then in a proposal phase, pressed the Biden administration to reverse the rule.

Authors of that letter, including the Environmental Defense Fund, the Western Environmental Law Center and the nonpartisan Institute for

Policy Integrity at New York University's law school, said it was standard for EPA to consider additional benefits in pursuing a rule.

"In fact, EPA's consideration of unquantified and ancillary benefits was fully consistent with longstanding regulatory precedent and best practices, and was conducted transparently, especially with respect to setting the baseline and addressing uncertainty," the letter reads, referencing a proposal called the Mercury Air Toxics Standard, or MATS, which addresses dangerous mercury pollution.

"The Trump administration's jargon about consistency and transparency is a ruse," Richard Revesz, director of the Institute for Policy Integrity, said in a statement. "This rule breaks with decades of bipartisan precedent on the [best practices](#) for cost-benefit analysis of regulations, undermining the balanced consideration of regulatory impacts."

This is not the first time during the Trump administration that the agency tasked with protecting [public health](#) has created a rule to eschew public health information.

In 2018, the EPA proposed a so-called "secret science" rule, which then-EPA Administrator Scott Pruitt touted because it would require data his agency used to be made public and replicable by a third party.

But that rule proposal also required private information, such as personal medical data, to be public, effectively kneecapping EPA over what data it considers in its work.

Air pollution standards are "cost-effective, in part because cleaning up one pollutant often leads to measures that reduce other pollutants as well," said Harold Wimmer, the president and CEO of the American Lung Association.

"This benign-sounding update will deliberately discount the health benefits of air pollution standards, which would artificially reduce the 'value' of air pollution cleanup," Wimmer said.

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