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Romney Seen Scuttling EPA Proposals, Letting Rules Stand

By Mark Drajem - Oct 31, 2012

On the campaign trail, Republican presidential candidate [Mitt Romney](#) has pledged to halt environmental regulations such as auto-mileage standards, mercury pollution limits for [power plants](#) and mandated cuts in greenhouse-gas emissions.

But the reality is that repealing a rule already in place would require help from lawmakers or the courts, or years of bureaucratic effort, former officials and lawyers say.

That means President [Barack Obama](#)'s auto and mercury regulations aren't likely to face a direct repeal, they say. Romney's Environmental Protection Agency would probably focus on stopping pending proposals, especially the greenhouse-gas standards, and easing off on new rules.

"It would be easier for Romney to change what is coming, than to go back and undo what has already been done," Dina Kruger, the founder of Kruger Environmental Strategies in [Washington](#) and a former EPA official under [Bill Clinton](#), George W. Bush and Obama, said in an interview. "You aren't going to see as many regulations or as stringent regulations as you would under Obama, but they're going to have to do something."

A victory by the Republican could damp the effect of pollution limits on U.S. companies, especially coal-reliant utilities and struggling coal producers. Environmentalists and the Obama administration say rolling back or delaying pending standards would sacrifice health benefits from cleaner air and water.

'Important Safeguards'

"There are a large number of incredibly important safeguards that the EPA is in the process of implementing," John Coequyt, the Sierra Club's climate-policy director, said in an interview. Romney "can substantially weaken public health protections in a four-year period."

The [Sierra Club](#) endorsed Obama's re-election.

Romney as a candidate has targeted major EPA regulations, including standards negotiated with automakers to increase vehicle-fuel efficiency, requirements for coal-fired power plants to cut mercury and air toxic pollution and limits for greenhouse-gas emissions, which are blamed for causing global warming.

“As president, Mitt Romney will eliminate the regulations promulgated in pursuit of the Obama administration’s costly and ineffective anti-carbon agenda,” the campaign said in an Aug. 23 white paper. Andrea Saul, a campaign spokeswoman, referred questions about Romney’s plans for the EPA to that document.

‘Regulatory Tsunami’

Romney would still have opportunities to ease off on what Republicans call a “regulatory tsunami” under Obama, as rules can still be modified even after they are finalized, or deadlines extended. Others are being challenged in court, or could be overturned by Congress, which would be more likely if Republicans sweep control of both the House and Senate.

“I suspect a number of final regulations would be revised to make them more reasonable,” Jeff Holmstead, a partner at Bracewell & Giuliani LLP in Washington, said in an interview. Holmstead was a top EPA official under President George W. Bush and supports Romney. “Some pending regulations would almost certainly be withdrawn.”

Among Romney’s first targets might be an EPA proposal that would restrict new coal-fired plants unless they had technology to limit carbon emissions. Industry officials say the technology to do this isn’t available at commercial scale. Romney said he opposes the EPA issuing rules for greenhouse gases, and backs legislation to curb that authority.

Defer Rules

The EPA also must decide which deferred rules to issue in the next two years. Obama punted on new nationwide standards for smog pollution until 2014, and his EPA is still considering rules for disposal of coal ash from power plants and for industrial boilers.

“The biggest difference we would see is on the rules, going forward,” Jonathan Adler, a professor of law at Case Western Reserve University and contributing editor to the conservative National Review magazine, said in an interview.

For rules in force, such as the limits on mercury emitted from power plants that may cost companies \$9.6 billion, Romney could accept an industry petition to reconsider them,

provide a weak defense for them in court or grant presidential waivers to give plants more time to comply. Obama pledged waivers that would give utilities an additional year to meet the standards, “should unusual circumstances arise that warrant such flexibility.”

Fuel Efficiency

The fuel-efficiency rules also have been derided by the Romney campaign, with Saul saying in an e-mail that they will cost new-car buyers thousands of dollars “upfront for unproven technology.” Since those rules are final, a wholesale rejection or rewrite is unlikely.

“The president is a powerful person,” Daniel Becker, director of the Safe Climate Campaign, said in an interview. “Romney couldn’t, in practical terms, revoke the rule, but there is lots of implementation that has to go on.”

Becker joined the talks with automakers and the administration that led to the rules.

While attacking environmental rules in the abstract has been a potent charge during the campaign this year, withdrawing specific protections is more dicey, Kruger said. When George W. Bush took office in 2001, his administration suspended a standard issued by Clinton’s administration lowering the allowable level of arsenic in drinking water. After a public outcry, Bush’s EPA ended up accepting the basic Clinton plan.

“It would take a tremendous effort to change the trajectory of the EPA,” said Donald Elliott, a partner at Willkie Farr & Gallagher LLP in Washington and former chief counsel of the EPA under George H.W. Bush. “To roll things back would take a major commitment by the administration, and I don’t see a major commitment to expand, or a major commitment to cut back.”

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