



## **Environmental Data & Governance Initiative**

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### **Continued Access to Online EPA Resources Relevant to the Clean Power Plan is Important for Public Engagement in Rulemaking**

Environmental Data and Governance Initiative's Comment on the Environmental Protection Agency (EPA) Proposed Rule: Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (Docket No. EPA-HQ-OAR-2017-0355-14998)

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*The Environmental Data and Governance Initiative (EDGI) is a network of academics, developers, and non-profit professionals that promotes evidence-based policy-making and public interest science. We document, contextualize, and analyze current changes to environmental data and governance practices through multidisciplinary and cross-professional collaborative work. We foster the stewardship and expansion of public knowledge through building participatory civic technologies and infrastructures to make data and decision-making more accessible. EDGI creates new communities of practice to enable government and industry accountability. In particular, we promote models and tools that emphasize community participation at all scales, both within EDGI and in our public-facing tools.*

*EDGI is comprised of over 150 members in North America residing in 19 U.S. states, including California, Colorado, District of Columbia, Florida, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Texas, Vermont, Virginia, Washington, and Wisconsin.*

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**The Environmental Data and Governance Initiative (EDGI) welcomes the opportunity to comment on the Environmental Protection Agency (EPA) Proposed Rule: Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Docket No. EPA-HQ-OAR-2017-0355-14998.**

## I. INTRODUCTION

EDGI's comments on this proceeding focus on removals of online Clean Power Plan (CPP) resources, removals that constrain the public's ability to effectively participate in the rulemaking process. Reduced access to related resources, especially the EPA's climate change websites, also constrains the ability of stakeholders and regulated entities to stay abreast of implementation feasibility and responsibilities under the CPP. Finally, access to these resources should continue to be a priority for effective public participation in relation to the EPA's ongoing responsibilities for regulating greenhouse gases.

The EPA's website ([www.epa.gov](http://www.epa.gov)) is the most straightforward location for the public, stakeholders, and the research community to search for information regarding the CPP and to understand and participate in this proposed rulemaking. However, beginning in April 2017, resources that the agency historically posted about climate change, the social cost of carbon, and the Clean Power Plan itself were made less accessible, and in some major instances, removed entirely. Certain Clean Power Plan pages have been replaced by the EPA's Energy Independence page<sup>1</sup> that addresses implementation of Executive Order 13783 (which explicitly calls for a review of the CPP) rather than provide information about the CPP itself. Of particular note are the removals of Spanish language CPP pages, some of which are no longer available in online EPA archives or anywhere on the EPA's web domain.

These removals are troublesome in light of EPA's continued obligation to regulate greenhouse gases. The Executive Summary of the Clean Power Plan Repeal Federal Register notice states that "The EPA has not determined the scope of any potential rule under CAA section 111(d) to regulate greenhouse gas (GHG) emissions from existing EGUs, and, if it will issue such a rule, when it will do so and what form that

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<sup>1</sup> "Complying with President Trump's Executive Order on Energy Independence," Environmental Protection Agency, accessed April 26, 2018. <https://www.epa.gov/energy-independence>.

rule will take.”<sup>2</sup> While the CPP Proposed Repeal rulemaking lays out a rationale for repeal, it is important to note that the U.S. Court of Appeals for the District of Columbia Circuit, in its August 8, 2017 ruling, found that under Section 111(d) of the CAA, the EPA continues to have an “affirmative statutory obligation to regulate greenhouse gases,”<sup>3</sup> underscoring the EPA’s ongoing regulatory responsibilities that transcend CPP repeal.

Our detailed comments address specific changes in EPA website access and content that compromise the public’s ability to both understand the feasibility of implementing the CPP as well as engage with policymakers with respect to this Proposed Rule. The EPA website changes we comment on also make it harder for state, local, and tribal governments to access resources designed to help them take responsible environmental actions on their own, in partnership with each other and with the EPA. In section IV of this comment, we present three examples of information relevant to the Clean Power Plan and its proposed repeal, that previously had been available on the EPA website and have now been rendered significantly less accessible: the Clean Power Plan itself; the social cost of carbon—a key factor in determining the relative cost to benefit ratio of the Clean Power Plan; and the Clean Energy Incentive Program, an important component of the Clean Power Plan’s flexible implementation and attainment strategy.

We urge EPA to uphold the integrity of the notice-and-comment rulemaking process by restoring access to resources relevant to those affected by the CPP, its proposed repeal and potential replacement. Promoting transparency and public participation extends beyond the logistics of the rulemaking process to include access to information and data.<sup>4</sup> Removed and reduced access to pertinent information harms the public’s ability to understand the feasibility of CPP implementation options and to affect decisions that represent their interests in environmental and public health.

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<sup>2</sup> “Proposed Rules,” Federal Register, accessed April 26, 2018.

<https://www.gpo.gov/fdsys/pkg/FR-2017-10-16/pdf/2017-22349.pdf>.

<sup>3</sup> Robert Walton., “DC Circuit extends delay on Clean Power Plan litigation,” *Utility Dive*, August 9, 2017.

<https://www.utilitydive.com/news/dc-circuit-extends-delay-on-clean-power-plan-litigation/448928/>

<sup>4</sup> “Public Participation Guide,” Environmental Protection Agency, accessed April 26, 2018.

<https://www.epa.gov/international-cooperation/public-participation-guide>

## II. IMPORTANCE OF EPA WEBSITE ACCESS RELATED TO THE CPP FOR PUBLIC COMMENT

In order for the public to participate meaningfully in any regulatory process, information about the proposed rules must be available and accessible to the public before and during public comment periods. Detailed information about the Clean Power Plan should be widely available throughout the rulemaking process. In the last year, however, the EPA has significantly reduced access to information previously available on its website that is essential for understanding the overall purpose, costs and benefits, and implementation strategies for the Clean Power Plan.

On April 28, 2017, 5 ½ months before the October 16th Federal Register notice of the proposed CPP repeal,<sup>5</sup> the EPA removed its Clean Power Plan website (<https://www.epa.gov/cleanpowerplan>), meaning that content was no longer available at the previous CPP website's domain. Visitors to the site were instead automatically redirected to a page on Energy Independence.<sup>6</sup> On the same day, the EPA also removed its climate change website,<sup>7</sup> which had lasted through Democratic and Republican administrations,<sup>8</sup> with some portions dating back to the George H. W. Bush administration. The websites had included substantial resources for scientists, students, policymakers, local and state governments, and the public writ large. A large portion of the websites was publicly archived in the EPA's January 19, 2017 snapshot<sup>9</sup>, though errors have resulted in a substantial number of pages

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<sup>5</sup> Toly Rinberg and Andrew Berman, UCS Science Network, UCS., "How Pruitt Listens: Removing Clean Power Plan Web Resources Undermines Public Engagement," *Union of Concerned Scientist* (blog), October 13, 2017.

<http://blog.ucsusa.org/science-blogger/how-pruitt-listens-removing-clean-power-plan-web-resources-undermines-public-engagement>; and "Proposed Rules," Federal Register, accessed April 26, 2018.

<https://www.gpo.gov/fdsys/pkg/FR-2017-10-16/pdf/2017-22349.pdf>

<sup>6</sup> "Clean Power Plan," Environmental Protection Agency, accessed April 29, 2018. Clean Power Plan" <https://web.archive.org/web/20170429200453/epa.gov/cleanpowerplan>

<sup>7</sup> Chris Mooney and Juliet Eilperin., "EPA website removes climate science site from public view after two decades" *Washington Post*, April 29, 2017.

<https://www.washingtonpost.com/news/energy-environment/wp/2017/04/28/epa-website-removes-climate-science-site-from-public-view-after-two-decades>

<sup>8</sup> Jason Samenow., "I worked on the EPA's climate change website. Its removal is a declaration of war." *Washington Post*, June 22, 2017.

[https://www.washingtonpost.com/outlook/i-worked-on-the-epas-climate-change-website-its-removal-is-a-declaration-of-war/2017/06/22/735f0858-5697-11e7-a204-ad706461fa4f\\_story.html](https://www.washingtonpost.com/outlook/i-worked-on-the-epas-climate-change-website-its-removal-is-a-declaration-of-war/2017/06/22/735f0858-5697-11e7-a204-ad706461fa4f_story.html)

<sup>9</sup> "U.S. Environmental Protection Agency," Environmental Protection Agency, accessed April 26, 2018. <https://19january2017snapshot.epa.gov/>

being omitted from the archive.<sup>10</sup> The website removals were only announced on the same day as the start of the overhaul,<sup>11</sup> and a detailed explanation for the removals has yet to be provided by the EPA, an entire year into the overhaul. For those participating in the CPP repeal notice-and-comment rulemaking process, the website overhaul has significantly reduced access to information pertaining to climate change and energy policy.

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<sup>10</sup> Pages corresponding to URLs that did not have a path of “www.epa.gov”, such as “www3.epa.gov” or “espanol.epa.gov”, have been systematically, and likely erroneously, left out of the January 19 snapshot. Sarah Lamdan, Andrew Bergman, Maya Anjur-Dietrich, Gretchen Gehrke, and Toly Rinberg., “Errors in the January 19 snapshot of EPA.gov are problematic from transparency, data preservation, and information access standpoints and may have legal implications,” *Environmental Data and Governance* (blog), May 5, 2017.

<https://envirodatagov.org/errors-in-the-january-19-snapshot-of-epa-gov-are-problematic-from-transparency-data-preservation-and-information-access-standpoints-and-may-have-legal-implications/> and Environmental Data and Governance Initiative., “Change in Access to the EPA’s “A Student’s Guide to Global Climate Change” Website,” *Environmental Data and Governance* (blog), May 5, 2017. <https://envirodatagov.org/wp-content/uploads/2017/07/WM-AAR-1-EPA-Students-Guide-to-Global-Climate-Change-170505.pdf>

<sup>11</sup> Environmental Data and Governance Initiative., “The announced overhaul of EPA.gov has already begun and pages relating to climate change are currently inaccessible” last modified April 29, 2017. <https://envirodatagov.org/the-overhaul-of-epa-gov-has-already-begun/>

### III. REMOVED ONLINE RESOURCES RELEVANT TO THE CPP

Here, we first provide an overview of entire EPA web subdomains that have been removed and highlight a few key resources that have been restricted through those removals. Following the overviews, we provide three short examples of information relevant to the Clean Power Plan and its proposed repeal that previously had been available, but which is now significantly less accessible (Sec. IV).

#### **Overview of removed resources relevant for CPP**

Prior to its notice of intent to repeal the CPP, the EPA removed online climate and energy information relevant for CPP policy, including but not limited to resources pertaining to: coal-fired power plant efficiency<sup>12</sup>, information on social cost of carbon<sup>13</sup>, CO<sub>2</sub> emissions,<sup>14</sup> state and local climate and energy policy,<sup>15</sup> and the Clean Energy Incentive Program<sup>16</sup>. The removed information had been hosted across multiple subdomains, including "[www.epa.gov/climatechange](http://www.epa.gov/climatechange)," "[www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)," "[www.epa.gov/climate-change-science](http://www.epa.gov/climate-change-science)," "[www.epa.gov/climate-impacts](http://www.epa.gov/climate-impacts)," "[www.epa.gov/statelocalclimate](http://www.epa.gov/statelocalclimate)," and others.

The overall scope of the EPA's removals is significant. In response to a Freedom of Information Act request<sup>17</sup> seeking all changes made to EPA's climate-related web content since the inauguration of President Trump, in August 2017, the EPA provided a list of over 1,900 webpage titles and URLs corresponding to resources that were either removed or made more difficult to access in the last year. Some

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<sup>12</sup> "Learn About Carbon Pollution From Power Plants," Environmental Protection Agency, accessed April 26, 2018.

[https://19january2017snapshot.epa.gov/cleanpowerplan/learn-about-carbon-pollution-power-plants\\_.html](https://19january2017snapshot.epa.gov/cleanpowerplan/learn-about-carbon-pollution-power-plants_.html) (originally at [epa.gov/cleanpowerplan/learn-about-carbon-pollution-power-plants](http://epa.gov/cleanpowerplan/learn-about-carbon-pollution-power-plants))

<sup>13</sup> "The Social Cost of Carbon," Environmental Protection Agency, accessed April 26, 2018.

<https://web.archive.org/web/20170427015942/epa.gov/climatechange/social-cost-carbon>

<sup>14</sup> "November 2014: Revised Framework for Assessing Biogenic CO<sub>2</sub> Emissions from Stationary Sources," Environmental Protection Agency, accessed April 26, 2018.

[https://19january2017snapshot.epa.gov/climatechange/november-2014-revised-framework-assessing-biogenic-co2-emissions-stationary-sources\\_.html](https://19january2017snapshot.epa.gov/climatechange/november-2014-revised-framework-assessing-biogenic-co2-emissions-stationary-sources_.html)

<sup>15</sup> Toly Rinberg, Andrew Bergman, and Eric Nost., "EPA's Website Overhaul Continues: Climate Resources Left Out of the Update to the "Climate and Energy Resources for State, Local, and Tribal Governments" Website," *Environmental Data and Governance* (blog), October 20, 2017.

<https://envirodatagov.org/epas-website-overhaul-continues/>

<sup>16</sup> "FACT SHEET: Clean Energy Incentive Program" Environmental Protection Agency, accessed April 26, 2018. <https://archive.epa.gov/epa/cleanpowerplan/fact-sheet-clean-energy-incentive-program.html>

<sup>17</sup> Environmental Defense Fund., "Environmental Defense Fund Obtains Information on Over 1,900 Climate-Related Items Removed from or Modified on EPA Website" last modified August 11, 2017.

<https://www.edf.org/media/environmental-defense-fund-obtains-information-over-1900-climate-related-items-removed-or>

subdomains with CPP-relevant information have remained live on the EPA's website, including, "[www.epa.gov/ghgreporting](http://www.epa.gov/ghgreporting)," "[www.epa.gov/climate-research](http://www.epa.gov/climate-research)," and "<https://www.epa.gov/climate-indicators>." However the significant scale of the removals has resulted in broken links and reduced access to these resources as well. For nearly two months in 2017, technical support documentation for the Endangerment Finding was unavailable, even though the Finding underpins EPA's responsibility to regulate greenhouse gases and, in part, led to the promulgation of the CPP.<sup>18</sup>

### **Removal of the Clean Power Plan website**

The EPA's Clean Power Plan website, at the URL "[www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)," was removed on April 28, 2017, 5 ½ months before the proposed repeal of the corresponding rule on October 16, 2017<sup>19</sup>. Currently, all the URLs from the previous CPP subdomain redirect to a single page solely focused on President Trump's Executive Order on "Energy Independence" and related rulemaking.<sup>20</sup>

The CPP site served as a valuable source of information for those seeking to provide informed comment during the rulemaking process. It provided resources pertaining to carbon pollution from power plants, past regulatory actions regarding the CPP, carbon pollution standards, and information about the CPP specifically designed for overburdened and socioeconomically marginalized communities, as well as state and local governments<sup>21</sup>. Among the removed resources was the Clean Power Plan Toolbox, at the URL "[www.epa.gov/cleanpowerplantoolbox](http://www.epa.gov/cleanpowerplantoolbox)," which provided extensive technical resources around reducing CO<sub>2</sub> from power plants and assisting states to develop plans meeting CPP guidelines.<sup>22</sup>

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<sup>18</sup> Toly Rinberg, Andrew Bergman, Maya Anjur-Dietrich, and Gretchen Gehrke., "Missing EPA Endangerment Finding Web Resources Reignite Confusion: Continued Mismanagement Following the EPA Climate Change Website Overhaul," *Environmental Data and Governance* (blog), July 12, 2017. <https://envirodatagov.org/missing-epa-endangerment-finding-web-resources/>

<sup>19</sup> Toly Rinberg and Andrew Berman., "How Pruitt Listens: Removing Clean Power Plan Web Resources Undermines Public Engagement," *Union of Concerned Scientist* (blog), October 13, 2017. <http://blog.ucsusa.org/science-blogger/how-pruitt-listens-removing-clean-power-plan-web-resources-undermines-public-engagement> and "Proposed Rules," Federal Register, accessed April 26, 2018. <https://www.gpo.gov/fdsys/pkg/FR-2017-10-16/pdf/2017-22349.pdf>

<sup>20</sup> "Complying with President Trump's Executive Order on Energy Independence," Environmental Protection Agency, accessed April 26, 2018. <https://www.epa.gov/energy-independence>

<sup>21</sup> "Clean Power Plan," Environmental Protection Agency, accessed April 26, 2018. [https://19january2017snapshot.epa.gov/cleanpowerplan\\_.html](https://19january2017snapshot.epa.gov/cleanpowerplan_.html)

<sup>22</sup> "Clean Power Plan Toolbox for States," Environmental Protection Agency, accessed April 26, 2018. [https://19january2017snapshot.epa.gov/cleanpowerplantoolbox\\_.html](https://19january2017snapshot.epa.gov/cleanpowerplantoolbox_.html)



The Spanish-speaking community has been especially harmed, as Spanish language CPP pages have been removed from the EPA website but are not found in any of EPA's web archives. This diminishes democratic processes by undermining the ability of underrepresented groups to engage in the notice-and-comment rulemaking process. Among the removals are extensive Spanish-language CPP facts sheets<sup>23</sup> and community resources<sup>24</sup>. These resources are not found on the EPA's January 19, 2017 snapshot or the EPA Web Archive<sup>25</sup>. The removal of Spanish language online resources—in advance of the comment period about the CPP Proposed Repeal—appears to violate the spirit of the “Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations”<sup>26</sup> Executive Order 12898, Section 5-5 which states that “each Federal agency may, whenever practicable and appropriate, translate crucial public documents, notices, and hearings relating to human health or the environment for limited English speaking populations.”

### **Removal of CPP Resources for Communities**

A key webpage targeted to “help inform overburdened communities about the final Clean Power Plan” and greenhouse gas reduction requirements for electric utility generation units (EGUs) was also removed.<sup>27</sup> This page includes links to resources that the EPA made available “to help communities engage with their states as they implement their plans and to assist communities in engaging with the EPA throughout the comment period for the proposed federal plan.” This page is now available only by searching or navigating EPA's online archives.

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<sup>23</sup> “Hoja informativa: Reducción de la contaminación de carbono de las centrales eléctricas,” Environmental Protection Agency, accessed April 26, 2018.

<https://web.archive.org/web/20170427050609/https://espanol.epa.gov/espanol/hoja-informativa-reduccion-de-la-contaminacion-de-carbono-de-las-centrales-electricas>

<sup>24</sup> “Hoja informativa: El Plan de Energía Limpia de la EPA, Recursos para comunidades,” Environmental Protection Agency, accessed April 26, 2018.

<https://web.archive.org/web/20170427050504/https://espanol.epa.gov/espanol/hoja-informativa-el-plan-de-energia-limpia-de-la-epa-recursos-para-comunidades>

<sup>25</sup> “EPA Archives,” Environmental Protection Agency, accessed April 26, 2018. <https://archive.epa.gov/>

<sup>26</sup> “Executive Order 12898 of February 11, 1994: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” Federal Register, accessed April 26, 2018.

<https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>

<sup>27</sup> “Clean Power Plan Resources for Communities,” Environmental Protection Agency, accessed April 26, 2018. <https://archive.epa.gov/epa/cleanpowerplan/clean-power-plan-resources-communities.html>

## Removal of Climate and Energy Resources for State, Local, and Tribal Governments

Another website removed on April 28, 2017 was titled “Climate and Energy Resources for State, Local, and Tribal Governments” and was 380 pages in size. The removed resources provided tools and information that could be applied in the development of state and tribal plans to meet the CPP’s CO<sub>2</sub> performance rates and enforce emissions standards.<sup>28</sup> About three months later, a new website titled “Energy Resources for State, Local, and Tribal Governments” was launched, replacing the previous site. Over 200 webpages previously providing climate and energy information were omitted from the new release, and multiple pages,<sup>29</sup> including the homepage, were substantially altered to remove mentions and descriptions of climate and climate change.<sup>30</sup>

Reduced access to CPP-relevant resources for states, local governments, territories and tribes is especially noteworthy in light of a) the states’ required partnership with EPA in choosing and implementing goals established by the EPA under the Clean Air Act (CAA) Section 111(d) and b) the states’ “key role in ensuring that emission reductions are achieved at a reasonable cost.”<sup>31</sup> Sections VII and VIII of the Federal Register notice implementing the CPP include extensive guidelines for the development, submittal, and implementation of state plans that establish standards of performance for affected EGUs to meet interim and final statewide goals for the CPP’s CO<sub>2</sub> emissions performance rates.<sup>32</sup>

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<sup>28</sup> “Exploring State Climate and Clean Energy Actions,” Environmental Protection Agency, accessed April 26, 2018.

<https://archive.epa.gov/epa/statelocalclimate/exploring-state-climate-and-clean-energy-actions.html>

<sup>29</sup> Lisa Friedman., “E.P.A. Scrubs a Climate Website of ‘Climate Change’,” *New York Times*, October 20, 2017. <https://www.nytimes.com/2017/10/20/climate/epa-climate-change.html>

<sup>30</sup> Environmental Data and Governance Initiative., “Assessment of Removals and Changes in Access to Resources on the EPA’s “Climate and Energy Resources for State, Local, and Tribal Government” Website” last modified October 17, 2017.

<https://envirodatagov.org/wp-content/uploads/2017/10/AAR-5-EPA-State-Local-Climate-Energy-171018.pdf>

<sup>31</sup> “Rules and Regulations,” Federal Register, accessed April 26, 2018.

<https://www.gpo.gov/fdsys/pkg/FR-2015-10-23/pdf/2015-22842.pdf>

<sup>32</sup> “Rules and Regulations,” Federal Register, accessed April 26, 2018.

<https://www.gpo.gov/fdsys/pkg/FR-2015-10-23/pdf/2015-22842.pdf>

## Removal of Student's Guide to Global Climate Change

The EPA's Student's Guide to Global Climate Change website<sup>33</sup>, a frequently used website for students, was removed but was not archived in the January 19, 2017 snapshot.<sup>34</sup> According to a FOIA response from the EPA,<sup>35</sup> the site saw approximately a million visits per month in the months leading up to its removal (February 2017: 986,251 views; March 2017: 1,182,379 views; April 2017: 1,062,157 views). The site is now difficult to access, and only individuals with prior knowledge of its existence would be able to find it, either via Google search or the EPA's Web Archive.<sup>36</sup> While not directly related to the CPP, the Student's Guide was clearly a valuable resource for learning about relevant environmental issues, and is highlighted here to underscore the scale of usage of EPA online resources. As such, it also alludes to the potential unmet demand for information and resources represented in removed webpages more directly related to the CPP.

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<sup>33</sup> "A Student's Guide to Global Climate Change," Environmental Protection Agency, accessed April 26, 2018. <https://www3.epa.gov/climatechange/kids>

<sup>34</sup> Environmental Data and Governance Initiative ., "Change in Access to the EPA's "A Student's Guide to Global Climate Change" Website" last modified May 5, 2017.

<https://envirodatagov.org/wp-content/uploads/2017/07/WM-AAR-1-EPA-Students-Guide-to-Global-Climate-Change-170505.pdf> and Juliet Eilperin., "The EPA just buried its climate change website for kids," *Washing Post*, May 6, 2017. <https://www.washingtonpost.com/news/energy-environment/wp/2017/05/06/epa-buries-climate-change-site-for-kids/>

<sup>35</sup> "NRDC v EPA\_HQ-2017-004877\_Interim Prod 12 7 17", FOIA - Freedom of Information Act, accessed April 26, 2018. (page 606)

<https://foiaonline.regulations.gov/foia/action/public/view/record?objectId=090004d28174be56>

<sup>36</sup> "Technologies | A Student's Guide to Global Climate Change," Environmental Protection Agency, accessed April 26, 2018. <https://www3.epa.gov/climatechange/kids/solutions/technologies/index.html>

## IV. INFORMATION ACCESSIBILITY CASES RELEVANT TO THE CPP

In addition to entire subdomains that have been removed from the EPA website, each with a wealth of information relevant to the Clean Power Plan, here we describe three examples of CPP-specific information that used to be accessible, but which is now difficult to find without prior knowledge of the resources: (1) overview information for public and regulated audiences about the Clean Power Plan, its purpose, and supporting technical documents; (2) comprehensible information for the public about the “social cost of carbon,” which is one of the primary factors determining the relative cost to benefit ratio of the Clean Power Plan; (3) information about the Clean Energy Incentive Program, which is an important aspect of the Clean Power Plan’s flexible implementation and attainment strategy.

### **Information about the Clean Power Plan**

Before April 28, 2017, the Clean Power Plan homepage<sup>37</sup> linked to information about the impacts of carbon dioxide and how the Clean Power Plan would address carbon dioxide emissions from the single largest source, power plants. Easily accessed from that page was the Clean Power Plan Toolbox,<sup>38</sup> which included an array of fact sheets and technical documents for audiences ranging from laypersons to regulated utility executives about effective methods for reducing carbon dioxide emissions at a plant- and grid-level. Through these two main pages alone, the public could learn a considerable amount about the purpose and feasibility of the Clean Power Plan. These pages have been removed from public access for nearly one year, both now redirecting to EPA’s Energy Independence webpage.<sup>39</sup> The Energy Information page only includes information about the Clean Power Plan proposed repeal process, a link to an EPA report entitled “Final Report on Review of Agency Actions that Potentially Burden the Safe, Efficient Development of Domestic Energy Resources Under Executive Order 13783” that promotes the repeal of the Clean Power Plan but provides minimal information about it, and three bullet points about Administrator Pruitt’s “Back to Basics” agenda. There is no information about the purpose or prospect of the Clean Power Plan.

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<sup>37</sup> “Clean Power Plan,” Environmental Protection Agency, accessed April 26, 2018.

<https://web.archive.org/web/20170427015636/http://www.epa.gov/cleanpowerplan>

<sup>38</sup> “Clean Power Plan Toolbox for States,” Environmental Protection Agency, accessed April 26, 2018.

<https://web.archive.org/web/20170417223600/https://www.epa.gov/cleanpowerplantoolbox>

<sup>39</sup> “Complying with President Trump’s Executive Order on Energy Independence,” Environmental Protection Agency, accessed April 26, 2018. [www.epa.gov/energy-independence](http://www.epa.gov/energy-independence)

Some information about the Clean Power Plan purpose, scope, and potential implementation is still available in the EPA Web Archive, though it is pointedly incomplete. Searching for “Clean Power Plan” in the EPA Web Archive on April 26, 2018 yields 601 results, the top three of which are the Clean Power Plan Toolbox page,<sup>40</sup> the Clean Power Plan page,<sup>41</sup> and a news release about the final rule.<sup>42</sup> The links on these archived pages sometimes direct users to the archived version of the page intended, but many do not. For example, on the archived Clean Power Plan page section on “Carbon Pollution from Power Plants,” links to “Climate Effects” and “Health Effects” lead to a “sorry, but this webpage does not exist” notice page, and a link to “Voluntary Energy and Climate Programs” leads to a “This page is being updated” notice. On the archived Clean Power Plan Toolbox page, links for the “Clean Power Plan,” and links in the “Reducing CO<sub>2</sub> from the Power Sector” section for “Existing state programs,” “Market-based mechanisms: design and operation,” and “Market-based mechanisms: key insights” all lead to “sorry, but this webpage does not exist” messages. The archived Clean Power Plan Toolbox link to “Clean Power Plan and Technical Support Documents” redirects to [www.epa.gov/energy-independence](http://www.epa.gov/energy-independence); links for “Energy and Environment Guide to Action: State Policies and Best Practices,” “Assessing the multiple benefits of EE/RE,” and “State and Local Climate and Energy Program” all lead to the generic and recently revised State Local Energy subdomain homepage.<sup>43</sup> Thus, while some of the basic Clean Power Plan landing pages are accessible through the archive, the substantive informational resources associated with them are not.

Similar to the situation in the EPA Web Archive, the Clean Power Plan<sup>44</sup> and Clean Power Plan Toolbox<sup>45</sup> webpages have been preserved in the January 19, 2017 snapshot, but errors in that archival effort also make a variety of resources

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<sup>40</sup> “Clean Power Plan Toolbox for States,” Environmental Protection Agency, accessed April 26, 2018. <https://archive.epa.gov/epa/cleanpowerplantoolbox.html>

<sup>41</sup> “Clean Power Plan,” Environmental Protection Agency, accessed April 26, 2018. <https://archive.epa.gov/epa/cleanpowerplan.html>

<sup>42</sup> Environmental Protection Agency., “The Final Clean Power Plan: More Ambitious, More Achievable for States,” April 03, 2018. <https://archive.epa.gov/epa/newsreleases/final-clean-power-plan-more-ambitious-more-achievable-states.html>

<sup>43</sup> “Energy Resources for State, Local, and Tribal Governments,” Environmental Protection Agency, accessed April 26, 2018. <https://www.epa.gov/statelocalenergy>

<sup>44</sup> “Clean Power Plan,” Environmental Protection Agency, accessed April 26, 2018. [https://19january2017snapshot.epa.gov/cleanpowerplan\\_.html](https://19january2017snapshot.epa.gov/cleanpowerplan_.html)

<sup>45</sup> “Clean Power Plan Toolbox for States,” Environmental Protection Agency, accessed April 26, 2018. [https://19january2017snapshot.epa.gov/cleanpowerplantoolbox\\_.html](https://19january2017snapshot.epa.gov/cleanpowerplantoolbox_.html)

unavailable.<sup>46</sup> For example, a link on the Clean Power Plan Toolbox page for “Clean Power Plan - Technical Summary for States” leads to a URL indicating such a page in the snapshot, but the content of the page is merely a splash page about the January 19, 2017 snapshot.<sup>47</sup> Several of the resources that are not available through the EPA Archive are available through the January 19, 2017 Snapshot, though their discovery requires former knowledge of the resources.

Searching for the term “Clean Power Plan” in the current EPA website yields 462 results, the top three of which are the Energy Independence Page,<sup>48</sup> the Air Markets page,<sup>49</sup> and a page about power plants and repealing the Clean Power Plan.<sup>50</sup> The top two search results have very little information relating to the Clean Power Plan, and none of them include information about the purpose of the Clean Power Plan. The Energy Independence webpage does not include information about the Clean Power Plan itself; most of the page is devoted to detailing the process of the proposed repeal, and there is a link to the “Energy Independence Report”<sup>51</sup> that promotes repeal of the Clean Power Plan but does not include information about the rule beyond the most basic overview. The Air Markets page does not even include information about carbon dioxide; it includes information about sulfide emissions and acid rain, and cross-state air pollution rule. The third result, “Electric Utility Generating Units: Repealing the Clean Power Plan,” includes only a couple of sentences, but does include a link to a fact sheet and Regulatory Impact Analysis for

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<sup>46</sup> Sarah Lamdan, Andrew Bergman, Maya Anjur-Dietrich, Gretchen Gehrke, and Toly Rinberg., “Errors in the January 19 snapshot of EPA.gov are problematic from transparency, data preservation, and information access standpoints and may have legal implications,” *Environmental Data and Governance* (blog), May 5, 2017.

<https://envirodatagov.org/errors-in-the-january-19-snapshot-of-epa-gov-are-problematic-from-transparency-data-preservation-and-information-access-standpoints-and-may-have-legal-implications/>

<sup>47</sup> “January 19, 2017 Snapshot,” Environmental Protection Agency, accessed April 26, 2018.

<https://19january2017snapshot.epa.gov/airquality/cpptoolbox/technical-summary-for-states.pdf>

<sup>48</sup> “Complying with President Trump’s Executive Order on Energy Independence,” Environmental Protection Agency, accessed April 26, 2018. <https://www.epa.gov/energy-independence>

<sup>49</sup> “Clean Air Markets,” Environmental Protection Agency, accessed April 26, 2018.

<https://www.epa.gov/airmarkets>

<sup>50</sup> “Electric Utility Generating Units: Repealing the Clean Power Plan,” Environmental Protection Agency, accessed April 26, 2018.

<https://www.epa.gov/stationary-sources-air-pollution/electric-utility-generating-units-repealing-clean-power-plan>

<sup>51</sup> “EPA Implementation of Executive Order 13783: Promoting Energy Independence and Economic Growth,” Environmental Protection Agency, accessed April 28, 2018.

<https://www.epa.gov/laws-regulations/epa-implementation-executive-order-13783-promoting-energy-independence-and-economic>



the Review of the Clean Power Plan.<sup>52</sup> The Regulatory Impact Analysis is a detailed document that is essential for the public to have. Its usefulness could be improved by a more visible comparison to the 2015 Regulatory Impact Analysis of the Clean Power Plan. It is important that this technical underpinning of the proposed repeal is available to the public in one of the top few search results for Clean Power Plan on EPA's website.

### **Information about the Social Cost of Carbon**

The Social Cost of Carbon (SCC) is an economic estimation of the cost one ton of carbon dioxide emissions places on global public health and environment. This value is an essential component of understanding the relative cost and benefit of the Clean Power Plans. In the last year, there has been a significant reduction in access to information about the social cost of carbon, the current estimates, uncertainties, and factors involved in its calculation.

Before April 28, 2017 when the entire climate change subdomain of EPA's website was taken offline,<sup>53</sup> there was an informational page about the SCC,<sup>54</sup> including explanations, current estimates, and technical support documents. With a single click after searching for the term "cost of carbon," a web user was able to read information about the premise of environmental economics, the types of climate change damages included in the SCC, why the cost is expected to change over time, comparisons to costs of other atmospheric pollutants, working SCC numbers for a scope of emissions years, and links to a variety of more technical documents. This SCC webpage is currently archived,<sup>55</sup> and all of the top twenty results when searching for "Social Cost of Carbon" in EPA's archive are related to SCC information.

A search for "social cost of carbon" on the current EPA website yields 4780 results, but of the first 20 results, only three are directly related to the social cost of carbon. The first hit is an announcement of a seminar about the SCC, and the fourteenth hit

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<sup>52</sup> Environmental Protection Agency, "Regulatory Impact Analysis for the Review of the Clean Power Plan: Proposal," October 2017.

[https://www.epa.gov/sites/production/files/2017-10/documents/ria\\_proposed-cpp-repeal\\_2017-10\\_0.pdf](https://www.epa.gov/sites/production/files/2017-10/documents/ria_proposed-cpp-repeal_2017-10_0.pdf)

<sup>53</sup> Environmental Data and Governance Initiative, "The announced overhaul of EPA.gov has already begun and pages relating to climate change are currently inaccessible," *Environmental Data and Governance Initiative* (blog), April 29, 2017.

<https://envirodatagov.org/the-overhaul-of-epa-gov-has-already-begun/>

<sup>54</sup> "The Social Cost of Carbon," Environmental Protection Agency, accessed April 26, 2018.

[https://19january2017snapshot.epa.gov/climatechange/social-cost-carbon\\_.html](https://19january2017snapshot.epa.gov/climatechange/social-cost-carbon_.html)

<sup>55</sup> "The Social Cost of Carbon," Environmental Protection Agency, accessed April 26, 2018.

<https://archive.epa.gov/epa/climatechange/social-cost-carbon.html>

is an announcement of a project to determine the SCC. Only the second search result, which is for a 2010 working paper on the social cost of carbon,<sup>56</sup> published in a peer-reviewed journal in 2013,<sup>57</sup> has substantive information about the social cost of carbon. Interestingly, some of the key assumptions used in the peer-reviewed paper, such as the appropriateness of examining the global rather than solely the domestic burden of each ton of carbon (since climate change is a global phenomenon), are not adhered to in the SCC calculations in the Regulatory Impact Analysis of the Review of the Clean Power Plan. Neither the calculations used in the new Regulatory Impact Analysis, nor their justification, are readily accessible on EPA's website.

### **Information about the Clean Energy Incentive Program**

A key feature of the Clean Power Plan is the flexibility that is allowed in implementing it in order to attain the target emissions. States could choose a mass-based approach or a rate-based approach to compliance, and though not required, they could participate in a voluntary Clean Energy Incentive Program that was meant to promote renewable energy and energy efficiency while implementing carbon emissions controls on fossil fuel based energy.<sup>58</sup> The Clean Energy Incentive Program included options for supply-side emissions reductions (e.g. using renewable energy sources) and demand-side emissions reductions through energy efficiency incentivization to provide a highly customizable program for states. Information about this program was prominently featured on the Clean Power Plan and Clean Power Plan Toolbox webpages before they were removed.

A search in the EPA Web Archive for "Clean Energy Incentive Program" yields several results, with all of the top 20 results relating to this program, including information about what it was, why it was being developed, and how it may be used. A search in the current EPA website for the Clean Energy Incentive Program yields no results about this program.

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<sup>56</sup> "Working Paper: The "Social Cost of Carbon" Made Simple," Environmental Protection Agency, accessed April 26, 2018.

<https://www.epa.gov/environmental-economics/working-paper-social-cost-carbon-made-simple>

<sup>57</sup> Newbold, Steven, Charles Griffiths, Chris Moore, and Ann Wolverton, and Elizabeth Kopits. 2013. "A Rapid Assessment Model for Understanding the Social Cost of Carbon." *Climate Change Economics* 4 (1): 1- 40.

<sup>58</sup> "FACT SHEET: Clean Energy Incentive Program," Environmental Protection Agency, accessed April 26, 2018. <https://archive.epa.gov/epa/cleanpowerplan/fact-sheet-clean-energy-incentive-program.html>



## V. CONCLUSION

### **Accessible Information is Essential for Meaningful Public Commentary**

Substantial amounts of information have been removed from the EPA website in the past year that are directly or indirectly relevant to the Clean Power Plan and its proposed repeal. It is important to note that some information pertinent to the Clean Power Plan's feasibility, such as resources regarding power plant heat rate efficiency and combined heat and power (CHP),<sup>59</sup> is still available through EPA's website. However, for the public and regulated bodies to understand the feasibility of implementing the Clean Power Plan, they must have continued access to comprehensive information about the purpose and scope of the Plan, the basis for calculating its costs and benefits, technological considerations, and proposed implementation strategies, such as the Clean Energy Incentive Program. Without access to this information, the public is at the whim of those who vocalize the challenges of implementation rather than seek tangible and flexible solutions. By entirely removing from the public domain or by severely limiting public access to key resources, the EPA has abrogated its responsibility to facilitate meaningful public commentary on the proposed repeal.

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<sup>59</sup> "Combined Heat and Power (CHP) Partnership," Environmental Protection Agency, accessed April 26, 2018. <https://www.epa.gov/chp>