

United States Senate

WASHINGTON, DC 20510

December 10, 2014

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
U.S. EPA Headquarters – William J. Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator McCarthy,

We write to express serious concern regarding EPA's proposed existing source performance standards (ESPS) under Section 111(d) of the Clean Air Act and to identify some key issues that must be addressed in any final rule. As proposed, the rule would have sweeping impacts that would not only raise Americans' electricity prices, but also jeopardize the reliability of our nation's power grid. Among the biggest problems with the rule are the unrealistic interim targets, severely constrained timeline for implementation, and the complications related to multi-state resources.

First, as both state environmental agencies and industry stakeholders have pointed out, the emission rate targets are front-loaded, requiring a disproportionate percentage of emission rate reductions in the early years of the program. These unrealistic reduction rates do not account for the time needed to accommodate the infrastructure changes needed to achieve them. Development of new generation and transmission resources takes time. Planning, design, siting, permitting, and construction can easily take as long as a decade.

Comparing the interim emission rate reduction in 2020 (from the 2012 baseline) to the final emission rate reduction required by 2030, total emission rate reductions that must occur between the 2012 baseline and the 2020 emission rate target reach as high as 90%. The median reduction level is 66% for all states during that timeframe. Under EPA's second building block—prematurely shutting down coal-fired generation in favor of natural gas combined cycle generation, EPA's emission rate formula results in a 100% decrease in coal generation by 2020 in some states. Furthermore, this premature shutdown of coal-fired generation will pose serious reliability risks to the electric grid and result in billions of dollars in stranded investment in expensive pollution control equipment that has been installed in order to comply with recent EPA regulations. For these reasons, we urge the elimination of the 2020 targets.

Second, states have very little time to prepare and submit implementation plans—13 months from the time EPA issues a final rule with a possibility of a one-year extension for individual state plans or two-year extension for multi-state plans. This is simply not enough time for states to plan and prepare for such significant changes to their electricity generating portfolio, let alone address “beyond-the-fence” energy efficiency programs. Moreover, regional transmission operators must have time to evaluate and provide feedback on the state plans to address impacts on regional markets and ensure power reliability. As outlined in its 2014 Initial Reliability Review of EPA's Proposed Clean Power Plan, the North American Electric Reliability

Corporation also needs time to assess resource adequacy and long-term reliability of the North American bulk power system.

A third fundamental issue to be resolved is how EPA will account for electricity resources generated in one state but used in another. While EPA has promulgated state-based reduction targets, our electricity system is interconnected with many cross-state purchase agreements. EPA's current proposal fails to establish a workable regulatory framework for addressing these complicated, but critically important multi-state issues.

Our nation's families and businesses depend upon affordable, reliable electricity. Unfortunately, EPA's ESPS proposal will constrain Americans' energy choices and inflict significant economic harm without producing any tangible environmental benefits. We urge you to address the wide range of issues raised by stakeholders regarding this proposal, including the three key concerns we have identified above, should you choose to proceed with issuing any final rule. However, we strongly believe the best way to address the aforementioned concerns is by withdrawing this ill-conceived and overreaching rule in its entirety.

Sincerely,

Bob Dieder

John Cornyn

Phil Cohn

John Boozman

Art Roberts

Chuck Grassley

Mike Crapo

John D. Thune

Ray D. White

Jim Flaherty
Richard Shelby

Jerry Moran

Rob Postman

Sally Chaublin

Mike Johnson

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Larry Allen

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Lamar Alexander
